



REQUEST FOR BOARD ACTION

ITEM NO. 15.

DATE OF MEETING: November 17, 2014

REQUESTED BY: Kyle Breuer, Director, Planning & Community Development

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

BACKGROUND: Capital Telecom Acquisitions, LLC, applicant, on behalf of Philip's Leasing Systems, LLC, owner is requesting approval of a Special Use Permit for the construction and operation of a telecommunication tower. The property is zoned GI, General Industrial zoning district 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 GI, General Industrial zoning district. The property is located at the intersection of Cowpen Landing Road (SR 1109) and US Highway 421 in Wilmington and may be further identified by Pender County PIN 2291-98-1949-0000.

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: Williams ___ McCoy ___ Brown ___ Tate ___ Ward ___

J. David Williams, Jr., Chairman 11/17/2014
Date

ATTEST 11/17/2014
Date

PLANNING STAFF REPORT

Special Use Permit

SUMMARY:

Hearing Date: November 17, 2014

Applicant: Capital Telecom Acquisitions LLC

Property Owner: Phillips Leasing Systems LLC

Case Number: 11275

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 at the intersection of Cowpen Landing Road (SR 1109) and US Highway 421 in Wilmington and may be further identified by Pender County PIN 2291-98-1949-0000.

Zoning District of Property: The property is zoned GI, General Industrial zoning district 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 GI, General Industrial zoning district.

PROJECT DESCRIPTION:

Capital Telecom Acquisitions, LLC, applicant, on behalf of Philip's Leasing Systems, LLC, owner is requesting approval of a Special Use Permit for the construction and operation of a telecommunication tower. The property is zoned GI, General Industrial zoning district 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 GI, General Industrial zoning district. The property is located at the intersection of Cowpen Landing Road (SR 1109) and US Highway 421 in Wilmington and may be further identified by Pender County PIN 2291-98-1949-0000.

The proposed ±4.87 acre tract is currently occupied by a light industrial land use associated with a Chemical Leasing Corporation trucking facility which directly obtains access via Cowpen Landing Road (SR 1109). The proposed tower site will access via a twenty (20) foot wide and two hundred twenty five feet long access and utility easement. The lease area will be a fifty (50) by fifty (50) for the tower. The freestanding tower itself is proposed as a one hundred fifty-five (155) foot tall monopole and must comply with the Pender County Unified Development Ordinance Section 5.3.12.Q.

A full site development plan has been submitted along with this application, demonstrating the location of the proposed tower with setbacks (Exhibit 1). The applicant is submitting for a one hundred fifty-five (155) foot tall monopole with a distance of three hundred seventy-eight feet (378) from the western property boundary with US Highway 421, seven hundred twenty-nine feet (729) from the northern property boundary, eighty-two (82) feet from the more eastern property boundary and one hundred eighteen feet (118) from the southern property line adjacent to Cowpen Landing Road (SR 1109).

Section 5.3.12.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.

1) 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.*
- 2) 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 5.3.12.Q, Telecommunication Towers. Based on the applicant's submittal, the request is in conformance with all items.

Setbacks (2.a and 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, in this case the GI, General Industrial zoning district setbacks are fifty (50) feet in the front yard, twenty-five (25) feet side yard, and rear setback of twenty-five (25) feet (Section 4.14).

As proposed, the tower is in compliance with setback standards (Exhibit 1). The tower fall zone is certified at 50 feet per page two of the applicant's narrative.

Telecommunication Users (2.e): As 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. As proposed, the tower shows space for up to four telecommunication users.

Fencing (2.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.

The application proposes installing an eight (8) foot security fence with three strands of barbed wire as an anti-climbing device totaling nine (9) feet of fencing, thereby meeting the eight (8) foot requirement for telecommunication towers (Exhibit 1).

Buffer Yard (2g): The application does not currently meet the specific buffer yard standards whereas the 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. The application includes a fifteen (15) foot type C buffer yard, in compliance with the Pender County Unified Development Ordinance.

State and Federal Regulations (2.h,i., and j): As stated in the applicant’s Project Narrative, the tower site will meet all FAA and FCC standards for illumination and environmental impacts, and the applicant will comply with all federal standards for radio frequency emissions. All applicable State and Federal permits will be obtained, including inspections and health department regulation compliance.

Tower Separation Requirements (3.b): If the tower is more than 100 feet high, it must be located at least 1,000 feet from any other telecommunication tower greater than 100 feet high; provided, however, that this 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 applicant submitted evidence per the narrative, that there is not another tower, greater than seventy-five (75) feet in height, within a 2.85 mile radius of the proposed tower, thus satisfying this requirement.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. In addition, all other applicable permits and approvals must be obtained including inspections and health department regulation compliance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Telecommunication Facilities		SD	SD			SD	SD	SD	SD	SD	

EVALUATION:

- A. Public Notifications:** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. Adjacent property owners were notified by first class mail; 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 GI, General Industrial zoning district and telecommunication facilities are permitted in the RP zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. 2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Industrial in the *2010 Comprehensive Land Use Plan*.
- a. The SUP request may be supported by a policy within the *2010 Comprehensive Land Use Plan*:
 - i. *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 surrounding properties are primarily industrial in nature, parcels adjacent to the subject property being occupied by vacant undeveloped land.
- F. Site Access Conditions:** The proposed use will have direct access to Cowpen Landing Road (SR 1109). The site's access will be subject to review and approval by the NCDOT.
- G. Conditions To Consider In Issuing the Special Use Permit For This Project:**
1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance, specifically use standards outlined in Section 5.3.12.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. If subdivided, a plat indicating setbacks and conditions of this SUP shall be recorded meeting the standards of the UDO.

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 11275	Date	9/29/14
Application Fee	\$ 500	Receipt No.	142422
Pre-Application Conference		Hearing Date	11/17/14 Systems

SECTION 1: APPLICANT INFORMATION

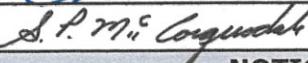
Applicant's Name:	Capital Telecom Acquisitions LLC	Owner's Name:	Phillips Leasing Systems Phillip's Towing Service LLC
Applicant's Address:	1500 Mt. Remble Ave Ste 203	Owner's Address:	327 Alexander St
City, State, & Zip	Morristown NJ 07960	City, State, & Zip	Fayetteville, NC 28301
Phone Number:	973-425-0606	Phone Number:	910-323-9600

Legal relationship of applicant to land owner: Authorized Agent

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	2291-98-1949-0000	Total property acreage:	4.87
Zoning Classification:	GI	Acreage to be disturbed:	9,669 sq. ft.
Project Address :	US Hwy 421 Wilmington NC	NAICS Code:	
Description of Project Location:	4.87 AC PB 49/94 Survey PT TR B1 PB 19/79		
Describe activities to be undertaken on project site:	155' monopole in a 2500 sq ft leased compound enclosed by an 8" chain link fence.		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	8/28/14
Owner's Signature		Date:	9-2-14

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 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: <i>Megan O'Hare</i>					Date: <i>10/11/2014</i>		
Application completeness approved by: <i>Megan O'Hare</i>					Date: <i>10/11/2014</i>		

Special Use Permit Checklist

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input type="checkbox"/>	Application fee
<input checked="" 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 checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" 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 checked="" 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



Applicant:
Capital Telecom Acquisitions LLC

Owner:
Phillips Leasing Systems LLC

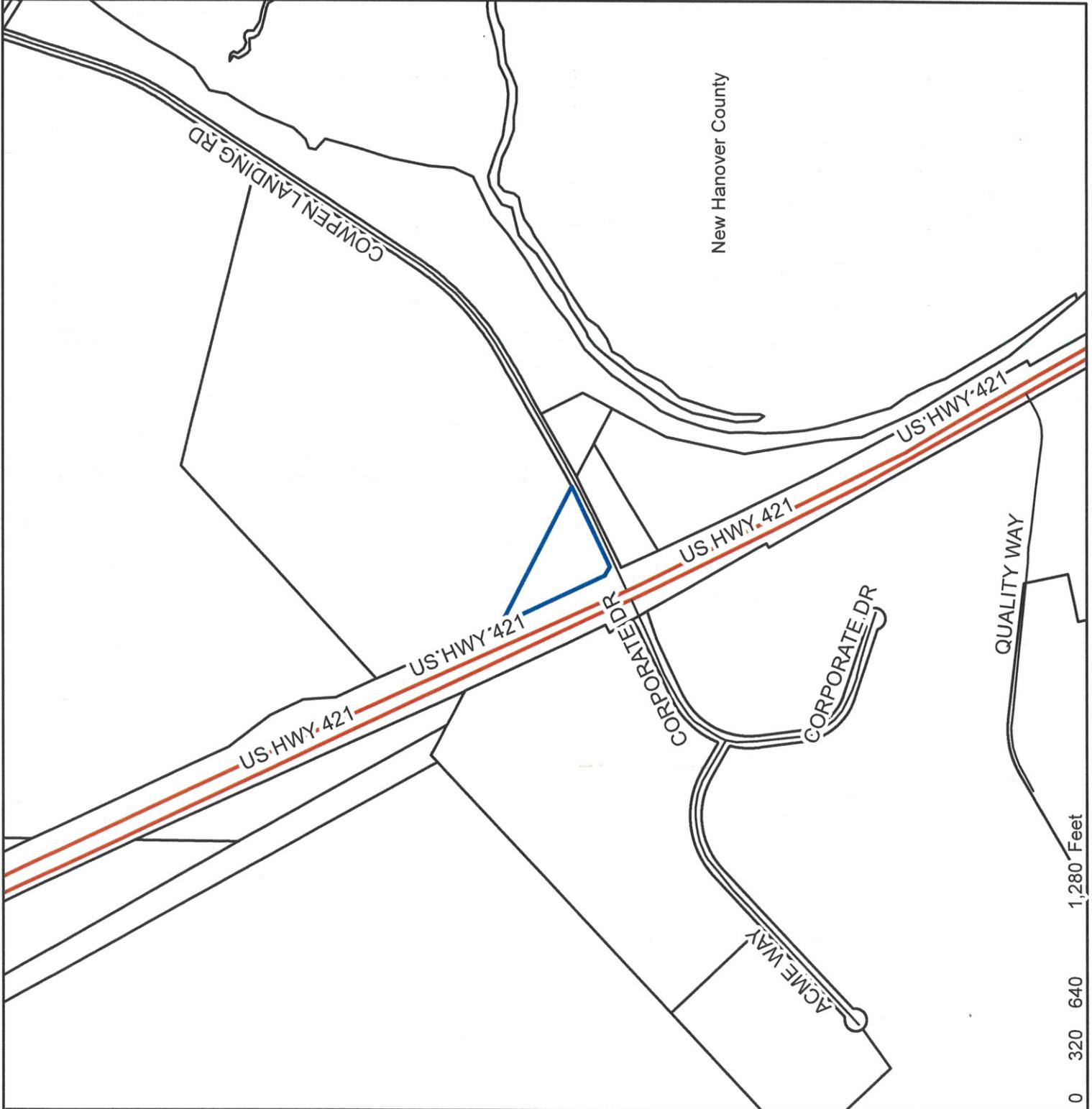
Special Use Permit
#11275

Legend

 Subject Property



Vicinity





Applicant:

Capital Telecom Acquisitions LLC

Owner:

Phillips Leasing Systems LLC

Special Use Permit

#11275

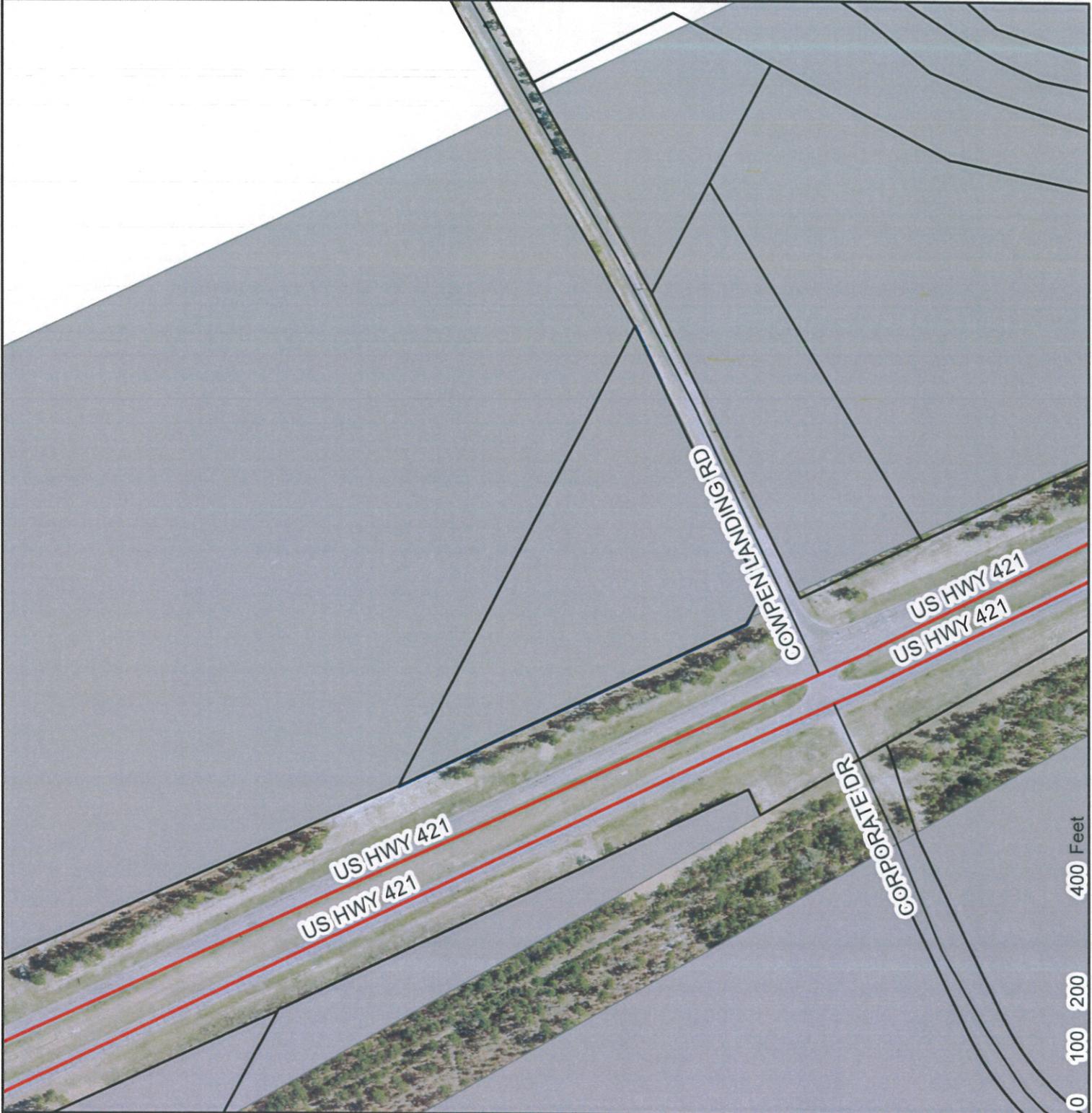
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UDO Zoning

-  EC, Environmental Conservat
-  GB, General Business
-  GI, General Industrial
-  Incorporated
-  IT, Industrial Transition
-  MH, Manufactured Housing
-  O&I, Office & Institutional
-  PD, Planned Development
-  RA, Rural Agricultural
-  RA-Conditional Zoning 1
-  RP, Residential Performance
-  Subject Property



Current Zoning





Applicant:

Capital Telecom Acquisitions LLC

Owner:

Phillips Leasing Systems LLC

Special Use Permit

#11275

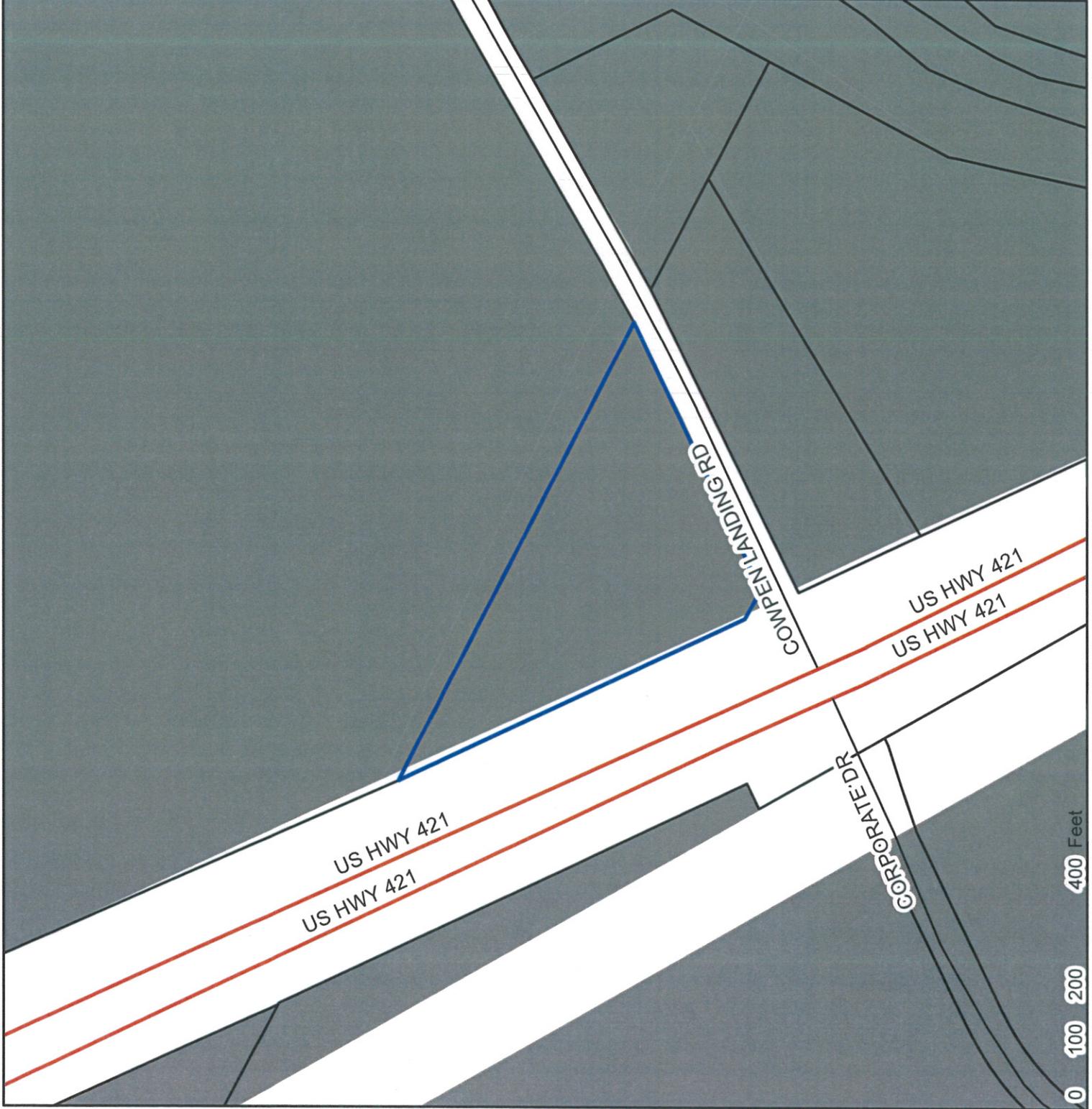
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-  Subject Property
-  Future Land Use

-  Industrial
-  Mixed Use
-  Office/Institutional/Business
-  Rural Growth
-  Suburban Growth



Future Land Use





Applicant:
Capital Telecom Acquisitions LLC

Owner:
Phillips Leasing Systems LLC

Special Use Permit
#11275

Legend

 Subject Property



2012 AERIAL

