MINUTES
BOARD OF ADJUSTMENT
APRIL 22, 2014
REGULAR MEETING

MEMBERS PRESENT: Larry Wright, Full Member (Chair)
David Blankfard, Full Member (Vice Chair)
Mark Micol, Alternate Member
Jeffrey Schmitt, Full Member
Samantha Cabe, Alternate Member

MEMBER ABSENT: Karen Barrows, Full Member

STAFF PRESENT: Michael Harvey, Current Planning Supervisor
Debra Graham, Board Secretary
James Bryan, Staff Attorney

AGENDA ITEM 1: CALL TO ORDER

AGENDA ITEM 2: CONSIDERATION OF ADDITIONS TO AGENDA

A. ELECTION OF OFFICERS

Larry Wright: It is time for the election of officers. That will be after the approval of minutes.

AGENDA ITEM 3: APPROVAL OF MINUTES
A. NOVEMBER 11, 2013

Larry Wright: On page 7, line 38 should read, "While this is circulating, could you please briefly state…". On page 10, line 12 should read, "He can do that can't he (to David Rooks)?"

Michael Harvey: On page 14, line 32 should read, "Sidewalks are not in these calculations."

Larry Wright: On page 14, line 9 should read, "…staff's testimony which is there are three miles.."

Michael Harvey: On page 15, line 30 should read, "…well in a contemporaneous negotiation."

Larry Wright: On page 20, line 40 should read, "…met were not in the zoning ordinance when the SUP…"

Michael Harvey: On page 17, line 37 should read, effect when this special use permit was approved…". On page 18 line 1 and 2 should read, …BOCC in this amending action. Our contention in that regard is that the Board of County Commissioners set the Special Use Permit standards and this ….". On page 19, line 6 should read, in 1986 when …". Line 9 should read, "…at the time it was approved." Line 18 should read, "amended between the SUP…". Line 29 should read, "This board doesn't have jurisdiction over subdivision. You don't have jurisdiction…". Line 38 should read, "A complaint that the SUP did not meet county subdivision requirements…". Line 43 should read, …and it was admitted…". Page 20, line 19 should read "… the special use permit approval…". Line 41 should read, "They were adopted after this project was approved. Those commitments were honored …" On page 21, line 10

should read, "Those requirements when this special use permit…". Line 47 should read, "… the ordinance did not authorize them to require it. Sometimes the government over reaches."

Jeff Schmitt: On page 22, line 38 should read, "…was approved to when it became effective, …"

Michael Harvey: On page 22, line 33 should read, "It had to do with Environmental Management."

Larry Wright: On page 22, line 5 should read, …when the plat is recorded…".

Michael Harvey: On page 23, line 1 should read, "…though it is 1998 and 1986…" Line 6 should read, They can. There are …". Line 19 should read, "The county did not have those in 1986." Lines 34 and 35 should read, "…dear friend that is what prompted…" Line 36 should read, "…of the IV-B-7-b amendments that they don't apply…". Line 41 should read, "…don't make any recommendation…". Line 43 should read, "This was the Orange County's first foray in anything…" Everything else had…".

Mark Micol: Page 29, lines 8 through 11 is attributed to me but I can't make heads or tails of that paragraph, what do we do in that case?

James Bryan: You are talking about minutes particular to a subject matter that my office had to recuse itself from. The other part is generally about minutes. It is this board's prerogative to approve the minutes. It is a transcription of what happened. It should be as accurate as possible.

Mark Micol: Can I make an amendment to strike my name and put undetermined.

Michael Harvey: Unidentified board member.

Larry Wright: (To James Bryan). Do you agree this is the way to proceed?

James Bryan: It is perfectly fine if that is how the board wishes to proceed.

Michael Harvey: I am like Larry you are taking a lot of this correspondence out of context. I think it is reasonable to say an undetermined board member and move on.

Michael Harvey: On page 39, line 13 should read, "was approved in 1986 by its terms the project shall…". Page 40, line 2 should read, "It is to the south of the creek." Line 8 should read, "I am looking at a small portion in the 100 year flood…" Line 9 should read, "…our argument is that the quality was not in this special use permit. The regulations…"

David Blankfard: Page 35, line 13 should read, "I think the 1986 code…" Line 45 should read, "…being that sum of the parts…". Page 36, line 4 should read, "Where is that in the special use permit?" Line 5 should read, "Specifically the five acre requirement."

Michael Harvey: Page 41, line 10 should read, "…angles don't meet….".

David Blankfard: On page 121, line 26 should read, "…was in effect. The one that…"

MOTION made by Jeff Schmitt to approve minutes with corrections. Seconded by Mark Micol.
VOTE: Unanimous

Larry Wright: I would like to move to the additions of the agenda to elect new officers. I wanted to call Karen to ask if she would serve as an elected officer of this board. I did not do that. I went through the guidelines of the Board of Adjustment and did not see where alternates could not serve as officers so I would like to open the nominations for officers. Is there a problem with that?

Michael Harvey: As an alternate is not a sitting member, if the five permanent members are seated at the table then the alternate does not technically have a vote or will not be making a decision as the five permanent members are at the meeting.

Larry Wright: Can I counter that? Neither does the Mayor of Hillsborough so a presiding officer does not have to vote.

James Bryan: Looking through the rules of procedure, I don't see anything. I would think ….

Larry Wright: We have many capable members here and two are rolling off and I would like to have them be considered for office. When I was on the planning board, we elected Jay Bryan as Chair when we knew he would be rolling off in March or May.

Jeff Schmitt: Maybe, but I think it was a different issue.

James Bryan: I don't see anything forbidding it but as a common sense thing for an attorney, I would have to advise just the sitting members.

David Blankfard: Can we make her a full member?

Debra Graham: We will have to send it to the Board of Commissioners.

Larry Wright: There hasn't been one appointed from the Planning Board. I wanted a good pool of candidates.

David Blankfard: Alternates cannot serve as an alternate.

Jeff Schmitt: That was my understanding. With only three of us being full members, I understand what you are trying to do but it might be best to defer the elections until all the full members are present.

Larry Wright: I would be very comfortable with that.

Debra Graham: Maybe by that time, we can have the alternates, or at least one of them, appointed as full member by the Board of County Commissioners.

MOTION made by Samantha Cabe to defer the elections until at least four of the sitting permanent members are present. Seconded by Jeff Schmitt.
VOTE: Unanimous

AGENDA ITEM 4: APPROVAL – ORDER OF INTERPRETATION (MICHAEL BUCK)

Michael Harvey: The board made a decision to affirm staff's decision. The findings of fact are on a revised handout on your desk and detail the Board's additional findings of fact and conclusions. For example, the zoning officer did not err in his decision to apply subdivision ordinance, recreation area/amenity requirements of SUP approval when approving the Phase IV final plat on February 4, 2008. The zoning officer did not err in approving the Phase IV final plat planned development special use. There is no violation of the recreation requirements of the subdivision ordinance in effect on May 20, 1996 but if the SUP was approved by the County March 31, 1998, the day the SUP was recorded. On page 5, the zoning officer did not err in determining the planned development special use complied with the SUP when approving the recordation of Phase IV Final Plat.

MOTION made by Jeff Schmitt outlining the affirmation of staff's case at the November Hearing. Seconded by David Blankfard.
VOTE: Unanimous

AGENDA ITEM 5: PUBLIC CHARGE

The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

The Board of Adjustment is a quasi-judicial administrative body established in accordance with the provisions of local regulations and State law to perform specified functions essential to the County's planning program. Action(s) taken by the board are based solely on competent, substantial, and material evidence presented during a previously scheduled and advertised public hearing on a specific item. As detailed within Section 2.12.2 of the UDO the Board chair reserves the right to exclude evidence and testimony that is deemed: 'incompetent, irrelevant, immaterial, or unduly repetitious' and therefore fails to reasonably address the issues before the Board of Adjustment. While it should be noted there is no time limit on the presentation of evidence, the Chair asks that the presentation of evidence be consistent with established policies, rules of procedure, and acceptable levels of decorum to ensure a fair and equitable hearing for all parties.

AGENDA ITEM 6: A-1-14 – CLASS B SPECIAL USE PERMIT – TELECOMMUNICATION FACILITY

In accordance with Section(s) 2.7 *Special* Uses, 5.2.2 *Table of Permitted Uses,* 5.3.2 *Application of Use Standards – Special Uses*, and 5.10 *Standards for Telecommunication Facilities* of the UDO American Tower and AT and T Mobility have submitted a Class B Special Use Permit application seeking a permit to erect a 199 foot telecommunication tower on a 55 acre parcel of property at 5309 Carr Store Road within the Cedar Grove Township of the County, further identified utilizing Orange County Parcel Identification Number (PIN) 9839-55-8588, which is owned by the Kirby family.

The property in question is zoned Agricultural Residential (AR) and Back Creek Protected Watershed Protection Overlay District. The proposed use is permitted on the property subject to the issuance of a Class B Special Use Permit. The property is currently utilized as a farm.

As detailed within the application, the applicant wishes to erect a telecommunication tower within a 100 foot by 100 foot leased area on the aforementioned parcel. There will be an equipment cabinet at the base of the tower to house equipment for the various communication providers utilizing the tower within a 60 foot by 60 foot fenced compound.

Access to the proposed facility shall be through an existing driveway with direct access to Carr Store Road.

<u>The following individuals were sworn in:</u>

Karen Kemerait
Joey Kirby
David Smith
David R. Vetter
Rusty Monroe
Larry Gunn

Karen Kemerait: I am with the law firm of Styers and Kemerait in Raleigh. Thank you for having me. We have an extensive application binder that was submitted and introduced into the record. I don't think it would be a good use of time for me to go through all the materials since Mr. Harvey has gone through much of the information. Also, I don't believe there is any concern or opposition to this tower and I think there is support for seeing coverage in this area. In previous hearings I had come and spoken to the Board of Adjustment, I mentioned that AT&T had made a commitment to invest in some of the more rural areas of the county where there is an absence of coverage and this application and site is one of those areas. I did want to point out that Joey Kirby, who is here tonight is the property owner, he has been sworn in and will answer any questions. This is a very good site, the property is used for agricultural purposes, it is 55 acres, and the parcel more than meets the setback requirements. The proposed tower, the 199 foot tower, will be located 787 feet from Carr Store Road and 590 feet from the nearest property line. I did want to point out what has already been included in tab 17 of the application binder, this is one of the Propagation studies that shows this is the tower site, it shows the coverage currently available and north of this site, there is not another AT&T tower or location for 10 miles north of this site so north of this area is an area where AT&T and other carriers are really going to need to vest in the county to improve coverage. This is the coverage that is currently available. The second propagation study shows the coverage that will be available once this tower has been constructed. As I mentioned, there will still be areas, especially north of this site, where there will still not be coverage but at least this is a beginning step in the right direction for improving the coverage.

Jeff Schmitt: Is this the coverage from just AT&T or all carriers?

Karen Kemerait: This is coverage from just AT&T but my understanding is there is a lack of coverage in that part of the county as well. I don't know the details of Verizon's coverage, Verizon does have coverage in the county but my understanding is that coverage is lacking in this part of the county for all carriers. Mr. Harvey may have more information.

Michael Harvey: At the end of January every year, Orange County holds an annual telecommunication meeting with all carriers that want to develop telecommunication facilities in Orange County. This meeting was attended by Ms. Kemerait as AT&T's representative as well as representatives from Verizon. Staff reviewed various propagation maps and I will testify to this point in time, this area was identified as having no coverage and/or limited coverage. Even Verizon indicated that it did not have coverage in this area so I will confirm that this will address a coverage issue.

Larry Wright: You said this has a 10 mile to the north so how do we cover that to the north?

Karen Kemerait: The carriers need to come in and construct some more towers and I think this is the beginning stages. I can tell you that this is the only application on my desk to file at this point but I don't know that AT&T and American Tower are continuing with their plans to improve coverage in the rural areas of Orange County.

Larry Wright: How far is that from the Virginia line?

Karen Kemerait: The closest tower is in Virginia and I actually can review the notes …..

Jeff Schmitt: In Person County after this tower is constructed; there is no coverage from there until you get to Danville? Caswell County?

Karen Kemerait: I have been told there is no AT&T coverage for 10 miles to the north. At Mr. Monroe's request, we provided additional information to show that coverage was available outside of the propagation studies that we had prepared so we provided a scale that showed … this is where the tower site will be and with the tower site, this is the existing coverage so you can see there is a loop but it is very limited. We did not provide additional sites because 10 miles per ….

Larry Wright: I am not detracting from the importance of putting this tower here. I am looking to the future so we have people north of there. What I understand when they put up towers, they direct the signal so if Virginia puts up a tower and directs the signal toward Virginia, aren't we going to need another tower in addition to this one to help these people out?

Karen Kemerait: I think the short answer is that to really continue to improve coverage in the northern or rural area of the county, there is going to need to be a significant investment and more towers will be needed. The way the towers work is they hand off to sites and this tower is going to be the hand off site between these two existing towers and the addresses for those towers are 419 Hawkins Road in Cedar Grove and that is near the intersection of Highway 49 and Highway 86 and the other site is 2351 John Lou Road in Burlington and it is also along Highway 49 and Highway 119.

Larry Wright: I said Virginia and Jeff said Caswell County but still don't they direct signals within the county … when they put a tower up? I'm in northern Orange County as well, it seemed they were directing signals towards the county line back to Orange and north to Caswell, am I right or wrong on that?

Karen Kemerait: This may be a technical question for Mr. Monroe. I don't think they are directing signals; there is a limited area that the antennas will provide coverage for so it is going to be providing a geographic ring around the tower so it is not directing it north or south but generally a ring around the tower. How much of it will be a circle or ring will depend on topography, trees, terrain and matters like that.

Rusty Monroe: I am representing Carolina Telecommunication Services, the county's consultant on this. The short and quick answer is that the coverage is not determined primarily by the signal emanating out from the tower or antennas. The limits of the coverage are determined by the ability of the handset to reach back to those antennas and talk to them. With today's technology, the power of your handset is getting lower and lower. The original phones were 9 watt phones, bag phones, today's handsets are powered about .4 of one watt which would light one mini Christmas tree bulb so the range of the phone itself is the limiting factor. These facilities are designed as a general rule for 360 degree service so what you are looking at is somewhere between two and three miles is really pushing it for the reliable use of a phone. Keep in mind; we are not talking exclusively about phone service anymore. In fact, the majority of traffic on one of these sites is not voice but data. The effect range is between two and three miles today without an obstruction and that range will be shrinking. To give you some kind of idea and the industry has acknowledged the validity of these numbers for a number of reasons primarily capacity or lack of capacity of each of these sites. They will ultimately need, each carrier will need a facility to serve about somewhere between 50 and 75 living units so you can do the math but nationally, you are talking millions of sites. That is just the nature of technology and propagation and demand. This site is intended to fill a gap in service. The gap does exist and this service will fill that gap. I am sure it is not the last site AT&T will be applying for and I am fairly confident that they will be filling in the remaining gaps.

Karen Kemerait: As Mr. Harvey said, since it is only a 199 foot tower, it will not lit as required by the ordinance, and I want to briefly mention that we have met the general use standards of the application and that is included in the project narrative but I have provided information to show that a proposed tower will maintain or promote the public health, safety and general welfare and I have provided a significant amount of detail of how we are meeting these general requirement. We have shown the antennas will meet the FCC and American National Standard Institute requirements. The tower will enable residents and people in their cars to make emergency calls, 911 calls, and it will also promote the public convenience by promoting economic development in the northern part of the county. I have also shown that the use will maintain or enhance the value of contiguous property and included under Tab 36, we have the property impact report. David Smith is here and prepared and he has concluded that the proposed tower will maintain or enhance the value of the contiguous property. He is here to answer any questions. I have also shown that the proposed tower will be in harmony with the area. The site is partially wooded. There are significant wooded areas to the east and south of the location and the woods will provide a natural landscape buffer. The tower will be located a significant distance from the adjoining properties and the closest road and we have also provided that this is not a service facility that is open to the public. It will be unmanned. It will only generate two to four vehicle trips per month. There will be no noise, glare or odor from this use. The use will be similar to some of the other rural uses in the area. If you have any questions, I will be happy to answer them.

Mark Micol: This will add high speed internet service with data and voice?

Rusty Monroe: Yes, this will be a 4G service.

David Vetter: I live in Efland close to Cedar Grove. One of my concerns about moving out here a few years ago was a lack of internet service….I have been sworn in….and it is still a big lack so I am with Verizon. I don't know if AT&T plans to sublet any of the bandwidth to other carriers or not, I hope so but if not, I would like to see Verizon put one up because I have to have a land line because I don't have sufficient cell phone signal to use a cell phone in the house so I have to have a land line. I also use my internet and use a Verizon box to provide my own small cell

phone tower but that is at the expanse of the bandwidth from my internet connection so it would be a big benefit for me to have better cell phone coverage and I know my neighbors would benefit too because a lot of them have land lines and they would not have that monthly expense if they had sufficient cell phone coverage. With more data being consumed, the data is a big concern also. I have low bandwidth coverage because we are on DSL because there is no coverage out there because of the population density to provide the data service provided through the cell communication network gives me access to internet that I would not have. I am in favor for myself and the community.

Karen Kemerait: In response to his question, American Tower will be the owner of the tower and is required to provide room for other carriers to co-locate on the tower.

Larry Wright: Is there room for the county to co-locate on that for emergency services?

Karen Kemerait: This is one of the ordinance requirements.

Michael Harvey: It is also an ordinance requirement that co-location opportunities be made available to other carriers. We don't get into the position of dictating to anyone what the rent should be but one of the reasons we encourage and promote tower development is because of co-location opportunities.

Michael Harvey: We have two other individuals who have signed up to speak. Mr. Kirby has signed up to speak and David Smith who is the expert who has provided the property value assessment contained in your packet; if you have any questions.

Larry Wright: Do we have any other individuals that would like to speak?

Larry Gunn: I have been sworn. My name is Larry Gunn; I am Mr. Kirby's next door neighbor. I think by the tower coming it will be a plus because I am on Verizon and I have a line phone but I can't get service on the cell phone. By having a cell phone it will be a plus because by the post office, it starts losing signal so by getting a tower that will be a plus for everybody.

FINDINGS OF THE ORANGE COUNTY BOARD OF ADJUSTMENT
PERTAINING TO A REQUEST SUBMITTED BY
AT AND T / AMERICAN TOWER
REQUESTING A CLASS B SPECIAL USE PERMIT APPROVAL
FOR A TELECOMMUNICATION TOWER AT
5309 Carr Store Road – PIN 9839-55-8588

As required under Section 5.2 *Table of Permitted Uses* of the Orange County Unified Development Ordinance (UDO), a Class B Special Use Permit is required for the erection of a telecommunication tower, over 75 feet but under 200 feet in height, in accordance with the provisions of Section 2.7 of the UDO. Such permits shall comply with general and specific standards as set forth in Section(s) 5.3.2 and 5.10.8 of the UDO.

Section 5.3.2 (A) (2) of the UDO requires written findings certifying compliance with the following:

(1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;

(2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and

(3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

In addition, the Board shall make findings certifying that the application is complaint with the following specific standards:

(1) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 2.2 and 2.7 of the UDO,

(2) Specific regulations governing the development of telecommunication tower as set forth in Section 5.10.8 (A) through (B) of the UDO,

(3) Section 5.3.2 (B) relating to the method and adequacy of the provision of:

a. Sewage disposal facilities,
b. The adequacy of police, fire, and rescue squad protection, and
c. The adequacy of vehicular access to the site and traffic conditions around the site

(4) The general findings outlined within Section 5.3.2 (A) (2).

Listed below are the findings of the Orange Planning staff regarding the application in question. The findings have been presented by Article and requirement to assist the Board of Adjustment in its deliberations.

SECTION 2.2 AND 2.7.3 CLASS B SPECIAL USE PERMIT APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 2.2 The application for a Class B Special Use Permit shall be on forms provided by the Planning Department.		X Yes	____No		**Tab 2** of the application booklet contains a complete Orange County Class B Special Use Permit application for the project.		_x_Yes	____No
2.2.4 (D) Applications must be accompanied by the fee amount that has been established by Board of County Commissioners. Application fees are nonrefundable.		X Yes	____No		**Tab 1** of the application booklet contains a copy of the checks submitted for the required fees. Staff will stipulate the applicant submitted the required application fee for the permit application.		_x_Yes	____No
2.7.3 (B) (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.		X Yes	____No		**Tab 3** of the application booklet contains a complete project narrative describing the proposed use and operational characteristics of the proposed tower.		_x_Yes	____No
2.7.3 (B) (2) The names and addresses of the owners of the property		X Yes	____No		**Tab(s) 3 and 5** of the application booklet contains information concerning the names and addresses of the owner of the property where the tower is to be located.		_x_Yes	____No

SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
2.7.3 (B) (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use		X Yes	____No		The application booklet contains various documents, including a site plan, containing the necessary information establishing compliance with the provisions of the Ordinance.		_x_Yes	____No
2.7.3 (B) (4) Ten (10) copies of the site plan prepared by a registered N.C. land surveyor, architect, or engineer.		X Yes	____No		**Tab 6** of the application booklet contains the required site plan completed by Velocitel of Cary, NC.		_x_Yes	____No
2.7.3 (B) (5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.		_X_ Not Applicable			The project does not involve or propose a subdivision. As a result no preliminary plat is required.		_x_ Not Applicable	
2.7.3 (B) (6) A list of all parcels located within 1000 (Staff Note – telecommunication tower applicants are required to observe a 1000 foot area) feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.		X Yes	____No		**Tab 10** of the application booklet contains a complete list of property owners within 1000 feet of the subject property as maintained by Orange County Land Records.		_x_Yes	____No
2.7.3 (B) (7) Elevations of all structures proposed to be used in the development.		X Yes	____No		**Tab 6** of the application booklet contains the required elevations		_x_Yes	____No

SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
2.7.3 (B) (8) Ten (10) copies of an Environmental Assessment or Environmental Impact Statement as required by Section 6.16 of the UDO		_X__ Not Applicable			Per Section 6.16.2 *Exemptions* of the UDO projects involving less than a total area of two (2) acres or less are not required to produce an Environmental Assessment. The proposed project will not impact more than 2 acres of land area (lease area is only 100 ft. by 100 ft. in area). Per Section 6.16.3 *Environmental Assessment* of the UDO the project will not involve the grading of more than 40,000 sq. ft. of property (exclusive of roads), involve more than 10,000 gallons per day of water usage.		_x__ Not Applicable	
2.7.3 (B) (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.		X_ Yes	____No		**Tab(s) 3 and 6** of the application booklet contains the a detailed narrative and site plan which notes construction or land clearing debris generated on-site will be disposed of in accordance with the County's Solid Waste Management Ordinance.		_x_Yes	____No
2.7.3 (B) (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.		X_ Yes	____No		**Tab 6** of the application booklet contains the required information,		_x_Yes	____No

SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**		**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**
2.7.3 (B) (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum)		X Not Applicable		The applicant is not requesting vesting of the project.		_x_ Not Applicable

Michael Harvey: On pages 162 through 165, the planning staff has indicated and recommended approval of the various findings indicating the application as required under Section 2.2 and 2.7.3 of the Unified Development Ordinance has been submitted in its complete form. We have provided under the various tabs of the application packet that is in the record indicating its approval. The proper application was submitted, the application fee was paid, the correct number of plans has been submitted, and all required information detailed in this section has been complied with.

MOTION made by Samantha Cabe to accept planning staff's recommended findings for pages 162 through 165. Seconded by Jeff Schmitt.
VOTE: Unanimous

SECTION 2.7.5 CLASS A SPECIAL NOTIFICATION REQUIREMENTS ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 2.7.5 (a) The Planning Director shall give public notice of the date, time and place of the public hearing		_X Yes	____No		**Attachment 3** of the Abstract package produced by staff provides the necessary detail outlining compliance with this requirement.		_x_Yes	____No
2.7.5 (b) Such notice shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days not more than we days prior to the date of the hearing.		_X Yes	____No		The legal ad for the April 22, 2014 BOA public hearing was published in the News of Orange and the Herald consistent with the requirements of the UDO.		_x_Yes	____No
2.7.5 (c) The Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.		_X Yes	____No		Staff posted the required sign in accordance with the provisions of the UDO.		_x_Yes	____No
2.7.5 (d) Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose manes and addresses are currently listed in the Orange County tax records.		_X Yes	____No		**Attachment 3** of the Abstract package produced by staff provides the necessary detail outlining compliance with this requirement.		_x_Yes	____No

Michael Harvey: Beginning on page 166, this is compliance with Section 2.7.5, Special Use Permit notification requirements. Staff has indicated that these have been complied with. I will remind you that Attachment 3 contains the notification information. We did send out two letters within the required time frame correcting our error and we will testify that we have met all obligations as subscribed in multiple state regulations to advertise to the public about this hearing. Beginning on page 168 going through page ….

Samantha Cabe: I think it is actually page 167 where that section starts.

Michael Harvey: Beginning on page 167.

Debra Graham: We still need to start at page 166.

Michael Harvey: Page 166 was the notification requirements for Section 2.7.5.

MOTION made by Samantha Cabe to adopt the staff findings on page 166 Section 2.7.5 as reflected on page 166 of the abstract. Seconded by Mark Micol.
VOTE: Unanimous

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.10.8 *Wireless Telecommunications Support Structures – Submittal and Review Requirements*								
5.10.8 (A) (1) (a) A site plan and site plan application package prepared in accordance with Section 2.5 shall be presented for approval to the Planning Division including all requirements for site development plan approval as required.		X Yes	___No		**Tab(s) 6** of the application booklet contains the required information, specifically the required site plan.		x Yes	____No
5.10.8 (A) (1) (b) A detailed description of the proposed telecommunication support structure (i.e. monopole, self-supporting lattice, etc.) including a detailed narrative description and explanation of the specific objective(s) for the new facility including a description as to the coverage and/or capacity, technical requirements, and the identified boundaries of the specific geographic area of intended coverage for the proposed telecommunication support structure		X Yes	___No		**Tab 3** of the application booklet contains a complete project narrative describing the proposed use as well as an explanation of the specific objective(s) for the new facility. **Tab(s) 6, 7, 15, 16, 17, 19, 20, 21, 22** of the application booklet contains other supporting documentation satisfying this requirement.		x Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (c) Elevation drawings and color renderings of the proposed tower showing: (i) The vertical rendition of the telecommunication support structure(s) identifying all users and attachments, (ii) All related fixtures, structures, appurtenances and apparatus including the height of said structures above the lowest adjacent pre-existing grade, (iii) The materials that will be used on site for said structures including their color and any proposed lighting and shielding devices, and (iv) If the facility is intended to be a stealth, as defined herein, the colors and screening devices for the Planning Director to verify consistency with applicable definitions.		X Yes	___No		**Tab(s) 3, 6 and 7** of the application booklet contains the required information.		x Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (d) A signed statement from the applicant certifying that the proposed telecommunication support structure: (i) Shall be maintained in a safe manner, (ii) Is in compliance with all conditions of all applicable permits and authorizations without exception, and (iii) Is in compliance with all applicable and permissible local, State, and Federal rules and regulations.		X Yes	___No		**Tab(s) 3, 25, and 28** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (e) A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower's compliance with applicable standards as set forth in the State of North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.		X Yes	___No		**Tab(s) 3 and 25** of the application booklet contains the required information.		_x_Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (f) A statement stating how the proposed tower will minimize visual intrusiveness to surrounding properties in the area. Criteria that may be used for such evidence may be height and type of existing trees surrounding the proposed tower, and local topography.		X Yes	___No		**Tab(s) 3, 6, and 7** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (g) A copy of the installed foundation design including a geotechnical sub-surface soils investigation, evaluation report, and foundation recommendation for the proposed wireless support structure.		X Yes	___No		**Tab(s) 3** of the application booklet contains required information. A final Geotech report is required prior to the issuance of a building permit. Staff will recommend this become a condition of approval.		_x_Yes	____No
5.10.8 (A) (1) (h) The existing cell sites (latitude, longitude, power levels) to which this proposed site will be a handoff candidate.		X Yes	___No		**Tab(s) 13 and 18** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (i) Propagation studies of the proposed site and showing all adjoining planned, proposed, in-service or existing sites. This will include all of the modeling information used to produce the study including, but not limited to, any assumptions made about ambient tree height.		X Yes	___No		**Tab(s) 13, 15, and 17** of the application booklet contains the required information.		_x_Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (j) The search ring utilized in finding the proposed site.		X_ Yes	___No		**Tab(s) 3 and 13** of the application booklet contains the required information. The County telecommunication's consultant, CMS, has reviewed the information and concurs with the applicant's assertions. Their comments are detailed within **Attachment 2** of the abstract.		_x_Yes	____No
5.10.8 (A) (1) (k) The number, type, height, and model of the proposed antennas along with a copy of the applicable specification sheet(s).		X_ Yes	___No		**Tab(s) 3, 6, and 15** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (l) The make, model and manufacturer of the tower and antenna(s), antenna heights and power levels of proposed site. This will include documentation establishing the azimuth, size, and centerline height location of all proposed and existing antennas on the structure.		X_ Yes	___No		**Tab(s) 3, 6 and 15** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (m) The frequency, modulation and class of service of radio or other transmitting equipment.		X_ Yes	___No		**Tab(s) 3, 6, 15, and 18** of the application booklet contains the required information.		_x_Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (n) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.		X Yes	___No		**Tab(s) 3, 15, and 18** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (o) The actual intended transmission and the maximum effective radiated power of the antenna(s).		X Yes	___No		**Tab(s) 3, 6, 15, and 19** of the application booklet contains the required information. .		_x_Yes	____No
5.10.8 (A) (1) (p) The direction(s) of maximum lobes and associated radiation of the antenna(s).		X Yes	___No		**Tab(s) 3, and 18** of the application booklet contains the required information. .		_x_Yes	____No
5.10.8 (A) (1) (q) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC.		X Yes	___No		**Tab(s) 3 and 18** of the application booklet contains the required information.		_x_Yes	____No

SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (A) (1) (r) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices.		X Yes	___No		**Tab(s) 3, 14 and 20** of the application booklet contains the required information.		_x_Yes	____No
5.10.8 (A) (1) (s) A written affidavit stating why "the proposed site is necessary for their communications service" (e.g., for coverage, capacity, hole-filling, etc.) and a statement that there are no existing alternative sites within the provided search ring and there are no alternative technologies available which could provide the proposed telecommunications service need without the tower.		X Yes	___No		**Tab(s) 3, 14, 19 and 20** of the application booklet contains the required information. The affidavit was prepared by Tara Rossato of AT and T		_x_Yes	____No
5.10.8 (A) (1) (t) A copy of the FCC license applicable for the intended use of the facility as well as a copy of the 5 and 10 year building out plan required by the FCC.		X Yes	___No		This information will be provided prior to the issuance of a building permit. Staff is recommending it become a condition of approval.		_x_Yes	____No

SECTION 5.8.10 (A) (2) ADDITIONAL SUBMITTAL REQUIREMENTS – CO LOCATION OF ANTENNAS ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**		**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**
5.8.10 (A) (2) In addition to the requirements denoted herein, applications for the co-location of antennas on existing structures shall be required to submit the following:		X Not Applicable		The applicant is not proposing the co-location of antenna with this application. The proposal is for a new tower, not for the co-location of equipment. As a result the requirements of Section 5.8.10 (A) (2) are not applicable to this application request. This section will be applicable in the future where co-locations are proposed for the tower if approved.		_x_ Not Applicable

SECTION 5.8.10 (B) GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS
("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (1) (a) and (b) Overall Policy and Desired Goals The overall policy and desired goals for Special Use Permits for wireless telecommunications support structures shall be promoting and encouraging, wherever possible, the following: (a) Alternatives to constructing new wireless support structures, including but not limited to the co-location of wireless telecommunications equipment and mitigating the visual effect of a wireless telecommunication support structure to an extent not commercially impracticable; and (b) The placement, height and quantity of wireless telecommunications towers and equipment in such a manner, including but not limited to the use of stealth technology or camouflage techniques, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications support structure, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.		X Yes	___No		**Tab(s) 3, and the entire booklet** contain the required information addressing this requirement. There are no existing towers in the area to address service needs, so co-location opportunities were not available. While there is a County pre-designated site in this area, the property will not allow for the erection of a tower in compliance with applicable standards as detailed within the UDO. **Tab(s) 3 and 6** provides sufficient information denoting compliance with subsection (b).		_x_ Yes	____No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (2) Balloon Test (a) The applicant shall, at least six weeks prior to a Class B Special Use Permit public hearing and at least 11 weeks prior to a Class A Special Use Permit public hearing, conduct a balloon test whereby the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of 10'3" in length, brightly colored red or orange balloon at the maximum height of the proposed new wireless support structure. (b) The balloon test shall be flown for at least four consecutive daylight hours starting sometime between 10:00 A.M. and 2:00 P.M. on the dates chosen. (c) A notice of the dates (including a second date in case of poor visibility, weather or atmospheric conditions on the initial date), times, and location of the balloon test shall be mailed, by certified mail, return receipt requested, by the applicant, to all persons owning property within 1,000 feet of the subject parcel no less		X Yes	___No		**Tab(s) 3, 7, and 10 (Tabs A-D)** of the application booklet contains the required information. The balloon test was completed on December 11, 2013 – approximately 18 weeks prior to the April 22, 2014 BOA public hearing. This date did not fall on a holiday and is consistent with the requirement of Section 5.8.10 (B) (2) (d) of the UDO as detailed herein. **Tab 7** contains pictures of the balloon test, which was held from 10:00 a.m. until 2:00 p.m. on December 11, 2013. Notices of the balloon test were sent to property owners within 1000 feet, of the subject property, via certified mail on November 20, 2013, 20 days prior to the scheduled balloon test (Please refer to **Tab 10**) The list of property owners within 1000 feet utilized by the applicant was generated utilizing data maintained by Orange County Land Records as required by the UDO. (Please refer to **Tab 10**)		x Yes	____No

than 14 days in advance of the first test date. The data contained within the office of Orange County Land Records shall be used as the primary source for determining which residents are to receive notice of the balloon tests.								
(d) The primary date shall be on a weekend (excluding legal holidays), but to prevent delays in the processing of the application, and in case of poor weather or atmospheric conditions on the initial date, the secondary date may be a weekday.					The test was held consistent with the requirements of Section 5.8.10 (B) (2) (d) as detailed herein.			
(e) The applicant shall inform the County Planning Staff, in writing, of the dates and times of the test at least 14 days in advance.					Planning staff was informed of the test as required by Section 5.8.10 (B) (2) (e) as detailed herein.			
(f) The applicant shall also post a sign on the subject property, and directional signs posted at locations to be determined by Planning Staff. The signs shall measure no more than nine square feet in area and no less than four square feet in area, giving the contact information of the County Planning Department, the proposed dates, times, and location of the balloon test. The signs shall be posted to meet the same time limits as provided for in the balloon test notification as stated above.					Signs were posted on the property, as well as off-site directional signs, on November 22, 2013.			

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) Submittal Requirements								
5.8.10 (B) (3) (a) (a) A site plan showing the following: (i) The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site, (ii) Existing and proposed structures on site, (iii) The fall zone of the tower, (iv) Existing and proposed topography at a contour interval of five feet and (v) Any officially designated floodways and floodplains, or the presence of alluvial soils.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet C-1 of the site plan contained in **Tab 6** provides the size of all structures within 500 feet of the site as well as denoting the fall zone of the proposed tower and the existing/proposed topography lines. There is a statement on sheet C-1 indicating there are no floodways/floodplains on the property. Staff concurs with this finding.		_x_Yes	___No
5.8.10 (B) (3) (b) Plans, and elevations for all proposed structures and descriptions of the color and nature of all exterior material, along with the make, model, and manufacturer of the proposed structure, maximum antenna heights, and power levels.		X Yes	___No		**Tab(s) 3, 6, and 25** of the application booklet contains the required information. Sheet C-3 of the site plan contained in **Tab 6** provides information about the tower and antennas.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (c) A Landscape and Tree Preservation Plan drawn at the same scale as the site plan, showing the existing and proposed trees, shrubs, ground cover and other landscape materials. This plan shall minimize adverse visual effects of wireless telecommunications support structures and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Refer to Sheet C-2.1 for additional information.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (d) Evidence that the applicant has investigated the possibilities of placing the proposed equipment on an existing wireless support structure. Such evidence shall consist of: i. A listing of all wireless telecommunications support structures within a two mile radius of the proposed wireless support structure site and a listing of all wireless support structure, utility poles and other structures in the vicinity of the proposed facility that are technically feasible for utilization by the applicant to fill all or a substantial portion of the telecommunications service need identified by the Applicant pursuant to section 5.10.8(A)(1)(s). Documents shall be submitted at the time of application filing that indicates the applicant's ability or inability to co-locate on the identified tower(s) and reasons why.		X Yes	___No		**Tab(s) 3, 14, 19, and 20** of the application booklet contains the required information. **Tab(s) 14 and 20** contains affidavits indicating there are no existing towers, buildings, or other useable structures within a 2 mile radius in which antennas could be attached. **Tab 13** contains a search ring map.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (d) (continued) ii. Delineation of the boundaries of the maximum search ring within which the telecommunication equipment can function as intended. The following information shall be provided for all existing wireless support structures within the search ring: a. Wireless telecommunication support structure height; b. Existing and planned wireless support structure users; c. Whether the existing wireless telecommunication support structure could accommodate the telecommunication equipment to be attached to the proposed wireless support structure without causing structural instability or radio frequency interference; and								

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (d) (continued) d. If the proposed telecommunication equipment cannot be accommodated on the existing wireless telecommunication support structure, assess whether the existing wireless support structure could be structurally strengthened or whether the antennas transmitters and related equipment could be protected from electromagnetic interference, and generally describe the means and projected cost of shared use of the existing wireless support structure; and e. Any restrictions or limitations of the FCC or FAA that would preclude the shared use of the wireless support structure; f. Propagation studies of all adjoining planned, proposed, in-service, or existing sites, and; g. Any additional information requested by the County. iii. A summary explanation of why proposed telecommunication equipment cannot be located on any of the existing wireless support structures in the search ring.								

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (e) Documentation from applicable state or federal agencies indicating requirements, which affect the appearance of the proposed wireless support structure, such as lighting and coloring.		X Yes	___No		**Tab(s) 3 and 31** of the application booklet contains the required information. There is no lighting required for the proposed tower.		x Yes	___No
5.8.10 (B) (3) (f) Draft bond which will guarantee the removal of the wireless support structure in the event that it is abandoned or unused for a period of 12 months.		X Yes	___No		**Tab(s) 3 and 29** of the application booklet contains the required information.		x Yes	___No
5.8.10 (B) (3) (g) A listing of, and current tax map identifying, all property owners within 1,000 feet of the parcel and addressed, first class stamped envelopes to the property owners for notifications of the public hearing in accordance with Sections 2.7.5 and 2.7.6 of this Ordinance.		X Yes	___No		**Tab(s) 3 and 10 (Tabs A-E)** of the application booklet contains the required information.		x Yes	___No
5.8.10 (B) (3) (h) A report containing any comments received by the applicant in response to the balloon test along with color photographs from various locations around the balloon.		X Yes	___No		**Tab(s) 3 and 7** of the application booklet contains the required information.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (i) Evidence that the balloon test requirement has been met, including a notarized statement and listing of the property owners notified of the test, a copy of a current Orange County Tax Map showing the subject property and all properties within the notification ring, and copies of the certified mail returned receipts from the mail-out.		X Yes	___No		**Tab(s) 3 and 10 (Tabs A-E)** of the application booklet contains the required information.		_x_Yes	___No
5.8.10 (B) (3) (j) A notarized statement that the sign posting requirement has been met.		X Yes	___No		**Tab(s) 3 and 10** of the application booklet contains the required information.		_x_Yes	___No
5.8.10 (B) (3) (k) Photographs of a clearly visible balloon floated at the proposed tower location to the maximum height of the tower, as well as photographs with the proposed tower and associated antennas superimposed upon them showing what the proposed tower will look like. Photographs shall be taken from locations such as: property lines, and/or nearby residential areas, historic sites, roadways, including scenic roads and major view corridors, and other locations as deemed necessary by the Planning Staff to assess the visual impact of the proposed tower.		X Yes	___No		**Tab(s) 3 and 7** of the application booklet contains the required information.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (l) The Special Use Permit application shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.		X Yes	___No		**Tab(s) 3, 18 and 27** of the application booklet contains the required information.		x Yes	___No
5.8.10 (B) (3) (m) An Applicant may be required to submit an Environmental Assessment Analysis and a Visual addendum. Based on the results of the Analysis, including the Visual addendum, the County may require submission of a more detailed visual analysis. The scope of the required Environmental and Visual Assessment will be reviewed at the pre-application meeting.		X Not applicable			The applicant was not required by staff to complete the additional information		x Not applicable	
5.8.10 (B) (3) (n) If required, a Visual Impact Assessment, which shall include:		X Not applicable			The applicant was not required by staff to complete the additional information. As a result the provisions of this section do not apply.		x Not applicable	

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.8.10 (B) (3) (o) All applications shall contain a demonstration that the wireless support structure is sited so as to have the least visually intrusive effect reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the telecommunications tower.		X Yes	___No		**Tab(s) 3 and 7** of the application booklet contains the required information.		_x_Yes	___No
5.8.10 (B) (3) (p) A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower's compliance with applicable standards as set forth in the State of North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.		X Yes	___No		**Tab(s) 3 and 25** of the application booklet contains the required information. **Tab 25** contains a statement authored by Habib Azouri PE		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.10.8 (B) (4) Standards of Evaluation								
5.10.8 (B) (4) (a) (a) The telecommunications equipment planned for the proposed wireless support structures cannot be accommodated on an existing wireless support structures due to one or more of the following reasons: (i) The planned equipment would exceed the structural capacity of existing and approved wireless support structures, considering existing and planned use of those wireless support structures and the wireless support structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost. (ii) The planned equipment would cause radio frequency interference with other existing or planned equipment for these wireless support structures, and the interference cannot be prevented at a reasonable cost. (iii) Existing or approved wireless support structures do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing or approved equipment. (iv) No tower or other suitable facility exists in an area where the equipment to be placed on the tower will function in its intended manner.		X Yes	___No		**Tab 3 and 13** of the application booklet contains the required information. There are no existing towers in the area to address service provision needs. As a result the antenna proposed for the site cannot be located elsewhere. The application in its entirety provides the necessary documentation outlining why the tower has to go on this property.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (b) Location of Wireless Support Structures: (i) Applicants for facilities shall locate, site and erect said facilities according to the following priorities, in the following order: a. On existing County-owned facilities without increasing the height of the tower or structure. b. On existing Facilities without increasing the height of the tower or structure. c. On County-owned properties or facilities. d. On properties in areas zoned for commercial or industrial use. e. On properties in areas zoned Agricultural Residential (AR). f. On properties in areas zoned for residential use.		X Yes	___No		**Tab 3** of the application booklet contains the required information. There are no 'County' owned facilities in the area allowing for antenna to be located. There are no existing towers in the area to address service provision needs. There are no commercially and/or industrially zoned properties in the area where a tower could be located in compliance with the standards detailed within the UDO. There subject property is zoned AR. This property is zoned for residential use.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (b) Continued (ii) If an Applicant proposes to place telecommunications equipment at a location that is not a preferred priority 1 site, then the Applicant must provide a detailed explanation as to why a higher priority site is not proposed. The explanation shall be in the form of a written report demonstrating the Applicant's review of the above locations in order of priority and the reason(s) for the site selection. The explanation shall, at a minimum, include the information required by section 5.10.8(B)(3)(e). (iii) The application shall not be approved unless it demonstrates that the telecommunications equipment may not be sited at a higher priority site because of commercial impracticability or because no higher priority site is available that would serve to provide the telecommunications service need identified by the Applicant as provided for in section 5.10.8(A)(1)(s).		X Yes	___No		This property represents the lowest priority site per Section 5.10.8 (B) (4) (b) (i) (f) as detailed above. The proposed tower is located: '*On properties in areas zoned for residential use'*		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**		**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (b) Continued (iv) An Applicant may not by-pass sites of higher priority merely because the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability. (v) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, an application shall not be approved if it conflicts with the provisions and requirements of this Ordinance.				The applicant is not by-passing a 'higher priority' site with the proposal to erect a tower on this property. There are no higher priority sites in the area where a tower can be located.			

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (b) Continued (vi) Wireless support structures shall not be located within one-half (½) mile of any existing monopole, lattice or guyed wireless telecommunications support structure. a. An exception may be allowed when the applicant can sufficiently demonstrate that: i. Appropriate space on the existing telecommunication wireless support structure is not available; or ii. The applicant has made good faith effort to negotiate an agreement with the owner of the existing wireless telecommunication support structure and has been unsuccessful, which must be documented in writing; or iii. The telecommunication equipment on the existing wireless telecommunication support structure is not compatible with the proposed telecommunication equipment of the applicant; or iv. Adequate coverage by the applicant cannot be met at the location of the existing wireless telecommunication support structure; or v. The existing wireless telecommunication support structure cannot be reasonably modified to accommodate additional co-location by the applicant.					There are no wireless support structures within ½ mile of this property.			

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**		**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**
5.10.8 (B) (4) (b) Continued b. Exceptions shall only be allowed after a thorough analysis of the search area, provided by the applicant is performed by the County's consultant or Staff, indicating that coverage is not possible on an existing wireless support structure at the four-carrier capacity or other user capacity that can be achieved. There must be an 80% approval vote of the deciding board for this specific finding to pass the exception criteria.						

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (c) Setbacks (i) Within or adjacent to residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be equal to 110% of the wireless support structure height. (ii) If the wireless support structure is proposed as an accessory use to a residential use, the setback shall be 110% of the wireless support structure height from any residence or dwelling unit on the subject property. (iii) Adjacent to non-residential uses or non-residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be the greater of 20% of the tower height, or the minimum required setback. (iv) All buildings and other structures to be located on the same zoning lot as a telecommunication tower wireless support structure shall conform to the setbacks established for the zoning district or as established through the subdivision process, whichever is greater.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet C-1 of the site plan contained in **Tab 6** indicates setback of the tower from the property line. The application package indicates there are no residential 'houses' on the site. There are also no adjacent non-residential land uses or zoning districts per subsection (iii) as detailed herein.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (d) Access (i) At a wireless telecommunications support structure site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. (ii) Maximum use of existing roads, whether public or private, shall be made to the extent practicable. (iii) Road construction shall, at all times, minimize ground disturbance and the cutting of vegetation. (iv) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet C-1 and C-2 of the site plan contained in **Tab 6** contains sufficient detail denoting compliance. Existing roads will be utilized to the maximum extent possible. Road construction shall follow, to the greatest extent possible, the existing contour of the land and minimize the removal of vegetation.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (e) Landscape and Buffers (i) A Type C Landscape Buffer shall be provided between the wireless support structures and its accessory structures and adjoining property/properties. (ii) Existing vegetation may be removed only to the extent necessary to accommodate the wireless support structures, equipment buildings, and support structures such as guy wires. (iii) Plantings around the compound perimeter, outside of any fence or wall, shall be composed entirely of fast growing evergreen vegetation. (iv) New plantings and existing vegetation used for screening shall be at least six feet in height or greater at planting. (v) Proposed plantings (name, type, height) shall be shown on the Landscape Plan for the facility. (vi) Landscaping shall provide a screen on a year-round basis.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information.		_x_ Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (f) The visibility of the balloon to adjacent properties and the surrounding area shall not constitute sole justification of denial of a permit application but is an indication of what location on the site may be less visually intrusive.		X Yes	___No		The applicant acknowledges the condition. Balloon Test information, including visibility pictures/renderings are contained within **Tab 7** of the application package		_x_Yes	___No
5.10.8 (B) (4) (g) The applicant shall demonstrate and provide a description in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed facility.		X Yes	___No		**Tab(s) 3, 6, and 7** of the application booklet contains the required information. Sheet C-1 of the site plan in **Tab 6** provides information on the landscaping. **Tab 7** provides information related to the balloon visibility.		_x_Yes	___No
5.10.8 (B) (4) (h) The site plan shall indicate a location for at least two equipment buildings in addition to that proposed for use by the applicant.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet C-2 of the site plan in **Tab 6** provides the required information.		_x_Yes	___No
5.10.8 (B) (4) (i) All utilities at a facility site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet(s) E1 through E8 of the site plan in **Tab 6** provides required detail.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (j) All wireless support structures shall satisfy all applicable public safety, land use, or zoning issues required in this Ordinance, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information.		_x_Yes	___No
5.10.8 (B) (4) (k) Fences and Walls (i) An eight foot fence or wall shall be required around the base of any wireless support structures. This fence or wall shall encompass all accessory equipment within the compound. (ii) Fences shall be required around guy wire tie downs (iii) A fence or wall may be placed around the perimeter of the facility to include guy wire tie downs and associated equipment should the applicant/owner wish to do so.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet(s) C-2 and C-9 of the site plan contained in **Tab 6** contains the required information on proposed fences and walls.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (l) The communications tower is structurally designed to support additional users as provided for in Section 5.10.8(A)(3)(d), and the Special Use Permit includes a statement that the owner of the wireless support structure is willing to permit other user(s) to attach communication equipment which do not interfere with the primary purpose of the wireless support structure, provided that such other users agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.		X Yes	___No		**Tab(s) 3 and 28** of the application booklet contains the required information. **Tab 28** contains the required co-location certification document.		_x_Yes	___No
5.10.8 (B) (4) (m) To minimize the number of antenna arrays and thus the visual impact, the County may require the use of dual mode antennas to be used, including by two different carriers, unless it can be proven that such will not work technologically and that such would have the effect of prohibiting the provision of service in the County.		X Yes	___No		The applicant acknowledges the condition. Staff is recommending this as a specific condition of approval. Language within the application allows for this if required by the County.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (n) Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.		X Yes	___No		The applicant acknowledges the condition. Language within the application indicates the proposed monopole will be constructed of galvanized steel, grey in color, and will '*harmonize and blend with and into the environment and natural color of the background*'		x Yes	___No
5.10.8 (B) (4) (o) Both the wireless telecommunications support structure and any and all accessory or associated telecommunication equipment and related facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth technology as may be required by the County.		X Yes	___No		**Tab(s) 3** of the application booklet contains the required information. Language within the application indicates the proposed monopole will be constructed of galvanized steel, grey in color, and will '*harmonize and blend with and into the environment and natural color of the background*'		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (p) Antennas (i) All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted or as close to flush-mounted as is technologically possible on any facility, so long as such does not have the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), unless the applicant can prove that it is technologically impracticable. (ii) If attached to a building, all antennas shall be mounted on the face of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information. Sheet C-3 of the site plan contained within **Tab 6** indicated the antennas will be located on the proposed monopole tower will be flush mounted. Language within the application indicates this condition will be adhered to. Subsection (ii) is not applicable to this application.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (q) Lighting		__X__ Not Applicable			As detailed within the application the tower is not required, or is it going to be, illuminated.		__x__ Not Applicable	
5.10.8 (B) (4) (r) The tower and antenna will not result in a significant adverse impact on the view of or from any historic site, scenic road, or major view corridor.		X__Yes	___No		Adjacent roadways are not designated as scenic roads or major view corridors. According to a memorandum from Orange County DEAPR staff, contained within **Attachment 2** of the staff abstract, there are no issues with respect to detraction from historic sites.		_x_Yes	___No
5.10.8 (B) (4) (s) Facilities, including antennas, towers and other supporting structures, such as guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.		X__Yes	___No		The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (t) All abandoned communication wireless support structures shall be removed within 12 months of the cessation of use. A bond or other security guaranteeing the removal of the tower in the event that it is abandoned or unused for a period of 12 months shall be posted. A cost estimate shall be provided by a qualified General Contractor licensed in the State of North Carolina. The amount of the security shall be 110% of the estimate.		X Yes	___No		The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to. This will be addressed prior to the issuance of a Certificate of Occupancy of the structure and shall become a condition of approval.		x Yes	___No
5.10.8 (B) (4) (u) A determination shall be made that the facility and its equipment will comply with all federal, state and local emission requirements, and the Special Use Permit shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.		X Yes	___No		The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (v) Electro-magnetic radiation levels. (i) The Special Use Permit shall include a condition that the electro-magnetic radiation levels maintain compliance with requirements of the FCC, regarding emission of electromagnetic radiation. (ii) Within 30 days of installation of equipment on the tower, and within 30 days of the installation of any additional equipment in the future, the tower owner shall provide documentation of emission levels in relation to FCC standards. (iii) In addition, the tower owner must provide documentation of emission levels within five working days if so requested by Orange County. (iv) Orange County may make such requests at any time, not to exceed two times per year.		X Yes	___No		The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to. This will become a condition of approval for the project.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (w) "High Voltage", "No Trespassing" and Other Signs (i) If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart. (ii) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart. (iii) The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least five feet above the finished grade of the fence.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information.		_x_ Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (w) Continued (iv) The warning signs may be attached to freestanding poles if the content of the signs would, or could, be obstructed by landscaping. Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation. (v) Facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. (vi) A sign no larger than four square feet containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s) shall be installed. The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information.		x Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (4) (w) Continued (vii) On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. (viii) The use of any portion of a tower for signs or advertising purposes including company name, banners, streamers, etc. shall be strictly prohibited. (ix) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.		X Yes	___No		**Tab(s) 3 and 6** of the application booklet contains the required information.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (5) Bond Security (a) The applicant and the owner of record of any proposed facility property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least $75,000.00 for a tower and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Section and conditions of any Special Use Permit issued pursuant to this Section. (b) The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit Tower Inspection.		X Yes	___No		**Tab(s) 3** of the application booklet acknowledges the condition and indicates it shall be adhered to.		_x_ Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (6) Liability Insurance (a) A holder of a Special Use Permit for a wireless support structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in the following amounts: (i) Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate; and (ii) Automobile Coverage: $1,000,000.00 per occurrence/ $2,000,000 aggregate; and (iii) A $3,000,000 Umbrella coverage; and (iv) Workers Compensation and Disability: Statutory amounts. (b) For a wireless support structure on County property, the Commercial General Liability insurance policy shall specifically name the County as an additional insured. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.		X Yes	___No		**Tab(s) 3** of the application booklet acknowledges the condition and indicates it shall be adhered to.		_x_Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (6) Liability Insurance Continued (c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance. (d) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace. (e) Before construction of a permitted facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the County shall not be deemed to comply with this Section.		X Yes	___No		**Tab(s) 3** of the application booklet acknowledges the condition and indicates it shall be adhered to. This shall become a condition of approval for the project.		_x_ Yes	___No

SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
5.10.8 (B) (6) Liability Insurance Continued (c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance. (d) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace. (e) Before construction of a permitted facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the County shall not be deemed to comply with this Section.		X Yes	___No		**Tab(s) 3** of the application booklet acknowledges the condition and indicates it shall be adhered to. This shall become a condition of approval for the project.		_x_ Yes	___No

Michael Harvey: We will go from page 167 to page 211 which is compliance with standards for telecommunication facilities Section 5.10.8 of the Unified Development Ordinance A and B. Through all these pages, staff has indicated that the applicant has met their burden of proof. We have provided sufficient documentation in the record of the application demonstrating compliance and we have recommended an affirmative finding on all the parameters as detailed within 5.10.8 A and B.

MOTION made by Samantha Cabe to adopt the staff findings on page 167 through page 211. Seconded by David Blankfard.
VOTE: Unanimous

SECTION 5.3.2 (B) – SPECIFIC STANDARDS – SPECIAL USE PERMITS ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.3.2 (B) (1) Method and adequacy of provision for sewage disposal facilities, solid waste and water service.		X Yes	____No		**Attachment 2** of the staff prepared abstract contains memorandum/emails from Orange County Environmental Health indicating there are no septic systems required for the support of the proposed telecommunication tower. There is also an e-mail from Jeff Scouten, Orange County Solid Waste, indicating his approval of the project.		x Yes	____No

SECTION 5.3.2 (B) CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.3.2 (B) (2) Method and adequacy of police, fire and rescue squad protection.		X Yes	____No		Fire protection will be provided by the Efland Volunteer Fire Department, rescue service by the Orange County Emergency Management, and police protection by the Orange County Sheriff's Department. **Tab(s) 32 and 33** of the application booklet contains an e-mail from Mr. David Sykes of Orange County Emergency Management concerning approval of the project. Orange County Sheriff's office has also indicated they can support the project.		x Yes	____No
Section 5.3.2 (B) (3) Method and adequacy of vehicle access to the site and traffic conditions around the site.		X Yes	___No		The submitted site plan shows the required access points. A recommended condition of approval is the applicant secure a NC DOT drive permit allowing for the project to be accessed via New Sharon Church Road		x Yes	____No

Michael Harvey: Beginning on page 212, we have compliance with Section 5.2.3 (B), the specific standards for Special Use Permits which details the method and adequacy of provision for sewage disposal facilities, method and adequacy of police, fire and rescue squad protection, method and adequacy of vehicle access to the site and traffic conditions around the site. You will have my testimony and the evidence entered into the record from Attachment 2 from staff comments. There will not be a septic on the property supporting the telecommunication facility. Orange County Health Department indicated that the telecommunications will not impact existing septic systems. You have an email from Jeff Scouten indicating he has no concerns over the approval of this project. You have in tabs 32 and

33 letters from Orange County Fire Marshal, David Sykes, and Orange County Sheriff's Department indicating they have no concerns over the project and with respect to Section 5.2.3 (B), method and adequacy of vehicular access to the site and traffic conditions. Staff stipulates that the submitted site plan shows required access points which demonstrates compliance. We have made an affirmative recommendation for all three on pages 212 and 213.

MOTION made by Samantha Cabe to adopt the planning staffs recommended findings that the applicant has met its burden under Section 5.3.2 (B) on page 212 and 213 as summarized by Mr. Harvey. Seconded by David Blankfard.

VOTE: Unanimous

SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
In accordance with Section 5.3.2 (A) (2), the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:		**NOTE**: Planning Staff does not provide a recommendation on these items as the Board is expected to act based on the sworn testimony provided at the hearing.						
Section 5.3.2 (A) (2) (a) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.		_Will	_Will Not		Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: • The application package and project narrative contained within **Tab 3** of the application booklet. • **Tab 36** of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • **Tab 6** of the application booklet contains a site plan denoting the projects compliance with the UDO. • **Tab(s) 32 and 33** of the booklet contains approvals from County EMS and Sheriff's office.		_x_Will	_Will Not

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.3.2 (A) (2) (a) Continued					• The application booklet contains evidence demonstrating the need for the tower, provisions for guaranteeing the public's safety and general welfare.			

Michael Harvey: On pages 214 through 217, we have the required findings for Section 5.3.2 (A) Special Uses General Standards. Please note these are three findings we do not make a recommendation on because they are based on the sworn testimony and evidence that are entered into the record. These are that the use will maintain or promote the public health, safety and general welfare if located where proposed and developed and operated according to the plan as submitted. We don't make a recommendation but remind you with respect to compliance with this section is the application packet contains the necessary material in our estimation to justify an affirmative finding specifically in Tab 3, the application narrative. Tab 36, the Site Impact Analysis prepared by David Smith, tab 6 of the application packet which has the site plan, tabs 32 and 33 of this application packet containing the approval of Orange County EMS and the sheriff's office and all the relevant information as detailed.

MOTION made by Mark Micol to find in favor that the use will maintain and promote the public health, safety and general welfare if located where proposed based on testimony of Karen Kemerait, the attorney for the applicant that the additional tower will encourage the expansion of affordable high speed 4G access for the county and provide equitable access to rural underserved areas and staff's recommended findings. Seconded by Samantha Cabe.
VOTE: Unanimous

SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No" indicates non-compliance)

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.3.2 (A) (2) (b) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).		__Will	_Will Not		Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: • The application package and project narrative contained within **Tab 3** of the application booklet. • **Tab 36** of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • **Tab 6** of the application booklet contains a site plan denoting the projects compliance with the UDO.		_x_Will	_Will Not

Michael Harvey: Beginning on page 216, we have compliance with Section 5.3.2 (A) 2 (b) which is the use will maintain or enhance the value of contiguous property. You are making a determination that the use will or will not maintain or enhance the value of contiguous property. We will remind the board the application packet, tab 3, contains a detailed narrative demonstrating compliance. Tab 36 contains the Physical Impact Analysis by David Smith indicating the project will not impact the value of adjacent property. Tab 6 of the application booklet contained in the site plan denoting compliance of the UDO.

MOTION made by David Blankfard that if we grant the special use permit that the cell site will maintain the value of adjacent and contiguous property owners according to the project impact statement made by David Smith and the staff's recommendation. Seconded by Mark Micol.
VOTE: Unanimous

Ordinance Requirements		**PLANNING STAFF RECOMMENDED FINDINGS**			**EVIDENCE SUBMITTED TO SUPPORT FINDINGS**		**BOA FINDINGS**	
Section 5.3.2 (A) (2) (c) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.		___ Is	__ Is Not		Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: • The application package and project narrative contained within **Tab 3** of the application booklet. • **Tab 36** of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • **Tab 6** of the application booklet contains a site plan denoting the projects compliance with the UDO.		_x__Is	__ Is Not

Michael Harvey: On page 217 with respect to compliance with Section 5.3.2 (A) (2) (c), the location and character of the use if developed according to the plan submitted will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan or portion thereof, adopted by the Board of County Commissioners. I will remind the board in tabs 3, 36 and 6 of the application packet, you have sufficient documentation detailing this as well as the application package as a whole. I will also remind the board that you have staff's abstract in the record that provided an assessment of the various Comprehensive Plan Policies and Goals that we believe support the approval of this project.

MOTION made by Jeff Schmitt per the requirements of Section 5.3.2. (A) as required by the UDO, this plan will be in compliance with that. It has been demonstrated the plan will in fact enhance potential economic development in the area and provide additional safety through having additional access to 911 emergency but there will not be additional traffic to the nature of this site which will increase usage and destroy the harmony of the area and the testimony that has been included in the record shows that there will be no negative impact to the value of contiguous and/or property in the general area. Seconded by Mark Micol.
VOTE: Unanimous

RECOMMENDATION:

Staff has not received any information that would establish grounds for making a negative finding on the general standards as detailed above. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, the use being in harmony with the area in which it is to be located, and the use being in compliance with the general plan for the physical development of the County.

Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant **complies** with the specific standards and required regulations as outlined within the UDO

Provided the Board of Adjustment finds in the affirmative on the specific and general standards, the Board could make a positive finding on this application. In the event that the Board makes a recommendation to issue the permit, staff recommends the attachment of the following conditions:

1. The height of the tower shall not exceed a height of 199 feet above pre-construction grade as detailed within the approved application package as reviewed and acted upon by the Board of Adjustment at their April 22, 2014 meeting.
2. Existing vegetation, as detailed on the approved site plan reviewed and acted upon by the Board of Adjustment at their April 22, 2014 meeting, shall be maintained as indicated.
3. The facility and its equipment shall comply with all federal, state and local emission requirements.
4. The electro-magnetic radiation levels shall be maintained compliance with all federal, state and local requirements, including the requirements of the Federal Communications Commission regarding emission of electromagnetic radiation. Within 30 days of installation of equipment on the tower, and within 30 days of the installation of any additional equipment in the future, the tower owner shall provide documentation of emission levels in relation to FCC standards to the County for review. In addition, the tower owner must provide documentation of emission levels within five working days if so requested by Orange County. Orange County may make such requests at any time, not to exceed 2 times per year.
5. Two ten pound 2-A:20-B:C dry chemical portable fire extinguishers shall be installed at the site at a conspicuous location for use during an emergency event.
6. As required within Section 5.10.8 (A) (1) (g) of the UDO, the applicant shall be required to provide a final copy of the installed foundation design including a geotechnical sub-surface soils investigation, evaluation report, and foundation recommendation for the proposed wireless support structure prior to the commencement of land disturbing activities associated with the construction of the telecommunication facilities.
7. The applicant shall obtain a driveway permit from the NC Department of Transportation approving the driveway access for the project off of Saddle Club Road.
8. Final assignment of a street address shall be completed by Orange County Land Records prior to the issuance of any permit authorizing land disturbing activity on the property.
9. The applicant shall obtain all necessary development permits from the County prior to the initiation of and land disturbing activity associated with the construction of the telecommunication facilities including, but not limited to: Building Permit, Erosion Control/Stormwater Management Permit, and Zoning Compliance Permit.
10. Any proposed co-location of antenna on this tower shall be reviewed, acted upon, and installed in accordance with the provisions of the UDO.

11. A co-location site shall be offered to the County for the placement of antenna in support of local emergency communication needs.

12. The applicant shall submit all necessary bonding/financial security documents to the County Attorney's office for review and approval guaranteeing the removal of the tower in the event it is abandoned or unused for a period of 12 months. A cost estimate shall be provided by a qualified contractor. The amount of the security shall be 110 percent of the estimate. This must be completed before building permits are issued.

13. Telecommunication tower owners shall submit a report to the County Inspections Division certifying structural and electrical integrity upon completion of the initial construction and at intervals as specified within the UDO.

14. Inspection records shall be kept by the tower owner and made available upon request to the County Inspections Division during regular business hours. Inspections shall be performed as specified within the UDO.

15. In those cases where an inspection is required, which is not performed by Orange County Inspections, the applicant is required to notify the Planning Department and any applicable County telecommunication consultant of the inspection and its results.

16. Nothing associated with the approval, development or use of the property in support of the proposed telecommunication facilities shall be construed as impacting the use of the property for bona-fide farm purposes. Expansion of farming activities shall not constitute a modification of the special use permit as detailed within the UDO requiring a re-review of the project by the Board of Adjustment.

17. The County's telecommunications consultant shall issue a final Certificate of Completion upon the completion of a final inspection of the constructed telecommunication facilities. Commercial service cannot be provided/initiated until this final Certificate is completed and issued.

18. The Special Use Permit will automatically expire within 12 months from the date of approval if the use has not commenced or construction has not commenced or proceeded unless a timely application for extension of this time limit is approved by the Board of Adjustment.

19. If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be void in its entirety and of no effect.

Michael Harvey: On page 218 and 219, staff stipulated that we have not received any information establishing the grounds for making a negative finding for denial of the project; we have recommended the imposition of several conditions. I will state for the record the applicant has already met most of these. Would you change the date reference under numbers one and two to April 22, 2014, this meeting, as this is the meeting subject to this particular application? I will also remind the board we have included a condition which we have started doing with all telecommunication towers developed on farm property that nothing within this approval shall be deemed as limiting or stopping the conceded use of property for farm use. You recall concerns that have been brought before this board by farmers who have had telecommunication towers developed on their property, any change in the site plan that has been submitted is required to come back to this board. Staff has never viewed any construction of a new farm building as a change under the ordinance technically says it is. We impose this condition so we provide property owners an opportunity to continue to engage in farming activities without fear of having to come back before this board to seek permission.

Larry Wright: Does this include logging of the site around the tower?

Michael Harvey: It could because that is a bonafide farm activity.

Samantha Cabe: You indicated that farming could also be logging but we also have the condition number two which requires that the existing vegetation …

Michael Harvey: That is around the telecommunication tower itself.

MOTION made by Samantha Cabe to approve the Special Use Permit with the conditions set forth on pages 218 and 219 of the abstract as amended to correct the dates of this hearing in paragraphs numbered 1 and 2 so that such conditions are requirements that the application must meet in order to qualify for the Special Use Permit. Seconded by Jeff Schmitt.
VOTE: Unanimous

MOTION made by Samantha Cabe to close the public hearing. Seconded by David Blankfard.
VOTE: Unanimous

Michael Harvey: As you may know, the planning staff has been engaged in an enforcement action with a property owner in Southern Orange County concerning the purported operation of a shooting facility. After conferring with the county attorney's office, we have rescinded that notice of violation. The property owner, Mr. Kline, has approached staff and suggested operational parameters which he is willing to impose upon himself as a means of addressing the adjacent property owners concerns of his activities. The adjacent property owners have appealed our determination to rescind the notice of violation which will be reviewed by this board at a future meeting. Planning staff in consultation with the county attorney's office rescind the initial office as it was inconsistent with certain findings in recent case law and also there was a concern that the NOV as written was unsustainable so the adjacent property owner will be asking the board at a future date to reverse staff's decision.

Samantha Cabe: Where is this?

Michael Harvey: On a 34 acre undeveloped parcel of property off Angel Way near Ford Road near the Bingham Woods Mobile Home Park.

Larry Wright: Will Churton Grove be appealed?
Michael Harvey: I have no idea.

Jeff Schmitt: This gentleman owns property and has more than just himself engaging in shooting out there?

Michael Harvey: We issued a Notice of Violation indicating he had developed a regulated facility versus simply he and his family engaging in an activity. He appealed that determination arguing, essentially, it was him and his family and there were no third parties. After reviewing the issue further, we determined there was insufficient evidence to sustain the notice as I had written it. Also it was determined the interpretation I had made was not supported by recent court cases so we rescind the notice. Within that letter we noted we would continue to monitor and investigate and try to compile sufficient to justify our original finding.

Jeff Schmitt: The appeal coming before this board will be based on the fact this gentleman is using it in violation.

Michael Harvey: The neighbors are basically saying they believe we did not err and should never have rescinded the notice. They are alleging I should never have rescinded the notice.

AGENDA ITEM 7: ADJOURNMENT
Motion made to adjourn.