



REQUEST FOR BOARD ACTION

ITEM NO. 19.

DATE OF MEETING: June 17, 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 Linda K. Howard Taylor, owner, is requesting approval of a Special Use Permit for the construction and operation of a 195-foot monopole-style wireless telecommunication tower. The property is located on the eastern side of US Highway 17 approximately 1,000 feet northeast of Factory Road and may be identified as Pender County PIN 3292-73-2845-0000. 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 6/17/2013

Date

ATTEST 6/17/2013
Date

PLANNING STAFF REPORT

Special Use Permit

SUMMARY:

Hearing Date: June 17, 2013

Applicant: Optima Towers IV, LLC

Property Owner: Linda K Howard Taylor

Case Number: 10965

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 1,000 feet northeast of Factory Road and may be identified as Pender County PIN 3292-73-2845-0000. There is one tract associated with this request totaling 120.43 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 Linda K. Howard Taylor, owner, is requesting approval of a Special Use Permit for the construction and operation of a 195 foot monopole style telecommunication tower designed to accommodate AT&T and four other service providers. The facility will be located on a vacant tract of land situated along the eastern portion of US Highway 17, approximately 1,000 feet northeast of Factory Road; the parcel may be identified as Pender County PIN 3292-73-2845-0000. According to the application, based on the proposed location of the tower, the facility will be located 1.40 miles away from the closest telecommunication tower greater than 75 feet in height; the aforementioned US Cell Tower is 185-ft. tall.

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. Similarly, 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.

As proposed, the current location is in compliance with setback standards for the front, rear and side yard setbacks. Therefore, the applicant's proposal of a 170 foot side yard setback, a 25 foot reduction in the minimum required for a 195 foot telecommunication tower that abuts active commercial property is not necessary. The applicant is in compliance with setback standards based on Section 5.3.11.P.

Setback standards provided on the applicant's submittal demonstrate a side yard setback of 170 feet from Shyam L. Garg's parcels to the northwest, a 100 foot side yard setback from Linda Kaye Howard Taylor's commercial property to the northeast, a 250 foot side yard setback from the parcel containing the Old Topsail High School, and at least 195 feet along all other boundaries. Specifically, as measured on the applicant's site plan (Z01), the tower is set back approximately 300 feet from the front property line.

According to the application, "The proposed monopole is 195-feet in height and is designed for AT&T and four of their competitors, as is shown on Sheet Z02 of Exhibit A." As such, the applicant is in compliance with 5.3.11(P) 2. e.

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 request has been evaluated for compliance with standards outlined in Section 5.3.11.P, Telecommunication Towers. Based on the applicant's submittal, the request is in conformance with items, 1, 2.a, b, c, d, e, and 3. Following Board approval, the applicant will be required to comply with 2. h, 2. i, and 2.j. In addition, the applicant accepts and acknowledges items 1, 2. c, d, h, j, 3. a. i, 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
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 and west include a mix of commercial and residential uses, while properties to the south include primarily residential. The properties to the east are a mix of vacant and residential parcels. The site of the old Topsail High School is located on an adjacent northeaster parcel.
- F. Site Access Conditions:** The proposed use will have direct access to US Highway 17. The site's 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. 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.

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

- A. Compliance With Other Codes - Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other Ordinances.
- 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. After a public hearing has been held, the Board of Commissioners may revoke the Special Use Permit upon finding any of the following:

- 1) That the approval was obtained by fraud.

- 2) That the use for which such approval was granted is not being executed.
- 3) That the use for which such approval was granted has ceased to exist or has been suspended for one year.
- 4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.
- 5) That the permit granted is in violation of an Ordinance or Statute.
- 6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

C. Expiration - Unless a request for additional time is granted or approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if final Zoning Approval has not been issued for the project within 24 months after the Notice of Approval of the Special Use Permit has been served on the applicant. The Administrator may provide one extension of the expiration date by no more than 6 months, for complex projects requiring major state or federal permits, upon receipt of a written request for such extension by the applicant detailing the reasons for delay in completion of the requirements for the Zoning Approval.

D. Duration of Special Use - Any conditions imposed on a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Pender County UDO 3-28 Article 3 – Review Procedures Special Use Permit or subsequently changed or amended by the Board of Commissioners after application to the Board of Commissioners and a public hearing.

E. Conditions and Guarantees - Prior to the granting of any special use, the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the special use as it deems necessary for the protection of the public and to secure compliance with the standards and requirements specified in this Ordinance. In all cases in which special uses are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that conditions stipulated in connection therewith are being and will be complied with.

- 1) Such conditions may include a time limitation.
- 2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated".
- 3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."

F. Filing of Special Use - The Administrator shall file the approved or disapproved application forms with the decision of the Board of Commissioners.

G. Appeals from the Board of Commissioners - Appeals to the Superior Court may be taken by any person, firm, or corporation aggrieved, or by any officer, department, board of the county affected by any decision of the Board of Commissioners, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Commissioners is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board of Commissioners shall be delivered to the applicant by certified mail, return receipt requested.

H. Revisions - Major revisions to a Special Use Permit must be submitted to the Board of Commissioners. All legal notice and application fee requirements must be met for major revisions. Revisions that are considered minor revisions to an approved Special Use Permit may be reviewed and approved by the Administrator after basic submission requirements have been completed. All revisions approved by the Administrator must meet the original conditions of the permit as approved by the County Commissioners and current provisions of the Zoning Ordinance. The addition of an accessory structure less than 1000 sq. ft., addition of parking or other ancillary facilities or uses or the addition of similar product lines are examples of revisions that may be considered minor revisions.

HELLMAN YATES & TISDALE

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May 1, 2013

VIA FEDERAL EXPRESS

Ben Andrea, Senior Planner
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 Ben:

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 Linda K. Howard Taylor and is designated as Pender County tax map number 3292-73-2845-0000. 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 for AT&T and four of its competitors. 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 approximately 4,400 feet from the rear property line; 170 feet from the front property line, 250 feet from the eastern side property line; and 195 feet from the western property line. Consequently, we will be seeking a reduction of these requirements pursuant to 5.3.11(P)(2)(b) below for the property line.

- 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. The reduction requested is less than 50% of the tower height. Due to the nature of the Taylor 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. As is shown on Sheet Zo1 of Exhibit "A," the setback requirements of the RP district are easily met on the Taylor property.

- 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 AT&T and four of their competitors, 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 Z03 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 Z06 of Exhibit A, which shows the landscaping plan by Optima Towers IV. Optima will plant 19 Cypress Carolina Sapphires and 4 Dwarf Buford Hollies 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 Z06 of Exhibit A, which shows the landscaping plan by Optima Towers IV. Optima will plant 19 Cypress Carolina Sapphires and 4 Dwarf Buford Hollies 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. The FAA Determination was originally done at 265 feet; as the proposed tower has been reduced to 195 feet, lighting will not be required, as

shown on Sheet Z02 of Exhibit A.

- 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 1.40 miles away from the closest tower that is more than 75 feet in height (a 185-ft. tower owned by US Cell). 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 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. 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 RP district.

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.

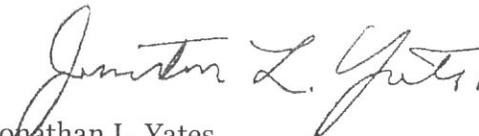
The Taylor property is 120.43 acres and enjoys a healthy vegetative cover, providing plenty of space and separation for the proposed monopole-style communications facility.

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 Cristine Korowajczuk of CelPlan, which is attached hereto as Exhibit "C" and incorporated herein by reference. Also enclosed is a letter by Don Slowek of AT&T, attached hereto as Exhibit "D" and incorporated herein by reference. Finally, please find the preliminary plat showing Optima's lease area, which is attached hereto as Exhibit "E" 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



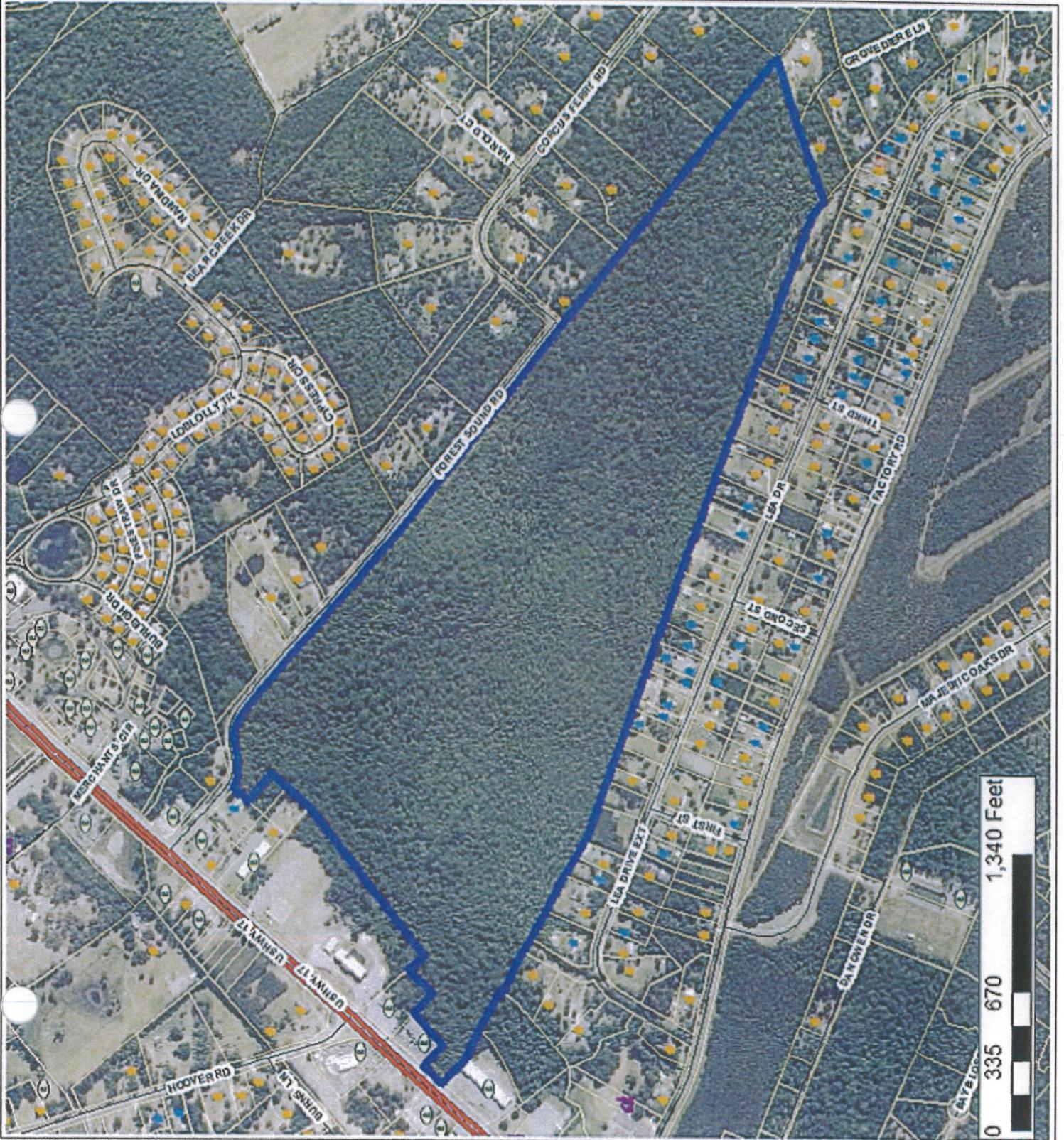
Applicant:
Optima Towers IV,
Inc

Owner:
Linda K.Howard Taylor

SUP:
10965



2012 AERIAL





Applicant:
Optima Towers IV, LLC

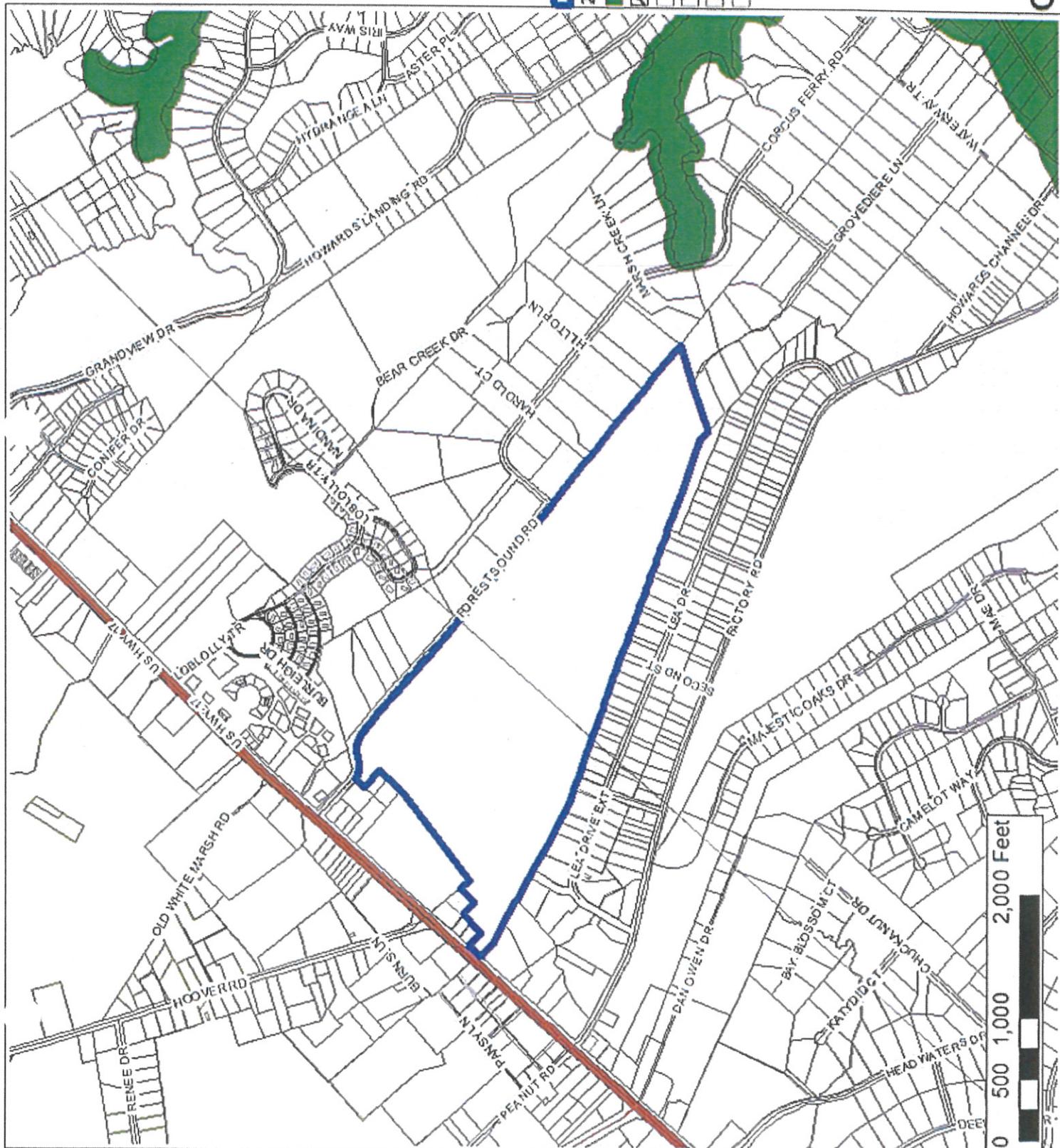
Owner:
Linda K. Howard Taylor

**Special Use
Permit
10965**

- Subject Property
- 2010 Land Use Classification
- Conservation
 - Industrial
 - Mixed Use
 - Office, Institutional, Business
 - Rural Growth
 - Suburban Growth



LAND USE CLASSIFICATION





Applicant:
Optima Towers IV, LLC

Owner:
Linda K. Howard Taylor

**Special Use
Permit
10965**

Legend
Subject Property
Towers



VICINITY

