



REQUEST FOR BOARD ACTION

ITEM NO. 27.

DATE OF MEETING: December 9, 2013

REQUESTED BY: Planning & Community Development

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

BACKGROUND: American Towers LLC, applicant, on behalf of Paul L. Shanor Trust, owner, is requesting approval of a Special Use Permit for the construction and operation of a 300-foot self-supported wireless telecommunication tower on a vacant tract of land located at the junction of US Highway 421 and US Highway 53 at Wards Corner, bordered on the Southern end by Page Road and may be identified by Pender County PIN 2288-08-9050-0000. The property is currently zoned GB, General Business on the portion closest to the US Highway 421 and US Highway 53 junction at Wards Corner; and RA, Rural Agriculture on the majority of the tract. 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 12/9/2013

Date

ATTEST 12/9/2013
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: December 9, 2013
Applicant: American Towers, LLC
Property Owner: Paul L. Shanor
Case Number: 11065

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 Appendix A of 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 at the intersection of US Highway 421 and US Highway 53 in Burgaw (Wards Corner). The property is bordered to the southwest by Page Road and bisected horizontally by NC Highway 53. The tract may be identified by Pender County PIN 2288-08-9050-0000; there is one property associated with this request which totals is 367.43 acres.

Zoning District of Property: The property is currently zoned GB, General Business on the portion closest to US Highway 421 and NC Highway 53 intersection at Wards Corner; and RA, Rural Agriculture zoning district on the remaining majority of the tract. 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, General Business and RA, Rural Agriculture zoning districts.

PROJECT DESCRIPTION:

American Towers, LLC applicant, on behalf of Paul L. Shanor, 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 at the intersection US Highway 421 and NC Highway 53 commonly known as Wards Corner in Burgaw. The telecommunication tower is proposed on the northern portion on the property approximately 2,100 feet north of the intersection US Highway 421 and NC Highway 53. The project will consist of the construction of a 300-foot self-support wireless telecommunication tower. Though site drawings show only one proposed user, there is space identified to accommodate 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 there are towers in the near vicinity which may be greater than seventy-five (75) feet high. *The applicant must submit adequate evidence detailing which towers are in the near vicinity greater than seventy-five (75') feet high and provide adequate evidence the proposed tower is*

located greater than 1,500 feet from other telecommunications towers greater than seventy-five (75') high in accordance with Section 5.3.11.Q3.a.i.

Based on the height of the proposed telecommunication tower, the facility is required to provide a three hundred (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 all sides of the property; the western front yard setback (300'), southern side yard (2,197' 5"), eastern rear yard (1,913' 6"), and northern side yard (972' 6"). As it pertains to 5.3.11.Q.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 RA, Rural Agriculture zoning district, with a minimum setback equal to the height of the tower.

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*
- 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).*

This Special Use Permit request was evaluated for compliance with standards outlined in Section 5.3.11.Q of the Unified Development Ordinance, Telecommunication Towers. Based on the applicant's submittal, the request is in conformance with items 1, 2.a, 2.c, 2.d, 2.e, 2.f, 2.h, 2.i, and 2.j. All items will be reviewed again during the Site Development review process.

The applicant submitted that a gated fence at least eight (8) feet tall for requirement 5.3.11.Q.2.f. According to 5.3.11.Q.2.i, the tower will meet all Federal Aviation Administration (FAA) standards and will be illuminated only as required by the Federal Communications Commission (FCC) as submitted by the applicant. The applicant also submitted an FCC Compliance Assessment for the proposed site (Attachment 2).

During the Site Development review process, the applicant will be required to comply with 5.3.11.Q.2.g; create a buffer yard around the perimeter of the lease lot in accordance with Article 8 of the Unified Development Ordinance, 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.

Specific standards in 5.3.11.Q.3.i, identify standards for towers in residential districts, if the tower is more than 75 feet high, it must be located at least 1,500 feet from any other telecommunication 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. At the time of submittal, this item was not addressed by the applicant and will need to be address prior to granting a Special Use Permit for a telecommunication tower at this site.

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 NAIGS	Zoning Districts									
		RA	RP	RM	ML	PD	CB	CI	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; ; as well as a sign adverting the public hearing place on the subject property.
- B. *Basis for Granting SUP:*** See Attachment 1 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 RA, Rural Agriculture; telecommunication facilities are permitted in the GB and RA zoning districts 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 and Suburban Growth in the *2010 Comprehensive Land Use Plan*. The Rural Growth land use classification is on the portion of the parcel which the tower is proposed. 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 primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged. The second portion of the property to the south of NC Highway 53 is identified as Suburban Growth. This land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon. Areas designated as Suburban Growth are located primarily adjacent to municipal planning jurisdictions and within or near high growth, un-incorporated areas of the County, i.e., Hampstead/Scotts Hill, Rocky Point and portions of US 421 South. Suburban Growth designates areas where public water and public sewer are available or are planned in the near future. 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.
- E. *Existing Land Use in Area:*** The subject parcel is bordered to the north by two (2) residential homes and on the western side by one (1) residential home surrounded by agricultural land. As the parcel is bisected by NC Highway 53, Four County EMC has an outparcel on NC Highway 53 with a communication tower located on the outparcel property. The applicant has not submitted sufficient evidence identifying the height of the Four County EMC tower on this outparcel, directly conflicting with requirement 5.3.11.Q.3.a.i of the Pender County Unified Development Ordinance. There are four (4) businesses at the intersection of US Highway 421 and NC Highway 5, Wards Corner in Burgaw. The properties south and east of the property are vacant agriculture land.
- F. *Site Access Conditions:*** The proposed use will have direct access onto a 30-foot access easement which connects to US Highway 421. The driveway will be subject to review and approval by the NC DOT.

G. *Conditions To Consider In Issuing the Special Use Permit For This Project:*

1. The applicant must submit adequate evidence detailing which towers are in the near vicinity greater than seventy-five (75') feet high and provide adequate evidence the proposed tower is located greater than 1,500 feet from other telecommunications towers greater than seventy-five (75') high in accordance with Section 5.3.11.Q3.a.i.
2. 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.
3. 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 to the applicant.
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.

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE

Application No.	SUP 11065	Date	10-28-13
Application Fee	\$ 500.00	Receipt No.	
Pre-Application Conference		Hearing Date	12-9-13

SECTION 1: APPLICANT INFORMATION

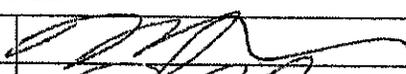
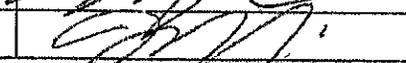
Applicant's Name:	American Towers, LLC	Owner's Name:	Paul L. & Charles A. Shanor
Applicant's Address:	c/o Nexsen Pruet, 4141 Parklake Ave., Ste. 200	Owner's Address:	3411 Old Plantation Rd., NW
City, State, & Zip	Raleigh, NC 27612	City, State, & Zip	Atlanta, GA 30327
Phone Number:	919-755-1800	Phone Number:	404-275-8430

Legal relationship of applicant to land owner: Proposed lessee of tower site from land owner.

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	2288-08-9050-0000	Total property acreage:	367 AC +/-
Zoning Classification:	RA & GB	Acreage to be disturbed:	See Enclosed.
Project Address :	15240 US Hwy. 421, Burgaw, NC 28425	NAICS Code:	237130
Description of Project Location:	Construction of Wireless SST, per the enclosed. Site Name: "Burgaw 11"		
Describe activities to be undertaken on project site:	Construction of Wireless SST, per the enclosed. AT&T Site Number: 478-149		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	10/24/13
Owner's Signature		Date:	10/24/13

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							
<input type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input checked="" type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions / Fees \$100 <input type="checkbox"/> Mining Fees \$750					Total Fee Calculation: \$		
					Application #:		
					Date of Hearing:		
Attachments Included with Application: (Please include # of copies)							
CD/other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N	
Payment Method:	Cash: <input type="checkbox"/> \$ _____		Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input type="checkbox"/> Check # _____		
Application received by:							Date:
Application completeness approved by:							Date: 10-28-13

Special Use Permit Checklist

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

David S. Robinson
Special Counsel
Admitted in NC

October 24, 2013

VIA UPS

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

Re: Application for Special Use Permit "Burgaw 11"
American Towers, LLC

Dear Mr. McCarthy:

Please find enclosed an Application for Special Use Permit by American Towers, LLC for AT&T Site Number: 478-149. This application is accompanied by a check in the amount of \$500, a list of adjacent property owner addresses (and pre-addressed, pre-paid envelopes), an Assignment of Agent, an FCC Compliance Assessment, RF Justification for this particular site, a Significant Tree Survey, and the requisite number of copies of the Final Construction Drawings and Site Plans.

These Construction Drawings reflect the county setback measurement standard that we have discussed. An FAA letter should be forthcoming in the very near future. We respectfully request that this application be added to the other American Tower sites already on the December 9 agenda. Please do not hesitate to contact me at any time with any questions or comments you may have.

Very truly yours,



David S. Robinson

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

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Raleigh, NC 27612 E DRobinson@nexsenpruet.com
www.nexsenpruet.com Nexsen Pruet, PLLC
Attorneys and Counselors at Law

Appointment of Agent

The undersigned ~~Paul Leland and Charles Shanor~~ ("Owner") hereby appoints Nexsen Pruet, PLLC as Owner's exclusive agent for the purpose of petitioning Pender County for all necessary zoning, site plan, building permit and other local governmental approvals required for the location of a wireless telecommunications tower on the property located at Located adjacent to 15240 US HWY 4212288-08-9050-0000 including, without limitation, the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the applications for zoning, site plan, building permit and other local governmental approvals required for the wireless telecommunications tower.

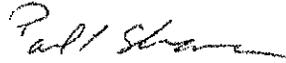
This agency agreement shall continue in effect until written notice of revocation by the Owner is delivered to Pender County.

This the 31 day of Aug, 2013

Agent's Name, Address & Telephone

Signature of Owner(s)

Nexsen Pruet, PLLC



4141 Parklake Avenue, Ste. 200

Raleigh, NC 27612

919-786-2764

Attachment 1

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.



AT&T Mobility, LLC
Raleigh, NC

DATE: September 27, 2013
SUBJECT: FCC Compliance Assessment for Proposed AT&T Mobility Site 478-149

AT&T Mobility has been requested to evaluate the radio frequency emissions of our proposed site 478-149. 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 478-149.

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 478-149, 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 478-149 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 478-149 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/cm²). 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 478-149 is listed below in Table 1 and Table 2.

Distance From Tower (Feet)	Power Density (mw/cm2)	% FCC Standard
1	0.0000345	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 478-149 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 478-149 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 478-149, this installation will be of no safety concern to the general public.

Sincerely



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