

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, APRIL 3, 2017 - 7:00 P.M.  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR  
FREDERICK B. COOPER COMMISSIONERS ROOM**

**MEMBERS PRESENT**

Lynn Ward, Chairman  
Cindy Joyner, Vice-Chairman  
William Parker  
Tommy Bass  
Mac Tilley (Alternate)  
Charles Johnson (Alternate)

**MEMBERS ABSENT**

C.A. Gardner  
Dennis Cobb (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**

John I. Mabe, Jr. (Nexsen Pruet, PLLC)  
Craig Parker (SCI Towers, LLC)  
Susan Rabold (CityScape Consultants, Inc.)  
Joseph F. Smathers, Jr. (J.F. Smathers & Company)

**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 March 6, 2017 Meeting Minutes.**

The minutes of the March 6, 2017 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. Johnson to approve the March 6, 2017 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, Ms. Joyner, Mr. Parker, Mr. Bass, and Mr. Tilley with Mr. Johnson serving as an alternate.

**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.**

Chairman Ward introduced this agenda item to the Board.

Mr. Tyson addressed the Board and stated 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 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.

Mr. Tyson continued, stating that Thomas H. Johnson, Jr. with Nexsen Pruet, PLLC on behalf of SCI Towers, LLC had 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. He corrected the ownership information provided in the agenda packet by stating that the tract was actually in the ownership of Roger D. Reges, Claudette D. Reges, Becky D. Smith, and the Jonathan D. Smith Family Trust with co-trustees being Becky B. Smith, Brian S. Smith, and Susanne S. Willford. He stated that although the ownership of the property was more complex than it originally appeared, all the owners are in agreement regarding this request.

He explained that 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. He referred to the aerial photograph of the subject property which was included in the agenda packet and described the proposed site plan which included 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. He stated that 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.

Mr. Tyson noted that 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.

He also stated that CityScape Consultants Inc., in its capacity as telecommunications consultant for Nash County, had 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.

Mr. Tyson summarized the report by stating that CityScape Consultants Inc. recommended 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

Mr. Tyson stated that 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.

He also reminded those present that 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.

Mr. Tyson referenced a diagram included in the agenda packet which depicted the proposed equipment compound. He noted the area reserved for the initial installation of the Verizon equipment as well as the other spaces reserved for equipment to serve the four additional wireless carrier collocations that could be supported by the tower.

Mr. Tyson noted that the applicants were represented at the meeting by Mr. John I. Mabe, Jr. with Nexsen Pruet, PLLC; Mr. Craig Parker with SCI Towers, LLC; and Mr. Joseph F. Smathers, Jr. with J.F. Smathers & Company. He also recognized Ms. Susan Rabold with CityScape Consultants, Inc. to address any points regarding the consultant report that were not already covered in the staff report.

Ms. Rabold addressed the Board and reiterated that CityScape Consultants, Inc. had reviewed the Special Use Permit application for the new tower and found no existing antenna support structures within a 1.5 mile radius, therefore, the new site is needed for additional wireless coverage. The height of the tower will accommodate the addition of the four collocations that are required by the ordinance and the lowest antenna array installation will be located high enough to provide almost the same geographic coverage as the top mounted antenna. She stated that although landscaping is typically recommended, it was not in this particular case because of the distance to the nearest residences and the likelihood that this area will never be developed residentially due to its industrial zoning. She also

noted that the size of the proposed ground compound was significant enough to accommodate the additional space necessary for other antenna installations in the future.

Chairman Ward asked if the Board had any questions for Mr. Tyson or Ms. Rabold.

Mr. Tilley asked if anyone had expressed any opposition to the proposed tower.

Mr. Tyson answered that no opposition had been expressed.

Mr. John I. Mabe, Jr. addressed the Board representing Nexsen Pruet, PLLC and stated that the request was not opposed, it is in the commercial and industrial zone, and it has been reviewed by the Nash County staff and their consultants who have determined that this is a reasonable and appropriate use as specified by the criteria listed for Special Use Permits. He stated that there would be no material endangerment of the public health or safety and that the request was compliant with the statutory FAA regulations and setbacks. He stated that no substantial injury to the value of adjoining or abutting property would be incurred. Mr. Mabe then introduced Mr. Joseph F. Smathers, Jr. as a person knowledgeable regarding property values.

Mr. Smathers addressed the Board, stating that he has been engaged in the business of real estate evaluation, brokerage, and development for over 43 years, a licensed North Carolina Real Estate Broker for over 40 years, a senior member of the National Association of Review Appraisers, and a senior valuer with the International Institute of Valuers. He stated that he has examined in excess of 700 proposed tower sites. He stated that in his estimation and according to the evidence he has reviewed, the construction, separation, and operation of the communications tower will have no adverse impact to the property values or to the natural progression or planned use or development of surrounding areas. He concluded that due to the surrounding and adjacent areas of industrial use, this cell tower will not injure the value of the surrounding properties and will have no negative impact on future development.

Mr. Mabe once again addressed the Board, stating that due to the industrial nature of the surrounding area, the proposed cell tower would remain harmonious with the neighboring land uses. He also stated that the request conforms with the Land Development Plan in that it will provide crucial infrastructure for the area.

Mr. Craig Parker with SCI Towers, LLC addressed the Board and stated that he would be happy to address any remaining technical issues or questions.

There were no additional questions for Mr. Mabe, Mr. Smathers, or Mr. Parker.

Chairman Ward referred to the aerial photograph of the subject site and asked Mr. Tyson what was located at the end of the currently existing access path.

Mr. Tyson and Mr. Mabe both agreed that the indicated area appeared to be some type of borrow pit or disturbed area and that no structures were located there.

The Board had no further questions.

**BOARD ACTION:** Mr. Tilley offered a motion which was duly seconded by Vice-Chairman Joyner to adopt the following findings regarding Special Use Permit Request S-170301:

**“The proposed tower and wireless telecommunications facility:**

- (1) will satisfy the development standards required by the Nash County Unified Development Ordinance Article XI, Section 11-5;**
- (2) will not materially endanger the public health or safety;**
- (3) will not substantially injure the value of adjoining or abutting property;**
- (4) will be in harmony with the area in which it is to be located; and**
- (5) will be in general conformity with the Land Development Plan or other plans officially adopted by the Board of Commissioners.”**

The motion was unanimously carried.

**BOARD ACTION:** Mr. Tilley offered a motion which was duly seconded by Vice-Chairman Joyner to approve Special Use Permit Request S-170301 for the construction and operation of a 195 foot monopole tower and wireless telecommunications facility to be located on the south side of N Halifax Road between NC Highway 48 and Interstate 95, subject to the following conditions as recommended by the Nash County Planning Staff and CityScape Consultants, Inc.:

- (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**

**The motion was unanimously carried.**

**6. Other Business.**

Chairman Ward asked for any other business.

Ms. Nixon announced an upcoming opportunity for board member training to be facilitated by the UNC School of Government. She stated that the 2017 Spring Regional Board Workshop for Planning & Development Regulation would be held May 31, 2017 from 1:00 p.m. to 4:30 p.m. at the Upper Coastal Plain Council of Governments located at 121 Nash St W, Wilson, NC 27893. The topic will be quasi-judicial hearing procedures. She asked any interested Board members to contact the Planning Department to register to attend.

Ms. Nixon also regretfully informed the Board that this would be Chairman Ward's last meeting as he has elected not to be reappointed for a third and final term as a regular member of the Board of Adjustment. His current term will expire on April 30, 2017. Ms. Nixon expressed gratitude and appreciation on behalf of Nash County for Mr. Ward's service.

Ms. Nixon explained that Mr. Tilley would be appointed from his current position as Alternate Member #1 to a regular, voting member status. Mr. Johnson would advance to become Alternate Member #1 and Mr. Cobb would advance to become Alternate Member #2. She also noted that earlier in the day, the Board of Commissioners had appointed Mr. Kenneth Mullen to the Board of Adjustment to serve as the new Alternate Member #3.

**7. Adjournment.**

There being no further business, Chairman Ward adjourned the meeting at 7:40 p.m.