



Rowan County Planning and Development Department

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MEMORANDUM

To: Chairman Edds and Board of Commissioners
From: Ed Muire, Rowan County Planning Director
RE: **ZTA 01-22 Proposed Text Amendment**
Date: April 28, 2022

REQUEST

ZTA 01-22 is a text amendment application (attached) submitted by Attorney Toby R. Coleman on behalf of Duke Energy Carolinas, LLC. The proposed amendment would establish use of a “utility wireless support structure” for sole use by an electric utility on utility owned land for purposes of monitoring their site (i.e. substation) and communicating with other similar sites and facilities.

BACKGROUND

Section 21-277 of the County’s Zoning Ordinance contains exceptions to standards and requirements for minor structures (mailboxes, sing sets, wells, etc.) and utility structures (transformers, pump stations, water towers, etc.). Although utility structures and facilities tend to be exempt from most zoning requirements, this particular use is similar in appearance and function to a cell tower aka *wireless support structure* (term as per statutory and ordinance nomenclature).

In a “one-off” application Staff may be inclined to interpret an unidentified use as subject to the standards of a similar use or category, but when it is likely additional requests for the same will be made, the ordinance should be amended to eliminate ambiguity.

In this case, Duke Energy has proposed to site a one hundred twenty-foot (120’) monopole tower at a power substation location in Rowan County. Although located within the facility compound, all outward appearances will be that of a cell tower, absent the special use permit process. Staff concern is that future towers of this type may not be within the confines of a substation and want or need to be “stand-alones”, which would otherwise be subject to the special use permitting process (as cell towers) without ordinance amendment.

The applicant has consulted Staff and incorporated our suggestions into the proposed **ZTA 01-22** text.

CONTENT

As this proposed amendment focuses on use of a tower structure by Duke Energy, it is likely similar monitoring may be needed by Plantation or Colonial Pipeline in the future. The bold italicized text inserted within **ZTA 01-22** has been suggested by Staff in anticipation of similar utility requests.

The requirements for a utility wireless support structure would be contained in Section 21-56 of the Zoning Ordinance as a Special Requirement (SR). Uses in this section may be approved administratively provided the SR items are satisfied.

A new subsection (g) is proposed to address these uses and is outlined below:

g. Utility Wireless Support Structure. In order to maintain the operation of the electric power grid and *utility pipelines* for the welfare and safety of the public, electric *and public service* utility providers must be able to remotely monitor their key facilities, including electrical substations, *pipelines, etc.* *New* utility wireless support structures may be evaluated in all zoning districts and approved administratively, provided the following SR are met:

1. The utility wireless support structure may only be for use by the electric *or public service* utility provider.
2. Two (2) copies of a site plan prepared by a registered professional engineer or a professional land surveyor as provided in section 21-52 including information in 21-60(4)a.1.i.
3. Documentation substantiating the owner and applicant for the utility wireless support structure is an electric *or public service* utility provider.
4. Fall zone certification from an NC Registered Professional Engineer in compliance with Section 21-60(4) (c).
5. No Hazard to Air Navigation determination from the Federal Aviation Administration (FAA) and No Adverse Effect determination from the NC State Historic Preservation Office (NCSHPO). Both determinations must be dated within twelve (12) months of the utility tower application submittal.
6. The utility wireless support structure *shall* be a monopole not to exceed one hundred fifty (150) feet. *Height extensions up to one hundred ninety-nine (199) feet in the Rural Agricultural (RA), Rural Residential (RR) and Neighborhood Business (NB); and two hundred fifty (250) feet in the Commercial, Business, Industrial (CBI), Industrial (IND) and the 85-ED districts may be considered as a special use subject to the process outlined in Section 21-57 through 21-59 if all other standards in this subsection are met.*
7. *An existing wireless support structure may be used to accommodate the related wireless facilities associated with the electric or public service utility as provided in Section 21-56(6)d. However, use of a utility wireless support structure to accommodate wireless facilities shall be subject to the requirements of Section 21-60(4).*

Changes to Section 21-113 Table of Uses would reflect the SR allowance of these structures in all zoning districts.

P- Permitted by Right P(A) - Permitted as Accessory Use SR - Permitted with Special Requirements S - Special Use CD – Conditional District		Zoning Districts								
		Residential					Nonresidential			
Use		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND
<i>Transportation, communications, electric, gas and sanitary services</i>										
48	Communications, <i>all except</i>						P			P
	Transmission tower & Wireless support structures	S	S				S	S		S
	Co-location of wireless facilities	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Eligible facilities request	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Alternative tower structures	SR	SR	SR	SR	SR	SR	SR	SR	SR
	Public safety tower	SR	SR	SR	SR	SR	SR	SR	SR	SR
	<i>Utility Wireless Support Structure</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>	<i>SR</i>
4832	Radio broadcast towers	S								
4833	Television broadcast towers	S								

Staff has proposed a definition for these structures to include in Section 21-4 Definitions.

Utility wireless support structure means a new monopole tower that is designed to support or capable of supporting a proprietary wireless facility used solely by a public service utility.

Establishing the use as an SR also made it subject to the locational standards in Section 21-53 and Staff has proposed to exempt them along with other similar uses via the bold italicized text below:

(2) *Specific criteria for uses listed as SR.* The SR standards required in Section 21-55 do not apply to uses in the residential group from 21-113; Common Sand Mining (SIC 1442); Dead storage of manufactured homes (SIC 42); Co-location of wireless facilities, eligible facilities requests, alternative tower structures, ~~and~~ public safety tower ***and utility wireless support structures*** (SIC 48 (pt)); and uses listed as SR in non-residential districts.

PROCEDURAL REQUIREMENTS

As provided in Section 21-361(c) of the Zoning Ordinance, the Commission may accept the Planning Board's Statement of Consistency or create its own statement as to whether the proposed text amendment is consistent with any adopted plans, official policies or any other matters it deemed relevant in its consideration and developing or accepting a recommendation.

PLANNING BOARD RECOMMENDATION from April 25, 2022 Meeting

ZTA 01-22 is reasonable, appropriate and necessary to meet the needs of public service utilities for the installation of communication equipment to monitor their facilities. As these utility wireless support structures were not deemed an exception or modification provided in Section 21-277 of the Rowan County Zoning Ordinance, the proposed Special Requirements (SR) provide general standards to ensure the use is governed appropriately in all zoning districts.