



**NASH COUNTY BOARD OF ADJUSTMENT  
MEETING AGENDA**

**FREDERICK B. COOPER COMMISSIONERS ROOM  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR  
120 WEST WASHINGTON STREET  
NASHVILLE, NC 27856**

**MONDAY, APRIL 3, 2017 - 7:00 P.M.**

**(REGULAR MEETING POSTPONED FROM MONDAY, MARCH 27, 2017)**

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1. **Call to Order.**
2. **Determination of a Quorum.**
3. **Approval of the March 6, 2017 Meeting Minutes.**
4. **Oath of Witnesses.**
5. **Public Hearing - Special Use Permit Request S-170301.**  
Made by Nexsen Pruet, PLLC on Behalf of SCI Towers, LLC for the Construction and Operation of a 195 Foot Monopole Tower and Wireless Telecommunications Facility to be Located in the GC (General Commercial) Zoning District on the South Side of N Halifax Road (S.R. 1544) Between NC Highway 48 and Interstate 95 on an Approximately 21.84 Acre Tract in the Ownership of the Jonathan D. Smith Family Trust.

**6. Other Business.**

**Announcement of Board Member Training Opportunity:**

UNC School of Government  
2017 Spring Regional Board Workshop for Planning & Development Regulation  
Topic: Quasi-Judicial Procedures  
Date: May 31, 2017; 1:00 p.m. - 4:30 p.m.  
Location: Upper Coastal Plain Council of Governments  
121 Nash St W, Wilson, NC 27893

Contact the Planning Department to Register & Attend.

**7. Adjournment.**

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, MARCH 6, 2017  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR  
FREDERICK B. COOPER COMMISSIONERS ROOM  
7:00 P.M.**

**MEMBERS PRESENT**

Lynn Ward, Chairman  
C.A. Gardner  
William Parker  
Tommy Bass  
Mac Tilley (Alternate)  
Dennis Cobb (Alternate)

**MEMBERS ABSENT**

Cindy Joyner, Vice-Chairman  
Charles Johnson (Alternate)

**PLANNING STAFF PRESENT**

Nancy Nixon, Planning Director  
Adam Tyson, Senior Planner  
Windy Braswell, Planning Technician

**ATTORNEY TO THE BOARD**

Richard J. Rose

**OTHERS PRESENT**

Chris May  
Robin Ann Trigg

**1. Call to Order.**

Chairman Ward called the meeting to order at 7:00 p.m.

**2. Determination of a Quorum.**

Chairman Ward recognized a quorum.

**3. Approval of the July 25, 2016 Meeting Minutes.**

The minutes of the July 25, 2016 meeting of the Board of Adjustment were mailed to each Board member for review. Chairman Ward asked for any corrections or revisions. None were offered.

**BOARD ACTION: Mr. Tilly offered a motion which was duly seconded by Mr. Parker to approve the July 25, 2016 meeting minutes as submitted. The motion was unanimously carried.**

**4. Oath of Witnesses.**

All persons wishing to give testimony during the public hearing were sworn in by Chairman Ward. Chairman Ward recognized the voting members for this meeting as himself, Mr. Gardner, Mr. Parker, Mr. Bass, and Mr. Tilley with Mr. Cobb serving as an alternate.

**5. Public Hearing on Variance Request V-170301 Made by Robert Tracy Trigg & Robin Ann Trigg, the Property Owners, to Reduce the Applicable Minimum Building Setbacks and to Increase the Permitted Setback Encroachment Distance for Steps & Landings as Required in the R-30 Single and Two-Family Residential Zoning District to Allow the Set-Up of a Double-Wide Manufactured Home at 5611 NC Highway 48, Battleboro, NC 27809.**

Chairman Ward introduced this agenda item to the Board.

Mr. Tyson began by stating that in accordance with the requirements of the Nash County Unified Development Ordinance and the North Carolina State Statutes, a written notice of this public hearing was mailed on February 22, 2017 to the owner of the subject property as well as to any neighboring property owners who own property any portion of which is located within 600 feet of the lot that is the subject of the variance request. A notice of this public hearing was published in the legal ad section of the Rocky Mount Telegram on February 23, 2017 and a notice of the public hearing was also posted on the subject site on February 22, 2017.

Mr. Tyson reviewed the requirements related to the consideration and issuance of a variance by stating that the Nash County Unified Development Ordinance defines a variance as "official permission to depart from the requirements of this ordinance" (UDO Article II, Section 2-4.198). General variance requests are heard and decided by the Board of Adjustment. The North Carolina General Statutes require that when unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Mr. Tyson noted that prior to granting a variance, the Board of Adjustment must adopt a set of specific reasons or findings which explain how the request satisfies the requirements detailed above. A variance request shall be denied if any one or more of the above criteria are not satisfied or if the application is determined to be incomplete.

He explained that variances may not authorize a change in the types of land uses permitted on a particular property by the zoning ordinance. He clarified this by providing the example that if manufactured homes were not permitted within a particular zoning district, then a variance would not be an acceptable means of allowing a manufactured home in that district. An approved zoning map amendment or text amendment to the ordinance would be required to change the permitted use of the property.

He also noted that the Board of Adjustment may impose appropriate conditions on a variance, provided that the conditions are reasonably related to the variance itself or the related requirements of the ordinance. Whereas any other action taken by the Board of Adjustment only requires a simple majority vote, the issuance of a variance requires a four-fifths majority vote.

Mr. Tyson stated that Mr. Robert Tracy Trigg and Mrs. Robin Ann Trigg, the property owners, have submitted a request for a variance in order to replace the existing single-family dwelling located on the 0.14 acre lot at 5611 NC Highway 48, Battleboro, NC 27809 with a larger double-wide manufactured home. He referenced the survey plat included in the agenda packet and noted the location of the existing home on the lot.

He continued, stating that the property is considered a "nonconforming lot," meaning that it does not satisfy the dimensional standards for the R-30 Single and Two-Family Residential Zoning District including the required minimum lot area (30,000 square feet) or the required minimum lot width (100 feet). However, because the lot was lawfully created prior to the adoption of those regulations it remains eligible for the permitting of a single-family residential land use. The proposed home would be served by public water and sewer utilities provided by the City of Rocky Mount, meaning that the lot would not need to include area for an onsite septic system or well.

Mr. Tyson referred to the aerial photograph of the subject property which was included in the agenda packet and again noted the location of the existing home and that of a small, existing storage shed on the rear of the lot.

He then referenced the proposed site plan included in the agenda packet and explained that while the proposed home would comply with the minimum front and right side property line building setbacks as required in the R-30 Zoning District, it would not comply with the minimum left side or rear property line building setbacks. Additionally, the proposed steps and landing on the right side of the home would extend beyond the standard 2.5 foot setback encroachment that is allowed for these structural features. Therefore, the property owners have requested the approval of a variance to adjust the specific dimensional standards of the Nash County Unified Development Ordinance that apply in the R-30 Single and Two-Family Residential Zoning District as follows:

UDO Article IX, Section 9-4, Subsection 9-4.1 (A), Table 9-4-1:

- To reduce the minimum left side property line building setback from 15 feet to 5 feet.
- To reduce the minimum rear property line building setback from 30 feet to 20 feet.

UDO Article IX, Section 9-6, Subsection 9-6.3 (B):

- To increase the distance that steps and required landings are permitted to encroach into the minimum right side property line building setback from 2.5 feet to 5 feet.

Mr. Tyson noted that since the existing home is currently located directly on the left side property line, even the adjusted 5 foot setback on that side would be an improvement upon the current situation. He stated that the applicants have offered the following justifications for the request's compliance with the four requirements related to the issuance of a variance:

- (1) Unnecessary hardship would result from the strict application of the ordinance because the enforcement of the standard minimum building setbacks on the subject lot would limit the developable area for a proposed residence to only approximately 916 square feet.
- (2) The hardship results from conditions that are peculiar to the property, specifically the size and width of the subject lot. The area of the lot – 0.14 acres – accounts for only approximately 20% of the standard minimum lot size currently required in the R-30 Zoning District and the width of the lot – approximately 50 feet – accounts for only 50% of the standard minimum required lot width.
- (3) The hardship did not result from actions taken by the applicant or the property owner because the subject lot was acquired by the applicants in 2006 in its current configuration.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved because the proposed home location will still comply with the standard minimum front side building setback required from the NC Highway 48 road right-of-way which is consistent with the intent of the Nash County Unified Development Ordinance to "require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic" (UDO Article I, Section 1-3.2 I). Additionally, the proposed new home will be located five feet further from the left side property line than the current home which is located directly on the lot boundary.

Mr. Tyson concluded his presentation by offering to answer any questions the Board may have and noting that the applicant, Mrs. Trigg, as well as her representative, Mr. May, were also present and willing to answer questions as necessary.

Mr. Tilley asked if the Planning Department had received any responses from the neighboring property owners regarding the mailed public notices.

Mr. Tyson stated that the Planning Department had not received any responses or inquiries related to the request.

Chairman Ward asked for any other questions. There were none.

**BOARD ACTION: Mr. Tilley offered a motion which was duly seconded by Mr. Bass to adopt the following findings related to the requested variance: (1) Unnecessary hardship would result from the strict application of the ordinance because the**

enforcement of the standard minimum building setbacks on the subject lot would limit the developable area for a proposed residence to only approximately 916 square feet. (2) The hardship results from conditions that are peculiar to the property, specifically the size and width of the subject lot. The area of the lot – 0.14 acres – accounts for only approximately 20% of the standard minimum lot size currently required in the R-30 Zoning District and the width of the lot – approximately 50 feet – accounts for only 50% of the standard minimum required lot width. (3) The hardship did not result from actions taken by the applicant or the property owner because the subject lot was acquired by the applicants in 2006 in its current configuration. (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved because the proposed home location will still comply with the standard minimum front side building setback required from the NC Highway 48 road right-of-way which is consistent with the intent of the Nash County Unified Development Ordinance to “require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic” (UDO Article I, Section 1-3.2 I). Additionally, the proposed new home will be located five feet further from the left side property line than the current home which is located directly on the lot boundary. The motion was unanimously carried.

**BOARD ACTION:** Mr. Gardner offered a motion which was duly seconded by Mr. Tilly to approve Variance Request V-170301 in relation to the proposed double-wide manufactured home to be located at 5611 NC Highway 48, Battleboro, NC 27809 in order to reduce the minimum building setbacks and increase the permitted setback encroachment distance for steps and landings as detailed in the staff report, subject to the following conditions: (1) The property shall be developed in accordance with the submitted site plan depicting the adjusted dimensional requirements; and (2) If the proposed home will not be located a minimum of 5 feet from the existing storage building on the right rear corner of the lot, then prior to the home’s final approval, the storage building shall either be removed, demolished, or permitted and relocated to a site on the lot meeting the following minimum setbacks: 40 feet from the front property line; 5 feet from the side or rear property lines; and 5 feet from the proposed new home. The motion was unanimously carried.

#### **6. Other Business.**

Chairman Ward asked for any other business.

Mr. Tyson reminded the Board that this meeting had been postponed from the regular February 27, 2017 meeting date and that the next regular meeting was scheduled for March 27, 2017. He noted that the submittal of a Special Use Permit Request for the construction and operation of a new wireless telecommunications tower was anticipated for that meeting.

#### **7. Adjournment.**

There being no further business, Chairman Ward adjourned the meeting at 7:39 p.m.

## NASH COUNTY BOARD OF ADJUSTMENT SPECIAL USE PERMIT REVIEW

Nash County Planning Department  
120 West Washington Street, Suite 2110  
Nashville, NC 27856  
Telephone: 252-459-9809 Fax: 252-459-1381

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**Type of Request:** Special Use Permit Request (S-170301)  
**Proposed Land Use:** 195 Foot Monopole Tower & Wireless Telecommunications Facility  
**Applicant:** Nexsen Pruet, PLLC (Thomas H. Johnson, Jr.) / SCI Towers, LLC  
**Property Owner:** Jonathan D. Smith Family Trust (Becky D. Smith, Trustee)  
**Location:** South Side of N Halifax Road (S.R. 1544)  
Between NC Highway 48 & Interstate 95  
**Zoning District:** GC (General Commercial)  
**Tax Parcel:** PIN 384400727669 / PARID 017774  
**Lot Area:** Approximately 21.84 Acres  
**LDP Classification:** Industrial Area

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### **Notice of Public Hearing:**

In accordance with the requirements of the Nash County Unified Development Ordinance and the North Carolina State Statutes, a written notice of this public hearing was mailed on March 22, 2017 to the owner of the subject property as well as to any neighboring property owners who own property any portion of which is located within 600 feet of the lot that is the subject of the permit request. A notice of this public hearing was published in the legal ad section of the Rocky Mount Telegram on March 23, 2017 and a notice of the public hearing was also posted on the subject site itself on March 23, 2017.

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### **Staff Report:**

Thomas H. Johnson, Jr. with Nexsen Pruet, PLLC on behalf of SCI Towers, LLC has requested a Special Use Permit (S-170301) for the construction and operation of a 195 foot monopole tower and wireless telecommunications facility to be located in the GC (General Commercial) Zoning District on the south side of N Halifax Road (S.R. 1544) between NC Highway 48 and Interstate 95 on an approximately 21.84 acre tract in the ownership of the Jonathan D. Smith Family Trust.

The tower and related facility are proposed in order to improve wireless service coverage and capacity for businesses and travelers in areas along Interstate 95, NC Highway 4, and NC Highway 48 west of Battleboro. The tower would be utilized initially by Verizon Wireless and is designed with the additional capacity to support wireless antenna array collocations for up to four other wireless service providers in the future. The proposed site plan includes a 100' x 100' fenced equipment compound located around the base of the tower within a 210' x 210' lease area to be accessed by a 12' wide road constructed within a 30' wide access and utility

easement. There are no existing structures located within the fall radius of the proposed tower which is equal to the height of the tower itself, 195 feet.

The subject tract is located between the industrially-developed Whitakers Business and Industry Center along Corporation Parkway to the south and the commercially-developed Gold Rock highway interchange to the north. The tract is vacant with the exception of an existing billboard located at 7811 N Halifax Rd along the Interstate 95 right-of-way. The site does include stream features that could potentially be subject to riparian buffer requirements, however, it is not located in a floodplain or watershed protection overlay district. The site is located in the Tar-Pamlico River Basin, however, because the total estimated area of disturbance associated with the project (16,200 square feet) does not exceed one-half acre, stormwater permitting should not be required. Because the subject site is not located within 100 feet of a property that is used or zoned for residential purposes, the installation of landscaped screening is not required.

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***CityScape Review & Recommendation:***

CityScape Consultants Inc., in its capacity as telecommunications consultant for Nash County, has reviewed the plans and related documentation submitted by the applicant for the project. In a report dated March 27, 2017, CityScape determined that the proposed tower facility is “justified due to technological reasons and is essential for the applicant to provide its telecommunications service” and that it “will follow the guidelines of the Telecommunications Act of 1996, the Nash County Ordinance and all other pertinent rules and regulations.”

The proposed location and height of the tower facility is justified due to the lack of existing towers within 1.5 miles of the subject site and the applicant’s submittal of search ring and propagation coverage maps demonstrating the potential improvement to wireless service in the area that the tower will provide. The proposed type of structure – a freestanding, non-concealed tower – is also justified due to the lack of existing suitable structures or available public property in the subject area as well as the location of the site within an existing industrially and commercially developed area.

Therefore, CityScape Consultants Inc. recommends **APPROVAL** of Special Use Permit Request S-170301 to authorize the construction and operation of a 195 foot monopole tower and wireless telecommunications facility at the proposed location, **SUBJECT TO THE FOLLOWING CONDITIONS:**

- (1) The facility shall be developed in accordance with the submitted and approved site plan as well as in compliance with all other applicable development regulations;**
- (2) Prior to the issuance of a construction authorization, the applicant shall submit a Buffer Determination Letter from the North Carolina Department of**



**Environmental Quality, Division of Water Resources demonstrating the project's compliance with any applicable riparian stream buffer requirements;**

- (3) Prior to the issuance of a construction authorization, the applicant shall provide the required approvals from the State Historic Preservation Office (SHPO) and the National Environmental Policy Act (NEPA) regarding the project;**
- (4) Prior to the issuance of a construction authorization, the applicant shall provide a structural analysis indicating that the proposed tower will support a total of five (5) wireless antenna arrays comparable to that of the applicant's initial proposed equipment installation;**
- (5) All feed lines shall be installed within the support structure and antenna ports shall be sealed in a manner as to prevent access by birds and any other wildlife;**
- (6) The proposed structure shall not be lighted, unless required by the FAA;**
- (7) In the event that the antenna arrays are ever lowered to a height that is below a removable section of the monopole, then the tower owner shall remove this upper section that is no longer in use; and**
- (8) This Special Use Permit is issued subject to the subsequent approval and issuance of the following additional permits and documents, as applicable:**
  - (a) NCDOT Driveway Permit**
  - (b) Nash County Zoning Permit**
  - (c) Nash County Building & Trade Permits**

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***Special Use Permit Requirements (UDO Article IV, Section 4-7):***

In addition to the standard ordinance requirements, the Board of Adjustment must also conclude, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

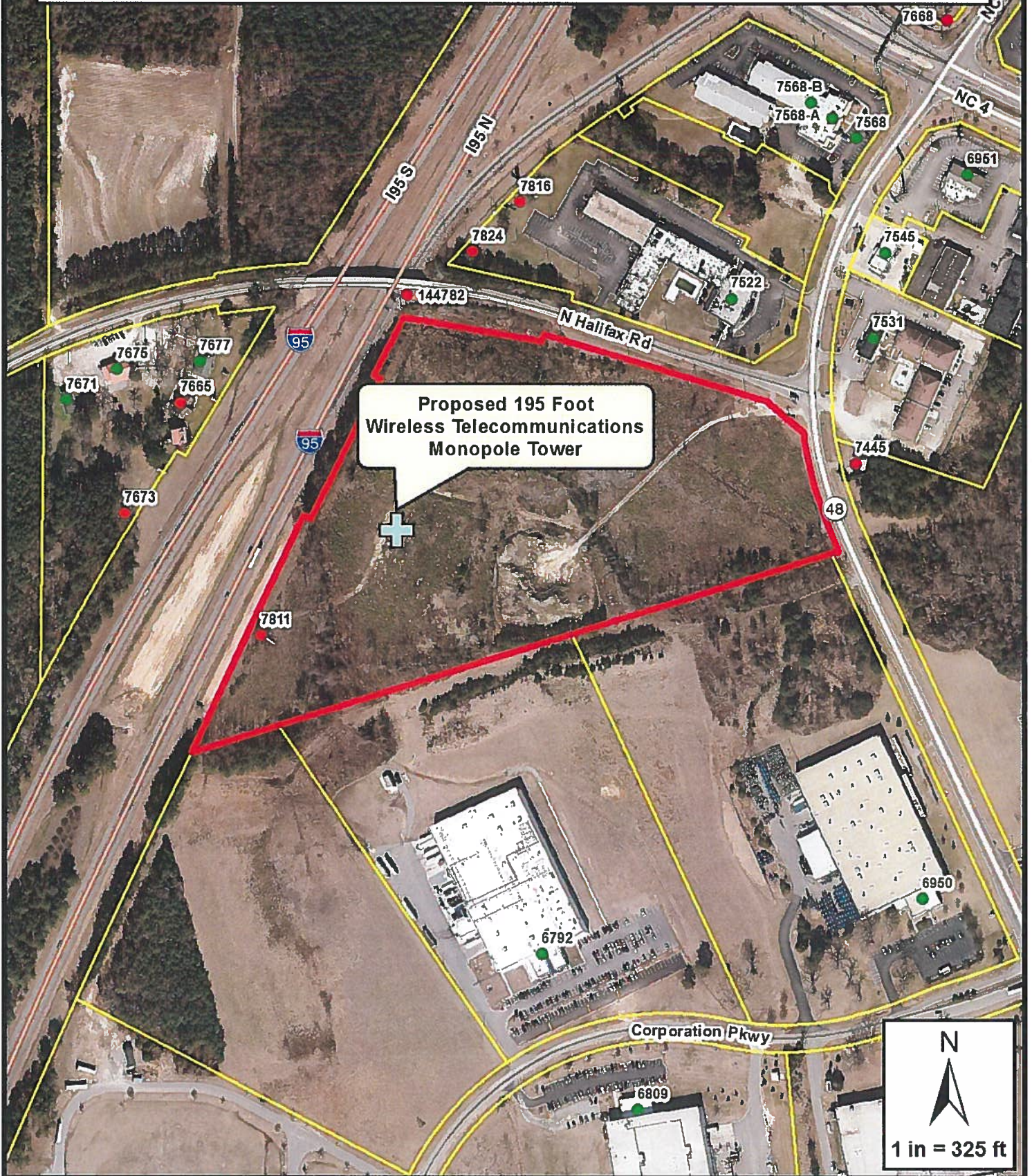
- (1) Will not materially endanger the public health or safety;**
- (2) Will not substantially injure the value of adjoining or abutting property;**
- (3) Will be in harmony with the area in which it is to be located; and**

- (4) Will be in general conformity with the land development plan or other plans officially adopted by the Board of Commissioners.**

If the Board of Adjustment concludes that the proposed development will not comply with the above criteria, it may deny the permit or attach to the permit any reasonable requirements in addition to those specified by the ordinance that will ensure its compliance.

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**Special Use Permit Request S-170301**  
**N Halifax Rd Between NC Highway 48 & Interstate 95**  
**PARID 017774, Owner: Jonathan D. Smith Family Trust**



**OWNER/APPLICANT:**  
**SCI TOWERS**  
 PO BOX 664  
 HOPKINTON, MA 01740  
 888-318-2803

**PROJECT NAME AND LOCATION:**  
**DRAKE TOWER**  
**NORTH HALIFAX ROAD**  
**ROCKY MOUNT, NC 27804**

**PROJECT ENGINEER**  
**WAYPOINT**  
 ENGINEERING PLLC  
 1821 CLARK AVENUE, SUITE 100  
 WILSON, NORTH CAROLINA 27605  
 PHONE: 919.252.1200  
 NORTH CAROLINA C.A.P.# 1015

**ENGINEER SEAL**  
 NORTH CAROLINA  
 PROFESSIONAL ENGINEER  
 RUSSELL C. HARRISON, P.E.  
 NORTH CAROLINA P.E. # 23365  
 DATE OF ISSUE  
 MARCH 17, 2017

**ISSUED FOR**  
 ZONING PLANS

**SUBMITTALS**

REV	DATE	DESCRIPTION

**PROJECT NUMBER**  
 L201702-03

**DRAWN BY** RCM  
**CHECKED** RCM  
**APPROVED** RCM

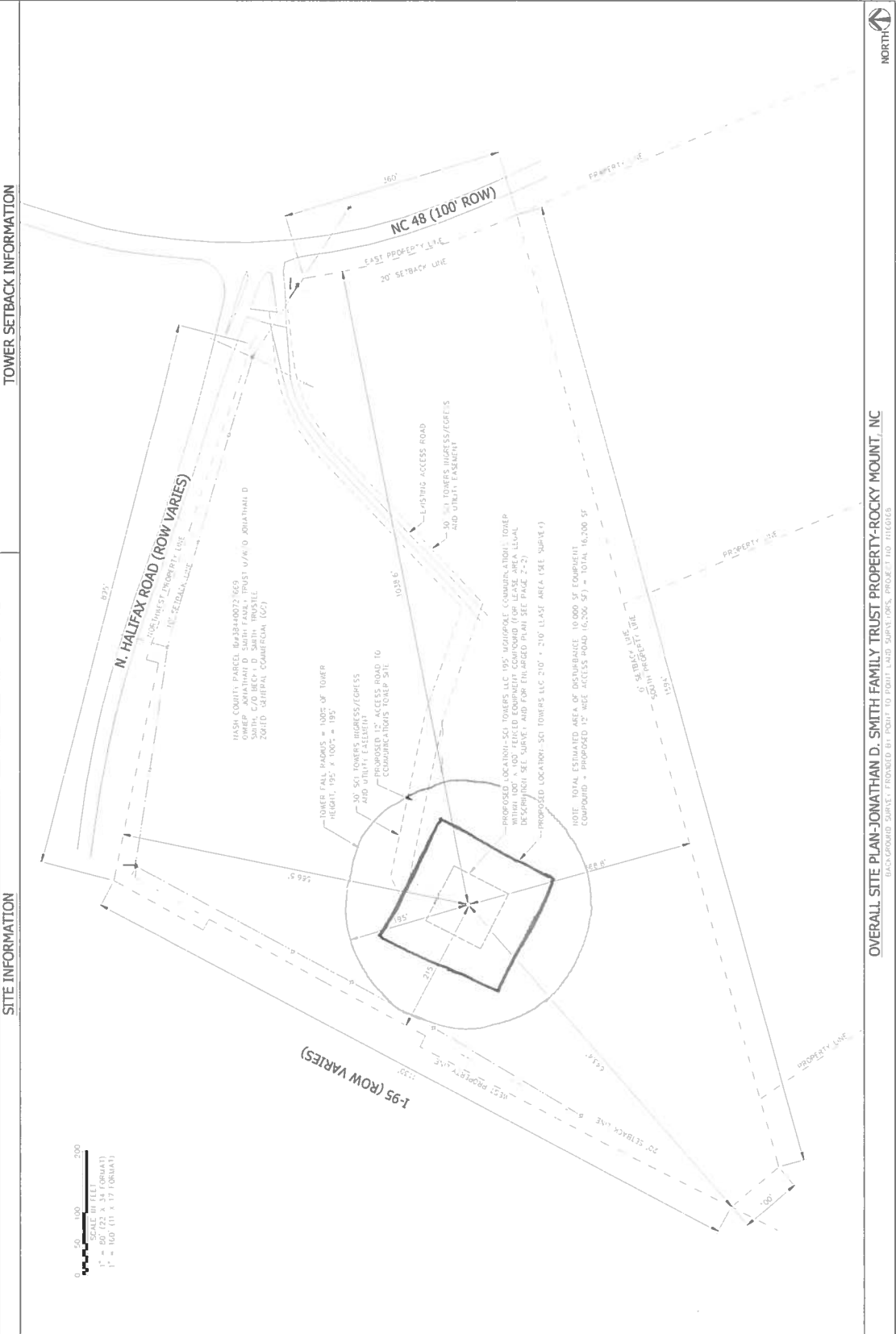
**APPROVING AGENCY**  
 NASH COUNTY, NORTH CAROLINA

**BUILDING CODE**  
 2012 NORTH CAROLINA STATE BUILDING CODE

**SHEET TITLE**  
 SITE PLAN

**SHEET NUMBER**  
 Z-1

PROPOSED TOWER HEIGHT = 195' AGL, SETBACK TABLE																		
<table border="1"> <thead> <tr> <th>GENERAL COMMERCIAL SETBACK STANDARD REQ'T</th> <th>TOWER FALL RADIUS (100% OF TOWER HEIGHT) = 195'</th> <th>SETBACK PROVIDED</th> </tr> </thead> <tbody> <tr> <td>10'</td> <td>195'</td> <td>566.5'</td> </tr> <tr> <td>20'</td> <td>195'</td> <td>1036.6'</td> </tr> <tr> <td>0'</td> <td>195'</td> <td>368.8'</td> </tr> <tr> <td>20'</td> <td>195'</td> <td>643.4'</td> </tr> <tr> <td> </td> <td>195'</td> <td>215'</td> </tr> </tbody> </table>	GENERAL COMMERCIAL SETBACK STANDARD REQ'T	TOWER FALL RADIUS (100% OF TOWER HEIGHT) = 195'	SETBACK PROVIDED	10'	195'	566.5'	20'	195'	1036.6'	0'	195'	368.8'	20'	195'	643.4'		195'	215'
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<p><b>FIRE PROTECTION</b>            FIRE PROTECTION NOT REQUIRED, STRUCTURE IS NOT FLAMMABLE  <b>PARKING</b>            PARKING FOR SERVICE TECHNICIANS WILL BE IN ACCESS EASEMENT ADJACENT TO TOWER COMPOUND.  <b>STORMWATER STATEMENT</b>            TOTAL AMOUNT OF PROPOSED IMPERVIOUS AREA WILL BE LESS THAN 1500 SF ON 21.84 ACRE TRACT (951,350 SF). DEVELOPMENT WILL NOT NEGATIVELY AFFECT OVERALL DRAINAGE PATTERN OF THE TRACT</p>																		
<p><b>PROPERTY INFORMATION</b>            NASH COUNTY PARCEL ID # 28-00727869            ADDRESS: NORTH HALIFAX ROAD 27804            ROCKY MOUNT, NORTH CAROLINA 27804            TOTAL PROJECT ACRES: 0.2256 ACRES (10,000 SF)  <b>TRAFFIC STATEMENT</b>            EXPECTED NUMBER OF TRIPS PER CARRIER PER MONTH WILL BE 2 FOR EQUIPMENT MAINTENANCE. THIS PROJECT WILL NOT AFFECT OVERALL PERFORMANCE OF ADJACENT ROADWAY</p>																		
<p><b>PROPERTY OWNER</b>            JONATHAN D. SMITH FAMILY TRUST            U/W/O JONATHAN D. SMITH, CO            BECKY D. SMITH, TRUSTEE            513 SHELLEY DRIVE SOUTH            WILSON, NC 27605</p>																		
<p><b>PROJECT DESCRIPTION</b>            INSTALLATION OF A 195' MONOPOLE COMMUNICATIONS TOWER FOR WIRELESS COMMUNICATIONS SERVICES  <b>APPLICANT</b>            SCI TOWERS LLC            P.O. BOX 664            HOPKINTON, MA 01748            888-318-2803</p>																		



**OVERALL SITE PLAN-JONATHAN D. SMITH FAMILY TRUST PROPERTY-ROCKY MOUNT, NC**  
 BACKGROUND SURVEY PROVIDED BY POINT TO POINT LAND SURVEYORS, PROJECT NO. 111010165

