

## **..TITLE**

Vote on a quasi-judicial request to approve by Baker Donelson on behalf of Cellco Partnership dba Verizon Wireless for a new telecommunications tower on Parcel No. 10843 located at 5914 NC 87 N. A waiver from the 199 feet maximum is also requested to increase the height to no more than 300 feet.

## **..ABSTRACT**

### **Action Requested:**

Vote on a quasi-judicial request to approve by Baker Donelson on behalf of Cellco Partnership dba Verizon Wireless for a new telecommunications tower on Parcel No. 10843 located at 5914 NC 87 N. A waiver from the 199 feet maximum is also requested to increase the height to no more than 300 feet.

### **Introduction & Background:**

A quasi-judicial public hearing was held November 15, 2021. Planning staff presented the request and Attorney Joshua Rotenstreich, representative for the applicant, was also present and presented the request providing additional clarification of the propagation maps to support the request for the height restriction waiver up to 300 feet to gain more coverage in the area.

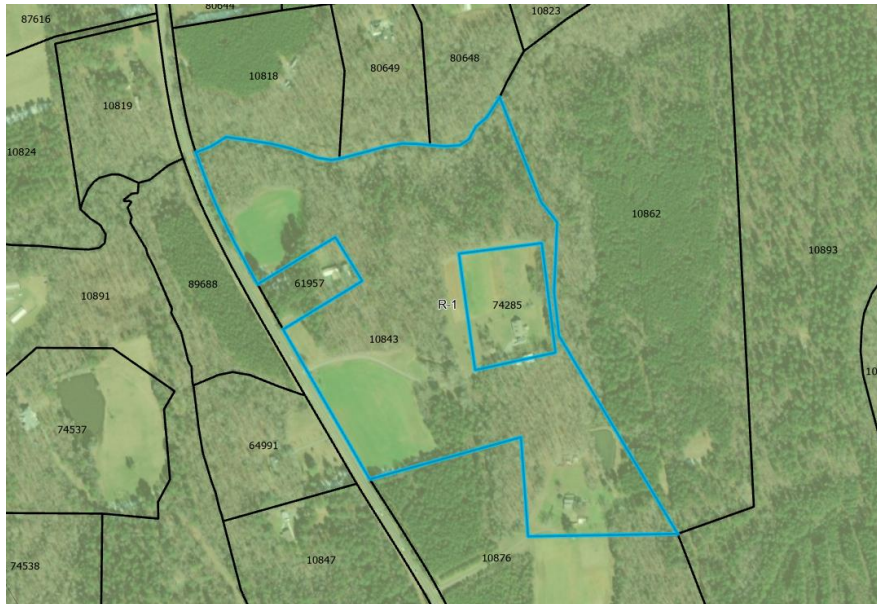
### **Discussion & Analysis:**

In reviewing and considering approval of a Special Use Permit, the Board must find that all of the findings of facts shall be supported. Per the Zoning Ordinance "In considering an application for a Special Use permit, the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured, and substantial justice done. If the Board should find, after public hearing, the proposed Special Use permit thereof should not be granted, such proposed permit shall be denied."

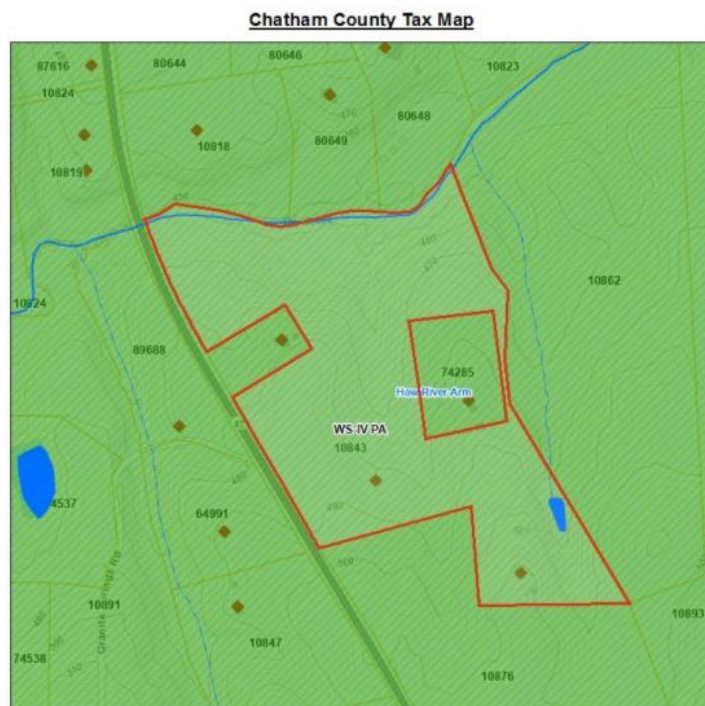
A community meeting was held September 1, 2021. Three residents attended the meeting, and no concerns were raised based on the community meeting report provided with the application. Planning staff received one phone call from a community member who was in favor of the tower. No concerns were brought forward at the public hearing.

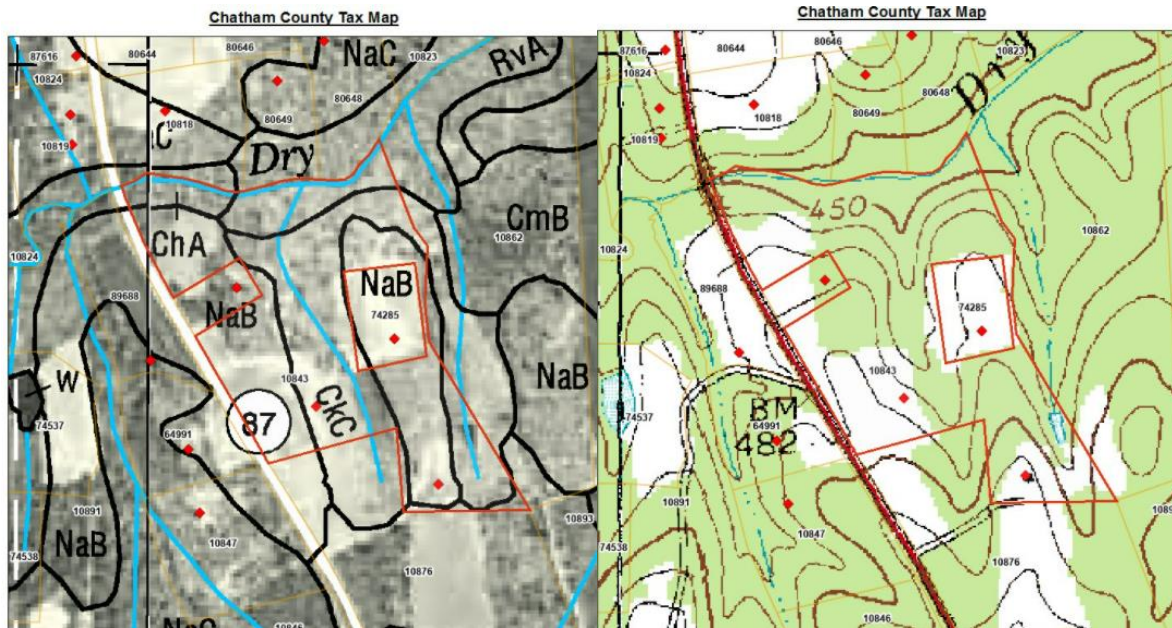
The Technical Review Committee reviewed the request on November 17, 2021. No concerns were raised.

*Zoning map of the area R1 Residential*



*Watershed Area map WSIV-PA Jordan Lake Buffer Area*





In granting a Special Use Permit, the Board of Commissioners shall make the following affirmative findings:

**Finding 1 – The use requested is among those listed as an eligible special use in the district in which the subject property is located or is to be located.** Wireless Telecommunication Towers of at least 199 feet but no more than 300 feet are allowed to apply for a Special Use Permit per the Zoning Ordinance, Section 10.13 and as required in the Wireless Telecommunications Ordinance, Section 2-3.

**It is planning staff opinion this finding has been met.**

**Finding 2 – The requested special use permit is either essential or desirable for the public convenience or welfare.** This request will help fill coverage gaps where service does not currently extend. Propagation maps were included in the application that display areas where cell coverage is currently not available and how this tower will increase coverage. The application also includes a waiver request to increase the tower height from a 199-foot tower to 264 feet to add more telecommunication coverage and capacity.

**It is planning staff opinion this finding has been met.**

**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.** The increased coverage for the area will increase the safety and welfare of the community by providing additional coverage in the event of emergencies.

There were photo simulations provided in the application that provide a view of the tower location from NC 87 and from area residences. The applicant has landscaping proposed around the compound that will reach a six-foot height at maturity as well as a six-foot-high fence with three feet of barbed wire for security purposes.

The project will also provide a 100-foot fall zone which is 50% higher than required by ordinance. The tower will comply with all FAA regulations regarding lighting which means it will blink white during the day and red at night so as to not interfere with residents or wildlife but provide required safety for aircraft.

**It is planning staff opinion this finding has been met.**

**Finding 4 – The requested permit will be consistent with the objectives of the Plan Chatham comprehensive plan.** Chapter 4, Utilities and Public Services, as well as Pg 26 Utility Needs address high speed internet. In areas of the county where high-speed internet may not be readily available, citizens rely on cell phones to access digital information and services. In this rural area where there are many hills and valleys, cell coverage has been limited. This would also support the request to waive the height limit to 300 feet in order to capture more residential areas in and around this community where coverage does not exist.

**It is planning staff opinion this finding has been met.**

**Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County’s plans, policies, and regulations.** A commercial driveway permit will be required from NCDOT. Electrical service will be needed to be provided by Duke Energy and permitted by the Chatham County Building Inspections Department.

Any other required permitting for land disturbance shall be as determined by the Watershed Protection Department prior to any land disturbing activity.

**It is planning staff opinion this finding has been met.**

**Based on all five findings being met, it is planning staff recommendation to approve the request.**

**How does this relate to the Comprehensive Plan:**

Chapter 4, Utilities and Public Services, as well as Pg 26 Utility Needs address high speed internet. In areas of the county where high-speed internet may not be readily available, citizens rely on cell phones to access digital information and services.

**The Planning Board discussed the request during their December 7, 2021 meeting. The only concern was to ensure that land disturbing activity is outside**

**of any water feature, stream, storm drainage ditch and associated buffers. A condition has been placed below to address this concern. By unanimous vote, the Planning Board recommends approval of the request.**

**Recommendation:**

The Board of Commissioners is asked to approve the Special Use Permit application. The following conditions shall be included.

**Site Specific Conditions**

1. A building permit shall be obtained and remain valid at all times within two (2) years of the date of this approval or the special use permit becomes null and void.
2. All conditions and requirements as set forth in the Wireless Telecommunications Ordinance shall be followed and approved by the appropriate departments prior to any land disturbing activity.
3. All land disturbing activity shall be reviewed and approved by the Watershed Protection Department prior to disturbance to ensure no water feature, stream, storm drainage ditch, etc. or associated riparian buffers are impacted.

**Standard Site Conditions**

4. 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, etc.
5. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department to the initiation of the operation/business.

**Standard Administrative Conditions:**

6. 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.

7. Continued Validity – The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditional listed above.
8. Non-Severability – If any of the above conditions is held to be invalid, this approval in it's entirely shall be void.
9. 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.