



REQUEST FOR BOARD ACTION

ITEM NO. 10.

DATE OF MEETING: May 20, 2013

REQUESTED BY: Ed McCarthy, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Special Use Permit (SUP) for the Construction and Operation of a Telecommunication Tower.

BACKGROUND: Optima Towers IV, LLC, applicant, on behalf of James E. Carter, owner, is requesting approval of a Special Use Permit for the construction and operation of a telecommunication tower. The property is located on Belt Road approximately 1,100 feet east of the intersection of NC Highway 210 and NC Highway 50 in Hampstead and may be identified as Pender County PIN 4235-49-1137-0000. The property is zoned RP, Residential Performance, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; telecommunication towers are permitted via Special Use Permit in the RP zoning district.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for a telecommunication tower.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

The Board hereby (approved, modified, denied) a special use permit for a telecommunication tower, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown ___ McCoy ___ Tate ___ Ward ___ Williams ___

Chairman 5/20/2013

Date

ATTEST 5/20/2013
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: May 20, 2013
Applicant: Optima Towers IV, LLC
Property Owner: James E. Carter
Case Number: 10908

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of a telecommunication tower, as defined in the Pender County Unified Development Ordinance:

TELECOMMUNICATION TOWERS: A structure, including the tower, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic transmission of information, excluding structures utilized as satellite earth stations and structures utilized for amateur or recreational purposes such as ham radio or citizen band radio.

Property Record Number and Location: The subject property is located along Belt Road approximately 1,100 feet east of the intersection of NC Highway 210 and NC Highway 50 in Hampstead and may be identified as Pender County PIN 4235-49-1137-0000. There is one tract associated with this request totaling 21.39 acres.

Zoning District of Property: The property is currently zoned RP, Residential Performance, and telecommunication towers are permitted via SUP in the RP zoning district.

PROJECT DESCRIPTION:

Optima Towers IV, LLC, applicant, on behalf of James E. Carter, owner, is requesting approval of a Special Use Permit for the construction and operation of a telecommunication tower on a vacant tract of land located along Belt Road approximately 1,100 feet east of the intersection of NC Highway 210 and NC Highway 50 in Hampstead. The project will consist of the construction of a 195 foot monopole style telecommunication tower. The tower shall be designed to accommodate five communication carriers in the future and subsequently, improve communication coverage in eastern Pender County. Based on the proposed location, the tower will meet required setback standards outlined in Section 5.3.11.P.2.a. Additionally, the facility will be located 1.79 miles away from the closest telecommunication tower greater than 75 feet in height.

Section 5.3.11.P of the Pender County Unified Development Ordinance sets forth specific use standards for Telecommunication Towers.

Telecommunication Facilities

- 1) *Co-located - Telecommunication antenna units that are attached to structures constructed for purposes other than supporting telecommunication equipment may be no taller than 30 feet or 30% of the structure's height. Co-located towers must comply with all relevant standards of this Article.*
- 2) *Freestanding - Freestanding telecommunication towers must comply with the following standards:*
 - a) *The minimum distance between the tower and an adjoining parcel of land that is residentially developed or is vacant and zoned Rural Agricultural, Residential Performance, Manufactured Home, General Business or Office & Institutional, or from an adjoining local*

- road separating the tower site from such a parcel, must be equal to the tower's height, but not less than 50 feet, nor less than the minimum setback depth applicable in the zoning district. This provision does not apply in relationship to any nonconforming residential use or the residence of a caretaker or watchman accessory to a permitted non-residential use.
- b) *The Board of Commissioners, through the Special Use Permit public hearing, may reduce the minimum distance required above on finding that a lesser distance will not be injurious to properties or improvements in the affected area, but in no case may the minimum distance be reduced to less than that equal to 50% of the tower's height, or 50 feet, nor less than the minimum required setback depth applicable in the zoning district in which the tower is located.*
 - c) *The minimum distance between the tower and any other adjoining parcel of land or road must be equal to the minimum setback depth applicable in the zoning district, plus any additional distance necessary to ensure that the tower, as designed, will fall within the tower site.*
 - d) *The distances referred to above must be measured from the outside dimensions of the tower, not from the guy anchors.*
 - e) *If the tower is more than 100 feet high, but less than 180 feet high, it must be engineered and constructed to accommodate at least one additional telecommunication user. If the tower is at least 180 feet high, it must be engineered and constructed to accommodate at least 2 additional telecommunication users. Provision of co-location sites on other towers is encouraged wherever feasible.*
 - f) *The base of the tower and each guy anchor must be surrounded by a fence or wall at least 8 feet high, unless the tower and all guy anchors are mounted entirely on a structure over 8 feet high. Except for its entrances, the fence or wall must be screened with plant material so that no more than two-thirds of its surface is visible, within 3 years after its installation, from a public street or from any adjoining parcel of land that is residentially developed or is vacant and zoned Rural Agricultural, Residential Performance, Manufactured Home, General Business or Office & Institutional.*
 - g) *A buffer yard must be provided around the perimeter of the lease lot as in accordance with the requirements of Article 8, Landscaping & Buffering. A 40-foot-type C buffer yard is required along the inside perimeter of a leased lot or parcel for the utilization of telecommunication towers.*
 - h) *Radio, television, or other electromagnetic transmission or reception on other properties may not be disturbed or diminished.*
 - i) *The tower must meet the standards of the Federal Aviation Administration (FAA) for avoiding obstruction of navigable airspace and approaches to public airports (see Federal Aviation Regulations Part 77, as amended), and for marking and lighting structures to promote aviation safety (see FAA Advisory Circular 70/7460, as amended). Specifically, tower lighting must meet applicable FAA standards for either red obstruction lighting systems or dual lighting systems (red lighting for nighttime and medium-intensity flashing white lighting for daytime). If a tower is proposed to be located within 1,000 feet of a private use airport, the application must so indicate.*
 - j) *Output from the tower's antennas must meet the minimum standards of the Federal Communications Commission (FCC) relating to the environmental effects of radio frequency emissions.*
- 3) *Standards for Specific Zoning Districts*
- a) *Residential Districts - Telecommunication towers in residential districts must comply with the following standards:*
 - i) *If the tower is more than 75 feet high, it must be located at least 1,500 feet from any other telecommunications tower greater than 75 feet high; provided, however, that this separation requirement does not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower has been made, or that co-location on the tower will not technically satisfy the applicant's specific needs.*

- ii) *Buildings associated with the tower may not be used as an employment center for any worker (This provision does not prohibit the periodic maintenance or monitoring of equipment and instruments).*
- b) *Non-residential Districts - If the tower is more than 100 feet high, it must be located at least 1,000 feet from any other telecommunications tower greater than 100 feet high; provided, however, that this separation requirement does not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower was made, or that co-location on the tower will not technically satisfy the applicant's specific needs.*

This Special Use Permit requests has been evaluated for compliance with standards outlined in Section 5.3.11.P, Telecommunication Towers. Based on the applicants' submittal, the request is in conformance with items 2.a, 2.e, 2.i, and 3.a.i. In addition, the applicant accepts and acknowledges items 1, 2.b, 2.c, 2.d, 2.h, 2.j, and 3.a.i. Items 2.f and 2.g will be reviewed during the Site Development review process.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. In addition, all other applicable permits and approvals must be obtained including inspections and health department regulation compliance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Telecommunication Facilities		SD	SD			SD	SD	SD	SD	SD	

EVALUATION:

- A. *Public Notifications:*** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. Adjacent property owners were notified by first class mail.
- B. *Basis for Granting SUP:*** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. *Unified Development Ordinance Compliance:*** The property is currently zoned RP, Residential Performance, and telecommunication facilities are permitted in the RP zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. *2010 Comprehensive Land Use Plan Compliance:*** The subject property is classified as Mixed Use in the *2010 Comprehensive Land Use Plan*. The Mixed Use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner.

The SUP request is also supported by a policy within the *2010 Comprehensive Land Use Plan*:

- *Policy 1A.1.5 – The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.*

- E. *Existing Land Use in Area:*** Properties to the north, east, and west include low density residential uses or large tracts of vacant property. The property immediately to the south is classified as “incorporated land” of Surf City and is currently vacant.
- F. *Site Access Conditions:*** The proposed use will have direct access to Belt Road. The new access will be subject to review and approval by the NCDOT.
- G. *Conditions To Consider In Issuing the Special Use Permit For This Project:***
1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance, specifically use standards outlined in Section 5.3.11.P, Telecommunication Facilities.
 2. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
 3. A separate permit must be obtained for any proposed signs in accordance with Article 9 of the Pender County Unified Development Ordinance.
 4. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
 5. The applicant shall meet all other local, state and federal regulations.
 6. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in effect for the duration of this permit
 7. The applicant/owner shall be responsible for the removal of said telecommunication tower, if the aforementioned structure is abandoned for a period of 120 consecutive days. Costs incurred for removal of the structure shall be the responsibility of the applicant/owner.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

No comment

Four County Electric Company

No response

NC DENR Division of Coastal Management

No response

NC DENR Division of Forestry

No response

NC DENR Division of Land Resources

No response

NC DENR Division of Waste Management

No response

NC DENR Division of Water Quality

No response

NC DOT Division of Highways

A driveway permit will be required.

NC DOT Transportation Planning Branch

No response

NC Office of State Archaeology

No response

NC Wildlife Resources Commission

No response

Pender County Building Inspections

No response

Pender County Emergency Management

No response

Pender County Environmental Health

No response

Pender County Fire Marshall

No response

Pender County Parks and Recreation

No comment

Pender County Permitting/Floodplain Administrator

No response

Pender County Public Library

No response

Pender County Public Utilities

No response

Pender County Schools

No response

Pender County Sheriff's Department

No response

Pender County Soil and Water Conservation District

No comment

Progress Energy Corporation

No response

US Army Corps of Engineers

No response

Wilmington Metropolitan Planning Organization

No response

Attachment A

3.12.3 Procedures for Reviewing Applications

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
 - 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
 - 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
 - 3. The proposed use shall not constitute a nuisance or hazard;
 - 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
 - 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
 - 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
 - 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
 - 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP 10908	Date	3-7-13
Application Fee	\$ 500.00	Receipt No.	
Pre-Application Conference		Hearing Date	5-20-13
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Optima Towers IV, LLC	Owner's Name:	James E. Carter II
Applicant's Address:	PO Box 2041	Owner's Address:	255 Island Creek Drive
City, State, & Zip	Mount Pleasant, SC 29465	City, State, & Zip	Wilmington, NC 28411
Phone Number:	843-324-9745	Phone Number:	910-686-4969
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4235-49-1137-000	Total property acreage:	21.39
Zoning Classification:	RP	Acreage to be disturbed:	.25
Project Address :	Belt Road	NAICS Code:	
Description of Project Location:	Located in Northwest corner of parcel 4235-49-1137-000. Site is accessed from Belt Road via an existing dirt and gravel road.		
Describe activities to be undertaken on project site:	Wireless communications facility with tower, including necessary access and utilities.		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	2-13-13
Owner's Signature		Date:	2-11-13
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Special Use Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing. 			

Office Use Only							
<input type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input checked="" type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions /Fees \$100 <input type="checkbox"/> Mining Fees \$750				Total Fee Calculation: \$ 500.00 Application#: 10908 Date of Hearing: 5-20-13			
Attachments Included with Application: (Please include # of copies)							
CD /other digital version	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets	# of large 0	# of 11X17	Other documents/Reports	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
Payment Method:	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # 2230			
Application received by:		Ashley Moncada				Date: 3-7-13	
Application completeness approved by:		Ashley Moncada				Date: 3-7-13	

Special Use Permit Checklist

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete)
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	Project Narrative --Written description of the project (<u>max of 3 pages</u>) including the following: <ul style="list-style-type: none"> <input type="checkbox"/> Location of the project and type of access to project site <input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input type="checkbox"/> Description of all construction activities to be undertaken on the site <input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input type="checkbox"/> List of all state and federal permits that will be required for the project <input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
<input checked="" type="checkbox"/>	Project Map(s) --Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <input type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph. <input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities. <input type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site. <input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <input type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site. <input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

HELLMAN YATES & TISDALE

ATTORNEYS AND COUNSELORS AT LAW

JONATHAN L. YATES
DIRECT VOICE 843 414-9754
JLY@HELLMANYATES.COM

HELLMAN YATES & TISDALE, PA
145 KING STREET, SUITE 102
CHARLESTON, SOUTH CAROLINA 29401
V 843 266-9099
F 843 266-9188

March 6, 2013

VIA FEDERAL EXPRESS

Ashley E. Moncado
Planner I, NC Certified LID Professional
Pender County Planning and Community Development
Division of Planning
805 S. Walker Street
Burgaw, NC 28425
910-259-2110

RE: Optima Towers IV, LLC's proposed 195-foot monopole-style wireless communication facility to be located on Belt Road in Hampstead, NC 28443

Dear Ashley:

We are pleased to present this application for a 195-foot monopole-style wireless communications facility to be located on Belt Road in Hampstead, NC 28443 on behalf of Optima Towers IV, LLC. The underlying property is owned by James E. Carter II and is designated as Pender County tax map number 4235-49-1137-000. The property is located in the Residential Performance (RP) district. This facility is desperately needed in order to provide adequate voice and advance data coverage to the surrounding area. We have taken the liberty of recasting the relevant sections of the Pender County Ordinance regarding wireless communication towers and antennas below with our response to the relevant section in bold:

5.3.11(P) Miscellaneous Uses - Telecommunication Facilities

1. Co-located - Telecommunication antenna units that are attached to structures constructed for purposes other than supporting telecommunication equipment may be no taller than 30 feet or 30% of the structure's height. Co-located towers must comply with all relevant standards of this Article.

Applicant accepts and acknowledges this provision. However, this provision does not apply, as this is an application for a new tower.

2. Freestanding - Freestanding telecommunication towers must comply with the following standards:
 - a. The minimum distance between the tower and an adjoining parcel of land that is residentially developed or is vacant and zoned Rural Agricultural, Residential Performance, Manufactured Home, General Business or Office &

Institutional, or from an adjoining local road separating the tower site from such a parcel, must be equal to the tower's height, but not less than 50 feet, nor less than the minimum setback depth applicable in the zoning district. This provision does not apply in relationship to any nonconforming residential use or the residence of a caretaker or watchman accessory to a permitted non-residential use.

As shown on Sheet Z01 of the Site Plans and Drawings, attached hereto as Exhibit A and incorporated herein by reference, the closest property line of any district type is 244' away from the base of the proposed tower and the proposed monopole is only 195' ag.l.

- b. The Board of Commissioners, through the Special Use Permit public hearing, may reduce the minimum distance required above on finding that a lesser distance will not be injurious to properties or improvements in the affected area, but in no case may the minimum distance be reduced to less than that equal to 50% of the tower's height, or 50 feet, nor less than the minimum required setback depth applicable in the zoning district in which the tower is located.

Applicant accepts and acknowledges this provision.

- c. The minimum distance between the tower and any other adjoining parcel of land or road must be equal to the minimum setback depth applicable in the zoning district, plus any additional distance necessary to ensure that the tower, as designed, will fall within the tower site.

Applicant accepts and acknowledges this provision.

- d. The distances referred to above must be measured from the outside dimensions of the tower, not from the guy anchors.

Applicant accepts and acknowledges this provision.

- e. If the tower is more than 100 feet high, but less than 180 feet high, it must be engineered and constructed to accommodate at least one additional telecommunication user. If the tower is at least 180 feet high, it must be engineered and constructed to accommodate at least 2 additional telecommunication users. Provision of co-location sites on other towers is encouraged wherever feasible.

The proposed tower is 195-feet in height and is designed for five communication carriers, as is shown on Sheet Z02 of Exhibit A.

- f. The base of the tower and each guy anchor must be surrounded by a fence or wall at least 8 feet high, unless the tower and all guy anchors are mounted entirely on a structure over 8 feet high. Except for its entrances, the fence or wall must be screened with plant material so that no more than two-thirds of its surface is visible, within 3 years after its installation, from a public street or from any adjoining parcel of land that is residentially developed or is vacant and zoned Rural Agricultural, Residential Performance, Manufactured Home,

General Business or Office & Institutional.

As shown on Sheet Zo3 of Exhibit A, the proposed wireless telecommunications tower and facility will be enclosed by a seven-foot-high chained link fence, topped with three strands of barbed wire as an anti-climbing device, for a total height of eight feet.

- g. A buffer yard must be provided around the perimeter of the lease lot as in accordance with the requirements of Article 8, Landscaping & Buffering. A 40-foot-type C buffer yard is required along the inside perimeter of a leased lot or parcel for the utilization of telecommunication towers.

Please see Sheet Zo6 of Exhibit A, which shows the heavy and mature tree cover already in place on the Carter property. We will be using existing landscaping to serve as a buffer yard around the perimeter of the lease lot, which fully complies with the requirement of Article VIII.

- h. Radio, television, or other electromagnetic transmission or reception on other properties may not be disturbed or diminished.

Applicant accepts and acknowledges this provision.

- i. The tower must meet the standards of the Federal Aviation Administration (FAA) for avoiding obstruction of navigable airspace and approaches to public airports (see Federal Aviation Regulations Part 77, as amended), and for marking and lighting structures to promote aviation safety (see FAA Advisory Circular 70/7460, as amended). Specifically, tower lighting must meet applicable FAA standards for either red obstruction lighting systems or dual lighting systems (red lighting for nighttime and medium-intensity flashing white lighting for daytime). If a tower is proposed to be located within 1,000 feet of a private use airport, the application must so indicate.

The FAA Determination of No Hazard to Air Navigation is attached hereto as Exhibit B and incorporated herein by reference. As shown on Sheet Zo2 of Exhibit A, the proposed tower will utilize a dual-medium intensity lighting, per FAA Circular 70/7460.

- j. Output from the tower's antennas must meet the minimum standards of the Federal Communications Commission (FCC) relating to the environmental effects of radio frequency emissions.

Applicant accepts and acknowledges this provision.

3. Standards for Specific Zoning Districts

- a. Residential Districts - Telecommunication towers in residential districts must comply with the following standards:
 - i. If the tower is more than 75 feet high, it must be located at least 1,500 feet from any other telecommunications tower greater than 75 feet high;

provided, however, that this separation requirement does not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower has been made, or that co-location on the tower will not technically satisfy the applicant's specific needs.

The proposed tower is 195' and is located 1.79 miles away from the closest tower that is more than 75 feet in height is a 160-ft. tower owned by Falcon Cable Media. This information is shown on Sheet Z01 of Exhibit A.

- ii. Buildings associated with the tower may not be used as an employment center for any worker (This provision does not prohibit the periodic maintenance or monitoring of equipment and instruments).

Applicant accepts and acknowledges this provision.

- b. Non-residential Districts - If the tower is more than 100 feet high, it must be located at least 1,000 feet from any other telecommunications tower greater than 100 feet high; provided, however, that this separation requirement does not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower was made, or that co-location on the tower will not technically satisfy the applicant's specific needs.

Applicant accepts and acknowledges this provision.

3.12.3 Procedures for Reviewing Applications

G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:

1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;

A telecommunications facility is listed as a special use in the RP district.

2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;

The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property. In fact, the proposed wireless telecommunications facility will not endanger, but actually will enhance, the safety of residents, employees, travelers and neighboring properties by providing adequate wireless

infrastructure and effective access to 911 First Responders, fire, police, and EMS.

3. The proposed use shall not constitute a nuisance or hazard;

The proposed wireless telecommunications facility shall not constitute a nuisance or hazard. In fact, it will benefit the residents of this area of Pender County by providing access to effective wireless coverage for both voice and advanced data.

4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;

The proposed wireless telecommunications facility will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners.

5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;

Adequate utilities, access roads, drainage, sanitation or other necessary facilities will be provided.

6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;

The ingress and egress will be designed as to minimize the traffic congestion in the public roads. After installation, there will only be periodic maintenance visits to the site. It will not cause congestion in the public roads.

7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and

Applicant will fully comply with the applicable regulations of the district in which the proposed tower is located.

8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

The Carter property is 21.39 acres and is heavily wooded, providing plenty of cover for the proposed tower.

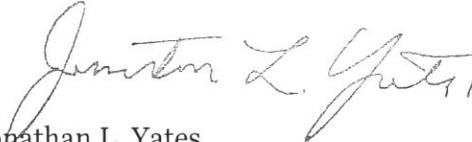
Also enclosed please find the application form, and a letter of authorization from the landowner granting permission to Optima Towers IV, LLC and myself to file all permit applications on their behalf. In addition please find the Memorandum of Need for the proposed facility with propagation studies prepared by Karla Chagas of CelPlan, which is attached hereto as Exhibit "C" and incorporated herein by reference. Finally, please find the preliminary plat showing Optima's lease area, which is attached hereto as Exhibit "D" and incorporated herein by reference.

March 6, 13
Page 6

On behalf of Optima Towers, we thank you very much for your time and consideration in the review of this application. If you have any questions or if we can provide any additional information, please call me at my direct line of 843-414-9754 or 843-813-0103. We look forward to working with you and your staff on this project for Optima Towers.

With warmest regards, I am

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jonathan L. Yates".

Jonathan L. Yates

JLY:edh
Enclosures



Applicant:
Optima Towers IV, LLC

Owner:
James E. Carter

**Special Use
Permit
10908**

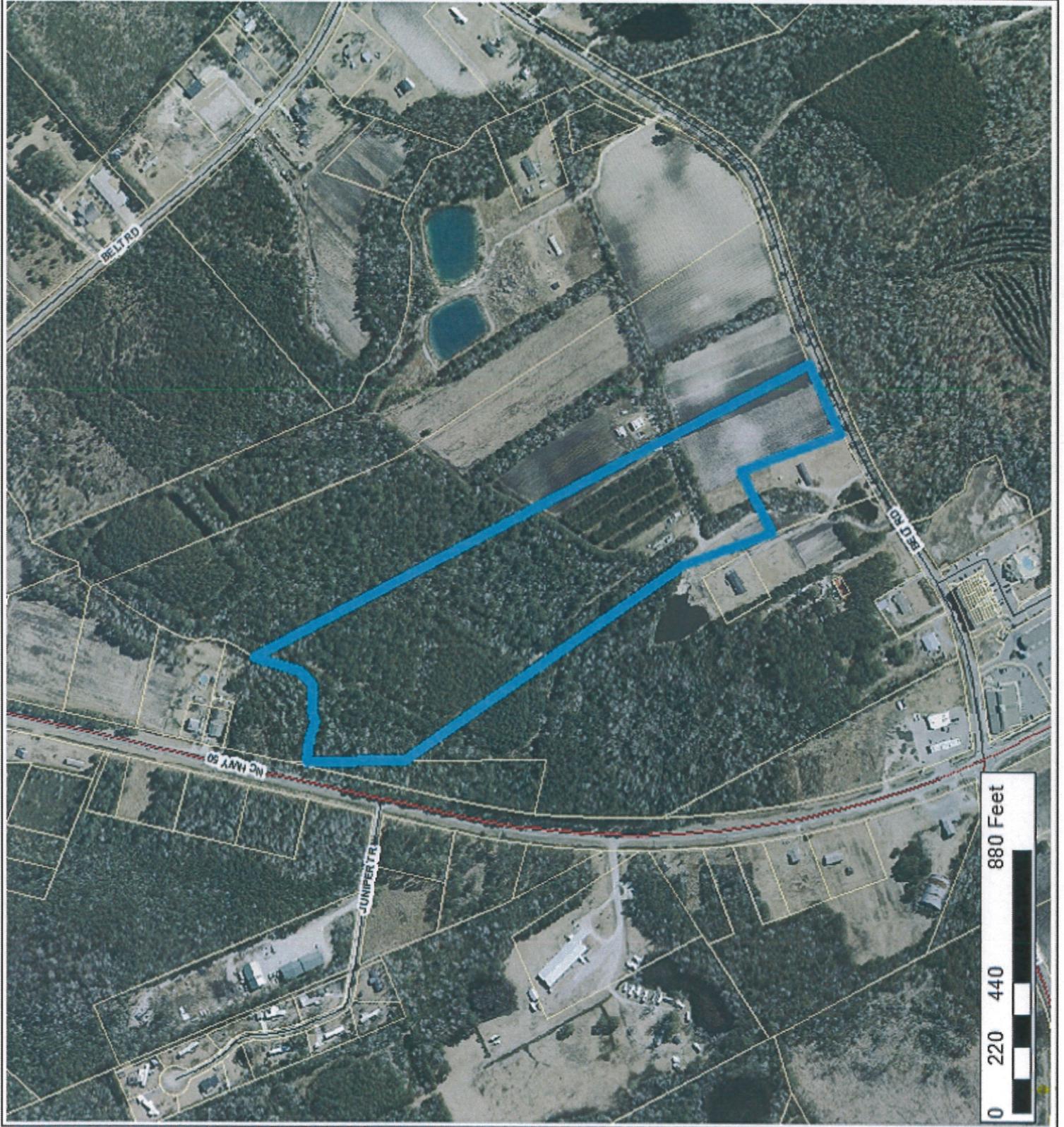
Legend



Subject Property



2010 AERIAL





Applicant:
Optima Towers IV, LLC

Owner:
James E. Carter

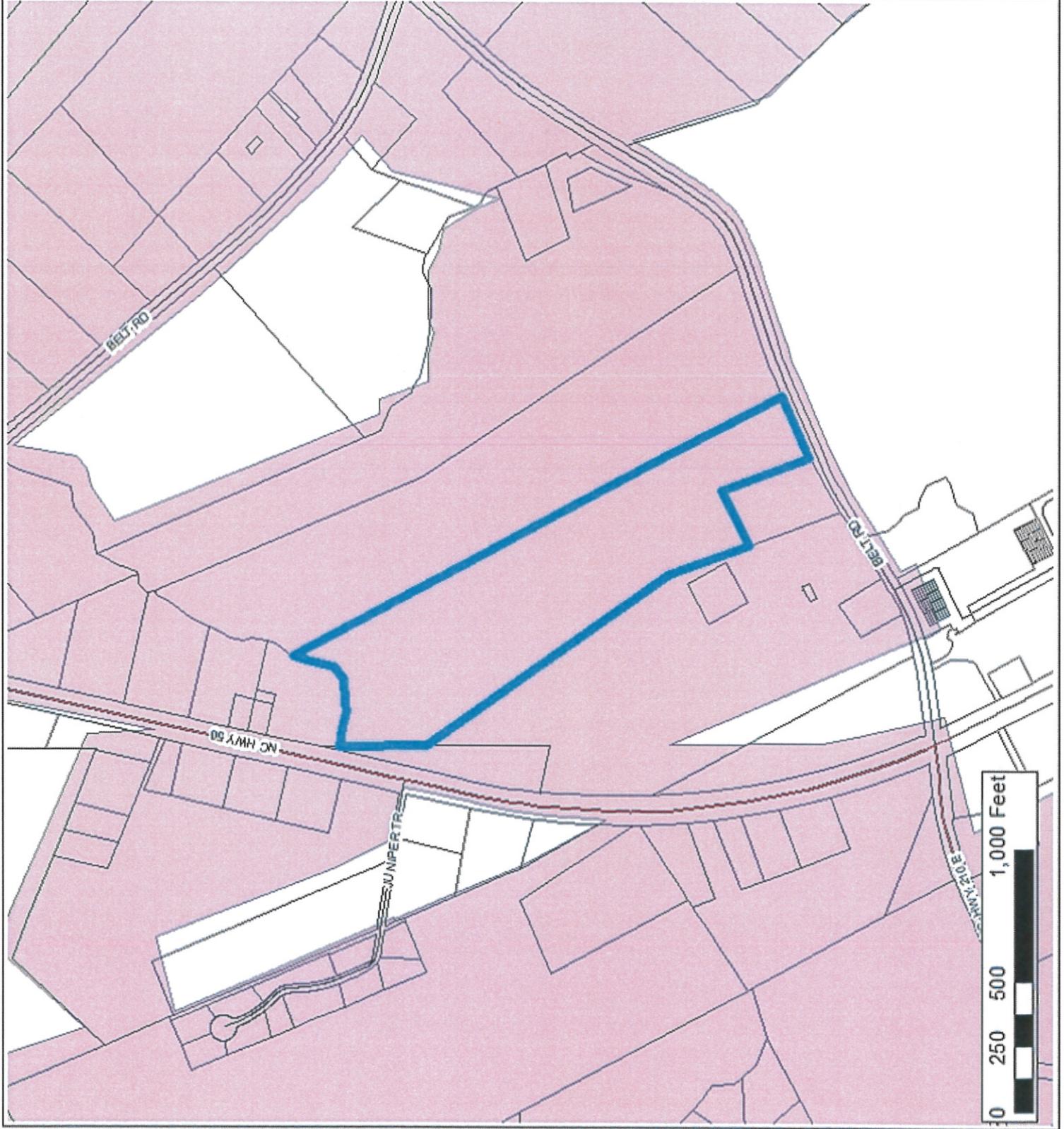
**Special Use
Permit
10908**

2010 Land Use Classification

-  Conservation
-  Industrial
-  Mixed Use
-  Office, Institutional, Business
-  Rural Growth
-  Suburban Growth



**LAND USE
CLASSIFICATION**





Applicant:
Optima Towers IV, LLC

Owner:
James E. Carter

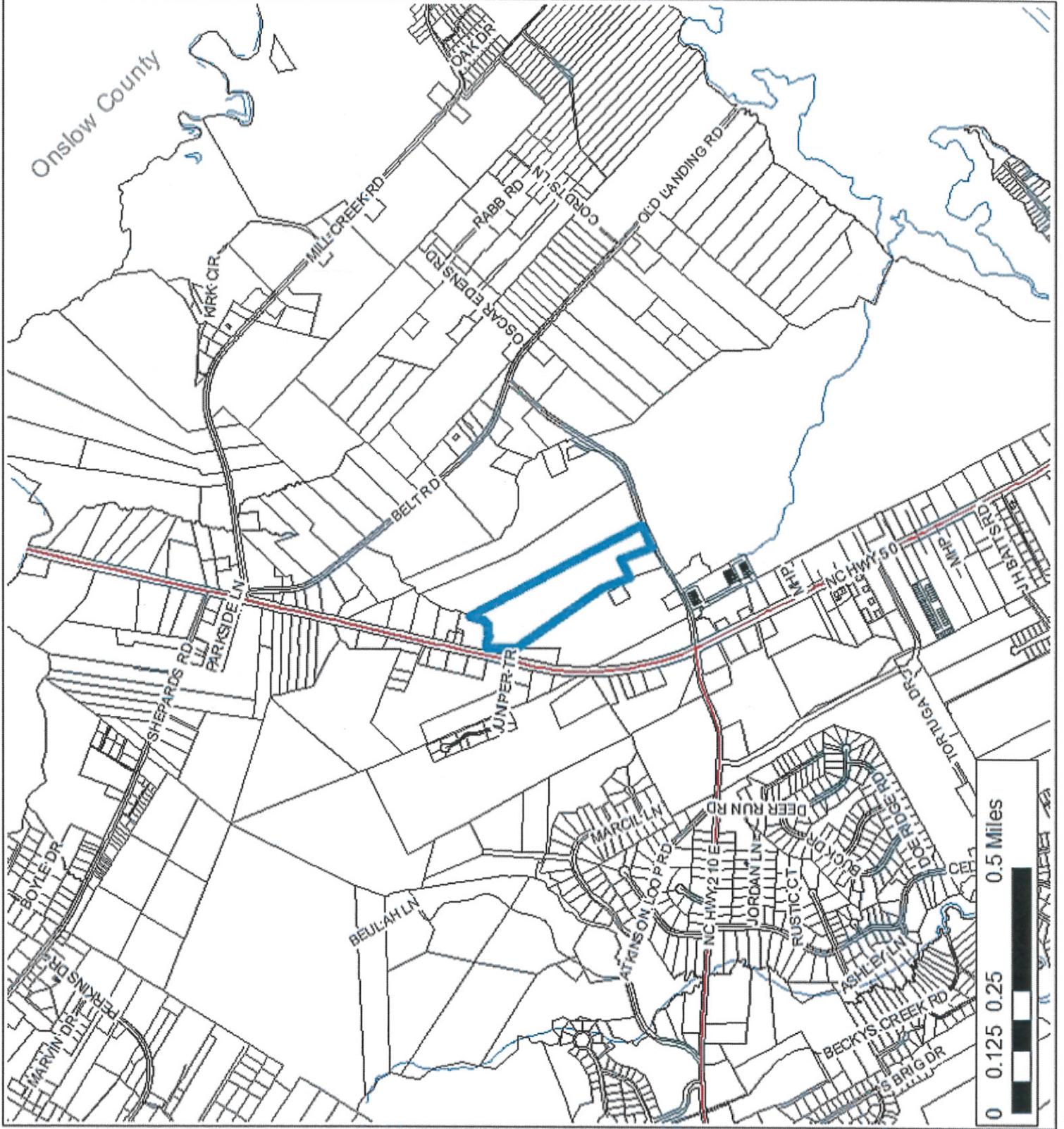
**Special Use
Permit
10908**

Legend

- Towers
- Subject Property



VICINITY





Applicant:
Optima Towers IV, LLC

Owner:
James E. Carter

**Special Use
Permit
10908**

- Subject Property**
- | Zoning Classification | Description |
|-----------------------|---------------------------------|
| [Blue] | Subject Property |
| [Red] | General Business (GB) |
| [Dark Blue] | General Industrial (GI) |
| [Light Blue] | Industrial Transition (IT) |
| [White] | Office & Institutional (OI) |
| [Purple] | Rural Agricultural (RA) |
| [Green] | Planned Development (PD) |
| [Yellow] | Residential Performance (RP) |
| [Light Green] | Environmental Conservation (EC) |
| [Dark Green] | Incorporated Areas (INCORP) |
| [Hatched] | Manufactured Home Park (MHP) |
| [Brown] | Residential Mixed (MF) |



ZONING

