

**MINUTES OF A
SPECIAL PUBLIC MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
AUGUST 11, 2020**

The Jackson County Board of Commissioners met in a Quasi-Judicial Hearing on August 11, 2020, 3:00 p.m., Justice & Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman	Don Adams, County Manager
Boyce Deitz, Vice Chair	Heather C. Baker, County Attorney
Mickey Luker, Commissioner (via Zoom video conferencing)	Angela M. Winchester, Clerk to Board
Ron Mau, Commissioner	
Gayle Woody, Commissioner	

Chairman McMahan called the meeting to order.

(1) **GENERAL INFORMATION**: Chairman McMahan stated that the purpose of the meeting was to have a quasi-judicial hearing, which was an evidentiary hearing where the Board of Commissioners would make a decision based solely on competent, material and substantial evidence in the record. The record was all of the materials and input that were presented to the Board, including the application, exhibits, testimony and related materials. The record may include some insufficient evidence, but the Board may not base its decision on it. The procedures provided were not meant to be binding rules, but flexible guidance for the conduct of the hearing.

(2) **OPENING THE HEARING**: Chairman McMahan called the case:

- (a) Project: Wireless Communication Tower
- (b) Applicant: Diamond Communications, LLC; Karen Kemerait, Legal Counsel
- (c) Service Provider: AT&T Mobility
- (d) Location: 511 Joe Branch Road, Whittier, NC 28789; a portion of PIN#7612-40-5317

Motion: *Commissioner Deitz moved to open the Public Quasi-Judicial hearing for a wireless communication facility permit. Commissioner Woody seconded the Motion. Motion carried by unanimous vote.*

(3) **DISCLOSURES**: Chairman McMahan stated that Members of the Board of Commissioners shall disclose any site visits, Ex parte communications with any person, including County Staff, specialized knowledge related to the case, fixed opinion on the case, family, business or other similar relationship with the applicant or other affected person, financial interest in the outcome or any other relevant information.

- (a) *Commissioner Deitz stated he had none.*
- (b) *Commissioner Woody stated she had none.*
- (c) *Commissioner Mau stated he had none.*
- (d) *Commissioner Luker stated he had none.*
- (e) *Chairman McMahan stated he had none.*

(4) **PARTIES**: Chairman McMahan inquired if there was anyone other than the Applicant and the County Staff that wanted to be a party to the action.

There were none.

(5) **SWEARING IN:** All persons, including County Staff and consultants, who intended to present evidence were sworn in by the Clerk to the Board.

(6) **EVIDENCE:**

(6A) **STAFF PRESENTATION OF REPORT:** John Jeleniewski, Senior Planner, presented the staff report:

Background:

Diamond Communications is proposing to construct a wireless communication tower 180' in total height (176' tower structure, 4' lightning rod) on the referenced property owned by Gorsie Conley Nations which is 40.18 total acres. This property is not located in a zoned jurisdiction, however, the Jackson County *Wireless Communications Ordinance* will apply. The tower and supporting facilities will be located near the center of the of the property and will be contained within a 50'x50' secured compound and within a "leased area" of 100'x100'; the compound will contain the monopole tower, meter rack, provider equipment building, back-up generator and equipment shelter areas for future co-locate providers; all of which will be surrounded by a secured chain-link fence, 8' in height. The area immediately beyond the 50'x50' compound will have ground cover on all disturbed areas; the location of the proposed tower structure is more than 325' from all adjacent property lines and additional landscaping (trees) will not be required due to existing vegetation. Space is provided on the proposed tower structure for two additional service providers (co-locate). The proposed facility (leased area) will be accessed by a proposed 12' wide gravel driveway in a 30' wide private access and utility easement approximately 800' in length which will connect the proposed site to a portion of Joe Branch Road which is private, however, this intersection is approximately 280' from the public right-of-way of Joe Branch Road (S.R. 1396) that is maintained by the NCDOT. The proposed engineered site construction plans show moderate grading of the proposed leased area (100'x100') with no retaining walls and include measures for erosion control/stormwater compliance; erosion control best management practices (BMP's) will be applied to this site. The power service for this proposed facility will be provided by Duke Energy and will be located in the private 30' wide access/utility easement. The required balloon test was conducted on Saturday, December 7, 2019; notice for this balloon test was published in the Sylva Herald on November 21st and 28th, 2019 and formal notifications of this test were mailed to adjacent property owners on November 19, 2019. Jackson County Staff and the applicant met in a required "pre-application" meeting on July 24, 2019. The official Wireless Communication Application was and received by the Jackson County Planning Department on June 1, 2020. The Jackson County Planning Department completed its administrative review of the submitted application on July 20, 2020. This proposed tower, supporting accessory structures, site construction and erosion control/stormwater measures will be required to obtain all necessary permits prior to commencement of construction. Advertising and posting for the quasi-judicial hearing is as follows:

- *At their scheduled Board meeting on June 23, 2020, the Board of County Commissioners called for a quasi-judicial hearing to be heard on August 11, 2020 at 3:00 p.m.*
- *The quasi-judicial hearing was advertised in the Sylva Herald on July 30th and August 6, 2020.*
- *Adjacent property owners were mailed notices of the quasi-judicial hearing on July 28, 2020.*
- *The property was posted with notice of the quasi-judicial hearing on July 28, 2020.*

Procedural Requirements for a Wireless Communication Facilities Permit (Conditional Use Permit):

The procedures set forth for the review and consideration of the proposed Wireless Communication Facilities permit shall be followed for new Wireless Support Structures, substantial modifications, and any other proposal requiring a Wireless Communication Facilities permit as required or otherwise specified in this section. The procedure for review and approval of a Wireless Communication Facilities permit shall be a Conditional Use Permit process, which will require a quasi-judicial hearing by the Jackson County Board of Commissioners.

Staff Review:

Planning Department review. Following submittal of the application for the Wireless Communication Facilities permit, the application shall be reviewed by the staff of the Planning Department for compliance with the requirements of this ordinance. The Planning Department may request input from consultants and/or experts to assist in the thorough review of the wireless communications permit application. The Planning Department shall review the permit application within 15 working days of its submittal to determine if the application is complete. When the Planning Department determines that the application is complete, it shall notify the applicant in writing via electronic mail. Responses to ordinance requirements are detailed in *italics*.

Jackson County UDO – Article VI - Section 6.2 Wireless Communication Facilities

- **Section 6.2.3 Location and Design Standards for Wireless Communication Facilities**

- a) Location of Wireless Communication Facilities

- i. It is recommended that applicants for all Wireless Communication Facilities locate, site and construct said Wireless Communication Facilities in accordance with the following priorities, in order:
 - 1) On existing Wireless Support Structures without substantial modification of the tower or structure.
 - 2) On existing Wireless Support Structures with substantial modification(s).
 - 3) On existing structures other than Wireless Support Structures, such as electrical transmission towers and buildings, capable of accommodating the facilities.
 - 4) On properties in areas developed for business use.
 - 5) On properties in areas developed for rural use.
 - 6) On properties in areas developed for residential use.
- ii. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and documentation (i.e. intermodulation study) must be provided in the application as to why a site of a higher priority designation was not selected.
- iii. Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the county finds that the proposed site is in the best interest of the health, safety and welfare of the county and its inhabitants, will not have a deleterious effect on the nature and character of surrounding properties and the community and is otherwise in compliance with this ordinance.

The applicant has submitted “Propagation Maps” which is provided for review in “Attachments 15 and 16” of the application and was prepared by AT&T.

- b) Type and height of Wireless Support Structures and towers.

- i. The usual maximum height for Wireless Support Structures shall be 100 feet. The Jackson County Board of Commissioners may approve increases in Wireless Support Structure height up to a maximum height of 180 feet based on a showing of need and after consideration and satisfaction of the other requirements of this ordinance.

The Jackson County Wireless Ordinance allows for a 180’ total tower height (including appurtenances), the submitted plans indicate a proposed tower with a total height of 180’ (structure and lightning rod).

- ii. Wireless Support Structures and towers may be monopole or lattice type.

This proposed Wireless Communication Tower will be a monopole.

- iii. Wireless Support Structures and towers may be located on a protected mountain ridge as defined in the Jackson County Mountain and Hillside Development Ordinance provided that:
 - 1) The Wireless Support Structure does not extend more than 20 feet above the average height of the tree canopy within 100 feet of the tower site. If any antenna extends more than two feet from the side of the support structure, the portion of the tower extending above the vegetative canopy shall be camouflaged to appear like the top of a coniferous tree with all antennas concealed within simulated foliage
 - 2) The Wireless Support Structure or tower is not visible from a public road within one half mile of the proposed site.
 - 3) There is no other Wireless Support Structure or tower located on a ridge within one (1) mile of the proposed site.
 - 4) The proposed Wireless Support Structure or tower is a monopole.
 - 5) The proposed Wireless Support Structure or tower is not visible from and within two (2) miles of the Blue Ridge Parkway.
 - 6) There are no other structures, including electrical transmission towers, within the search area capable of accommodating the wireless communications equipment.

This proposed Wireless Communication Tower is not located on a Protected Mountain Ridge.

c) Section Reserved in the current ordinance

d) Visibility and noise of Wireless Communication Facilities.

- i. Lighting. Wireless Communication Facilities shall not be artificially lighted or marked, except as required by federal regulations. If lighting is legally required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. For any Wireless Communication Facilities for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level-terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA. If lighting is required by the FAA or other government agency, then such lighting shall be installed pursuant to the FAA or other government agency standards. The applicant shall present the options for selection by the county, being mindful of the impacts of the proposed lighting upon people whose residences are located at higher elevations.

No tower lighting is required per FAA standards. The proposed site construction plans do not indicate the location of any proposed outdoor "yard" lighting; however, building lighting is indicated for the accessory structure.

- ii. Retrofitting. In the event a Wireless Communication Facilities that is lighted is modified, at the time of the modification the county may require that the tower be retrofitted with the technology set forth in the preceding subsection.

Not Applicable

- iii. Camouflage/Concealment. All new Wireless Communication Facilities are encouraged to utilize camouflage and/or concealment techniques to the maximum extent feasible. Wireless Communications Facilities to be located within residential areas, rural areas, and scenic areas are encouraged to employ camouflage or concealment techniques.

This proposed Wireless Communication Tower will be unpainted, galvanized steel.

- iv. Wireless Communication Facilities finish/color. Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this section and subject to FAA requirements.

The design of this proposed Wireless Communications Tower will be manufactured of galvanized material.

- v. Noise. All facilities at a Wireless Communication Facilities, regardless of the owner of the facilities, shall comply with the county's noise control regulations, without exception.

An accessory structure for the service provider (AT&T) and back-up generator are proposed; this and any future "colocation" will be required to comply with the Jackson County Wireless Communications Ordinance and any conditions set forth by the Jackson County Board of Commissioners. The proposed tower site will be in excess of 325' minimum from adjacent property lines; unwarranted "noise" should not be an annoyance.

- e) Security of Wireless Communication Facilities.

All Wireless Communication Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- i. All Wireless Communication Facilities, including antennas, towers and other supporting structures, including 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
- ii. Transmitters and communications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

The proposed site construction plans specify a minimum 8' in height, chain-link security fencing with a barbed-wire cap. All compound equipment and accessories are accessible to authorized personnel only.

- f) Signage.

Wireless Communication Facilities shall contain a sign no larger than four square feet shall be installed to containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). 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. On tower sites, an FCC registration site, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

Site signage at the access gate is proposed and shown on the submitted plan sheet "C-12" and comply with the standards set forth in the ordinance.

- g) Setbacks.

- i. Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone plus ten percent. The setback shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile. Further, the nearest portion of any new access road leading to a wireless communication facility shall be no closer than 15 feet to the nearest property line.
- ii. Accessory structures shall be located within the footprint of the approved facility and meet the minimum property line setbacks for the district or 30 feet from adjacent property lines whichever is more restrictive.
- iii. There shall be no development of habitable buildings within the wireless support structure setback set forth in the preceding subsection.

Setback dimensions are provided on sheets “1 of 3” (site survey) and “C-1” (Site Plans). For this project, the fall zone is 180’ plus 10% for a total of a 198’ fall zone setback. The distance between the center of the proposed tower and nearest abutting property line is 326’-6”. The fall zone has been designed by a licensed engineer and supporting documentation can be found in “Attachment 19” of submitted application and the actual engineered fall zone is 50% the height of the tower (88’). There are no habitable buildings within the fall zone area.

h) Accessory Structures.

The accessory structures associated with wireless communication facilities shall maximize the use of building materials, colors, and textures designed to blend with and harmonize with the natural surroundings.

The proposed and future accessory buildings will be pre-fabricated and finished with a high quality material that blends with the surrounding environment. In addition, Planning staff will apply this standard to all future accessory building and co-locate reviews.

i) Utilities.

All utilities at a wireless communication facilities site shall be installed underground if practical 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.

All proposed utilities will be installed underground if possible and comply with all local, State, and Federal codes.

j) Site Access.

At a wireless communication facilities site an access road and turnaround space for an emergency vehicle shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road design and construction shall comply with the private road standards set forth in the Jackson County Subdivision Regulations. Maintenance of the access roads shall be provided to assure vehicular access to the site at all times. All erosion control and storm water management facilities shall be maintained at all times. A maintenance log that documents inspections of the site and access roads shall be maintained at the communications facility site. The required maintenance log shall be placed in a location accessible at all times to the Jackson County employees charged with review of the log. Inspections shall have made at least quarterly by the owner/lessee of the site to confirm that the access road and site are maintained with no erosion or storm water issues and that all equipment is in good order. The employee of the site owner/lessee conducting the inspection shall note the date of the inspection and condition of the site and access road on the inspection log. Inspections logs shall be reviewed at least biennially by the Jackson County Planning Department. Any failure to maintain the inspection log and/or to maintain the erosion control and storm water management measures at the site and on the access roads shall be considered a violation of this article.

This proposed tower site will be accessed by a proposed 12’ wide gravel driveway in a 30’ wide private access and utility easement approximately 800’ in length which will connect the proposed site to a portion of Joe Branch Road which is private, however, this intersection is approximately 280’ from the public right-of-way of Joe Branch Road (S.R. 1396) that is maintained by the NCDOT. The grade for the proposed access road ranges between 18% and 29.4% which exceeds the Subdivision Ordinance roadway standards for profile grade. The applicant is requesting a waiver of these standards for the access driveway above 20% grade as the proposed access drive will be on private property (from a private R/W), accessible for authorized personal only and is designed by NC registered engineer.

k) Code Compliance.

All wireless communication facilities, shall be constructed, operated, maintained, repaired, provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the county, state, or United States, including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code, and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

The proposed site, tower and building construction shall comply with all applicable codes and ordinances.

l) Facilities Permit.

A holder of a wireless communication facilities permit granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the county or other governmental entity or agency having jurisdiction over the applicant.

The proposed site, tower and building construction shall comply with all applicable codes and ordinances.

m) Building Permit.

A building permit shall not be issued for construction of the wireless support structure unless there is an FCC authorized or licensed spectrum carrier which has indicated it will be installing equipment to use such spectrum on the wireless support structure.

A license for AT&T Mobility is included in "Attachment 17" of the submitted application package.

Additional Application Requirements:

The applicant has provided the following required documents in the application package.

- ***The Wireless Communication Facility Special Use Permit Application***
- ***A copy of the application fee***
- ***NC General Warranty Deed***
- ***Lease Agreement***
- ***Project Narrative***
- ***"First Net" Information***
- ***1-A Certification for location and elevation***
- ***Project site construction and detail drawings***
- ***Balloon test and visual impact assessment report***
- ***Photographic documentation of balloon test posting***
- ***Affidavit of balloon test advertising***
- ***Notification to the Planning Department regarding the balloon test***
- ***Notification of the balloon test to required property owners***
- ***AT&T Certifications***
- ***Propagation studies***
- ***RF propagation studies for tower need and height***
- ***AT&T FCC License***
- ***Letter of intent for colocation providers***
- ***Structural Engineer's certified report***
- ***FAA report***

Staff Requests for Conditions of Application Approval:

- *Condition of approval from the Board of Commissioners will be that the “Removal/Performance Security Bond” be active and a copy submitted/reviewed by staff prior to commencement of construction.*
- *That the applicant receives a waiver from the Board of Commissioners for the access driveway that exceeds 20% profile grade during to the application approval process and prior to the commencement of construction.*

(6A) 1. Cross Examination by the Applicant, followed by other parties: *None.*

2. Questions from the Board of Commissioners or County Attorney:

Commissioner Deitz asked how wide the road would be and what was the grade?

Mr. Jeleniewski stated that it would 12 feet wide with portions over 20% grade.

Commissioner Deitz stated that they had such problems with erosion on steep roads. How well was that taken care of with this plan?

Mr. Jeleniewski stated that there was an Erosion Control section in the plans that was thorough. The state also required certain items to manage the road. They had met the minimum requirements and an erosion control permit would have to be issued prior.

Ms. Baker stated that the fact that the access driveway was going to be steeper than they allowed, did that change the access for emergency vehicles?

Mr. Jeleniewski stated that it did allow access. This was designed by a registered engineer. If there were any issues for erosion or future maintenance, that would be going back to the applicant.

Ms. Baker requested that Mr. Jeleniewski go through the pictures in the balloon test and discuss those.

Mr. Jeleniewski described the photos from the balloon test that were provided with the application.

Ms. Baker asked if this was a typical balloon test?

Mr. Jeleniewski stated yes. It was a very rural area where the tower was going.

Commissioner Woody stated that her question would be that it seemed to her that it was hardly high enough to be above the leaves.

Mr. Jeleniewski stated that the ordinance only allowed towers to be 180 feet.

Ms. Baker asked Mr. Jeleniewski about the proposed site not being the highest priority, which would be on another building.

Mr. Jeleniewski stated that in the ordinance, they did have a list of the highest priority for where a tower should go. Could they co-locate on an existing tower nearby? There was no AT&T coverage in that area and there were no towers within miles. Because of the nature of this tower, it was very rural in an unserved area. Under the circumstances, this would be the best opportunity and the best situation to put up a new tower in that area.

Commissioner Deitz stated that they had understandings with some towers, the county could put their antenna on the tower for emergency operations. If they needed to do so, could they do this at this tower site?

Ms. Kemerait stated yes, they could so.

Commissioner Woody asked if it would be possible to at some point put Wi-Fi on there as well?

Ms. Kemerait stated that it was not the same kind of tower.

(6B) APPLICANT PRESENTATION OF EVIDENCE AND WITNESSES: Ms. Kemerait stated that she an attorney with the Law Firm Fox Rothchild in Raleigh. With her was Chris Ferris, a Real Estate Appraiser, to answer any questions the Board may have for him.

There had been no concern or opposition to the application and tower. The property owner stated that his neighbors were happy about the tower and were looking forward to having coverage in the area. Regarding the question about the road, the location of the road made the most sense because it was an old logging road. Diamond Communications would have to obtain an Erosion Control Permit from the Department of Environmental Quality, which would have requirements that Diamond Communications would have to comply with.

She was there on behalf of AT&T Mobility Corporation, Diamond Communications and the property owner, Mr. Nations. She had a number of conversations with him and he asked her to let the Board know that he would have liked to have been at the meeting, but because of Coronavirus, he preferred not to come. Also, he did not think it was necessary considering there was no concern among any of the neighbors.

This was an application for a special use permit so that Diamond Communications could construct a 176' monopole with a 4' lightning rod for a total height of 180'. There were very tall, mature trees in the area and they were trying to have the tower just above the tree line so that it could provide the coverage intended. The tower was also for an important infrastructure for the First Responder Network Authority (Firstnet) that would be providing broadband coverage to the first responders. This was an important location because they were trying to provide safety connections for the Blue Ridge Parkway.

The tower would be located immediately south of Joe Branch Road. Mr. Nations' property was a large 40.18 acre parcel, located in an unzoned area of the county. In the application, they provided aerial photographs of the site location. The benefit of the wooded nature of the parcel was that the tall mature trees would buffer the tower from sight and that would ensure that there would be no impact on the surrounding properties and area. Diamond Communications would be leasing 100'x100' from Mr. Nations. The tower would be located in a 50'x50' fenced area. Other than the tower site and the gravel road, the remainder of the property would remain undisturbed as a wooded property.

The tower was located in an area of mixture of uses. Many of the surrounding properties were vacant, there was also agricultural and residential properties. There twelve adjacent properties, including five vacant properties and several others owned by Mr. Nations' family. AT&T would be locating at the top of the tower and there would be room for two additional carriers along with Firstnet. Firstnet recently entered into a 25-year nationwide partnership with AT&T to build the first nationwide wireless broadband for first responders. Firstnet would provide 20 Megahertz of Spectrum and the public safety expertise and AT&T would provide the commercial expertise and the nationwide resources to operate the network.

They provided propagation maps that were prepared by an AT&T Radio Frequency Engineer in the application. The maps showed current coverage and the coverage that would be available once the tower was constructed. AT&T would greatly improve coverage in the area. They would also be able to have connectivity between the existing towers.

The tower would have no effect on the adjacent properties or areas. The tower would not be a nuisance due to traffic, noise or odor. The tower would not materially endanger public health or safety, but it would improve the public health and safety and wireless service. The radio emissions would comply with all Federal Laws and FCC Standards. Also, the balloon test was conducted in December when all the leaves were off the trees.

She stated that they submitted a very detailed application and requested approval.

- (6B) 1. **Cross Examination by other parties:** *None.*
- 2. **Questions from the Board of Commissioners or County Attorney:** *None.*

(6C) **OTHER PARTIES PRESENTATION OF EVIDENCE AND WITNESSES:**
None.

(6D) **REBUTTAL:** *None.*

(6E) **CLOSING STATEMENTS:** *None.*

(7) BOARD DISCUSSION: Chairman McMahan stated that this ended the evidentiary portion of the Hearing and that there would be no further input from parties, though they may answer questions if asked by the Board during discussion.

The Board of Commissioners would discuss the application and whether it met the requirements set forth in the applicable Ordinance and make findings relevant to each of these factors based on the evidence and testimony presented. The county staff would be available to guide the Board of Commissioners through the standards of the Ordinance. Findings shall be made on each applicable requirement and standard.

The applicable ordinance for this hearing was the Jackson County Unified Development Ordinance, adopted August 6, 2019 and the requirements were set forth in Article VI, Section 6.2.

During this Quasi-Judicial hearing, the Board must determine the following criteria and make findings with regard to each criteria:

(a) Ms. Baker stated that the proposed site is not proposed for the highest priority location listed in Section 6.2.3(a)(i), the applicant has satisfactorily demonstrated the reason or reasons why such a permit should be granted for the proposed site or the county finds that the proposed site is in the best interest of the health, safety and welfare of the county and its inhabitants.

Based on the evidence they heard, there was no other two within two miles, so there was no possibility to co-locate.

Consensus: *The Board determined that the proposed site was not proposed for the highest priority location listed in Section 6.2.3(a)(i), the applicant has satisfactorily demonstrated the reason or reasons why such a permit should be granted for the proposed site.*

(b) Ms. Baker stated that the height of the Wireless Support Structure was 100 feet or less or the Jackson County Board of Commissioners approves an increase in the height of the Wireless Support Structure up to a maximum of 180 feet based on a showing of need and after consideration and satisfaction of the other requirements of this ordinance. Section 6.2.3(b)(i).

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(c) Ms. Baker stated that the proposed use or development of the land would not materially endanger the public health or safety. Article III, Section 3.7.15(d)(viii).

Based on the evidence, the tower would actually improve public health and safety.

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(d) Ms. Baker stated that the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed facility, site and access road design and any mitigation techniques or measures proposed by the applicant. Article III, Section 3.7.15(d)(viii).

Based on the evidence, the tower was in a wooded area and they saw the balloon test that it was not visible from some sites and was just above the tree line. With the access road, they were asking for the waiver, but the design was where it needed to be under the requirements.

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(e) Ms. Baker stated that the adjacent/adjoining property owners have not demonstrated that proposed use or development of the land will substantially injure the value of adjoining or abutting properties. Articles III, Section 3.7.15(d)(viii).

Based on the evidence, no adjoining neighbors appear. Also, the report showed there was no negative impact.

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(f) Ms. Baker stated that the site can be accessed by service and emergency vehicles. Articles III, Section 3.7.15(d)(viii).

Based on the evidence, it would be easily accessed by emergency vehicles.

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(g) Ms. Baker stated that the application, site and proposed improvements comply with all provisions of the ordinance. Note: This requirement may be met by determining that the Planning Department has approved the application for compliance with the requirements of the ordinance unless the Board determined that an opposing party has proven that at least one of the requirements of the ordinance has not been met.

Consensus: *The Board determined this statement to be true based on evidence presented and testimony heard during the hearing.*

(h) The application for a wireless communication facilities permit is approved with the following conditions:

- ***Security Bond” be active and a copy submitted/reviewed by staff prior to commencement of construction.***
- ***That the applicant receives a waiver from the Board of Commissioners for the access driveway that exceeds 20% profile grade during to the application approval process and prior to the commencement of construction.***

Consensus: *The application for a wireless communication facilities permit is approved with the requested conditions.*

(i) Decision:

Motion: *Commissioner Woody moved to approve the facilities permit, with the condition stated above and as it met the requirements set forth in the ordinance for the proposed use and the findings made above shall be incorporated into a written decision as the findings for approval of this application for wireless communication facilities permit. Also, request staff to prepare the order and incorporate all of the written findings above. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.*

Chairman McMahan stated the hearing was concluded.

There being no further business, Commissioner Mau moved to adjourn the meeting. Commissioner Woody seconded the Motion. Motion carried and the meeting adjourned at 3:53 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman