

**Minutes of the  
New Hanover County Planning Board  
April 4, 2013**

The New Hanover County Planning Board met Thursday, April 4, 2013 at 6:00 p.m. in the Assembly Room of the Historic County Courthouse, Wilmington, NC to hold a public meeting.

Planning Board Present:

Richard Collier, Chairman  
Dan Hilla, Vice Chairman  
Lisa Mesler  
Tamara Murphy  
Anthony Prinz  
David Weaver

Staff Present:

Chris O'Keefe, Planning & Inspections Director  
Shawn Ralston, Planning Manager  
Sam Burgess, Senior Planner  
Sharon Huffman, Deputy County Attorney

Absent:

Andy Heath

Chairman Richard Collier opened the meeting by welcoming the audience to the public hearing.

Sam Burgess led the reciting of the *Pledge of Allegiance*.

Chairman Collier reviewed the procedures for the meeting.

**Approval of the March 2013 Planning Board Meeting Minutes**

Anthony Prinz made a motion to approve the March 7, 2013 Planning Board meeting minutes. Tamara Murphy seconded the motion. The Planning Board voted 6-0 to approve the March Planning Board meeting minutes.

**Item 1: Special Use Permit Request (S-613, 04/13) - Request by Porters Neck Home Owners Association to obtain a special use permit to establish a parking area to accommodate an existing community boating facility. The property is located within an R-20S, Residential District at 8543 Bald Eagle Lane. This site is classified as Watershed Resource Protection according to the 2006 CAMA Land Use Plan. The proposal is located within the Porters Neck Small Area Plan and Wilmington/New Hanover County Comprehensive Greenway Plan.**

Chairman Collier asked if the applicant was present and stated it was his understanding from staff that the applicant's representative, Banks Currin, would like to address the item prior to the formal public hearing.

Banks Currin stated the Planning office had received a communication from Cape Fear Public Utility Authority staff earlier that day stating they had concerns about the proposed plan in regard to their easement through the middle of the property. He then requested a continuation of

the matter in order to meet with the Cape Fear Public Utility Authority to address their concerns. Mr. Currin then presented a formal letter requesting the continuation to the board.

Chairman Collier apologized to those members of the public in attendance for the item and explained that because the public hearing had been advertised, Mr. Currin was required to appear before the planning board to request a continuance. He then offered members of the audience the opportunity to speak in regard to the item, noting he presumed the item would be on the May Planning Board agenda if the applicant was able to resolve the issues with the CFPUA.

Robert Brown, of 1801 Futch Creek Road, asked why the board couldn't proceed with the public hearing and take into account the discussion between the two parties when it occurs.

Chairman Collier explained the board could proceed; however, the applicant had made a request to continue the item to a later date in order to iron out those issues before the public hearing. He suggested the residents also contact the applicant and meet with him if there were issues they wanted to discuss in regard to the community boating facility's parking request. Then, Mr. Currin could answer their questions at the meeting next month.

Mr. Brown urged the board not to approve the continuance request.

No other speakers approached the podium. Chairman Collier acknowledged understanding of Mr. Brown's request and asked for a motion from the board on the continuance request.

Anthony Prinz made a motion to continue S-613 for a period of thirty days and hear it at the next meeting. Dan Hilla seconded the motion. The Planning Board voted 6-0 to continue Special Use Permit Request S-613 for a period of thirty days to be heard at the next Planning Board meeting.

Chairman Collier announced Special Use Permit Request S-613 would be continued to the next meeting scheduled by the applicant. He apologized to the residents and thanked them for attending the meeting on a rainy Thursday evening.

**Item 2: Special Use Permit Request (S-614, 04/13) - Request by Thomas H. Johnson, Jr. on behalf of owner, South Atlantic District/Christian Missionary Alliance, to obtain a special use permit for SCI Towers LLC to construct a 165 foot monopole telecommunications tower. The property is located within an R-15, Residential District at 6115 Gordon Road. The site is classified as Urban according to the 2006 CAMA Land Use Plan. The subject property is located within the Wilmington/New Hanover County Comprehensive Greenway Plan.**

Sam Burgess presented the staff summary and provided information pertaining to location, land classification, access, level of service and zoning. Mr. Burgess also showed maps, aerials, video, and photographs of the property and the surrounding area.

#### Staff Summary

The subject property is located near the central portion of New Hanover County, specifically in the 6100 block of Gordon Road, and is classified as Urban on the 2006

CAMA Land Use Plan. The Urban classification is intended to provide for future intensive development and re-development of existing urban areas. The property is located directly across from the T-intersection of Patsy Lane and Gordon Road. The area surrounding the property is zoned R-15 Residential with several established neighborhoods located nearby; and the level of service (LOS) along this portion of Gordon Road is F, meaning the traffic counts exceed the design capacity of the roadway.

The applicant proposes to construct a 165' monopole telecommunications tower in a heavily wooded area of the property. An existing church is also located on part of the property.

Mr. Burgess reported the following Preliminary *Findings of Fact*, which are required for a special use permit in accordance with Section 71 of the New Hanover County Zoning Ordinance:

**Finding 1: The Board must find that the use will not materially endanger the public health or safety where proposed and developed according to the plan as submitted and approved.**

Staff suggests the evidence in the record at this time supports a finding that the use will not materially endanger the public health.

**Finding 2: The Board must find that the use meets all required conditions and specifications of the Zoning Ordinance.**

Staff suggests the evidence in the record at this time supports a finding that the use meets all required conditions and specifications of the Zoning Ordinance.

**Finding 3: The Board must find that the use will not substantially injure the value of adjoining or abutting property or that the use is a public necessity.**

Staff suggests the evidence in the record at this time supports a finding that the use will not substantially injure the value of adjoining or abutting property.

**Finding 4: The Board must find that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development for New Hanover County.**

Staff suggests the proposed telecommunications tower will meet the requirements of Section 63.5-1 and is located in an area classified as urban according to the 2006 CAMA Land Use Plan. Staff feels the findings are positive; however, recommends the following conditions:

- (1) The proposed telecommunications structure incorporate a type of camouflage in order to be more harmonious with the adjacent residential properties; and
- (2) Provide documentation identifying the six parties intending to locate facilities on the tower prior to any permits being issued.

Chairman Collier thanked staff for the presentation and asked if board members had any questions for staff.

Anthony Prinz inquired if the second condition was a requirement of the zoning code or was simply for the purpose of staff's information.

Mr. Burgess explained the condition was recommended for information purposes, but staff had received confirmation from the Institute of Government that it would be an acceptable condition to make a determination as to who the locators may be at the time of permitting.

Tom Johnson stated he was prepared to address that particular condition in his remarks.

David Weaver inquired if there was a standard type of camouflage required for cell towers.

Tom Johnson responded he would also address questions regarding camouflage in his presentation.

Chairman Collier opened the public hearing and recognized the applicant.

Tom Johnson, of Nexsen Pruet, located at 4141 Parklake Avenue, Suite 200, Raleigh, NC, stated he represented the applicant, SCI Towers, Inc. on behalf of the property owner. He explained the changes in the cell phone industry, moving from voice to texting to smart phones and tablets and data. He provided figures from AT&T, which will be located on the tower, indicating that 85% of American adults own a mobile phone and 46% of those own smart phones, which handle data in addition to voice. Cell phone owners use their phones 80% to text. He noted the younger generation communicates through text rather than talk. 56% of cell phone owners use them to access the internet, 50% use phones to send or receive email and download apps, 31% use them for online medical information, and 29% use their phones for online banking. He commented the average smart phone has 22 apps and the average feature phone has 10 apps.

Mr. Johnson reported that according to the most recent FCC figures, there are 9.1 million wireless subscriptions in the state of North Carolina, but only 4.3 million wired subscriptions, indicating the scale has tipped away from the traditional wire line connection to wireless. By 2016, it is projected there will be 1.4 mobile devices for each person in the world. Roughly 1 in 3 traditional landline users have switched to wireless only. He presented charts reflecting the growth from 42 million wireless subscribers in 1996 to 332 million wireless subscribers in 2011. There were 193 billion text messages in 2011.

Mr. Johnson stated the projection for data was the motivation behind the cell tower request. Data traffic in 2016 is projected to be 113 times the volume in 2009. He explained that data will be shifting to the towers and away from wireless routers in homes. He reported as data use grows

and moves to 4G or 4G LTE, the coverage area of a given tower shrinks because the more data used and the more sophisticated the data will result in gaps in coverage. There is currently a gap in the in-building coverage area on Gordon Road. He explained the proposed site will connect coverage better with the existing towers located on either side, noting one tower is located at I-40 and Gordon Road and the other tower is located toward Market Street.

Mr. Johnson stated the location of the tower on the site was chosen to blend with the trees and to accommodate a future expansion of the church. He provided photo simulations of the typical monopole from different viewpoints, noting the abundance of wooded area on the site would help cover the tower.

Mr. Johnson stated the applicant agreed with the *Findings of Fact* and briefly addressed the two recommended conditions. He noted in terms of camouflaging, there is a preference stated in the ordinance depending on the situation where the tower is located. In this case, the monopole structure is very well camouflaged and has many trees around it. He commented that in their experience, galvanized steel as it ages blends in with the landscape better than anything else. Paint doesn't always blend in. He commented to stealth the tower by enclosing the antennas within the tower like those at UNCW and on College Road would require two vertical positions on the tower to provide the service that could be provided by one traditional monopole, due to the limited space within the tower. He explained the proposed tower had been designed for a total of six carriers, but that number would be cut in half to three if that particular stealth option was chosen. That scenario would result in another tower request because the tower would be full sooner. Mr. Johnson stated the applicant's position that the monopole would be camouflaged very well with the existing trees and is harmonious with the area.

Mr. Johnson stated in regard to the condition requiring identification of the parties intending to collocate on the tower, the School of Government's suggestion was based upon the construction of a speculative tower with no identified carriers. It was his position the condition would not be necessary because AT&T has already been identified as a carrier on the tower. He also noted the number of collocator positions on the tower exceeds the County's zoning ordinance requirement of two on a 150 foot tower because there are five additional positions available on the proposed tower. Mr. Johnson explained that future carriers would be required to apply for a building permit in order to locate on the tower and would be identified at that time. The future locators are not shown on the plan, but could be added to the plan prior to the Commissioners hearing.

Mr. Johnson noted the applicant concurred with the *Findings of Fact* and encouraged the board to approve the special use permit and modify the two suggested conditions because the tower fits in with the surroundings already and doesn't need additional camouflage, and AT&T is identified as a carrier on the tower; therefore, it is not a speculative tower. He stated he was available to answer questions and Dave Herring of SCI Towers was also present to answer technical questions.

Per a question from Dan Hilla, Tom Johnson confirmed the pole was a single monopole tower that does not require any cables; therefore, it takes up less space and the visual impact is much less.

David Weaver stated on the diagram of the tower, there appeared to be arm-like structures coming out of the tower.

Mr. Johnson explained the antennas are attached to those arm-like structures on the tower to prevent feedback and provide space behind the antennas to run the cables.

Mr. Weaver commented the scenarios showing the tower in the trees didn't show those antennas.

Mr. Johnson stated the photos didn't show the other arms because there aren't any other carriers yet, but the photos are a true representation of what the arms will look like. He noted the top position will be visible from some locations, but the bottom positions won't be visible from Gordon Road because of the wooded site.

Mr. Prinz asked Mr. Johnson to elaborate on the difference between camouflage and stealth types of design. He commented that some options can look ridiculous, for example a 200 foot pine tree or a huge flagpole.

Mr. Johnson explained it is called a stealth design because it is an attempt to hide some of the attachments on the towers in creative ways. He advocated for taking advantage of the wooded site. Flag poles are an option, but a huge flag would draw attention to the pole and the standards require a flag to be lighted or removed at night. Camouflaging the tower as a tree would result in a very tall tree that would look out of place, drawing more attention as well rather than blending in with the surroundings. For those reasons, Mr. Johnson felt it would be best to leave the tower as galvanized steel, which wouldn't require painting and would blend in better.

In response to Mr. Prinz's question, Chris O'Keefe stated Mr. Johnson had addressed staff's concerns very well and staff was interested in removing their suggested conditions.

Chairman Collier opened the opposition portion of the public hearing.

Jonathan Garriss stated he and his wife Leah were nearby residents and felt the best camouflage would be if the tower was invisible and didn't exist. He stated their opinion that the tower would be an eyesore and would lower their property values, noting they would not have purchased their home three years ago if the tower had existed at that time. He felt the tower would result in a lower demand for properties in their neighborhood, and subsequently lower their property values. He also pointed out higher incidents of lightning strikes on homes and properties located near telecommunication towers, commenting it knocks out energy grids, etc. for homes. Mr. Garriss stated there is a higher incidence of birth defects and leukemia for people who live adjacent to telecommunication towers. He then attested to the excellent coverage in the area for their smart phones, which are serviced through Verizon Wireless, and noted they don't have landlines. He commented he didn't see the need for an AT&T tower in the area and requested the board deny the request.

In response to Chairman Collier's question, Mr. Garriss reiterated it would be impossible to camouflage the tower, unless it was invisible and non-existing. He confirmed their property was

located in the Westhaven subdivision and was identified as #31 on the adjacent property owner map.

Ms. Garriss noted previous information provided that the tower would not harm residents' health, but noted her research indicated risks of birth defects and leukemia. She expressed concern because she had battled cancer twice in the last three years, her mother, who lives with them, was currently battling cancer, and their three year old daughter's health was of utmost importance to them. She stated they were not willing to take any risks and did not want a tower next to their home that may harm their health.

Chairman Collier thanked them for their comments.

Amanda Frailey, another resident of the Westhaven subdivision, noted her major concern was that the tower would be an eyesore from their perspective and commented there currently wasn't as much vegetation on the site as reflected in the photos. She stated that a nearby tower would have influenced her decision to buy when she purchased her home just over a year ago, noting the tower would be directly visible from their cul-de-sac. She also felt the tower would have an impact on her home's re-sell value. Ms. Frailey then stated she would suggest more research be done in regard to the potential health concerns. She concluded by asking the board to deny the request.

During rebuttal, Tom Johnson stated in terms of health effects, towers are extremely safe and so much so, that the state statutes say the board is not to consider health effects because it is governed by the FCC. In fact wireless devices in homes, for example baby monitors and wireless phones, have more radio frequency exposure coming from them than a tower. The antennas in the tower are very high in the air and go out, not down. A wireless device used close to a tower functions better and operates more safely. He explained that a wireless device in a place with a low signal will struggle to maintain the signal and become very hot, and that device, which is very close to the user, emits more radio frequency than the tower. Mr. Johnson stated for those reasons, the state statute says health effects are not a consideration for the board. In regard to property values, Mr. Johnson stated in his twenty-five years of experience he had yet to have anyone come forward with any evidence that tower adversely affect property values. In addition, state statute requires an expert to provide an opinion on the effects on property values and no testimony had been provided by an expert witness. In regard to lightning, the tower is grounded and has a full grounding plan with a lightning rod on top, which would draw lightning away from the surrounding homes, protecting them. In terms of visibility, the tower does stand above the trees, but the trees should cover the bottom part of the tower from their viewpoint. He admitted the tower would not be covered completely, but there is much other infrastructure nearby that doesn't have an impact and it was his position the tower wouldn't have an impact either. Mr. Johnson then offered to answer questions from board members.

In response to an inquiry from David Weaver, Mr. Johnson confirmed the tower would not be lit. The tower has FAA approval, which did not require a red flashing light or any other light; therefore, the tower will be less visible at night. The tower does not interfere with the airport flight plans, either primary or secondary.

Per a question from Anthony Prinz, Mr. Johnson confirmed that state statute prevents the board from considering health when approving a special use permit for a telecommunication tower.

In response to Mr. Prinz's question regarding property values, Sharon Huffman explained in order for the board to find the value of adjoining property would be substantially or significantly impaired, there must be expert opinion providing documentation. She also confirmed there is state statute which states that when approving or denying a cell tower, the board can't consider health concerns because the FCC makes that determination and documents to the states how they may consider that issue.

Anthony Prinz commented state statutes tie the board's hands on some important conditions of the special use permit.

No comments were received during opposition rebuttal.

Chairman Collier closed the public hearing and asked if any wetlands would be affected by the proposed tower.

Tom Johnson stated they had not determined there would be any wetlands affected, but the project will be required to go through an environmental assessment and avoid any wetland areas.

Chairman Collier stated it appeared the tower would be built just outside the existing woods line with another infrequently used access off Gordon Road. He asked if there had been any discussion with the church to use their existing driveway to access the tower site through their parking facility.

Dave Herring of SCI Towers explained church representatives wanted the tower to have a separate entrance so it wouldn't interfere with their parking arrangements. He confirmed technicians would visit the site a couple of times each month to tweak radios as needed or in the event of an emergency or natural disaster.

Chairman Collier noted the drive aisle doesn't line up with Patsy Lane, which is across the street. Acknowledging the project won't generate much traffic, he expressed concern the driveway would create another access off Gordon Road, which could be used as a secondary access by the church and result in an issue at that intersection.

Mr. Johnson offered to gate the access if it was a concern.

Chairman Collier explained he was more concerned about removing more vegetation from the site to establish another driveway and stated his preference that the tower be accessed through the church parking lot rather than from a new driveway onto Gordon Road.

Mr. Herring stated he would take the driveway access request to the church, but couldn't guarantee the church would agree to the request.

Tom Johnson stated the applicant was agreeable to a recommended condition that the access be established through the church parking lot if it could be arranged with the landlord.

Chairman Collier then pointed out photographs show a playground located at the end of the church building, which would be within the 122 feet fall zone.

Mr. Johnson responded that the ordinance doesn't have any setbacks for that type of thing, but it was a discretionary item for the board. He said the tower is designed to bend at a predetermined point, but it wouldn't fall. In the event that were to happen, it would be a weather event. Generally, if the weather was that bad, no one would be there anyway. He cited the example of a hurricane as an instance when the design load might be exceeded. He explained the tower would be designed so that in that event, it wouldn't hit the building. He felt it was unlikely anybody would be on the playground during such an event so that wouldn't be a concern.

Chairman Collier inquired if the tower could be shifted back ten feet on the site to avoid the playground if it was ten feet wide.

Mr. Johnson stated they could probably design the fall zone to reduce it by ten feet.

Mr. Herring acknowledged the tower could be engineered to adjust the break point by ten feet to avoid the playground area.

Anthony Prinz noted a future expansion of the church had been mentioned and asked if the church had plans to expand the building in the direction of the fall zone.

Tom Johnson stated the tower had been moved forward on the site after it was learned during discussions that the church had plans to expand on the back portion of the property. He then commented there are high voltage transmission lines along Beasley Road and College Road, which are monopoles, and houses are built next to them without concern.

Chairman Collier entertained a motion, noting the board could recommend granting Special Use Permit S-614 where all findings are positive; or recommend granting the permit subject to specific conditions; or make a recommendation to deny stating which of the four *Findings of Fact* are not met.

David Weaver made a motion to recommend approval with the recommended conditions of the driveway access, plus the design of the breakpoint to protect the playground.

Chairman Collier clarified that Mr. Weaver's motion was to recommend approval of the special use permit with conditions.

Anthony Prinz commented the motion should also state that all *Findings of Fact* are positive and as such, the board recommends approval.

Chairman Collier re-stated there was a motion on the floor to recommend approval with conditions and suggested the board discuss the conditions to ensure their inclusion in the motion.

Vice Chairman Hilla stated the conditions were: 1) a recommendation that they explore the possibility with the landlord of using the existing driveway rather than a new one to Gordon Road; and 2) designing the tower with a different breakpoint.

Chairman Collier commented first and foremost, staff had stated earlier that the two conditions they originally proposed had been addressed so the following new conditions will be added to the motion: 1) The applicant work with the landlord, the church, to determine if they can gain access through their existing parking facility rather than a new driveway onto Gordon Road with the discussions to be done prior to the County Commissioners meeting; 2) re-design the tower's breakpoint so that the fall zone avoids the playground that is adjacent to the church; 3) add a note to the site plan that clearly identifies there are to be five future co-locations on the tower; and 4) add that AT&T has committed to be the first carrier on the tower.

Tom Johnson stated the applicant would accept all of those conditions and noted a draft plan revision had been submitted to staff identifying the future antennas and AT&T as the first carrier.

David Weaver made a motion to find positively the four *Findings of Fact* that we grant the special use permit subject to the four conditions detailed by the chairman.

Anthony Prinz seconded the motion. The Planning Board voted 6-0 to recommend approval of Special Use Permit Request S-614 with four conditions:

- 1) The applicant have discussions with the landlord, the church, prior to the County Commissioners meeting to determine if access can be gained through the existing parking facility rather than a new driveway onto Gordon Road;
- 2) re-design the tower's breakpoint so that the fall zone avoids the playground that is adjacent to the church;
- 3) add a note to the site plan that clearly identifies there are to be five future co-locators on the tower;
- 4) add a note to the site plan identifying AT&T's commitment to be the first carrier on the tower.

Chairman Collier thanked everyone for attending the meeting, noting the decision didn't go the way the residents wanted it to go. He encouraged them to contact Mr. Johnson and the tower carrier with their specific concerns in order to have them addressed.

**Item 3: Rezoning Request (Z-923M, 04/13) - Request by Walter Pete Avery on behalf of TCB Rocky Point, LLC to modify an approved CZD(B-1) Conditional Zoning District (B-1) Business containing 2.06 acres of land and right of way located at 2616, 2620, and 2624 Castle Hayne Road. The site is classified as Transition according to the 2006 CAMA Land Use Plan. The subject properties are located within the Wilmington/New Hanover County Comprehensive Greenway Plan.**

Sam Burgess presented the staff summary and provided information pertaining to location, land classification, access, level of service and zoning. Mr. Burgess also showed maps, aerials, video, and photographs of the property and the surrounding area.

### Staff Summary

The subject property is located just north of the “T” intersection of Castle Hayne Road and North Kerr Avenue and is classified as Transition on the 2006 CAMA Land Use Plan. This classification provides for continued intensive development and redevelopment of existing urban areas. There are a variety of existing zoning districts near the 2.06 acres property ranging from a shopping center district across the street to residential zoning to the north and east, along with a light and heavy commercial district near the Castle Hayne Road and North Kerr Avenue intersection. The level of service at that intersection is “E”, meaning the road is at design capacity for vehicular traffic.

The Planning Board had recommended approval of the Conditional Zoning District (B-1) request with several conditions at their November 1, 2012 meeting and the Board of County Commissioners had approved the Conditional Zoning District (B-1) request with conditions at their December 3, 2012 meeting.

### Petitioner’s Request

The modified application seeks approval of a revised site plan for the two (2) subject properties (2616 & 2620 Castle Hayne Road) where the actual structure will be located. No change to the zoning is proposed or needed. After the Board of County Commissioners approval in December, 2012 to CD (B-1) and the companion site plan, two new discoveries were made when a new official survey of the property was completed. First, the survey revealed that the Castle Hayne Road right-of-way varied and actually was wider along the road frontage of the properties rezoned creating less of a property depth than originally realized. Second, there was a discovery in the original survey that the rear property line was incorrect culminating in a property depth decrease of 24.5 feet. This in effect created an eastward shift in the proposed site improvements and building location to compensate for the reduced depth. One problem the shift created was an encroachment of approximately 3-5 feet into the maximum rear yard setback. Attempts to eliminate that problem by making minor tweaks to the site plan were not fruitful due to the building’s dimensional needs and requirements and avoiding additional design inconsistencies dictated by other zoning requirements. Because of the rear yard encroachments that could not be avoided, a variance was granted by the New Hanover County Board of Adjustment at their February 26, 2013 meeting.

### Summary of Site Plan Differences

#### A. Property Lines

- Southern Property Line: Length on Approved Plan (Exhibit F): 290.41’
- Southern Property Line Length on Revised Plan (Exhibit F.1): 271.24’
- Northern Property Line Length on Approved Plan (Exhibit F): 290.40’
- Northern Property Line Length on Revised Plan (Exhibit F.1): 260.13’

#### B. Rear Yard Setback

- Encroachment of 3-5 feet on Revised Plan (Variance by Board Adjustment)
- Maximum Rear Yard Setback on Current Plan: 78.33’ (Based on building height 21’)

- Maximum Rear Yard Setback on Revised Plan: 61.54' (based on revised building height of 16.5')

#### Staff Position

This application is necessitated by Section 55.3 of the County's Zoning Ordinance on Conditional Zoning Districts. This section essentially states that changes to setbacks on a previously approved site plan must be approved by the County Commissioners in much the same way a special use permit is reviewed. A related section in the Ordinance requires the same type of changes to follow the normal rezoning/zoning map amendment process. Staff agrees this procedure creates an unneeded conflict, mostly because it limits administrative discretion to approve minor setback changes and because it triggers a full scale rezoning review that serves no real purpose. Staff plans to present a zoning text amendment to deal with future matters such as these. That text amendment will be discussed at the Planning Board Work Session on April 26, 2013.

Staff recommends the adjustments to the site plan with the conditions adopted by the Board of Commissioners at their December 3, 2012 meeting:

- 1) Retail hours be limited from 9:00 a.m. to 9:00 p.m. to mitigate concerns from adjacent residential property owners.
- 2) Specific land uses be permitted to General Merchandise Stores and Miscellaneous Retail.
- 3) The inclusion of a small wedge of land zoned AR Airport Residential located in the northeastern corner of the property located at 2620 Castle Hayne Road.
- 4) Directional lighting installed to reduce light pollution on adjacent properties.
- 5) The creation of a five foot easement fronting the property for a future sidewalk.
- 6) Approval of a septic tank permit thru the County's Environmental Health Department.
- 7) The mitigation of trees located on site in accordance with the zoning ordinance.

Chairman Collier opened the public hearing and recognized the applicant.

Walter Pete Avery, representing TCB Rocky Point Properties, LLC, stated Mr. Burgess had done a good job explaining the reason for his request. He stated he done everything possible to avoid making another request, but the ordinance doesn't provide the discretion at the local level to deal with a problem like this one. There was a goof on the survey so there was less property depth, which required changes to be made to the site plan. They were successful with their petition to the Board of Adjustments, but the full rezoning process must be followed for any changes to the site plan for a conditional zoning district. Mr. Avery commented without the site plan, there isn't a conditional zoning district.

Mr. Avery offered to answer any questions the board may have and commented that staff and the county attorney agree that a future text amendment would eliminate these types of problems.

Chairman Collier opened the opposition portion of the public hearing.

No one from the public spoke in opposition to the application.

Chairman Collier closed the public hearing. He stated any motion made for approval would include the conditions previously approved by the County Commissioners.

Mr. Avery stated he was not seeking any changes to the conditions.

Anthony Prinz made a motion to recommend approval of the zoning modification CZD(B-1) as requested by the applicant and that the planning board find with that the change is consistent with the Land Use Plan and is in reasonable harmony with the public interest. (including the conditions previously assigned by the Commissioners). Tamara Murphy seconded the motion. The Planning Board voted 6-0 to recommend approval of Rezoning Request Z-923M with the following conditions previously assigned by the Commissioners:

- 1) Retail hours be limited from 9:00 a.m. to 9:00 p.m. to mitigate concerns from adjacent residential property owners.
- 2) Specific land uses be permitted to General Merchandise Stores and Miscellaneous Retail.
- 3) The inclusion of a small wedge of land zoned AR Airport Residential located in the northeastern corner of the property located at 2620 Castle Hayne Road.
- 4) Directional lighting installed to reduce light pollution on adjacent properties.
- 5) The creation of a five foot easement fronting the property for a future sidewalk.
- 6) Approval of a septic tank permit thru the County's Environmental Health Department.
- 7) The mitigation of trees located on site in accordance with the zoning ordinance.

### **Technical Review Committee Report (March)**

Sam Burgess presented the following report.

The County's Technical Review Committee met once in March. Projects reviewed included one revised performance residential site plan and a revision to a planned development site plan.

#### **Sunset Reach (Performance)**

Sunset Reach is located at the western end of Rockhill Road near the Wrightsboro Community and is classified as Wetland Resource Protection on the 2006 CAMA Land Use Plan. The representative for the project submitted a revised preliminary site plan for 60 single family lots, which will be served by public water and sewer (CFPUA) with privately designated roads. Originally, the plan was approved for 53 residential lots several years ago under different ownership.

In a vote of 4-0, the TRC approved Sunset Reach for 60 lots with five conditions. The full report listing those conditions was included in the planning board package.

#### **River Bluffs: Phase 1 (Revised PD Site Plan)**

River Bluffs (aka Rose Hill Landing) is also located at the western end of Chair Road adjacent and south of the GE Facility and is classified as Wetland Resource Protection on the 2006 CAMA Land Use Plan. The project developer requested that Phase 1 be

revised to reflect a change in the number of lots (193 to 223), an adjustment in acreage (80.55 to 88.03), the adjustment of the private road design to protect more significant trees, creation of a kayak boat launch (northwestern portion project), and modification of Low Impact Development (LID) criteria. The project will be served by public water and sewer. Originally, Phase 1 of the preliminary plan was approved by TRC in July, 2010.

In a vote of 4-0, the TRC preliminarily approved the revised site plan for a total of 223 single and multi-family lots and the LID component to the project. Conditions were imposed on the site plan and the LID component. Those conditions were included in the full report provided in the planning board package.

Mr. Burgess reported the next regular meeting of the TRC is slated for Wednesday, April 10, 2013 at 2:00 p.m.

Chairman Collier stated the aerial appeared to reflect a road connecting the two projects and asked if that connection was now in place.

Mr. Burgess affirmed the connector road was approved as part of the River Bluffs revision to extend a private road connecting with Sunset Reach.

Anthony Prinz asked if the other neighborhood was still proposing a gate at the end of that road.

Mr. Burgess replied the other neighborhood was not proposing a gate at the end of the road.

Anthony Prinz commented he would like to have an educational session at the upcoming work session about the zoning recommendations the Planning Board could make in regard to rezoning requests.

Mr. O'Keefe asked if the board would also like to review the conditional zoning district process.

Chairman Collier agreed it would be beneficial to review both zoning recommendations and the conditional zoning district process and would make board members more comfortable with the processes.

Mr. O'Keefe reminded board members to take home a copy of the revised New Hanover County Zoning Ordinance provided in binder format for easier updating.

Chairman Collier adjourned the meeting at 7:15 p.m.