

**MINUTES  
BOARD OF ADJUSTMENT  
JUNE 10, 2013  
REGULAR MEETING**

**MEMBERS PRESENT:** Larry Wright, Full Member (Chair)  
David Blankfard, Full Member (Vice Chair)  
Karen Barrows, Full Member  
Samantha Cabe, Alternate Member  
James Carter, Full Member  
Mark Micol, Alternate Member

**STAFF PRESENT:** Michael Harvey, Current Planning Supervisor  
Debra Graham, Board Secretary  
James Bryan, Staff Attorney

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

Larry Wright called the meeting to order at 7:28 p.m.

**AGENDA ITEM 2: SWEARING IN OF NEW MEMBERS**

Karen Barrows and Samantha Cabe were sworn in as new members by Debra Graham.

**AGENDA ITEM 3: ELECTION OF OFFICERS**

**MOTION** made by David Blankfard to elect Larry Wright as Chair. Seconded by James Carter.

**VOTE:** Unanimous

**MOTION** made by Mark Micol to elect David Blankfard as Vice-Chair. Seconded by James Carter.

**VOTE:** Unanimous

**AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA**

Larry Wright: I would like to welcome the new members. Also, I would like to thank Dr. Carter for his service on this board. I would also like to present a certificate to Dr. Carter for his valuable contribution since 2007.

**AGENDA ITEM 5: APPROVAL OF MINUTES  
a. December 10, 2012**

Larry Wright: Who would be eligible to vote, the new members?

James Bryan: It is this board's minutes so whoever is currently on the board, except the alternates.

Michael Harvey: Mr. Micol will be voting since he was a voting member for this meeting.

**MOTION** made by David Blankfard to accept minutes as written. Seconded by Mark Micol.

**VOTE:** Unanimous

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**AGENDA ITEM 6: PUBLIC CHARGE**

*The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.*

*The Board of Adjustment is a quasi-judicial administrative body established in accordance with the provisions of local regulations and State law to perform specified functions essential to the County's planning program. Action(s) taken by the board are based solely on competent, substantial, and material evidence presented during a previously scheduled and advertised public hearing on a specific item. As detailed within Section 2.12.2 of the UDO the Board chair reserves the right to exclude evidence and testimony that is deemed: 'incompetent, irrelevant, immaterial, or unduly repetitious' and therefore fails to reasonably address the issues before the Board of Adjustment. While it should be noted there is no time limit on the presentation of evidence, the Chair asks that the presentation of evidence be consistent with established policies, rules of procedure, and acceptable levels of decorum to ensure a fair and equitable hearing for all parties.*

**AGENDA ITEM 7: CASE A-1-13: Class B Special Use Permit Proposing Development of Telecommunication Facilities at 7444 Bill Poole Road (PIN 0808-87-1763)**

In accordance with Section(s) 2.7 Special Uses, 5.2.2 Table of Permitted Uses, 5.3.2 Application of Use Standards – Special Uses, and 5.10 Standards for Telecommunication Facilities of the UDO American Tower and AT and T Mobility have submitted a Class B Special Use Permit application seeking a permit to erect a 199 foot telecommunication tower on a 56 acre parcel of property at 7444 Bill Poole Road further identified utilizing Orange County Parcel Identification Number (PIN) 0808-87-1763.

As detailed within the application, the applicant wishes to erect a telecommunication tower within a 100 foot by 100 foot leased area on the north-west portion of the aforementioned parcel. There will be an equipment cabinet at the base of the tower to house equipment for the various communication providers utilizing the tower within a 60 foot by 60 foot fenced compound.

Access to the proposed facility is proposed to be through a proposed drive allowing access from New Sharon Church Road.

The following persons were sworn in:

- |                 |                   |
|-----------------|-------------------|
| Desiree Goldman | Rusty Monroe      |
| David A. Smith  | David Lacava      |
| Jill House      | Stephen M. Howard |
| Aaron Nelson    | Jeremy T. Browner |
| Karen Kemerait  | Ann Lee-Blythe    |
| Michael Harvey  |                   |

1  
2 Michael Harvey: I have been duly sworn in. On page 7, we have the abstract, on page 13 there is  
3 the property map denoting the parcel (where the tower is proposed for development), on page 15-24,  
4 we have staff comments, on pages 25-38 we have notification materials and certifications of mailing  
5 as well as sign postings, and on pages 39-96 we have the findings of fact and recommendations by  
6 staff. I would like to go over the basic points of the application, let the applicant make their case, and  
7 review the findings of fact with you. Once the public hearing is closed the applicant, staff, or any  
8 other interested party will not be able to answer any questions of the Board of Adjustment or speak to  
9 the Board of the Adjustment. I would like to introduce into the record copies of the Orange County  
10 Unified Development Ordinance as well as the Comprehensive Plan with respect to this case. I also  
11 have an Exhibit submitted this afternoon by our telecommunications consultant, The Center for  
12 Municipal Solutions, which I would like to hand out as Exhibit 1. This replaces The Center for  
13 Municipal Solutions letter contained in your packet on pages 15-16. The recommendations for  
14 approval have not changed but some of the issues have been modified. We believe the  
15 recommended conditions still address these issues. American Tower and AT&T Mobility have  
16 proposed the erection of a telecommunication tower on property owned by Michael Fagan whose  
17 mailing address is 7505 New Sharon Church Road. The particular parcel of property, I will call your  
18 attention to the vicinity map which is on page 13, this is the site of a former telecommunication tower  
19 that was decommissioned several years ago. The applicant is seeking the authorization to erect a  
20 new tower. On page 8 and 9 in the abstract, this application has been submitted in accordance with  
21 the requirements of Sections 2.7, 5.2.2, 5.32, 5.10.8 of the Orange County Unified Development  
22 Ordinance. The applicant will be leasing a 100x100 foot area on the northwest portion of this parcel  
23 and there will be a 60x60 foot fenced in compound. This (information) is also detailed within their  
24 narrative. It is contained in their document packet. We have provided you with our initial comments  
25 beginning on page 9. The County has fairly rigorous standards detailed within 5.10.8 concerning  
26 location of telecommunication facilities. We have a preference of location. I would stipulate at the  
27 onset of this hearing is that there are no preselected sites, no County owned properties, County  
28 leased sites or any other parcel property within the hierarchy with the criteria to locate a  
29 telecommunication tower. We have deemed that this particular parcel of property is viable given the  
30 lack of County owned or leased property in the area. We have provided you with comments from the  
31 County staff with respect to this development project. You will note the County staff has indicated  
32 their favorability to the application. That is Orange County Sheriff's Department, Fire Marshall's  
33 office, Environmental Health, staff of DEAPR (Department of Agriculture, Environment, Parks and  
34 Recreation). We also have correspondence from the Center for Municipal Solutions, our  
35 telecommunications consultant. As you will remember from past special use permit hearings, staff  
36 provides recommendations which we will go over later with respect to this application's compliance  
37 with submittal standards. We will not offer a recommendation on the applicant's compliance with  
38 general standards detailed within 5.3.2.a2 of the UDO specifically that the use will maintain or  
39 promote public health, safety and general welfare if located where proposed and developed and  
40 operated according to the plan as submitted. The use will maintain or enhance the value of  
41 contiguous property and the location and character of the use according to the plan submitted will be  
42 in harmony within the area which it is to be located. The use is in compliance with the plan for the  
43 physical development of the County as embodied within the regulations of the Comprehensive Plan.  
44 You are required to make your findings based on the material evidence entered into the record during  
45 this hearing. On page 10, we identified various policies and goals with respect to the adopted 2030  
46 Comprehensive Plan which has been entered into the record that we believe support the  
47 development of a telecommunication facility not only in the County but on this property. I will state for  
48 the record we have not received any public comments expressing support or concern relating to this  
49 proposal, specifically the proposal at 7444 Bill Poole Road. This is a quasi-judicial hearing in that you  
50 will be accepting sworn testimony and evidence into the record and that is what you are basing your  
51 decisions on. Your decisions are subject to appeal as described in the Unified Development  
52 Ordinance within 30 days that has been made part of the record. I would like to turn it over to the  
53 applicant and allow them to present their application.

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2 Larry Wright: For the record, on page 9, item 1, could you define for the record, there are no pre-  
3 selected sites, how do you define that?  
4

5 Michael Harvey: In accordance with the Unified Development Ordinance Section 5.10.8, we have a  
6 hierarchy of sites that we have determined represent the optimal location sites for a  
7 telecommunications facility. That particular section is located in Section 5.10.8, subsection (B) 4,  
8 Standards of Evaluation, Subsection B, Location of Wireless Support Structures. Applicant for  
9 facilities shall locate site and erect said facilities according to the following priorities, in this order, on  
10 existing county owned facilities without increasing the height of the tower structure, on County owned  
11 properties or facilities, on properties in areas zoned for commercial or industrial use, on properties in  
12 areas zoned agricultural residential, on properties in areas zoned for residential use. We are  
13 stipulating in our abstract that there are no existing County owned facilities in this area, there are no  
14 existing telecommunications facilities in this area that can be co-located upon, there are no County  
15 owned properties or facilities where a cell tower could be put in this general area of the County.  
16 There are no properties in this general area of the County zoned for commercial industrial use and  
17 this is no properties near areas zoned agricultural residential so we believe this is consistent with the  
18 hierarchy.  
19

20 Larry Wright: On page 10, you referred to items A through F, don't they come in the 2030  
21 Comprehensive Plan, and isn't that drawn from Chapter 8?  
22

23 Michael Harvey: One is drawn from Chapter 5 which is a Land Use Goal. Services and Facility  
24 Community Goals are derived from Chapter 7. The rest are taken from Chapters 7 and 8.  
25

26 Karen Kemerait: My name is Karen Kemerait and I am an attorney with the law firm of Styers,  
27 Kemerait and Mitchell. I have been sworn. I am here on behalf of American Tower Corporation and  
28 AT&T Mobility in regard to their co-applicant and special use permit application to construct a 199 foot  
29 monopole. Before I begin providing information about how we have met all the specific and general  
30 requirements, I would like to give some general background information to explain why we are here  
31 today. I think everyone knows that in the past several years there have been dramatic changes in the  
32 technology for wireless telecommunications and those changes have resulted in real impacts to  
33 telecommunications carriers, to communities such as Orange County and to the customers of the  
34 wireless communications companies. With wireless communications, the typical services which are  
35 the telephone services and there are so many more benefits. For example, we now have the services  
36 and benefits of convenience so that the public can make calls from just about anywhere. The public  
37 can work remotely from their offices, coffee shops and their homes. There are also the benefits of  
38 safety so motorists on roads can dial 911 from their phone during emergencies and also the 911  
39 benefits during times of natural disaster such as a hurricane. The landline systems go down and  
40 telecommunications towers remain standing and their 911 services remain available. Also, I think the  
41 most dramatic technological change has been about the connectedness to the world that has come  
42 about with the advent of smart phones. The smart phones have allowed for the digital devices  
43 messaging through email, text, data phone and video. And with these changes, the public has come  
44 to expect and sometimes demand access to these different services and benefits. I think it is  
45 important for communities to be aware that the public is expecting this and it is also important from an  
46 economic development perspective because with economic development that is becoming more and  
47 more tied to having access to wireless telecommunication services.  
48

49 Moving on to our application, this is an application that is very important, obviously to American Tower  
50 and AT&T but I also think it is important for Orange County. There are many areas of Orange County  
51 that have no coverage or insufficient coverage and there has not been a new tower constructed... I  
52 should say was actually constructed and approved in the spring 2009. With the demand for more  
53 services due to the new technology that the public is expecting, the infrastructure has not kept pace

1 for that demand and AT&T has been approached over the past few years by residents of Orange  
2 County, customers and businesses and they have also been in contact with the Chamber of  
3 Commerce and Orange County is looking for better service within the County so AT&T has come  
4 forward with plans to increase their telecommunications coverage within Orange county and they are  
5 planning to provide a real significant investment in Orange County so tonight there will be two  
6 applications before the Board of Adjustment. The one we will speak about today and there is a  
7 second one that would come after this application. AT&T and American Tower also filed a third  
8 application at the same time and that application was for another monopole telecommunications  
9 tower to be located in the Phelps Road area. After that tower application was submitted, I was  
10 approached as the attorney for AT&T and American Tower by some members of the County to let me  
11 know there had been new County property in the area and that was the new Solid Waste Facilities  
12 Center located on Walnut Grove Church Road. Orange County, the planning department, asked that  
13 we look at that facility rather than the lease that we entered into with a private property owner and so  
14 we are in the process of entering into a lease with the County for that facility. The reason I bring that  
15 up is that I think it is important to realize that AT&T and American Tower are making this investment  
16 in Orange County but also trying very hard to work in a collaborative way with the County. We are  
17 trying to reach a win-win situation to be able to provide telecommunications coverage in the best  
18 possible way in the County. Currently we are only proceeding with two applications. I would like to  
19 talk briefly about the need for this telecommunications tower. There is a significant gap in coverage in  
20 the northeastern part of the county and when there is a gap in coverage, the first thing AT&T and  
21 American Tower will do is prepare a search ring to determine where that gap in coverage is and to  
22 locate places where the AT&T antennas could be located. The first place that AT&T and American  
23 Tower would be considering would be existing structures. For example, a water tank or existing tower  
24 or building that is of sufficient height that it could locate its antennas on. As Mr. Harvey said, there  
25 are no such structures in this area of Orange County so therefore American Tower started looking for  
26 property to lease and approached Mr. Fagan about leasing a 100x100 foot portion of his property.  
27 This will resolve this gap in coverage and this gap in coverage is north of the Little River Regional  
28 Park and it is to fill in coverage between Highway 57 and Highway 157. Under tab 20, we have a  
29 propagation map. The first propagation map shows where the tower will be located. This is the area  
30 where there is a gap and the whiter area means no coverage whatsoever. Pink means not reliable or  
31 very spotty. Most of this area is white or pink. Blue means you would be able to have some  
32 coverage as a pedestrian walking outside. The green means that you would have coverage in your  
33 vehicle. Yellow means you would have coverage in residential buildings and red is the coverage you  
34 would like to see the most of and that would be business in-building coverage. After this contrast,  
35 this will show the coverage that will be available after the telecommunications tower.

36  
37 Larry Wright: For the first Figure 3, could you show that to the audience.

38  
39 Karen Kemerait: This is the second propagation map. This is the area where the tower will be  
40 located (see white and pink). This is where coverage will be available.

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42 Samantha Cabe: Can I ask a question as an alternate?

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44 James Bryan: There is not a firm legal gray area. Some boards allow alternates to participate and  
45 some don't.

46  
47 Michael Harvey: We allow alternates to participate.

48  
49 Samantha Cabe: I need clarification. In your coverage maps... is there any signal whatsoever for  
50 AT&T?

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52 Karen Kemerait: That is AT&T coverage and one of the things we are talking specifically about AT&T  
53 and AT&T will be the carrier that will be located on the tower and as our application shows, there is

1 room for AT&T's antenna and for three additional carriers so when other carriers, (i.e. Verizon, Alltel),  
2 if they want to come and provide coverage in this area, they can enter into a lease agreement with  
3 American Tower and attach their antennas to the tower as well.  
4

5 Samantha Cabe: Your map showing there is no coverage; there could be different carrier's coverage  
6 there, just not AT&T coverage?  
7

8 Karen Kemerait: There could be but since there is not another tower located in the area, I think it is  
9 unlikely there would be good coverage for any other carrier in the area, however, I have not studied  
10 the other carrier's coverage but I suspect the likelihood is that other carriers are going to come  
11 approach American Tower to ask to locate their antennas on the tower as well. As we were talking  
12 about, there had been an Alltel tower located in the location where American Tower's tower will be  
13 located. For a special use permit application we talked about the 100 foot by 100 foot parcel that will  
14 be leased by American Tower and located on Mr. Fagan's property which is an ideal location for the  
15 tower. It is a very large parcel of land, 56 acres, undeveloped and heavily wooded. And one of the  
16 reasons it is such a good location is the wooded area will make it so the tower will not be visible from  
17 that location or barely visible or just the top of the tower visible from other locations. The property is  
18 in agricultural residential and the tower will be located 900 feet from New Sharon Church Road and  
19 219 feet from the closest property line which is Mr. Fagan's property line and his residence is located  
20 on that nearby property. I also mentioned there would be room for three additional carriers in addition  
21 to AT&T and the antennas as required by the Orange County Ordinance are going to be flush  
22 mounted to the tower and flush mounted means they will be up against the tower so they will be much  
23 less visible than the antennas that protrude from the side of the tower. Under Attachment 7, we have  
24 photographs of the balloon test that was conducted and that will show the areas where the towers will  
25 not be visible whatsoever and in the few locations where the top of the tower will be visible. The top  
26 of the tower will be visible from a few locations on Bill Poole Road and along New Sharon Church  
27 Road but from all other locations it will not be visible. We have shown in our application that we have  
28 met all the technical requirements and the specific requirements of the Ordinance for  
29 Telecommunications Towers. In addition, the county's consultant, CMS has provided its  
30 recommendation report stating that CMS' opinion is that we have in fact met all those technical  
31 requirements. Moving on to the Special Use General Standards. We have provided quite a bit of  
32 information or application materials showing that we have met all the general requirements as well. I  
33 would like to put this into the evidence as well. The Findings of Fact from the planning staff has also  
34 stated they have received sufficient evidence from the applicant meeting the general standards and  
35 at this point they have received no evidence that would establish grounds for a negative finding of  
36 fact. We have shown that the tower use will maintain or promote the public health, safety and  
37 general welfare. We have provided information that the addition of the antennas will comply with all  
38 federal laws and with the FCC rules and regulations. As I have mentioned previously, the  
39 background information will promote the public health and safety by providing access to emergency  
40 and 911 services. Also, I talked about economic development that too will promote the public health  
41 and general welfare of the county. I also provided quite a bit of information on the application about  
42 how the use will maintain or enhance the value of contiguous property. As I mentioned, the tower will  
43 not be visible from most locations and only the top of the tower will be visible from a couple of  
44 locations. The tower will not be a nuisance or an environmental hazard. This will be an unmanned  
45 facility and will generate, once it is constructed; only two or four vehicle trips per month which means  
46 there will be no increase in traffic in the area. The tower will not be lit, it will be only 199 feet and FAA  
47 requirements state that towers above 200 feet will have to be lit so this tower will not be lit. The tower  
48 will also not have any noise or glare so therefore there is no element of nuisance or environmental  
49 hazard. We also provided a property impact analysis report prepared by David Smith. Mr. Smith is a  
50 North Carolina certified real estate appraiser and he performed the research and analysis as  
51 contained in the report and his conclusion is that the proposed tower will maintain or enhance the  
52 value of contiguous property. Finally, we have information in the application materials that the tower  
53 will be in harmony in the area in which it is located and will be in compliance with the ordinance and

1 Comprehensive Plan. As I mentioned we have met all the specific requirements of the ordinance and  
2 that has been the opinion of the county's consultant, CMS, as well. It is also clear that when a county  
3 adopts an ordinance and allows a particular usage, such as a telecommunications tower, to be a  
4 special use in a zoning district such as here, the AR zoning district, that creates a presumption or  
5 case that the telecommunications use is in harmony with the area in which it will be located so we  
6 have by virtue of it being a special use in the ordinance, the telecommunications tower is in harmony  
7 with the area. We have provided information in addition to that to show the visibility of the towers will  
8 be minimal and it will not be an environmental hazard or a nuisance. Therefore, we have met all  
9 specific requirements of the ordinance and all the general requirements for special uses and David  
10 Smith who is the appraiser is here to speak briefly. I don't know if there is any concern or opposition  
11 to this application and if not...

12  
13 Karen Barrows: How far is this tower going to be from the Caldwell Fire Department?

14  
15 Karen Kemerait: I don't know where the Caldwell Fire Department tower is.

16  
17 Karen Barrows: It is not very far. I looked at your legend distance. It is probably a mile and one half.

18  
19 Michael Harvey: It is actually two miles. There is no tower on the property. If you will turn to tab 14  
20 of the applicant's packet, we have the telecommunication plan map sites. Orange County has  
21 adopted a Master Telecommunication Plan for use as a marketing tool in terms of trying to solicit the  
22 use and development in these particular locations. Caldwell Fire Department has indicated their  
23 interest but there is no current tower on that site and this site or the proposed site, as we alluded to in  
24 our abstract actually addresses a hole that Caldwell can't. I know AT&T and American Tower looked  
25 at the Caldwell site; there still would have been a hole in this particular area of the county. They  
26 chose to try to fill that hole recognizing that there could be a tower one day on Caldwell through  
27 participation of this administration plan.

28  
29 Larry Wright: You talked in terms of co-location on the tower and you spoke in terms of Verizon or  
30 some other carrier co-locating on that tower and then in the packet, there is wording to the point that  
31 other county agencies, such as emergencies could locate on that tower. Given there is only x amount  
32 of room for panels to be installed on that tower, is there any priority to who may be given space on  
33 that tower over others?

34  
35 Karen Kemerait: We have already committed to providing space on the tower for county purposes  
36 and when an application would come from another carrier, it would be considered, to make sure that  
37 there would be room for it and be considered in. Jill, is there anything you would like to add?

38  
39 Jill House: I am Jill House, I am with American Tower. It is generally our policy to accept the  
40 applications on a first come first serve basis. If the county expresses interest and that is a condition  
41 of approval certainly space could be allotted to them.

42  
43 David Blankfard: Is there any agreement right now for county services on the pole?

44  
45 Jill House: Not a blanket agreement.

46  
47 Michael Harvey: Let me answer a little bit. The county can't negotiate or enter into any kind of  
48 negotiation with a tower that doesn't legally have a permit so we have not approached or been  
49 approached. We cannot proceed because then obviously it can be argued that we are doing this  
50 solely to get the site, which is not the case. There is a condition on page 96 indicating that co-  
51 location site shall be offered to the County for the placement of an antenna in support of local  
52 emergency communication needs. If it is determined that it is not necessary or viable then they have  
53 met their obligation under provisions of the special use permit. If it is approved, the county can reject

1 the site and say then don't need it but they have indicated that a condition will reserve that site and  
2 offer that site to the county. What we do with it is our prerogative at an appropriate time.

3  
4 Larry Wright: Are volunteer emergency services technically part of the county or not? And how  
5 would they interact with this tower?  
6

7 Michael Harvey: I don't know if I am qualified to answer that question. What I will say is there is  
8 countywide information network, VIPER system that volunteer fire departments are tied into as  
9 additional intended communication is provided then obviously the local departments, as my  
10 understanding, have access to that same system.  
11

12 Larry Wright: They run independent of this telecommunications tower?  
13

14 Michael Harvey: We have an emergency communications system through the county, the VIPER  
15 system. It may be determined that this system is not necessary and we do not need an antenna on  
16 this tower. The local volunteer fire departments make use of the same VIPER county wide system.  
17

18 Larry Wright: I am really confused because the Planning Board was talking about the need for  
19 telecommunications towers because some emergency systems had to communicate through Mebane  
20 to interface with 911 or there was a very awkward system of communication because we had so  
21 many spots without coverage.  
22

23 Michael Harvey: Mr. Chairman, I don't feel comfortable responding because I don't have any  
24 knowledge to testify this. What I can testify to is that David Sykes of Orange County Emergency  
25 Management indicates that he believes the tower is a good location and obviously one of the  
26 conditions, I wish I could answer but I don't feel I should mislead you, is that if they offer a site to the  
27 county, the county can do with it what it wishes.  
28

29 David Blankfard: On your structural qualifications, tab 28, it states the tower will be designed for 90  
30 miles per hour wind speed however, once you get emergency services on there, your importance  
31 factor will change to be slightly elevated. How are you going to deal with that once the tower has  
32 been constructed? Will you have someone else come back and verify that?  
33

34 Jill House: It will be designed for standard loading for the four carriers so you won't need to  
35 reevaluate it after the carriers are installed. If anyone additional goes on, it may accommodate even  
36 more equipment.  
37

38 David Blankfard: Okay. So it will be checked again?  
39

40 Jill House: Yes. Actually CMS requires the structural analysis for each publication but they will need  
41 to be structurally enhanced we don't anticipate.  
42

43 Michael Harvey: That is covered in Section 5.10.8 location is required to go through similar process  
44 in terms of submitting the necessary documentation.  
45

46 Karen Barrows: There is a letter from Michael F. Plahovinsak, P.E. who is a professional engineer  
47 and he starts by saying I understand there may be some concern...  
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49 Michael Harvey: That is tab 28.  
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51 Karen Barrows: Is that what you are addressing?  
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53 Larry Wright: Did you get your questions answered?

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Karen Barrows: I was wondering who the global Building Officials might be that have concerns?

Michael Harvey: No one from my office expressed concerns and the building inspection officials didn't express concern. Without putting words in Karen's mouth, let me state that if this tower is approved or if any tower is approved, it has to go through the building permit process. That building permit process requires them to submit engineering and documentation proving the load ratio can be handled. CMS, our communications consultant is required to review and certify that record and it is also engineering required.

Jill House: We do have to go through the building permit process and by stating some concern; I think what he is alluding to is providing information in response, not that there had been concern expressed specifically. I would like to as Dave Smith who has prepared the Real Estate Impact Report to provide some information about his name, address, background, credentials and then describe this report.

Michael Harvey: This is tab 40.

David Smith: My name is David Smith and I have been sworn in. I lived in the western part of Durham on Morristown Circle. I am a certified general real estate appraiser which means I am qualified to appraise all kinds of property. I also have an MAI and SRA professional designations which are like having a CPA, you can be an accountant and not be a CPA. You can be an appraiser and not be MAI, just a different level of experience.

Michael Harvey: Sorry, tab 39.

David Smith: I have been appraising for 30 years, in Durham and Orange and surrounding counties. I have prepared an impact analysis of this tower on the properties in the area. I went and looked at the properties in the area and the tower sites, best I could determine where it was based on plans of the proposed tower.

Larry Wright: You mean tower site as in where the tower will be located on the particular property?

David Smith: Based on a set of plans of the proposed tower, inspection of properties in the area of the proposed tower, analysis of data gathered and facts and conclusions as contained in the report you have as subject to the assumptions with the conditions as stated, it is my opinion that the proposed tower will maintain or enhance the value of contiguous property and will be in harmony with the area. I can go in more detail but it is in the report if you have any more questions.

Larry Wright: Have you ever in your experience... you have appraised properties where towers are erected and then traced the value of properties and then traced the value of properties after they were erected, is this true? A tower is erected in 2009 and you've traced the value of adjacent properties, etc. and so you have done that?

David Smith: I have appraised properties with towers on them, is that what you mean?

Larry Wright: But then mapped the adverse effects on any on adjacent properies after they were erected?

David Smith: I don't know that I have done an impact analysis after a tower has been erected.

Larry Wright: This is what citizens are interested in, is the impact analysis of towers after they have been built.

1  
2 David Smith: I have done impact analysis on properties where towers currently exist.  
3  
4 Larry Wright: The properties on which they exist?  
5  
6 David Smith: The ones around them.  
7  
8 Larry Wright: Have you found any adverse effects to that?  
9  
10 David Smith: No, I have not.  
11  
12 Larry Wright: In Orange County?  
13  
14 David Smith: No, I have not.  
15  
16 Larry Wright: In Durham?  
17  
18 David Smith: Yes.  
19  
20 Larry Wright: You have found adverse effects?  
21  
22 David Smith: No adverse effect in Durham or Orange County.  
23  
24 Larry Wright: Thank you.  
25  
26 Samantha Cabe: Have you ever found that a tower has adversely affected a property in any of your  
27 analysis?  
28  
29 David Smith: No.  
30  
31 Jill House: That is all the evidence I have at this point.  
32  
33 Larry Wright: Are there any public witnesses that would like to speak?  
34  
35 Desiree Goldman: I have been sworn in. My name is Desiree Goldman, I have lived in Orange  
36 County 17 years and I am here tonight representing the 500 members of the Greater Chapel Hill  
37 Association of Realtors. We service all of Orange County. We are in support of the approval of both  
38 cell tower installations that will be up for tonight. We find that connectivity is extremely important to  
39 homebuyers. Many people choose to no longer have land lines. When looking at a house, this  
40 happened to me today, showing houses in the northern Hillsborough areas, St. Mary's, I had clients in  
41 town from Chicago. They had drove around to the different houses yesterday, soon as we got to the  
42 house, before we got to the house, they said we came by and there was no cell service yesterday and  
43 that was immediately a problem for them that there was no cell service at a particular house they  
44 were looking at. Many clients do not put in land lines anymore and many security systems are no  
45 longer using land lines as a way of having the security systems in homes. They are using cell  
46 phones. This is all very important to the quality of when people are making their decision and  
47 purchasing their home and it is a detriment if there is not good connectivity. Orange County loves  
48 people working from home so they are not in their car. We have very intellectual people and people  
49 who work at their house and they need all the broadband they can get, all the connectivity they can  
50 get. This makes a big effect on when people select their homes and we support any and all  
51 telecommunication service and the connectivity for all Orange County. Thank you.  
52  
53 James Carter: You are a realtor?

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Desiree Goldman: Yes.

James Carter: You strongly support this tower?

Desiree Goldman: Absolutely. It is not a good thing to not be able to have cell service at a house and more and more people, our society is changing. Five years ago that would have never been a question. Every time I go to a house people pull out their phone to see if they are getting service. That is one of the first things they do when they consider looking at buying a house.

Larry Wright: Can you repeat your title and who you represent?

Desiree Goldman: My title is Legislative Affairs Liaison from the Greater Chapel Hill Association of Realtors.

Michael Harvey: Next on the list is Aaron Nelson.

Aaron Nelson: My name is Aaron Nelson. I have been duly sworn. I am the President of the Chapel Hill/Carrboro Chamber of Commerce. We represent 1,000 businesses in the Greater Orange County area as well as 450 realtors. First I want to thank you for serving. This is an important issue and many of us have left our family and home. My organization is a volunteer membership organization, 1,000 small businesses pay membership dues and so do 450 realtors. I am here to speak on their behalf particularly we also have 100 sole proprietors in home based businesses among our members. One of the things we have been hearing for a while is complaints about cell phone services in Orange County. Some folks that move from other areas wonder how they could live in the mountains of North Carolina with better coverage than in rural North Carolina than they can get in a county with the highest per capita income in the state of North Carolina and they are disappointed with the services so we have been petitioning and asking AT&T to improve their service as well as other providers. So I want to say thank you to them for bringing forward a proposal to enhance the cell phone service and answering the request of citizens of our community as well as businesses in our community to bring this forward. Specifically, businesses need reliable cell phone services for both data and telephone and text. Many businesses now communicate with their employees. There was a time when we would touch to talk and we were using Nortel's other systems but now we text in order to communicate with employees. Businesses need that information to be able to take the order or find a delivery location. I was talking to an auto mechanic. He has five locations and they had a brand new Mercedes and they didn't know how to reset the service light so his mechanic pulled out his phone, Goggled it and watched a YouTube video on how to reset that high end Mercedes odometer so he was using the data from the internet to conduct his business. I was talking with businesses in and around Orange County and we just continue to hear that is what is important to them. For phone and data, text to communicate with their clients and customers, to order, to find delivery in order to communicate to the home office. We also hear from relocating and expanding businesses that this is important. Desiree's comments are ones we hear as well. Folks want to know before they locate their business whether they have access to cell phone. They are choosing more and more not to use land lines and are using wireless systems and for us we also carry the security. In the event that our land line was cut at our office our security system has a cell phone mounted and that is the backup system for loss of power. More and more business and homes do not need that so if we can improve that cell phone coverage in the county we think that is really important. It is also important to us that everyone has equitable access in the county. This should not be the case only if you live in certain areas. We deserve equitable access and our rural areas have been left out too long and we are grateful there is now a proposal and hope there are more coming in order to light up the entire county so everyone has access to this important business resource, economic development tool and communication too.

1 Michael Harvey: There are two more people actually.... Karen Kemerait who has spoken and Rusty  
2 Monroe. Mr. Monroe (our telecommunications consultant) can answer questions. Next on the list is  
3 David Lacava.

4  
5 David Lacava: I have no additional comments.

6  
7 Michael Harvey: Steven M. Howard.

8  
9 Steven M. Howard: No additional comments.

10  
11 Michael Harvey: Jeremy Browner.

12  
13 Jeremy Browner: I have been duly sworn. I rise in support of this application. I am a sole practice  
14 attorney in Chapel Hill and also the Vice-Chair for the Economic Development and Public Policy  
15 Committee for the Chapel Hill/Carrboro Chamber of Commerce. I first want to draw your attention to  
16 a couple of public policy interest of the county that are at stake here. One is the versification of the  
17 tax base. One of the most important things we need to do is develop business in our community.  
18 One of the most important....one of the more important areas now, in modern business, is  
19 telecommunication and access to that. You have a couple of alternatives; of course we have satellite,  
20 we have cable and we have terrestrial antennas that we are talking about today. Cable won't extend  
21 to rural areas because they can't recover their investment. Satellite is very slow. It is available in  
22 rural areas but it is slow and not useful for business applications so the only real way to bring  
23 broadband in an effective manner is the use of terrestrial antennas which require them to be erected  
24 and data services be put on top of them. Another public policy area that we are trying to do is  
25 bridging the digital divide. The digital divide is from the ones that have access to broadband and  
26 ones that do not. This is a very important tool, the internet, in education now. Also, not just business  
27 but educating our children, need to have access to the various topics that teachers want them to have  
28 access then enhance their learning ability. The entertainment is switching a lot to entertainment  
29 through the internet. A lot used to be getting signals from broadcast TV, it switched to cable and now  
30 it will be switching to entertainment through the internet. They did not testify whether or not 3G or 4G  
31 would be more accessible. I am assuming 4G would be more accessible on these antennas. 3G and  
32 4G, for your information, 4G is a faster data capability that allows faster communication with the data  
33 traffic. Now, obviously voice is important but mainly what we are considering is data. Other  
34 applications that are considered are agricultural applications. Agricultural applications use cellular  
35 broadband to report moisture, to report sun, to report all sorts of data points that are available to gain  
36 higher yield on agricultural fields. I wanted to stress that although some towers may be unsightly this  
37 particular application the applicant has stressed greatly about the lack of harm, cosmetic or actual  
38 harm. They have had an expert testify about property and the impact of property prices. They have  
39 had blue tests that talked about the visibility of the antenna after it is erected. All of which that these  
40 have minimal on the surrounding community and we talked about the impact versus what we are  
41 trying to achieve through a public policy, diversify our economic tax base, bridge the digital divide and  
42 bring in more businesses to the county. These are the things you should think about when you vote  
43 on this application.

44  
45 Larry Wright: You are talking about the various types of communications and how you can bring  
46 telecommunications; you talk about satellite or terrestrial antenna. I live in northern Orange County  
47 and I live 200 feet from the tower but I have Century Link and they have high speed access and I  
48 think that is one vehicle or way for people in rural Orange County. I used to rely on the antenna  
49 about 200 feet from my house but Century Link is better for us and I get better speed. Of course it  
50 has been a number of years but it is one more vehicle that people have.

51  
52 Jeremy Browner: I believe that technology you are referring to is DSL. DSL speed decreases away  
53 from the node station so as you go away, the speed decreases dramatically so with cell towers, that

1 doesn't happen. Obviously you have to receive the signal but that means the telecommunications  
2 company has to build more nodes so yes DSL is available in some locations but on a general basis.  
3 You need terrestrial antennas to maintain that broadband.  
4

5 Michael Harvey: The last person to speak is Ann Lee-Blythe.  
6

7 Ann Lee Blythe: I am a resident on Bill Poole Road. I am here to testify not necessarily against  
8 because it is clearly a needed telecommunications with the county to improve. I am more concerned  
9 about the performance that will be on this tower versus what AT&T has been and also would it  
10 interrupt other service that people have like Verizon. I have Verizon down the street and it works well.  
11 I don't have any other phone in my house. My fear is that I don't want to have an interruption in my  
12 service because of the erection of this tower because I am already committed and I am using it for  
13 work from home and I also think the residents are due to understand whether this a 4G LTE whatever  
14 kind of tower or performance and interference that it can have.  
15

16 Jill House: I can give a general answer to that because different carriers have different frequencies  
17 there will be no interference between AT&T and Verizon. As far as what will be available....  
18

19 David Lacava: I am the specialist for AT&T.  
20

21 Ann Lee-Blythe: And what would be the time table of the LTE. As residents... those of us who have  
22 services and are paying over two years, if there is any problem it causes us...  
23

24 David Lacava: LTE would be launched on this tower with the initial construction of the tower.  
25

26 Larry Wright: Any questions?  
27

28 Michael Harvey: Beginning on page 39, we have the Findings of Fact that you need to go through  
29 this evening. We have provided recommendations what we believe to be evidence submitted in the  
30 record as justifying either an affirmative or a negative finding. I am going to go over these briefly.  
31 Beginning on page 40, we are dealing with compliance with Sections 2.2 and 2.7.3 of the Unified  
32 Development Ordinance dealing with the submittal of a Class B Special Use Permit application. You  
33 will find that staff has made an affirmative finding of compliance with respect to Sections 2.2 and  
34 2.7.3. We have provided the various documentation in the record that justifies an affirmative finding.  
35 For example, Tab 2 of the application packet contains a complete application, Class B Special Permit  
36 Application; there are copies of the checks demonstrating the applicant has paid the necessary fees.  
37 As required by 2.7.3 (B)(1), there is a full and complete application project narrative. In Tab 3  
38 outlining complies not only with the code but answering the basic questions in compliance with the  
39 ordinance. We have found that Section 2.7.3 (B)(5) on page 41 is not applicable, that requires a  
40 submittal of a preliminary subdivision plan. They are not proposing a subdivision so they are not  
41 required to submit. They have provided the required elevations and a listing of all property owners in  
42 1,000 feet as required by the code. Turning to pages 42 and 43, we have found that Section 2.7.3  
43 (B)(8) of the code requiring an environmental assessment is not required given this property is  
44 disturbing less than two acres per our Unified Development Ordinance. We have also provided  
45 additional insight why the applicant is not required to adhere to this provision. The applicant has  
46 answered the necessary questions with respect to the method and disposal of trees, limbs, stumps  
47 and construction debris associated with the project as well as the anticipated schedule for buildout  
48 which is in Tab 37 and we have found that 2.7.3 (B)(11) is not applicable as they are not requesting  
49 vesting. Does anyone have any questions?  
50

51 Larry Wright: There has been mention here of the Walnut Church Grove and the Phelps Road sites,  
52 we are not addressing those....  
53

1 Michael Harvey: No sir. This is solely on the New Sharon Church Road/Bill Poole Road application,  
2 case A-1-13. Beginning on page 44, Section 2.7.5, compliance with submittal notification  
3 requirements. There is a typo at the top so please correct CLASS A to CLASS B. This is a Class B  
4 Special Use Permit. We have provided the necessary documentation detailed in compliance with the  
5 notification requirements. Attachment 3 of your abstract package, you will recall some mail  
6 certification signed by staff and included a copy of the certified letter sent to all property owners within  
7 1,000 feet. The certified stubs/receipts signify letters were mailed within the appropriate time period.  
8 We also did submit a legal ad to the newspaper that was advertised as required by the UDO. On  
9 page 45, compliance with Section 5.10.8 Standards for Telecommunications Facilities. Again, we  
10 have provided our recommendation with respect to the evidence in the records supporting an  
11 affirmative finding. You will note that as required by Section 5.10.8 (A) (1) (b) of the applicant's tab 3  
12 contains a detailed narrative as well as tab 6, 7 15, 16, 17, 19, 20, 21 and 22 providing the necessary  
13 documentation justifying the approval of the tower, elevation drawings and on page 46 all the  
14 necessary information is contained in tab 3, 6 and 7. We do have a statement already discussed by  
15 a professional engineer, licensed by the State of North Carolina, indicating the tower can support the  
16 loads. On pages 48-49, we have found the additional compliance with respect to the application to  
17 the necessary documents providing detail. I will ask you to note with respect to Section 5.10.8 (A) (1)  
18 (g) on page 48, the applicant has provided the initial Geotech report and they are going to be required  
19 to submit a final Geotech report that can't be done until they actually start doing more testing and  
20 they won't do that until the permit is issued. So please keep in mind a final engineering report,  
21 Geotech report, will be submitted as part of the building permit application standard but staff has  
22 reviewed the Geotech report and found it is not proficient and it complies with the code. Compliance  
23 with Subsection A continues all the way to page 52. The question has already been brought up today  
24 about co-location. I will remind the Board there are co-location standards in this ordinance. They are  
25 not required compliance with Section 5.8.10 (A) (2) because this is not a co-location application but  
26 we do provide there will be co-locations. The ordinance has standards dealing with co-locations but  
27 issues with co-locations will be addressed at such time they are proposed and the applicant is  
28 required to demonstrate compliance with 5.8.10 (A) (2) at that time. Beginning on page 53, we have  
29 compliance with Section 5.8.10 (B) General Submittal Requirements and I will attest that they have  
30 complied. We have provided you the necessary detail. Page 54, we provide information on the  
31 balloon test that is chiefly contained in tabs 7 but there is information in tabs 3, 7, 8, 9, 10, 11 and 12  
32 addressing compliance with this section. On page 56 and 57, we talk about compliance with  
33 Landscape standards; existing vegetation will be utilized to comply with existing landscape standards.  
34 This is also, as we have noted, a heavily vegetated site. This goes on for several pages. Staff has  
35 provided the necessary documentation that we believe exists in the record on the application itself  
36 demonstrated compliance on 5.10.8 so if you would turn to page 89 where we get into compliance  
37 with specific standards, 5.3.2 of the Unified Development Ordinance specifically the method and  
38 adequacy provision for sewage disposal facilities, solid waste and water service. Attachment two of  
39 our application package contains the necessary documentation from Orange County Solid Waste,  
40 Orange County Environmental Health indicated the project will comply with the necessary standards  
41 they are not proposing a septic system or well so Environmental Health has no issues with the  
42 project. Solid Waste, Jeff Scouten has indicated his approval for the project. Page 90, method and  
43 adequacy of police, fire and rescue squad protection. Attachment two provides the necessary detail;  
44 David Sykes has indicated his approval. Orange County Sherriff's office has also indicated to staff  
45 their approval that the project can be served. Method and adequacy of vehicular access to the site  
46 and traffic conditions have a site plan where the applicant is intending to show access in tab 6. A  
47 recommended condition of approval is that we get a final driveway permit from DOT. DOT has seen  
48 the site plan and expressed no concerns over access management. Mr. Fagan will have to address  
49 continual access to the tower. On page 91, compliance with Section 5.3.2 (A) Special Uses –  
50 General Standards and this is where we don't provide a recommendation because it is based on the  
51 testimony this evening. I will remind you with respect to compliance with Section 5.3.2 (A) (2) (a) the  
52 use will maintain or promote the public health safety and general welfare if located where proposed  
53 and developed and operated according to the plan submitted. You have in the packet, tab 3, the

1 project narrative, tab 39, Mr. Smith's Impact Analysis, tab 6, the site plan indicating the project will  
2 comply with the code and promote the public's health safety and general welfare. You have tabs 14,  
3 16 and now on page 92, 14, 16, 17, 18, 19, 20, 21, 22, and 30 are tabs having information  
4 demonstrating the need for the tower and the development of the tower will be done with respect to  
5 guarantee the public's general health, safety and welfare. Page 93, complies with Section 5.3.2 (A)  
6 (2) (b) which is the use will maintain or enhance the value of contiguous property. You have had  
7 testimony this evening from Mr. Smith and the application packet specifically tabs 3, 39 and 6 provide  
8 other documentation and information necessary to demonstrate compliance. On page 94, we have  
9 requirements of Section 5.3.2 (A) (2) (c) which is the location and character of the use if developed in  
10 accordance to the plan submitted will be in harmony with the area in which is it to be located. As staff  
11 indicates in our abstract several provisions of the 2030 Comprehensive Plan supporting the submittal  
12 of telecommunication applications and the approval of telecommunication applications. We also  
13 stipulate that tabs 3, 39 and 6 provide information demonstrating compliance with this standard. We  
14 have heard no comments prior to this hearing indicating the project should not be approved so on  
15 page 95 and 96, if the board does see fit to issue the permit, we recommend the imposition of 19  
16 conditions which are spelled out herein. I will add, and the applicant can confirm, that they have  
17 reviewed these conditions and have no issues with them being attached.

18  
19 Larry Wright: Are there any questions for Mr. Harvey?

20  
21 Karen Barrows: On page 85, 5.10.8 (B), Bond Security, is that in addition to the liability?

22  
23 Michael Harvey: Yes, and on page 86, liability insurance they have to cover as well. If there are no  
24 more questions, that concludes staff's presentation.

25  
26 Karen Kemerait: I want to confirm that we had reviewed the conditions.

27  
28 Larry Wright: Any statement from the applicant?

29  
30 Karen Kemerait: Nothing in addition to what I have already stated.

31  
32 Larry Wright: We have gathered the evidence and now it's time to close the hearing. Are there any  
33 general comments from the Board right now?

34  
35 Samantha Cabe: This is my first time here and I am not voting as an alternate but does the attorney  
36 reiterate the charge of what we must do if we find this?

37  
38 Larry Wright: It depends on the case and usually what we have is our charge is what we have to go  
39 through and then we go through the findings and right now most of this case is in the findings so we  
40 will move right to the findings. We don't have to make any formal recommendations... on this  
41 application we can move right to the findings. Let's go through on page 39.

42  
43 Debra Graham: Larry, you didn't make a motion to close the public hearing.

44  
45 **MOTION** made by Karen Barrows to close this portion of the public hearing. James Carter seconded.

46 **VOTE:** Unanimous

47  
48 The public hearing portion of the meeting was closed at approximately 8:49 pm.

49  
50 James Bryan: Can I ask a question for clarification? Who are the five voting members and do you  
51 allow alternates in the deliberations. I reiterated before that it is gray but for deliberations there is a  
52 little more weight not to have alternates.

1 Larry Wright: In the past, the alternates have commented in the deliberations and we have found that  
2 to be of great value and I would like to continue that. I have worked with Samantha before and she is  
3 very capable and I would like to have that expertise.  
4

5 Debra Graham: She won't be voting.  
6

7 James Bryan: The remaining five will be voting.  
8

9 Larry Wright: Let's get started with the findings.  
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**FINDINGS OF THE ORANGE COUNTY BOARD OF ADJUSTMENT  
PERTAINING TO A REQUEST SUBMITTED BY  
AT AND T / AMERICAN TOWER  
REQUESTING A CLASS B SPECIAL USE PERMIT APPROVAL  
FOR A TELECOMMUNICATION TOWER AT  
7444 BILL POOLE ROAD/7505 NEW SHARON CHURCH ROAD – PIN 0808-87-1763**

As required under Section 5.2 *Table of Permitted Uses* of the Orange County Unified Development Ordinance (UDO), a Class B Special Use Permit is required for the erection of a telecommunication tower, over 75 feet but under 200 feet in height, in accordance with the provisions of Section 2.7 of the UDO. Such permits shall comply with general and specific standards as set forth in Section(s) 5.3.2 and 5.10.8 of the UDO.

**Section 5.3.2 (A) (2) of the UDO requires written findings certifying compliance with the following:**

- (1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
- (2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
- (3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

**In addition, the Board shall make findings certifying that the application is compliant with the following specific standards:**

- (1) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 2.2 and 2.7 of the UDO,
- (2) Specific regulations governing the development of telecommunication tower as set forth in Section 5.10.8 (A) through (B) of the UDO,
- (3) Section 5.3.2 (B) relating to the method and adequacy of the provision of:
  - a. Sewage disposal facilities,
  - b. The adequacy of police, fire, and rescue squad protection, and
  - c. The adequacy of vehicular access to the site and traffic conditions around the site
- (4) The general findings outlined within Section 5.3.2 (A) (2).

Listed below are the findings of the Orange Planning staff regarding the application in question. The findings have been presented by Article and requirement to assist the Board of Adjustment in its deliberations.

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**SECTION 2.2 AND 2.7.3 CLASS B SPECIAL USE PERMIT APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)**

<b><u>Ordinance Requirements</u></b>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<b>X_Yes</b>	<b>___No</b>		<b>_x_Yes</b>	<b>___No</b>
Section 2.2  The application for a Class B Special Use Permit shall be on forms provided by the Planning Department.	<b>X_Yes</b>	<b>___No</b>	<b>Tab 2</b> of the application booklet contains a complete Orange County Class B Special Use Permit application for the project.	<b>_x_Yes</b>	<b>___No</b>
2.2.4 (D)  Applications must be accompanied by the fee amount that has been established by Board of County Commissioners. Application fees are nonrefundable.	<b>X_Yes</b>	<b>___No</b>	<b>Tab 1</b> of the application booklet contains a copy of the checks submitted for the required fees.  Staff will stipulate the applicant submitted the required application fee for the permit application.	<b>_x_Yes</b>	<b>___No</b>
2.7.3 (B) (1)  A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.	<b>X_Yes</b>	<b>___No</b>	<b>Tab 3</b> of the application booklet contains a complete project narrative describing the proposed use and operational characteristics of the proposed tower.	<b>_x_Yes</b>	<b>___No</b>
2.7.3 (B) (2)  The names and addresses of the owners of the property	<b>X_Yes</b>	<b>___No</b>	<b>Tab(s) 3 and 4</b> of the application booklet contains information concerning the names and addresses of the owner of the property where the tower is to be located.	<b>_x_Yes</b>	<b>___No</b>

6

1 **SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates**  
 2 **non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> _Yes	___No		<u>_x</u> _Yes	___No
2.7.3 (B) (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use	<u>X</u> _Yes	___No	The application booklet contains various documents, including a site plan, containing the necessary information establishing compliance with the provisions of the Ordinance.	<u>_x</u> _Yes	___No
2.7.3 (B) (4) Ten (10) copies of the site plan prepared by a registered N.C. land surveyor, architect, or engineer.	<u>X</u> _Yes	___No	<b>Tab 6</b> of the application booklet contains the required site plan completed by Tower Engineering Professionals of Raleigh, NC.	<u>_x</u> _Yes	___No
2.7.3 (B) (5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.	<u>X</u> _Applicable	Not	The project does not involve or propose a subdivision. As a result no preliminary plat is required.	<u>_x</u> _Applicable	Not
2.7.3 (B) (6) A list of all parcels located within 1000 (Staff Note – telecommunication tower applicants are required to observe a 1000 foot area) feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.	<u>X</u> _Yes	___No	<b>Tab 12</b> of the application booklet contains a complete list of property owners within 1000 feet of the subject property as maintained by Orange County Land Records.	<u>_x</u> _Yes	___No
2.7.3 (B) (7) Elevations of all structures proposed to be used in the development.	<u>X</u> _Yes	___No	<b>Tab 6</b> of the application booklet contains the required elevations	<u>_x</u> _Yes	___No

3

1 **SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates**  
 2 **non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
2.7.3 (B) (8) Ten (10) copies of an Environmental Assessment or Environmental Impact Statement as required by Section 6.16 of the UDO	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Applicable		Per Section 6.16.2 <i>Exemptions</i> of the UDO projects involving less than a total area of two (2) acres or less are not required to produce an Environmental Assessment.  The proposed project will not impact more than 2 acres of land area (lease area is only 100 ft. by 100 ft. in area).  Per Section 6.16.3 <i>Environmental Assessment</i> of the UDO the project will not involve the grading of more than 40,000 sq. ft. of property (exclusive of roads), involve more than 10,000 gallons per day of water usage.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Applicable	
2.7.3 (B) (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 6 and 37</b> of the application booklet contains the site plan which notes construction or land clearing debris generated on-site will be disposed of in accordance with the County's Solid Waste Management Ordinance.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab 37</b> of the application booklet contains the required information, specifically the tower work shall commence by September 2013 (if project is approved and there are no appeals) and be completed within approximately 6 weeks.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

1 **SECTION 2.2 AND 2.7.3 CONTINUED ("Yes" indicates compliance; "No" indicates**  
 2 **non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS
2.7.3 (B) (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum)	<input checked="" type="checkbox"/> Not Applicable	The applicant is not requesting vesting of the project.	_x_ Not Applicable

3

1 **SECTION 2.7.5 CLASS B SPECIAL NOTIFICATION REQUIREMENTS ("Yes" indicates**  
 2 **compliance; "No" indicates non-compliance)**  
 3

<b>Ordinance Requirements</b>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Section 2.7.5 (a) The Planning Director shall give public notice of the date, time and place of the public hearing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Attachment 3</b> of the Abstract package produced by staff provides the necessary detail outlining compliance with this requirement.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.5 (b) Such notice shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days not more than we days prior to the date of the hearing.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The legal ad for the June 10, 2013 BOA public hearing was published in the News of Orange and the Herald consistent with the requirements of the UDO.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.5 (c) The Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Attachment 3</b> of the Abstract package produced by staff provides the necessary detail outlining compliance with this requirement.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.5 (d) Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose manes and addresses are currently listed in the Orange County tax records.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Attachment 3</b> of the Abstract package produced by staff provides the necessary detail outlining compliance with this requirement.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

4

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 5.10.8 Wireless Telecommunications Support Structures – Submittal and Review Requirements					
5.10.8 (A) (1) (a)  A site plan and site plan application package prepared in accordance with Section 2.5 shall be presented for approval to the Planning Division including all requirements for site development plan approval as required.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 6</b> of the application booklet contains the required information, specifically the required site plan.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (b)  A detailed description of the proposed telecommunication support structure (i.e. monopole, self-supporting lattice, etc.) including a detailed narrative description and explanation of the specific objective(s) for the new facility including a description as to the coverage and/or capacity, technical requirements, and the identified boundaries of the specific geographic area of intended coverage for the proposed telecommunication support structure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab 3</b> of the application booklet contains a complete project narrative describing the proposed use as well as an explanation of the specific objective(s) for the new facility.  <b>Tab(s) 6, 7, 15, 16, 17, 19, 20, 21, 22</b> of the application booklet contains other supporting documentation satisfying this requirement.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

3

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (A) (1) (c)  Elevation drawings and color renderings of the proposed tower showing:  (i) The vertical rendition of the telecommunication support structure(s) identifying all users and attachments, (ii) All related fixtures, structures, appurtenances and apparatus including the height of said structures above the lowest adjacent pre-existing grade, (iii) The materials that will be used on site for said structures including their color and any proposed lighting and shielding devices, and (iv) If the facility is intended to be a stealth, as defined herein, the colors and screening devices for the Planning Director to verify consistency with applicable definitions.	<u>X</u> Yes	___ No	<u>Tab(s) 3, 6 and 7</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No

3

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (A) (1) (d)  A signed statement from the applicant certifying that the proposed telecommunication support structure:  (i) Shall be maintained in a safe manner, (ii) Is in compliance with all conditions of all applicable permits and authorizations without exception, and (iii) Is in compliance with all applicable and permissible local, State, and Federal rules and regulations.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 30</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (e)  A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower's compliance with applicable standards as set forth in the State of North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 28</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No

3

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (A) (1) (f) A statement stating how the proposed tower will minimize visual intrusiveness to surrounding properties in the area. Criteria that may be used for such evidence may be height and type of existing trees surrounding the proposed tower, and local topography.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 7</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (g) A copy of the installed foundation design including a geotechnical sub-surface soils investigation, evaluation report, and foundation recommendation for the proposed wireless support structure.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 41</b> of the application booklet contain required information. A final geotech report is required prior to the issuance of a building permit.  Staff will recommend this become a condition of approval.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (h) The existing cell sites (latitude, longitude, power levels) to which this proposed site will be a handoff candidate.	<u>X</u> Yes	___ No	<b>Tab(s) 15 and 21</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (i) Propagation studies of the proposed site and showing all adjoining planned, proposed, in-service or existing sites. This will include all of the modeling information used to produce the study including, but not limited to, any assumptions made about ambient tree height.	<u>X</u> Yes	___ No	<b>Tab(s) 17 and 20</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No

3

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (j)  The search ring utilized in finding the proposed site.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 19</b> of the application booklet contains the required information.  The County telecommunication's consultant, CMS, has reviewed the information and concurs with the applicant's assertions. Their comments are detailed within <b>Attachment 2</b> of the abstract.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (k)  The number, type, height, and model of the proposed antennas along with a copy of the applicable specification sheet(s).	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (l)  The make, model and manufacturer of the tower and antenna(s), antenna heights and power levels of proposed site. This will include documentation establishing the azimuth, size, and centerline height location of all proposed and existing antennas on the structure.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3, 6 and 17</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (m)  The frequency, modulation and class of service of radio or other transmitting equipment.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3, 13, 17, and 21</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

3

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (A) (1) (n)  The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.	<u>X</u> Yes	___ No	<u>Tab(s) 3, 17, and 21</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (o)  The actual intended transmission and the maximum effective radiated power of the antenna(s).	<u>X</u> Yes	___ No	<u>Tab(s) 3, 17, and 21</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (p)  The direction(s) of maximum lobes and associated radiation of the antenna(s).	<u>X</u> Yes	___ No	<u>Tab(s) 3, 17 and 21</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (A) (1) (q)  Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 21</u> of the application booklet contains the required information.	<u>x</u> Yes	___ No

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4

1 **SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (r)  Certification that the proposed antenna(s) will not cause interference with other telecommunications devices.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 21</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (s)  A written affidavit stating why "the proposed site is necessary for their communications service" (e.g., for coverage, capacity, hole-filling, etc.) and a statement that there are no existing alternative sites within the provided search ring and there are no alternative technologies available which could provide the proposed telecommunications service need without the tower.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 22</b> of the application booklet contains the required information.  The affidavit was prepared by Jerry Jones of AT and T	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (t)  A copy of the FCC license applicable for the intended use of the facility as well as a copy of the 5 and 10 year building out plan required by the FCC.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 13</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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1 **SECTION 5.8.10 (A) (2) ADDITIONAL SUBMITTAL REQUIREMENTS – CO LOCATION OF**  
 2 **ANTENNAS ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>	<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>
<p>5.8.10 (A) (2)</p> <p>In addition to the requirements denoted herein, applications for the co-location of antennas on existing structures shall be required to submit the following:</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>	<p>The applicant is not proposing the co-location of antenna with this application.</p> <p>The proposal is for a new tower, not for the co-location of equipment.</p> <p>As a result the requirements of Section 5.8.10 (A) (2) are not applicable to this application request.</p> <p>This section will be applicable in the future where co-locations are proposed for the tower if approved.</p>	<p><u>_x_</u> Not Applicable</p>

3

1 **SECTION 5.8.10 (B) GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS**  
 2 **("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		<u>x</u> Yes	___ No
<p>5.8.10 (B) (1) (a) and (b) Overall Policy and Desired Goals</p> <p>The overall policy and desired goals for Special Use Permits for wireless telecommunications support structures shall be promoting and encouraging, wherever possible, the following:</p> <p>(a) Alternatives to constructing new wireless support structures, including but not limited to the co-location of wireless telecommunications equipment and mitigating the visual effect of a wireless telecommunication support structure to an extent not commercially impracticable; and</p> <p>(b) The placement, height and quantity of wireless telecommunications towers and equipment in such a manner, including but not limited to the use of stealth technology or camouflage techniques, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications support structure, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.</p>	X		<p><b>Tab(s) 3, 14, 16, 17, 19, and 20</b> of the application booklet contains the required information addressing this requirement.</p> <p>There are no existing towers in the area to address service needs, so co-location opportunities were not available.</p> <p>There are no County pre-designated sites in this area affording a pre-screened/sanctioned location for a telecommunication facility.</p> <p>The existing OWASA site (refer to Map in <b>Tab 14</b>) would not serve this area.</p> <p><b>Tab(s) 3 and 6</b> provides sufficient information denoting compliance with subsection (b).</p>	x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
<p>5.8.10 (B) (2) Balloon Test</p> <p>(a) The applicant shall, at least six weeks prior to a Class B Special Use Permit public hearing and at least 11 weeks prior to a Class A Special Use Permit public hearing, conduct a balloon test whereby the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of 10'3" in length, brightly colored red or orange balloon at the maximum height of the proposed new wireless support structure.</p> <p>(b) The balloon test shall be flown for at least four consecutive daylight hours starting sometime between 10:00 A.M. and 2:00 P.M. on the dates chosen.</p> <p>(c) A notice of the dates (including a second date in case of poor visibility, weather or atmospheric conditions on the initial date), times, and location of the balloon test shall be mailed, by certified mail, return receipt requested, by the applicant, to all persons owning property within 1,000 feet of the subject parcel no less</p>	<u>X</u> Yes	___ No	<p><b><u>Tab(s) 3, 7, 8, 9, 10, 11, and 12</u></b> of the application booklet contains the required information.</p> <p>The balloon test was completed on April 13, 2013 – 8 weeks prior to the June 10, 2013 BOA public hearing. This date did not fall on a holiday and is consistent with the requirement of Section 5.8.10 (B) (2) (d) of the UDO as detailed herein.</p> <p><b><u>Tab 7</u></b> contains pictures of the balloon test, which was held from 10:00 a.m. until 2:00 p.m. on April 13, 2013.</p> <p>Notices of the balloon test were sent to property owners within 1000 feet, of the subject property, via certified mail on March 25, 2013, 20 days prior to the scheduled balloon test.</p> <p>The list of property owners within 1000 feet utilized by the applicant was generated utilizing data maintained by Orange County Land Records as required by the UDO.</p>	<u>x</u> Yes	___ No

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<p>than 14 days in advance of the first test date. The data contained within the office of Orange County Land Records shall be used as the primary source for determining which residents are to receive notice of the balloon tests.</p> <p>(d) The primary date shall be on a weekend (excluding legal holidays), but to prevent delays in the processing of the application, and in case of poor weather or atmospheric conditions on the initial date, the secondary date may be a weekday.</p> <p>(e) The applicant shall inform the County Planning Staff, in writing, of the dates and times of the test at least 14 days in advance.</p> <p>(f) The applicant shall also post a sign on the subject property, and directional signs posted at locations to be determined by Planning Staff. The signs shall measure no more than nine square feet in area and no less than four square feet in area, giving the contact information of the County Planning Department, the proposed dates, times, and location of the balloon test. The signs shall be posted to meet the same time limits as provided for in the balloon test notification as stated above.</p>				<p>Signs were posted on the property, as well as off-site directional signs, on March 22, 2013.</p> <p>Planning staff was informed of the test as required by Section 5.8.10 (B) (2) (e) as detailed herein.</p>			

2

1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
5.8.10 (B) (3) Submittal Requirements					
5.8.10 (B) (3) (a)  (a) A site plan showing the following:  (i) The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site,  (ii) Existing and proposed structures on site,  (iii) The fall zone of the tower,  (iv) Existing and proposed topography at a contour interval of five feet and  (v) Any officially designated floodways and floodplains, or the presence of alluvial soils.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-1 of the site plan contained in <b>Tab 6</b> provides the size of all structures within 500 feet of the site as well as denoting the fall zone of the proposed tower and the existing/proposed topography lines.  There is a statement on sheet C-1 indicating there are no floodways/floodplains on the property. Staff concurs with this finding.  The project will involve a stream crossing (i.e. driveway) consistent with the provisions of Section 6.13 of the UDO.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.8.10 (B) (3) (b)  Plans, and elevations for all proposed structures and descriptions of the color and nature of all exterior material, along with the make, model, and manufacturer of the proposed structure, maximum antenna heights, and power levels.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3, 6 and 17</b> of the application booklet contains the required information.  Sheet C-3 of the site plan contained in <b>Tab 6</b> provides information about the tower and antennas.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

3

1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.8.10 (B) (3) (c)  A Landscape and Tree Preservation Plan drawn at the same scale as the site plan, showing the existing and proposed trees, shrubs, ground cover and other landscape materials. This plan shall minimize adverse visual effects of wireless telecommunications support structures and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3

1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.8.10 (B) (3) (d)  Evidence that the applicant has investigated the possibilities of placing the proposed equipment on an existing wireless support structure. Such evidence shall consist of:  i. A listing of all wireless telecommunications support structures within a two mile radius of the proposed wireless support structure site and a listing of all wireless support structure, utility poles and other structures in the vicinity of the proposed facility that are technically feasible for utilization by the applicant to fill all or a substantial portion of the telecommunications service need identified by the Applicant pursuant to section 5.10.8(A)(1)(s). Documents shall be submitted at the time of application filing that indicates the applicant's ability or inability to co-locate on the identified tower(s) and reasons why.	X		<b>Tab(s) 3, 15, 16, and 22,</b> of the application booklet contains the required information.  <b>Tab 22</b> contains an affidavit indicating there are no existing towers, buildings, or other useable structures within a 2 mile radius in which antennas could be attached.  <b>Tab 16</b> contains a memorandum from BlueWave Development reviewing search criteria for a property to support the proposed 199 foot tall tower.  <b>Tab 15</b> contains a search ring map.	_x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
5.8.10 (B) (3) (d) (continued)  ii. Delineation of the boundaries of the maximum search ring within which the telecommunication equipment can function as intended. The following information shall be provided for all existing wireless support structures within the search ring:  a. Wireless telecommunication support structure height;  b. Existing and planned wireless support structure users;  c. Whether the existing wireless telecommunication support structure could accommodate the telecommunication equipment to be attached to the proposed wireless support structure without causing structural instability or radio frequency interference; and					

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<b>Ordinance Requirements</b>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
5.8.10 (B) (3) (d) (continued) d. If the proposed telecommunication equipment cannot be accommodated on the existing wireless telecommunication support structure, assess whether the existing wireless support structure could be structurally strengthened or whether the antennas transmitters and related equipment could be protected from electromagnetic interference, and generally describe the means and projected cost of shared use of the existing wireless support structure; and e. Any restrictions or limitations of the FCC or FAA that would preclude the shared use of the wireless support structure; f. Propagation studies of all adjoining planned, proposed, in-service, or existing sites, and; g. Any additional information requested by the County.  iii. A summary explanation of why proposed telecommunication equipment cannot be located on any of the existing wireless support structures in the search ring.					

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.8.10 (B) (3) (e)  Documentation from applicable state or federal agencies indicating requirements, which affect the appearance of the proposed wireless support structure, such as lighting and coloring.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 33</b> of the application booklet contains the required information.  There is no lighting required for the proposed tower.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (f)  Draft bond which will guarantee the removal of the wireless support structure in the event that it is abandoned or unused for a period of 12 months.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 32</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (g)  A listing of, and current tax map identifying, all property owners within 1,000 feet of the parcel and addressed, first class stamped envelopes to the property owners for notifications of the public hearing in accordance with Sections 2.7.5 and 2.7.6 of this Ordinance.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 12</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (h)  A report containing any comments received by the applicant in response to the balloon test along with color photographs from various locations around the balloon.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 7</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.8.10 (B) (3) (i) Evidence that the balloon test requirement has been met, including a notarized statement and listing of the property owners notified of the test, a copy of a current Orange County Tax Map showing the subject property and all properties within the notification ring, and copies of the certified mail returned receipts from the mail-out.	<u>X</u> Yes	___ No	<b>Tab(s) 3, 8, 9, 10, 11</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (j) A notarized statement that the sign posting requirement has been met.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 10</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (k) Photographs of a clearly visible balloon floated at the proposed tower location to the maximum height of the tower, as well as photographs with the proposed tower and associated antennas superimposed upon them showing what the proposed tower will look like. Photographs shall be taken from locations such as: property lines, and/or nearby residential areas, historic sites, roadways, including scenic roads and major view corridors, and other locations as deemed necessary by the Planning Staff to assess the visual impact of the proposed tower.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 7</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.8.10 (B) (3) (l)  The Special Use Permit application shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 21</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.8.10 (B) (3) (m)  An Applicant may be required to submit an Environmental Assessment Analysis and a Visual addendum. Based on the results of the Analysis, including the Visual addendum, the County may require submission of a more detailed visual analysis. The scope of the required Environmental and Visual Assessment will be reviewed at the pre-application meeting.	<u>X</u> Not applicable		The applicant was not required by staff to complete the additional information	<u>x</u> applicable	Not applicable
5.8.10 (B) (3) (n)  If required, a Visual Impact Assessment, which shall include:	<u>X</u> Not applicable		The applicant was not required by staff to complete the additional information. As a result the provisions of this section do not apply.	<u>x</u> Not applicable	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.8.10 (B) (3) (o)  All applications shall contain a demonstration that the wireless support structure is sited so as to have the least visually intrusive effect reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the telecommunications tower.	X Yes	___ No	<u>Tab(s) 3 and 7</u> of the application booklet contains the required information.	_x Yes	___ No
5.8.10 (B) (3) (p)  A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower's compliance with applicable standards as set forth in the State of North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.	X Yes	___ No	<u>Tab(s) 3 and 30</u> of the application booklet contains the required information.  <u>Tab 30</u> contains a statement authored by Margaret Robinson of American Tower	_x Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 5.10.8 (B) (4) Standards of Evaluation					
5.10.8 (B) (4) (a) (a) The telecommunications equipment planned for the proposed wireless support structures cannot be accommodated on an existing wireless support structures due to one or more of the following reasons: (i) The planned equipment would exceed the structural capacity of existing and approved wireless support structures, considering existing and planned use of those wireless support structures and the wireless support structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost. (ii) The planned equipment would cause radio frequency interference with other existing or planned equipment for these wireless support structures, and the interference cannot be prevented at a reasonable cost. (iii) Existing or approved wireless support structures do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing or approved equipment. (iv) No tower or other suitable facility exists in an area where the equipment to be placed on the tower will function in its intended manner.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<b>Tab(s) 3 and 14</b> of the application booklet contains the required information.  There are no existing towers in the area to address service provision needs. As a result the antenna proposed for the site cannot be located elsewhere.  The application in its entirety provides the necessary documentation outlining why the tower has to go on this property.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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**SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS – CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (b)  Location of Wireless Support Structures:  (i) Applicants for facilities shall locate, site and erect said facilities according to the following priorities, in the following order:  a. On existing County-owned facilities without increasing the height of the tower or structure. b. On existing Facilities without increasing the height of the tower or structure. c. On County-owned properties or facilities. d. On properties in areas zoned for commercial or industrial use. e. On properties in areas zoned Agricultural Residential (AR). f. On properties in areas zoned for residential use.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 14</b> of the application booklet contains the required information.  There are no 'County' owned facilities in the area allowing for antenna to be located.  There are no existing towers in the area to address service provision needs.  There are no 'County' owned properties where a tower could be located.  There are no commercially and/or industrially zoned properties in the area where a tower could be located.  There subject property is zoned AR.  This property is zoned for residential use.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> _Yes	___No		<u>x</u> _Yes	___No
5.10.8 (B) (4) (b) Continued  (ii) If an Applicant proposes to place telecommunications equipment at a location that is not a preferred priority 1 site, then the Applicant must provide a detailed explanation as to why a higher priority site is not proposed. The explanation shall be in the form of a written report demonstrating the Applicant's review of the above locations in order of priority and the reason(s) for the site selection. The explanation shall, at a minimum, include the information required by section 5.10.8(B)(3)(e).  (iii) The application shall not be approved unless it demonstrates that the telecommunications equipment may not be sited at a higher priority site because of commercial impracticability or because no higher priority site is available that would serve to provide the telecommunications service need identified by the Applicant as provided for in section 5.10.8(A)(1)(s).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This property represents the lowest priority site per Section 5.10.8 (B) (4) (b) (i) (f) as detailed above.  The proposed tower is located: ' <i>On properties in areas zoned for residential use</i> '	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
<p>5.10.8 (B) (4) (b) Continued</p> <p>(iv) An Applicant may not by-pass sites of higher priority merely because the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability.</p> <p>(v) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, an application shall not be approved if it conflicts with the provisions and requirements of this Ordinance.</p>			<p>The applicant is not by-passing a 'higher priority' site with the proposal to erect a tower on this property. There are no higher priority sites in the area where a tower can be located.</p>		

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
5.10.8 (B) (4) (b) Continued  (vi) Wireless support structures shall not be located within one-half (½) mile of any existing monopole, lattice or guyed wireless telecommunications support structure.  a. An exception may be allowed when the applicant can sufficiently demonstrate that:  i. Appropriate space on the existing telecommunication wireless support structure is not available; or ii. The applicant has made good faith effort to negotiate an agreement with the owner of the existing wireless telecommunication support structure and has been unsuccessful, which must be documented in writing; or iii. The telecommunication equipment on the existing wireless telecommunication support structure is not compatible with the proposed telecommunication equipment of the applicant; or iv. Adequate coverage by the applicant cannot be met at the location of the existing wireless telecommunication support structure; or v. The existing wireless telecommunication support structure cannot be reasonably modified to accommodate additional co-location by the applicant.			There are no wireless support structures within ½ mile of this property.		

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS
5.10.8 (B) (4) (b) Continued  b. Exceptions shall only be allowed after a thorough analysis of the search area, provided by the applicant is performed by the County's consultant or Staff, indicating that coverage is not possible on an existing wireless support structure at the four-carrier capacity or other user capacity that can be achieved. There must be an 80% approval vote of the deciding board for this specific finding to pass the exception criteria.			

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.10.8 (B) (4) (c) Setbacks  (i) Within or adjacent to residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be equal to 110% of the wireless support structure height.  (ii) If the wireless support structure is proposed as an accessory use to a residential use, the setback shall be 110% of the wireless support structure height from any residence or dwelling unit on the subject property.  (iii) Adjacent to non-residential uses or non-residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be the greater of 20% of the tower height, or the minimum required setback.  (iv) All buildings and other structures to be located on the same zoning lot as a telecommunication tower wireless support structure shall conform with the setbacks established for the zoning district or as established through the subdivision process, whichever is greater.	X		<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-1 of the site plan contained in <b>Tab 6</b> indicates the base of the tower will be 218 feet from the nearest property line.  The application package indicates there are no residential 'houses' on the site.  There are also no adjacent non-residential land uses or zoning districts per subsection (iii) as detailed herein.	_x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (d) Access  (i) At a wireless telecommunications support structure site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access.  (ii) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.  (iii) Road construction shall, at all times, minimize ground disturbance and the cutting of vegetation.  (iv) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><b>Tab(s) 3 and 6</b> of the application booklet contains the required information.</p> <p>Sheet C-1 and C-2 of the site plan contained in <b>Tab 6</b> contains sufficient detail denoting compliance.</p> <p>Existing roads will be utilized to the maximum extent possible. Road construction shall follow, to the greatest extent possible, the existing contour of the land and minimize the removal of vegetation.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (e) Landscape and Buffers  (i) A Type C Landscape Buffer shall be provided between the wireless support structures and its accessory structures and adjoining property/properties.  (ii) Existing vegetation may be removed only to the extent necessary to accommodate the wireless support structures, equipment buildings, and support structures such as guy wires.  (iii) Plantings around the compound perimeter, outside of any fence or wall, shall be composed entirely of fast growing evergreen vegetation.  (iv) New plantings and existing vegetation used for screening shall be at least six feet in height or greater at planting.  (v) Proposed plantings (name, type, height) shall be shown on the Landscape Plan for the facility.  (vi) Landscaping shall provide a screen on a year-round basis.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  The proposed tower is located in a heavily wooded area of the property. Existing vegetation satisfies the landscape buffer requirement.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (f) The visibility of the balloon to adjacent properties and the surrounding area shall not constitute sole justification of denial of a permit application but is an indication of what location on the site may be less visually intrusive.	<u>X</u> Yes	___ No	The applicant acknowledges the condition. Balloon Test information, including visibility pictures/renderings are contained within <b>Tab 7</b> of the application package	<u>x</u> Yes	___ No
5.10.8 (B) (4) (g) The applicant shall demonstrate and provide a description in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed facility.	<u>X</u> Yes	___ No	<b>Tab(s) 3, 6, and 7</b> of the application booklet contains the required information.  Sheet C-1 of the site plan in <b>Tab 6</b> provides information on the landscaping. <b>Tab 7</b> provides information related to the balloon visibility.	<u>x</u> Yes	___ No
5.10.8 (B) (4) (h) The site plan shall indicate a location for at least two equipment buildings in addition to that proposed for use by the applicant.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-2 of the site plan in <b>Tab 6</b> provides the required information.	<u>x</u> Yes	___ No
5.10.8 (B) (4) (i) All utilities at a facility site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (j)  All wireless support structures shall satisfy all applicable public safety, land use, or zoning issues required in this Ordinance, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.	<u>x</u> Yes	___ No
5.10.8 (B) (4) (k) Fences and Walls  (i) An eight foot fence or wall shall be required around the base of any wireless support structures. This fence or wall shall encompass all accessory equipment within the compound.  (ii) Fences shall be required around guy wire tie downs  (iii) A fence or wall may be placed around the perimeter of the facility to include guy wire tie downs and associated equipment should the applicant/owner wish to do so.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-10 of the site plan contained in <b>Tab 6</b> contains the required information on proposed fences and walls.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (l)  The communications tower is structurally designed to support additional users as provided for in Section 5.10.8(A)(3)(d), and the Special Use Permit includes a statement that the owner of the wireless support structure is willing to permit other user(s) to attach communication equipment which do not interfere with the primary purpose of the wireless support structure, provided that such other users agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.	<u>X</u> Yes	___ No	<b>Tab(s) 3 and 31</b> of the application booklet contains the required information.  <b>Tab 31</b> contains the required co-location certification document.	<u>x</u> Yes	___ No
5.10.8 (B) (4) (m)  To minimize the number of antenna arrays and thus the visual impact, the County may require the use of dual mode antennas to be used, including by two different carriers, unless it can be proven that such will not work technologically and that such would have the effect of prohibiting the provision of service in the County.	<u>X</u> Yes	___ No	The applicant acknowledges the condition.  Staff is recommending this as a specific condition of approval.  Language within the application allows for this if required by the County.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> _Yes	___No		<u>x</u> _Yes	___No
5.10.8 (B) (4) (n)  Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.	<u>X</u> _Yes	___No	The applicant acknowledges the condition.  Language within the application indicates the proposed monopole will be constructed of galvanized steel, grey in color, and will <i>'harmonize and blend with and into the environment and natural color of the background'</i>	<u>x</u> _Yes	___No
5.10.8 (B) (4) (o)  Both the wireless telecommunications support structure and any and all accessory or associated telecommunication equipment and related facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth technology as may be required by the County.	<u>X</u> _Yes	___No	<b>Tab(s) 3</b> of the application booklet contains the required information.  Language within the application indicates the proposed monopole will be constructed of galvanized steel, grey in color, and will <i>'harmonize and blend with and into the environment and natural color of the background'</i>	<u>x</u> _Yes	___No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (p) Antennas  (i) All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted or as close to flush-mounted as is technologically possible on any facility, so long as such does not have the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), unless the applicant can prove that it is technologically impracticable.  (ii) If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><b>Tab(s) 3 and 6</b> of the application booklet contains the required information.</p> <p>Sheet C-3 of the site plan contained within <b>Tab 6</b> indicated the antennas will be located on the proposed monopole tower will be flush mounted.</p> <p>Language within the application indicates this condition will be adhered to.</p> <p>Subsection (ii) is not applicable to this application.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (q) Lighting	<u>X</u> Not Applicable		As detailed within the application the tower is not required, or is it going to be, illuminated.	<u>x</u> Not Applicable	
5.10.8 (B) (4) (r)  The tower and antenna will not result in a significant adverse impact on the view of or from any historic site, scenic road, or major view corridor.	<u>X</u> Yes	___ No	Adjacent roadways are not designated as scenic roads or major view corridors.  According to a memorandum from Orange County DEAPR staff, contained within <b>Attachment 2</b> of the staff abstract, there are no issues with respect to detracting from historic sites.	<u>x</u> Yes	___ No
5.10.8 (B) (4) (s)  Facilities, including antennas, towers and other supporting structures, such as guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.	<u>X</u> Yes	___ No	The applicant acknowledges the condition.  Language within the application indicates this condition will be adhered to.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (B) (4) (t)  All abandoned communication wireless support structures shall be removed within 12 months of the cessation of use. A bond or other security guaranteeing the removal of the tower in the event that it is abandoned or unused for a period of 12 months shall be posted. A cost estimate shall be provided by a qualified General Contractor licensed in the State of North Carolina. The amount of the security shall be 110% of the estimate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The applicant acknowledges the condition.  Language within the application indicates this condition will be adhered to.  This will be addressed prior to the issuance of a Certificate of Occupancy of the structure and shall become a condition of approval.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.10.8 (B) (4) (u)  A determination shall be made that the facility and its equipment will comply with all federal, state and local emission requirements, and the Special Use Permit shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The applicant acknowledges the condition.  Language within the application indicates this condition will be adhered to.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (4) (v) Electro-magnetic radiation levels.  (i) The Special Use Permit shall include a condition that the electro-magnetic radiation levels maintain compliance with requirements of the FCC, regarding emission of electromagnetic radiation.  (ii) Within 30 days of installation of equipment on the tower, and within 30 days of the installation of any additional equipment in the future, the tower owner shall provide documentation of emission levels in relation to FCC standards.  (iii) In addition, the tower owner must provide documentation of emission levels within five working days if so requested by Orange County.  (iv) Orange County may make such requests at any time, not to exceed two times per year.	<u>X</u> Yes	___ No	The applicant acknowledges the condition.  Language within the application indicates this condition will be adhered to.  This will become a condition of approval for the project.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.10.8 (B) (4) (w) "High Voltage", "No Trespassing" and Other Signs  (i) If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.  (ii) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.  (iii) The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least five feet above the finished grade of the fence.	X		<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-11 of the site plan contained within <b>Tab 6</b> provides the signage details for the project, demonstrating compliance with this provision.	_x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.10.8 (B) (4) (w) Continued  (iv) The warning signs may be attached to freestanding poles if the content of the signs would, or could, be obstructed by landscaping. Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation.  (v) Facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area.  (vi) A sign no larger than four square feet containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s) shall be installed. The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet.	X		<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-11 of the site plan contained within <b>Tab 6</b> provides the signage details for the project, demonstrating compliance with this provision.	_x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.10.8 (B) (4) (w) Continued  (vii) On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting.  (viii) The use of any portion of a tower for signs or advertising purposes including company name, banners, streamers, etc. shall be strictly prohibited.  (ix) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.	X		<b>Tab(s) 3 and 6</b> of the application booklet contains the required information.  Sheet C-11 of the site plan contained within <b>Tab 6</b> provides the signage details for the project, demonstrating compliance with this provision.	_x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (5) Bond Security  (a) The applicant and the owner of record of any proposed facility property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Section and conditions of any Special Use Permit issued pursuant to this Section.  (b) The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit Tower Inspection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tab(s) 3</u> of the application booklet acknowledges the condition and indicates it shall be adhered to.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
5.10.8 (B) (6) Liability Insurance  (a) A holder of a Special Use Permit for a wireless support structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in the following amounts: (i) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate; and (ii) Automobile Coverage: \$1,000,000.00 per occurrence/ \$2,000,000 aggregate; and (iii) A \$3,000,000 Umbrella coverage; and (iv) Workers Compensation and Disability: Statutory amounts. (b) For a wireless support structure on County property, the Commercial General Liability insurance policy shall specifically name the County as an additional insured. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.	<u>X</u> Yes	___ No	<u>Tab(s) 3</u> of the application booklet acknowledges the condition and indicates it shall be adhered to.	<u>x</u> Yes	___ No

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X Yes	___ No		_x Yes	___ No
5.10.8 (B) (6) Liability Insurance Continued  (c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance.  (d) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace.  (e) Before construction of a permitted facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the County shall not be deemed to comply with this Section.	X		<b>Tab(s) 3</b> of the application booklet acknowledges the condition and indicates it shall be adhered to.  This shall become a condition of approval for the project.	x	

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1 **SECTION 5.10.8 (B) – GENERAL SUBMITTAL REQUIREMENTS – SPECIAL USE PERMITS –**  
 2 **CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X_Yes	___No		_x_Yes	___No
5.10.8 (B) (6) Liability Insurance Continued  (c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance.  (d) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace.  (e) Before construction of a permitted facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the County shall not be deemed to comply with this Section.	X_Yes	___No	<b>Tab(s) 3</b> of the application booklet acknowledges the condition and indicates it shall be adhered to.  This shall become a condition of approval for the project.	_x_Yes	___No

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1 **SECTION 5.3.2 (B) – SPECIFIC STANDARDS – SPECIAL USE PERMITS ("Yes" indicates**  
 2 **compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	X_Yes	___No		_x_Yes	___No
<b>Section 5.3.2 (B) (1)</b>  Method and adequacy of provision for sewage disposal facilities, solid waste and water service.	X_Yes	___No	<b>Attachment 2</b> of the staff prepared abstract contains memorandum/emails from Orange County Environmental Health indicating there are no septic systems required for the support of the proposed telecommunication tower.  There is also an e-mail from Jeff Scouten, Orange County Solid Waste, indicating his approval of the project.	_x_Yes	___No

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1 **SECTION 5.3.2 (B) CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
<p><b>Section 5.3.2 (B) (2)</b></p> <p>Method and adequacy of police, fire and rescue squad protection.</p>	<u>X</u> Yes	___ No	<p>Fire protection will be provided by the White Cross Volunteer Fire Department, rescue service by the Orange County Emergency Management, and police protection by the Orange County Sheriff's Department.</p> <p><b>Attachment 2</b> of the staff prepared abstract contains an e-mail from Mr. David Sykes of Orange County Emergency Management concerning approval of the project.</p> <p>Orange County Sheriff's office has also indicated they can support the project.</p>	<u>x</u> Yes	___ No
<p><b>Section 5.3.2 (B) (3)</b></p> <p>Method and adequacy of vehicle access to the site and traffic conditions around the site.</p>	<u>X</u> Yes	___ No	<p>The submitted site plan shows the required access points.</p> <p>A recommended condition of approval is the applicant secure a NC DOT drive permit allowing for the project to be accessed via New Sharon Church Road</p>	<u>x</u> Yes	___ No

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3 **MOTION** made by David Blankfard to agree with staff's findings on pages 40 through 90.

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5 Larry Wright: I was going to take it by sections.

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7 David Blankfard: Do we not have a second?

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9 **MOTION** made by David Blankfard to agree with staff's findings on pages 40 through 90. Mark Micol  
10 seconded.

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Samantha Cabe: My only comment as the alternate is to reiterate that we have to base our decision on the evidence and the only evidence before us supports all those findings.

Larry Wright: That is why I would like to break it down by sections.

**MOTION** made by David Blankfard to agree with staff's findings on pages 40 through 90. Mark Micol seconded.

**VOTE:** 4 in favor, 1 opposed (Larry Wright)

Larry Wright: Mr. Bryan, don't we have to document why we are doing this or voting for staff findings and we have to justify this?

James Bryan: The justifications are in the next three.

Debra Graham: We have done this in the past.

1 **SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No"**  
 2 **indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>Will</u>	<u>Not</u>		<u>Will</u>	<u>Not</u>
In accordance with Section 5.3.2 (A) (2), the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:	<p><b>NOTE:</b> Planning Staff does not provide a recommendation on these items as the Board is expected to act based on the sworn testimony provided at the hearing.</p>				
Section 5.3.2 (A) (2) (a)  The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.	<u>Will</u>	<u>Will Not</u>	<p>Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement:</p> <ul style="list-style-type: none"> <li>• The application package and project narrative contained within <b>Tab 3</b> of the application booklet.</li> <li>• <b>Tab 39</b> of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property.</li> <li>• <b>Tab 6</b> of the application booklet contains a site plan denoting the projects compliance with the UDO.</li> </ul>	<u>Will</u> <sup>x</sup>	<u>Will Not</u>

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<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
Section 5.3.2 (A) (2) (a)  Continued			<ul style="list-style-type: none"> <li>• <u>Tab(s) 14, 16, 17, 18, 19, 20, 21, 22, 28, and 30</u> of the application booklet contain evidence demonstrating the need for the tower, provisions for guaranteeing the public's safety and general welfare.</li> </ul>		

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Larry Wright: Let's move on to page 91. This is General Standards and we have the requirements in 5.3.2 (A) (2) (a) and on page 92 this is continued and the findings continue onto tables 14, 16, 17, 18, 19, 20, 21, 22, 28, and 30. Do I have a motion for this?

**MOTION** made by Mark Micol to find in favor of the finding that the use will maintain and promote the public health, safety and general welfare if located where proposed based on the testimony of Desiree Goldman representing the Greater Chapel Hill Association of Realtors and Aaron Nelson, President of the Chapel Hill Carrboro Chamber of Commerce that the additional tower will encourage the expansion of affordable high speed internet access in the County and provide equitable access to rural underserved areas. David Blankfard seconded.

**VOTE:** Unanimous

1 **SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No"**  
 2 **indicates non-compliance)**  
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<u>Ordinance Requirements</u>	<b>PLANNING STAFF RECOMMENDED FINDINGS</b>		<b>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</b>	<b>BOA FINDINGS</b>	
	<u>Will</u>	<u>Will Not</u>		<u>Will</u>	<u>Will Not</u>
Section 5.3.2 (A) (2) (b)  The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).	<u>Will</u>	<u>Will Not</u>	Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement:  <ul style="list-style-type: none"> <li>• The application package and project narrative contained within <b>Tab 3</b> of the application booklet.</li> <li>• <b>Tab 39</b> of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property.</li> <li>• <b>Tab 6</b> of the application booklet contains a site plan denoting the projects compliance with the UDO.</li> </ul>	<u>Will</u> <input checked="" type="checkbox"/>	<u>Will Not</u>

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 5 Larry Wright: On page 93, Section 5.3.2 (A) (2) (b) and we have on page 94, Section 5.3.2 (A) (2)  
 6 (c). What is the board's pleasure?  
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8 Debra Graham: You need to do page 93 and 94 separately.  
 9

10 **MOTION** made by David Blankfard to find in favor that the use will maintain or enhance the value of  
 11 the contiguous properties based on the finding of the Impact Analysis prepared by David A. Smith,  
 12 MAI, SRA. Mark Micol seconded.

13 **VOTE:** Unanimous  
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<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	___ Is	___ Is Not		<u>x</u> Is	___ Is Not
<p>Section 5.3.2 (A) (2) (c)</p> <p>The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.</p>	___ Is	___ Is Not	<p>Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement:</p> <ul style="list-style-type: none"> <li>• The application package and project narrative contained within <b>Tab 3</b> of the application booklet.</li> <li>• <b>Tab 39</b> of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property.</li> <li>• <b>Tab 6</b> of the application booklet contains a site plan denoting the projects compliance with the UDO.</li> </ul>	<u>x</u> Is	___ Is Not

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3 Larry Wright: On page 94, Section 5.3.2 (A) (2) (c).

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5 **MOTION** made by David Blankford to find in favor that the location and character of use if developed  
6 according to the plan submitted will be in harmony with the area which is to be located and the use is  
7 in compliance with the plan for the physical development of the county as embodied in these  
8 regulations or in the Comprehensive Plan or a portion thereof adopted by the Board of County  
9 Commissioners based on the fact that it will not be an environmental impact or additional traffic, no  
10 lights on the structure, no noise and limited visibility. Mark Micol seconded.

11 **VOTE:** Unanimous

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**RECOMMENDATION**

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Staff has not received any information that would establish grounds for making a negative finding on the general standards as detailed above. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, the use being in harmony with the area in which it is to be located, and the use being in compliance with the general plan for the physical development of the County.

Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant **complies** with the specific standards and required regulations as outlined within the UDO

Provided the Board of Adjustment finds in the affirmative on the specific and general standards, the Board could make a positive finding on this application. In the event that the Board makes a recommendation to issue the permit, staff recommends the attachment of the following conditions:

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1. The height of the tower shall not exceed a height of 199 feet above pre-construction grade as detailed within the approved application package as reviewed and acted upon by the Board of Adjustment at their June 10, 2013 meeting.
2. Existing vegetation, as detailed on the approved site plan reviewed and acted upon by the Board of Adjustment at their June 10, 2013 meeting, shall be maintained as indicated.
3. The facility and its equipment shall comply with all federal, state and local emission requirements.
4. The electro-magnetic radiation levels shall be maintained compliance with all federal, state and local requirements, including the requirements of the Federal Communications Commission regarding emission of electromagnetic radiation. Within 30 days of installation of equipment on the tower, and within 30 days of the installation of any additional equipment in the future, the tower owner shall provide documentation of emission levels in relation to FCC standards to the County for review. In addition, the tower owner must provide documentation of emission levels within five working days if so requested by Orange County. Orange County may make such requests at any time, not to exceed 2 times per year.
5. Two ten pound 2-A:20-B:C dry chemical portable fire extinguishers shall be installed at the site at a conspicuous location for use during an emergency event.
6. As required within Section 5.10.8 (A) (1) (g) of the UDO, the applicant shall be required to provide a final copy of the installed foundation design including a geotechnical sub-surface soils investigation, evaluation report, and foundation recommendation for the proposed wireless support structure prior to the commencement of land disturbing activities associated with the construction of the telecommunication facilities.
7. The applicant shall obtain a driveway permit from the NC Department of Transportation approving the driveway access for the project off of New Sharon Church Road.
8. Final assignment of a street address shall be completed by Orange County Land Records prior to the issuance of any permit authorizing land disturbing activity on the property.
9. The applicant shall obtain all necessary development permits from the County prior to the initiation of and land disturbing activity associated with the construction of the telecommunication facilities including, but not limited to: Building Permit, Erosion Control/Stormwater Management Permit, Zoning Compliance Permit.

- 1       **10.** Any proposed co-location of antenna on this tower shall be reviewed, acted upon, and  
2       installed in accordance with the provisions of the UDO.
- 3       **11.** A co-location site shall be offered to the County for the placement of antenna in support of  
4       local emergency communication needs.
- 5       **12.** The applicant shall submit all necessary bonding/financial security documents to the County  
6       Attorney's office for review and approval guaranteeing the removal of the tower in the event it  
7       is abandoned or unused for a period of 12 months. A cost estimate shall be provided by a  
8       qualified contractor. The amount of the security shall be 110 percent of the estimate. This  
9       must be completed before building permits are issued.
- 10       **13.** Telecommunication tower owners shall submit a report to the County Inspections Division  
11       certifying structural and electrical integrity upon completion of the initial construction and at  
12       intervals as specified within the UDO.
- 13       **14.** Inspection records shall be kept by the tower owner and made available upon request to the  
14       County Inspections Division during regular business hours. Inspections shall be performed as  
15       specified within the UDO.
- 16       **15.** In those cases where an inspection is required, which is not performed by Orange County  
17       Inspections, the applicant is required to notify the Planning Department and any applicable  
18       County telecommunication consultant of the inspection and its results.
- 19       **16.** Nothing associated with the approval, development or use of the property in support of the  
20       proposed telecommunication facilities shall be construed as impacting the use of the property  
21       for bona-fide farm purposes. Expansion of farming activities shall not constitute a modification  
22       of the special use permit as detailed within the UDO requiring a re-review of the project by the  
23       Board of Adjustment.
- 24       **17.** The County's telecommunications consultant shall issue a final Certificate of Completion upon  
25       the completion of a final inspection of the constructed telecommunication facilities.  
26       Commercial service cannot be provided/initiated until this final Certificate is completed and  
27       issued.
- 28       **18.** The Special Use Permit will automatically expire within 12 months from the date of approval if  
29       the use has not commenced or construction has not commenced or proceeded unless a  
30       timely application for extension of this time limit is approved by the Board of Adjustment.
- 31       **19.** If any condition of this Special Use Permit shall be held invalid or void, then this Special Use  
32       Permit shall be void in its entirety and of no effect.

33  
34       **MOTION** made by Karen Barrows to approve the request with the additional 19 recommendations.  
35       David Blankfard seconded.

36       **VOTE:** Unanimous

37  
38       **MOTION** made by Karen Barrows to accept this special use permit for a communications tower off  
39       New Sharon Church Road with the 19 conditions from staff. David Blankfard seconded.

40       **VOTE:** Unanimous

41  
42       **MOTION** made by David Blankfard that there were no oppositions to the findings of fact. James Carter  
43       seconded.

44       **VOTE:** Unanimous

1

2 AGENDA ITEM 8: **CASE A-2-13: Class B Special Use Permit Proposing Development of**  
3 **Telecommunication Facilities at 1426 Old Greensboro Road (PIN 9768-22-**  
4 **3878)**

5 In accordance with Section(s) 2.7 *Special Uses*, 5.2.2 *Table of Permitted Uses*, 5.3.2  
6 *Application of Use Standards – Special Uses*, and 5.10 *Standards for*  
7 *Telecommunication Facilities* of the UDO American Tower and AT and T Mobility have  
8 submitted a Class B Special Use Permit application seeking a permit to erect a 199  
9 foot telecommunication tower on a 28 acre parcel of property at 1426 Old Greensboro  
10 Road further identified utilizing Orange County Parcel Identification Number (PIN)  
11 9768-22-3878.

12 As detailed within the application, the applicant wishes to erect a telecommunication  
13 tower within a 100 foot by 100 foot leased area on the south-west portion of the  
14 aforementioned parcel. There will be an equipment cabinet at the base of the tower to  
15 house equipment for the various communication providers utilizing the tower within a  
16 60 foot by 60 foot fenced compound.

17 Access to the proposed facility is proposed to be through a proposed drive off of  
18 Sesame Road.

19  
20 The following persons were sworn in:  
21

- |                |                   |
|----------------|-------------------|
| Rusty Monroe   | Kristen C. Smith  |
| Jeremy Browner | Desiree Goldman   |
| David A. Smith | Aaron Nelson      |
| Karen Kemerait | David Lacava      |
| Dakota Johnson | Stephen M. Howard |
| Jill House     | Gary Dixon        |
| Michael Harvey |                   |

22  
23 Larry Wright. I would like to state that this is a separate case from the one before even though the  
24 attorney and the applicant will have the same case of characters. This will be on 1426 Old  
25 Greensboro Road property. Does anyone have any comments?  
26

27 James Bryan: This board did hear partial testimony about this in the previous case. That expatriate  
28 communication just for information in case anyone came in late.  
29

30 Michael Harvey: On page 97, we have another Special Use Permit by American Tower and AT&T  
31 Mobility proposing to erect a telecommunication facility on a parcel of property located on 1426 Old  
32 Greensboro Road, PIN 9768-22-3878. There is a property map in Attachment 1 providing an aerial  
33 photo of the property. Attachment 2 is staff comments relating to this application. We would also like  
34 to point out that I have a revised, what I am calling Applicant Exhibit 1, a revised letter for the Center  
35 of Municipal Solutions approving the project or recommending approval of the project. Attachment 3  
36 is a Notification of Materials for certification for the mailing and the sign posting and the special use  
37 permit Findings of Fact. We are looking at another 199 foot telecommunication tower and a 100 by  
38 100 foot leased area of the subject parcel. There will be a 60 by 60 foot fenced compound supporting  
39 the telecommunication tower. As we stipulated during the last application on page 99, there are no  
40 preselected sites or County owned/leased sites or commercial property in this general area where a  
41 telecommunication tower should be located and as such, this is the last tier out of the residential  
42 zoned property where telecommunications tower could be located and it required by 5.10.8 of the  
43 UDO. As I have indicated, Attachment 2 contains various comments from county departments on this  
44 project. We will stipulate that the applicant met their burden with respect to submission of this

1 application as required by the UDO. As you know, we are not making any recommendations on the  
2 general findings of fact on page 100. The use will maintain or promote the public health, safety and  
3 general welfare; the use will maintain or enhance the value of contiguous property; the location and  
4 character of the use, if developed according to the plan submitted, is in harmony with the area in  
5 which it is to be located and consistent with the Comprehensive Plan. We don't make  
6 recommendations on those. On page 100, we have identified several key components of the  
7 Comprehensive Plan leaving credence to the notion of allowing telecommunications facilities on this  
8 property and the rural areas of the county. Unlike the last application, we have received numerous  
9 phone calls from adjoining property owners related to this proposal expressing concern over the  
10 development of a tower. There have been complaints over the lack of notice that in notifying  
11 individuals of this hearing, there have been complaints that the local residents have not had sufficient  
12 time to secure the services of necessary experts to refute the application, and there have been  
13 accusations that the project will have a negative impact on the value of adjacent property. There  
14 have been complaints that local residents will be able to see the tower. This is a quasi-judicial  
15 hearing where you are accepting evidence as sworn testimony and you have to base the decision to  
16 approve or deny the application on that sworn testimony, competent material, substantial evidence  
17 introduced into the record. I would like to enter into the record an approved copy of the Orange  
18 County Unified Development Ordinance and the 2030 Comprehensive Plan, as well as our abstract.

19  
20 Larry Wright: Is this a tree farm?

21  
22 Michael Harvey: No sir.

23  
24 Larry Wright: If the property is maintained as it states then, if in the findings this property does have  
25 to be maintained as presented in the application therefore, they cannot log it.

26  
27 Michael Harvey: The current property owners, the Yows, cannot do anything that would have a  
28 negative impact on the approval of this tower. For example, if there are areas (of the property) that  
29 are designated as being preserved, vegetation being preserved, to meet a land use buffer  
30 requirement, that area has to be maintained but obviously their continued use of the property as a  
31 farm is guaranteed by state law and there is a condition that states that the approval of the cell tower  
32 will in no way, shape or form limit their ability to continue to use the property as a farm use.

33  
34 Larry Wright: Board members have any other questions, Mr. Harvey, the applicant's attorney?

35  
36 Karen Kemerait: I am an attorney with the law firm of Styers, Kemerait and Mitchell. I apologize in  
37 advance for repeating some of the same information but the board knows this is a separate  
38 application so I will have to be somewhat redundant. I will go briefly to the background materials.  
39 There have been numerous changes in technology for the wireless industry that effected carriers and  
40 wireless communications devices are much more than telephone systems in today's modern world.  
41 There are more benefits and services that are available such as convenience so that calls can be  
42 made from any location and people can work remotely from homes and offices. One of the benefits  
43 and services would be a safety benefit so that telecommunications customers could use their  
44 telecommunications devices to access 911 or emergency services at times when they might have car  
45 trouble or during disasters such as hurricanes when the land line systems may be down. Also, the  
46 most recent is connectedness to the world that has been available through the advent of smart  
47 phones. With the availability of messaging, internet, text, emails, data, phones, video, etc. the  
48 technology changes have been happening very rapidly. The public has been both expecting and  
49 demanding that these services become available to them. I think it is very important to communities  
50 from an economic development perspective that such wireless telecommunication services are made  
51 available. As I previously mentioned Orange County has not had a new telecommunications tower  
52 approved since 2009 therefore, the telecommunications infrastructure has not kept pace with the  
53 rapid improvement in technology that is required when additional infrastructure is necessary.

1  
2 I want to move on to one comment that I have heard from Mr. Harvey about concerns about not  
3 having enough notice from some of the neighbors. I wanted to point out that there has been a  
4 significant amount of notice that has been provided. There has been more than two months in which  
5 we have been providing notice about the proposed tower and that has been ample time for the  
6 neighbors to learn about what we have proposed and be prepared for the hearing. The first notice  
7 was over two months ago. We are required by the ordinance to perform a balloon test and a balloon  
8 test was conducted for a four hour period on April 20 and part of the balloon test is there is notice  
9 posted on the property about the proposed telecommunications tower and prior to the balloon test, on  
10 April 3, we sent certified letters to all property owners within 1,000 feet of the tower site. In the letter,  
11 we provided information that we were filing a special use permit application and we also provided the  
12 site plans for the special use permit application and also general information that answered questions  
13 that residents might have about telecommunications towers. Also in the letter I provided information  
14 about if there were questions or concerns, I provided my telephone number and email address and  
15 stated I could be contacted. I did receive one telephone call from a woman and I spoke to her  
16 generally about our application but that is the only contact I have had by email or telephone about our  
17 proposed applications. Also, a notice was published in two different newspapers, the News of  
18 Orange County, notice of the special use permit application was provided on April 3, 10 and 17 and in  
19 the Herald Sun, notice was provided on April 5, 12 and 19 and more recently the county's ordinance  
20 does not require that a community meeting be held but I heard from Mr. Harvey that there had been  
21 some concern so I wanted to have a neighborhood meeting so I could try to listen to what the  
22 concerns are and hopefully address them and provide answers so I voluntarily had a community  
23 meeting and I sent the letters on April 28 to all the property owners within 1,000 feet of the site and  
24 the community meeting was held on June 4.

25  
26 Larry Wright: How many people attended?  
27

28 Karen Kemerait: About 12. The reason I provide all that history is because I wanted you to know  
29 there has been two and one half months which notice had been provided to the neighbors. I want to  
30 talk specifically about the application. This is a very important application for AT&T and American  
31 Tower and also for Orange County as well. There are many areas in Orange County where there is  
32 no coverage or insufficient coverage especially in the rural areas outside Chapel Hill, Carrboro and  
33 Hillsborough and this is another area in the rural area of Orange County. While the demand for the  
34 wireless service continues to increase, the construction for the infrastructure has not kept pace and  
35 been stagnant since 2009. AT&T specifically with this location has been approached by people who  
36 live in the area, traveling from the Greensboro area east toward Carrboro in their cars and businesses  
37 in the area and also had conversations with business owners generally in Orange County and the  
38 Chamber of Commerce about how better telecommunication coverage is necessary and this is a very  
39 critical area where coverage is needed. AT&T and American Tower is coming forward with a plan  
40 and they are coming forward with a significant investment to improve coverage for the Orange County  
41 residents. The reason for this particular tower is there is a large gap in coverage and when there is a  
42 large gap in coverage detected a team of construction analysts and engineers look for ways to fill that  
43 gap in coverage and they first look at existing structures (i.e., telecommunication towers, water tanks,  
44 etc.) and in this area, there were no telecommunications, water tanks or large buildings that AT&T  
45 could put its antennas on and that would be AT&T's first preference to find an existing structure to  
46 locate its antennas on. When there were no existing structures, AT&T and American Tower have  
47 been working hard to find a good location for a new telecommunications tower and we have found,  
48 what I believe is an ideal location for this telecommunications tower and I don't think it would be  
49 possible to find a better location than this in this area where the coverage is needed. This is a large  
50 tract of land, 28 acres, and part of it is used for farm land and there are also woods directly  
51 surrounding the tower and the purpose of this tower is to solve that gap in coverage. The gap is west  
52 of the town of Carrboro and it also will resolve the gap in coverage along Old Greensboro and Jones  
53 Ferry Road. Under tab 20 and this is the propagation map and this is where the tower location would

1 be and as you can see, the area surrounding this tower is pink and white and blue and a little green  
2 and the coverage you are looking for is red and yellow if possible and you want as little pink and white  
3 and blue if possible and as I mentioned before white is no coverage, pink is not reliable coverage,  
4 blue is coverage as a pedestrian when you are walking, green is in vehicle coverage, yellow means  
5 you would have coverage in a residential building and red means you would have coverage in a  
6 business building. After the site is constructed... this is the propagation map that shows the  
7 telecommunication coverage that will be available with this site.

8  
9 Samantha Cabe: Can you indicate on those maps where Jones Ferry and Greensboro Highway are?

10  
11 Karen Kemerait: This is Old Greensboro Road and Jones Ferry Road comes down this way. This is  
12 Highway 54, this is West Main Street, this is Highway 86 and this is 15-501.

13  
14 Larry Wright: Can we see the before picture alongside that?

15  
16 Samantha Cabe: Is the Chatham County line marked on there?

17  
18 Karen Kemerait: Once this site is on air, that will provide the corridor east from Greensboro to the  
19 west going into Carrboro and also add this contiguous coverage and these sites will hand off to each  
20 other so there will be contiguous coverage in this area.

21  
22 Larry Wright: You were pointing to where it is white.

23  
24 Karen Kemerait: There is no coverage here.

25  
26 Larry Wright: Could you repeat the statement where you were going down toward the white into the  
27 Greensboro coverage.

28  
29 Karen Kemerait: This would be along Old Greensboro Road west towards Greensboro...

30  
31 Stephen Howard: I have been sworn. This is Old Greensboro Road.

32  
33 Larry Wright: Where it goes blue to pink to white. Where are we relative to Orange County there?  
34 What township? Is it still Carrboro?

35  
36 Stephen Howard: It's west of Carrboro. You go out Jones Ferry and over University Lake.

37  
38 Larry Wright: I guess I'm asking the devil's advocate question, what are we gaining by this tower  
39 when I look at those two?

40  
41 Stephen Howard: I assume you have maps. 368048 which is the closest one, that is an existing  
42 tower we co-located on in 2000 on 625 Old Fayetteville Road and 368210, which is the one to the  
43 northwest, that is at 5607 Highway 54, an SBA tower that was built that we co-located on in 2000.

44  
45 Larry Wright: Can we see the two together again?

46  
47 Stephen Howard: There is some signal out there but it is a very weak signal. You are not going to  
48 get good coverage inside the homes and it will not be adequate and reliable for all the vehicles  
49 traveling there.

50  
51 Larry Wright: This is a tower how many feet high?

52  
53 Stephen Howard: Proposed 199.

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Larry Wright: Can you build a higher tower?

Stephen Howard: Not according to the ordinance.

Karen Kemerait: We could build a higher tower but if it was above 199 feet it would have to be lit according to FAA requirements and I think American Tower and the belief is that it would be preferable not to have a tower that would be lit. Even if you had a taller tower, it wouldn't provide a larger expanse of coverage. The ordinance is written in a way to encourage towers less than 200 feet because once they are 200 feet so they won't be lit, then they come before the Board of Adjustment quasi-judicial proceeding.

Michael Harvey: You have to remember that we have multiple classifications of tower processes in our code. A 200 foot tall and higher tower has to use the Class A Special Use Permit process, meaning it goes before the BOCC and Planning Board during one of four scheduled quarterly public hearings in February, May, August, typically, sometimes in September and November with the Planning Board making a recommendation. There is also a requirement if a tower goes over 200 feet that it has to be illuminated and I would make a statement that just because you have a taller tower does not guarantee signal strength so going over 200 feet does not guarantee anything. The applicant proposed a tower consistent with the Class B Special Use Permit process. They are correct in that we have a preference for non-illuminated towers because of the issues they present to local property owners and residents. They have chosen to go through this process consistent with the code.

Larry Wright: What concerns me is all this other white.

Stephen Howard: What is not shown on here because it has not been proposed yet is there is a co-location proposed further down Jones Ferry Road southwest of this location. It is an existing tower located at 3995 Jones Ferry Road. As you can see from the maps, as you go west along Old Greensboro Road, there is virtually no coverage and the signal strength drops off quite a bit and there is not much out there so you can see where the sites are located. This is the next step down Jones Ferry Road, there is another co-location that will be proposed.

Larry Wright: Okay.

Stephen Howard: Eventually as the design plans mature and evolve, we will be proposing sites along Old Greensboro Road. Don't know the exact time frame.

Larry Wright: I know it is really problematic out there.

Karen Kemerait: This is a step in the process where AT&T is working to provide that coverage in the County because we recognize there is insufficient coverage especially in the rural areas of the county. This is an important step in providing that coverage.

Samantha Cabe: You are also close to the Chatham line and there may be towers built in Chatham that help.

Stephen Howard: It is safe to say we are working in Chatham County to find co-locations and areas that may be acceptable.

Larry Wright: For the record, reflect the maps that are displayed here.

Karen Kemerait: Those propagation maps are located under tab 20 of the application.

1  
2 Karen Kemerait: As Mr. Harvey said, we are filing an application for a Class B Special Use Permit  
3 application. The tower will not be lit. It will be less than 200 feet so it will not have to be lit. It will be  
4 a 199 foot monopole and it will be located on a 100 by 100 foot leased area on Mr. and Mrs. Yow's  
5 property. As I previously mentioned, the property is a large tract of land, 28 acres, and it is used for  
6 farmland. The property is zoned rural buffer and the tower will be located 375 feet from Sesame  
7 Road and 219 feet from the property line. Under tab 6, we have site plans; this is an enlarged page  
8 from the site plan. It shows the 100 foot by 100 foot leased area with the 60 foot by 60 foot fenced  
9 enclosure. The antennas, as required by the ordinance, will be flush mounted to the tower which  
10 means they will be pressed up against the tower so they will not be visible. The intent is that you  
11 typically see the protrude away from the tower. We have shown that we are meeting all the FCC  
12 requirements regarding emissions and we have shown that there will be an access road which will be  
13 a 12 foot access road that will come from Sesame Road. I would like to touch a little on the access  
14 road. The access road, as I mentioned, will be a gravel road and it will come from Old Greensboro  
15 Road, has access to Sesame Road and the gravel access road will come off Sesame Road. Sesame  
16 Road is a secondary road. DOT has provided this information. The secondary roads are appropriate  
17 for residential uses, farming uses and industrial uses. The tower use will generate almost no traffic  
18 whatsoever. The tower will be an unmanned facility and it will generate two to four vehicles per  
19 month for maintenance purposes only. The construction of the tower will occur and take about four  
20 weeks and it could be a shorter period of time. The reason I bring up the Sesame Road and the  
21 access road is when I attended the community meeting, there was some concern about the traffic  
22 that could be generated along Sesame Road and as I mentioned it will be an unmanned facility and  
23 there will only be, at most, two to four vehicle trips per month so virtually no traffic will be generated  
24 from this tower along Sesame Road and according to DOT standards, secondary roads are  
25 appropriate for residential farming, business and industrial uses. I believe that most residential,  
26 business and industrial uses will generate significantly more traffic than two to four vehicle trips that  
27 this tower use will generate. Also, there was some concern that a school bus drop off and pick up  
28 occurred along Sesame Road. As I mentioned this is a 60 foot right of way so there will be ample  
29 access for a school bus and maintenance trucks. During the four week construction period, I have  
30 spoken with American Tower and we are willing to show good faith and even though there will be no  
31 hazard whatsoever, we will determine when the school bus drop off and pick up occurs and ensure  
32 that none of the construction trucks are traveling along Sesame Road during school bus drop off and  
33 pick up time periods.

34  
35 Karen Barrows: There is a letter in here from David Sykes, who is the Assistant Fire Marshall, and he  
36 said the tower owner will need a plan that allows access to the facility at any time. Have you spoken  
37 to that yet?

38  
39 Karen Kemerait: Yes. We are providing a plan about access that can be provided according to what  
40 Mr. Sykes has stated. That will be addressed.

41  
42 Michael Harvey: That will also be a condition of approval for the building permit that the fire marshal  
43 has to sign off on the building permit application before a certificate of occupancy is issued and that  
44 assumes this permit is issued, the fire marshal will have to sign off on it.

45  
46 Karen Kemerait: Under tab 7 of the application materials, we have provided information about the  
47 balloon test. As I mentioned the balloon test was conducted on April 20. The balloon test will show  
48 that this is a very good location for the tower. The visibility of the tower is going to be extremely  
49 limited. It will not be visible from most locations. The top of the tower will be visible from a few  
50 locations. It will be visible when you are driving east along Old Greensboro Road towards Carrboro  
51 and it will also be visible from a few of the houses located along Pineview Road but for the locations  
52 where the tower will be visible, the base of the tower will not be visible at all and only the top of the  
53 tower will be visible. We have shown that we have met all the technical requirements of the

1 ordinance and CMS, who is the county's consultant, has provided his recommendation report and  
2 stated that we have met all technical and specific requirements of the ordinance.

3  
4 Larry Wright: I have a question on the visibility. I look at these locations and it seems like this is  
5 being erected in a small wooded area and what is the size of that area? How many acres? Location 4  
6 I am looking at and then I am looking for location 3, this is tab 7 so it seems like there is a canopy of  
7 trees that from some of these locations masks the tower, am I right?

8  
9 Karen Kemerait: That is correct.

10  
11 Larry Wright: Then I look at, for instance location 6, under tab 7, and there is a larger panel that is a  
12 picture and then the top panel shows the location of a tower in a wooded area on the upper right hand  
13 side. How large is that wooded area surrounding the tower? The proposed tower.

14  
15 Karen Kemerait: The property owners are here and they may be able to speak. I will try to get that  
16 information to you, how large that area is.

17  
18 Larry Wright: I would like to state that when a tower was located in back of my house I wanted to  
19 make sure they put the balloon test up and they have all these nice pictures where it masked it but  
20 what happens is they can log it in three days after we make our decision and so in part of the  
21 recommendation, I ask the Board if there could be some sort of agreement that they would maintain  
22 that and not log it in the way they presented it to the Board with a balloon test and the property owner  
23 agreed to do that with the attorney.

24  
25 Karen Kemerait: That has not been discussed yet however, I can talk to the property owner and see  
26 if that is something that could be agreed to or not. Moving on to the general standards, I think it is  
27 important to point out that the visibility of the tower is not granted. Having the top of the tower is not  
28 grounds for denying a special use permit.

29  
30 Larry Wright: No, but it could be grounds for... it is just like this board has asked a landowner or  
31 asked the applicant if they would put up buffers as a noise barrier against a kennel and they agree to  
32 do that. What I am saying is that this could be a condition. I can't do it on my own and you can't do it  
33 on your own but this could be a condition that this buffer would be maintained as presented to the  
34 Board.

35  
36 Karen Kemerait: I don't have the authority to agree to it as I am speaking to you and the property  
37 owners are here and that is why we ask them to come so if issues did arise that I could speak to them  
38 and see what their response would be. What I would suggest is that after I finish my presentation I  
39 could speak to the property owners and provide a response. For the general standards, we have also  
40 shown in the application materials that we have met all the general standards for special uses. We  
41 have shown the evidence is presented for all three of the general standards. First, we have shown  
42 that the telecommunications tower use will maintain or promote the public health, safety and general  
43 welfare. We have shown that the RF emissions will comply with all federal standards and laws. We  
44 have shown that the telecommunications tower will provide access to 911 services in times of  
45 emergencies. We have also, in my earlier presentation, talked about how the telecommunications  
46 tower will provide convenience to Orange County and the residents who live and travel in this area  
47 and to the public in general by having access to the wireless services and I have also talked about  
48 how this is very important for economic development purposes for the area surrounding the tower and  
49 Orange County as a whole. The application materials also provide information about how the use will  
50 maintain or enhance the value of contiguous property. There will be no environmental hazard from  
51 this tower and there will be no nuisance. The tower will generate little traffic. It is an unmanned  
52 facility and generate only two to four vehicle trips per month. There will be no odor, noise or glare  
53 and it will be an unlit tower. We also have the property impact analysis that has been provided by

1 David Smith, who is a North Carolina certified real estate appraiser and he has completed and  
2 provided his expert opinion that the telecommunications tower will maintain or enhance the value of  
3 contiguous property. I have also shown in the application materials that we have met the third  
4 general standard that the telecommunications tower will be in harmony in the area which it is located  
5 and it will be in compliance with the ordinance and with the Comprehensive Plan. As the Board  
6 knows, the inclusion of a use such as a telecommunication tower use as a special use for a particular  
7 zoning district, in this case, the rural buffer zoning classification, that the use is in harmony with the  
8 area in which it is to be located. We have also provided evidence in addition to that to show for the  
9 previous standard, that the tower will not be an environmental hazard and it will not create a nuisance  
10 and it will be in harmony with the rural area in which it will be located so therefore, I have shown that  
11 we have met all specific and technical requirements of the ordinance and all the general requirements  
12 of the ordinance. David Smith, the appraiser, is here to speak about his property impact analysis but  
13 if the Board would like I could speak to the property owners about your question and have some  
14 information about that first.

15  
16 Larry Wright: Can Mr. Smith give his presentation while you do yours?

17  
18 David Smith: I have been sworn. I live at 3 Morristown Circle in Durham, North Carolina. I am a  
19 state certified general appraiser, I also have an MAI and SRI designations of the appraisal institute.

20  
21 Karen Kemerait: Have you had an opportunity to prepare a property impact analysis?

22  
23 David Smith: Yes, I have.

24  
25 Karen Kemerait: Who asked you to prepare that property impact analysis?

26  
27 David Smith: You did.

28  
29 Karen Kemerait: Can you describe the research and analysis you did for that property impact report?

30  
31 David Smith: This information is in the report you have. To estimate the effect of a cell tower on  
32 nearby properties, I located residential lot sales in two subdivisions in Durham. One where there  
33 were two cell towers clearly visible and one that was not. These subdivisions were in the same area  
34 near Eno River in Durham and I analyzed the sales of these lots. One of these was the River's Edge  
35 Subdivision. It is the one with the two towers adjacent to it. One of these towers was 470 feet lighted  
36 lattice so you could see it very easily. The other was a 192 foot unlit similar to the one that is  
37 proposed here. The subdivision has about 50 residential lots and the tax values of the houses that  
38 were built range from \$255,000 to \$639,000 with an average of \$456,000. Forty two of the lots sold  
39 between August 2003 and March 2009. Eno Forrest is the other subdivision and it is located in the  
40 same general area with no towers visible. This subdivision has 25 lots with tax values that range from  
41 \$366,000 to \$566,000 with an average of about \$460,000 so the averages are pretty close. Twenty  
42 two lots sold in this subdivision between November 2004 and June 2007. They are similar in most  
43 respects, they are both in Northern Durham and near Eno River and would appeal to the same type  
44 of buyer. I analyzed the sales of the lots in the two subdivisions and I made adjustments for things  
45 like primarily difference in time because of the way property values go up and down depending on  
46 time. I have charts of these sales in this report and they are on pages 12 and 13 behind tab 39.  
47 While the lots vary in sales price, the average is both before and after adjusting for market conditions,  
48 that is time, give very close indications. Based on this, the two telecommunication towers have not  
49 had significant effect on property values and their construction will maintain or enhance the value of  
50 contiguous property in my opinion. Also, cellular towers have become a necessary and desired item  
51 in today's world. In order to meet this need, telecommunication towers have become a common part  
52 of the landscape, much the same as power lines, telephone lines and other utilities have. Like these  
53 utilities, telecommunication towers are needed in locations throughout the country. As such, they are

1 in harmony with the area in the same way that other utilities are. In conclusion, based on the set of  
2 plans in the proposed tower and inspection of the properties in the area of the proposed tower site,  
3 an analysis of data gathered and facts of inclusion contained in this report and subject to the  
4 assumptions and limited conditions stated, it is my opinion that the proposed tower will maintain or  
5 enhance the value of the contiguous properties and will be in harmony with the area.  
6

7 Samantha Cabe: In the example you gave in the two subdivisions in Durham, did you compare the  
8 sales of the lots prior to the erection of the tower with sales of the lots after the erection of the tower  
9 or did you compare sales in general without regard to timing?

10  
11 David Smith: One of them, the towers were already in place before the subdivision sold any lots.  
12 The other one, there were no towers at all.  
13

14 Samantha Cabe: How many of these types of evaluations have you done?

15  
16 David Smith: About 9.  
17

18 Samantha Cabe: Have you ever found that a cell tower had a negative impact on property value?  
19

20 David Smith: No, I never have.  
21

22 Larry Wright: Any other questions?  
23

24 Karen Kemerait: We have spoken with the property owners and Mr. and Mrs. Yow have stated they  
25 are willing to provide an easement so that the existing trees that are shown on the schematics will be  
26 preserved.  
27

28 Mark Micol: Why was that area chosen? Was it due to topography or to keep it out of the farmland?  
29 Is there a particular reason you didn't move it over 100 feet?  
30

31 Karen Kemerait: There had been an earlier location and there is a stream buffer and then the actual  
32 tower location had to be moved outside the stream buffer. We had tried to put the tower as deep into  
33 the woods as possible so that it would have as less visibility as possible. When we met with Mr.  
34 Harvey, he informed us that it was located in the stream buffer and we were disappointed because  
35 we did have to move the tower outside that area so we have worked really hard to find a very good  
36 site. We found this 28 acre piece of property and put the tower located within the wooded area and  
37 we actually have it located deeper in the woods than it currently is.  
38

39 Larry Wright: Anyone else want to speak for the applicant? Mr. Harvey do you want to speak?  
40

41 Michael Harvey: I think it would be best to hear from people on the list. The first person signed up  
42 was Mr. Monroe, who is the County's telecommunication consultant; he is here to answer any specific  
43 questions the Board may have to address any concerns or comments. The next individual signed up  
44 is Jeremy Browner.  
45

46 Jeremy Browner: I have been duly sworn. I rise in support. I am a solo practice attorney in Chapel  
47 Hill; I live in Carrboro. I am also the Vice-Chair for the Economic Development and Public Policy  
48 Committee. I want to reiterate what I said in the earlier application which is this tower is a very  
49 important public policy for the county which we want to diversify our tax base because we are having  
50 issues funding services we have now and continuously require tax increases. One of the ways we  
51 can fight this is having more businesses formed and increasing the value of the property and one of  
52 the ways to do that is allowing businesses to be formed outside the normal town limits we have now  
53 and one of the only ways of doing that is having access to data which is very important. Of course,

1 we also have the other important policies. We have the access to data for internet purposes. We  
2 have access to internet for agricultural purposes. We need access for security. A lot of security  
3 systems need access to that. We need to access to data for offices on the go. As a solo practice  
4 attorney I constantly, when I am out of the office and going to court and seeing clients, I am  
5 constantly referring to my smart phone device to check in with the office to see what clients need and  
6 then respond to clients. That is an important aspect to any modern business. Clients expect it and  
7 customers expect it when you are in the business. This also has a public policy interest in bridging  
8 the digital divide. The rural communities, especially Orange County, have limited to no access to  
9 broadband internet. There are alternatives but the alternatives are not as useful as terrestrial  
10 antennas. It is important that the Board review this. If there is any opposition, review it with the light  
11 of the understanding that the policy interest should outweigh any opposition to the antenna that is  
12 being applied for today.

13  
14 Michael Harvey: The next two individuals listed are David Smith and Kim Kemeriat. After that is  
15 Dakota Johnson.

16  
17 Dakota Johnson: I have been duly sworn. I am not here to question anyone's education in the real  
18 estate business. There was one that told me that there would be a deduction in the property value  
19 being that close to the house. It will be 300 feet from my front yard. Secondly, the map she was  
20 showing about the coverage, AT&T, I have had AT&T before; bad choice. AT&T cannot pick up at a  
21 lot of places I have lived and Verizon picks up perfectly where we live now. Third, the road is 60 feet,  
22 you would think that the road is a little longer than 60 feet but it is about as wide as from here to you  
23 and there is not really any room. Trash trucks can't come down there, recycling trucks can't come  
24 down there because they can't turn around. Imagine the big trucks bringing the tower down there  
25 and checking on the maintenance on the ones that would be built.

26  
27 Michael Harvey: Jill House is the next on the list.

28  
29 Jill House: I have nothing further.

30  
31 Michael Harvey: Then I have Kristen Smith.

32  
33 Kristen Smith: I have been duly sworn. I am an Orange County native and I currently work in Chapel  
34 Hill. I also live off Old Greensboro Highway. Just today I was able to be a part of the leadership  
35 development program and this is where I heard the County Planning Director talk about the  
36 importance of infrastructure. The Superintendent of Schools talked about the role of technology and  
37 education and I used the smartphone the entire time to talk and text staff members, speakers, bus  
38 drivers and recording the experience on social media. Additionally I used the smartphone while I was  
39 in Chapel Hill and Carrboro all over to answer work emails and make a couple of phone calls. As a  
40 staff member of the Chamber of Commerce not only do I know firsthand the importance in value of  
41 wireless infrastructure but how important it is to advocate for this infrastructure so that our area can  
42 continue to attract new businesses and relocators. On a more personal note, I live a mile from the  
43 proposed site. I don't think the proposed cell tower will have any adverse effect on our family's  
44 health. On the contrary, in caring for an aging parent, this increased telecommunications  
45 infrastructure will only help our family's health in ensuring reliable communications and emergency  
46 management and reliable mobile communication, who is a physician, and also helps care for both of  
47 our parents. As an Orange County native that cares about the future of our community, I hope you  
48 will support increased telecommunication infrastructure by approving this proposed tower site. Thank  
49 you.

50  
51 Michael Harvey: Desiree Goldman.

1 Desiree Goldman: I have been duly sworn. I have lived in Orange County for 17 years. I am here  
2 representing the Greater Chapel Hill Association of Realtors and their 500 members. We are in  
3 support of the two cell phone towers and this one is even more important than the last one given the  
4 density of the traffic that comes into this area. We have people that commute from Burlington that  
5 come along Old 54 and Old Greensboro. Northern Chatham is growing. Jones Ferry is going to be  
6 used more. I have hit a deer out there. You do not want to be out there hitting a deer in a car and  
7 not be able to make a phone call. That is very dangerous and there are not lights on the streets. We  
8 have to be able to communicate. The National Association of Realtors not only supports broadband  
9 infrastructure but has commissioned its own studies showing that communities that have access to a  
10 broadband have a six percent higher property value. I also have clients check to see whether or not  
11 they can get cell connection. That is something that is now a part of what people look for when they  
12 move to the area. Security systems are using cell phones instead of land lines. Most people I sell  
13 homes to do not put land lines in anymore. This is really important and so many people work from  
14 home and they like to move to the Chapel Hill, Durham, Carrboro, all of this is because of the  
15 heightened technology and the ability to commute. This keeps people off the roads. We say we want  
16 to improve our carbon footprint so having people be able to work from homes using broadband is a  
17 way to do that. The other thing I think is important is safety. In real estate, one of the things we don't  
18 think about is it is dangerous. I go out and show properties to people I don't know too well. If I am  
19 out in an area that doesn't have cell phone coverage, that is a problem. We have a code at our  
20 office. I am out with somebody, I call and say please look for the red file. They know I am in trouble.  
21 If I can't reach them, that is a problem. There are times I have actually had to have someone drive  
22 with me when I go out into an area that I can't get good coverage to make sure I am safe. Bad things  
23 do happen to realtors. So I really think that this is incredibly important so given how much we want to  
24 have our small businesses grow into this area, I really support you in approving those towers and all  
25 those white areas in the future. We need it all covered.

26  
27 Michael Harvey: Aaron Nelson.

28  
29 Aaron Nelson: I rise before you in approving this and to say a personal thank to Jeremy Browner for  
30 coming out on his birthday. I say this in jest, our kids have all gone to bed without a kiss by their  
31 parents here and so we are all here because this is really important to us so we appreciate you taking  
32 the time to be here and listen to this. I represent the Chapel Hill Chamber of Commerce and been  
33 their CEO for thirteen years and for thirteen years counseled businesses and home based  
34 businesses about how to grow and thrive in the greater Chapel Hill Carrboro community. We have  
35 1,000 small to mid-size businesses as well as 500 realtors that are members of our chamber so  
36 collectively they put about 80,000 people and over the last thirteen years had lots of conversations  
37 with lots of people about how to grow and have their business thrive. More and more of those  
38 conversations are happening to business persons on their cell phone. They are calling me from their  
39 phone in the car hands free; we hope they are in the passenger seat doing email, communicating,  
40 pulling down data. At home, kids are on the smart phone or tablet connecting to the school system.  
41 More and more, this is becoming a critical infrastructure just like when we widen roads that neighbors  
42 are unhappy about widening or when we string cable along underground and disturb the right of way  
43 and do the digging or put telephone wires out to places. At first, our communities' reaction to those  
44 have been negative, but over time, these cell towers are just a critical part of the infrastructure we are  
45 going to have throughout our community and it is our organizations' priority that we extend more and  
46 more so I want to say a thank you and for the record to AT&T for responding. They don't put up  
47 towers if no one wants them. That is a waste of their time and money. They are going to pay a lot of  
48 money to make this happen over lots of years and they are doing so at the request of Orange County  
49 citizens and Orange County businesses and we appreciate their responsiveness and we ask the  
50 same of you that you respond to that request and begin to extend this infrastructure. Business need  
51 access to this broadband and internet so they can do text, talk on the phone, use data and use the  
52 internet at home as well as on the go. They communicate with their clients and customers and take  
53 orders. I have had conversations with the businesses so we called our members along this corridor,

1 a wood working business a little further down, a gentleman owns a towing company. You know if you  
2 had your car towed and want to make a telephone call to whoever just took it, you sure hope it rings  
3 and you hope they answer so George's Towing does a whole lot of business by cell phone. In fact,  
4 ensues the Town of Chapel Hill for the ability to use his cell phone in doing that business and that is  
5 really important. Also spoke with CEOs of local companies who live in the area and talked about  
6 communicating back to their business is really important so from my professional opinion and work  
7 with thousands of businesses over a decade, this is an infrastructure that is critical. Our Chamber of  
8 Commerce has never spoken to the Board of Adjustment before, not at the county, not at the city, not  
9 at the town so why rise tonight and that is because the issue is so important and so we hope that you  
10 will hear that as well. As I have commented earlier, our interest is also in equitable access. It  
11 shouldn't just be the case of people who live in dense areas or who live along a transit corridor or who  
12 live on 54 or Highway 40 nor do we want it to be the case that people should have to leave their  
13 house to walk to the corner to get cell phone coverage or they should leave their business to drive  
14 towards the highway to pick up a telephone call. We want equitable access throughout the county  
15 and the public policy objectives are really important and we hope the standard is not whether you see  
16 it or not, that is a standard that won't survive as we need to go across the county. The testimony  
17 earlier which we hear from realtors as well, is that you can see it doesn't have a negative impact on  
18 your property value which is a standard you have before you and we hope you will support approving  
19 this tower; it's important to our local business community and to the folks who work there. Thank you.  
20

21 Michael Harvey: The next two individuals are with the applicant, David Lacava and Stephen Howard.  
22 Then we have Mr. Gary Dixon.  
23

24 Gary Dixon: This being the first time this is on this hearing, I had asked for a 30-day adjournment to  
25 procreate for this. We were notified of the public hearing two weeks ago even though we knew about  
26 the cell tower, we did not know about the public hearing. We thought we would have more time than  
27 two weeks. I had handed out a letter signed by our petitioners, the adjoining property owners but I  
28 never got an opportunity to ask for a delay or adjournment. I am not sure what happened in the  
29 procedure. Mr. Harvey said this is the first time on and it is possible and it is a very good chance to  
30 get 30 days to simply prepare for this.  
31

32 Larry Wright: Are you asking for one now?  
33

34 Gary Dixon: Yes; a thirty day adjournment to better prepare for this. We were notified of the public  
35 hearing two weeks ago.  
36

37 Larry Wright: Let me consult our attorney.  
38

39 James Bryan: I believe it would be in... They don't have to but they could to allow for more fact  
40 finding.  
41

42 Larry Wright: You feel that within 30 days, if we continue this and adjourn for 30 days, not adjourn  
43 but have a continuance for 30 days, have a recess for 30 days that you could come back and be  
44 prepared.  
45

46 Greg Dixon: Yes sir.  
47

48 Larry Wright: What we would do is this would be sort of a recess?  
49

50 James Bryan: You could recess that would be fine.  
51

52 Larry Wright: For 30 days and we do not have to repeat the testimony but we cannot discuss this,  
53 right?

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James Bryan: Definitely true.

Larry Wright: We don't have to repeat all the testimony from the applicant's attorney; we could start with the gentleman right here, right?

James Bryan: Yes. There are two things, one, as you know, I am not familiar with the Board's procedure so you may want to ask staff. I am not sure but if you have members that are not going to be here, you might have voting problems.

Larry Wright: We will have one member that has not heard the case but we will still have a quorum. We would have an alternate that could take the place.

Michael Harvey: You have six people here sitting. Obviously you have, with Mr. Carter's absence since his term is up, you have five people sitting on this Board, who have the right to vote and have heard the testimony and heard the case. Those are the five people that would be deciding the case because they would hear the other testimony. All five have to be here for that to occur. Mr. Schmidt, who is taking Mr. Carter's position that, is part of the answer. The other part of the answer is that if you choose to do this after hearing from all other parties, you would adjourn to a date and time certain, July meeting, and you would close the public hearing and motion to adjourn to the date and time certain to reconvene.

Samantha Cabe: Was the notice provided, property notice in accordance with the ordinance and/or the statues required for the public notice of such type of decision?

James Bryan: I haven't reviewed it; I would have to refer to staff.

Samantha Cabe: Was the notice provided proper under the ordinance and/or the statute that provides the notice?

Michael Harvey: Yes.

Samantha Cabe: So it was properly noticed. The amount of notice required by law was actually given?

Michael Harvey: Correct.

Samantha Cabe: If we were to adjourn, would a separate notice requirement be imposed?

Michael Harvey: No, and the reason being that you are adjourning to a date and time certain and we don't have to re-advertise the hearing or resend certified letters; we might have to post a state public hearing notice in the newspaper but that..... That is if you feel it necessary to adjourn.

Mark Micol: How many petitioners do we have?

Greg Dixon: This is representative of each family so there are multiple members in each family; this is just a representative of each family. There are a dozen families that live in visibility of the tower.

Samantha Cabe: How many are on the petition?

Greg Dixon: Seven.

Larry Wright: How many were at the community forum of those numbers?

1  
2 Greg Dixon: Most of these. Six if not all these were at the information meeting, I think. But that was  
3 basically showing us those maps, we have not had enough time, we had two weeks. You can look at  
4 the certified mail that came of the hearing.

5  
6 Larry Wright: What I want to ask you is, what you would be bringing in one month from now that you  
7 cannot state here?

8  
9 Greg Dixon: Proper representation, proper documentation, a consultation and we need to retain legal  
10 counsel. I have been in touch with an attorney who is out of state and he has not had enough time.

11  
12 Larry Wright: We have to look at evidence; this is how we base this. We look at material evidence  
13 and we look at expert evidence and if you want counsel, then I can understand.

14  
15 Karen Kemerait: I would object to the case being deferred. We have been discussing the case for  
16 approximately two hours and as I have mentioned there has been more than two months' worth of  
17 notice and then the community meeting was done in addition to the ordinance requirements plus if the  
18 case is deferred for a month and the public hearing about what has been provided thus far is closed I  
19 think we would need to have an opportunity to listen to the witnesses and testimony that comes back  
20 at the next hearing and reopen the public hearing and give my witnesses an opportunity to respond.  
21 We have a room full of people who have come as well who are fully prepared to testify and we also  
22 have public witnesses who cared enough to come to the meeting so I think from a legal standpoint,  
23 closing the public hearing and just allowing additional witnesses to come from the opponents would  
24 not be legally sufficient and we would have to have an opportunity to respond and all our witnesses  
25 would have to come back again in another month as well. As I mentioned notice has been provided  
26 over two and half months.

27  
28 Larry Wright: He says he wants to get counsel.

29  
30 Karen Kemerait: I believe that over two months in which notice has been provided has been given  
31 ample opportunity to be prepared for the hearing.

32  
33 Samantha Cabe: I have a question for each of you. At the public hearing, did you explain to the  
34 individual present that what you were applying to do and there was an application process and there  
35 would eventually be a decision made by the County?

36  
37 Karen Kemerait: In the letters about the balloon test, I indicated that we had filed a Class B Permit  
38 application and provided the site plans, provided information about cell towers and said please call  
39 me or email me. I provided my direct telephone number at work and my email address and received  
40 the one telephone call I mentioned. During the community meeting, I talked about the hearing, it  
41 would be occurring tonight. I tried to provide much of the information that I provided tonight about the  
42 specifics, I brought the maps, the site plans and I answered the questions so it was an opportunity to  
43 provide as much information about our application as I could and also to respond and answer  
44 questions.

45  
46 Samantha Cabe: Mr. Dixon, when did you contact the attorney out of state?

47  
48 Greg Dixon: As soon as I got the letter about the hearing.

49  
50 Samantha Cabe: So you did not contact an attorney when you found out they were going to be  
51 making application and asking the county?

52  
53 Greg Dixon: Yes, I did contact attorneys and realtors but I could not decide....

1  
2 Samantha Cabe: Did you do it then, after the public hearing or did you do it at the community  
3 meeting?  
4  
5 Greg Dixon: The community meeting was just Tuesday, less than a week ago but upon getting this  
6 information, we have a small sign on side of the road that you can barely read with a trash bag over it.  
7 That is the meeting advertising requirement but you literally have to stop on an 18 foot wide road to  
8 try to read this and that is the only notice. Granted we had a little balloon flying but do a lot of people  
9 understand what that means, I don't think so.  
10  
11 Samantha Cabe: When did you do the community meeting?  
12  
13 Karen Kemerait: Tuesday night. In addition, we sent certified letters as required by the ordinance.  
14 We provided certified letters on April 3 to all property owners within 1,000 feet of the tower site as  
15 required by the ordinance and that was to advise of the balloon test that was in support of the  
16 application and we published notices in the two newspapers and then in addition, I provided my own  
17 letter about the meeting asking those 1,000 feet of the tower site and invited them to come to the  
18 community meeting.  
19  
20 Samantha Cabe: What were the dates?  
21  
22 Karen Kemerait: I sent the letter out of May 28 and the community meeting was held on June 4 and  
23 that is what my office did and in addition to that I know there were requirements that the planning  
24 staff is required to do as far as providing the notice. I can only speak to what my office did and those  
25 were the notices in the two different newspapers, the certified letters and the community meeting and  
26 the letters regarding the community meeting in addition to the site that had been posted.  
27  
28 Samantha Cabe: I thought I heard you say you did that in April.  
29  
30 James Carter: Mr. Dixon, in your petition, how many of those people are here tonight?  
31  
32 Greg Dixon: We signed it here so they are all here.  
33  
34 Mark Micol: You just decided tonight to ask for the 30 day extension?  
35  
36 Greg Dixon: I have been speaking with Mr. Harvey as soon as I found out about the public hearing; I  
37 literally took a week off work to work on the letter.  
38  
39 Mark Micol: Have you been in contact with the attorney or has this attorney tried to contact the  
40 county?  
41  
42 Michael Harvey: I have not been in contact with any other counsel in this case except Ms. Kemerait.  
43 I have spoken to Mr. Dixon at length on several occasions since notice of the hearing was sent out.  
44  
45 Greg Dixon: There aren't any local attorneys I could find with the experience with cell towers so I had  
46 to look elsewhere so it just took time. I'm a poor person, he is talking about \$400,000 houses, and  
47 we live in trailers over there. It is hard for a person on a fixed income, not everybody lives in trailers,  
48 there are some homes there but I personally live in a trailer, my income is limited, it is hard to hire an  
49 attorney.  
50  
51 Larry Wright: It is time for the Board to have a discussion on this. I would like to open this up.  
52 Samantha?  
53

1 Samantha Cabe: I can't vote on the continuance but I would say that if the notice has been given in  
2 accordance with the law and we have gone this far in the hearing, I would vote against the  
3 continuance because the planning staff and the applicant have done everything they are required to  
4 do in order to set this hearing for a date in addition to numerous hours of planning and all our time  
5 here tonight and all the witnesses time on both sides of the issue.  
6

7 Mark Micol: If we had a letter from his attorney requesting a continuance before tonight, I would be  
8 more acceptable to a continuance but just to come in tonight after we have heard the testimony and  
9 ask for a continuance, it's not a good reason.

10  
11 James Carter: I agree with my colleague. If we would have heard more, I am all supportative of Mr.  
12 Dixon's comments but if we had additional time earlier, I would support giving Mr. Dixon more time.  
13

14 David Blankfard: What is Mr. Dixon's recourse, can his lawyer appeal?

15  
16 Michael Harvey: Every decision of the Board of Adjustment is subject to appeal to the Orange  
17 County Superior Court.  
18

19 David Blankfard: So he does have some recourse.  
20

21 Karen Barrows: I am torn but I wanted to ask a procedural question, if we were to grant a  
22 continuance for the neighborhood folks to come in with their lawyer to address Karen's concern how  
23 would she or her colleagues get to respond to what is said?  
24

25 Michael Harvey: In my mind, the public hearing is adjourned to the date and time certain, Ms.  
26 Kemerait and her experts will be coming back and as additional information is presented into the  
27 record by Mr. Dixon's attorney, they will obviously refute it at that point and time and offer additional  
28 testimony at the time refuting or outlining why the information is incorrect.  
29

30 Mark Micol: What is precedence for doing the continuation? Since I have been on the board, we  
31 haven't done that so is that maybe setting a precedence?  
32

33 Michael Harvey: Each case it unique. In my tenure with Orange County, there have been two cases  
34 that have been continued either due to lateness of the hour, the need for additional information or  
35 testimony; it is the Board's prerogative. With all due respect to the both parties that have spoken, the  
36 fact that we have gone an hour and half into testimony, in my opinion is irrelevant and that is my  
37 opinion. You have a local property owner that has submitted a request, whether you believe the  
38 request if valid or not, is your call, that is why you are discussing it. I believe there are practical  
39 issues with getting all her experts and the cost that would incur to come back but Mr. Dixon has  
40 presented you with a petition. You need to determine the viability and validity of the petition and you  
41 need to determine if, based on the concerns that Mr. Dixon has, or anyone else, if continuance would  
42 allow there to be entered into the record challenging either documentation. If you determine that you  
43 don't think it is going to happen, that has to weigh on your decision to vote yes or no.  
44

45 Samantha Cabe: As a practicing attorney, Mr. Browner may be able to give additional testimony to  
46 this. There is a current movement afoot in our legislature to put further restrictions on what decisions  
47 can or cannot be made and I do have some concern that postponing this may allow time for  
48 legislation that could go through that lessen our control over what is in our decision making power  
49 and that may or not come to fruition but it is actually a concern that is out there in the legal  
50 community.  
51

52 James Carter: Are we looking at this regarding Mr. Dixon's comments? You would look at the legality  
53 aspects; we are going to disregard what she has to say about the petition?

1  
2 Samantha Cabe: My comment is directed at the fact that, I don't know if it would actually affect what  
3 is in this special use permit and the applicant would choose to change things that it might be possible  
4 to change but it could actually result in the possibility that would be more negative to the surrounding  
5 being possible. Don't know if it would come to fruition or not. There are things happening that would  
6 further limit the control of the counties and specifically this board of adjustment.  
7

8 Larry Wright: I would like to take a vote. How many board members are in favor of Mr. Dixon's  
9 petition? Raise your hands please. Karen, Larry and James are in favor of the continuance. Mark  
10 and David are against the continuance. We declare a continuance of this session and it will continue  
11 in the next 30 days. Is it the next 30 days we are scheduled to meet? It would be July 10<sup>th</sup>?  
12

13 Michael Harvey: If you choose to do this it would be at your next regular meeting which would be July  
14 8<sup>th</sup>. Obviously your attorney will speak to you in a minute.  
15

16 James Bryan: There was a question about whether a majority of four could vote or a simple majority.  
17 A brief review did make it clear that it is a routine matter that would require a simple majority.  
18

19 Larry Wright: The continuance carried.  
20

21 James Bryan: That would be my advice.  
22

23 Larry Wright: I declare this meeting adjourned and be reconvened on Monday, July 8, 2013. Board  
24 members are not to discuss this and we will pick up where we left off.  
25

26 Samantha Cabe: Time certain is 7:30?  
27

28 Larry Wright: Yes. We will bring our documents as we have them and leave the notebooks from the  
29 first case.  
30  
31

32 **AGENDA ITEM 9: ADJOURNMENT**

33 **MOTION** made by David Blankfard to adjourn. Seconded by James Carter.

34 **VOTE:** Unanimous  
35

36 The meeting was adjourned at approximately 10:35 p.m.  
37  
38  
39

40 Tina Owen, Minutes Preparer  
41