



Chatham County Planning Board Agenda Notes

Date: March 5, 2013

Agenda Item: VII. 1

Attachment #: 1

Subdivision

Conditional Use Permit

Rezoning Request

Other:

Subject:	A request by Raleigh Towers, LLC to construct a new cell tower on Parcel No. 19952 known as the Old Chatham Golf Club, located off O’Kelly Chapel Rd. across from Nickel Creek Circle. The lease area will be approximately .27 ac of the 403 acre tract and is located within the Joint Plan Area of Chatham Co. and Cary, Williams Township.
Action Requested:	Review and Recommendation to the Board of Commissioners
Attachments:	<p><i>The application packet was distributed at the February 5, 2013 Planning Board meeting. Additional attachments are:</i></p> <ol style="list-style-type: none"> 1. Email from Robbie Bell providing “eye elevation” measurements from nearby residences. 2. Example photo of proposed Pine tree cell tower. 3. Signed official interpretation from the Joint Chatham/Cary LUP. <p><u>The following can be viewed on the Planning webpage:</u></p> <ol style="list-style-type: none"> 1. Eight (8) written comments received via website submitted for the public hearing in support of the cell tower. 2. CCAC recommendations and approval. 3. Town of Cary staff notes.

<p>Introduction & Background</p> <p>A legislative public hearing was held on this request February 18, 2013. Planning staff presented the application and reviewed the supporting documentation submitted. There were two people who spoke in support of the cell tower as described in the application. There were also eight (8) written comments provided through the web service all in support of the tower as submitted. No one spoke in opposition of the request. Matthew Danielson, applicant, was also available for questions.</p> <p>Since the public hearing there have been two (2) additional nearby landowners of the Weycroft Reserve development located on Nickel Creek Circle voicing concerns about the tower and are not</p>

in support of the location for the tower.

During the 2012 search ring submittal approval from the Board of Commissioners, areas were identified as needing additional cell service. This particular area was one noted as needing an expansion of services for cell tower providers. Once the search rings are approved, current regulations require a specific site location per cell tower to be submitted within 12 months from the date of approval of the search ring area. Communications towers are required by the Chatham County Zoning Ordinance to be located in either a light industrial or heavy industrial zoning district. An entire parcel/tract of land is not required to be rezoned to accommodate the cell tower location. There must be enough area included to encompass the access road, setbacks from any property lines, area for fencing, area for equipment buildings/sheds, and any fall zone that may be required. All other federal and local regulations must also be complied with such as lighting and landscaping.

This property is located within the Joint Chatham/Cary Land Use Plan area. An official interpretation signed by the planning director of both Chatham County and the Town of Cary is attached.

Discussion & Analysis

Conditional Zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of a legislative decision creating the district and applying it to the particular property. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

Community Meeting Pre-Submittal Requirement

The applicant held the community meeting, which is now required prior to submittal of an application to the Planning Department, on November 26, 2012.

CCAC Meeting Pre-Submittal Requirement

The applicant met with the Chatham County Appearance Commission as required for pre-submittal of the application on December 19, 2013. They suggested proposed plant material for screening that would be deer tolerant and easy to maintain. The applicant agreed and the CCAC recommended approval of the plan.

There are four items listed in the Zoning Ordinance that must be addressed by an applicant when submitting a rezoning application. The applicant has addressed those items in the application

materials and they are also discussed below.

Item #1: The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed description of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.

There is no error in the ordinance being claimed therefore this does not apply.

Item #2: The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.

Over the last five to six years, this portion of Chatham County has developed with more residential lots. Currently, there are approximately 1,842 lots approved in the county for the Amberly, Weycroft, and Carolina Preserve developments. This does not include other residential lots already occupied or platted not within a development.

Per the applicant, the FCC estimates that approximately 70% of all 911 calls placed are from wireless phones. If communication towers are not provided so as not to create a dead zone, the safety and general welfare of its residents can be affected. The 150 ft. stealth tower will provide coverage for traffic along O'Kelly Chapel Rd. from NC 751 to NC 55 as well as those using that portion of the American Tobacco Trail.

There were concerns from two citizens regarding the visibility of the tower from their residences which are located off Nickel Creek Circle. Mr. Robbie Bell visited the area and took "eye elevations" from each residence. It was determined the proposed tower will be below the top of the existing pines that are directly in the line of sight of both locations. Please see the attached numbers provided in his email for further clarification.

Item #3: The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or parts thereof.

The proposed tower will be designed to carry multiple carriers eliminating the need for multiple towers in the immediate area. This will also limit any visual impacts from the surrounding areas.

The Communication's Tower Ordinance Section 1-3: Purpose, states the need to assure the safety for the residents and the environment of the county with regards to location and design. Maximum tower heights and certain designs were put into place to do that very thing. These standards were designed to help other providers co-locate on the same tower so there are not multiple towers in the same area preserving the form and function of rural character.

Item #4: All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.

The applicant has stated that they have made an effort to preserve the form and function of rural character and the stealth tower will be designed to resemble a Pine tree. An example photo has been attached and the intent is for the tower to blend with the surrounding area. No existing trees will be removed and more landscaping will be put into place to assist in further screening the site near ground level.

The number of people using wireless phone service over a land-line service has greatly increased per the FCC. The location of a new cell tower in this location will allow those residents to have in-home service which lends to public safety, provide services for those who work from home, and those driving on the public roadways.

As noted in the Introduction & Background, this site is located in an area covered under the Chatham-Cary Joint Land Use Plan in the Parks, Open Space, and Golf Course land use category. The Planning Director's from both jurisdictions are authorized to make interpretations under the Interlocal Agreement that was approved in conjunction with the plan. The interpretation concludes that telecommunication towers are considered a compatible use in the Parks, Open Space, and Golf Course land use classification since the plan specifies that they are compatible in all of the residential land use classifications. The application was provided to the Town of Cary staff, as outlined in the Interlocal Agreement, and their comments are included on the Planning Department website.

Recommendation

It is staff opinion that this request be approved and the Planning Board has up to three (3) meeting in which to make a recommendation to the Board of Commissioners. Should the Planning Board recommend approval, a consistency statement on how this request complies with the Chatham County/Cary Joint Land Use Plan should be stated. Planning staff will incorporate that statement into the recommendation to the Board.

Should the Planning Board recommend approval, staff has entered a set of conditions for review to be included in the recommendation to the Board. They are:

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed and implemented by the end of the next optimal planting season following the issuance of the building permit. Inspections will be conducted by planning staff and/or the CCAC as needed to ensure compliance.

Standard Site Conditions

2. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place.

3. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.
4. A Certificate of Occupancy shall be obtained within two years of the date of this approval unless other approval/s has been given for an extension, or the conditional use permit becomes null and void.

Standard Administrative Conditions:

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.
6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
8. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.