



## REQUEST FOR BOARD ACTION

ITEM NO. 18

**DATE OF MEETING:** September 16, 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 The Sylvia M. Hall Family Trust, owner, is requesting approval of a Special Use Permit for the construction and operation of a 250-foot self support wireless telecommunication tower. The property is located along the southern portion of W. Strawberry Lane approximately 1,000 feet west of the intersection of Strawberry Lane and US Highway 117 and may be identified as Pender County PIN 3234-41-1138-0000. 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 9/16/2013

Date

\_\_\_\_\_  
ATTEST 9/16/2013  
Date

**PLANNING STAFF REPORT**  
**Special Use Permit**

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**SUMMARY:**

**Hearing Date:** September 16, 2013  
**Applicant:** Optima Towers IV, LLC  
**Property Owner:** The Sylvia M. Hall Family Trust  
**Case Number:** 11008

**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 southern portion of W. Strawberry Lane approximately 1,000 feet west of US Highway 117 and may be identified as Pender County PIN 3234-41-1138-0000. There is one tract associated with this request totaling 10 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 The Sylvia M. Hall Trust, 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 southern portion of W. Strawberry Lane approximately 1,000 feet west of US Highway 117. The project will consist of the construction of a 250-foot self support wireless telecommunication tower. The tower shall be designed to accommodate four communication carriers. According to the applicant's submitted documents, the facility will be located 2.6 miles away from the closest telecommunication tower greater than 75 feet in height.

Based on the height of the proposed telecommunication tower, the facility is required to provide a 250 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 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 northern front yard setback (597'), western side yard (388.5') and southern rear yard (335.5'). However, the location does not meet setback standards for the eastern side yard setback (Must be equal to the height of the tower), as it is proposed to be set back 136'. 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.*

The reduction of 114' would result in a setback of 136' from the eastern property line, which is greater than 50% of the height of the 250' tower proposed.

As it pertains to 5.3.11.c. 2). c), the distance between the tower and any other adjoining parcel of land meets the requirement of equaling or exceeding the minimum setback in the General Business (GB) district, plus the fall zone for the tower.

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) *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 1, 2. b, 2.c, 2.d , 2.e, 2.f, and 3.b. In addition, the applicant accepts and acknowledges items 2.h, 2.j, and 3.a. The applicant is not in compliance with 2.a. The applicant has submitted a "Determination of No Hazard to Air Navigation", as it pertains to 2.i. All items will be reviewed during the Site Development review process. The applicant will be required to comply with 2.g during the site plan 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	

**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 Office/Institutional/Commercial in the *2010 Comprehensive Land Use Plan*. The Office/Institutional/Commercial land use classification designates typically along major highways and at major intersections, within the County. The purpose of the OIC land use classification is to encourage more efficient and attractive development, integration of commercial uses with other land uses, and to discourage unsightly and inefficient strip commercial development. Strip commercial development (characterized by non-related business development with numerous road-cuts and no interconnectivity) detracts from community appearance and has significant negative impacts on both road capacity and traffic safety.
- E.** The SUP request may be 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.*
- F. Existing Land Use in Area:** The subject parcel is bordered on the western, eastern and southern boundaries by a residentially developed parcel. The properties to the northeast include a vacant commercially zoned lot and an active commercial lot, respectively. The Cell Tower proposal lot also borders 4 residentially zoned lots directly across W. Strawberry Lane. Three of the four residentially zoned lots are vacant and one lot is developed with a manufactured home.
- G. Site Access Conditions:** The proposed use will have direct access onto an access easement which connects to W. Strawberry Lane. The new access will be subject to review and approval by the NCDOT.
- H. 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. 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.
  4. The applicant shall meet all other local, state and federal regulations.
  5. 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.
  6. Setback standards provided on the applicant's submittal requests a side yard setback of 136 feet from the eastern property line.
  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**

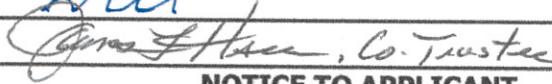
- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the 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**

- 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.	<b>SUP</b>	Date	
Application Fee	\$	Receipt No.	
Pre-Application Conference		Hearing Date	
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Optima Towers IV, LLC	Owner's Name:	The Sylvia M. Hall Family Trust
Applicant's Address:	PO Box 2041	Owner's Address:	648 Bayshore Drive
City, State, & Zip	Mount Pleasant, SC 29465	City, State, & Zip	Wilmington, NC 28411
Phone Number:	843-324-9745	Phone Number:	910-686-0046
Legal relationship of applicant to land owner:			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3234-41-1138-0000	Total property acreage:	10
Zoning Classification:	GC	Acreage to be disturbed:	.25
Project Address :	Strawberry Lane	NAICS Code:	
Description of Project Location:	Located in western portion of parcel 3234-41-1138-0000. Site is accessed from W. Strawberry Lane 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.		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature		Date:	6/2/13
Owner's Signature		Date:	6/3/13
<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>			

To: Zoning Director  
Pender County Planning and Community Development  
805 South Walker Street  
Burgaw, NC 28425

From: James L. Hall, Co-Trustee  
The Sylvia M. Hall Family Trust  
648 Bayshore Drive  
Wilmington, NC 28411

Re: Zoning and Permit filings

Dear Sir,

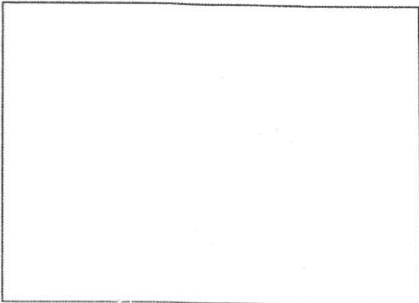
I hereby give Optima Towers IV, LLC [Keith Powell], and its attorneys, Jonathan Yates and/or Joe Taylor, authorization to sign for all building and zoning applications for Pender County PIN 3234-41-1138-0000, in respect to their proposed communications facility located off of Strawberry Lane in Rocky Point, NC.

Sincerely,

BY: *James L. Hall*, Co-Trustee  
James L. Hall, Co-Trustee of The Sylvia M. Hall Family Trust

STATE OF North Carolina )  
COUNTY OF Pender ) ss.  
)

I *Kelly C. Jacobson* a notary public, do hereby certify that **James L. Hall** as Co-Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument



*Kelly C. Jacobson*  
Notary Public  
Print Name *Kelly C. Jacobson*  
My commission expires *12-2017*

# HELLMAN YATES & TISDALE

ATTORNEYS AND COUNSELORS AT LAW

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V 843 266-9099  
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August 1, 2013

## VIA FEDERAL EXPRESS

Ed F. McCarthy, Planner I  
Pender County Planning and Community Development  
805 S. Walker Street  
Burgaw, NC 28425  
(910) 259-2110

RE: Optima Towers IV, LLC's proposed 250-foot self support wireless communication facility to be located at 235 W. Strawberry Lane, Rocky Point, NC 28457

Dear Ed:

We are pleased to present this application for a 250-foot self support wireless communications facility to be located at 235 W. Strawberry Lane, Rocky Point, NC 28457 on behalf of Optima Towers IV, LLC. The underlying property is owned by Sylvia M. Hall, et al, and is designated as Pender County tax map number 3234-41-1138-0000. 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 Z01 of the Site Plans and Drawings, attached hereto as Exhibit "1" and incorporated herein by reference, the proposed 250-ft. self support wireless communications facility is set back 597 feet from the front property line; 388.5 feet from the western side property line; 136 feet from the eastern side property line; and 335.5 feet from the rear 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 eastern side property line. The reduction requested is less than 50% of the tower height. Due to the nature of the Hall property and the surrounding properties, this reduction will not be injurious to properties in the affected area. Furthermore, the fall zone for the proposed self support wireless communications facility has been certified at 125 feet, as shown in the Fall Zone letter by North Carolina Professional Engineer Robert E. Beacom, attached hereto as Exhibit "2" and incorporated herein by reference. The eastern side property line is located 136 feet away; therefore, the adjoining property line is outside the self support wireless communications facility's certified fall zone.**

- 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.

**The setbacks for the GB zoning district are 25 feet in the front, 10 feet to the sides and 10 feet to the rear. With our certified fall zone of 125 feet as shown in Exhibit "2," this would require setbacks of 150 to the front, 135 to the sides, and 135 feet to the rear. These are met with our setbacks of 597 feet from the front property line; 388.5 feet from the western side property line; 136 feet from the eastern side property line; and 335.5 feet from the rear property line, as shown on Sheet Z01 of Exhibit "1."**

- 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 self support wireless communications facility is 250-feet in height and is designed for four communication carriers, as is shown on Sheet Zo2 of Exhibit "1."**

- 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 "1," the proposed self support wireless communications 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 "1," which shows the landscaping plan by Optima Towers IV. Optima will plant 31 Cypress Carolina Sapphires and 7 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 Zo6 of Exhibit "1," which shows the landscaping plan by Optima Towers IV. Optima will plant 31 Cypress Carolina Sapphires and 7 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 "3" and incorporated herein by reference. As shown on the FAA Determination and on Sheet Zo2 of Exhibit "1," the proposed self support wireless communications facility will employ a dual-medium intensity lighting system.**

- 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 self support wireless communications facility is 250' a.g.l. and is located 2.6 miles away from the closest tower that is more than 75 feet in height (a 300-ft. tower owned by Crown Castle). This information is shown on Sheet Z01 of Exhibit "1."**

**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 self support wireless communications 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.

**The Hall property is 10 acres and enjoys a healthy vegetative cover, providing plenty of space and separation for the proposed self support wireless communications facility.**

August 1, 2013  
Page 6

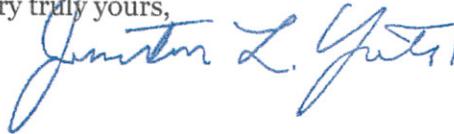
In addition please find the Memorandum of Need for the proposed facility with propagation studies prepared by CelPlan, which are attached hereto as Exhibit "4" and incorporated herein by reference. We have also included AT&T's letter of intent to collocate on the proposed self support wireless communications facility, attached hereto as Exhibit "5" and incorporated herein by reference. Finally, we have included a list of the adjacent property owners, attached hereto as Exhibit "6," as well as stamped and addressed envelopes.

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. 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, LLC

**Owner:**  
The Sylvia M. Hall  
Family Trust

**Special Use  
Permit  
# 11008**

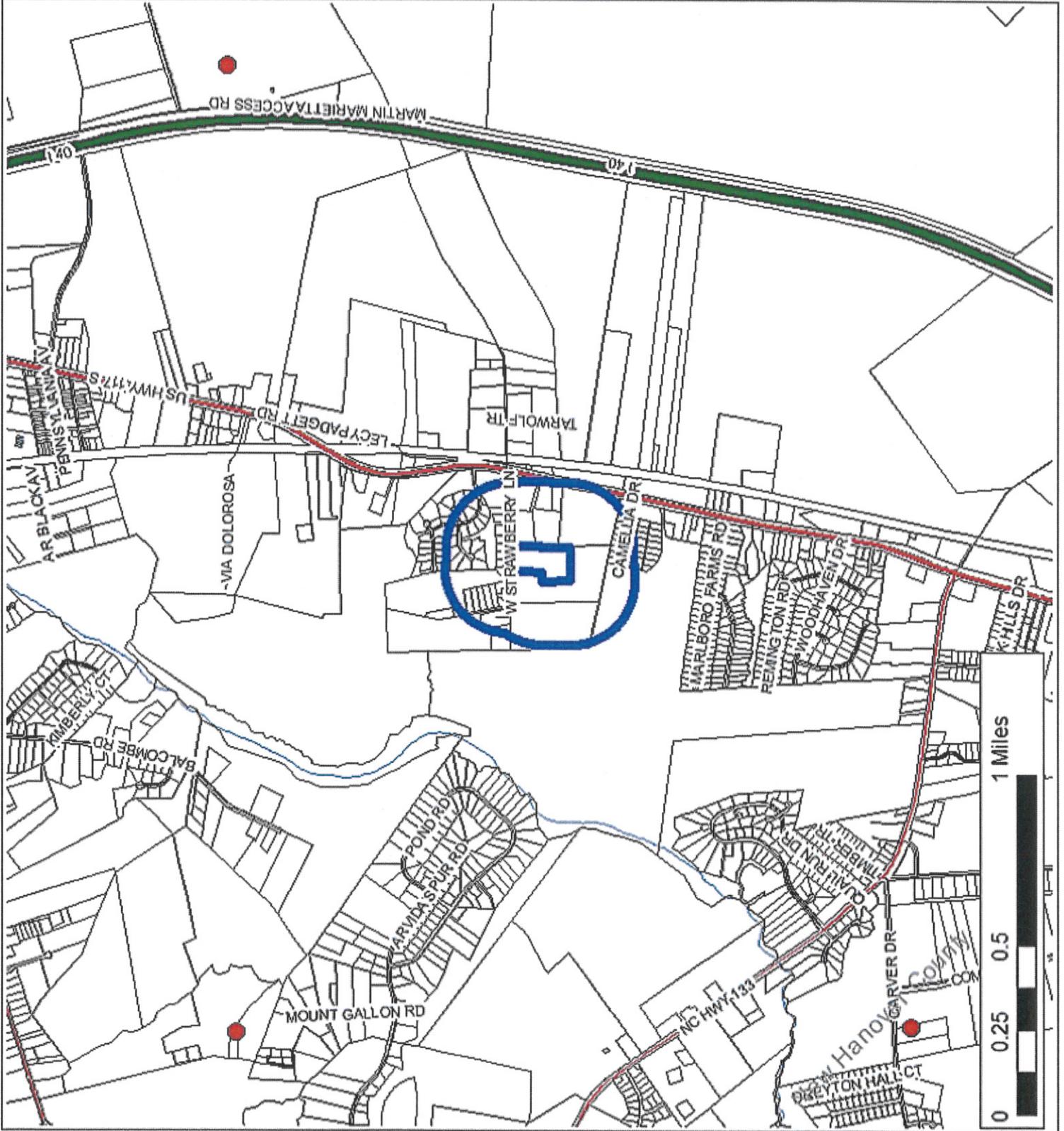
## Legend



Subject Parcel



VICINITY





**Applicant:**  
Optima Towers IV, LLC

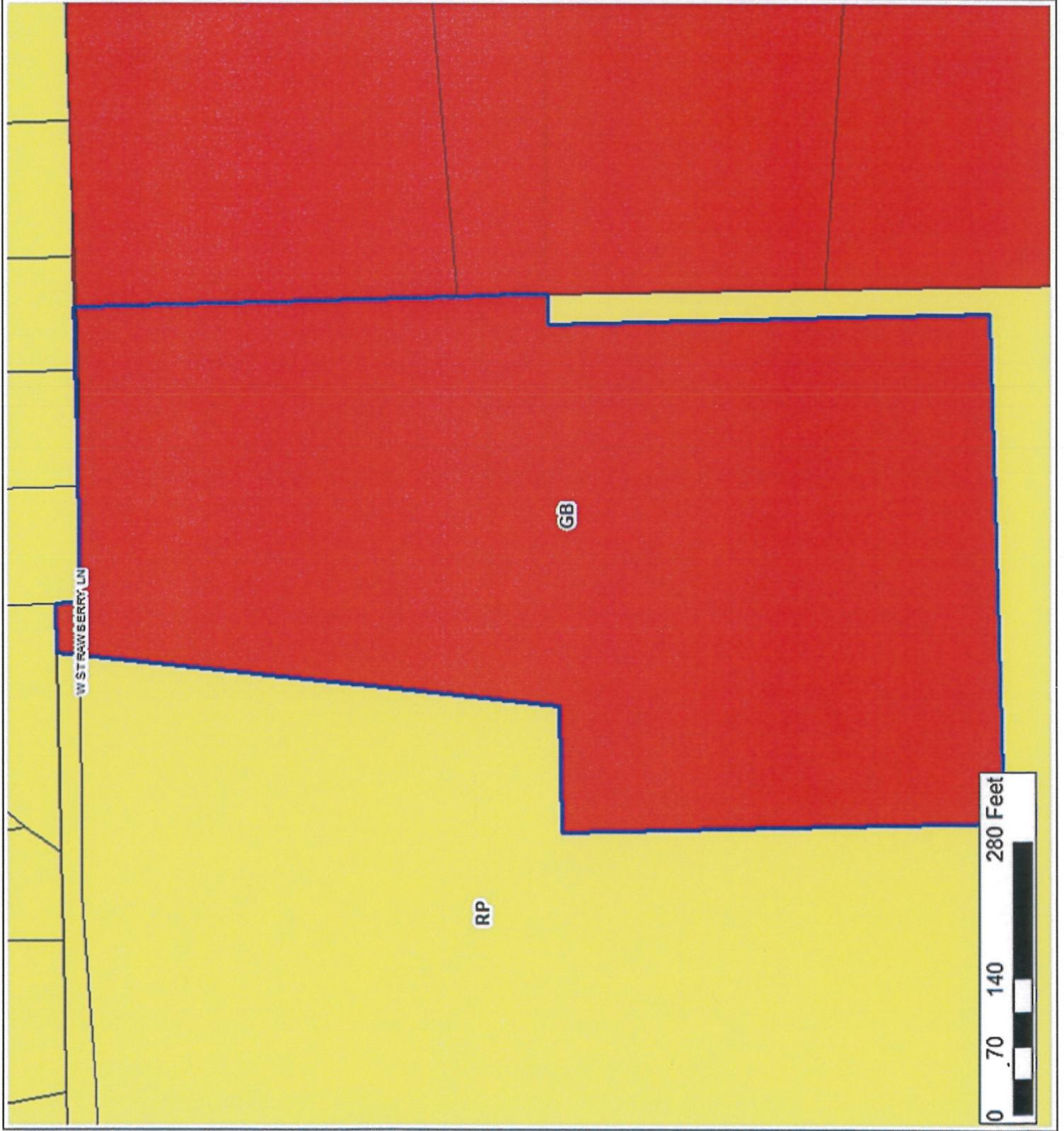
**Owner:**  
The Sylvia M. Hall  
Family Trust

**Special Use  
Permit  
# 11008**

- Subject Parcel**
- 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 Medium Density (RMF)



**ZONING**





**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
The Sylvia M. Hall  
Family Trust

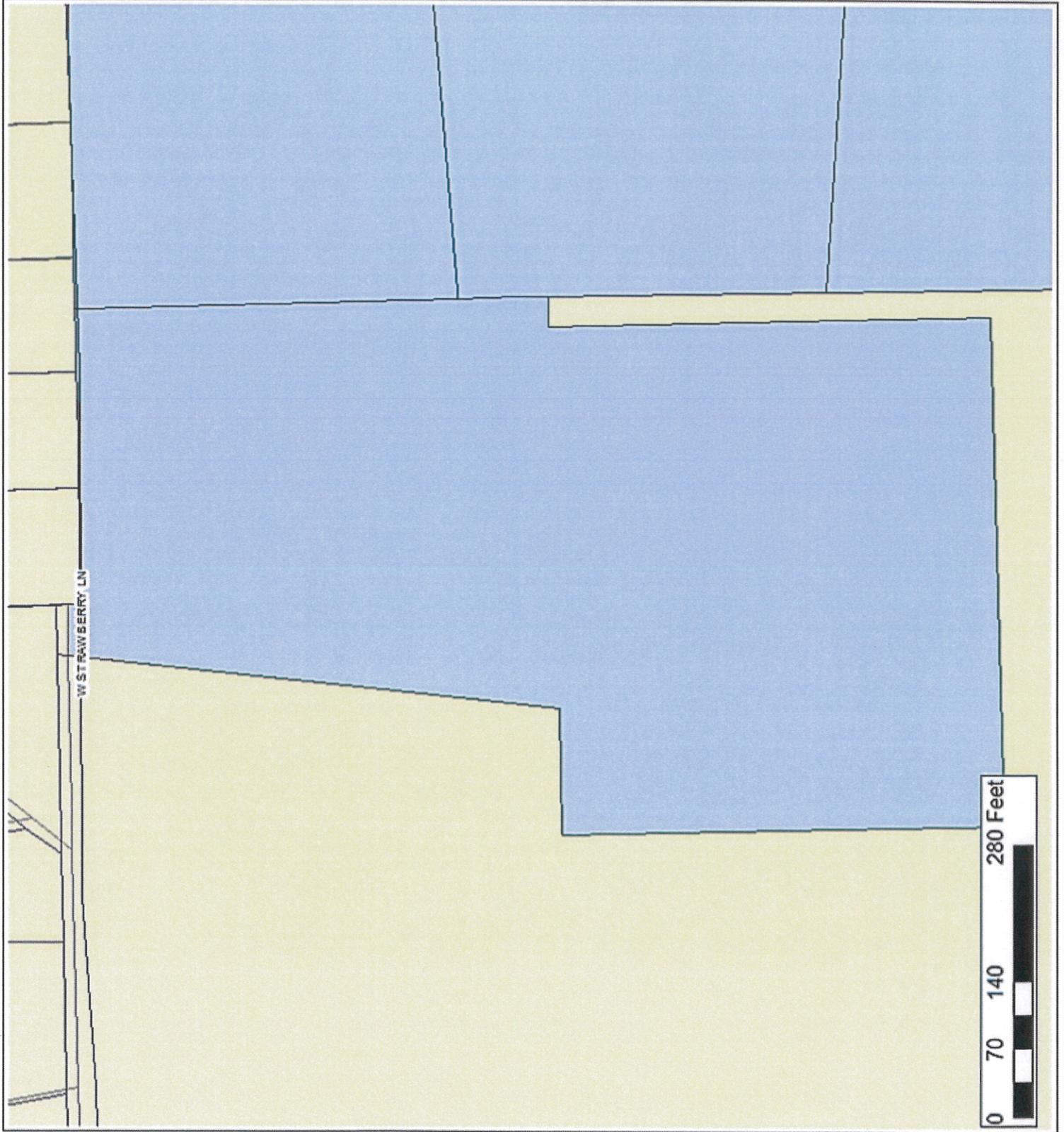
**Special Use  
Permit  
# 11008**

**2010 Land Use Classification**

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



**LAND USE  
CLASSIFICATION**





**Applicant:**  
Optima Towers IV, LLC

**Owner:**  
The Sylvia M. Hall  
Family Trust

**Special Use  
Permit  
# 11008**

**Legend**

 Subject Parcel



**2012 AERIAL**

