REQUEST FOR BOARD ACTION

ITEM NO. 24.

DATE OF MEETING: December 9, 2013

REQUESTED BY: Planning & Community Development

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

BACKGROUND: American Towers, LLC applicant, on behalf of Morris L. Jones, owner, is requesting approval of a Special Use Permit for the construction and operation of a 300-foot self-support wireless telecommunication tower. The property is located approximately 600-feet south of the intersection of NC HWY 53 and Old Ramsey Road, Burgaw, NC 28425 and may be identified as Pender County PIN: 3341-83-6128-0000. The property is zoned RA, Rural Agricultural, 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 RA 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 ___

_____ 12/9/2013
Chairman Date

_____ 12/9/2013
ATTEST Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: December 9, 2013
Applicant: American Towers, LLC
Property Owner: Morris L. Jones
Case Number: 11045

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 property is located approximately 600-feet south of the intersection of NC HWY 53 and Old Ramsey Road and may be identified as Pender County PIN 3341-83-6128-0000. There is one tract associated with this request totaling approximately 40 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural; 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 RA, Rural Agricultural zoning districts.

PROJECT DESCRIPTION:

American Towers, LLC, applicant, on behalf of Morris L. Jones, owner, is requesting approval of a Special Use Permit for the construction and operation of a 300-foot self-support wireless telecommunication tower. The property is located approximately 600-feet south of the intersection of NC HWY 53 and Old Ramsey Road and may be identified as Pender County PIN 3341-83-6128-0000. According to the applicant's submitted documents, the facility will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and will be structurally sound and the drawings show one proposed user, AT&T, and space for up to four (4) additional users. *Although the applicant did not expressly address the item, according to the Geographic Information System (GIS), it appears that the closest tower is more than 2,000' from the tower proposal. In addition, according to the FEMA Flood Insurance Rate Maps (FIRMs) Map # 3720334100J, Panel 3341J it should be noted that the tower proposal appears to be proposed within the Special Flood Hazard Area (SFHA), specifically the AE (1-percent-annual-chance of a flood event occurring). Any development within the floodplain is subject to review and approval by the Floodplain Administrator and must meet National Flood Insurance Program (NFIP) and Pender County Floodplain regulations.*

Based on the height of the proposed telecommunication tower, the facility is required to provide a 300 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.Q 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 front yard, but not the eastern and western side yards or the rear yard. As shown, the tower is proposed to be set back approximately 290' from the Old Ramsey Rd easement to the east. As required, this tower must be set back at a distance equal to the height of the tower and/or the minimum setback depth in the district (15'), plus any additional distance necessary to ensure that the tower, as designed, will fall within the tower site. As proposed, no fall zone is provided, and the tower is approximately 290' from the Old Ramsey Rd access easement. As it pertains to the rear yard and western side yard, the tower does not meet the minimum required setback depth, as it is proposed to be located within 300' of the access easement. However, the applicant has submitted a preliminary (Exhibit 1 Abandonment of Easement Agreement) and has stated that the easement will be dissolved prior to final zoning being issued. (Please see conditions of approval 7 & 8)

Section 5.3.11.Q 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.Q, Telecommunication Towers. Based on the applicant's submittal, the request is in conformance with items 1, 2.b, 2.d, 2.e, 2.f, 2.g.

As it pertains to items 2.a and 2.c, the applicant's site plan does not demonstrate full compliance. Specifically, the applicant's proposal indicates a setback of approximately 290' from the Old Ramsey Rd access easement and the proposal indicates a setback that is less than 300' from the 50' rear access easement, while not indicating a fall zone. As such, the proposal is not in compliance with either 5.3.11 Q. 2. a) or 2.c). Per the Pender County UDO:

5.3.11 Q. 2) 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."

5.3.11 Q. 2) 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 applicant has submitted documentation indicating that they intend on dissolving the 50' access easement (Exhibit 1). As such, the dissolution of said easement would enable the applicant to comply with setback requirements, as illustrated in (Exhibit 3). In addition, the applicant has indicated that a new site plan will be submitted illustrating the tower to be set back 300' from the Old Ramsey Rd access easement (not to be dissolved), thus precluding compliance with 2. c) and ensuring compliance with 2. a). Please see G. Conditions To Consider In Issuing the Special Use Permit For This Project: 7 & 8.

The applicant's submitted documents (Applicant's Narrative) indicate that the tower will not cause localized interference with the reception of area television or radio broadcasts, as it pertains to 2) h).

As it pertains to item 2) i), the applicant's submitted materials stating that the tower site will meet all Federal Aviation Administration (FAA) standards for avoiding obstruction of navigable airspace and approaches to public airports. The applicant's submitted materials further indicating that the tower will be illuminated only as required by the Federal Communications (FCC), or other State or Federal Agency of competent jurisdiction.

As it pertains to 2) j), the applicant's submitted materials indicate that, "In compliance with FCC rules and regulations, the proposed tower site will not materially endanger the public health or safety." Further, the applicant states that "The power density levels are much lower than Federal and American National Standards Institute (ANSI) standards." Further, the applicant has submitted an FCC Compliance Assessment letter, indicating that based upon the ANSI/FCC standard and the predicted levels of electromagnetic energy emitted by site 4787-179, this installation will be of no safety concern to the general public. The applicant has also submitted an FCC compliance assessment. (Exhibit 2)

Although the applicant did not expressly address item 3) b), according to the Geographic Information System (GIS), it appears that the closest tower is more than 2,000' from the tower proposal.

In addition, the applicant accepts and acknowledges items 2.h, 2.j, and 3.a. All items 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.

		Zoning Districts									
Use Type	Ref NAICS	RA	RP	RM	MH	PD	GB	[illegible]	IT	CI	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; as well as a sign advertising the public hearing was placed on the subject property.

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 RA, Rural Agricultural, and telecommunication facilities are permitted in the RA 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 Rural Growth in the 2010 Comprehensive Land Use Plan. The Rural Growth land use classification defines those areas of Pender County where urban services, i.e., public water and sewer services, are not expected to be extended within the planning horizon. Rural Growth areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged. The SUP request may be supported by a policy within the *2010 Comprehensive Land Use Plan:*

   a. ***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:** The subject parcel is currently participating in the State of North Carolina's Present Use Value Program. Further, the subject parcel is bordered by a mix of single family residential structures, manufactured homes and properties participating in the State of North Carolina's Present Use Value Program.

a. ***Site Access Conditions:*** The proposed use is on a parcel adjacent to NC HWY 53. However, the applicant is proposing access to NC HWY 53 via the Old Ramsey Road access easement. The access will be subject to review and approval by the NCDOT.

F. ***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.Q, Telecommunication Facilities.
2. 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.
3. The applicant shall meet all other local, state and federal regulations.
4. 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.
5. 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.
6. Prior to obtaining zoning approval, the applicant shall submit a site plan detailing a tower setback of 300' from the Old Ramsey Rd access easement.
7. Prior to obtaining zoning approval, the applicant shall submit documentation meeting the requirements of the Pender County Unified Development Ordinance (UDO) to officially dissolve the "50' roadway easement" access easement that bisects the subject parcel in a horizontal path, and further travels in a northwestern direction until reaching a terminus at its intersection with NC HWY 53.

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	Date	
Application Fee	$	Receipt No.	
Pre-Application Conference		Hearing Date	

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	American Towers, LLC	Owner's Name:	Morris L. Jones
Applicant's Address:	c/o Nexsen Pruet, 4141 Parklake Ave., Ste. 200	Owner's Address:	2105 Murraytown Rd.
City, State, & Zip	Raleigh, NC 27612	City, State, & Zip	Burgaw, NC 28425
Phone Number:	919-755-1800	Phone Number:	910-604-2463
Legal relationship of applicant to land owner:	Proposed lessee of tower site from land owner.		

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3341-83-6128-0000	Total property acreage:	22 AC. +/-
Zoning Classification:	RA	Acreage to be disturbed:	See Enclosed.
Project Address :	Across the street from: 187 Old Ramsey Rd., Burgaw, NC 28425	NAICS Code:	237130
Description of Project Location:	Construction of Wireless SST, per the enclosed. Site Name: "Burgaw 53 NC"		
Describe activities to be undertaken on project site:	Construction of Wireless SST, per the enclosed. AT&T Site Number: 478-179.		

SECTION 3: SIGNATURES			
Applicant's Signature		Date:	9/30/13
Owner's Signature	agent	Date:	9/30/13

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Special Use Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing.
4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application
5. **Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.**

Office Use Only	
☐ **General/** Fees: $300 +$10 per acre over 5 acres, Max. of $5,000 ☐ **Tower over 75 Feet/** Fees $500 ☐ **Minor Revisions** /Fees $100 ☐ **Mining** Fees $750	**Total Fee Calculation: $** **Application#:** **Date of Hearing:**

Attachments Included with Application: (Please include # of copies)						
CD /other digital version	☐ Y ☐ N	Plan Sets	# of large	# of 11X17	Other documents/Reports	☐ Y ☐ N

Payment Method:	Cash :	Credit Card:	Check:
	☐ $_____	☐ Master Card ☐ Visa	☐ Check # _____

Application received by:		Date:
Application completeness approved by:		Date:

Special Use Permit Checklist

☐	Signed Application Form (Both Applicant and Owner)
☐	Application fee
☐	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
☐	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
☐	Project Narrative--Written description of the project (max of 3 pages) including the following: ☐ Location of the project and type of access to project site ☐ Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. ☐ Description of all construction activities to be undertaken on the site ☐ Describe type of utilities that will serve project and status of approval from applicable providers ☐ List of all state and federal permits that will be required for the project ☐ Applicant must specifically address the 8 written findings for Special Use Permit approval which are identified on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.12.3.G.). 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. The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
☐	Project Map(s)--Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a readable 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: ☐ 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. ☐ Access from the site and/or project boundaries to the nearest publicly maintained road. ☐ Location of any existing structures or uses on the property and within 50' of the property. ☐ Location of the project boundaries if they do not coincide with the property boundaries. ☐ 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. ☐ 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. ☐ Parking, loading areas, and access to the project (See Article 7, Pender County UDO) ☐ Landscaping and buffering (See Article 8, Pender County UDO) ☐ All signs to be located on the property (See Article 10, Pender County UDO) ☐ Pedestrian walks, area lighting and flood lighting. ☐ Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site. ☐ Drainage plan and/or direction of flow of runoff from the project and site. ☐ After review by the Planning and Community Development Department, additional information may be required to be submitted. ☐ Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.

RETURN COMPLETED APPLICATION TO:
Pender County Planning & Community Development
P.O. Box 1519
Burgaw, NC 28425

Print Form

NEXSEN|PRUET

David S. Robinson
Special Counsel
Admitted in NC

October 28, 2013

VIA EMAIL

Ed F. McCarthy
Planner II
Pender County Planning and Community Development
805 S. Walker Street
Burgaw, NC 28425

Re: Submission Supplement – Project Narrative

Dear Mr. McCarthy:

As you know, I represent American Towers LLC ("American Tower") in connection with an Application for Special Use Permit, pending with your Planning Division. This Project Narrative will summarize the application package previously submitted.

The proposed tower site ("Tower Site") shall be located and identified as follows:

Address:	Old Ramsey Road, Burgaw, NC 28425
Site Name:	"Burgaw 53 NC"
American Tower No:	280884
AT&T Site No:	478-179

The proposed Tower Site will include a 300' tall self-support tower with a 6' grounded lightening rod ("Tower") on +/- 22 acre site that is adequately sized for such a project. The proposed lease area will be 100 feet by 100 feet in size. The proposed Tower Site will be cleared only as necessary to construct the Tower; a landscape buffer is detailed, although the project proposes to maintain existing surrounding natural landscaping as much as possible. The Proposed Tower Site is zoned Agricultural Residential (AR). The Pender County UDO (the "Ordinance") allows Telecommunication Facilities, subject to certain standards, in Article 5,

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
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Attorneys and Counselors at Law

Permitted Uses. Access to the Proposed Tower Site will be on a 12' wide access road, within a proposed 30' access/utility easement.

The site plan as required by the Ordinance has been previously submitted. The construction drawings have been sealed by a North Carolina professional engineer and provide that the Tower will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and will be structurally sound. The drawings show one proposed user, AT&T, and space for up to four (4) additional users (Sheet A-2).

The Tower Site is an unmanned radio telecommunications facility. There will be no traffic congestion as a result of this project. In addition to the Tower structure, the site will contain a generator, and one or more equipment shelters. The enclosed Construction Drawings include:

- Title and Project Information
- Detailed site plan for the proposed lease area, the proposed compound, the proposed tower structure and proposed shelter, equipment and antenna details.
- Grading and Landscaping Plans
- Utility and Compound Grounding Plans
- Electrical Details
- Transducer Output Specifications

Utility service to the project is detailed on pages E-1 through E-17 of the Construction Drawings.

The proposed Tower Site will be enclosed by a gated fence at least 8' high. At present, the proposed Tower Site meets all applicable set-back requirements except for a 50' roadway easement. Although this easement appears on a recorded plat, it does not appear on any deeds. We intend to have this easement removed from the property survey by the December 9, 2013 hearing date.

The Tower Site will meet all Federal Aviation Administration (FAA) standards for avoiding obstruction of navigable airspace and approaches to public airports. The Tower will be illuminated only as required by the Federal Communications Commission (FCC), or other State or Federal Agency of competent jurisdiction. The Tower will be constructed of galvanized steel. Only signage required by the FCC and Federal or State regulations for emergency and cautionary purposes will be required at the Proposed Tower Site. No advertising shall be attached to the Tower.

The Tower will not emit a continuous or frequent noise. American Tower will comply with federal standards for radio frequency emissions and the antennas on the

Tower will not cause localized interference with the reception of area television or radio broadcasts. The applicant will procure any and all applicable State and Federal permits required for this Tower Site.

In compliance with FCC rules and regulations, the proposed Tower Site will not materially endanger the public health or safety. The power density levels are much lower than Federal and ANSI standards. The Tower is designed and set back from existing structures such that if it were to fail, the public will not be harmed. The Tower will benefit public safety by providing better wireless coverage in the area. Many depend on their wireless devices to call public safety officials in the event of an emergency. In fact, wireless phones are often, and increasingly, used in the home instead of traditional landline phones. Wireless service is many times considered a public necessity, because it is often the sole access that citizens have to emergency services. In the event of a power outage, the Tower should have self-supporting generator power for several days.

The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located. The proposed tower will meet the infrastructure needs of this area of the County and will provide much needed access to emergency services, thereby enhancing the quality of life of the community. The proposed tower should facilitate the business recruitment efforts of the county by providing an improved infrastructure in the area in which the tower is to be located. As per the application materials, adequate utilities, access roads, drainage and other necessary facilities are being provided.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,

David S. Robinson, Esq.

Exhibit 2

AT&T Mobility, LLC
Raleigh, NC

DATE: September 26, 2013
SUBJECT: FCC Compliance Assessment for Proposed AT&T Mobility Site 478-179

AT&T Mobility has been requested to evaluate the radio frequency emissions of our proposed site 478-179. In addition, AT&T Mobility has been requested to address other RF related topics such as transmitter operation and maximum permissible output power levels. The remainder of this report will address all RF related items requested by Pender County Zoning/Planning for proposed site 478-179.

Transmitter Operation

AT&T Mobility owns the C LTE Bands and B PCS Band PCS licenses in Pender County. The transmitters being used on the proposed site are authorized to operate in the 740-746 and 1950-1965 Megahertz (MHz) frequency range. The Ericsson Node B base station transmitters AT&T Mobility utilizes have a maximum output level of 60 watts. AT&T Mobility utilizes the GSM, LTE and UMTS digital technology. As a result our transmitters utilize Gaussian Minimum Shift Keying (GMSK), 16-State Quadrature Amplitude (16QAM), 64-State Quadrature Amplitude (64 QAM) and Quadrature Phase Shift Keying (QPSK) modulation. Precision filters limit unwanted and spurious emissions to levels below the FCC specification. The signals being transmitted will not interfere with the operation of commercial radio, cellular radio, television, telephone or other FCC approved communication equipment. For our proposed site 478-179, GSM technology will not be deployed.

Maximum Permissible Output Power

The maximum permissible output power for 1900 band per sector is 1640 Watts of effective radiated power (ERP) from the antennas in Pender County. The proposed site 478-179 is only transmitting 764 total watts ERP.

The maximum permissible output power for 700 band per sector is 1000 Watts of effective radiated power (ERP) from the antennas in Pender County. The proposed site 478-179 is only transmitting 248 total watts ERP.

RF Exposure (NIER levels)

The FCC states in 47 CFR 1.1310 that the maximum permissible exposure (MPE) level from non-ionizing electromagnetic radiation (NIER) to the general population at cellular and PCS frequencies is 1.0 milliwatt per centimeter squared (mW/cm^2). MPE is a measure of the RF power density at or below which there are no potential harmful effects from the exposure.

Power density calculations are based on guidelines given by the ANSI Standard C95.1-1992 and are based on a worst case scenario. For analysis purposes, worst case conditions were chosen for all output power levels based on the deployment of LTE and UMTS technologies. The site is being deployed initially with 6 transmitters. For analysis purposes, 15 transmitters were used. A summary of the results of the power density calculations for site 478-179 is listed below in **Table 1** and Table 2.

Distance From Tower (Feet)	Power Density (mw/cm2)	% FCC Standard
1	0.0000346	0.013803
25	0.0000342	0.013700
50	0.0000248	0.009933
75	0.0000178	0.007103
100	0.0000488	0.019522

Table 1: Power Density Summary for Site 478-179 for 1900 Band

Distance From Tower (Feet)	Power Density (mw/cm2)	% FCC Standard
1	0.0000043	0.0035056
25	0.0000071	0.0057743
50	0.0000112	0.0091594
75	0.0000149	0.0121974
100	0.0000175	0.0142997

Table 2: Power Density Summary for Site 478-179 for 700 Band

As shown in **Table 1,** the maximum power density will not exceed 0.0000488mW/cm² at ground level in 1900 Band and as shown in **Table 2,** the maximum power density will not exceed 0.0000175mW/cm² at ground level in 700 Band. Moreover, the average energy expected near ground level is less than 1% of the MPE level. This level does not exceed the MPE limit set by the Federal Communications Commission or the American National Standards Institute.

Based upon the ANSI/FCC standard and the predicted levels of electromagnetic energy emitted by site 478-179, this installation will be of no safety concern to the general public.

Sincerely

David J. LaCava
Senior Radio Access Network Specialist
AT&T Mobility, LLC
Raleigh, NC

Second Parcel in 2011), Owner nonetheless desires in an abundance of caution to make clear that the Easement has been released and abandoned by Owner.

NOW, THEREFORE, Owner has released and abandoned the Easement. To the extent that the Easement is still operative, Owner reaffirms, for themselves and their successors and assigns, that the Easement (as specifically marked as "TO BE ABANDONED" on Exhibit A) is hereby released and abandoned, provided that, other than the Easement, Owner is not releasing or abandoning any other easement.

IN WITNESS WHEREOF, Owner has executed this Agreement under seal effective as of the day and year first above written.

_____ _____

Morris L. Jones Jeanette S. Jones

STATE OF NORTH CAROLINA

COUNTY OF _____

I,_____, a Notary Public for the County of _____, and State of North Carolina, do hereby certify that Morris L. Jones and wife, Jeanette S. Jones either being personally known to me or proven by satisfactory evidence (said evidence being _____), personally appeared before me this day, and acknowledged the voluntary due execution of the foregoing instrument by them for the purposes stated therein.

WITNESS my hand and official stamp or seal, this _____ day of November, 2013.

[SEAL]

_____

Notary Public

My Commission Expires:

_____