

**HALL COUNTY PLANNING COMMISSION
RECOMMENDATION REPORT**

Applicant Verizon Wireless

Request Use Subject to County Commission Approval

Proposed Use Telecommunication facility

Size 27.40± acres

Zoning Agricultural Residential IV (AR-IV, [17.120](#))

Location **5182 Odum Smallwood Road** | Tax Parcel 12004
000019

Commission District Three

Planning Commission Date May 15, 2023

Staff Recommendation **Approval, with conditions, based on the intended use and prior approvals, the requested conditional use request is appropriate.**

Planning Commission Recommendation..... **Approval, with conditions**

Vote: 5-0

Planning Commission Conditions:

1. The proposed tower shall be located as shown on the site plan and as described in the narrative that was submitted.
2. The applicant shall notify the county of any construction, tower, or site modifications that would be different from what is submitted for consideration. Of particular interest to the county are changes in height, structure, tower lighting, and ground facilities that would have any impact on the sites ability to support other users or affect the surrounding neighborhood.
3. The applicant shall provide tower and foundation design prior to the issuance of a building permit.
4. The height of the tower and all appurtenances, including lightning rods, shall be limited to 195 feet as shown on the proposed construction drawings included with the 2019 application.
5. All plans and plats created for this development shall reference the conditions of zoning approval.
6. Site must meet the requirements of Section 17.410.060. The items required by this section must be shown on all plans.
7. Collocations of additional antennae and carriers must follow standard permitting process.
8. No variances or exceptions are granted other than those specifically granted herein:

- a. The tower shall be no closer than 372 feet from the closest off-site residential structure and 298 feet from the closest property line as shown on the site plan submitted.
9. Development shall follow the standard Hall County Development Review and construction permitting process.

Public Forum:

There were no comments in support or opposition.

Summary Analysis

The applicant is requesting conditional use approval from the Hall County Board of Commissioners to construct a new telecommunication tower for Verizon Wireless. The subject property is 27.40 ± acres in size and is zoned Agricultural Residential IV (AR-IV, [17.120](#)). Within the AR-IV district, telecommunication facilities require conditional use approval.

The Hall County Board of Commissioners approved, with conditions, an identical conditional use permit on December 12, 2019 for a telecommunication tower for Verizon Wireless. The tower was never constructed, and as a result the conditional use approval for the tower expired 12 months from the date of approval as no action was taken by the applicant to implement the use, per [17.380.130](#).

Per the 2019 Staff Report:

The applicant is requesting approval to construct a 190 foot tall monopole communications tower with a 5 foot lightning rod (total of 195 feet in height) inside a 60 foot by 60 foot fenced compound that will include corresponding ground equipment. The leased area measures 100 feet by 100 feet with a 30 foot ingress-egress/fiber/utility easement. The proposed location has been studied extensively by the applicant, Verizon, in an effort to improve service in the area by offloading capacity traffic and enhancing coverage. Verizon first investigated co-location with existing structures but found the area to be lacking those structures.

Submitted information with the application includes various maps and plans, an engineering statement of need, construction drawings, notification lists and residential waivers, a partially-executed lease agreement and deed, airspace study and TOWAIR (software used by the Federal Communications Commission [FCC] to determine compliance of structures with regulations), and balloon test results.

The application details the compliance and conformance with Hall County Development Codes; goals of safeguarding the public's health, safety, and welfare; land use selection criteria; and how this project aligns with Federal Telecommunications Act objectives.

The proposed location is zoned Agricultural-Residential-IV (AR-IV), and the surrounding properties are primarily zoned AR-IV also. The applicant acknowledges that the proposed site is deemed a "disfavored location" due to the residential zoning classification and that the tower will not be four tower lengths (780 feet) from seven residential structures (five property owners). The applicant has, however, obtained

notarized waivers from two of the five affected property owners, and these waivers are included with the application.

The proposed location is 298 feet from the closest property line (Odum Smallwood Road is to the west), 600 feet from the northern boundary, 645 feet from the eastern boundary, and 430 feet from the southern boundary. According to the letter of intent, the closest off-site residential structure is 372 feet away and owned by the subject property owner who has submitted a waiver. The second, third, and fourth closest off-site residential structures are 678-749 feet away and are all owned by the subject property owner's brother and sister-in-law, who have also submitted a waiver. The remaining three residential structures are 723-778 feet away, instead of the required 780 feet.

The proposed security fence is designed to be 6 feet tall with 1 foot of barbed wire, will surround the telecommunications compound, and will be approximately 60 feet by 60 feet in size. The access road is directly off a public roadway and will not cross any hazardous or environmentally sensitive land. The proposed tower location is approximately 350 feet from the public right-of-way. There will be a 12 foot gravel road providing access to the area.

The facility will be unmanned and will not create traffic, produce noise, or produce odor. Storm water runoff will be negligible because the compound is to consist of gravel.

One objective of the Federal Telecommunications Act is to foster competition by encouraging the expansion of service coverage area and technology. The proposed location, type of tower, and height allow a facility that accommodates multiple wireless carriers. The height allows the signal to carry over a larger area of rural property and reduces the need for additional tower sites. The design of the tower facility allows for the necessary antenna array spacing and the ground space to accommodate the equipment of multiple carriers. The technical justification report identified the current service coverage gap; this proposed facility will provide the opportunity for multiple carriers to improve and keep up with the competition's coverage foot print and level of service. By creating a competitive environment, consumers in rural areas have more choices at a more affordable cost.

Another objective of the Federal Telecommunications Act is to encourage community economic development. Economist and Urban Planning Studies show that access to communication services strengthens and grows communities. This factor is more evident in rural parts of the country. The proposed infrastructure provides desirable connectivity to institutions, government, industry, and other communities. This type of telecommunications development promotes community sustainability which in turn advances the public welfare with little or no negative impact to the current community resources.

The last objective listed of the Federal Telecommunications Act is to provide reliable and quality communication networks for emergency response. Citizens are dependent on wireless phones for emergency alerts. First responders rely on wireless communications to save lives and meet challenges of catastrophes.

Based on the future land-use plan, staff finds the conditional use request inconsistent with the future land use classification of Rural Residential in the [Comprehensive Plan](#).

Zoning Analysis

Per Planning Commission and Hall County Commission consideration and decision ([17.380.060](#)), the planning commission shall study the need and justification for the change based on a determination of the facts applicable to the particular case, and the following general lines of inquiry shall be considered, to wit:

1. Whether the zoning proposal will permit a use that is suitable in view of the use, development and zoning of adjacent and nearby property; **The proposed site is considered a disfavored location, per [17.410.40](#), which is defined as any residentially zoned property or residentially occupied structure, or sites within four tower lengths of a residentially zoned property shall be a disfavored site for the location of telecommunications facilities. The proposed tower is within 4 tower lengths of 7 residences.**
2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; **The proposed use should not have a negative effect on the existing uses or usability of adjacent or nearby properties. If approved, the site will be developed in accordance with applicable development regulations.**
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; **Yes, the property has reasonable economic use as currently zoned, Agricultural Residential IV (AR-IV, [17.120](#)), but the telecommunication tower cannot be constructed as described without conditional use approval from the Board of Commissioners.**
4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, police protection, fire protection, public health facilities or emergency medical service; **The proposed use should not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, police protection, fire protection public facilities, or emergency medical service.**
5. Whether the zoning proposal is in conformity with the policy and intent of the future land use plan for the physical development of the area; **The parcel falls within the Rural Residential character area of the Comprehensive Plan. The intent of the Rural Residential character area is to preserve and the established residential/rural character and create a transition between Rural Area and development in Residential Areas. The Rural Residential Areas are characterized by low-density single-family residential uses with deep setbacks from the road. Future development should continue to reflect lower density detached single-family residential uses, and neighborhood design should incorporate a high percentage of open space (i.e. 'Conservation Subdivision' design). The proposed use is not consistent with the Comprehensive Plan.**
6. The extent to which property values are diminished by the existing zoning restrictions; **Staff is unable to determine the extent to which property values are diminished by the existing zoning restrictions.**
7. The extent to which the destruction of the subject property's value under the existing zoning promotes the health, safety, morals or general welfare of the public; **Staff is unable to comment on the impact of property values without a full market analysis. Multiple factors impact property value including**

construction types, proposed uses, and maintenance. Often it is difficult to determine the effect of a development on adjacent properties until the development is completed.

8. The relative gain to the public as compared to the hardship imposed upon the individual property owner; **Staff has not identified a hardship imposed on the property owner as the property is currently zoned.**
9. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property; **The property is developed with a single-family residence, constructed in 1930, per the [property tax records](#).**
10. Whether there are other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; **There are no known changing conditions affecting the use or development of the property.**
11. Whether the change would create an isolated district unrelated to the surrounding districts; **There are no proposed changes to the underlying zoning classification, as such, this criteria is not applicable.**
12. Whether the present zoning district boundaries are illogically drawn in relation to existing conditions in the area; **There is no evidence that the present zoning district boundaries are illogically drawn.**
13. Whether the change requested is out of scale with the needs of the county as a whole or the immediate neighborhood; **No, the request is not out of scale with the needs of the county as a whole.**
14. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned; **As telecommunication towers require Board of Commissioner approval within any of the zoning districts in which they are permitted, it is impossible to find an adequate site for the proposed use already appropriately zoned.**
15. Whether the need for rezoning could be handled instead by a variance request to the [planning commission]; **No, the request could not be handled instead by a variance.**
16. Whether there would be an ecological or pollution impact resulting from major modifications to the land if the request is granted; **Any land disturbance activities on the property shall be required to go through the land development permitting process, and as a result are subject to local, state, and federal regulations. As a result, there should not be an ecological or pollution impact resulting from any modification to the land if the request is granted.**
17. Whether there is reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property; **There is no indication that a mistake was made in the original zoning.**

[17.380.050](#) - Submission requirements

- A. Any person or persons requesting a change in the official zoning map or use subject to approval of the county commission shall file an application with a plat or map of the property attached thereto,

together with payment of such fees set forth in [chapter 17.30](#) to cover administrative and advertising costs, in the planning department office. Such person or persons or their authorized agent shall appear in person at the public hearing held to consider the district change. **Proposal meets the requirement. Applicant has paid the appropriate fees and understands that someone must be present at the Hall County Planning Commission.**

- B. All applications for a change of zoning classification or use subject to approval of the county commission shall include:
1. A narrative statement identifying the existing and proposed use of the property and addressing each of the criteria set forth in section 17.380.060.C of this section [chapter]. **The applicant has submitted a narrative and site plan but has not explicitly addressed the criteria listed in [17.350.120](#).**
 2. A site plan drawn to scale designating the area covered by the application and identifying existing and proposed buildings and uses, adjacent existing land uses, zoning on contiguous parcels, including those across an abutting public right-of-way, and any other significant site improvements proposed to accommodate the proposed use or buffer adjacent uses, etc., or a plat of the subject property where no specific land use is proposed. In cases where only a plat or map is provided and no land use is proposed, the planning commission and county commission shall evaluate the application based on the most intense possible land use permitted in the proposed district. **The applicant submitted the site plan drawn to scale.**
- C. For any application for a slow rate land treatment system (see [chapter 17.20](#)), the following additional requirements apply. **This standard is not applicable as the site will not have restroom facilities.**
- D. For any application proposing the development of 100 or more residential dwelling units, a traffic impact study shall be submitted prior to consideration of the application by the planning commission. At the applicant's expense, the traffic impact study shall be prepared by a professional engineer in accordance with requirements established by the Hall County Engineering Department. The engineering department shall review the traffic impact study and forward any comments to the Hall County Planning Commission. **As there are not 100 or more residential dwelling units proposed, this criteria is not applicable.**

Development Support and Constraints / Departmental Comments

Hall County Environmental Health

In an email dated May 2, 2023, Emily McGahee states "No comment."

Hall County Fire Marshal

An email dated April 28, 2023, John Hornick, NPQ Fire Inspector 1, Plans Review Lieutenant stated: "Engineered site plans required for review and approval."

Hall County Public Works and Utilities

In a memo dated May 1, 2023, from Bill Nash, Director of Public Works and Utilities, provided the following comments:

Engineering:

The site may require a stormwater management report should the site plan indicate the proposed development meets stormwater thresholds for impervious surfaces and/or disturbed acreage. Show stream buffer and impervious setback from wrested vegetation not center line of stream

Traffic:

No comment.

Utilities

No comment.

Georgia Department of Transportation

In an email dated April 28, 2023 from Parker Niebauer, Traffic Operations Supervisor, confirmed that the project will not require GDOT coordination.

➤ **Excerpts from the minutes of the May 15, 2023 meeting**

Applicant's Presentation:

Randi Doveton, Planning Director, presented a summary of the request.

Patton Hahn, 1901 6th Avenue North, Birmingham, Alabama, presented the request. The applicant stated they are in agreement with staff conditions.

Public Forum:

There were no comments in support or opposition.

Planning Commission Comments:

Mr. Braswell gave clarification of the radius.

Motion: A motion to approve, with conditions was made by Mr. Hunt and seconded by Mr. Sosebee. Vote: 5-0

Conditions:

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