

**1520 SKEET CLUB ROAD
DENIAL OF SPECIAL USE PERMIT**

CITY OF HIGH POINT CITY COUNCIL

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This application for a special use permit (“SUP”) for a major wireless telecommunications facility came before the High Point City Council (the “Council”) on May 21, 2018 for a quasi-judicial hearing (the “Hearing”). Based on the testimony of the witnesses, the documentary evidence, the application and related materials, the exhibits and other evidence presented at the Hearing, the Council finds that the SUP should be denied, and in support thereof, makes the following Findings of Fact and Conclusions of Law as required by N.C. Gen. Stat § 160A-388(e2)(1):

FINDINGS OF FACT

1. Section 2.4.11(C) of the City of High Point Development Ordinance provides as follows:

Special Use Review Standards A special use shall be approved upon a finding that the applicant demonstrates the proposed special use:

1. Will not materially endanger the public health or safety if located where proposed;
2. Complies with all required standards, conditions, and specifications of this Ordinance, including Chapter 4: Uses;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located; and
5. Is in general conformity with the City's adopted policy guidance.

2. The property at issue (Parcel ID 0204401; PIN 7803937024) (the "Property") is located at 1520 Skeet Club Road, on the south side of Skeet Club Road, approximately 800 feet east of Braddock Road, in the City of High Point, and consists of an 8.7 acre parcel of land. The Property is located in the Oak Hollow Lake Watershed Critical Area. The Property is zoned as a Residential Single Family-3 (RS-3) District which was established to accommodate principally single-family detached dwellings developed at a density of 3 units an acre, in developments served by public water and sewer.

3. Jeffrey Patton and Holly Dee Patton are the record owners of the Property.

4. The applicant is Faulk & Foster Real Estate, Inc., representing Verizon Communication, Inc. (the "Applicant").

5. The Property has a moderate to severely sloping terrain and is heavily wooded. A perennial stream runs across the southern 1/3 of the property and the steeper terrain of the Property is along this stream corridor. Additionally, there is a 100-foot wide underground telephone line right-of-way running across the southern 1/3 of the Property.

6. Applicant requests a SUP to allow the construction and use of a 145-foot high monopole style telecommunication tower (the "Tower") on the Property. The Tower is proposed to be installed within a 100 foot by 100 foot fenced in area, on the northeastern portion of the site, approximately 385 feet south of Skeet Club Road (the "Proposed Site").

7. Pursuant to the City of High Point Development Ordinances ("HPDO"), a SUP is required before a major wireless telecommunications facility may be placed in a Residential Single Family-3 (RS-3) District.

8. The Property has approximately 75 feet of frontage along Skeet Club Road.

9. The uses of property adjacent to the Property are: 1) a recreation center (Deep River Recreational Center); 2) multiple single family dwellings; and 3) a church (Covenant Church).

10. The Tower will be significantly taller than these adjacent uses and would change the visual character of the area, as the Tower will be visually distinct in its bulk, height, style, and appearance from adjoining property uses. While the Property is generally heavily wooded, the Proposed Site is in the far Northeast corner of the Property and at the edge of the tree line, creating heightened visibility of the Tower for Covenant Church, the public right of way, and Deep River Recreational Center.

11. The Tower will not be camouflaged, except for an evergreen buffer at the base. The Applicant's own materials and plans that were submitted shown the Tower's visibility and predominance over the existing buildings and residential homes in the area and would be in sharp contrast to its surroundings.

12. The Tower is proposed to be designed to withstand winds in excess of 90 mph with no ice, and 30 mph with .75" of ice. The Tower is proposed to be designed to have a fall zone of 75 feet in the event of a wind-based collapse.

13. The site plan depicts the base of the Tower as being at least 75 feet from the adjacent properties; however, the adjoining Covenant Church's preschool building, afterschool classrooms and playgrounds are within 140 feet from the proposed Tower. Covenant Church currently serves 134 preschool children and 107 afterschool children.

14. The Applicant indicated the Proposed Site is adaptable to the Tower's design. Applicant did not, however, present evidence as to the appropriateness of the Tower's design for the soil type at the Proposed Site. Applicant did not present evidence showing that the Tower's design will account for the specific geological features at the Proposed Site. Applicant provided evidence of the fall zone for a wind-based collapse, but did not present evidence of the fall zone in the event of a collapse caused by surface-level instability.

15. Questions and issues were raised about the soil type and drainage of the soil upon which the Tower would be built, including whether or not the soil at the Proposed Site would provide the necessary stability for health and safety. Applicant provided no competent testimony or evidence to address or rebut these issues. Due to existing topography, water from the abutting Covenant Church's parking lot drains to the southwestern corner of Covenant Church's parking lot and will flow directly in the location of the Tower adding to the instability of the soils.

16. Applicant presented inadequate testimony from a licensed appraiser or individual experienced in real estate valuation as to the Tower's effect on the values of abutting lands. Applicant did not set forth any evidence, utilizing credible and non-speculative methods of property valuation, showing that the Tower will not substantially injure the value of the abutting land.

17. The Applicant did not present any evidence, through facts, data or comparable sales, to indicate how the Tower would affect or impact the values on abutting properties, including but not limited to, the Covenant Church which has buildings, a preschool and playgrounds within 140 feet of the Tower.

18. The failure to present any competent evidence whatsoever regarding the impact of the Tower on the values of abutting properties, prevents the Council from finding that the Tower would not substantially injure the value of the abutting land.

19. The Applicant, while offering reasons for preferring the Proposed Site, did not present evidence showing that the Tower could not be located elsewhere. Indeed, there are several other telecommunication towers within several miles of the Proposed Site. Furthermore, Verizon's coverage maps show that the area around the Proposed Site possesses cellular coverage. Applicant's primary objective for this project is to improve service quality. The effect of the proposed Tower is not to provide coverage where there previously was none, but rather to improve existing coverage.

CONCLUSIONS OF LAW

Pursuant to the foregoing FINDINGS OF FACT, Section 2.4.11 of the City of High Point Development Ordinance and other applicable law, the Council makes the following Conclusions of Law:

1. The Applicant bears the burden of proving to the Council, by competent, material and substantial evidence, that the proposed telecommunications facility meets the standards in Section 2.4.11(C) of the City of High Point Development Ordinance. If the Applicant fails to meet its burden of producing competent, material and substantial evidence as to any one of the standards, the SUP must be denied.

2. In this case, the Council finds that the SUP should be denied, for the following reasons, pursuant to Section 2.4.11(C):

(1) The Applicant failed to produce competent, material and substantial evidence that the Tower will not materially endanger the public health or safety; and

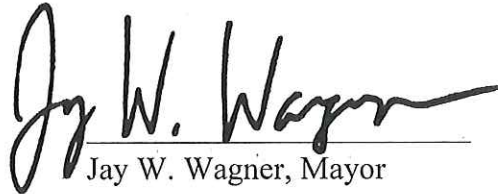
(2) The Applicant failed to produce competent, material and substantial evidence that the Tower will not substantially injure the value of abutting property or that the proposed Tower is a public necessity; and

(3) The Applicant failed to produce competent, material and substantial evidence that the Tower will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located and, moreover, the

evidence presented by the Applicant itself showed the Tower would not be in harmony with the scale, bulk, coverage and character of the area and neighborhood.

ACCORDINGLY, based on the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Applicant's request for a special use permit for a major wireless telecommunications facility is DENIED.

This the 4 day of June, 2018.


Jay W. Wagner, Mayor