



Chatham County Planning Board Agenda Notes

Date: December 3, 2013

Agenda Item: VIII. 3

Attachment #: 1

Subdivision

Conditional Use Permit

Rezoning Request

Other: Text Amendment

Subject:	Request by the Board of Commissioners on the proposed new Wireless Telecommunications Facilities Ordinance.
Action Requested:	See Recommendation
Attachments:	1. Proposed Telecommunications Ordinance

Introduction & Background

At the May 6th Commissioners meeting, staff brought forward a discussion about updating the existing Communication Tower Ordinance in light of legislative changes affecting telecommunication tower review procedures. In addition, staff has identified some areas within the ordinance that could be refined to promote a more streamlined review of new cell tower construction and modification of existing towers. The Commissioners discussed the ordinance rewrite and directed staff to explore other existing ordinances as a template for updating or creating a new Communications Ordinance for Chatham County.

Upon reviewing other telecommunication ordinances, staff decided to use the Wireless Telecommunications Model Ordinance from the North Carolina League of Municipalities (NCLM) as a template for developing the new ordinance. This decision was based upon the fact that the model ordinance incorporated updated telecommunications legislation and was developed with industry representatives with the intention to provide a basic template for consideration of a number of issues related to the siting of wireless telecommunications facilities. The model ordinance is written from the perspective of streamlining land use approvals to aid in the deployment of mobile broadband infrastructure to bring wireless services to the community (source: www.nclm.org). Staff's goal was to balance the intent of the model ordinance with the County's vision for preserving rural character and expanding county residents' ability to access new technology.

The Board held a preliminary discussion of the draft ordinance at the September 16th meeting and held an initial public hearing October 21st. A secondary public hearing was held at the November 18th meeting to discuss the zoning text amendments proposed in concert with the draft ordinance. The following is a summary of both Commissioner and public

comment received at both public hearings. Please note that written comments submitted are available for viewing on the online project file under the 2013 Rezoning and Subdivision Cases webpage (http://www.chathamnc.org/RezoningSubdivisionCases/2013/2013_items.htm). Please note the original Communication Tower Ordinance may be found at this webpage link as well.

- The Board inquired about the history and purpose of the “Major Wildlife Areas” provision (p.8, item H) within the draft ordinance, as this was retained from the existing ordinance. Staff communicated that the Heritage Areas, as identified by the Natural Heritage Program is part of the Office of Conservation, Planning, and Community Affairs within the N.C. Department of Environment and Natural Resources. These areas include identified rare plants, animals, and natural communities which are significant enough that the program suggests they merit special consideration as land-use decisions are made and therefore are retained from the original ordinance for this purpose. A link to the Major Wildlife Areas map can be found at online project file at the same link listed above.
- Support for the ordinance was received from both private citizens, the Chatham Chamber of Commerce, AT&T and American Tower and from Carolina Wireless Association. Comments included support for a wider array of administrative approvals, the need for wireless service in rural areas with special concern for the need in emergency situations.
- Concerns raised included protection of wildlife areas and bee populations. The height and view of towers from an aesthetic perspective were mentioned, with some comments about landscape buffer requirements and view of towers from public right-of-way.

Discussion & Analysis

Below is a summary outlining the key points of distinction between the existing ordinance and the new draft ordinance. The areas in which staff is requesting additional discussion are included as redlined language within the draft ordinance.

- The new ordinance excludes the annual search ring process, allowing wireless facilities to site anywhere allowable within the county at any time during the year.
- The heights of wireless facilities would be governed by location in proximity to residential districts and by more stringent setback requirements based on tower height, to allow for taller towers in more rural areas. The “areas” which regulated heights within the county in the old ordinance (section 3-2) have been excluded. The maximum height for towers in residentially zoned or tax-coded (unzoned portions of the county) is 199’. The maximum height for towers otherwise is 300’.

Staff has asked for specific direction from the Planning Board regarding required setbacks. A proposed change requires setbacks of 50% of the tower height from

adjoining property lines and right-of-way. The proposed changes are highlighted in red on pg. 10 of the draft ordinance.

- A wider array of administrative approvals for towers is included in the draft ordinance. Towers now eligible for administrative approval are outlined in Section 2-1 of the draft.
- The draft ordinance requires a line of sight diagram for visual representation of a proposed tower subject to conditional use permit approval.

Staff is asking for direction from the Board as to whether include a Balloon Test in addition to the line of sight simulation. The following is an example of a balloon test requirement: "A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height of the tower, The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within fifty horizontal feet of the tower."

Aspects that were retained from the existing ordinance into the draft ordinance include:

- Landscaping requirements. Including the preference for locating in heavily wooded areas and a continuous 6' tall evergreen opaque screening for locations not located in heavily wooded areas.

Stemming from public comments, staff is requesting discussion of requiring additional screening of cell tower sites along the access driveway and/or the offset of the tower site from the access drive in order to prevent view from public right-of-way.

- The prohibition of placing wireless facilities within "Major Wildlife Areas". A summary of this item is provided above and a map of these areas county-wide is provided as Attachment 3.
- Enforcement and remedies. See Article 5 of draft ordinance.

Recommendation

Planning staff recommends approval of the proposed Wireless Telecommunication Facilities Ordinance as presented to the Planning Board.