

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
SEPTEMBER 15, 2003 – 7:00 PM  
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Steve Blount, Chairman  
Gus Andrews, Vice-Chairman  
Chad Mitchell, Member  
Leda Belk, Member  
Frank Tadlock, Member

The County Manager, the Clerk to the Board, Finance Director and County Attorney were also present.

Chairman Blount convened the meeting at 7:00 pm.

Commissioner Tadlock provided the Invocation and Commissioner Mitchell led the Pledge of Allegiance.

Commissioner Mitchell introduced a group of students in the audience that represented the Advanced Placement American Government and Politics class from East Rowan High School. Commissioner Mitchell said the students were present to see American Government “in action.” Commissioner Mitchell thanked the students for their attendance.

**ADDITIONS:**

- Commissioner Andrews added discussion regarding “Support Groups” for the unemployed. The discussion was added as Agenda Item 15.1.
- Chairman Blount added a request from the Clerk to the Consent Agenda. The request was added as “Item L” for Approval to Set a Public Hearing for approval of an application for an Economic Recovery Grant.

Chairman Blount reported that several Telecommunication staff members had been recognized at the North Carolina Association of Public Safety Communications Officials (APCO) Conference.

Chairman Blount highlighted the accomplishments of the following Telecommunication staff members:

- Chris Ridgell – Telecommunications Shift Supervisor was elected as a regional representative for NC APCO for Region E in the state.
- Allen Cress – Telecommunications Shift Supervisor tied for 1<sup>st</sup> place in the Telecommunicator Multi-Tasking Competition by correctly answering 205 of 212 items in the event.
- Frank Thomason – Telecommunications Director, was awarded APCO’s “Life Membership Award,” given in recognition of individuals for their accomplishments.

Commissioner Tadlock requested that a letter of congratulations be sent to those employees.

### **CONSIDERATION OF CONSENT AGENDA**

Commissioner Mitchell moved to approve the Consent Agenda with the addition of Item L as requested by the Clerk. Commissioner Tadlock seconded the motion and the motion passed unanimously. The Consent Agenda consisted of the following items:

- A. Approval of the August 18, 2003 minutes
- B. Approval of the September 2, 2003 minutes
- C. Approval of revised Women’s Preventive Sliding Fee Scales from the Health Department
- D. Acknowledgement of Proclamation for observance of “Family Day”
- E. Approval of Airport Grant
- F. Approval of NC DOT request to add South Crump Circle to the State Secondary Road System for Maintenance
- G. Approval of Lease for the Donnelly Home to Lighthouse Care Services, Inc.
- H. Approval to set a public hearing for and amendment to CUP-16-02
- I. Approval to set a public hearing for CUP-19-03 for the establishment of a campground
- J. Approval to set a public hearing for CUP-29-03 for the subdivision of property
- K. Budget Amendments
- L. *Approval to set a public hearing for approval of an application for an Economic Recovery Grant*

### **PUBLIC HEARING FOR THE ALLOCATION OF FUNDS FOR THE LLEBG**

Major Tim Bost of the Rowan County Sheriff’s Department reviewed the LLEBG noting that the award was less than the amount received last year. Major Bost said the grant requires a public hearing and approval by the Rowan County Board of Commissioners and a recommendation by the LLEBG Grant Advisory Board. Major Bost said if

approved, the grant would be continuing in its third year of providing the County Facility Security Coordinator. Major Bost then explained the duties of the position.

Major Bost said the LLEBG Advisory Board recommended the continuation of the LLEBG.

Major Bost reviewed the cost of the position saying that the grant would not fully fund the position and therefore recommended use of North Carolina Substance Abuse Tax Revenue. Major Bost said the position required approximately \$50,226, with the federal grant providing \$28,954, leaving a balance of \$21,272 to be taken from the Substance Abuse Funds.

Chairman Blount opened the public hearing to receive public comment regarding the LLEBG.

With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Commissioner Andrews moved to approve the grant as presented. Commissioner Tadlock seconded the motion and the motion passed unanimously.

**PUBLIC HEARING FOR Z-05-03 AND CUP-03-03, A REQUEST FROM BEAVERS AUTO SALVAGE**

Chairman Blount read the Chairman's Speech (Exhibit A) and declared the public hearing for Z-05-03 and CUP-03-03 to be in session. Chairman Blount said the hearing would focus on an application submitted by Scott Beaver for rezoning of Beavers Auto Salvage located at 2060 Deal Road from RA to IND. The property was identified as being located on Tax Parcel 242-011. Chairman Blount said Mr. Beaver was also requesting a Conditional Use Permit to expand the existing salvage yard. The expansion would add an office and reconfigure the business to fit the property.

The Clerk swore in those wishing to provide testimony in the case.

Marion Lytle, County Planner, reviewed the Background (Exhibit B) and used a power point presentation (Exhibit C) to present the case. Mr. Lytle described Beavers Auto Salvage as being located at the intersection of Smith and Deal Roads in southwest Rowan County and has been in operation since the 1980's. Mr. Lytle reported that the business was registered under the 1995 Rowan County Automobile Salvage Yard Ordinance and had made some efforts to comply with standards of that ordinance. Mr. Lytle said that when the Zoning Ordinance was adopted in 1998, it was determined that that all salvage yards would be grandfathered.

Mr. Lytle said that last summer Mr. Beaver first approached staff about expanding the facility and at that time there were some issues with cars located north of Deal Road and from the triangle formed at the intersection of Smith and Deal Road prior to consideration

of this request. Using the power point presentation (Exhibit C), Mr. Lytle referred to a map to depict the area.

Mr. Lytle explained that the application was for a rezoning to IND and an accompanying Conditional Use Permit, which is required to start a salvage yard in Rowan County. Mr. Lytle continued to use the power point presentation (Exhibit C) to show expansions that had taken place through the years, as well as the current property and surrounding areas. Mr. Lytle said that Mr. Beaver repairs and sells cars that have been wrecked. Mr. Lytle said staff had initially told Mr. Beaver that in addition to the general items listed in the ordinance, the following items needed to be addressed:

1. DOT driveway approval
2. DEHNR compliance
3. Setbacks and material storage of 100' ROW
4. Building setback of 50'
5. Type B buffer
6. Parking on site of property of:   1 space/employee  
  1 space/company vehicle  
  10 customer spaces

Mr. Lytle presented the Staff Review (Exhibit B) as follows:

1. Relationship and conformity with adopted plans or polices.
2. Consistency of this article with the requested districts purpose and intent.
3. Compatibility of all uses with the proposed zoning district classification with other property and conditions in the vicinity.
4. Potential impacts on facilities such as schools, businesses, roads, etc.

Mr. Lytle provided the following commentary on the applicant's ability to illustrate compliance as found in Exhibit B:

1. Adequate transportation to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, dust, odor, glare.
5. Excessive traffic and parking problems will not result.
6. The use will not generate significant visual impacts for adjoining properties or passersby.

Mr. Lytle reviewed the Planning Board action (Exhibit B), saying the Planning Board had first considered the application on February 24, 2003. Mr. Lytle said that five (5) citizens spoke, concerned with the area being an eyesore, enforcement of screening, closeness to property lines with expansion, declaration of property, mosquito infestation, etc. Mr. Beaver stated that he would do whatever is required to get approval. Mr. Lytle said staff stated that Mr. Beaver did not have title to the property and recommended the issue be tabled until this and other matters were clarified. Mr. Lytle said on June 23, 2003 another public hearing was held on the application. At this time, the property had been deeded to

Mr. Beaver. No neighbor's spoke and Mr. Beaver restated his intent to comply with conditions. The Planning Board voted unanimously to give a favorable recommendation if the recommended conditions were met. Mr. Lytle also mentioned that in order for Mr. Beaver to build a new office, he would have to go to the Zoning Board of Adjustments (ZBA) to obtain a setback variance.

Commissioner Mitchell asked if land was being used that is beyond the current property line. Mr. Lytle responded "yes" and said the cars would be moved back within the property line. Mr. Lytle said that Mr. Beaver was in the process of trying to "reorganize" the salvage yard and clean out the older inventory. Mr. Lytle said Mr. Beaver's intent is to "bring everything back in to comply."

Chairman Blount inquired about a buffer along the property line. Mr. Lytle said there is no buffer required along the back and rear property lines unless it is within 200 feet of a residence. Mr. Lytle said the buffer could be a condition for approval.

Mr. Lytle verified to Commissioner Belk that a buffer could be required around the perimeter of the property. Mr. Lytle said the Zoning Ordinance requires the storage area to be fenced in.

Commissioner Tadlock asked who owned the property on the backside of the property that was being used to store cars. Mr. Lytle responded that "family" owns the property.

In response to a query from Commissioner Andrews regarding the mosquito infestation, Lloyd Pace of the Planning Department said that complaints are filed with the Health Department and the Health Department would investigate. Mr. Lytle added that if tires were being stored, the Planning Department Staff would require that holes be drilled in the tires or that the tires be slashed in order for the water to drain out.

Commissioner Tadlock asked Mr. Lytle to define Hazardous Safety Conditions. Mr. Lytle responded that the following would have to be considered:

1. Hazardous materials such as gas, oil, antifreeze
2. Traffic such as a driveway permit

Mr. Lytle said that as far as health and safety, he had not noticed any areas where water was "ponding" or "pooling."

1. Scott Beaver of 2060 Deal Road said the rezoning would allow him to build an office. Mr. Beaver said the expansion goes back to the property line. Mr. Beaver said the mosquito situation "is bad everywhere." Mr. Beaver said there was a "couple hundred tires in a pile that we keep hauled off constantly."

Commissioner Tadlock asked how many tires are accumulated before the tires are hauled off. Mr. Beaver responded "a dump truck load" or approximately 300 tires. Mr. Beaver said buyers come by and purchase the "good tires."

Commissioner Andrews asked Mr. Beaver how long he had the salvage yard. Mr. Beaver responded approximately 15 to 20 years.

Commissioner Belk asked if the tires were being slashed to prevent the water from accumulating. Mr. Beaver said “no.” Commissioner Belk asked Mr. Beaver if he would agree to slash the tires and he responded “yes.”

Commissioner Belk said the perimeter of the property would be required to be fenced and asked Mr. Beaver if he would be in agreement to buffer the perimeter as well. Mr. Beaver said photographs were not shown that would reveal that a good portion of the fence is boarded eight (8) feet in height and is buffered with cypress trees around approximately ¼ of the area. Mr. Beaver said he would be willing to buffer the entire perimeter.

2. Roger Adcock of 350 Wilson Street said his wife owns property adjacent to the auto salvage yard located on Wright Road. Mr. Adcock expressed concern regarding whether there would be a timeframe to meet the buffer requirements. Mr. Adcock said his wife was the one who complained about the insect infestation, saying they have two (2) grandchildren that live on the property “over there.” Mr. Adcock asked if the county performs any kind of “survey” to look for mosquito infestations in these types of areas, saying that salvage yards are subject to “catch water in the cars.” Mr. Adcock also asked if any type of testing is performed to detect any chemicals such as antifreeze leaking into the water.
3. Ms. Becky Herman of 212 Southeast Avenue in Kannapolis said she owned land “at the junkyard.” Ms. Herman questioned how much time Mr. Beaver would have to bring the salvage yard into compliance. Ms. Herman said, “We’re not against it” and that they realize “it is there to stay.” Ms. Herman said the area may be classified as a rural area but the area is heavily populated, with heavy traffic. Ms. Herman said she could not sell her land. Ms. Herman said, “We spent \$200,000 on a road.” Ms. Herman said she has a potential buyer for the property and one of the buyer’s conditions is that the salvage yard must be cleaned up first. Ms. Herman said the buyer wants to build an “upscale subdivision.”

In response to a query from Ms. Herman, Chairman Blount said a 100’ buffer setback would be required.

Ms. Herman said she would personally like to see some work started “in good faith” before Mr. Beaver could proceed with building the office. Ms. Herman said, “The sooner the better.”

Commissioner Belk asked if there was a timeline for compliance regarding the buffer and the screening. Mr. Lytle referenced the timeline in the ordinance that required staff to visit every conditional use permit after two (2) years to verify that work had progressed.

Mr. Lytle said he would not issue Mr. Beaver a zoning permit until the buffering was in place and unless the Board directed him to do otherwise. Mr. Lytle said the Board could impose a “reasonable deadline.” Mr. Lytle also said he had visited the site earlier in the day and that Mr. Beaver had done “some work.”

With no further citizen input, Chairman Blount closed the public hearing and opened the floor for discussion from the Board.

Commissioner Andrews felt that if the Board had not received the application, the salvage yard would continue as it is without any restrictions and the requirements of the conditional use permit would enhance the site. Commissioner Andrews referred to comments from Ms. Herman and said it is important for citizens to call the various county departments with their concerns.

Commissioner Andrews moved to accept the conditional use based on the requirements put forth by the Planning Board. Commissioner Mitchell seconded the motion.

Commissioner Belk made an amendment to the motion to require the entire perimeter to be fenced and buffered during a six-month timeline established by the Board and moved for staff to hold the application for the office until the fencing and buffering requirement is met. Commissioner Belk stressed that she did not want to see the business expanded until the current business is “brought up to standard.”

Commissioner Tadlock seconded the amendment to the motion.

Commissioner Mitchell pointed out that too many restrictions imposed by the Board could result in no improvements at all.

Commissioner Andrews asked for clarification regarding the type of buffer that would be required. Commissioner Blount responded the buffer would be Type B, 80’ wide, heavily planted buffer with large trees a minimum of 10’ high.

The amendment to the motion passed unanimously.

Chairman Blount repeated the motion as approval of Zoning Case Z-05-03 from RA to IND and CUP 03-03 with staff’s recommended conditions plus the addition of requiring a full perimeter buffering, the buffering being completed within six (6) months and that building permits not be issued until the buffer is complete.

In response to a query from Commissioner Mitchell, Chairman Blount asked staff about the procedures if Mr. Beaver were to be found in violation of the conditional use permit at the end of the six (6) months. Mr. Lytle said efforts would be made to correct the situation but if Mr. Beaver did not comply, he would be under violation of a civil penalty situation and subject to fines.

Chairman Blount explained that Mr. Beaver would be “at risk” by accepting the terms of the conditional use permit.

The motion passed unanimously.

Chairman Blount declared the **Findings of Fact** to be as listed in the Staff Review:

1. Adequate transportation to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, dust, odor, glare.
5. Excessive traffic and parking problems will not result.
6. The use will not generate significant visual impacts for adjoining properties or passersby.

**PUBLIC HEARING FOR Z-16-03, CUP-20-03, A REQUEST FROM KURT RIBELIN**

Chairman Blount read the Chairman’s Speech (Exhibit A) and declared the public hearing for Z-16-03 and CUP-20-03 to be in session. Chairman Blount said the hearing would focus on applications submitted by Kurt Ribelin for rezoning a portion of Tax Parcel 818-040 from Rural Agriculture (RA) to Industrial (IND) and consideration of a parallel conditional use district application for IND (CUD) to limit use of the property to the manufacture of storage buildings and hand woven rugs. The proposed district would apply to ten (10) acres owned by Bobby Lankford located in the 300 block of Parks Road, Woodleaf, NC.

The Clerk swore in those wishing to provide testimony in the case.

Ed Muire, Assistant County Planner, presented the Staff Report (Exhibit B), explaining that Mr. Ribelin was requesting to have property rezoned from RA to IND and has parallel conditional use district attached.

Mr. Muire referred to the vicinity map (Exhibit C) to highlight the area and to discuss the Staff Report (Exhibit B). Mr. Muire said Mr. Ribelin currently manufactures prefabricated wood buildings at a location in Davidson County. Mr. Muire said the business is called Shed Time and Mr. Ribelin planned to move the facility to a location on Parks Road. Mr. Muire reported that the current production averages 1 to 1 ½ buildings per day in typical sizes of 10’ x 16’ and 12’ x 24’. Mr. Muire explained that the parallel conditional use concept limits the allowed uses in the IND and in this particular case, the manufacture of prefabricated wood buildings (SIC 2452) and hand woven rugs (SIC 2273) would be the only uses permitted within the ten (10) acre tract.

Mr. Muire reviewed the Zoning Criteria (Exhibit B):

1. Relationship and conformity with any plans and policies.
2. Consistency with the requested zoning district's purpose and intent.
3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity.
4. Potential impact on facilities such as roads, utilities and schools.

Mr. Muire discussed the Conditional Use Criteria:

1. Adequate transportation access to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, odor, glare, or dust.
5. Excessive traffic or parking problems will not result.
6. The use will not create significant visual impacts for adjoining properties or passersby.

Mr. Muire reviewed several items taken from the site plan narrative that may be modified:

- Proposed hours of operation: Monday through Thursday from 6:00 am until 6:00 pm
- Number of Employees: current employment is 7 with expansion to 20
- Proposed Structure: 120' x 120' storage building (14,400 square feet)
- Setbacks: 50' front/10' side/10' rear
- Screening: Proposed screening along northern property line (required by zoning ordinance); existing vegetation along eastern and southern property lines to remain.
- Storage of completed buildings sited to side of building.
- No display area of finished products outside.
- No retail sale of finished products on site.
- All construction and manufacturing activities will occur in the building.
- The facility will comply with noise standards of 65 decibels from 6:00 am to 7:00 am and 70 decibels from 7:00 am until 6:00 pm.

Mr. Muire reported that Mr. Ribelin spoke in favor of his application at the August 25, 2003 Planning Board Courtesy Hearing. Mr. Ribelin was the only citizen speaking at the hearing.

Mr. Muire said the Planning Board unanimously voted for a favorable recommendation for changing the zoning designation from RA to IND(CUD) for a portion of Tax Parcel 818-040. Mr. Muire said staff also supports the request.

Chairman Blount opened the public hearing to entertain citizen input and with no citizens wishing to address the issue, Chairman Blount closed the public hearing.

Commissioner Andrews said there had been no opposition at the Planning Board meeting and said the business appears to be a nice business moving into the county.

Commissioner Andrews moved to approve the request as presented including the ten (10) items taken from the site plan narrative. Commissioner Tadlock seconded the motion and the motion passed unanimously.

Chairman Blount declared the **Findings of Fact** to be as presented in the Conditional Use Criteria:

1. Adequate transportation access to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, odor, glare, or dust.
5. Excessive traffic or parking problems will not result.
6. The use will not create significant visual impacts for adjoining properties or passersby.

### **PUBLIC HEARING FOR CUP-12-03, KEPLEY REQUEST FOR TELECOMMUNICATIONS TOWER**

Chairman Blount read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP-12-03 to be in session. Chairman Blount said the hearing would focus on an application submitted by SBA Network Services, Inc. for a telecommunication facility on a portion of Tax Parcel 459-019 and includes placement of a 150-foot monopole tower on a portion of the Jim Kepley property located on Sherrills Ford Road.

The Clerk swore in those wishing to provide testimony in the case.

Ed Muire, Planning Staff of 402 North Main Street, presented the Staff Report (Exhibit B), explaining that the request was for a telecommunication tower in an RA District. Mr. Muire said the application is one (1) of approximately ten (10) applications submitted by SBA during the past ten (10) months. Mr. Muire said staff and the county's telecommunications consultant Fred Griffin have reviewed the applications "hard" and any issues sent back to him had also been sent back to the consultant to verify the due diligence of the process and in addition, the request was "briefer than we've done in the past" in that the applicant and other representatives were present to answer any questions.

Mr. Muire verified to Chairman Blount that the applicant had "met all of the technical criteria." Mr. Muire used a power point presentation (Exhibit C) to point out the proposed site and the target area. Mr. Muire named several of the major subdivisions that would be served with the tower and said he felt the tower would be in a good location. Mr. Muire said the Zoning Ordinance tries to limit the impact of towers on scenic byways and he thought the applicant had "done a pretty good job of that" in this particular case. Mr. Muire continued with the power point presentation to depict surrounding areas and visual impacts. Mr. Muire pointed out existing transmission towers that would be parallel with the proposed site and explained why those towers could not be used. Mr. Muire said the important thing to remember is that the tower would not be for just one (1) tenant but later on would be available for other users.

1. Kerry Everett, attorney from Parker, Poe, Adams and Bernstein of Charlotte, NC addressed the Board on behalf of AT&T Wireless Services in connection with the applications for conditional use permits for two (2) 150-foot telecommunications towers. Ms. Everett said under NC law, AT&T was entitled to a conditional use permit for the two (2) towers if it demonstrates by competent material and substantial evidence that its application meets the requirements of the Rowan County Zoning Ordinance. Ms. Everett said the Staff Report, AT&T application, and the upcoming testimony would demonstrate that AT&T had met all of the general and specific technical standards for telecommunications towers contained in the ordinance.

Ms. Everett referred to the General Standards contained in Article IV Section 8 of the Rowan County Zoning Ordinance the application and testimony would demonstrate that the proposed towers would:

1. Will not materially endanger the public health or safety
2. Will not substantially injure the value of adjoining or abutting property
3. Will be in general harmony with the area in which they are located and in general conformity with any adopted County plans

Ms. Everett said three (3) witnesses (Exhibit D) would be available to provide information about each site and to answer questions as they arise according to the specific standards of the ordinance found in Article IV Sections 9 & 10.

Ms. Everett provided the Board with the names and fields of expertise for the witnesses (Exhibit D):

1. Fred Womble, a Zoning Specialist employed by SBA Network Services. Ms. Everett reported that AT&T Wireless had contracted with SBA Network Services to assist with site selection and permitting for expansion of the AT&T Wireless Network in the Carolinas.
2. Gilbert Nyandjo, Radio Frequency Analyst for Wireless Facilities, Inc and is also working with AT&T Wireless to expand the AT&T Wireless Network in North Carolina. Ms. Everett tendered Mr. Nyandjo as an expert in the field of radio frequency.
3. Scott Robinson, State Certified General Real Estate Appraiser with fifteen years of experience; a graduate of Wake Forest University and holds MAI & SRA designations from the Appraisal Institute. Ms. Everett said Mr. Robinson is a past member and Chair of the Salisbury Planning Board and had testified as an expert in Rowan County Courts. Ms. Everett tendered Mr. Robinson as an expert in the subject of real property valuation.

Ms. Everett said the witnesses would refer to the Hearing Notebook (Exhibit D) containing various exhibits and in addition, the witnesses would also refer to the aerial photos (Exhibit C).

2. Fred Womble of 4402 Stuart Andrew Blvd., Charlotte, NC, said he was a Zoning Specialist for SBA Network Services. Mr. Womble said SBA had been contracted to assist AT&T with site selection and permitting for expansion of the AT&T Wireless network.

Mr. Womble reported that AT&T had applied for two (2) permits to construct two monopole towers, the first of which was the item before the Board. Mr. Womble said each of the towers would be 150-foot in height and would be designed to accommodate the co-location of four (4) antennae by other communications providers in addition to the AT&T antenna.

Mr. Womble read from the Affidavit of Fred Womble as listed in (Exhibit D).

Mr. Womble concluded his testimony by saying the proposed tower would meet all of the requirements set forth in the ordinance for wireless telecommunications towers in Rowan County.

Commissioner Andrews asked Mr. Womble to explain what is meant when a tower is described as being “in harmony” with the surrounding area, specifically when the surrounding area is “woods.” Mr. Womble tendered the definition as “along the lines of any public utility” and said it is one of those “necessary evils,” such as utility and telephone lines.

Ms. Everett called Gilbert Nyandjo to provide testimony.

3. Mr. Nyandjo, 9600 Southern Pines Boulevard, Charlotte, North Carolina, said he was a radio frequency analyst employed by Wireless Facilities, Inc., and read the Affidavit of Gilbert Nyandjo (Exhibit D).

Ms. Everett called Scott Robinson to provide testimony.

4. Mr. Robinson, 104 West Colonial Drive, Salisbury, said he had been engaged as an appraiser to answer two (2) of the questions in order for the request to be approved:
  1. Whether or not the subject as proposed would be injurious to the harmony of the area
  2. Whether or not the subject as proposed would be injurious to the value of adjacent or abutting properties.

Mr. Robinson said thanks to the tenacity of the ordinance and the site selection of the individual sites, it was his opinion that the site is not injurious to the harmony of the area and does not detrimentally affect the value of adjacent or abutting properties.

Mr. Robinson referred to reports included in the Hearing Notebook (Exhibit D) and said he could conclusively say that the continuation of these summaries are

not affecting the adjacent or abutting properties and the harmony of the area appears to be continuing.

Commissioner Andrews asked if there are guidelines that appraisers follow to determine “harmony” within an area. Mr. Robinson said the testimony of the first witness was “dead on” - that it is not injurious to the harmony of the area as it stands now. Mr. Robinson continued by saying the placement of the sites within the required setbacks and buffers, do result in the towers having less impact than current public utilities, such as telephone poles and water towers. Mr. Robinson said the towers would not add to the “clutter” that is already in place.

Commissioner Andrews gave an example using himself as an adjoining property owner of a proposed tower site. Commissioner Andrews wanted to know if he hired Mr. Robinson, would Mr. Robinson recommend him to encourage the placement of the tower on the adjoining site. Mr. Robinson responded that based on the data he had seen and from the requirements of setbacks and buffering, he could see no measurable impact that the towers are having. Mr. Robinson said that as an Appraiser, he would not apply any penalties to a property because it was adjacent to a tower site.

Commissioner Andrews asked if there was no impact regarding the number of sales due to the “short period of time” the towers have been in existence and the lack of history. Mr. Robinson said, “Actually, that’s not true,” and continued to explain that even though it has been a short period of time, there has been a lot of development activity.

Ms. Everett moved to admit the Hearing Notebook (Exhibit D), including the aerial photograph (Exhibit E) into evidence.

Ms. Everett said AT&T had met its burden of proof by competent materials and substantial evidence that the applications comply with all of the General and Specific Standards of the Rowan County Zoning Ordinance.

Ms. Everett requested on behalf of AT&T that the Board approve the two (2) conditional use permits.

Chairman Blount opened the public hearing to entertain citizen input regarding the issue.

With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Chairman Blount referred to the moratorium concerning the location of towers in relationship to airports and asked staff if the proposed towers “fall outside the guidelines of the moratorium.” Mr. Lytle responded yes.

Commissioner Belk moved to approve CUP-12-03 as requested. Commissioner Tadlock seconded the motion and the motion passed unanimously.

Chairman Blount declared the **Findings of Fact** to be the “guidelines of the application” as follows:

- The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety
- That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity
- That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted County plans.

**PUBLIC HEARING FOR CUP-13-03, ST. PAUL’S CHURCH ROAD FOR TELECOMMUNICATIONS TOWER**

Chairman Blount read the Chairman’s Speech (Exhibit A) and declared the public hearing for CUP-13-03 to be in session. Chairman Blount said the hearing would focus on an application submitted by SBA Network Services, Inc., for a telecommunication facility on a portion of Tax Parcel 405-014 and includes the placement of a 150-foot monopole tower on a portion of the St. Paul’s Lutheran Church property located on St. Paul’s Church Road.

The Clerk swore in those wishing to provide testimony in the case.

Ed Muire, Assistant County Planner referred to the Staff Report (Exhibit B) and recalled from the previous hearing that the applications had been reviewed for several months by the Planning Staff and telecommunications consultant, Fred Griffin, PE of Virginia.

Mr. Muire said all criteria had been satisfactorily addressed as required by the Rowan County Zoning Ordinance. Mr. Muire said the conditions must be met before a conditional use hearing would be scheduled.

Mr. Muire used a power point presentation (Exhibit C) to highlight the target area and discuss the visibility of the proposed site.

Mr. Muire said staff recommends approval of the application provided that the required conditional use criteria is met.

In order to expedite the process, Chairman Blount asked Ms. Everett if her comments and the comments of the witnesses would “mirror” the comments “in all ways” and “with no variation” of the previous application. Ms. Everett responded, “Yes, sir.” Chairman Blount declared that the statements from the previous hearing would be accepted for the record for the current hearing.

Ms. Everett offered the witnesses to answer questions and reserved the right for any rebuttal and offered Exhibit D as evidence.

1. Kimberly Lofton Murphy, of 511 East Bend Lane said her house was 379 feet from the tower. Ms. Murphy said her concern was property value, which had been addressed. Ms. Murphy said the “harmony” is not the same as power poles because “power poles are not 150-feet into the air.” Ms. Murphy said the “balloon” was the first thing she saw when sitting on her porch. Ms. Murphy continued by saying she is not opposing the tower but she would like to see the tower moved further away from her property line.

Chairman Blount asked Ms. Murphy to point out on the map where her property is located. Ms. Murphy said it is the Gullledge tract.

Ms. Murphy asked if power lines would have to be run to the cell tower. Ms. Murphy said the nearest transformer was on her property and wondered if the power lines would have to cross her property to get power to the tower.

In response to a comment from Ms. Murphy, Chairman Blount said the tower would hold four (4) antennae.

Ms. Everett said the Board had heard the testimony of Appraiser Scott Robinson, that the tower would not have a negative impact on the value of any adjacent properties and that the tower is in harmony. Ms. Everett said there was a natural tree buffer that would buffer the tower from Ms. Gullledge’s (Murphy) property. Ms. Everett said there would be four (4) antennae located on one tower and not four (4) towers.

2. Mr. Womble addressed Ms. Murphy’s concern and said power would not be accessed from her lot. Mr. Womble explained that, as the process gets further along in terms of establishing building permits and actual construction, the power and “telcos” typically run along with the access easement. Mr. Womble said the access easement as it is proposed is along the same pole as the church property and there would be no crossover.

Ms. Everett responded to Ms. Murphy’s request to move the tower further from her property line. Ms. Everett referred to the Affidavits of Fred Womble and Gilbert Nyandjo, which testify to the fact that the proposed site was the best suitable for the tower and coverage, ruling out all other possibilities.

Commissioner Andrews said there appeared to be no other houses near the tower and asked if “shifting” the tower 100-feet would change the coverage area. Mr. Nyandjo said the coverage area would change but not substantially and said the problem would be with setbacks and the fact that other surrounding towers “are already fixed.” Mr. Nyandjo described the proposed site as being like a missing piece of a puzzle.

Ms. Everett pointed out there would also be a potential for frequency interference if the site were to be shifted.

Commissioner Belk moved to approve CUP-13-03 as requested. Commissioner Tadlock seconded the motion and motion passed unanimously.

Chairman Blount declared the **Findings of Fact** as listed in Staff's Written Report (Exhibit B):

- The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety
- That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity
- That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted County plans.

**PUBLIC HEARING FOR SUP-01-03, FOR THE EXPANSION OF A RESIDENTIAL STORAGE BUILDING**

Chairman Blount read the Chairman's Speech (Exhibit A) and declared the public hearing for consideration of SUP-01-03 to be in session. Chairman Blount said the hearing would focus on an application submitted by Lee Snow for approval to expand onto his residential storage facility on Tax Parcel 606-055 located at 195 Bernard Lane, Salisbury, North Carolina.

The Clerk swore in those wishing to provide testimony in the case.

Matt Ward of the Rowan County Planning Department provided the background (Exhibit B) regarding the case. Mr. Ward reported that Lee Snow came to the Planning Department on August 21, 2003 and submitted an applicant for a special use permit, requesting approval to add onto the existing facility that is 50' x 80'. The addition would be a 15' x 80' enclosed area on the north side of the existing facility. Mr. Ward used a power point presentation (Exhibit C) that showed the existing facility located at 195 Bernard Lane. Mr. Ward said the lot is approximately .702 acres in size with a 4,000 square foot building.

Mr. Ward explained the purpose for the expansion was to provide enough room to store Mr. Snow's 24' car hauler, utility trailer and pontoon boat in the winter months, plus any additional materials needing storage.

Mr. Ward reviewed the Details of Action (Exhibit B) as follows:

- There is no increase in the total amount of area devoted to the nonconforming use.
- There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements of other requirements such as parking, loading or landscaping requirements.
- There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

Mr. Ward reported that staff recommends approval.

Chairman Blount opened the public hearing to entertain citizen input regarding the issue.

With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Commissioner Mitchell moved to approve SUP-01-03 as requested. Commissioner Andrews seconded the motion and the motion passed unanimously.

Chairman Blount declared the following Details of Action (Exhibit B) as reviewed by Mr. Ward to be the **Findings of Fact**:

- There is no increase in the total amount of area devoted to the nonconforming use.
- There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements of other requirements such as parking, loading or landscaping requirements.
- There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

### **PUBLIC HEARING FOR CUP-25-03, FOR THE CONSTRUCTION OF A RESIDENTIAL STORAGE BUILDING**

Chairman Blount read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP-25-03 to be in session. Chairman Blount said the public hearing would focus on an application submitted by William Webb for approval to construct a residential storage facility on Tax Parcel 606-053 located at 155 Barnard Lane, Salisbury, North Carolina.

The Clerk swore in those wishing to provide testimony in the case.

Matt Ward of the Rowan County Planning Department provided the Background (Exhibit B) regarding the case. Mr. Ward reported that Justin Beck was the current owner of the property located at 155 Bernard Lane. Mr. Ward said the tract is .602 acres as opposed to 1.55 acres as listed in the Background Report (Exhibit B). Mr. Ward used a power point presentation (Exhibit C) to point out the visibility of the tract from Longs Ferry Road and Leonard Road. Mr. Ward said the property is currently vacant. Mr. Ward said the proposed storage unit would accommodate collector automobiles, a car hauler/utility trailer and boats. Mr. Ward said each of the three (3) lots on Bernard Lane has slightly over a half acre in size and each facility is used for storage by the property owner.

Mr. Ward said Mr. Webb had come to the Planning Office requesting a conditional use approval due to the size restraints he has with his property at 130 Shortsail Road.

Mr. Ward reviewed the Analysis Study (Exhibit B) as follows:

1. The parcel on which the structure is constructed shall be in fee simple ownership of person owning the associated residence.
2. The structure shall be of compatible construction with the surrounding area.
3. The maximum size allowed is 3,000 square feet.
4. No outdoor storage is allowed except as specifically provided otherwise.
5. Minimum lot size shall be the same as for a single-family residence.
6. The building and associated driveways cannot be located on the same lot as the owners residence in conformance with applicable codes.
7. Storage vehicles shall not be in the front yard.
8. Outside lighting shall be designed to prevent direct glare on adjoining residences.
9. Setbacks shall be minimum the same as single-family dwellings.

Mr. Ward discussed the Evaluation Criteria (Exhibit B) as follows:

- Adequate transportation access to the site exists
- The use will not significantly detract from the character of the surrounding area
- Hazardous safety conditions will not result
- The use will not generate significant noise, odor, glare or dust
- Excessive traffic or parking problems will not result
- The use will not create significant visual impacts for adjoining properties or passersby.

Mr. Ward said staff recommends approval for a residential storage facility in order to accommodate Mr. Webb's personal assets with the condition that Leyland Cypress be planted similar to those on adjacent lots.

Chairman Blount opened the public hearing to entertain citizen input regarding the issue. With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Commissioner Andrews moved to approve the application based on meeting the requirements of Article IV Section 10 and on the condition that Leyland Cypress be planted around the property lines as requested by Planning Staff. Commissioner Tadlock seconded the motion and the motion carried unanimously.

Chairman Blount declared the **Findings of Fact** to be as listed in the Evaluation Criteria (Exhibit B):

- Adequate transportation access to the site exists
- The use will not significantly detract from the character of the surrounding area
- Hazardous safety conditions will not result
- The use will not generate significant noise, odor, glare or dust
- Excessive traffic or parking problems will not result
- The use will not create significant visual impacts for adjoining properties or passersby.

**REPORT ON AIRPORT ISSUES FOR CONSIDERATION IN RELATIONSHIP TO THE MORATORIUM AND CONSIDERATIO OF POSSIBLE AMENDMENT**

Ed Muire referred to the memo in the agenda packets and used a power point presentation to show maps and report on staff's findings in the development of a definition for an airport. Mr. Muire explained that staff had referred to several sources in order to develop the definition of an airport and that the Rowan County Airport was the only "airport" in the county that included the provisions for discharging and receiving passengers and cargo and having facilities for shelter, supply and repair of planes.

Mr. Muire said the definition which staff proposes to use to define an airport is:

- Any tract of land having a runway which is maintained and free of obstructions for the adequate landing and takeoff of aircraft for public or private use and may include provisions for discharging and receiving passengers and cargo and having facilities for shelter, supply and repair of planes.

Mr. Muire said the definition would not be a text amendment to the Rowan County Zoning Ordinance but could possibly appear in the Zoning Ordinance in the future. Mr. Muire said the definition would clarify how the moratorium would be applied within Rowan County.

Mr. Muire reviewed the list of airports named in the tower moratorium that comply with the definition.

Mr. Muire said the Broadway, Enochville, Goodnight and Rowan County Airports were all subject "to someone else's zoning jurisdiction."

Mr. Muire reported on the condition of the Bradley Outernational Airport and said a portion of the perimeter had been mowed and there is "no way" a plane could use the runway.

Mr. Muire said the airports, related to zoning, are all legal nonconforming uses.

Chairman Blount asked if staff was suggesting that the Board modify the moratorium "to include all of these and then delete the Bradley Outernational." Mr. Muire responded, "More or less" that he had understood the direction from the Board was to clarify "some of these."

In response to a query from Chairman Blount, Mr. Muire said he had not actually checked the other airports to verify they are in use. Mr. Muire said as of the March 2002 aerial photography, the airports looked "fairly well-maintained."

Mr. Muire explained to Commissioner Andrews that staff had not been approached from anyone asking to build an airstrip. Mr. Muire said those requests would have to be rezoned to CBI or and Industrial District, and possibly a Parallel Use District.

Mr. Muire said that staff proposed to consult with Talbert & Bright for assistance in preparing zoning text related to separation distances for airports and towers. Mr. Muire said the firm currently provides engineering services to Rowan County for issues related to the Rowan County Airport. Staff anticipated using their expertise during the committee, Planning Board and public hearing phases of the text amendment process.

In response to concerns from Commissioner Andrews, Mr. Muire said that some issues might come about that the criteria would specifically apply to private airports as opposed to public.

Commissioner Andrews expressed concern that the Board was getting in to the “airport control business” and said he felt the Board was getting into “an area that’s too deep for us.”

Chairman Blount said the Board already controls airports and pointed out that if anyone wanted to buy property and build an airport, they would be required to have the property rezoned and obtain a conditional use permit for any type of airport.

Mr. Muire stated that the above scenario was only if the property was in an RA District. Mr. Muire pointed out that if the property was located in the CBI or Industrial Districts, the airport is “permitted by right.”

Chairman Blount said the purpose of the moratorium is not to set the standards but to stop the arbitrary location of towers in relation to existing airports.

Chairman Blount said the question before the Board was whether or not the Board wanted to modify the moratorium. Chairman Blount said staff was suggesting that the Board add airports as shown on the map that was found on the FAA Section and that the Board delete Bradley Outernational because it does not meet the preliminary criteria as an active airport.

Commissioner Mitchell moved to amend the moratorium to add these airports and delete Bradley Outernational based on the preliminary definition of active airports. Commissioner Belk seconded the motion and the motion passed unanimously.

Mr. Muire referred to the amendment and said there was one (1) tower application that was relative to Bradley Outernational and that staff would bring the issue back to the Board “soon.”

### **APPROVAL OF OFFER TO PURCHASE COUNTY-OWNED PROPERTY**

Ken Deal, Director of Rowan County Administration, explained that the county had received an offer in the amount of \$8,000 from David Rankin to purchase four (4) small lots the county owns near Landis. Mr. Deal said county foreclosed on the property for taxes and the deeds were recorded in 1975.

Mr. Deal said he conferred with Jerry Rowland, Rowan County Assessor and the tax value is \$10,000. Mr. Deal said that individually, none of the lots are large enough to build on.

Mr. Deal said he had looked at the property and was of the opinion that the county would be “doing well to get the \$8,000.” Mr. Deal said the decision to sell the property would be subject to the upset bid process.

Commissioner Andrews questioned selling land with a tax value of \$10,000 for only \$8,000. Commissioner Andrews felt the Board should ask for at least the value of the property.

Commissioner Belk made a motion that the Board make a counter offer of \$10,000, followed by a second from Commissioner Tadlock.

Commissioner Tadlock asked County Attorney John Holshouser to review the upset bid process. Mr. Holshouser explained that any time an offer is received it should be accompanied by a 5% deposit, which is held by the Clerk. Mr. Holshouser said the bid is advertised once and anyone who wishes to upset the bid must do so within a ten (10) day period. Mr. Holshouser said if the bid is upset, a deposit must be posted equivalent to 10% of the first \$1,000 plus five percent of the balance of the bid. The bid must then be advertised for ten (10) more days.

The motion passed unanimously.

### **APPROVAL OF THE HOMELAND SECURITY APPLICATION FOR THE STATE GRANT FUNDING**

Wayne Ashworth, EMS Director, distributed a handout and discussed a grant from the Department of Homeland Security that is to be used towards strengthening the security for the county. Mr. Ashworth said the county’s grant was in the amount of \$109,196, up from last year’s grant, which was \$38,027.

Mr. Ashworth reviewed the recommendations from the agencies involved in the process. The recommendations consisted of seven (7) items and exceeded the grant amount. Mr. Ashworth said prices were being negotiated to adjust the numbers prior to submission to the State.

Mr. Ashworth said the Board must approve the recommendations and must be submitted to the State by the end of September.

Mr. Ashworth reported that a supplemental grant had been awarded to the county in the amount of \$401,192. Mr. Ashworth said the same committee would be reviewing the spending priorities and those recommendations would also be brought to the Board before being submitted to the State.

Mr. Ashworth requested that the Board approve the request to spend the \$109,196 as recommended in the handout.

Commissioner Belk said she had worked with the committee and that the agencies had implemented a growth plan for the county. Commissioner Belk said was impressed with the cooperative nature of all the agencies and municipalities involved.

Commissioner Belk moved to allocate the funds for the purchase of the seven (7) items as presented. Commissioner Tadlock seconded the motion.

In response to a query from Chairman Blount, Mr. Ashworth said the grant required no local match, however the grant required the county to maintain and replace the items “when they wear out.”

The motion passed unanimously.

#### **APPROVAL OF THE RESOLUTION FOR AS400 UPGRADE**

David Boling, Direction of Information Systems, reported that after due advertisement, four proposals were received for the upgrade of the AS400.

Mr. Boling said that after researching the vendors, he and the Finance Department recommend that the contract be awarded to Yorel for a total upgrade at a cost of \$358,556.

Commissioner Tadlock moved to approve the Resolution as presented in the amount of \$358,556. Commissioner Belk seconded the motion and the motion passed unanimously.

#### **APPROVAL OF LEASE AGREEMENT BETWEEN NAZARETH CHILDREN’S HOME AND ROWAN COUNTY**

Mr. Russell explained that the Department of Social Services (DSS) had been working with Nazareth Children’s Home to provide a family visitation building. Mr. Russell said Commissioner Belk had worked diligently with the group and had secured a proposal from Nazareth Children’s Home to lease the old administrative building, at a rental of \$1,800 per month, payable monthly and includes utilities and repairs.

Mr. Russell said the county will receive funds for leasing out the Donnelly and those funds will offset the payment to Nazareth Children’s Home.

Commissioner Belk said the facility is “very much needed by DSS” and will provide a safe place for parents to exchange children, supervised visitations with one way mirroring, etc.

Commissioner Tadlock said he would like to see the county pursue state participation in the issue.

Chairman Blount asked if the facility was ready for use. Commissioner Belk stressed that the facility is “very nice.”

Commissioner Andrews praised Commissioner Belk for an outstanding job in working with the Nazareth Children’s Home.

Commissioner Andrews moved to approve the lease agreement as presented. Commissioner Mitchell seconded the motion.

Mr. Holshouser observed that there was no requirement with regard for premises liability and said the county should have its own coverage for premises liability.

Chairman Blount requested that the County Manager “take care of this.” The motion passed unanimously.

### **BOARD APPOINTMENTS**

#### **Centralina Workforce Development Board**

Commissioner Belk moved to appoint Elizabeth Fields. The motion carried.

#### **Piedmont Behavioral Healthcare Board**

Commissioner Tadlock moved to appoint David Joslin and the motion carried.

#### **Salisbury-Rowan Human Relations Council**

Commissioner Tadlock moved to appoint Mai Li Munoz Adams. The motion carried.

#### **Industrial Facilities & Pollution Control Finance Authority**

Commissioner Tadlock moved to appoint Mark Lewis and the motion carried.

Chairman Blount reviewed the vacancies on the following Boards:

**Rowan County Adult Care Advisory Board**

**Rowan County Landmarks Commission**

**Region F Aging Advisory Committee**

**Special Request for: Mental Health Association in Rowan County**

### **PUBLIC COMMENT PERIOD**

There were no citizens present to address the Board.

### **ADDITIONS**

#### **Support Groups for Jobs**

Commissioner Andrews asked that the Board look at ways of creating smaller support groups within the communities to provide the needed support for the citizens that have lost their jobs. Commissioner Andrews stressed that there seemed to be a need for this

type of service in the county and said the county could possibly get professional leadership to help provide the answers for those in need.

Commissioner Tadlock agreed with Commissioner Andrews and said there are a “good many jobs available” in the newspaper. Commissioner Tadlock asked if it would be possible for the County to hire the individuals that are “close to being qualified,” with the understanding that they would go to school to “become qualified to do the job.”

Mr. Russell said it would be hard to overlook the qualified applications as opposed to those that don’t have the qualifications. Mr. Russell said the County had just hired a Pillowtex employee as Codes Enforcement Director. Mr. Russell said the biggest challenge is the abundance of “qualified” individuals compared to those that have not yet received the education/training for specific jobs.

Mr. Russell said the County was looking at hiring workers for less than 20 hours per week, for a 10-12 week period for general maintenance at the parks, which would supplement their unemployment benefits. Mr. Russell said the debate is whether to hire those enrolled for further education or those that have not enrolled.

Commissioner Andrews agreed with Commissioner Tadlock’s concept. Commissioner Andrews said he could envision taking a facility and asking current businesses to “spin out” work.

Chairman Blount asked the Clerk to allot one hour for discussion of the issue at the next Board meeting.

*The Board sang Happy Birthday to Commissioner Leda Belk.*

Chairman Blount called for a short break before going into Executive Session.

### **EXECUTIVE SESSION**

The Board went in to Executive Session at 10:15 pm for the purpose of discussing an Economic Development Issue.

### **ADJOURNMENT**

With no further business, Chairman Blount adjourned the meeting at 11:10 pm.

Respectfully Submitted,

Rita K. Foil, CMC  
Clerk to the Board

