

Chatham County Planning Board Minutes August 5, 2014



The Chatham County Planning Board met in regular session on the above date in the Agriculture Building Auditorium, Pittsboro, North Carolina.

Members present were as follows:

Present:

B. J. Copeland, Chair
Bill Arthur
James Crawford
Karl Ernst
Gene Galin
Tom Glendinning
Mike Grigg
Donna Kelly
Cecil Wilson
Cathy Wright

Absent:

Philip Bienvenue

Planning Department:

Jason Sullivan, Planning Director
Hillary Pace, Planner II
Kimberly Tyson, Clerk to the Board

I. INVOCATION AND PLEDGE OF ALLEGIANCE:

Chair Copeland delivered the invocation and afterwards the Chairman invited everyone to stand and recite the Pledge of Allegiance.

II. CALL TO ORDER:

Chair Copeland called the meeting to order at 6:30 p.m.

III. DETERMINATION OF QUORUM:

The clerk stated that a quorum was present to begin the meeting (10 members).

IV. APPROVAL OF AGENDA:

See Item V. below.

V. APPROVAL OF CONSENT AGENDA:

Minutes: Consideration of a request for approval of the July 1, 2014 Planning Board minutes.

Board members had two minor changes to the minutes with no objections to above items IV. and V. and were considered approved as submitted.

VI. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not** on agenda. Speakers limited to three (3) minutes each.

Esta Cohen, 688 Van Thomas Road, Pittsboro, NC spoke briefly. Ms. Cohen is the Chair of the Agriculture Advisory Committee and stated that the four (4) options that were presented to the Board of Commissioners' e.g. (1) extend zoning with any open use district; (2) adopt stand alone heavy industrial use ordinance; (3) extend traditional zoning; (4) no action at this time, there wasn't anything for agriculture. Ms. Cohen said she didn't have any specifics at this time, only wanted the board to know the presence of the Agriculture Advisory Committee. She had two handouts and the handouts may be viewed with the August 5, 2014 minutes in the Planning Department.

VII. ZONING AND ORDINANCE AMENDMENTS:

Quasi-Judicial Request:

Chair Copeland read Quasi-Judicial Proceedings into record.

1. 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 195' monopole telecommunications tower on a lease area of approximately 0.73 acres of the 11 acre tract, zoned R-1, within the Williams Township.

Ms. Pace reviewed the agenda notes. A quasi-judicial public hearing was held on June 16, 2014. The applicant's attorney, Gray Styers presented the application. 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.

The proposed parcel is eleven (11) acres, zoned R-1, and located in Jordan Lake WS-IVPA 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 and is not within 1.5 miles of an existing tower.

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 16th 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 standards of the ordinance.

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 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.

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 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.

As required by ordinance, the applicant held a community meeting April 30, 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.

An interdepartmental staff review of the application was completed during the April 16, 2014 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, 2014 with the stream feature and associated 50' buffer which is not within proximity of the proposed tower.

The applicant also provided the following supplemental information that is not required of the Wireless Telecommunications Facilities Ordinance (within the original application): RF Map, RF Letter of Justification, RF Engineers FCC Compliance Assessment, Impact on Emergency Services, and Construction Schedule. Please note this information is supplemental in nature and was not required by ordinance. The revised application submitted at the June 16, 2014 public hearing includes the following updated information not required by ordinance:

Propagation Studies and Appraisal Report.

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:

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.

Planning staff has found the application complete and the proposed tower to be consistent with the Land Use and Development Plan, 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.

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.

Board discussion followed

FINDING #5 was omitted and read into the record for amendment to the notes.

Gray Styers, attorney, was present and answered questions from the board.

Motion to approve:

Mr. Galin made a motion; seconded by Mr. Glendinning to recommend approval of the cell tower with the recommendation and conditions by the staff.

No further discussion and motion passed unanimously (10 members).

VIII. NEW BUSINESS:

No new business.

IX. PLANNING DIRECTOR'S REPORTS:

- Minor Subdivisions / Exempt Maps – Mr. Sullivan stated spreadsheet was provided in the packet.
- Board of Commissioners Public Hearing – August 18, 2014

X. BOARD MEMBER ITEMS:

1. Chair Copeland gave an update on the Unzoned Areas of the County Sub-Committee and stated that the findings were presented to Board of Commissioners' July 21, 2014 meeting.
2. Training on water resource management including watershed regulations, riparian buffers and floodplains.
 - Federal Level
 - Clean Water Act
 - EPA Regulations
 - State Level
 - North Carolina Statute
 - Jordan Lake Rules
 - Chatham County Watershed Protection Ordinance

XI. ADJOURMENT:

There being no further business, the meeting adjourned at 7:53 p.m.

_____/_____
B.J. Copeland, Chair / Date

Attest: _____/_____
Kimberly Tyson, Clerk to the Board / Date