



## Chatham County Planning Board Agenda Notes

**Date: August 5, 2014**

**Agenda Item:** VII.1

**Attachments:** Online at 2014 Rezoning and Subdivisions Cases

**Subdivision**

**Conditional Use Permit/WTP**

**Rezoning Request**

**Other:**

<b>Subject:</b>	Wireless Telecommunication Permit request by American Tower Corporation and AT&T Mobility for a portion of Parcel No. 20032, known as the Farrington Site, located off 464 Old Farrington Rd. for a 150' monopole telecommunications tower on a lease area of approximately 0.73 acres of the 11 acre tract, zoned R-1, within the Williams Township.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. The application packet was provided at the May 6<sup>th</sup>, 2014 Planning Board meeting.</li> <li>2. Amended application materials for 150' tower submitted at June 16<sup>th</sup> public hearing.</li> <li>3. Public Input received at June 16<sup>th</sup> Public Hearing</li> </ol>

**Introduction & Background**  
 A quasi-judicial public hearing was held on this request June 16<sup>th</sup>, 2014. Planning staff presented the request. The applicant's attorney, Gray Styers presented the application. The applicant's attorney covered the application, required findings of fact, and answered questions from the Board and staff (see in bold below). **Numerous public comments were received during the hearing. In addition to the applicant's attorney, David Smith, MAI, was present to answer questions concerning the appraisal report and David LaCava, AT&T Radio Access Network Specialist, was present to answer questions concerning the tower propagation studies as well as the radio frequency engineering reports.**

**Of the public comments received, the majority were opposed to the tower, citing existing cellular coverage in the area, aesthetic concerns regarding the tower, concern for property values and the overall height of the tower. A petition of opposition to the tower was presented at the hearing from the neighbors at Governors Village and the Townes of Governors Village. A couple of public comments were received in support of the tower, citing additional need of cellular coverage.**

### Site

The subject parcel is 11 acres, zoned R-1 and is located in the WS-IVPA watershed district and the Jordan Lake watershed, which allows non-residential development, provided it does not exceed 36% built upon area. The proposed wireless tower site is well under this threshold with a total site disturbance of 19,602 sq. ft. The applicant has provided a map indicating the tower site is not within a Major Wildlife Area (tab 16 of original application packet) and is not within 1.5 miles of an existing tower (tab 5 of the original application).

Access to the tower site is from Old Farrington Rd. and the applicant will obtain a driveway permit from NCDOT as required. The proposed access drive is 30' in easement width, with a 12' graveled access drive. The Fire Marshal has indicated this access road width, in addition to the vehicle turnaround depicted, is acceptable for emergency services.

The tower was originally proposed as a 199' self-supported gray monopole with a 4' lighting rod. **However, at the June 16<sup>th</sup> public hearing, the applicant amended the application and reduced the height to 150' with a 5' lightning rod, for an overall height of 155'. This was in response to the input received at the public meeting. During the hearing, the applicant's attorney stated the surrounding residents asked for an additional reduction in tower height to 120', to which the attorney stated was not an option.** The 150' tower will include an AT&T antenna and space for four other wireless providers both on the tower and within the fenced compound, exceeding the minimum collocation accommodation requirements of Section 2-4. (Tab 2, pg. 11 of the revised application).

### Height and Setbacks

As mentioned, the tower has a proposed height of 150' with a 5' lighting rod. Per the Wireless Ordinance, towers greater than 100' are subject to a setback of 50% of the Wireless Support Structure tower height or the engineered fall zone, whichever is greater. The engineered fall zone of the proposed tower is 155', which exceeds 50% of the tower height. The proposed location of the tower is compliant with the setbacks as stated in Tab 2, pg. 11 of the revised application.

The Wireless Ordinance also requires a line of sight diagram showing the proposed tower from at least four different directions within the surrounding area. The applicant has provided this diagram, along with a balloon test illustrating the height, under tab 5 of the revised application.

### Aesthetics

The proposed tower is not tall enough to trigger Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) requirements for lighting. The only lighting proposed will be located at the seven-foot height on the tower and will be a down shielded motion detector light for the purpose of providing lighting for technicians during night hours, as needed. The tower will be constructed of galvanized steel, gray in color, consistent with the Wireless Ordinance.

The proposed tower is located on southeast portion of the parcel that is heavily wooded and

proposes a continuous all-season perimeter landscaping (p. L-1 of site plan) compliant with the landscape requirements of the Wireless Ordinance. The application proposes to fence the compound with an 8' tall fence with three strands of barbed wire which exceeds the minimum required 6' tall fencing around the tower compound. In response to the comments from the community meeting, the applicant proposes to include brown opaque slats within the fencing to eliminate the view of the equipment compound. Additionally, the access drive is designed with curvature, in order to minimize the view of the tower compound from public right of way.

#### Community Meeting

As required by ordinance, the applicant held a community meeting April 30<sup>th</sup>, 2014. The applicant notified adjoining property owners by mail of the meeting and a total of 31 residents attended the meeting. The community meeting report is provided in the application under tab 10 of the original application and provides a detailed report of the attendees' concerns and applicant's response.

#### Technical Review Committee (TRC)

An interdepartmental staff review of the application was completed during the April 16<sup>th</sup> TRC meeting. Comments received included the requirement that the site receive an E911 address prior to building permit, per the E911 Addressing Office. Additionally, a blue line stream were apparent on the subject property and per Environmental Quality staff, a revised site plan was requested to show the proposed tower in relation to these features. A revised site plan was received May 1<sup>st</sup>, 2014 with the stream feature and associated 50' buffer which is not within proximity of the proposed tower (pg. C-1, revised site plan).

#### Supplemental Information

The applicant also provided the following supplemental information that is not required of the Wireless Telecommunications Facilities Ordinance (within the original application): RF Map (tab 6), RF Letter of Justification (tab 7), RF Engineers FCC Compliance Assessment (tab 9), Impact on Emergency Services (tab 20), and Construction Schedule (tab 21). Please note this information is supplemental in nature and was not required by ordinance. The revised application submitted at the June 16<sup>th</sup> public hearing includes the following updated information not required by ordinance: Propagation Studies (tab 3) and Appraisal Report (tab 8).

#### **Discussion & Analysis**

A Wireless Telecommunication Permit application must meet the required five findings as required by the Conditional Use Permit standards of Section 17 of the Chatham County Zoning Ordinance. Those findings are addressed as follows and are found on page 23, behind Tab 2 of the revised application packet:

**FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.** The proposed tower is located on a parcel zoned R-1. Per Section 10.13, Zoning Table of Uses,

wireless telecommunication facilities are allowed within the R-1 district through a conditional use permit. Therefore the use requested is listed as an eligible conditional use in the district the subject property is located.

**FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.** It is Planning Staff’s opinion that this finding can be supported. The applicant states the proposed tower will provide convenience, safety, efficiency, as well as connectedness for the community.

**FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.** It is Planning Staff’s opinion that this finding can be met due to the galvanized steel, gray color of the tower, no lighting impact on the landscape, the reduction of the height of the tower and the measures proposed to minimize the view of the tower compound from public right of way. The proposed tower provides additional support for emergency communications needs for the community.

**FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.**

This request is consistent with Policy Objective #12: *Provide infrastructure in ways that support the land use, economic development and environmental objectives:* this proposed utility will support home-based businesses and encourage economic development.

**Recommendation**

Planning staff has found the application complete and the proposed tower to be consistent with the Land Use and Development Plan. If the Board is of the opinion that the above required findings can be made to approve the project, staff recommends the site be subject to the following conditions:

**Site Specific Conditions**

1. The tower shall be gray in color, constructed of galvanized steel.
2. The fenced tower compound shall include brown, opaque slats.
3. Approval from NCDOT on the commercial driveway must be obtained and a copy presented to the Planning Department before the issuance of the first building permit.
4. At least one wireless tenant that intends to locate on the proposed tower must be identified at the time of building application. If a wireless tenant is not identified, then the building permit shall not be issued.

**Standard Site Conditions**

5. 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. These include but are not limited to landscaping, lighting, signage, parking, building construction, wireless facility abandonment and removal, etc.

6. 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.
7. A building permit must be obtained and remain valid at all times within 2 years from the date of this approval or this permit shall become null and void.

**Standard Administrative Conditions:**

8. 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 inspections.
9. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
10. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
11. 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.