

**MINUTES OF THE
NASH COUNTY BOARD OF ADJUSTMENT
REGULAR MEETING
HELD MONDAY, OCTOBER 23, 2023 AT 6:00 P.M.
COMMISSIONERS ROOM – THIRD FLOOR
NASH COUNTY ADMINISTRATION BUILDING
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856**

BOARD MEMBERS PRESENT

Dennis Cobb, Regular Member, Chairman
Brandon Moore, Regular Member, Vice-Chairman
Rodney Hough, Regular Member
Emanuel Shell, Alternate Member #1

BOARD MEMBERS ABSENT

William Parker, Regular Member
Oscar Bruce, Regular Member
Charles Rose Jr., Alternate Member #2
Benton Moss, Alternate Member #3

ATTORNEY TO THE BOARD

Dylan Castellino

STAFF MEMBERS PRESENT

Aaron Chalker, Senior Planner
Windy Braswell, Planning Technician

OTHERS PRESENT

Thomas H. Johnson, Jr.

1. Call to Order.

Chairman Cobb called the meeting to order at 6:00 p.m.

2. Determination of a Quorum.

Chairman Cobb recognized the presence of a quorum.

3. Recognition of the Voting Board Members for the Meeting.

The voting Board members for the meeting were recognized to be Chairman Cobb, Vice-Chairman Moore, Mr. Hough, and Mr. Shell.

4. Approval of the Minutes of the July 24, 2023 Regular Meeting.

Chairman Cobb asked for any revisions or corrections to the draft minutes of the July 24, 2023 regular meeting. None were offered.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to adopt the minutes of the July 24, 2023 regular meeting as submitted.

The motion was unanimously carried.

5. Quasi-Judicial Public Hearing on Special Use Permit Request S-230801 made by American Tower, LLC to authorize the construction and operation of a proposed 250-foot self-supported lattice wireless telecommunications tower and related equipment compound at 9942 Beaver Dam Rd, Middlesex, NC 27557.

Mr. Chalker presented the staff report and supplemental materials related to Special Use Permit Request S-230801 as submitted to the Board in the October 23, 2023 Nash County Board of Adjustment agenda packet including a review of the standard for the issuance of a special use permit, the proposed findings of fact, the proposed supporting conclusions, and the recommended development conditions.

Vice-Chairman Moore asked for further explanation of Proposed Finding of Fact (9)(a) regarding the recommended condition that the applicant shall provide an affidavit by a T-Mobile USA radio frequency engineer demonstrating that the higher ranked options of the siting alternatives hierarchy are not technically feasible, practical, or justified given the location of this particular proposed wireless communications facility.

Mr. Chalker explained that the UDO requires the applicant to verify that there are not better alternative sites for the proposed tower located in proximity to the selected site.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to open the public hearing on Special Use Permit Request S-230801.

The motion was unanimously carried.

Mr. Chalker was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

At the request of Mr. Chalker, Chairman Cobb acknowledged the acceptance by the Board of the staff report, the consultant report, and the contents of the case file as evidence into the record for Special Use Permit Request S-230801.

Mr. Thomas H. Johnson Jr., attorney with Williams Mullen and representative of the applicant – American Tower LLC, was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

Mr. Johnson addressed the Board in support of the request, agreed on behalf of the applicant to the development conditions recommended by the staff report, and addressed Vice-Chairman Moore's previous question by explaining that the submittal of the affidavit related to the siting alternatives hierarchy was a technical formality required by the UDO. He noted that the affidavit had already been drafted and submitted to T-Mobile for their signature.

There were no other members of the public present at the meeting to address the Board regarding the request.

BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Shell, to adopt the following findings of fact and conclusions to support approval of Special Use Permit Request S-230801:

Findings of Fact:

- (1) The subject property is the two-acre lot located at 9942 Beaver Dam Rd, Middlesex, NC 27557, owned by the Wade Hubert Thompson Family Limited Partnership, and further identified as Nash County Tax Map PIN 274300126405 and Parcel ID # 034663 per the Nash County Tax Map.
- (2) The subject property was the former site of an approximately 1,400-foot tall guyed radio tower that was demolished and removed in April 2019 due to an obsolete and inoperable lighting system that made the tower a potential flight hazard.
- (3) The subject property was rezoned by the Nash County Board of Commissioners on August 15, 2023 from R-40 (Single-Family Residential) to RC-CZ (Rural Commercial Conditional Zone), specifically to permit the development of a wireless telecommunications tower with a maximum height of up to 300 feet, subject to the issuance of a special use permit by the Board of Adjustment per Nash County Zoning Case File #CZ-230702.
- (4) American Tower LLC, the applicant, submitted Special Use Permit Request S-230801 in order to authorize the construction and operation of a proposed 250-foot (254-foot with antennae) self-supported lattice wireless telecommunications tower and a related 3,855-square foot ground equipment compound within a leased area designated on the subject property.
- (5) Wireless service provider T-Mobile USA is intended to be the first tenant to collocate antennas and equipment on the proposed tower following its construction.
- (6) Wireless telecommunications towers are subject to the development standards required by the Nash County Unified Development Ordinance Art. XI, Sec. 11-5.
- (7) Due to the complexity and technical nature of wireless telecommunications, Nash County employs CityScape Consultants, Inc. as an independent, third-party reviewer for wireless telecommunication applications.
- (8) CityScape Consultants, Inc. prepared and submitted a Telecommunications Site Review Report dated October 16, 2023, which concluded that the application was complete and compliant with the required development standards for reasons including, but not necessarily limited to, the following:

- (a) The application justified the need for the proposed non-concealed, freestanding tower at the requested height due to the absence of other collocation options in the surrounding area as well as the existing gap in T-Mobile USA's wireless service coverage.
 - (b) Post-construction, the proposed tower design will accommodate the collocation of the required antenna and equipment for a total of five (5) wireless service providers.
 - (c) The related ground equipment compound will include adequate security fencing and will be visually screened by the existing vegetation located at the site.
 - (d) The applicable minimum building setback requirement for a tower constructed without an engineered breakpoint will be satisfied on the large surrounding property in the same ownership as the subject lot.
 - (e) The proposed tower will include a dual lighting system (for both daytime and nighttime use) that will satisfy the applicable FAA safety requirements.
- (9) The report by CityScape Consultants, Inc. further recommended the attachment of the following conditions to the approval of the requested special use permit:
- (a) Prior to construction and in accordance with UDO Art. XI, Sec. 11-5.8.1.a, the applicant shall provide an affidavit by a T-Mobile USA radio frequency engineer demonstrating that the higher ranked options of the siting alternatives hierarchy established by UDO Art. XI, Sec. 11-5.7 are not technically feasible, practical, or justified given the location of this particular proposed wireless communications facility.
 - (b) Prior to construction, the applicant shall provide the final construction plans, structural analysis, and site plan for review, including the tower lighting system, which shall be signed and sealed by a North Carolina Registered Professional Engineer.
 - (c) Prior to construction, the applicant shall obtain and provide proof of the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) approvals required for the new structure.
 - (d) The tower lighting system shall conform to the applicable FAA standards, the U.S. Fish & Wildlife Services Recommended Best Practices for Communications Towers, and the Nash County Unified Development Ordinance.
- (10) On October 23, 2023, the Nash County Board of Adjustment held a quasi-judicial public hearing on Special Use Permit Request S-230801.
- (11) Notice of the public hearing was sent by first class mail on October 12, 2023 to the special use permit applicant, to the owner of the subject property, and to the owners of record for tax purposes of all properties located within 600 feet of the subject property; posted prominently in front of the subject property on October 12, 2023; and published in the Rocky Mount Telegram on October 18, 2023.
- (12) All persons who provided testimony during the public hearing were sworn in by the Board Chairman. There were no objections to the competency of such persons to testify on the matters presented, and the Board is satisfied that such persons are so competent.

Conclusions:

- (1) The submitted application is complete and compliant with the applicable development standards required for wireless communication facilities by UDO Art. XI, Sec. 11-5 based on the Telecommunications Site Review Report prepared by CityScape Consultants, Inc. and dated October 16, 2023.
- (2) The applicant has demonstrated that the proposed wireless communication facility will not materially endanger the public health or safety because:
 - (a) The perimeter of the ground equipment compound will be secured by a six-foot tall chain link security fence with privacy slats and a locked gate.

- (b) The potential fall radius of the tower structure will be contained on the large surrounding property in the same ownership as the subject lot.
 - (c) The tower structure will include a dual lighting system that will satisfy the applicable FAA safety requirements.
 - (d) Statements provided by the applicant certify that the wireless communication facility will comply with the applicable FCC standards and requirements for radio frequency interference and electromagnetic radiation exposure.
- (3) The applicant has demonstrated that the proposed wireless communication facility will not substantially injure the value of adjoining or abutting property because:
- (a) The subject property has historically been used as a tower site for the previously removed, approximately 1,400-foot tall guyed radio tower.
 - (b) The proposed new 250-foot tall tower will provide an 82% reduction in height from the former tower.
 - (c) The proposed new tower will have significantly less visual impact and a smaller footprint than the former tower.
 - (d) The ground equipment compound will be screened from view by the existing vegetation located on the site.
- (4) The applicant has demonstrated that the proposed wireless communication facility will be in harmony with the area in which it is to be located because:
- (a) The development of a non-concealed freestanding wireless communication facility is a land use explicitly permitted in this RC-CZ (Rural Commercial Conditional Zone.)
 - (b) The proposed wireless communication facility will provide improved wireless service and coverage to the surrounding residents as well as for drivers passing through the area.
- (5) The applicant has demonstrated that the proposed wireless communication facility will be in general conformity with the Nash County Comprehensive Land Use Plan because the plan does not provide any specific restrictions or recommendations for the development of a wireless communication facility beyond the standards required by the Unified Development Ordinance.

The motion was unanimously carried.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Shell, to approve Special Use Permit Request S-230801 for the proposed wireless communication facility, subject to the following conditions:

Conditions:

- (1) Prior to construction and in accordance with UDO Art. XI, Sec. 11-5.8.1.a, the applicant shall provide an affidavit by a T-Mobile USA radio frequency engineer demonstrating that the higher ranked options of the siting alternatives hierarchy established by UDO Art. XI, Sec. 11-5.7 are not technically feasible, practical, or justified given the location of this particular proposed wireless communications facility.
- (2) Prior to construction, the applicant shall provide the final construction plans, structural analysis, and site plan for review, including the tower lighting system, which shall be signed and sealed by a North Carolina Registered Professional Engineer.
- (3) Prior to construction, the applicant shall obtain and provide proof of the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) approvals required for the new structure.
- (4) The tower lighting system shall conform to the applicable FAA standards, the U.S. Fish & Wildlife Services Recommended Best Practices for Communications Towers, and the Nash County Unified Development Ordinance.

The motion was unanimously carried.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to close the public hearing on Special Use Permit Request S-230801.

The motion was unanimously carried.

6. Adjournment.

There being no further business, Chairman Cobb adjourned the meeting at 6:30 p.m.