



## Legislation Details (With Text)

**File #:** 18-439      **Version:** 1      **Name:** P18-30F. The issuing of a Special Use Permit to allow a Communications Tower to be located in a Community Commercial (CC) Zoning District at 1876 Bureau Drive (Tax Map # 0455-17-6410) near the intersection of Bureau Drive and Cedar Creek Road, and is the

**Type:** Public Hearing (Public & Legislative)      **Status:** Agenda Ready

**File created:** 9/12/2018      **In control:** City Council Regular Meeting

**On agenda:** 10/22/2018      **Final action:**

**Title:** P18-30F. The issuing of a Special Use Permit to allow a Communications Tower to be located in a Community Commercial (CC) Zoning District at 1876 Bureau Drive (Tax Map # 0455-17-6410) near the intersection of Bureau Drive and Cedar Creek Road, and is the property of BEASLEY MEDIA GROUP.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. P18-30F Aerial map, 2. P18-30F Zoning map, 3. P18-30F Landuse Plan Map, 4. SUP Application Form, 5. Proposed Tower Site Plan, 6. Applicant Photos-1, 7. Applicant Photos-2, 8. Site Photo

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**TO:** Mayor and Members of City Council

**THRU:** Jay Reinstein, Assistant City Manager

**FROM:** Craig M. Harmon, AICP, CZO - Senior Planner  
Gerald Newton, AICP - Director

**DATE:** October 22, 2018

**RE:**  
**P18-30F. The issuing of a Special Use Permit to allow a Communications Tower to be located in a Community Commercial (CC) Zoning District at 1876 Bureau Drive (Tax Map # 0455-17-6410) near the intersection of Bureau Drive and Cedar Creek Road, and is the property of BEASLEY MEDIA GROUP.**

**COUNCIL DISTRICT(S):**

2 - Dan Culliton

### Relationship To Strategic Plan:

GOAL III: High-Quality Built Environment - Objective E, develop and sustain access to connectivity that increases our smart city capacity.

### **Executive Summary:**

Beasley Media Group looks to install a 195-foot communications tower at 1876 Bureau Drive, just south of Ruby Tuesday and Cedar Creek Road and across the street from the Holiday Inn.

### **Background:**

Owner: BEASLEY MEDIA GROUP

Applicant: Ned Garber

Requested Action: SUP for a Communications Tower

Property Address: 1876 Bureau Drive

Council District: 2

Status of Property: Beasley Media offices

Size: 1.18 acres +/-

Adjoining Land Use & Zoning:

North: CC - Undeveloped & Business

South: C(P) County - Farm

West: R10 County - Farm

East: CC & C(P) County - Hotel

Letters Mailed: 10

### **Land Use Plan: Activity Node**

2030 Growth Management Plan: Policy 3.2: ADVANCED PLANNING FOR ALL INFRASTRUCTURE facilities shall be supported and routinely updated on a countywide basis. Facilities benefited by advanced planning shall include, at a minimum, schools, roads, water, sewer, stormwater management, parks, and greenways.

### **Additional Reviews:**

Technical Review Committee (TRC) - A preliminary review was conducted on this site plan. As a result, the proposed plan was given preliminary approval.

### **Issues/Analysis:**

Beasley Media Group looks to install a 195-foot communications tower at 1876 Bureau Drive, just south of Ruby Tuesday and Cedar Creek Road and across the street from the Holiday Inn. The applicant proposes a free-standing, triangular shaped lattice tower with three (3) support legs and steel framing.

The proposed tower location is within a commercial zoning district. The City's standards call for a setback of half of the tower height from each of the adjoining property lines. The applicant in this case, however, has asked for a reduction in this setback requirements through the SUP process. A tower that is 195 feet tall would require a setback of 97.5 feet. The applicant is asking for a reduction in this number for the property lines to the west (15 +/- foot reduction) and south (49 +/- foot reduction). Both of these property lines are adjacent to areas where an active farm currently is located.

### **Requirements:**

Freestanding Towers [Please see the attached application, continuation sheet and site details that show how the applicant will comply with City ordinances].

Freestanding telecommunications towers, whether as a principal or accessory use, shall comply with

the following standards. Please see the attached "Continuation Sheet" which was submitted as part of the SUP application. On the Continuation Sheet, the owner has detailed their response/answers to each of the standards below.

a. Safety

- I. Before obtaining a Building Permit, the applicant shall submit to the City Manager engineering drawings for the tower, sealed by a licensed engineer, that include a statement that the tower will meet all applicable local, State, and Federal building codes and structural standards.
- II. Every two years after construction of a tower, the owner shall submit to the City Manager a statement on the tower's structural soundness that is signed and sealed by an engineer. Every sixth year, the statement shall be signed and sealed by an independent, registered, and licensed engineer.

b. Height

The height of a telecommunications tower, including any building or structure atop which the tower is located, shall not exceed 450 feet.

c. Aesthetics

- I. A monopole shall be used unless a different structure is explicitly approved by City Council.
- II. Towers shall either maintain a galvanized steel finish or be painted.
- III. Towers shall be camouflaged with the surrounding area, through paint, incorporation into architectural design/structure, or other means, to the maximum extent practicable.
- IV. The exterior appearance of ground-based accessory structures located within a residential zoning district shall be designed to look like a residential structure typical of the district (e.g., with a pitched roof and frame or brick siding).
- V. Photo imagery shall be used to illustrate the appearance of the facility and its visual impact on the area.

d. Lighting

If lighting is required by the Federal Aviation Administration (FAA), it shall comply with FAA standards. To the extent allowed by the FAA, strobe lights shall not be used for nighttime lighting and lighting shall be oriented so as not to project directly onto any surrounding residentially-zoned property. Documentation from the FAA that the lighting is the minimum lighting required shall be submitted to the City Manager before issuance of any building permit for the tower.

e. Setbacks

- I. Except as provided in subsection iii., telecommunications towers shall be set back from abutting property lines the distance equal to or exceeding that in Table 30-4.C.3, Freestanding Telecommunications Tower Setback Standards.
- II. Buildings associated with a telecommunications facility shall meet the minimum setback requirements for the zoning district where located.
- III. When a tower, building or other structure is being added to an existing telecommunications tower site that was in existence prior to the adoption of the setback requirements under subsection b.i. and ii. above and the existing site does not comply with the setback requirements of subsection b.i. and ii., the Council,
- IV. Upon good cause shown by the applicant and evidence provided by a North Carolina registered professional engineer regarding the safety of the proposed setback, may reduce the setback requirements for the tower, building or other structure to be added

to the existing site.

f. Separation from Other Towers

New telecommunication towers shall not be located within 1,500 feet of an existing telecommunications tower. This standard shall not apply to a telecommunications tower placed out of view in a building or other structure. The 1,500-foot standard may be reduced or waived through the special use permit process based on mitigating circumstances which may include, but are not limited to, topographical or transportation facility barriers (such as rivers, railways, and major highways), degree or extent of separation from other such uses, and surrounding neighborhood characteristics.

g. Collocation

- I. No freestanding telecommunications tower shall be allowed unless it is demonstrated that no suitable existing tower, building, or other structure within the coverage area is available for the collocation of antennas.
- II. New freestanding telecommunications towers shall be designed to accommodate the present and future needs of the owner and at least two comparable users. Unused space on an existing telecommunications tower shall be made available to other users at a fair market rental unless mechanical, structural, or regulatory factors prevent collocation. In determining fair market rental, the rent paid by a current collocater under a swapping agreement need not be considered.

h. Buffer and Screening

A Type D buffer (see Section 30-5.B.4.d, Property Perimeter Landscape,) shall be provided around the perimeter of a freestanding telecommunications tower facility (including equipment structures and guy anchor supports).

I. Security Fencing

Towers, guy anchor supports, and ground-based equipment buildings shall be enclosed by security fencing not less than ten feet in height.

j. Interference

No telecommunications tower, antenna, or supporting equipment shall disturb or diminish radio or television or similar reception on adjoining residentially zoned land.

k. Use of Associated Buildings

Building and structures associated with a telecommunications tower shall not be used as an employment center for any worker. This does not prevent the periodic maintenance, inspection, and monitoring of equipment and instruments, or renovation of the facility.

l. No Outdoor Storage

No outdoor storage shall be allowed on a telecommunications tower site.

m. Compliance with State or Federal Laws and Regulations

Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the State or Federal government that regulates telecommunications towers and antennas.

n. Replacement of Existing Towers

Existing freestanding towers may be replaced with a new tower that increases the number of collocation opportunities, subject to the following standards:

- I. The height of the replacement tower shall not exceed 110 percent of the height of the

replaced tower.

II. The replacement tower shall be located within 100 feet of the replaced tower, unless the City Manager determines that a farther distance furthers the purpose and intent of this Ordinance.

III. The replacement tower shall comply with all the standards of this section.

o. Nonconforming Telecommunications Towers

Nonconforming telecommunications towers shall be allowed to remain and be maintained in accordance with the standards in Article 30-7: Nonconformities. Additional equipment may be added to the tower provided that such additions do not increase the degree of nonconformity.

p. Discontinued Use

If a telecommunications tower is not used for a period of six consecutive months, the City Manager may send the tower owner notice indicating that the tower must be removed within 90 days from the date of notice.

**The SUP must meet the following findings of fact.**

1. The special use complies with all applicable standards in Section 30-4.C, Use-Specific Standards; [Yes, see the attached site plan, continuation sheet, and application.]
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning districts(s) of surrounding lands; [Yes, this property is surrounded by commercial uses and farmland.]
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [Yes, the tower meets the City's requirements.]
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [Yes, the proposed tower's separation from other uses helps protect the visual impacts on adjacent lands as can be seen in the simulated photos that were submitted as part of the applicant's submittal and the site photos provided by the staff.]
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [Yes, the tower meets the City's requirements.]
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [Yes, the tower meets the City's requirements and will have access from Bureau Drive.]
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; and [Yes, no documentation has been submitted showing that property values would be negatively affected.]
8. The Special use complies with all other relevant City, State, and Federal laws and regulations. [Yes, the applicant will be required to meet all applicable standards.]

On September 11<sup>th</sup> the Zoning Commission held a public hearing regarding this case. There was one speaker in favor and non in opposition. The Commission voted 4-0 to recommend approval.

**Conditions recommended by the Zoning Commission and staff.**

1. Compliance with the attached site plan, with final review and approval by the TRC, including a reduction in the required tower setbacks.

**The Zoning Commission and City staff recommend Approval of the proposed SUP based on:**

- The tower would be located in a commercial area that is away from other development.
- With the reduction of the required setbacks.
- This proposal will meet all of the applicable standards of the City if a setback reduction is granted.
- The condition listed above.
- The proposal meets all of the use-specific standards listed above.
- The proposal meets all eight findings of fact.

**Budget Impact:**

This action would result in an increase in City services that will be offset by the revenue the City will collect in property taxes.

**Options:**

1. Approval of the SUP with the conditions listed above (Recommended).
2. Approval of the SUP with additional conditions.
3. Approval of the SUP without conditions.
4. Denial of the SUP

**Recommended Action:**

**OPTION 1**

I move to APPROVE the Special Use Permit (SUP) to allow a communications tower in a CC Community Commercial district, as presented by staff, based on the standards of the City's development code and the evidence presented during this hearing. And that the application is consistent with applicable plans because: (1) the development is located in a Heavy Commercial District and (2) that this use complies with the findings listed below and (3) the proposed permit is in the public interest because the proposed SUP does fit with the character of the area.

[Applicable to Motion to Approve] If approved, this Special Use Permit shall become effective ten days after its approval by the City Council, which is November 1, 2018. The SUP shall expire one year from its effective date if a building permit is not issued within that time.

\*For a motion to approve, all eight findings below must be met:

1. The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
4. The special use is configured to minimize adverse effects, including visual impacts of the

proposed use on adjacent lands; [insert supporting facts].

5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]
8. The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts]

## OPTION 2

I move to DISAPPROVE the Special Use Permit (SUP) to allow a communications tower in a CC commercial zoning district, as presented by staff, based on the standards of the City's development code and the evidence presented during this public hearing. And that the application is inconsistent with applicable plans because: (1) the proposed tower does not meet the City's Unified Development Ordinance (UDO) standards and (2) that this use does not comply with the findings listed below and (3) the proposed permit is not in the public interest because the proposed SUP does not fit with the character of the area. [List any of the eight findings below that have not been met.]

[Applicable to Motion to Deny] If denied this action shall become effective ten days after its denial by the City Council, which is November 1, 2018.

\* For a motion to deny only one of the findings shown below needs to not apply.

1. The special use will comply with all applicable standards in Section 30-4.C, Use-Specific Standards; [insert supporting facts]
2. The special use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands; [insert supporting facts]
3. The special use avoids significant adverse impact on surrounding lands regarding service delivery, parking, loading, odors, noise, glare, and vibration; [insert supporting facts]
4. The special use is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands; [insert supporting facts].
5. The special use avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources; [insert supporting facts]
6. The special use maintains safe ingress and egress onto the site and safe road conditions around the site; [insert supporting facts].
7. The special use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district; [insert supporting facts]

The special use complies with all other relevant City, State, and Federal laws and regulations. [insert supporting facts].

### **Attachments:**

Aerial Map  
Zoning Map  
Land Use Plan Map  
Application

Site Plan  
Applicant Simulation Photos  
Site Photos