

MINUTES
BOARD OF ADJUSTMENT
JULY 8, 2013
REGULAR MEETING

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MEMBERS PRESENT: Larry Wright, Full Member (Chair)
David Blankfard, Full Member (Vice Chair)
Karen Barrows, Full Member
Samantha Cabe, Alternate Member
Mark Micol, Alternate Member
Jeffrey Schmitt, Full 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 7:36 p.m. Larry Wright: We do not have a quorum but we are waiting on one board member.

AGENDA ITEM 2: CONSIDERATION OF ADDITIONS TO AGENDA

SWEARING IN OF NEW MEMBER

Debra Graham swore in new member Jeffrey Schmitt. He was then excused because he did not hear testimony at the previous meeting.

Larry Wright: Can we swear the persons here in before the last member arrives?

James Bryan: I don't see that it would be a problem since there will be no testimony, etc.

The following persons were sworn in:

- | | |
|--------------------------|-------------------|
| Gary Dixon | Liz Hill |
| Art Menius | Bryan Lanier |
| David Smith | Libbie Hough |
| S. Diane Riggsbee | Stephen M. Howard |
| Karen Kemerait | Armand Lencher |
| Margot Lester | Beverly Roberson |
| Rusty Monroe | Lauren Lloyd |
| James DeGraffenreid, Jr. | Helen A. Figueror |
| Linda Ward | Maria G. Patino |
| LaShaun F. Ward | |

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AGENDA ITEM 3: APPROVAL OF MINUTES
a. June 10, 2013

Mark Micol: Page 84, Line 28 should read, "Why was that area chosen? Was it due to topography or to keep it out of the farmland? Is there a particular reason you didn't move it over 100 feet?"

Motion made by Karen Barrows to approve the minutes with the noted correction. Seconded by David Blankfard.
Vote: Unanimous

AGENDA ITEM 4: 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.

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2 **AGENDA ITEM 5: CASE A-2-13: Class B Special Use Permit Proposing Development of Telecommunication**
3 **Facilities at 1426 Old Greensboro Road (PIN 9768-22-3878)**
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5 In accordance with Section(s) 2.7 *Special Uses*, 5.2.2 *Table of Permitted Uses*, 5.3.2 *Application of Use*
6 *Standards – Special Uses*, and 5.10 *Standards for Telecommunication Facilities* of the UDO American Tower
7 and AT and T Mobility have submitted a Class B Special Use Permit application seeking a permit to erect a
8 199 foot telecommunication tower on a 28 acre parcel of property at 1426 Old Greensboro Road further
9 identified utilizing Orange County Parcel Identification Number (PIN) 9768-22-3878.

10
11 As detailed within the application, the applicant wishes to erect a telecommunication tower within a 100 foot
12 by 100 foot leased area on the south-west portion of the aforementioned parcel. There will be an equipment
13 cabinet at the base of the tower to house equipment for the various communication providers utilizing the
14 tower within a 60 foot by 60 foot fenced compound.

15
16 Access to the proposed facility is proposed to be through a proposed drive off of Sesame Road.

17
18 *(This item was continued from the June 10, 2013 Board of Adjustment regular meeting.)*
19

20 Larry Wright: I would like to summarize what has happened since a month ago. Mr. Harvey introduced the application
21 and a permit for American Tower and AT&T Mobility and then Mrs. Kemerait with the law firm of Styers, Kemerait and
22 Mitchell, who represents American Tower and AT&T, gave her statement and then we heard from Mr. Stephen
23 Howard, who is duly sworn and he is affiliated and is a specialist that is here supplementing the applicant for American
24 Tower and AT&T. Then we heard from David Smith, the appraiser and then Mr. Jeremy Browner, the vice-chair of
25 Economic Development and Public Policy and then from Jill House, from American Tower and Kristen Smith who lives
26 on Old Greensboro Highway who supported the telecommunications infrastructure. We heard from Desiree Goldman
27 of Greater Chapel Hill Association of Realtors. Mr. Aaron Nelson of the Chapel Hill Chamber of Commerce and Mr.
28 Gary Dixon who requested a 30-day adjournment. Mr. Dixon, please approach the board.

29
30 Michael Harvey: May I remind the board what we have already in the record. The staff's abstract from the June 10,
31 2013 meeting including property maps, staff comments on the proposal, notification of materials and certification of
32 mailing and a special use permit. We also have the full application packet in your binder with 41 tabs/attachments
33 entered into the record and a copy of the UDO. The applicant also entered maps into the record, and the propagation
34 study maps.

35
36 Gary Dixon: (Distributed copies of presentation). My name is Gary Dixon and I have been sworn. I have one witness
37 that was not sworn in. (Witnesses were sworn in). First, I would like to thank you for being here and giving us another
38 chance. As you see, this is a farm we live beside; we have a subdivision to the side. The next picture is a
39 demonstration of what a 20 story tower would look like. The third picture gives you a better representation of where
40 our neighborhood is in relation to the tower. It shows there is a neighborhood, it keeps going out here and on the next
41 map, and there is a cluster of about 30 families that live off the side. At the entrance to our Pineview Drive there is
42 where the tower is proposed. I want to be clear, we are definitely not against cell towers but we are, as a community,
43 against the improper placement of a cell tower being directly visible on the way in and out of the neighborhood and
44 also from the other street. The UDO was put in place to enhance and preserve to enhance and preserve our property
45 values if one is granted and also preserve aesthetics and as you can see my concern is that towering height being right
46 in the middle of a beautiful landscape... is that in harmony with the farm? What we really haven't seen or talked about
47 is an overall plan of placement of towers in the county. You have somewhere there is a location and there is
48 somewhat of signal gap there, which is debatable but where AT&T needs to place but they have actually asked for the
49 maximum height that the law allows without going into other territory and there has been no talk of the least intrusive
50 effective of the tower. What can we do to make it least intrusive? My thought is simply why can't we simply put it
51 somewhere else? I know AT&T has given a lot of testimony for the tower and we are for towers but do we need it at

1 the head of the neighborhood. The part of it enhancing or preserving the value, as you see by photographs that has
2 the homes, this photograph was taken from the third home back. It is not the closest to the tower. There are three
3 more homes closer. From every angle of that tower at that height, setback from the road is approximately 250 feet,
4 God forbid, east to west, it will go across the road or hit a tree or cause a tree to fall. As you can see by the
5 photograph, those trees are actually falling so it is already a dangerous situation in the first place.
6

7 Larry Wright: Where is that?

8
9 Gary Dixon: That is on Sesame Road.

10
11 Larry Wright: Where does this impact the AT&T site?

12
13 Gary Dixon: Those trees are coming from that side falling toward Sesame Road; I am saying that is the area and we
14 already have an existing problem with stuff falling in the road.
15

16 Larry Wright: It looks like it is quite far from Sesame Road on this map. The wooded area enclosing the tower looks
17 like it is quite a distance.
18

19 Gary Dixon: That is not the actual trees; there is another line of trees. They are in the right of way. They don't belong
20 to

21
22 Larry Wright: This map...

23
24 Gary Dixon: That is Sesame Road coming... That is just a photograph.
25

26 Larry Wright: We are supposed to be looking at these trees that are falling so where are they on this map?
27

28 Gary Dixon: I can show you... they are closer to the road. They are right on Sesame Road, these here. These
29 actually block the view of this. You can't really see them because it just a small area of trees that are constantly falling.
30

31 Larry Wright: According to our minutes, the owner and the applicant have agreed to retain and get an easement for
32 this cluster of trees to serve as a buffer and protect the integrity of the landscape you are addressing now.
33

34 Gary Dixon: I feel like this (the proposed tower) is not characteristic of the farm. The UDO being here to protect the
35 homeowner to preserve and enhance our value so what have I got is some realtors and local representation. I would
36 ask the board for one other thing, please accept our memorandum from our attorney and make it part of the record
37 that ATA&T has given mounds of testimony so I would ask you to accept that as part of the record. The attorney is
38 Andrew Campanelli and he was our consultant and hired by us to represent the neighbors. We had to educate
39 ourselves about cell towers and we had no representation.
40

41 Larry Wright: Who are your realtors?

42
43 Gary Dixon: Armand Lenchek and Helen Figueror and I have talked to several others. I spoke at great length to both
44 of these.
45

46 Armand Lenchek: My name is Armand Lenchek and I am a realtor with Caldwell Banker and I have been sworn. I
47 have been a real estate agent for 10 years in the Triangle Area mainly working in Chapel Hill, Carrboro and all of
48 Orange County and I also cover Durham. I am, in modesty, one of the top five selling agents of the Chapel
49 Hill/Carrboro market. I know the market really well. I have been selling a lot of property for 10 years and Gary has
50 asked me to come and address one question, will this cell tower enhance the neighborhood or seriously detract from

1 the property values of this neighborhood. There is only one answer and that is it will detract the property values of this
2 neighborhood.

3
4 Larry Wright: And what basis do you make that statement? Are you an appraiser?

5
6 Armand Lenchek: No. I am not an appraiser. I am not allowed to take money for giving an opinion on the value of a
7 property.

8
9 Larry Wright: What we have to deal with here is that we need evidence like impact value and things of this nature. So
10 what can you... we can hear you say that but there are more attorneys in this room than board members and I can say
11 they know what hearsay is so we have to have evidence from what you say.

12
13 Armand Lenchek: The evidence is that I have worked with many buyers and sellers over the years, specifically buyers
14 taking them to look at properties and I can specifically think of one incidence where I showed the buyer a beautiful
15 home, in North Durham, in the Northgate neighborhood. She loved this house, it was perfect for her and we had been
16 looking for a house for her for many, many months and it was tough to find the perfect house. This was the perfect
17 house for her and she was falling in love with this house until she looked over to her right and right on Roxboro Road,
18 there is a huge cell tower there. This cell tower is designed to be camouflaged to make it look like a big tree but it
19 obviously was not a tree so the minute she saw the cell tower, she said, I cannot buy this house. I am afraid of the
20 radio emissions coming from this. I haven't really seen a lot of studies.

21
22 Larry Wright: There are. This is all hearsay. I have a cell tower in the back of my house and it was built after I moved
23 there. I am very happy it is there. It is in the middle of a cluster of woods and I am happy it is there so she didn't like
24 it, I do and it has benefited in our neighborhood market so there is more hearsay.

25
26 Armand Lenchek: May I asked what neighborhood you are in?

27
28 Larry Wright: Cedar Grove. This is immaterial, we need evidence. You are talking about one woman, we need
29 evidence.

30
31 Mark Micol: Do your customers ask you about the potential for high speed internet or bandwidth when they approach
32 you about a sale?

33
34 Armand Lenchek: Yes. They certainly do.

35
36 Mark Micol: Do you think that washes out the negative side?

37
38 Armand Lenchek: I don't think so at all. The general fear of cell towers is both a visual aspect and a possible
39 radiation. Those two aspects, time and time again, I have had buyers tell me I don't want to be near it. It is the same
40 as high tension power lines. People don't want to buy houses that back up to high tension power lines and it is tough
41 for us as real estate agents to quantify how much less a house will sell for when it backed up to a power line but we
42 know it does, it simply does. I have a house on the market in Colvard Farms and I cannot get anyone to look at that
43 house because everyone knows that it backs up to the high tension power lines. It is the least expensive, practical
44 square foot, in Colvard Farms right now and nobody is looking at this house. It is a gorgeous house but I can't do
45 anything to sell it. In my mind, cell towers are the same thing as high tension power lines. I know this neighborhood
46 down Sesame, I have actually tried listing some of the homes in that neighborhood, and it is a tough neighborhood to
47 sell. It is not one of our high dollar neighborhoods and if we add this cell tower to this neighborhood, it will depress
48 those property values further. That is my feeling about it; that is my experience of over 10 years of working with
49 buyers and sellers. I also have lot for sale at 224 Red Run. It is a very small footage and it is literally 100 yards away
50 from where this cell tower is supposed to be. It is the next left to the west. I will show you where it is. This is a
51 beautiful lot. It is a little over 11 acres. My sellers had planned to build a million dollar property and they are not going

1 to do it now and we have put the lot on the market and it listed for \$375,000. When I told my seller that there will be a
2 cell phone tower put right up the street, she was really upset.

3
4 Samantha Cabe: It was her decision to refrain from building a million dollar house

5
6 Armand Lenchek: I am sorry, I didn't mean to give you that impression, she had already decided not to build a million
7 dollar house and I am trying to sell the lot.

8
9 Samantha Cabe: Just for the record, she made the decision not to build the house before she knew about the cell
10 tower.

11
12 Armand Lenchek: Correct. I am saying now that she knows there will be a cell tower up the street within a visible
13 distance of her lot, it will probably drop the price.

14
15 Samantha Cabe: Wouldn't it be the lack of offers that would make her drop the price, not the existence of the cell
16 tower.

17
18 Armand Lenchek: The cell tower is going to be perceived as being one of the main reasons we won't be getting an
19 offer.

20
21 Samantha Cabe: But you don't know that you won't get an offer because it is not listed yet, right?

22
23 Armand Lenchek: It is listed.

24
25 Samantha Cabe: How long has it been listed?

26
27 Armand Lenchek: Over a year.

28
29 Samantha Cabe: You haven't got an acceptable offer on the property without the cell tower?

30
31 Armand Lenchek: That is correct. We just recently reduced the price from \$398,900 to \$375,000 and this will
32 probably make her reduce the price even further.

33
34 Helen Figueror: I have been sworn in. I have my own personal experience with power lines and it is also the same
35 impressions. I brought some quotes about people saying, beautiful home but I don't want to live next to these things.
36 They are visible when you come into my neighborhood but the interesting part is that we have had three sellers in my
37 neighborhood that just closed last month and one of the homes sold which didn't have the power lines and the other
38 home didn't have a problem with the power lines. One sold for \$15,000 more and it wasn't as nice a house as this
39 house. I personally know the other house because I had it listed before and the other house that sold did not have the
40 problem with the power lines. I know the other two were visibly, as far as quality for the home, they were similar but
41 the house that was the best house with the largest yard had at the very end of the yard, one of those big tower things
42 and people would come in and say I don't want to live next to the power lines and there has been research now. The
43 thing is that you can get two kinds of research. You can get from Duke Power there is no problem, you're not going to
44 get sick and you have other research that came from Europe, that

45
46 Larry Wright: What you need to do when you deal with this again with your customers is to have them look at the
47 National Library of Medicine which is the premier medical library in the world... have them go to Medline Plus and key
48 in telecommunication towers... it talks about radio frequency, etc. There is no direct evidence that gathered literature
49 from all over the world, there is no evidence that radio frequencies from cell phone towers and all kinds, tissue
50 penetration and everything, I know about this. You need to consult that and that will answer your question. The
51 studies are not definitive.

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Helen Figueror: I live right next to power lines. When I moved here I had very few houses to buy and I only had two weeks to buy a house and the house was new construction and it was the best house to buy but I was not aware of all these problems of trying to sell houses. I have here at least four things I pulled out of my old files, when I had the house on the market, they don't want to live next to power lines. I have heard people say I am afraid that I don't want to take a risk for my children to get leukemia; I don't want to take that risk. Those few studies were out there.

Samantha Cabe: Have you had any direct experience with cellular communication towers because what you have told us is about your experience, difficulties about selling a home or witnessed difficulties with a home selling that are next to power lines but do you have direct knowledge of difficulty of selling a home within the proximity of a cellular tower?

Helen Figueror: I have been told by other agents....

Samantha Cabe: For you?

Helen Figueror: For me, it is still the same perception, you still have that radiation, you still have the noise and if you are very close and the value goes down. If you can buy a house on property that is away from those things, people will go there. If you have two houses of equal property and equal price, they are not going to buy next to a power line. I know when I sell my house, it will be less than other people would get if they were in a different neighborhood without the power lines.

Mark Micol: I will ask you the same question, do your customers ask you about the availability of high speed internet and accessibility when you are selling a home?

Helen Figueror: Sure. Everybody likes it.

Mark Micol: If you don't have internet accessibility, is that a negative?

Helen Figueror: It is a negative. There was one in the country. It is a negative but I think they need to be somewhere you are not going to be looking out your window....and also I know from a business standpoint that people will not buy the house if it has that in your backyard and I do have it in my backyard. Luckily, I don't have the big tower but the other house that sold for a lot less had it right there.

Mark Micol: For the record, you don't have any comps, comparable home prices that show the degradation in price?

Helen Figueror: I could have brought them but I didn't bring them because everyone said it was the same perception, people don't want to live next to them. Actually, I have been out to the Sesame Street Road, it is also a small road so the values still are affected.

Michael Harvey: For the record, we are labeling Mr. Dixon's handout as Exhibit One. I would like the county's telecommunication consultant, Mr. Rusty Monroe, to address comments made with relations to emissions.

Karen Kemerait: I believe the Mr. Campanili is in New York.

Rusty Monroe: I am Rusty Monroe, the county's consultant on this issue. Federal Law prohibits the use of information relating to RF Emissions, radiation, as being grounds from denial unless they do not comply with the FCCs regulations or guidelines. State law also prohibits the county from requiring the provision of that information or taking RF Emissions into account. You can argue both sides of the case, there is ample evidence. People make like, may not like, but the fact is that you are not allowed, unless you can prove they are not complying with the FCC standards.

Karen Barrows: That is because they consider it safe?

1
2 Rusty Monroe: The FCC considers it safe as long as they comply with their standards. They said you can find all
3 kinds of arguments on both sides of the issue. The FCC is reopening the issue based on a lot of pressure. As of now,
4 that is the law. I have been sworn in.

5
6 Michael Harvey: Mr. Dixon, is there any more evidence?

7
8 Gary Dixon: I have a comment. We are not against cell towers, but the property placement of it. I have heard no talk
9 about any other places, maybe minimizing the height to make it less intrusive, have less impact to preserve and
10 enhance our neighborhood. To preserve and enhance is what the UDO was entitled to do. That is what we have it in
11 place for. I would like to see it utilized in this instance. The preservation of this nice countryside. This thing sticks out
12 like a sore thumb. It is 20 stories, why does it have to be so tall? There are 30 families with children there. Those
13 things collect ice in the winter. Where will the ice go when it melts? Will it fall on the cattle, the veterinarian treating
14 the cattle, where is the ice going to go from 20 stories up when it melts and starts falling? That is a common sense
15 question. These things do fall. That is the whole idea of giving you the pictures just to give you a better picture. I
16 wasn't trying to persuade, I want you to actually get a better picture of the neighborhood. Every picture I have seen is
17 from the third property down, not from the one that is close by. I simply wanted to give a clearer picture and knowing
18 what these do to the values, it is supposed to preserve. Where does the enhancement of the value of the property,
19 where does it start, does it start at the closest property to the base of the tower or is it enhancing and preserving the
20 property a mile away. It is so objective.

21
22 Samantha Cabe: A question for our attorney, the statement of the Ordinance Section 5.3.2.a.2.b which sets forth the
23 requirement that the use will maintain or enhance the value of contiguous property unless the use is a public necessity
24 in which case, the use need not maintain or enhance the value of contiguous property. Do you have a definition or
25 guidance for us about what a public necessity may be?

26
27 James Bryan: I would like to defer to staff.

28
29 Rusty Monroe: State law does not deem it a utility.

30
31 Samantha Cabe: What do you mean deemed a utility?

32
33 Rusty Monroe: It is not defined as a utility, it is not regulated in a number of respects the way utilities are, as regards
34 to necessity, and I will defer to your attorney.

35
36 Samantha Cabe: If public necessity was a term of art or if there is case law that gives examples of what a public
37 necessity would be because we have heard testimony about the need for cellular communications in that area of the
38 county because you need 911 communications in case your car breaks down and there are areas out there without
39 communication and I wonder whether this rises to the level of public necessity and the attorney for American Tower
40 would have something to say about that as to whether they are contending this is a public necessity and therefore we
41 would not need to consider whether it would maintain or enhance the value of the property.

42
43 Karen Kemerait: I think both, like Mr. Monroe said, that telecommunications towers are not regulated as public utilities.
44 That does not mean they are not a public necessity and some public utilities are not considered to be public necessity.
45 I think in our modern day society that many would believe that telecommunication towers would be a public necessity.
46 I don't think you would necessarily need to reach that issue because we have already provided what is required by the
47 ordinance that shows this will enhance or maintain the value of contiguous property so I think that the evidence of
48 record demonstrates that.

49
50 Michael Harvey: From staff's perspective, it is our contention there is only technically one body that can make the
51 determination if something is a public necessity and that is the BOCC. From our standpoint, we have never had a

1 telecommunication facility as regulated by local regulations be designated as a public necessity and therefore exempt
2 from compliance with this standard. The issue becomes whether or not there is sufficient evidence in the record that
3 either proves or refutes the notion that it will maintain or enhance value of contiguous property. It doesn't have to do
4 both. It is an either or proposition. You have information in the record; you have testimony this evening from Mr.
5 Dixon and two other real estate agents who refute the claims made by Mr. Smith. It is up to the board to determine
6 whether or not the evidence that has been entered into the record proves compliance or demonstrates the project will
7 not comply. It has always been my feeling and my interpretation that it is the elected officials are the only body that
8 can make that form of determination that all applicants for the special use permit are required to provide that
9 documentation unless directed otherwise by the BOCC.

10
11 Michael Harvey: The question is how the board wishes to proceed. Ms. Kemerait was in the middle of her
12 presentation last month. She had just finished introducing evidence from her witness, Mr. Smith, the appraisal
13 information which you have already pointed out Mr. Chairman; I think it would be appropriate to see if Ms. Kemerait
14 has anything to add to the record and then get to the list of who is signed up to speak.

15
16 Larry Wright: I think that is reasonable.

17
18 Karen Kemerait: I do have additional information to provide briefly and I would also like the opportunity of rebuttal and
19 sum up our case as well. I would like to pass out information about the conservation easement that we spoke about at
20 the last hearing.

21
22 Michael Harvey: We will call this Applicant Exhibit 2.

23
24 Karen Kemerait: I would also like to thank the board for your time and patience because as I mentioned in the last
25 hearing, this is a very important application for AT&T and American Tower and for many of the residences and
26 businesses in Orange County. One of the questions asked of me and American Tower and Mr. and Mrs. Yow, who
27 are here again tonight, was whether Mr. and Mrs. Yow would agree to some type of conservation easement so the
28 trees surrounding the tower site would be protected. At the last hearing, Mr. and Mrs. Yow indicated they would be
29 willing to agree to that but we were not able to provide any specifics. Since the time of the hearing, we have prepared
30 what I have provided you, which is a map showing the area in which trees would be preserved and as condition of
31 approval of the special use permit application assuming the board approves the application, we would agree to provide
32 a conservation easement that would be recorded in Orange County that would be consistent with the information I am
33 going to describe and that is consistent with the map I have provided to you. Basically, that map is showing the tower
34 site along with the trees on Sesame Road which is directly to the west of the tower site. We are proposing a large
35 conservation area that will protect the trees between the tower site and Sesame Road and will also protect the trees
36 located to the north and south of the tower site. The property is not, Mr. and Mrs. Yow do not use this property for tree
37 farming, they use it for cattle farming so they have no interest in removing any trees but this will ensure in case
38 something were to happen and there was a future owner, these trees would be preserved. The conservation
39 easement would be; first, there would be a 30 foot no clearing buffer that would surround the area that would have to
40 be cleared so the tower can be located; secondly, we will provide that the trees and vegetation located within the
41 stream buffer will remain undisturbed and the stream buffer. The stream buffer runs from the north to the south of the
42 property so the entire stream buffer area will be protected. In addition, the vegetation to the northwest and the
43 southwest of the tower site that will be located outside of the 30 foot no clearing buffer and is also located outside the
44 stream buffer, that will be the area marked in red on page C1 of the site plans, also shall not be cleared so the area
45 surrounded in red and including the stream buffer which will run from the north to the south of the property will be
46 protected and part of the conservation easement.

47
48 Also, one of the questions we answered in part but not fully dealt with AT&T's plans for better coverage in Orange
49 County and at the time we did not have propagation maps that showed that the coverage that AT&T has planned in
50 this area of Orange County and I had stated that a bit more generally that AT&T is planning to make a large
51 investment and commitment in Orange County to help improve telecommunications coverage. Stephen Howard can

1 help me show the maps. The first map is the map of the area and this is the tower sight. This shows the general area
2 we are talking about; the coverage that is currently available and will be available and this is the tower site application.
3 This shows the roads. The second map is this map. This is the tower site location and surrounding it is the pink and
4 white and that means no coverage whatsoever and the pink area means very unreliable coverage. It does show there
5 is coverage in these areas moving west of the tower site with greatly insufficient coverage.
6

7 Larry Wright: Is this coverage for AT&T or Verizon or everything?
8

9 Karen Kemerait: For AT&T only. The third map shows the coverage that AT&T has planned for this area of the
10 county and the sites that have the dark blue or purple colors are locations where there is already coverage.
11

12 Samantha Cabe: From existing towers?
13

14 Karen Kemerait: This is the coverage that is currently available and this is the tower site for the application and these
15 areas are proposed sites. As you can see, there will still be more coverage needed in Orange County in order to have
16 an area in which the entire county has sufficient coverage but it is a very significant step in the right direction if you
17 compare the difference between AT&T moving forward with its plan with the right areas and what will be available
18 once AT&T's plans have been approved. This tower application before the board today is a really significant one
19 which I think there is such great interest from the Chamber and from members of the community because it is the first
20 piece of the puzzle in which it is a critical piece for the coverage that will be provided subsequently. Of course, if we do
21 not have coverage in that area, we can still move forward with the other sites but there would be a very significant gap
22 in coverage moving toward Chapel Hill in the area in which you want to have the different sites tie into one another so
23 this is what AT&T currently has planned and funded for Orange County. This is the additional information I wanted to
24 provide.
25

26 Samantha Cabe: Did you provide 8 ½ by 11 copies to submit into the record?
27

28 Karen Kemerait: No, but I can provide these later after the hearing.
29

30 Samantha Cabe: Is that okay?
31

32 James Bryan: Can you leave those?
33

34 Karen Kemerait: I can ask.
35

36 Michael Harvey: Those will have to be left; there is no way around that.
37

38 Karen Kemerait: I can also leave the orientation map.
39

40 Mark Micol: Will this tower have any impact on emergency communication at all in Orange County?
41

42 Karen Kemerait: Yes. It will have an impact on emergency communication for the customers of AT&T because in
43 times of storms, hurricanes, disaster types of situations, the land line system goes down. Typically what happens is
44 the telecommunications coverage is all the coverage, reliable form of coverage, telephone coverage. We also are
45 going to allow, as part of the application, to allow the county to place its emergency equipment on this tower. That is
46 one of the requirements of the ordinance.
47

48 Mark Micol: They will do that after the offer is made?
49

1 Michael Harvey: Without jumping the gun, yes, the ordinance does require it and, if this board sees fit to approve this
2 tower application, there is a condition requiring the offering of an antenna site, which the county can refuse, but the
3 offer has to be made. So yes they have to offer us a site for that purpose.
4

5 Larry Wright: We had testimony previously in the first half of this session that Verizon, has access to Verizon towers
6 and you could use a Verizon phone in this area if needed... Did you take a look for possible co-location sites on
7 Verizon towers in this area?
8

9 Karen Kemerait: We did and there are no existing towers within the search range. That has been confirmed with Mr.
10 Harvey as well. There are no existing towers that AT&T could co-locate on.
11

12 Michael Harvey: I had testimony in the last meeting indicating that in the application package there is a map showing
13 existing cell tower locations and this is an area where there are no existing cell towers so they are required to exhaust
14 co-location opportunities before they submit the application.
15

16 David Blankfard: How is it that Verizon can provide service to this area and AT&T cannot?
17

18 Rusty Monroe: Each service provider's network is designed differently. They are designed from different directions
19 and they do have a facility that is close enough to provide some service in this area. They are not able to just overlay
20 these facilities. They are all designed from different areas using different signal strengths. Each one is an entity unto
21 itself or a self-supporting entity. This facility, we have more than reasonable probability of expecting at least one
22 carrier if not two or more who want to co-locate on this facility especially going forward because the issue will become,
23 once what Ms. Kemerait has described, is done, the issue now becoming a case is less and less coverage and more
24 and more its capacity and you need a lot more site a lot closer together, not necessarily towers but for reasons of
25 capacity because these facilities have a very finite capability of handling a given amount of traffic, they have to be a lot
26 closer together.
27

28 Samantha Cabe: I have a question for either of you. If other carriers decide to co-locate on this tower, will it affect the
29 appearance or size of the tower in any way?
30

31 Karen Kemerait: No, it will not. The ordinance requires that this is part of our application materials that it has to be
32 room on the tower for AT&T and three additional carriers so AT&T is already committed and that is why we are here
33 today. That is why we are here today, we should not be here if it was not a carrier that needed coverage in the area
34 and then three additional carriers can co-locate on American Tower's tower. The benefit of that is these other carriers
35 will not need to look for new tower sites because they can co-locate on this carrier and the ordinance requires that if
36 there is a tower in the search area, they have to co-locate on it before they can look for a site for a new tower.
37

38 Samantha Cabe: The size and shape is already built out for four carriers, AT&T and three additional ones so it would
39 not change the way it looks, the size or height?
40

41 Karen Kemerait: The height in one of the conditions is that it will be a 199-foot telecommunications tower and one of
42 the other requirements of the ordinance is that the antennas have to be flush mounted so when AT&T puts on its
43 antennas, they will be flush mounted so they will not be visible or barely visible at all and the same situation will be for
44 the additional carriers that locate their antennas on the tower after AT&T puts its tower on it. The height of the tower
45 will not be extended for additional towers.
46

47 Karen Barrows: In Mr. Dixon's exhibit on page 12, he is talking about the balloon testing photos you have submitted
48 and none of them really show an impact for the property owners closest to the tower. Was there a reason for that or is
49 that true?
50

1 Karen Kemerait: I think it is a very accurate balloon test and the balloon test does show the areas. I did want to
2 mention that Jackie Hicks, who is a partner with Mr. Monroe, was present for the balloon test and saw the balloon test
3 photographs and she has confirmed that they are indeed accurate and she verified the results of the balloon test.
4

5 Karen Barrows: I wasn't questioning the balloon test. I was wondering about some of the closest impacting
6 properties...
7

8 Karen Kemerait: The balloon test photographs have been shown in areas where the tower is visible and also where it
9 is not. On page 3 of the balloon test, it shows the tower location and areas where the tower is not visible and it shows
10 areas where there tower would be visible. For example, the area around number 6, which is the properties that Mr.
11 Dixon was discussing does show those where the top of the tower will be visible. It is important to note that from a
12 majority of the vantage points, the tower will not be visible and the areas where the tower will be visible only the upper
13 portion will be visible, the base of the tower will not be visible so I disagree with the statement provided in here and
14 unfortunately I have not had time to read the entire memorandum but I believe that this balloon test and this
15 photograph are entirely accurate and as I mentioned before, Ms. Hicks was involved in reviewing this report and her
16 opinion was that it was a fair and accurate balloon test report and Mr. Monroe may be able to speak to that as well.
17

18 Larry Wright: To follow up on that, do we have a map of properties adjacent to this property or property owners?
19 There are some that are across the street.
20

21 Gary Dixon: The one I presented has....
22

23 Michael Harvey: Tab 10 has the affidavit from Patricia Butler concerning identification of all property owners that live in
24 the required distance. There is an 11x17 map that shows the properties within the notification distance. It also
25 provides the mailing address listings for everyone within 1,000 feet as determined by Orange County Land records. If
26 that is the map you are thinking of...
27

28 Karen Kemerait: I did want to emphasize that the balloon photographs are accurate. Mr. Monroe may be able to add
29 something to that since Ms. Hicks is not here.
30

31 Michael Harvey: There are several people signed up to speak if the applicant is finished.
32

33 Samantha Cabe: Did Mr. Monroe have something to say about my question?
34

35 Rusty Monroe: You had asked a question about can it or will it be increased in height. I wanted the board to know
36 that as of October 1, no community may limit the height of any structure. They are allowed to, as of right; increase in
37 10% increments the height of any structure.
38

39 Samantha Cabe: That has been a recent change in our
40

41 Michael Harvey: That is state law.
42

43 Samantha Cabe: Since our last meeting?
44

45 Rusty Monroe: They are allowed under state law, as of right, come in and take a 200 foot tower and as long as it is
46 done in 10% increments, add to it to the height.
47

48 Larry Wright: Does that statute also side step the Special Use Class B?
49

50 Rusty Monroe: Yes sir.
51

1 Larry Wright: So after October, this session

2

3 Rusty Monroe: This session would still be held for a new tower. We are talking about increasing the height of existing
4 facilities.

5

6 Mark Micol: What is the maximum buildout of this tower?

7

8 Rusty Monroe: I believe it is 199 feet.

9

10 Mark Micol: What is the maximum for it to go higher? What is the maximum that you could incrementally increase?

11

12 Rusty Monroe: We would have to have structural redone on those increased heights. I don't know what the current
13 structure capability is. I know they can be reinforced if necessary.

14

15 Samantha Cabe: And if they go higher than 200 feet, there is the requirement that they have the lighting?

16

17 Rusty Monroe: Yes, but that the county can control. It is allowed to prohibit towers that need to be lighted.

18

19 Larry Wright: That would go through a Class A special use permit?

20

21 Michael Harvey: That is the argument staff would make whether or not that would be legally defensible in a court of
22 law, we have no clue yet.

23

24 Rusty Monroe: We are not commenting on the positives or negatives on this, that is for your judgment. All we want to
25 do is to let you make informed decisions and determinations.

26

27 Karen Kemerait: I would like to point out that based upon increasing the height of the tower and having the issue
28 about being lit and getting FAA approval for a lit tower and having to come back for potentially a special use permit
29 hearing, for a Class A Special Use Permit, this tower is designed to accommodate four carriers and it is not an
30 insignificant proposition to increase the height of the tower that has already been constructed and designed at 199 feet
31 so there is room for three additional carriers at 199 feet.

32

33 Larry Wright: If you put a lightning rod on this, does it require light?

34

35 Karen Kemerait: To be more accurate, the tower itself is 195 feet with a four foot lightning bar so the tower itself with
36 that four foot lightning rod is 199 feet.

37

38 Michael Harvey: Mr. Chairman that is stipulated in the application. If Ms. Kemerait is finished, the next person to
39 speak is Art Menius.

40

41 Art Menius: I live in White Cross and I have been sworn in. I appreciate the chance to speak. These devices are a
42 miracle. They let us, in many different ways, conduct worldwide business and still have the rural life in Orange County
43 that we value. Some 30 years ago, I would have given anything to live like we live and work like we want to work
44 without having to make so many compromises. The compromise we have to make is the towers. I was gone from
45 home for almost eight years and half that time, I was at the end of the road at the top of the mountain in southeast
46 Kentucky in a county where the per capita income was \$11,000.00. I had hardwired internet 10 times faster than I
47 have here in Orange County. I had reliable wireless all the time, up on my mountain top or driving through my holler in
48 this remote location but I come back home to Orange County and my house in White Cross, I could walk from here to
49 the chairman and go from 4G to 3G to 1X to no service and back up through 1X and 3G and 4G by the time I got to
50 the chairman. My house is a mismatch of service and if I don't hold my head just right, I will lose a call. I can't do
51 business that way. Just this morning, I had to defer two calls to face meetings in Carrboro this afternoon because we

1 could not maintain a conversation over the wireless cell phone in White Cross. That is no way to do business. The
2 lack of competition may be part of it. The lack of towers is definitely part of it. I ask the board to approve this
3 application. We badly need it to thrive and grow in rural Orange County without losing what keeps Orange County
4 rural.

5

6 Larry Wright: Who is your carrier?

7

8 Art Menius: My carrier is Verizon.

9

10 Michael Harvey: Mr. Chairman, David Smith is the next person signed up to speak. Unless Mr. Smith has anything to
11 add, the next person is Diane Riggsbee.

12

13 Diane Riggsbee: My name is Diane Riggsbee and I have been sworn. I am a realtor as well as a resident. My parents
14 bought property down Sesame Road and I actually want to point out that they drew a map but failed to indicate
15 Sesame on the map so if you look at it from where this tower is supposed to go, it is going to be Sesame coming right
16 down here but we don't see Sesame at all and the residents that are here either grew up on Sesame or came,
17 because my family bought a house in 1963 so we have owned property for 50 years down Sesame Road when there
18 was no development going on. The Neville's owned property and Betty Sue married John Yow so they own property
19 all around Sesame and the Perry's own the rest of it and on the other end, Watts Johnson owned a 12 acre tract that
20 bordered Greensboro Highway. They don't show the tree lining. 50 years ago, there was a dirt road, I had to
21 condemn John Yow's property and Watts Johnson's property just to get the road paved. He didn't want to move the
22 tree line but now he is agreeing to but he will have enough money to maintain trees because when it is paid to have
23 the cell tower there, he will have more than enough money but he didn't want to move the fence because his fencing
24 for his cattle was the tree line so we had to condemn the property. I had to collect money from the residents just to get
25 a paved road after it moved sometime in the 80s up to first position, DOT went through that process and we finally got
26 it paved. Now he is agreeing to do it. John owns property, if you remember; his address is Greensboro Highway so
27 why is this cell tower bordering Sesame Road. He can't see the cell tower from where he lives. I dare say that John
28 and Betty will not be able to see this cell tower at all but the residents that live down Sesame will see it every day when
29 they go home and if you want to put it somewhere, put it where they can see. He has properties on both sides of this
30 driveway going down Greensboro Highway. Why didn't you choose to put it on the front lawn where he can get a good
31 signal? There are no trees blocking it there at all. It is just amazing to me to have to be involved when there is a
32 financial gain for him and he agreeing to maintain tree line that he would not agree to when we were just trying to get it
33 paved 'cause he was not affected. He didn't have to bother with the dust or anything coming off Sesame Road and
34 I see the same thing here, he ignores the residents off Sesame because his property borders Sesame. The other
35 thing I noticed in the conversation is that nobody bothers, nobody has actually witnessed the tower and seemingly the
36 visibility of the tower and how it will look 'cause she had to explain it again. The other thing is no one has made a
37 visual inspection to see... you were asking where are the tree lines? There is not a whole lot of distance between the
38 tree line going down Sesame and the fencing thats supporting both through the fence, a post, a tree and they are
39 steady falling. There is not a wide area, maybe 150 feet if this tower is going to be placed where I think it will be
40 placed so I behoove you to do an inspection of wherever you make a decision that will impact other people's lives.
41 Take the time to look at the properties affected so you can make an informed decision as to who it is going to impact
42 and how close it will be and to see an actual that AT&T is going to put up. The young man got up before me
43 mentioned that he can't get service and he has Verizon service. I have no problem getting Verizon service where I
44 grew up. I have gotten Verizon service; I lived down there when I was a child, moved away, still own property on
45 Sesame. Granted, when my AT&T friends go down there, they can't get phone service but my Verizon phone picks up
46 just fine. Mother has Time Warner. She has a land line. You might want to consider that because cable service will
47 go back to analog... what we all had before we had digital service. I chose not to get AT&T Sprint because they only
48 offer digital service. Why they can't consider, if I can get Verizon, does Verizon have more space on one of their
49 towers for AT&T? That way we don't have to deal with the eyesore.

50

1 Samantha Cabe: It is in the record, they did not. There was not the possibility of the co-location. That has already
2 been...

3
4 Diane Riggsbee: You are talking about four? When you said a co-location, it is co-location because ...

5
6 Samantha Cabe: They were required to inquire with any other carriers with existing tower locations as to whether or
7 not there was a tower they could locate an antenna on and they had to certify there was not that possibility in their
8 application before they could consider building this tower and there was no comparable. There was no tower in the
9 vicinity that had room for them to place their antenna on. They have already done that as part of the application.

10
11 Diane Riggsbee: So when they actually finished... I am guilty because I am just coming to this meeting today but I
12 don't know if the span of the cell service is just greater. Compared to other carriers, how many more towers would
13 have to be put up to accommodate AT&T? It bothers me when you totally ignore the main highway that is affected.
14 They just leave it off the map totally. It would actually be coming beside it. If you drew it on this map, it would be
15 coming beside the tower and I behoove you to go see it before you change people's life and affect people's life like
16 you are going to change them. I appreciate your time and attention.

17
18 Margot Lester: My name is Margot Carmichael Lester and I have been duly sworn. I grew up on Bowden Road, just
19 on the back side of the property in question. When I was growing up we didn't have cell phones cause I am kind of old
20 but we did have WUNC ginormous television towers which were visible from everywhere on our farm and so I
21 appreciate the visual and the other impacts that folks are talking about. They are not pretty but when I ask my daddy
22 why we had to see those glowing red lights at night that were kind of scary when I was a kid, he said that was the price
23 we had to pay to get public television. Unfortunately, cell towers, even ones that are faked up to look like trees and
24 they don't, are the cost of doing business and a cost of living in the modern era to get the service we need. I
25 appreciate those of you who have Verizon. I have AT&T. I live in downtown Carrboro now and if I go downstairs, I
26 can't talk on my cell phone but what I have come to talk to you about tonight as both a lifelong resident of Orange
27 County and as a Board of Directors member at the Chapel Hill-Carrboro Chamber of Commerce and the Chairman of
28 its Economic Development and Public Policy Committee is a business issue. I have some data here from a Constant
29 Contact survey that was done in May of this year. It talks about how small businesses in particular use mobile
30 technology. I am a small business owner, I have two and many of the people I do business with are based out in the
31 county... some in White Cross and some back in my old neighborhood around Bowden Road and they are building
32 their businesses and maintaining their businesses using mobile technology. Many of them are having trouble but I'll
33 tell you what the data shows so we don't step into the hearsay point of view. According to the survey which is of 1,300
34 small business owners, it is the United States. I'm sorry we haven't done one locally so I could give you more localized
35 data. They show that not only are small businesses using mobile platforms to advertise and to do email marketing but
36 18% of them are using mobile devices for payment. They are swiping those cards. Another set of them, 71% are
37 using it to do billing, to schedule appointments. So people are running their businesses with devices like these, off
38 their table computers and off their laptops and they need reliable service. When my husband was thinking of
39 relocating back to North Carolina, the things he said he required were reliable internet, strong cell phone service and
40 climate control and I can deliver on one of the three, the air conditioner which is anecdotal but I want us to think about
41 the impact as we try to build the stronger local economy, small business people who are running dairy farms and
42 contracting businesses and all kinds of things. We need the ability to have reliable service and I know it is not always
43 pretty to look at infrastructure but it is absolutely necessary and I ask you tonight to please approve this. I would like to
44 say if we can do anything to make it less of a visual impact on the neighbors, that is always a plus but the fact is that
45 we need this infrastructure to serve existing residents, business owners and folks who are trying to do their homework
46 at home or get a reliable service call out during an emergency so I ask you to please vote to approve this tower
47 tonight.

48
49 James DeGraffenreid, Jr.: I have been sworn. The question I have to you and AT&T and the Board is they are
50 showing the access to the tower off Sesame Road and I was wondering why that access. Couldn't they have a
51 driveway going down to their house and the tower is left of the driveway and my question is why that access road

1 could not have been off the driveway. I was born and raised out there in that area and another question, I don't still
2 live out there but my dad does but most of the time around these towers, they have these great big generators. When
3 the power goes out the generator kicks on and I am concerned about the noise. How big are the generators and how
4 much noise will be coming from it?
5

6 Karen Kemerait: I would like to respond about the access road. Sesame Road is a DOT maintained road with a 60
7 foot right-of-way and one of the ordinance requirements states that to the 60 foot wide right-of-way and one of the
8 ordinance requirements states that public roads are to be utilized to the maximum extent possible. It is very important
9 to know there will be very minimal traffic generated by this tower site. Once the tower is constructed, which I
10 mentioned last month, which will be about a four week time period then the tower use will be low impact use and
11 generates approximately two to four vehicle trips per month so it is much less minimal traffic type usage, type of use,
12 than even residential use of the area so very little traffic will be generated. As far as the generator, Mr. Harvey, can
13 you answer?
14

15 Liz Hill: I am with American Tower Corporation and I have been duly sworn. The generator at the site will be 218 feet
16 from the nearest property line surrounded by trees. We complied with whatever noise ordinance the county has. I
17 would like to point out that it only kicks on when the power goes out and the cable phone goes out and when other
18 forms of communication go out when you need your phone. The purpose of the generator is backup communications
19 when the primary power bridge fails.
20

21 Larry Wright: Doesn't it go on to regenerate the battery?
22

23 Liz Hill: Correct.
24

25 Larry Wright: It is an on-demand generator?
26

27 Liz Hill: Correct.
28

29 Larry Wright: It will probably go on once a week for a few minutes.
30

31 Liz Hill: It will go on for testing once a month for a short period of time to make sure it is operating correctly, otherwise
32 it will not be running in any longer period of time unless it is needed unless the power is out.
33

34 Samantha Cabe: Is there a regulation of the testing time?
35

36 Liz Hill: I think we can schedule it for during business hours. I don't know if your ordinance requires that but we can
37 certainly schedule it.
38

39 Samantha Cabe: Ms. Hill mentioned that the generator would be located 219 feet from the closest property line. That
40 is the Yow's property line. The generator will be 375 feet from Sesame Road.
41

42 Linda Ward: I am the owner of 801 Sesame Street Road and I am here because I am very concerned just as the
43 realtor said about those people who are afraid of the cell towers, I am one of them. Very much afraid and very much
44 concerned for my community and we were just talking about the generators that are located at the base of the cell
45 towers and these generators must be maintained at a steady temperature of 77 degrees Fahrenheit. This temperature
46 requirement is often compromised by poor maintenance and insufficient power due to power outages. Improperly
47 maintained generators have been known to break down and leak fluid into the ground thereby polluting an
48 underground water supply. All of Sesame Road people are on well pumps and I am really concerned about these
49 things breaking down or the maintenance can't get there on its monthly schedule or nobody even knew it was broken
50 but we, in our community, would be the first one to feel the effects of it and if it is seeping into the ground and the
51 water supply, how far will it go before it reaches University Lake. I think the risk is very great. The potential of trying to

1 clean up your water supply is like that oil deal we had a few summers ago trying to clean the water out of that so I am
2 very concerned about that. Also, the cell towers, I am concerned about the safety of our young children, our senior
3 citizens, the residents that live at the base of these cell towers and how it could affect us. I heard the term about radio
4 frequency radiation emitting from there and I am really concerned about it. I don't know much about it and the little bit I
5 can read from the short time I got that letter to come to this meeting, I am thinking about a microwave and it just slowly
6 cooks your brain or whatever. The buffer... you said there was water buffer of 150 feet where this tower will be
7 constructed but the electromagnetic radiation policy institute says that it should be constructed within 1,500 feet. This
8 is an international recognized precautionary standard. I feel like it is too close to the neighbors who are right there at
9 the base.

10
11 Samantha Cabe: 1,000 and something feet from what?

12
13 Linda Ward: From your neighbors.

14
15 Samantha Cabe: Could you say that statistic again, one more time. I was confused, you said it should be located
16 1,000 and some feet but you didn't say from what.

17
18 Linda Ward: I am referring to this part where you say you have a water buffer of 150 feet; they say we have a water
19 buffer of 150. I am also saying that the Electromagnetic Radiation Policy Institute says that international precautionary
20 standard should be 1,500 feet.

21
22 Samantha Cabe: From what?

23
24 Linda Ward: What is this from?

25
26 Samantha Cabe: That is the stream buffer that you can't disturb the land.

27
28 Linda Ward: But it says it is 150 feet buffer from what?

29
30 Samantha Cabe: That is the stream buffer; you can't disturb the land within.

31
32 Linda Ward: Our property is much closer. Our property is closer, you have a 150 feet buffer here and then you have
33 our property on the other side which is not 1,500 feet. It is too close. We don't have enough distance between our
34 houses and that cell tower.

35
36 LaShaun Ward: My name is LaShaun Ward, I know my name is next and I was sworn in. I grew up out there like Mr.
37 DeGraffenreid and so the major concern is health. I love technology. I am a retired teacher and was in the military but
38 the major concern must still be for health and that is what she is addressing. Everybody out there is on well water and
39 what would happen if radiation gets into some of those wells that are about 72 feet. I know those wells do run into
40 University Lake. That is the major concern is health. Technology is great, I love it and when it works it is super.

41
42 Linda Ward: We were talking about how many cell towers were out there and how many exist so I went on the website
43 www.antennasearch.com and I typed in 1426 Old Greensboro Road to see what it would say. It said there are already
44 an existing 22 towers found within a four mile radius and south of Old Greensboro Road and it says that eight are
45 registered and 14 are not registered. We have towers that are not registered so who knows about them but the
46 system did give a list of those towers and they are .28 of a mile of 1426 Old Greensboro Road and .32 of a mile of Old
47 Greensboro and then there is American Towers but there are other towers too. It gave a whole list of those. I am
48 hoping we can research this further and find out the affects and get a bonified study of what will happen to us as
49 neighbors in that community. Also, you had mentioned that we need the cell phones and we need internet and the
50 other devices, cable, internet, cell phones and all this and we are saying is this really a need. Well we do have a need
51 for information. We have a need for it but when I was in school financing student loans and when the students came

1 in and said that it is an emergency I need to have my cell phone paid. We never gave them emergency for cell phone,
2 no emergency loan for cable TV, nor did we give them one for internet. It was always the electric bill to keep warm or
3 water or your rent being paid so I am saying that we really need to look at this situation to see how close. These
4 maps, they are taken, looks like space here because they are so wide and it makes it seem like the area is so large,
5 the area is not that big.

6
7 Michael Harvey: Mr. Ward, did you have anything else to add?

8
9 LaShaun Ward: I will support the opinion of the first two speakers.

10
11 Michael Harvey: I wanted to make sure you had your opportunity.

12
13 LaShaun Ward: Yes, thank you.

14
15 Bryan Lanier: I have been sworn. I am a licensed professional engineer in North Carolina and I am here to answer
16 any questions that anyone may have regarding the structural integrity of the tower.

17
18 David Blankford: How difficult would it be to, after this tower is put in, to retrofit... to make this tower taller?

19
20 Bryan Lanier: Some are more difficult foundations to try to strengthen but in general foundations are challenging but it
21 can be done. Depending on how much you want to invest in it especially considering how tall you want to make the
22 tower. Also be a function of, AT&T goes on this tower, and they are co-located, now there are no other carriers. We
23 will say Verizon wants a height of 225 feet, more than likely the foundation would have more than adequate capacity
24 and the second carrier is going to be higher, there is still enough strength left in reserve to support that. It is quite
25 unlikely. Once this carrier goes in, it will never have to be strengthened again.

26
27 Linda Ward: How many cell towers have fallen that has been built in the 10 years?

28
29 Samantha Cabe: Let's not have a back and forth.

30
31 Larry Wright: I would like for you to offer testimony and speak to the board. Mr. Dixon, did you want to ask any
32 questions?

33
34 Gary Dixon: How do they address the bad weather and the wind? How do they determine if ice lands on that tower
35 and freezes and it starts coming off? Is wind going to take that stuff and blow it through my window? Is that
36 something pertinent to him?

37
38 Larry Wright: Sir, would you address the Board and respond to this please?

39
40 Bryan Lanier: With respect to wind and ice, this is a design consideration as part of the tower, something part of the
41 building standard... technically buildings have to be designed with this although snow is something more concerned
42 about. As far as ice falling, the expectation is usually low. The ice will fall easily with the height of the tower if not a
43 much shorter distance. Specifically, when you get ice accumulation on a tower, it will be in a low wind area like if you
44 are in a low wind time. If you have a lot of wind blowing, you will not get a significant amount of ice accumulation
45 because the wind will blow the water off. Is it basically freezing rain so you would expect when the ice comes off, it will
46 be low wind and fall straight to the ground.

47
48 Gary Dixon: Will it land on the cattle and the farm?

49
50 Larry Wright: Mr. Harvey?

1 Michael Harvey: The next person signed up is Libby Hough.

2

3 Libby Hough: I have been sworn in. As a rural resident living in the rural buffer, not down in White Cross but up on
4 Bingham Township. We have coupled together our phone service and internet service because AT&T hasn't worked
5 where we are so we are AT&T regular phone and internet and Verizon cell phone. The way I learned that AT&T didn't
6 work was about 10 years ago during the 2002 ice storm. We lost power for seven days while my husband was in
7 sunny California I was at home with two small children, no power, no toilets and no water and no phone except for
8 8:00 in the evening I could stand on my tiptoes in one spot in my house. That was a safety consideration for us and
9 then I switched our cell phone coverage. Fast forward to about a month ago, I have an older daughter who has a life
10 threatening heart condition and I received a telephone call while away from the house that she was again in the
11 emergency room this time in the mountains of North Carolina after a seizure. I rushed home, tried to use my cell
12 phone because I don't pay for my long distance on my land line. I pay for that on my cell phone. The coverage was
13 spotty at best. I was not able to be in communication with the emergency room when my daughter was there. Then I
14 went to the business line that I pay for with AT&T so we have three phone services and was able to call out long
15 distance that way fortunately but it underscored my lack of ability to communicate with others in times of need. I am
16 also a small business owner and started my business at my home so I could be at home with my children as needed.
17 Our internet service goes down quite a bit. When that happens I have to pack up and go from my home in rural
18 Orange County to Weaver Street or wherever and try to run my business virtually from those locations. Sometimes
19 our phone service has gone down for two weeks at a time. We do not have a backup internet service. I have to leave
20 the house in order to conduct my business. That has been remedied by the fact that I have office space in
21 Hillsborough but as a small business owner, the overhead is quite significant. I have looked at every which way to cut
22 our home expenses, our phones, and I can't. I have a child with a health condition, even though she is 21 years old,
23 she is still my child and I still get calls from the emergency room so for safety reason, for small business infrastructure,
24 for supporting economic development in the community I support this application. I also, as a person on a well water
25 system, I understand concerns about ground water contamination so if there are ways that the residents can be
26 assured that all kinds of safety precautions are taken to keep their water safe, I would appreciate that too. Thank you.

27

28 Michael Harvey: Next is Ms. Beverly Roberson.

29

30 Larry Wright: Ms. Robinson. She left.

31

32 Laura Lloyd: I have been duly sworn in. I live off Greensboro Road, less than a mile from where the tower will be. I
33 have Verizon and I have fine service most of the time. I have a friend on Carl Durham Road who runs her business
34 from her house and her office in town. She has all AT&T and she gets no service on Carl Durham Road which is a
35 little further out from me. About a month ago, she had to come to my house to call 911 when she came home and
36 found her home had been robbed so she could not even call 911 from there. When the last woman was talking about
37 her daughter, my son is a mailman for a post office out of Timberlyne and has all White Cross; he has Verizon, like I
38 do. He talks to me numerous times during the day and even with that, he is in very spotty areas. I know exactly where
39 he is all the time. He also has a severe illness and is very lucky to be able to work the job he does so he needs to be
40 able to call 911 too even though he is working out there but there are times in the heat and dust he has trouble
41 breathing and I'm afraid he won't be able to call 911. The other issue is the new fire department on Neville Road
42 which is pretty directly across from the Yow's property. Mrs. Yow was a Neville so it is Neville Road so what will
43 happen with that 911 and anybody who has AT&T has a terrible time out there. I did see the balloon test. I did see
44 the signs and of course I was very curious about it. I know the Yow's. I had to go in town on Old Greensboro Road; I
45 know where the Yow's live. I had to totally turn my head away from looking at the road to be able to see that balloon.
46 When you came out of town, you couldn't see it at all. I didn't go down Sesame Road that day. I know they will be
47 able to see it, I know there is a large tree buffer and I'm sure it is... everybody wants it, they want the internet
48 connection but they don't want it in their back yard but I am totally in favor of this cell tower being built and we need
49 more of them because this part of Orange County has terrible cell service. Thank you.

50

51 Michael Harvey: Last on my list is Maria Patino.

1
2 Gary Dixon: She speaks Spanish. Maria simply wanted to say that she has AT&T service, she lives on Sesame Road
3 and she is on our memorandum. She is one of our petitioners that live in the community off Sesame. She does have
4 five lines of AT&T service and she has fine signal there.

5
6 Maria Patino: I have five lines from AT&T... I-phone 4 and I-phone 5. I have had it maybe seven years.

7
8 Michael Harvey: That concludes the list of individuals that have signed up.

9
10 Liz Hill: I am Liz Hill with American Tower. There were concerns raised about the environmental safety of the
11 generator. The generator will be owned by American Tower. It is a shared generator so AT&T will be on it and
12 someone else can share it as well. We will comply with whatever the regulations are. Local regulations, state
13 regulations, we will comply. These are monitored 24 hours a day remotely. Actually our national network operating
14 center is located in Cary so that is where it will be located in addition to the regular visits. Every time our site
15 supervisors go to a site for whatever reason, they check everything at the site and one of those things will be the
16 generator because it is an American Tower owned asset. Whatever the environmental regulations are, we will comply
17 with them. We own a couple thousand of these across the country and have not had any issues with leakage but
18 whatever the environmental regulations, we will comply.

19
20 Larry Wright: In the event of a power failure, can you remotely monitor?

21
22 Liz Hill: Yes.

23
24 Larry Wright: What agents are in there that would be a potential hazard to the environment?

25
26 Liz Hill: They are diesel generators so they are your standard generators but unlike the ones I think of as a generator
27 where you have the round tank. These are self-contained so it is rectangular. It has the diesel and the generator in
28 one unit so it is a little more compact. Diesel is the only thing I could think of that would have a leakage and diesel
29 generators have been deployed for years.

30
31 Larry Wright: Is it oil?

32
33 Liz Hill: It is just diesel fuel. That is all it is. Other than that, it is a standard generator. It is a Generac generator. A
34 standard generator with diesel fuel that a lot of people are installing at their homes simply a little larger to
35 accommodate commercial carriers.

36
37 Larry Wright: Do you have any other rebuttals.

38
39 Karen Kemerait: No. I would like a few minutes to sum up the evidence. AT&T had been approached by residents,
40 businesses, and the Chamber of Commerce asking for better coverage in the area and AT&T has agreed to provide a
41 significant investment in Orange County and the efforts they are making will lead to a better quality of life, a better
42 general well-being and also better safety for the residents and also AT&T and American Towers assistance with
43 economic development efforts within Orange County. The propagation maps shows the coverage will be greatly
44 improved based upon this one tower location site and then also, as I have shown with the most recent propagation
45 maps, AT&T is intending to provide significantly better coverage within Orange County. Regarding the parcel that has
46 been selected, Mr. & Mrs. Yow's property, which are here tonight, it is an excellent parcel for the telecommunications
47 tower. It will provide coverage where coverage is needed along Old Greensboro and Jones Ferry Roads and also it is
48 a large 28 acre piece of property and I think it is unusual to find such a large site for telecommunications towers in
49 today's time. The site is used for cattle farming. Mr. & Mrs. Yow have agreed to the conservation easement to ensure
50 the vast majority of trees will be preserved. What we have not focused on tonight because I believe that evidence is
51 undisputed is that we have met all the specific and technical requirements of the ordinance. We have also talked in a

1 little more detail and also during the hearing last month about the general standards for special use permit
2 applications. We have shown in our application and I don't believe there has been any competent material or
3 substantial evidence to the contrary about any of these general standards for special use permits. First, we have
4 shown the tower will maintain or promote the public health, safety and general welfare. We have shown that the
5 emissions for the antennas will comply with all federal standards and guidelines. We have shown that the tower will
6 allow 911 service to be available for AT&T customers during times of emergency and also that the county has the
7 ability to place its own emergency equipment on the tower as well. The service will, as the witnesses from the
8 chamber and the public witnesses, have talked about how the service will lead to and improve quality of life from many
9 aspects and also will improve economic development for the county. We have also shown that the second standard
10 has been met with the monopole tower to maintain or enhance the value of contiguous property. The monopole tower
11 will not be a nuisance. There will be no noise, no glare and the tower will not be lit because it is not required to be lit
12 by the FAA. There will be little or minimal traffic that will be generated once the tower has been constructed. As I
13 mentioned, there will be two to four vehicle trips per month and most significantly we provided a property impact
14 analysis from David Smith who testified at the hearing a month ago. He is a North Carolina certified real estate
15 appraiser. His report is supported by factual analysis and data and evidence. His report concludes that the proposed
16 tower will maintain and enhance the value of contiguous property. We have also shown in our application materials
17 that the tower will be in harmony with the area in which is to be located. Telecommunications towers are permitted as
18 special uses on property that has been zoned rural buffer which is the zoning classification of Mr. & Mrs. Yow's
19 property and once a use is permitted as a special use in particular zoning classification, it is considered evidence that it
20 will be in harmony with the area in which it will be located. We have also mentioned it will not be a nuisance and not
21 be lit with no noise or glare and little traffic. Mr. Smith also provided testimony at the hearing last month which he
22 provided his conclusion as well that the tower will be harmony with the area in which is proposed to be located. I also
23 wanted to mention that this particular application has generated quite a bit of interest among businesses and from the
24 Chamber of Commerce because there is insufficient coverage in the county and coverage is not being not just asked
25 for but demanded of the different carriers. Last month, Aaron Nelson from the Chamber of Commerce talked about
26 how important the telecommunications coverage is in the county and in this area in particular for economic
27 development and he urged the board to approve the application. Kristen Smith, who is the Vice-President of Advocacy
28 and Engagement, also testified last month and she is a neighbor along Old Greensboro Road and lives about a mile
29 from the tower site. She testified from a personal perspective for the need of a better telecommunications area along
30 Old Greensboro Road. Then Desiree Goldman testified, she is with the Greater Chapel Hill Association of Realtors,
31 talked about safety concerns of a realtor who goes into homes with clients and how concerned she is when there is not
32 telecommunications service for her own personal safety. She also talked about how critically important it is for home
33 buyers that there be telecommunications in the home they are considering purchasing and she also talked about when
34 some of the home buyers learned there is not telecommunications coverage that they often times lose interest in
35 purchasing the house. She also talked about, in Orange County, she believes it a lifestyle that the county should
36 continue to encourage where the county should allow the infrastructure to be available such that people can have less
37 of a footprint that they can work from home and spend less time in their vehicles if they are able to do so. Then
38 Jeremy Browner also talked about the importance of telecommunications coverage especially from his perspective in
39 the rural areas and then again tonight we have had three additional witnesses, Margot Lester, who spoke this evening
40 and she stated she used to live off Old Greensboro Road. One of her comments was that anything we can do to make
41 the 199 foot monopole less of a visible impact would be appreciated and I wanted to point out what we have already
42 agreed to do which is the conservation easement that we have talked about. The ordinance requires the antennas be
43 flushed mounted to the tower and that is something we will be doing as well. Then Art Menius spoke as well and he
44 talked about how important it is for telecommunications coverage for small businesses to thrive and grow and then
45 Libby Hough who just spoke. I did want to address some of the concerns raised by the neighbors. There was
46 discussion about impact of property values from Mr. Lenchek and Ms. Figueror however; those two witnesses provided
47 no data, had no evidence, they are not appraisers and they did not provide an appraisal report and the information
48 they provided would be, what the courts would be, generalized concerns that there would be no supporting facts for
49 data and would not be considered competent material evidence. The North Carolina case law states that it is clear
50 that opinions and conclusions about impact of property values that are not supported by factual data or background
51 are considered to be incompetent and insufficient evidence that cannot be relied upon. Also, I talked about the balloon

1 test that it was a reliable report. As far as the safety of the tower, we are required to provide a fall zone for the 199
2 foot tower which is 110% of the tower and the fall zone is 219 feet so no structures or property lines can be located
3 within 219 feet of the tower and that has been complied with. In addition, Sesame Road with the neighborhood
4 directly to the east of Sesame Road is located 375 feet away from the tower.

5
6 Samantha Cabe: On the notes on your map submitted as Applicant's Exhibit 2 and note 5 indicates that the tower is
7 located such that there are none existing within 500 feet of the tower center?
8

9 Karen Kemerait: I assume that it is accurate. I mean 375 feet from Sesame Road is the location of the Road.

10
11 Samantha Cabe: From the centerline of Sesame Road?
12

13 Karen Kemerait: Yes. I did want to mention about the report provided by the New York attorney and I wanted to
14 mention that the law that was presented in that report is based on Circuit Federal Law and what has been discussed,
15 to some extent, was discussion about how an applicant must find the least intrusive means to fill a gap in coverage.
16 That is not the law in the Fourth Circuit that North Carolina would be if we were in Federal Court we would be the
17 fourth circuit. The Fourth Circuit has a case, T-Mobile versus Fairfax Board which was decided in 2012, specifically
18 rejected that the least intrusive means test and stated that is not the law of the Fourth Circuit. Even if it were the law,
19 the Orange County UDO essentially has a standard similar to that. It requires an applicant to evaluate less intrusive
20 options for any tower placement and this is according to Section 5.10.8.b.4.b and the hierarchy of sites is number one
21 to consider locating the antennas on an existing county owned facility in which the height will not have to be increased.
22 The second criteria are to consider an existing facility such as an existing tower without increasing the height. The
23 third is on county properties and the fourth is on properties zoned for commercial or industrial use and American Tower
24 and AT&T considered each of those options and as noted in the application none of those options were available that
25 is the reason they have come forward with an application to lease property from Mr. & Mrs. Yow. We are asking that
26 the application be approved because we have met all the technical requirements for telecommunications towers and
27 all the general standards for special use. Thank you.
28

29 Larry Wright: Mr. Dixon, do you have a summary statement?
30

31 Gary Dixon: I would like to go back to the map and reiterate that each one of the plots or squares represents a family
32 with real people and real children. Thirty females constitute well over 100 people that will be greatly impacted by
33 something that is the maximum height. They have not looked for anything less intrusive. I understand there are no
34 other structures that will support a 20 story tall tower. They have to have this much space for something that big that
35 towers over everything. Leaving those trees that are half the height of a 20 story tower will not hide this tower. They
36 will not camouflage this at all. The second picture is nearly twice as tall as the existing trees. I walked it off this
37 morning and from the center of Sesame Road, it is approximately 250 feet from the front yard of the closest house.
38 There is very little room if anything at all goes wrong. I would also like you to consider how much traffic it will create
39 with the trucks, the school buses on an 18 foot wide road. It will be very dangerous. At the speed limit of 25. This
40 road has one way in and one way out. Where will they turn around at? These are real people with families.
41

42 Michael Harvey: In your application packet, tab 6, the site plan, sheet 5 provides you with the location of the proposed
43 tower, it provides documentation that the tower is well within the required fall zone and then scaling out the boundary
44 from the identified fall zone is approximately another 190 feet so it is 218 feet plus another 190 feet is where the tower
45 is setback from Sesame Road. The applicant has provided, in attachment 3 of this packet, the detailed narrative
46 referring to all the various attachments outlining how they comply with the code. On page 100, we have provided what
47 we believe are some linkages to the Orange County 2030 Comprehensive Plan that demonstrate compliance with
48 various goals and policies as adopted by County Commissioners. Staff typically provides you with the
49 recommendations on specific findings that are contained within the Unified Development Ordinance. Specifically the
50 applicant has submitted the completed application form, the necessary number of documents, has paid the required
51 application fee and beginning on page 132 we have found the applicant has complied with Sections 2.2 and 2.73

1 concerning the submittal of the application as well as all the required attachments. That goes on to page 136 and then
2 we provided documentation dealing with whether or not the applicant has complied with Section 2.75 which deals with
3 notification requirements. We have provided you the linkages not only in the applicant's document but as well as
4 providing you documentation in our own abstract signifying that all notification requirements were adhered to as
5 described in the UDO and state law. That takes us to page 138 complying with the specifics development standards.
6 You will note an affirmative finding by staff. You will also note there are various locations where we state the
7 provisions are not applicable. For example, there is a requirement that the applicant provide an environmental
8 statement if they are required to by code. This project is not required to provide one as it does not meet the criteria to
9 submit an environmental statement and we have indicated that in the script for your review. We have found they have
10 complied with the necessary documentation with respect to the technical detail on the erection of the tower. As Ms.
11 Kemeraït pointed out, they have the detailed narrative as well as attachments showing the search ring utilized to find
12 the proposed site and the propagation studies indicating there were no towers as required by the code for them to co-
13 locate onto an existing tower with this antenna. That takes us to the conclusion of this script on page 183. This is
14 where the board has to base their decisions based on the testimony evidence entered into the record. These are the
15 three general findings in Section 5.3.2 (A) (2). Specifically that the use will maintain or promote the public health,
16 safety and general welfare if located where proposed. I am not reading verbatim. Secondly, that the use will maintain
17 or enhance the value of contiguous property and finally, location and character of the use if developed according to the
18 planned submittal will be in harmony with the area in which it is located and the use is in compliance with the physical
19 development of the county's UDO and Comprehensive Plan. We have provided you with a reminder of what is in the
20 record with respect to testimony that has already been presented. If you see fit to grant this application, you will see
21 on page 187 and 188, we have recommended 19 conditions which the applicant has agreed to. I would further
22 stipulate that if this board sees fit, you need to add a 20th condition indicating that conservation easement(s) will be
23 executed as proposed by the applicant to address board's concerns over the removal of foliage from the property.
24 You will need to add that it was not an original condition. I will remind the board in Attachment 2 of the packet, you
25 have correspondence from our county telecommunications consultant recommending approval of the tower. You have
26 correspondence from Orange County Environmental Health, the fire marshal's office and other county agencies
27 indicating their support for the tower application indicating they do not believe there are issues with respect to either
28 they being able to provide service to the tower from a public safety standpoint or from the tower being erected on the
29 parcel of property. I will answer any specific questions. I will remind you that once you close the public hearing, you
30 cannot ask questions of the staff, applicant or anyone in the audience. Just to make sure no one has questions for Mr.
31 Monroe, he has to leave.

32
33 Larry Wright: Anyone have any questions for Mr. Monroe. No. At this point we will close the public hearing. Are
34 there any general comments from the board members before we start? I would like to address the application
35 components. I would like to ask for a motion and before there is a second, I would like to give ample time for any
36 discussion on the motion. Do I have a motion on the application components? We are all voting members here.
37

Attachment 4

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
1426 OLD GREENSBORO ROAD – PIN 9768-22-3878

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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 complaint 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)

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
Section 2.2 The application for a Class B Special Use Permit shall be on forms provided by the Planning Department.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 2</u> of the application booklet contains a complete Orange County Class B Special Use Permit application for the project.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 1</u> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 3</u> of the application booklet contains a complete project narrative describing the proposed use and operational characteristics of the proposed tower.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (2) The names and addresses of the owners of the property	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab(s) 3 and 4</u> of the application booklet contains information concerning the names and addresses of the owner of the property where the tower is to be located.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

6

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The application booklet contains various documents, including a site plan, containing the necessary information establishing compliance with the provisions of the Ordinance.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (4) Ten (10) copies of the site plan prepared by a registered N.C. land surveyor, architect, or engineer.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 6</u> of the application booklet contains the required site plan completed by Tower Engineering Professionals of Raleigh, NC.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Not Applicable		The project does not involve or propose a subdivision. As a result no preliminary plat is required.	<input checked="" type="checkbox"/> Not Applicable	
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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 12</u> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (7) Elevations of all structures proposed to be used in the development.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab 6</u> of the application booklet contains the required elevations	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

2

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

Ordinance Requirements	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"/> Not 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"/> Not 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	<u>Tab(s) 6 and 37</u> 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	<u>Tab 37</u> 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

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

Ordinance Requirements	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.	<input type="checkbox"/> Not Applicable

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1 SECTION 2.7.5 CLASS A SPECIAL NOTIFICATION REQUIREMENTS ("Yes" indicates compliance; "No" indicates
 2 non-compliance)
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Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<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	<u>Attachment 3</u> 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 lest ten days prior to the date of said hearing.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Attachment 3</u> 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	<u>Attachment 3</u> 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)

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
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	<u>Tab(s) 6</u> 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	<u>Tab 3</u> 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. <u>Tab(s) 6, 7, 15, 16, 17, 19, 20, 21, 22</u> of the application booklet contains other supporting documentation satisfying this requirement.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	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>	___	Tab(s) 3, 6 and 7 of the application booklet contains the required information.	<u>x</u>	___

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tab(s) 3 and 30</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tab(s) 3 and 28</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Tab(s) 3 and 7 of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Tab(s) 3 and 41 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Tab(s) 15 and 21 of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Tab(s) 17 and 20 of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	Yes	No		Yes	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	<u>Tab(s) 3 and 19</u> 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 <u>Attachment 2</u> 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	<u>Tab(s) 3 and 6</u> 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	<u>Tab(s) 3, 6 and 17</u> 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	<u>Tab(s) 3, 13, 17, and 21</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab(s) 3, 17, and 21</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (o) The actual intended transmission and the maximum effective radiated power of the antenna(s).	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab(s) 3, 17, and 21</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (A) (1) (p) The direction(s) of maximum lobes and associated radiation of the antenna(s).	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab(s) 3, 17 and 21</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<u>Tab(s) 3 and 21</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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SECTION 5.10.8 (A) – STANDARDS FOR TELECOMMUNICATION FACILITIES
 ("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 (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	<u>Tab(s) 3 and 21</u> 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	<u>Tab(s) 3 and 22</u> 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	<u>Tab(s) 3 and 13</u> 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 ANTENNAS ("Yes"
 2 indicates compliance; "No" indicates non-compliance)

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

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><u>Tab(s) 3, 14, 16, 17, 19, and 20</u> 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 <u>Tab 14</u>) would not serve this area.</p> <p><u>Tab(s) 3 and 6</u> provides sufficient information denoting compliance with subsection (b).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Ordinance Requirements	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><u>Tab(s) 3, 7, 8, 9, 10, 11, and 12</u> of the application booklet contains the required information.</p> <p>The balloon test was completed on April 20, 2013 – 7 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><u>Tab 7</u> contains pictures of the balloon test, which was held from 10:00 a.m. until 2:00 p.m. on April 20, 2013.</p> <p>Notices of the balloon test were sent to property owners within 1000 feet, of the subject property, via certified mail on April 3, 2013, 17 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>			

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
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	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-1 of the site plan contained in <u>Tab 6</u> 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	<u>Tab(s) 3, 6 and 17</u> of the application booklet contains the required information. Sheet C-3 of the site plan contained in <u>Tab 6</u> provides information about the tower and antennas.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet L-1 of the site plan contained in <u>Tab 6</u> contains the required landscape and tree preservation plan.	<u>x</u> Yes	___ No

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

Ordinance Requirements	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) (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.	<u>X</u>	___	<u>Tab(s) 3, 15, 16, and 22</u> , of the application booklet contains the required information. <u>Tab 22</u> 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. <u>Tab 16</u> contains a memorandum from BlueWave Development reviewing search criteria for a property to support the proposed 199 foot tall tower. <u>Tab 15</u> contains a search ring map.	<u>x</u>	___

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

<u>Ordinance Requirements</u>	<u>PLANNING STAFF RECOMMENDED FINDINGS</u>		<u>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</u>	<u>BOA FINDINGS</u>	
	<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	<u>Tab(s) 3 and 33</u> 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	<u>Tab(s) 3 and 32</u> 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	<u>Tab(s) 3 and 12</u> 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	<u>Tab(s) 3 and 7</u> 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 – CONTINUED (“Yes”
 2 indicates compliance; “No” indicates non-compliance)

Ordinance Requirements	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) (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	<u>Tab(s) 3, 8, 9, 10, 11</u> 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	<u>Tab(s) 3 and 10</u> 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	<u>Tab(s) 3 and 7</u> 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 – CONTINUED (“Yes”
 2 indicates compliance; “No” indicates non-compliance)

Ordinance Requirements	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	<u>Tab(s) 3 and 21</u> 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> 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 – CONTINUED (“Yes”
 2 indicates compliance; “No” indicates non-compliance)

Ordinance Requirements	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) (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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 7</u> of the application booklet contains the required information.	<u>x</u> 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.	<u>X</u> 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	<u>x</u> Yes	___ No

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
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	<u>Tab(s) 3 and 14</u> 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)

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

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

Ordinance Requirements	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).	<u>X</u> Yes	___ No	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>	<u>x</u> Yes	___ No

3

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	5.10.8 (B) (4) (b) Continued (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. (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.				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.

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

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

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

Ordinance Requirements	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) (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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-1 of the site plan contained in <u>Tab 6</u> indicates the base of the tower will be 460 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.	<u>x</u> Yes	___ No

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

Ordinance Requirements	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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-1 and C-2 of the site plan contained in <u>Tab 6</u> contains sufficient detail denoting compliance. 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.	<u>x</u> Yes	___ No

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

Ordinance Requirements	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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet L-1 of the site plan contained in <u>Tab 6</u> contains sufficient detail denoting compliance. There will be a Type C Land Use Buffer installed on the property.	<u>x</u> Yes	___ No

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The applicant acknowledges the condition. Balloon Test information, including visibility pictures/renderings are contained within Tab 7 of the application package	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tab(s) 3, 6, and 7 of the application booklet contains the required information. Sheet C-1 of the site plan in Tab 6 provides information on the landscaping. Tab 7 provides information related to the balloon visibility.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tab(s) 3 and 6 of the application booklet contains the required information. Sheet C-2 of the site plan in Tab 6 provides the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tab(s) 3 and 6 of the application booklet contains the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-10 of the site plan contained in <u>Tab 6</u> contains the required information on proposed fences and walls.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

Ordinance Requirements	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	<u>Tab(s) 3 and 31</u> of the application booklet contains the required information. <u>Tab 31</u> 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 – CONTINUED (“Yes”
 2 indicates compliance; “No” indicates non-compliance)

Ordinance Requirements	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	<u>Tab(s) 3</u> 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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4

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

Ordinance Requirements	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.	<u>X</u>	___	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-3 of the site plan contained within <u>Tab 6</u> indicated the antennas will be located on the proposed monopole tower will be flush mounted. Language within the application indicates this condition will be adhered to. Subsection (ii) is not applicable to this application.	<u>x</u>	___

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
5.10.8 (B) (4) (q) Lighting	<input checked="" type="checkbox"/> Not Applicable		As detailed within the application the tower is not required, or is it going to be, illuminated.	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Adjacent roadways are not designated as scenic roads or major view corridors. According to a memorandum from Orange County DEAPR staff, contained within <u>Attachment 2</u> of the staff abstract, there are no issues with respect to detracting from historic sites.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	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
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"/> Yes	<input type="checkbox"/> No	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"/> Yes	<input type="checkbox"/> No
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"/> Yes	<input type="checkbox"/> No	The applicant acknowledges the condition. Language within the application indicates this condition will be adhered to.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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

Ordinance Requirements	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

3

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

Ordinance Requirements	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) (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.			<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-11 of the site plan contained within <u>Tab 6</u> provides the signage details for the project, demonstrating compliance with this provision.		

3
4

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

Ordinance Requirements	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) (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.			<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-11 of the site plan contained within <u>Tab 6</u> provides the signage details for the project, demonstrating compliance with this provision.		

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

Ordinance Requirements	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) (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.	<u>X</u> Yes	___ No	<u>Tab(s) 3 and 6</u> of the application booklet contains the required information. Sheet C-11 of the site plan contained within <u>Tab 6</u> provides the signage details for the project, demonstrating compliance with this provision.	<u>x</u> Yes	___ No

3

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

Ordinance Requirements	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	<u>X</u>	___	Tab(s) 3 of the application booklet acknowledges the condition and indicates it shall be adhered to.	<u>x</u>	___

3

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

Ordinance Requirements	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.			Tab(s) 3 of the application booklet acknowledges the condition and indicates it shall be adhered to.		

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4

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

Ordinance Requirements	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 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.			Tab(s) 3 of the application booklet acknowledges the condition and indicates it shall be adhered to. This shall become a condition of approval for the project.		

3
4

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

Ordinance Requirements	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 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.			Tab(s) 3 of the application booklet acknowledges the condition and indicates it shall be adhered to. This shall become a condition of approval for the project.		

3

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		<u>x</u> Yes	___ No
<p>Section 5.3.2 (B) (1)</p> <p>Method and adequacy of provision for sewage disposal facilities, solid waste and water service.</p>	<u>X</u> Yes	___ No	<p><u>Attachment 2</u> 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.</p> <p>There is also an e-mail from Jeff Scouten, Orange County Solid Waste, indicating his approval of the project.</p>	<u>x</u> Yes	___ No

3

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Section 5.3.2 (B) (2)</p> <p>Method and adequacy of police, fire and rescue squad protection.</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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><u>Attachment 2</u> 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>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Section 5.3.2 (B) (3)</p> <p>Method and adequacy of vehicle access to the site and traffic conditions around the site.</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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 Sesame Road</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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MOTION made by Samantha Cabe to adopt the recommended findings of the planning staff as set forth and as summarized by Mr. Harvey and set forth on pages 132 through 182. I make a motion that we adopt the planning staff recommended findings as to the technical components of the application as summarized by Mr. Harvey as findings of this board from pages 131 through 182. Seconded by Mark Micol.

VOTE: Unanimous

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

Ordinance Requirements	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	_Will	_Will Not		<input checked="" type="checkbox"/> Will	_Will Not
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:	NOTE: 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.				
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.			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"> • The application package and project narrative contained within Tab 3 of the application booklet. • Tab 39 of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • Tab 6 of the application booklet contains a site plan denoting the projects compliance with the UDO. 	<input checked="" type="checkbox"/>	

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1

<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"> • <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. 		

2

3

Larry Wright: Let's move on to the special uses and the general standards and we are starting on page 183.

4

5

MOTION made by Mark Micol to find in favor of the finding that 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 based on the testimony of Aaron Nelson, President of the Chapter in 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. Seconded by David Blankford.

10

VOTE: Unanimous

11

12

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

<u>Ordinance Requirements</u>	<u>PLANNING STAFF RECOMMENDED FINDINGS</u>		<u>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</u>	<u>BOA FINDINGS</u>	
	<u>_ Will</u>	<u>_ Will Not</u>		<u>_ x 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).			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"> • The application package and project narrative contained within Tab 3 of the application booklet. • Tab 39 of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • Tab 6 of the application booklet contains a site plan denoting the projects compliance with the UDO. 		

3
 4 Larry Wright: What is the board's pleasure?
 5

6 **MOTION** made by David Blankfard to find in favor that the use will maintain or enhance the value of the contiguous
 7 properties based on findings of the Impact Analysis prepared by David A. Smith, MAISRA (appraiser).
 8

9 Mark Micol added that the use is necessary and in the public's best interest with regard to enhanced emergency
 10 communications with cell and internet services.
 11

12 Samantha Cabe added that the basis for such finding that the record is absent of any component evidence that
 13 sufficiently rebuts Mr. Smith's report as to any negative impact on the values of the contiguous properties.
 14

15 Motion Seconded by Mark Micol.
 16

17 Samantha Cabe: I want to make a comment about this particular area because I know that I have heard and I can
 18 appreciate because I grew up in a rural area and I appreciate all of your concerns about well water and how things
 19 look and the aesthetics in the area and I can't help but notice that in American Tower's photograph that Mr. Dixon
 20 attached as photograph 2 that what sticks out to me as more of an impact of the visual of this area are the telephone
 21 lines, the power lines that we are all used to that if we were back in the 1950s or 1940s those would be sore thumbs
 22 and the fact that we now have powers that are not connected by lines is just more of the same but different and I think
 23 it is an unfortunate growing pain but we are all going to be having these in our backyards just as we all have these
 24 power poles with lines that go across the road in every neighborhood, in every state, in every county of this country
 25 and I want to make that observation on the record.
 26

1 **MOTION** reiterated by David Blankford to find in favor that the use will maintain or enhance the value of contiguous
 2 properties based on the findings of the impact analysis prepared by David A. Smith, MAISRA, a certified appraiser.
 3
 4 Mark Micol amended that the use is necessary and in the public's best interest in regards to enhanced emergency
 5 communications and uninterrupted cell and/or internet service.
 6
 7 Samantha Cabe added that part of the basis for that finding also is that the record is void of any competent evidence
 8 that rebuts Mr. Smith's professional opinion that the value of the contiguous property will not negatively be affected.
 9 **VOTE:** Unanimous

10
 11

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	___ Is	___ Is Not		<u>x</u> Is	___ Is Not
Section 5.3.2 (A) (2) (c) 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.	___ Is	___ Is Not	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"> • The application package and project narrative contained within Tab 3 of the application booklet. • Tab 39 of the application booklet contains an impact analysis, completed by David Smith, indicating the project will not impact the value of adjacent property. • Tab 6 of the application booklet contains a site plan denoting the projects compliance with the UDO. 	<u>x</u> Is	___ Is Not

12
 13 Larry Wright: We are on page 186 Section 5.3.2 (A) (2) (c) Do I hear a motion?
 14

15 **MOTION** made by Samantha Cabe to find in the affirmative that the location and character of the use if developed
 16 according to the plans submitted will be in harmony in the area which it is to be located and the use is in compliance
 17 with the plan for the physical development of the county as embodied in these regulations or in the Comprehensive
 18 Plan by the Board of the County Commissioners and the basis for such finding would be the documents contained in
 19 tab 3 of the application booklet. Also, the documents behind tab 39 of the application booklet which includes the
 20 Impact Analysis complete by David Smith, our certified appraiser or the certified appraiser who testified in this case
 21 and the documents behind tab 6 of the application booklet which contains the site plan denoting the project's
 22 compliance with the UDO. Seconded by Mark Micol.

23 **VOTE:** Unanimous
 24
 25

RECOMMENDATION:

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, 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:

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

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

29
30 Larry Wright: Now we move to the recommendations with the 20th recommendation which would be the easement.
31 Mr. and Mrs. Yow are willing to provide an easement so that the existing trees on the tower site will be preserved
32 throughout the duration of its use of this telecommunications site.

33
34 **MOTION** made by Samantha Cabe that the board approve the application for the special use permit with the 19
35 conditions that are proposed on pages 187 through 188 of the abstract with the additional condition *"that a*
36 *conservation easement consistent with the applicant's Exhibit 2 submitted today be executed and recorded as a*
37 *condition to the approval of the permit"*. David Blankfard seconded.

38 **VOTE:** Unanimous

39
40 Michael Harvey: Before we adjourn, we have to poll the board members. We have an application that needs to be
41 heard in September. The typical meeting date for this board is the second Monday of each month. That puts it in
42 direct conflict with the Board of County Commissioner's Public Hearing so we will not be holding the Board of
43 Adjustment meeting that evening. We are asking if you would be available on Tuesday, September 10 for a meeting
44 to hear this application which is an appeal of the decision by the Orange County Planning Department.

45

1 Larry Wright: Will this be a very long meeting?

2
3 Michael Harvey: I would love to tell you it is not going to be a long meeting.

4
5 Larry Wright: What is this meeting again?

6
7 Michael Harvey: An appeal of a decision made by the planning department.

8
9

10 **AGENDA ITEM 6: ADJOURNMENT**

11 **MOTION** made by Karen Barrows to adjourn. David Blankfard seconded.

12 **VOTE:** Unanimous

13

14 The meeting was adjourned at approximately 10:30 pm

15