



## REQUEST FOR BOARD ACTION

ITEM NO. 12.

**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 Henry C. Blake, owner, is requesting approval of a Special Use Permit for the construction and operation of a telecommunication tower. The property is located along the eastern portion of US Highway 17 approximately 855 feet north of Scotts Hill Loop Road and may be identified as Pender County PIN 3217-51-2595-0000. The property is zoned GB, General Business, 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 GB 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**

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**SUMMARY:**

**Hearing Date:** May 20, 2013  
**Applicant:** Optima Towers IV, LLC  
**Property Owner:** Henry C. Blake  
**Case Number:** 10939

**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 TOWER: 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 the eastern portion of US Highway 17 approximately 855 feet north of Scotts Hill Loop Road and may be identified as Pender County PIN 3271-51-2595-0000. There is one tract associated with this request totaling 33.64 acres.

**Zoning District of Property:** The property is currently zoned GB, General Business, and telecommunication towers are permitted via SUP in the GB zoning district.

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**PROJECT DESCRIPTION:**

Optima Towers IV, LLC, applicant, on behalf of Henry C. Blake, 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 the eastern portion of US Highway 17 approximately 855 feet north of Scotts Hill Loop Road. 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 to improve coverage in eastern Pender County. Based on the proposed location of the tower, the facility will be located 2.10 miles away from the closest telecommunication tower greater than 75 feet in height. The proposed telecommunication tower is proposed to be located approximately 2,500 feet from the proposed SCI Telecommunication Tower (Case 10932).

Based on the height of the proposed telecommunication tower, the facility is required to provide a 195 foot setback from adjoining parcels of land that are residentially developed or are 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 based on Section 5.3.11.P of the Unified Development Ordinance. As proposed, the current location is in compliance with setback standards for the southern rear yard setback and western side yard setback. However, the location does not meet setback standards for the northern front yard setback and eastern side yard setback. As a result, the applicant is requesting a reduction in setback standards based on Section 5.3.11.P.2.b.

- 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.*

Setback standards provided on the applicant's submittal requests a front yard setback of 151 feet from the property line and a side yard setback of 105 feet from the eastern property line.

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
- b) 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).
  - c) 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 request 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.e, 2.i, and 3.b. In addition, the applicant accepts and acknowledges items 1, 2.c, 2.d, 2.h, 2.j, and 3.a.ii 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
<b>MISCELLANEOUS USES</b>											
Telecommunication Facilities		SD	SD			SD	SD	SD	SD	SD	

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**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 GB, General Business, and telecommunication facilities are permitted in the GB 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 large tracts of vacant property. Property immediately south of the proposed facility includes the Scotts Hill AME Church.
- F. *Site Access Conditions:*** The proposed use will have direct access to US Highway 17. 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 affect for the duration of this permit
  7. Setback standards provided on the applicant's submittal requests a front yard setback of 151 feet from the property line and a side yard setback of 105 feet from the eastern property line.
  8. The applicant/owner shall be responsible for the removal of said telecommunications 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.
  9. The applicant was made aware of SCI Towers' application for a 199' monopole tower.

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**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**

- 1. Applicant included an attachment that mentions the requirement to ensure that the 195' tower would fall within the property area, however, the site does not have adequate clearance on two sides of the property.*
- 2. Proposed detail for the Driveway cross section is 12', which is not wide enough to accommodate two-way traffic.*
- 3. Applicant does not show number of employees and proposed parking location/ number of spaces provided on the site plan.*
- 4. Tower appears to be within 200' of US Hwy 17, so I would be concerned with the potential for the tower to fall within the ROW for US Hwy 17. I would defer to NCDOT as to whether the applicant needs to move the site further away from US Hwy 17 ROW.*

## **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 10939	Date	4-9-13
Application Fee	\$ 500.00	Receipt No.	
Pre-Application Conference		Hearing Date	5-20-13
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Optima Towers IV, LLC	Owner's Name:	Henry C. Blake II, etal by Henry C. Blake
Applicant's Address:	PO Box 2041	Owner's Address:	10565 US Highway 17 N
City, State, & Zip	Mount Pleasant, SC 29465	City, State, & Zip	Wilmington, NC 28411
Phone Number:	843-324-9745	Phone Number:	910-520-2573
Legal relationship of applicant to land owner:			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3271-51-2595-0000	Total property acreage:	33.64
Zoning Classification:	GG	Acreage to be disturbed:	.25
Project Address :	US Highway 17, Wilmington, NC	NAICS Code:	
Description of Project Location:	Located in Northwest corner of parcel 3271-51-2595-0000 Site is accessed from US Highway 17 via an existing access entrance that is used for commercial traffic		
Describe activities to be undertaken on project site:	Wireless communications facility with tower, including necessary access and utilities.		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	
Owner's Signature	<i>Henry C. Blake II</i> Executor	Date:	3/8/13
<b>NOTICE TO APPLICANT</b>			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on the Special Use Checklist.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>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.</li> <li>4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application</li> <li>5. <b>Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.</b></li> </ol>			

**Office Use Only**

<input type="checkbox"/> <b>General/</b> Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input checked="" type="checkbox"/> <b>Tower over 75 Feet/</b> Fees \$500 <input type="checkbox"/> <b>Minor Revisions /</b> Fees \$100 <input type="checkbox"/> <b>Mining</b> Fees \$750	<b>Total Fee Calculation:</b> \$ 500. <sup>00</sup>					
	<b>Application#:</b> 10939					
	<b>Date of Hearing:</b> 5-20-13					
<b>Attachments Included with Application: (Please include # of copies)</b>						
CD /other digital version	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets	# of large 10	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
<b>Payment Method:</b>	<b>Cash :</b> <input type="checkbox"/> \$ _____	<b>Credit Card:</b> <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		<b>Check:</b> <input type="checkbox"/> Check # _____		
Application received by:	Ashley M Meado				Date:	4-9-13
Application completeness approved by:	Ashley M Meado				Date:	4-9-13

**Special Use Permit Checklist**

<input type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input type="checkbox"/>	Application fee
<input 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 type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input type="checkbox"/>	<b>Project Narrative</b> --Written description of the project ( <u>max of 3 pages</u> ) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site</li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers</li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><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.</li> </ul>
<input type="checkbox"/>	<b>Project Map(s)</b> --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"> <li><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.</li> <li><input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><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.</li> <li><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.</li> <li><input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO)</li> <li><input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO)</li> <li><input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><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 &amp; known or designated wetlands on the site.</li> <li><input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul>
<b>RETURN COMPLETED APPLICATION TO:</b> Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	



# HELLMAN YATES & TISDALE

ATTORNEYS AND COUNSELORS AT LAW

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CHARLESTON, SOUTH CAROLINA 29401  
V 843 266-9099  
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April 3, 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 US Hwy 17 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 US Hwy 17 in Hampstead, NC 28443 on behalf of Optima Towers IV, LLC. The underlying property is owned by Henry Chris Blake II and is designated as Pender County tax map number 3271-51-2595-0000. The property is located in the General Business (GB) 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 Zo1 of the Site Plans and Drawings, attached hereto as Exhibit A and incorporated herein by reference, the proposed 195-ft. monopole is set back 1153.2 feet from the rear property line; 634.9 feet from the western side property line; 105 feet from the eastern side property line; and 151 feet from the front property line. Consequently, we will be seeking a reduction of these requirements pursuant to 5.3.11(P)(2)(b) below.**

- 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.

**We would respectfully request that the Board of Commissioners grant a reduction of the setback for the front property line and eastern side property line. The reduction requested in each instance is not less than 50% of the tower height. Due to the nature of the Blake property and the surrounding properties, this reduction will not be injurious to properties in the affected area.**

- 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 monopole is 195-feet in height and is designed for five communication carriers, as is shown on Sheet Zo2 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. In addition, please see Sheet Zo6 of Exhibit A, which shows the landscaping plan by Optima Towers IV. Optima will plant 31 Cypress Carolina Sapphires and 7 Dwarf Buford Hollys to screen the compound.**

- 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 landscaping plan by Optima Towers IV. Optima will plant 31 Cypress Carolina Sapphires and 7 Dwarf Buford Hollys to screen the compound.**

- 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 the FAA Determination and on Sheet Zo2 of Exhibit A, the proposed monopole will not be required to be illuminated.**

- 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.

**Applicant accepts and acknowledges this provision.**

- 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.

**The proposed monopole is 195' and is located 2.10 miles away from the closest tower that is more than 75 feet in height (a 180-ft. tower owned by American Tower Corporation). This information is shown on Sheet Z01 of Exhibit A.**

**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 GB 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. The periodic maintenance visits will not cause 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

**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.

April 3, 13  
Page 6

**The Blake property is 33.64 acres and enjoys a healthy vegetative cover, providing plenty of space and separation for the proposed monopole-style communications facility.**

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.

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,



Jonathan L. Yates

JLY:edh  
Enclosures

## INDEX TO EXHIBITS

- A. Site Plans and Drawings
- B. FAA Determination of No Hazard to Air Navigation
- C. Memorandum of Need and Propagation Studies by Karla Chagas of CelPlan
- D. Preliminary Plat showing Optima Towers' Lease Area



**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
Henry C. Blake

**Special Use  
Permit  
# 10939**

**Legend**



Subject Property



**2010 AERIAL**





**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
Henry C. Blake

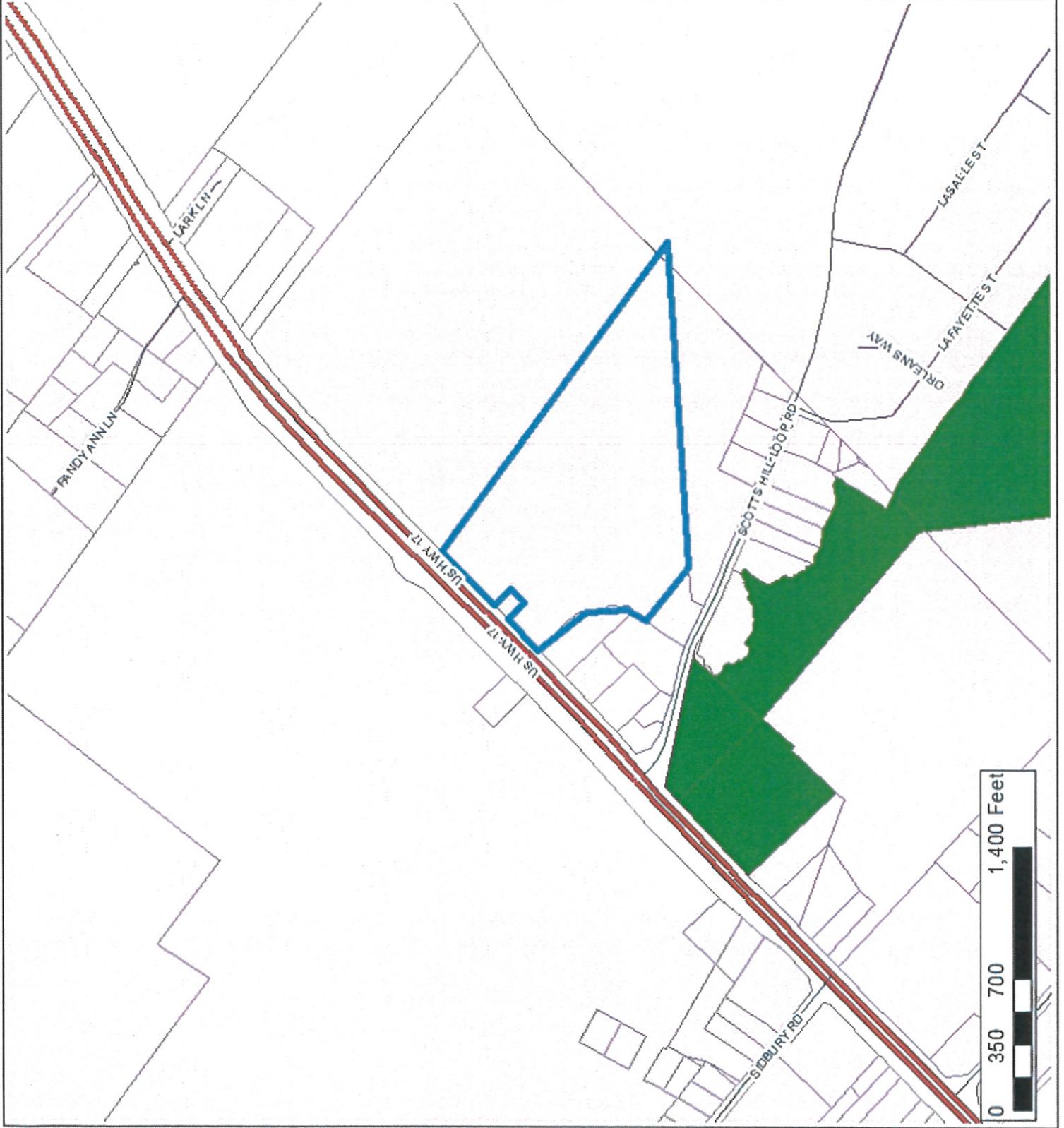
**Special Use  
Permit  
# 10939**

**2010 Land Use Classification**

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



**LAND USE  
CLASSIFICATION**





**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
Henry C. Blake

**Special Use  
Permit  
# 10939**

**Legend**

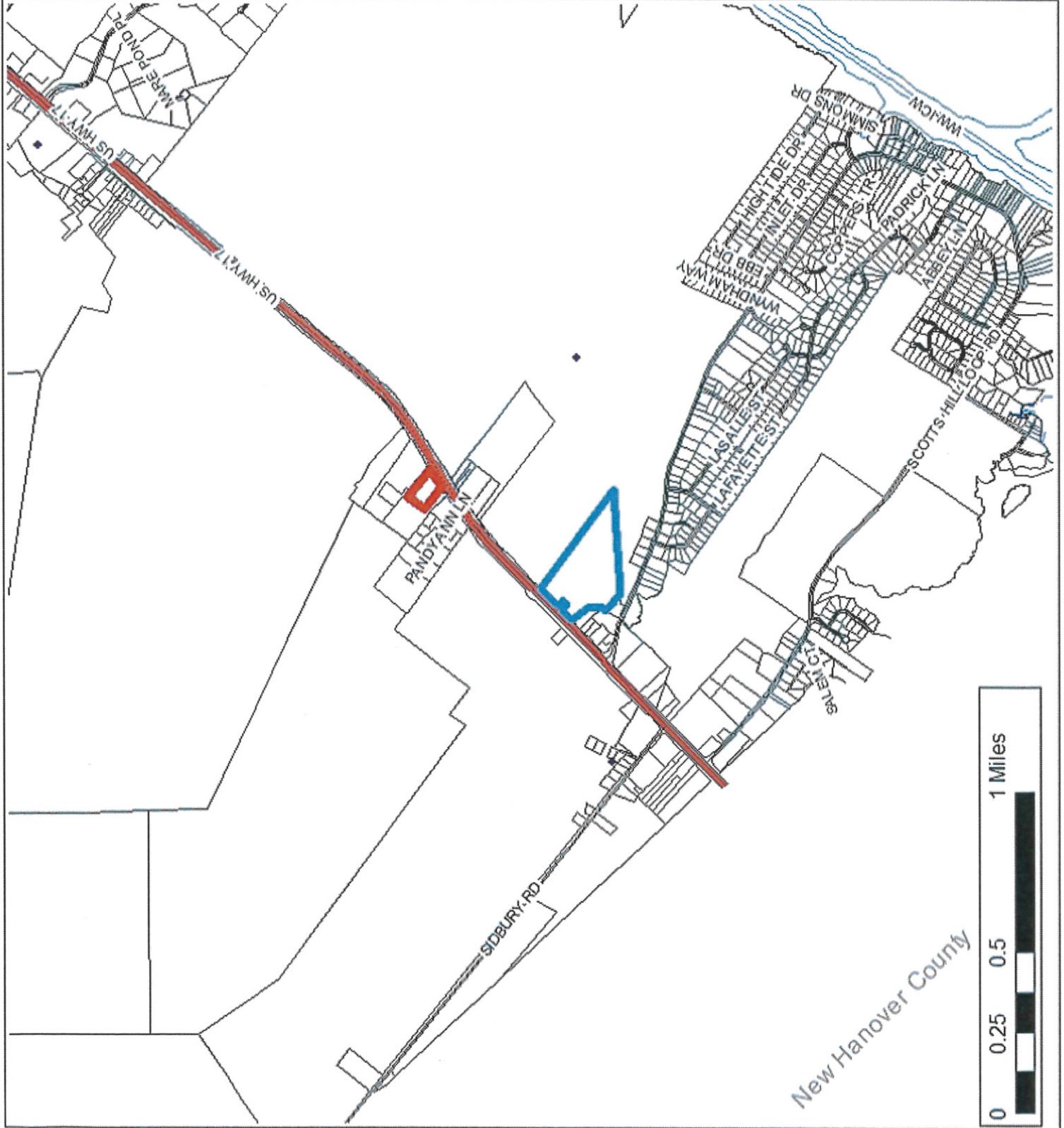
 SCI Towers' Proposed Site

 Subject Property

 Towers



**VICINITY**





**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
Henry C. Blake

**Special Use  
Permit  
# 10939**

- Subject Property
- Zoning Classification
- General Business (GB)
  - General Industrial (GI)
  - Industrial Transition (IT)
  - Office & Institutional (OI)
  - Rural/Agricultural (RA)
  - Planned Development (PD)
  - Residential Performance (RP)
  - Environmental Conservation (EC)
  - Incorporated Areas (INCORP)
  - Manufactured Home Park (MHP)
  - Residential Mixed (MF)



**ZONING**

