

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

OCTOBER 4, 2021
OTHERS PRESENT

Gordon Powell
Kyle W. Puryear
C. Derrick Sims
Charlie Palmer
Patricia Gentry

Heidi York, County Manager
Brenda B. Reaves, Clerk to the Board
TC Morphis, Jr., County Attorney

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, October 4, 2021 at 7:00pm in the commissioners' boardroom in the Person County Office Building.

Chairman Powell called the meeting to order and announced that Commissioner Gentry would be participating in the meeting remotely.

Chairman Powell offered an invocation and Vice Chairman Puryear led the group in the Pledge of Allegiance.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

Chairman Powell requested Board consideration to add the following items to the agenda:

- Berea Solar, LLC Written Decision Denying Special Use Permit
- Consideration to relocate the Board's regular-scheduled Oct. 18, Nov. 1, Nov. 15 and Dec. 6 meetings to be held in the County Auditorium.

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to add the Berea Solar, LLC Written Decision Denying Special Use Permit as well as Consideration to relocate the Board's Oct. 18, Nov. 1, Nov. 15 and Dec. 6 meetings to be held in the Auditorium to the agenda and to approve the agenda as adjusted.

October 4, 2021

PUBLIC HEARING:

CONSIDERATION TO ADD WHISPERING WOLF WAY, A PRIVATE ROADWAY, TO THE DATABASE OF ROADWAY NAMES USED FOR E-911 DISPATCHING:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to open the duly advertised public hearing for a request to add Whispering Wolf Way, a private roadway, to the database of roadway names used for E-911 dispatching.

GIS Manager, Sallie Vaughn stated there are two private residences (2622 and 2630 High Plains Rd) currently located on a private driveway off High Plains Rd and an additional private residence is being added to this driveway. In accordance with Article IV, Section 402 H of the “Ordinance Regulating Addressing and Road Naming in Person County,” the driveway must be named. The addition of this road will require occupants of the existing residences to change their addresses to reflect the new roadway name.

North Carolina General Statute 153A-239.1(A) requires a public hearing be held on the matter and public notice be provided at least ten days prior in the newspaper. The required public notice was published in the September 23, 2021 edition of the Roxboro Courier-Times. A sign advertising the public hearing was placed at the proposed roadway location on the same date.

Ms. Vaughn said all three properties adjacent to the proposed road have the same ownership. Those parties provided the suggested name, Whispering Wolf Way, which is compliant with all naming regulations in the Ordinance. Ms. Vaughn requested Board consideration to approve adding Whispering Wolf Way, a private roadway, to the database of roadway names used for E-911 dispatching.

There were no individuals appearing before the Board to speak in favor of or in opposition to the request to add Whispering Wolf Way, a private roadway, to the database of roadway names used for E-911 dispatching.

A **motion** was made by Commissioner Sims and **carried 5-0** to close the public hearing for a request to add Whispering Wolf Way, a private roadway, to the database of roadway names used for E-911 dispatching.

CONSIDERATION TO GRANT OR DENY REQUEST TO ADD WHISPERING WOLF WAY TO THE DATABASE OF ROADWAY NAMES USED FOR E-911 DISPATCHING:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve adding Whispering Wolf Way, a private roadway, to the database of roadway names used for E-911 dispatching.

October 4, 2021

PUBLIC HEARING:

PETITION SUP-04-21, A REQUEST BY THE APPLICANT, VERTICAL BRIDGE DEVELOPMENT, LLC (DOUG BARKER) ON BEHALF OF THE PROPERTY OWNER, RANDY W. JONES, TO CONSTRUCT A NEW 300' TALL SELF-SUPPORTED WIRELESS COMMUNICATIONS TOWER ON 25.59 ACRES LOCATED AT 2025 GUESS RD (TAX MAP AND PARCEL NUMBER A43-176) IN THE R (RESIDENTIAL) ZONING DISTRICT:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to open the duly advertised public hearing for Petition SUP-04-21, a request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District.

The public hearing set to hear a Special Use Permit request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Powell administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing:

Ms. Lori Oakley, Ms. Angela Blount, Mr. Doug Barker and Mr. Mark Lambra

Planning Director, Lori Oakley introduced Angela Blount, Planner I to present petition SUP-04-21. Ms. Blount stated all state statutes and planning ordinance requirements have been met for this public hearing. The Staff Report for SUP-04-21 is hereby entered into record.

October 4, 2021

**Special Use Permit SUP-04-21
Vertical Bridge Development, LLC
Wireless Communication Tower**

EXPLANATION OF REQUEST

Petition SUP-04-21 - A request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District.

LOCATION AND CURRENT LAND USE

This tract is located at 2025 Guess Rd in Timberlake, NC and is zoned R (Residential). It is within the Neuse Watershed and Falls Lake Stormwater Area, and is mostly wooded. A CP&L power line easement crosses the property on the southeast corner.

Condition and land use of the surrounding properties are:

- To the North – Vacant, mixture of pasture and woodlands.
- To the East – Vacant, a mixture of pasture and woodlands, traversed by a CP&L power line easement.
- To the South – Mainly pasture, traversed by a power line easement and two single-family dwellings.
- To the West – Bordered by Guess Rd., properties are mainly woodlands.

All bordering properties are zoned R (Residential).

LAND USE / SITE PLAN

- The property is zoned R (Residential), and the Person County Permitted Use Table lists a Radio, Telephone and TV Transmitting Tower as an allowed use within the R (Residential) zoning district with a Special Use Permit.
- The proposed wireless communications tower will be triangular, self-supporting, and sits within a 70' x 70' area enclosed by a 6' high chain link fence. The entire leased area is 100' x 100' and will be accessed from Guess Rd by a 12' wide gravel road paralleling a 30' wide utility easement.
- The enclosed 70' x 70' area will house the tower base as well as equipment areas for future carriers. Verizon is listed as the tenant.

COMPREHENSIVE PLAN

The Person County Land Use Plan identifies the proposed tracts as Suburban Residential. Suburban Residential is defined as:

Residential land uses including subdivisions and manufactured home parks at densities of 1-3 dwelling units per acre; commercial, office, industrial, public/institutional uses meeting locational criteria. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category could develop with or without public sewer.

Appendix O of the Person County Land Use Plan lists goals and objectives for the County including the following relevant statements:

Goal 1.0 – Promote an orderly and efficient land use development pattern, which allows for a variety of land uses while being sensitive to environmental concerns.

Goal 2.0 – Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.

PLANNING STAFF ANALYSIS

The parcel is zoned R (Residential) and a wireless communications tower is an allowed use in this zoning district after obtaining a Special Use Permit from the Board of County Commissioners.

A reduction in setback to at least one-half the height of the tower is allowed due to the tower being self-supported. A certified fall zone letter is required and is on file.

PLANNING STAFF SUMMARY

The proposed site plan meets the requirements of the Person County Planning and Zoning Ordinance regarding Radio, Telephone and Transmitting Towers, specifically Appendix C, Note 9.

The applicant has stated that the proposed tower has gained approval from the Federal Communications Commission and that the “construction and placement of the tower will not interfere with public safety communications or with the usual and customary transmission or reception of radio, television or other communications services”.

Planning staff recommends that if the Board approves the request, the following conditions be placed on the Special Use Permit:

1. The applicant is to obtain all necessary permits for the wireless communications tower project and adhere to all requirements listed in the Person County Planning and Zoning Ordinance.

In approving an application for a special use permit, the Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board.

The Board shall issue a special use permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

*****Please refer to the 4 Findings of Fact listed above when making a decision*****

Submitted by: Angela Blount, Planner I

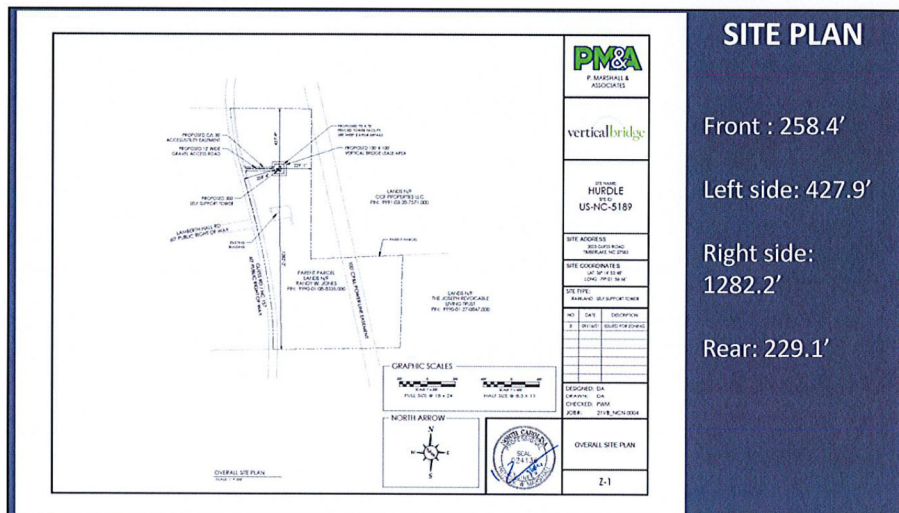
Ms. Blount shared the following presentation for SUP-04-21.

October 4, 2021

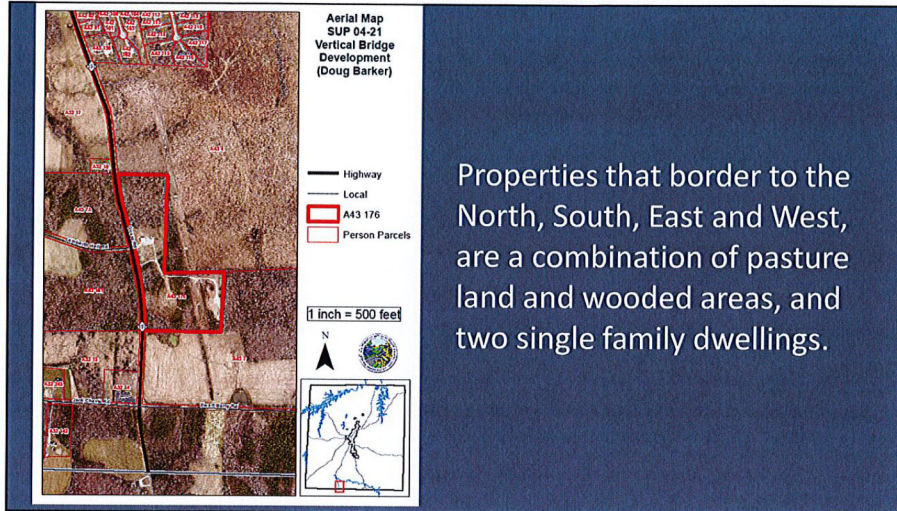
Special Use Permit

SUP-04-21– Explanation of Request

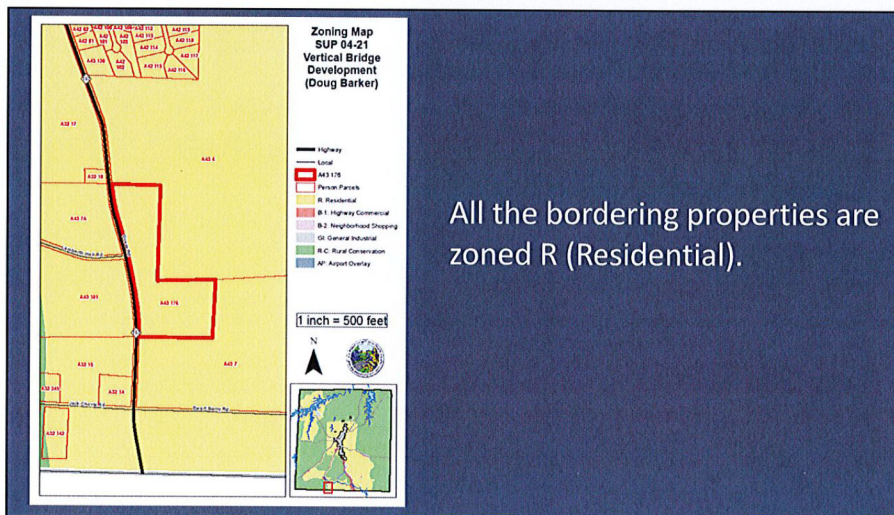
Petition SUP-04-21 - A request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District.



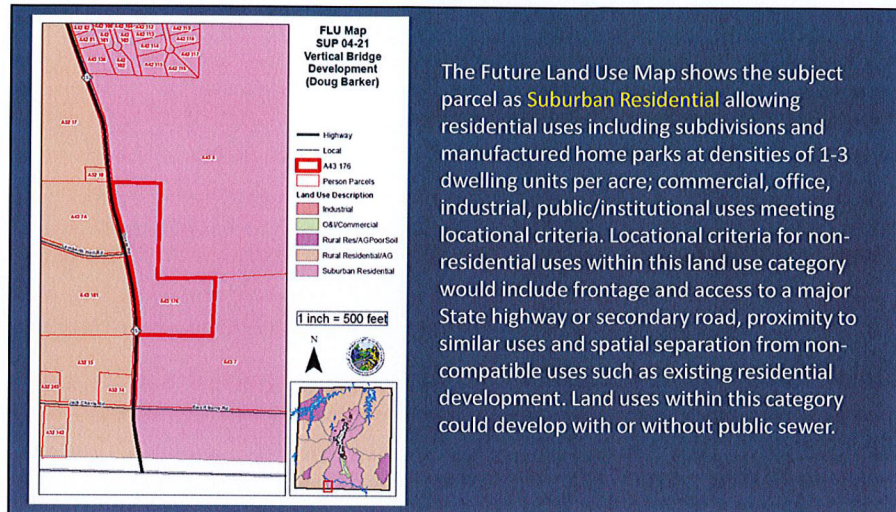
October 4, 2021



Properties that border to the North, South, East and West, are a combination of pasture land and wooded areas, and two single family dwellings.



All the bordering properties are zoned R (Residential).



Special Use Permit

SUP-04-21 – Planning Staff Analysis

- The parcel is zoned R (Residential) and a communications tower is an allowed use in this zoning district after obtaining a Special Use Permit.
- A reduction in setback to at least one-half the height of the tower is allowed due to the tower being self-supported. A certified fall zone letter is required, has been submitted and is on file.

Special Use Permit

SUP-04-21 – Planning Staff Summary

- The proposed site plan meets the requirements of the Person County Planning and Zoning Ordinance regarding Radio, Telephone and Transmitting Towers, specifically Appendix C, Note 9.
- The applicant has stated that the proposed tower has gained approval from the Federal Communications Commission and that the “construction and placement of the tower will not interfere with public safety communications or with the usual and customary transmission or reception of radio, television or other communications services”.

Special Use Permit

SUP-04-21 – Planning Staff Summary

- Planning staff recommends that if the Board approves the request, the following conditions be placed on the Special Use Permit:
- The applicant is to obtain all necessary permits for the wireless communications tower project and adhere to all requirements listed in the Person County Planning and Zoning Ordinance.

Special Use Permit

SUP-04-21 – Findings of Fact

- The Board will vote to approve, approve with conditions, or to deny the requested Special Use Permit.
- The Board will need to address the Findings of Fact in Section 155 of the Person County Planning Ordinance and whether this proposal is in keeping with the Person County Land Use Plan. The Findings of Fact in Section 155-3 (b) are as follows:

Findings of Fact

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. That the use meets all required conditions and specifications.
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and
4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Speaking in favor of Petition SUP-04-21, a request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District were the following:

Mr. Doug Barker of 304 Springwater Trail, Woodstock, GA 30128 stated he was there representing Vertical Bridge Development and the property owner on the application before the Board for the communications tower facility located at 2025 Guess Road, Timberlake. He said wireless communications have become the main mode of transportation for most poles. He stated this facility will give the citizens, travelers and the visitors of the county access to that communication not only for personal communications use but access to emergency services; as our primary mode of communication, it's become more and more important to have access to emergency services. Vertical Bridge Development is a tower owning company; they actively market their towers to wireless service providers whether internet provider, cell phone provider and anything along those lines to get more tenants on their tower; it's how they make money. Mr. Barker said you would not have a tower sitting out there owned by a carrier that did not want another carrier on it; these folks are actively marketing the tower as he noted again, it is the way they make money. He said Verizon Wireless is the tenant of this tower that is being constructed noting Verizon has signed up and is looking for this tower to go on there first quarter of next year. Mr. Barker said the tower emits no fumes, no noise, no odors and it backs up to a high-tension transmission line on the backside of the property noting that was their closest setback at 229 ft. to the property line. He said the facility meets or exceeds all the requirements in the Person County Ordinance as well as all state and federal requirements in order to build these towers inclusive of environmental, fish and wildlife, historical preservation and pretty much cover all the game. Mr. Barker said that was really it noting the coverage map referencing the gaping hole. He said the nearest tower in the area, Verizon is located on noting there was no ability to provide coverage to this area using existing structures. Mr. Barker stated he would answer any questions the Board may have.

Commissioner Sims asked Mr. Barker about the difference in towers that look like the fake pine tree or if it is the same as he is proposing. Mr. Barker responded that it really comes down to the amount of people (population count) noting those towers are designed shorter and used in dense, urban areas to fill in gaps of service. Mr. Barker added that it would take two of those shorter towers to cover this area due to the reduction in height required for those and one of those shorter towers would cost more than the proposed tower.

Commissioner Palmer asked Mr. Barker what was the actual coverage area of the tower to which Mr. Barker responded it would be roughly three to five miles in all directions. He noted it would also depend on existing coverage surrounding it as they would dial it back to hand off properly to the adjacent towers.

Chairman Powell asked Mr. Barker if there would be any other equipment on the tower except Verizon to which Mr. Barker stated not at this time noting they would try to get AT&T out there as well as wireless internet providers out there but none of these will go on the tower without going through Person County for approval.

Vice Chairman Puryear confirmed the fall zone was a 100 ft. radius noting the restrictions for which that could be around the tower, to which Mr. Barker confirmed that was correct with no guide wires, nothing outside the 100 ft. area.

Commissioner Gentry stated she had a question however, the group had difficulty understanding her full question as she noted she had unstable connectivity. She said she would text the question to the County Manager, Heidi York.

Commissioner Palmer said they had been on Verizon (later corrected to CenturyLink) to improve their source of internet connection for the county asked Mr. Barker if this was one or more to follow. Mr. Barker stated he was aware of one other tower that is planned in Person County that is a Verizon tower, however until Verizon gives him the go, it will not come before the Board as he was not in the business of speculative tower building. Mr. Barker added that Verizon was actively building out noting he has gotten four towers approved in Caswell County that are going under construction now. Mr. Barker said that Verizon is focusing heavily on areas that have been historically under covered, trying to get coverage out here. Mr. Barker said he did not get access to the build plans but just based on what he has seen in Caswell County he felt it was the first of a few to get the coverage where it needs to be in Person County. Commissioner Palmer said that was good news. Commissioner Palmer said as he came into the governing body last December and ever since then he has been told CenturyLink was dragging their feet for years for the availability for Wi-Fi across this county noting he had been contacted by numerous citizens, public board members and general conversations as to why CenturyLink was not allowing or giving us more when they have the capability to do more. Mr. Barker stated he wished he could answer that question but he did not have access to CenturyLink plans either noting people have the misconception that when they pick up their cell phone that it talks from one tower to the next when it simply doesn't. Mr. Barker said when you talk to tower, every bit of data that going through the tower is going down the tower and into a landline. Mr. Barker said for every tower that gets approved there will be increased fiber connectivity and speeds all along the roadways going to and from the tower. He said he couldn't tell the Board what CenturyLink is going to do but he could say there will be some increased fiber activity along that roadway.

County Manager, Heidi York said she had Commissioner Gentry's question which was how far from the tower at the end of Guess Road and 57 at corner of Handy Andy's to which Mr. Barker said he did not know Handy Andy's but he did not believe there was a tower within two miles of the structure. Mr. Barker said he had the information but it would take him a minute to pull it up.

Chairman Powell asked if there any other questions for Mr. Barker; hearing none, he asked the Clerk to the Board if there were any other speakers.

Clerk to the Board, Brenda Reaves said Mr. Mark Lambra signed up and he stated he was neither in favor or in opposition to the request.

Mr. Mark Lambra of 1860 Guess Road, Timberlake said he was the house on the map, the very first and closest house and closer than the owner's house. He said his questions were along the lines that that he has cell service there now and he didn't know why we need more cell service. And he doesn't mind the owner doing what he wants to do with his property as long as it doesn't affect him. He said it was a me, me, me situation. He said he personally did not want to look at the tower and that is where it will affect him. Mr. Lambra said he wondered as it was such a big piece of land if it could it farther on down where no one else would see, and to just change the location or if there was a reason why it couldn't be changed. Outside of that, Mr. Lambra said he did hear the comment that it doesn't interfere with anything, am/fm, Wi-Fi and TV, and asked if it does interfere with him as he is in close proximity, how do I get in contact with who is responsible for fixing that was his question or concern. Mr. Lambra said if it does remain as an eyesore and if the county is getting more money, wondering if that lowers his property taxes was a question he had for the Board. So if you get a gain on one side does he get a blessing on his side? Mr. Lambra said he liked the idea of instead of having a great big, huge tower and the option of having two small towers that blend and look like trees, would that be better for the drive and everybody that lives out there to have two small towers that you don't even notice that pop up instead of having one humongous one. Mr. Lambra said there was talk of reports today and he would love to have copies of the reports (directing this comment to Ms. Blount). Ms. Blount said reports on what to which he said the reports she said she had that supported with your opening comments today. Ms. Blount stated the staff report and Mr. Lambra said no, the reports that were mentioned in the very beginning; someone said they had. Ms. Blount asked if he was talking about the FAA approval and he said yes and all the different things that they have to; he said he would like to get a copy of those to put in his file in case it comes back to haunt him. Chairman Powell stated they could take care of that. In closing, Mr. Lambra said he would like to see a smaller tower like a tree and then have another tower approved to spread it out noting the population out there is pretty sparse, if it only covers two to five miles, maybe it would be beneficial to have smaller towers farther apart to capture more. He said that was all he had to say and thanked the Board.

Ms. Oakley asked to quickly answer Commissioner Gentry's question and stated she measured from the intersection that she asked about to this proposed tower and it is 4.4 miles. Mr. Barker said he was glad she could pull it up as he had some internet connectivity issues and he could tell there was one tower within five miles. Mr. Barker said he could not speak on the property taxes obviously. Mr. Barker noted the ability to drop it to two towers on the same property at a lower height while still providing the same coverage; the idea is to provide coverage to the area that is out there. Mr. Barker said he had gotten

approval from Verizon Wireless to lower the height of this tower by 50 ft. to bring it to a 250 ft. tower if that will appease anyone. He said they have run the numbers and proved that they can provide the same adequate coverage with a 250 ft. tower. As far as property values, we all drive by towers every day and we just do not notice them. Mr. Barker said they are everywhere, if you walk out the door and look around, you will probably going to see one. He said you do not notice them, as they are a part of our everyday life. Mr. Barker said he was currently in the market for a home and he was looking every day for a home and every time he and his wife walk into a home, the first thing she does is look at her cell phone, and if she doesn't have coverage, it is off the list, so as far as property values go, if there is no wireless coverage, it is taking them off his list as he has to have connectivity to function and most of us are in that boat nowadays.

Chairman Powell asked Mr. Barker to go back to the 300 ft. versus 250 ft. to answer if they are equal. Mr. Barker responded that their ideal coverage is 300 ft. but with 250 ft. they can still provide coverage and hand off to adjacent towers.

Chairman Powell asked if there any further questions from commissioners. He asked the Clerk to the Board if there were any more speakers to which she confirmed that concluded the speakers for public comments.

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to close the public hearing for Petition SUP-04-21, a request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District.

CONSIDERATION TO GRANT OR DENY PETITION SUP-04-21, A REQUEST BY THE APPLICANT, VERTICAL BRIDGE DEVELOPMENT, LLC (DOUG BARKER) ON BEHALF OF THE PROPERTY OWNER, RANDY W. JONES, TO CONSTRUCT A NEW 300' TALL SELF-SUPPORTED WIRELESS COMMUNICATIONS TOWER ON 25.59 ACRES LOCATED AT 2025 GUESS RD (TAX MAP AND PARCEL NUMBER A43-176) IN THE R (RESIDENTIAL) ZONING DISTRICT:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve a request by the applicant, Vertical Bridge Development, LLC (Doug Barker) on behalf of the property owner, Randy W. Jones, to construct a new 300' tall self-supported wireless communications tower on 25.59 acres located at 2025 Guess Rd (Tax Map and Parcel number A43-176) in the R (Residential) Zoning District as presented with the following condition to be placed on the Special Use Permit:

1. The applicant is to obtain all necessary permits for the wireless communications tower project and adhere to all requirements listed in the Person County Planning and Zoning Ordinance.

In addition, Vice Chairman Puryear stated the request met the four findings of fact and in general conformity with the Comprehensive Plan.

INFORMAL COMMENTS:

The following individual appeared before the Board to make informal comments:

Ms. Anderson Clayton of 1416 Stone Drive, Roxboro and Chair of the Person County Democratic Party reminded everyone that the municipal election would be taking place on October 5, 2021 with voting in the Person County Office Building Auditorium. She also extended an invitation to the monthly Democratic Party meeting on October 18, 2021 starting at 7:00pm. Ms. Clayton commended the Roxboro Area Chamber of Commerce, the Roxboro Uptown Group and others in making the recent Personality event a success. She asked the Board to included public input on how to use the American Rescue Plan funding noting an emphasis on expanding affordable broadband to the underserved citizens in the county.

DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve the Consent Agenda with the following items:

- A. Approval of Minutes of September 7, 2021,
- B. Approval of Minutes of September 20, 2021,
- C. Budget Amendment #6 Carryforwards2, and
- D. Budget Amendment #7

October 4, 2021

UNFINISHED BUSINESS:

SECOND READING TO UPDATE THE ORDINANCE REGULATING POSSESSION OR CONSUMPTION OF MALT BEVERAGES OR UNFORTIFIED WINE ON COUNTY PROPERTY:

John Hill, Director of Recreation, Arts, and Parks Department stated the Board of Commissioners, at its meeting on September 20, 2021, voted 4-0 to adopt the update to the Ordinance Regulating Possession or Consumption on Malt Beverages or Unfortified Wine on County Property. As all five commissioners were not present to vote at the First Reading, the County Attorney advised a Second Reading was in order to meet statutorily requirements noting a majority vote would adopt the updated ordinance.

The updated ordinance would allow for alcohol to be served or sold at authorized special event locations on County property with the approval by the Board of Commissioners and the required Person County Special Event Alcohol Permits and North Carolina Alcohol license and event permits.

Mr. Hill requested Board consideration to adopt the updated Ordinance Regulating Possession or Consumption of Malt Beverages or Unfortified Wine on County Property

A **motion** was made by Commissioner Palmer and **carried 5-0** to adopt an Ordinance Regulating Possession or Consumption of Malt Beverages or Unfortified Wine on County Property, as presented with a provision to authorize special event locations.

**Ordinance Regulating Possession or Consumption
of Malt Beverages or Unfortified Wine
on County Property**

Whereas, N.C.G.S. 18B-300 authorizes a county to regulate or prohibit the possession or consumption of malt beverages or unfortified wine on property owned, occupied or controlled by that County; and

Whereas, in May of 2008 the Person County Board of County Commissioners enacted an ordinance which prohibited use or consumption of malt beverages or unfortified wine on all property owned, occupied or controlled by Person County; and

Whereas, The Person County Board of County Commissioners desires to prohibit the possession or consumption of such malt beverages or unfortified wine on most property owned, occupied or controlled by the County and to regulate the use of such beverages on other property.

Now, Therefore Be It Ordained by the Person County Board of County Commissioners:

Section 1- The ordinance adopted on March 2, 2015 prohibiting the possession or consumption of malt beverages and unfortified wine on County property is hereby repealed.

Section 2- No person shall possess open containers or consume malt beverages or unfortified wine on property owned, occupied or controlled by Person County except in those locations specified below and in accordance with an approved Person County Permit and a North Carolina State Alcohol Beverage Permit:

Mayo Park Amphitheater in the concrete seating areas directly in front of the stage, the grass seating area directly in front of the stage in an area 200 feet long by 130 feet wide and in the stage area within 50 feet from the left, right and back of the stage, and

Mayo Park Environmental Community Center within the center and within 50 feet from all sides of the building, and

Kirby Cultural Arts Complex within Gallery front room (main gallery), Community gallery (Hallway) and main theatre seating area (both upstairs and downstairs), and second floor galleries, studio/event rooms, and reception areas, and

Person County Museum Grounds within the museum and no closer than 50 feet from the property line, and

October 4, 2021

Authorized Special Event Locations that would be a location other than those listed above if the Board of Commissioners approves an authorizing Resolution for a special occasion or event, at a specific location for a specified, limited period of time

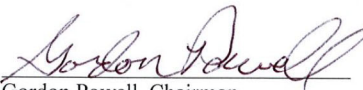
Section 3- Definitions. The definitions of “malt beverages”, “unfortified wine” and “open containers” shall be as defined in Chapter 18B of the North Carolina General Statutes.

Section 3- Penalties. Violations of this ordinance shall be a misdemeanor as provided for in N.C.G.S. 14-4.

Adopted this the 4th day of October 2021.

Attest:




Gordon Powell, Chairman
Person County Board of Commissioners


Brenda B. Reaves, NCMCC, MMC
Clerk to the Board of Commissioners

October 4, 2021

AUTHORIZING RESOLUTION FOR SPECIAL EVENT LOCATION:

John Hill, Director of Recreation, Arts, and Parks Department on behalf of the Person County Recreation Advisory Board requested that the Person County Board of Commissioners consider an Authorizing Resolution for Special Event Location. Mr. Hill noted the resolution would authorize the possession or consumption of malt beverages or unfortified wine, i.e., alcohol to be served at a specific location, which in this case is the Huck Sansbury Recreation Complex property, owned by Person County and located at 425 Long Avenue, Roxboro, NC on October 5, 2021, between the hours of 1:00pm and 6:00pm by a licensed and insured alcoholic beverage vender, business, or company for the Mountains to Coast Ride special event.

Mr. Hill said approximately 800 bicycle riders participating in the Mountains to the Coast Ride would be arriving at the Huck Sansbury Complex in the morning hours of October 5, 2021 following their ride from Reidsville.

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to adopt an Authorizing Resolution for Special Event Location, in this case, at the Huck Sansbury Recreation Complex property, owned by Person County and located at 425 Long Avenue, Roxboro, NC on October 5, 2021, between the hours of 1:00pm and 6:00pm.



Authorizing Resolution for Special Event Location

WHEREAS, Section 2 of the Person County Ordinance Regulating Possession or Consumption of Malt Beverages or Unfortified Wine on County Property provides that "No person shall possess open containers or consume malt beverages or unfortified wine on property owned, occupied or controlled by Person County except in an authorized location and in accordance with an approved Person County Permit and a North Carolina State Alcohol Beverage Permit"; and

WHEREAS, the Person County Recreation Advisory Board requests approval for the authorized possession or consumption of malt beverages or unfortified wine on the Huck Sansbury Park property owned by Person County, located at 425 Long Ave., Roxboro, on October 5, 2021, between the hours of 1 p.m. and 6 p.m. for the Mountains to Coast Ride special event; and

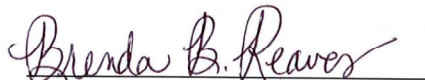
NOW, THEREFORE BE IT RESOLVED, the Person County Board of Commissioners approves the request and authorizes staff to issue a Person County Permit for the authorized special event location.

Adopted this the 4th day of October 2021.




Gordon Powell, Chairman
Person County Board of Commissioners

Attest:


Brenda B. Reaves, Clerk to the Board

October 4, 2021

NEW BUSINESS:

STORMWATER INTERIM ALTERNATIVE IMPLEMENTATION APPROACH PROJECT UPDATE:

Planning Director, Lori Oakley & John Hill, Director of Recreation, Arts and Parks Updated the Board on the Stormwater Team's efforts on the Stormwater Interim Alternative implementation Approach (IAIA) projects.

Ms. Oakley stated that during the May 17, 2021 Board of Commissioners meeting, the stormwater team presented three potential projects that would fulfill the county's stormwater regulation obligation under the IAIA program. The board authorized staff to proceed with the projects as presented. She updated the group that one of the projects presented in May had been taken off the table as the property was sold. Ms. Oakley stated that the County has \$144,000 in the budget to spend on the qualifying projects by June 30, 2022. Ms. Oakley updated staff were diligently working with the adjacent property owners exploring option in gaining access to the County Farm which was deemed the #1 project they were focusing on. Simultaneously, the stormwater team was working on its #2 project regarding property between the Rock Athletic Complex and Southern Middle School

Mr. Hill described some of the amenities for the Rock Athletic Complex project included mountain biking, hiking, environmental education, wildlife education, fertilizer education and possible public utilities right of way or green spaces to connect the community. Mr. Hill stated the Stormwater Team would like to approach an architect firm for planning on this project.

In addition, Mr. Hill stated the Stormwater Team was coordinating community meetings to answer questions from the public and gain new ideas possibly later this month. Mr. Hill noted they would probably conduct two such meetings, one in the Helena area and the other in town.

BEREA SOLAR, LLC WRITTEN DECISION DENYING SPECIAL USE PERMIT:

County Attorney, TC Morphis, Jr. stated the new state statutes require the Board of Commissioners to approve a Written Order of the decision made when taking up the Special Use Permit application. County Manager, Heidi York said this action formalizes the action already taken by the Board of Commissioners at its August 16, 2021 meeting.

A **motion** was made by Commissioner Gentry and **carried 5-0** to approve the Berea Solar, LLC Written Decision Denying Special Use Permit, as presented.

PERSON COUNTY, NORTH CAROLINA

WRITTEN DECISION DENYING SPECIAL USE PERMIT APPLICATION

This matter came before the Person County Board of Commissioners (Board) for a quasi-judicial evidentiary public hearing during its regular meeting on July 12, 2021. The application requested issuance of a Special Use Permit allowing construction and use of a Level 3 (10 acres or greater) Solar Energy System on approximately 920 contiguous acres located on Berea, Bethany Church and Isham Chambers Roads in Person County. Applicant Berea Solar, LLC was represented by counsel, Thomas Terrell, Jr., of Fox Rothschild LLP, Greensboro, NC.

The Board continued the hearing to the next regular meeting held on August 2, 2021, in order for Commissioners to visit the proposed site. At the August 2, 2021 meeting, the Board voted to continue the hearing again to the next regular meeting on August 16, 2021, as some Commissioners had not been able to visit the site. The Board resumed, completed and closed the hearing during its meeting on August 16, 2021, and then deliberated and voted on its decision in the case.

The Board, based upon the sworn testimony and evidence received at the evidentiary public hearing, made the following findings of fact and conclusions.

FINDINGS OF FACT

1. The Applicant submitted a Special Use Permit Application with Person County for Tax Map and Parcel Numbers A110-6, A110-7, A110-2, A110-31, A110-29, A111-5 and 0961-06-5906 (Granville County PIN), seeking a permit to construct a 80 Mega Watt, Level 3 Solar Energy System on approximately 920 acres.
2. The applicant is Berea Solar, LLC, on behalf of the property owners, Elizabeth Christian and Catherine Phelps, John and Linda Mangum, Malcolm Mangum, Jr. and Mary Susan Williams, Matthew Moore, Jeffry Hendriks and EM & RM LLC (Elvin Mangum).
3. The Board, consistent with the previous administrative determination by staff, found the application to be complete and ready for consideration, based on a review of the documents presented and testimony from the County Planning Staff.
4. The application, staff report and additional relevant documents were admitted into evidence.
5. The Subject Property consists of vacant wooded land and pasture/farm land, which is typical of the surrounding area.
6. As set forth in the Special Use Permit Application, the Subject Property is zoned RC (Rural Conservation), which is intended predominantly for low density residential, agricultural, and forestry uses, along with some smaller scale commercial and light industrial uses.

7. The Person County Solar Energy System Ordinance requires a Special Use Permit for a Level 3 (10 acres or greater) Solar Energy System in the RC Zoning District. This project would encompass 920 acres.
8. The public hearing was properly noticed in accordance with all applicable laws, ordinances and rules. At the beginning of the hearing and prior to presentation of any evidence on the Special Use Permit Application, the Board's attorney informed the Board and everyone in attendance that the hearing would be a quasi-judicial proceeding with sworn testimony from which the Board would make a decision, similar to a court of law. Every person who presented evidence at the public hearing was properly sworn in. In conducting the quasi-judicial evidentiary hearing, the Board complied with all applicable provisions of the North Carolina General Statutes, Person County ordinances, and the Rules of Procedure adopted by the Person County Board of Commissioners.
9. Section 155-3 of the Person County Planning Ordinance lists four findings that the Board must make in granting a Special Use Permit:
 - a. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved;
 - b. That the use meets all required conditions and specifications;
 - c. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
 - d. That the locations and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.
10. The Applicant presented sworn testimony and exhibits in support of granting the Special Use Permit. The Applicant and several expert witnesses spoke in support of granting the Special Use Permit. Several people spoke in opposition to granting the Special Use Permit. All parties were given opportunities to cross-examine witnesses and offer objections.
11. Several Commissioners visited and viewed the site, with the attorney and other representatives of the applicant Berea Solar, LLC present. One Commissioner visited the site and viewed portions of it without leaving his vehicle. Each Commissioner who visited the site stated his or her observations orally during the resumed hearing on August 16, 2021, and also stated that no they considered no information acquired outside the hearing.
12. The Board considered only competent, material, and substantial evidence, and made its decision based solely on that evidence in the record.

13. The Board finds that competent, material and substantial evidence presented by the opponents, and other evidence in the record, is sufficient for the Board to make three of the four required findings in the affirmative, and one in the negative, as described below:
- a. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved;**
14. The Board finds that the proponents' evidence contradicts and outweighs the opponents' evidence, and that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved.
- b. That the use meets all required conditions and specifications;**
15. The Board finds that the proponents' evidence contradicts and outweighs the opponents' evidence, and that the use meets all required conditions and specifications.
- c. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and**
16. The Board finds that the proponents' evidence contradicts and outweighs the opponents' evidence, and that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
- d. That the locations and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.**
17. The Applicants and proponents presented evidence that the locations and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan
18. The opponents presented the following and other evidence that the locations and character of the use, if developed according to the plan as submitted and approved, will not be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan:
- (a) There are numerous residences in close proximity to the site;
 - (b) The area surrounding the site is predominantly residential, wooded land and pasture/farm land; and
 - (c) The proposed use would be Industrial in nature, and incompatible with and not in harmony with the surrounding area in terms of its appearance, large scale and function.

19. Based on the foregoing, the Board finds that the opponents' evidence contradicted and outweighs the Applicants' and proponents' evidence, and that the locations and character of the use, if developed according to the plan as submitted and approved, will not be in harmony with the area in which it is to be located and not in general conformity with the Comprehensive Plan.

CONCLUSIONS

Having heard and reviewed the evidence presented at the hearing, and having made the above referenced findings of fact, concludes as follows:

1. All Person County and state notice requirements were satisfied.
2. The rights of the Applicants and witnesses to participate fully in the proceeding were satisfied and protected.
3. By a 5-0 vote that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved, thus the Board made this finding and conclusion under Section 155-3(b)(1) in the affirmative;
4. By a 5-0 vote that the use meets all required conditions and specifications, thus the Board made this finding and conclusion under Section 155-3(b)(2) in the affirmative; and
5. By a 5-0 vote that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, thus the Board made this finding and conclusion under Section 155-3(b)(3) in the affirmative; and
6. By a 5-0 vote that the location and character of the use, if developed according to the plan as submitted and approved, will not be in harmony with the area in which it is to be located and not in general conformity with the Comprehensive Plan of Person County, thus the Board found and concluded that the requirement of Section 155-3(b)(4) was not met and therefore the special use permit could not be approved and issued.

Based on the foregoing, by a 5-0 vote, the Board denied the requested Special Use Permit for the following use:

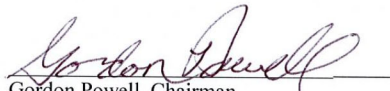
The Applicant is not permitted to construct a level 3 (10 acres or greater) Solar Energy System.

The Special Use Permit Application is not approved for the following reasons:

1. The Board found and concluded that the use was Industrial in character and did not meet the standards and goals of the Person County Land Use Plan, including preservation of land in the RC Zoning District for low density residential, forestry or wooded, and pasture/agricultural uses.
2. The Board found and concluded that the use did not meet #4 of the compatibility standards and criteria used to determine compliance in quasi-judicial cases; i.e., that the locations and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.


Therefore, based on the foregoing, it is ordered that the Special Use Permit be denied, and that copies of this Written Decision be delivered within a reasonable time to the Applicant, landowners, and any person who has submitted a written request.

Date: 10/4/2021


Gordon Powell, Chairman
Person County Board of Commissioners

ATTEST:




Brenda B. Reaves, Clerk to the Board

CONSIDERATION TO RELOCATE THE BOARD'S REGULAR-SCHEDULED OCTOBER 18, 2021, NOVEMBER 1, 2021, NOVEMBER 15, 2021 AND DECEMBER 6, 2021 MEETINGS TO BE HELD IN THE COUNTY AUDITORIUM:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to relocate the Board of Commissioners' regular-scheduled meetings on October 18, 2021, November 1, 2021, November 15, 2021, and December 6, 2021 to be held in the Person County Office Building Auditorium, located at 304 S. Morgan St., Roxboro, NC.

CHAIRMAN'S REPORT:

Chairman Powell had no report.

MANAGER'S REPORT:

County Manager, Heidi York reported that staff were awaiting direction from the Department of Treasury on clarification for expending the American Rescue Plan funds however noting that infrastructure and notably expansion of broadband was a priority.

COMMISSIONER REPORT/COMMENTS:

There were no reports or comments from Vice Chairman Puryear nor Commissioners Palmer or Gentry.

Commissioner Sims asked Commissioner Gentry about the status of the Economic Development Task Force which met last in May 2021. Commissioner Gentry responded that she had sent an email noting a report from the Task Force was forthcoming in November.

Commissioner Sims stated he wanted to address some questions posed by John Seepe:

- a) Regarding land being donated to PCC for the Advance Technology Center (ATC), he said he spoke with PCC staff, Beth Townsend who told him she was not aware of any land donation for the ATC project.
- b) Regarding the Solar moratorium, he said staff and the county attorney were currently working on amendments for the solar regulations.
- c) Regarding mandating a COVID vaccine for employees, he said the county is following CDC guidelines and holding for a mandate at this time.

Commissioner Sims recognized the Roxboro Area Chamber of Commerce who was awarded \$25,000 Uptown Grant by Duke Energy. He added it was good to see people at the Chamber's Personality event and thanked the Chamber and all its volunteers that made it possible.

October 4, 2021

CLOSED SESSION #1

A **motion** was made by Commissioner Palmer and **carried 5-0** to enter into Closed Session at 7:58pm per General Statute 143-318.11(a)(4) for the purpose of discussion of matters relating to the location or expansion of industries or other businesses in the county (economic development) with the following individuals permitted to attend: County Manager, Heidi York, Clerk to the Board, Brenda Reaves, Economic Development Director, Sherry Wilborn, and County Attorney, TC Morphis, Jr.

Chairman Powell called the Closed Session #1 to order at 8:01pm. Commissioner Gentry and Economic Development Director, Sherry Wilborn attended the Closed Session #1 via telephone conference call.

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to return to open session at 8:10pm.

ADJOURNMENT:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to adjourn the meeting at 8:10pm.

Brenda B. Reaves
Clerk to the Board

Gordon Powell
Chairman

October 4, 2021