



Board of Alderman Request for Action

MEETING DATE: 8/2/2022

DEPARTMENT: Development

AGENDA ITEM: Bill No. 2954-22, approving a Conditional Use Permit for a telecommunications tower – 1st reading.

BOARD REQUESTED ACTION:

A motion to approve Bill No. 2954-22, to approve a Conditional Use Permit for a telecommunications tower at 904 Northeast 180th Street. 1st reading by title only.

SUMMARY: Approving this ordinance would authorize a Conditional Use Permit to erect and operate a 150' monopole cellular tower at 904 NE 180th St., Smithville, Missouri.

BACKGROUND:

The original application was submitted on May 3, 2022 for a CUP at 904 NE 180th St., in Smithville to allow construction and operation of a 150' telecommunications tower. Public Notices and letters to adjoining property owners was provided for a June 14, 2022 public hearing on the CUP. At that hearing, the Planning Commission heard both sides of the application and voted 3-3 (one member abstained) on the proposed findings of fact and sending the matter to the Board. While this vote is considered a no vote on the CUP, after further discussions with counsel, it was identified that notwithstanding the 3-3 no vote, the Commission was still required to make individual findings of fact, since the 3-3 vote effectively did not result in any specific findings. The matter was again noticed for a continuation of the matter at the Commission level for the purpose of making findings on the individual items contained in the proposed findings of fact. At that hearing, the Commission not only had one abstention, but one member was out of town, leaving just 5 commissioners to vote. The results of those votes on the eight items was to approve each of the individual findings, with certain conditions added to two of the items (#3 and #7) in order to be approved. After the Commission hearing in July, several of the property owners provided formal protest letters and a protest petition from various neighbors. The purpose of protest petitions is to trigger a state law requirement of a 2/3rds majority vote at the Board of Aldermen level. Given the number of Smithville's Aldermen, All votes on CUP and Rezoning ordinances will require at least 4 votes of the 6 total Aldermen to pass, making all such votes meeting the 2/3rds majority vote. The 4 vote requirement is in place whether there are only 5 voting members, or even 4 voting members. There must be 4 votes to authorize the CUP.

PREVIOUS ACTION:

Planning Commission hearings on June 14th and July 14th.

POLICY ISSUE:

Implementation of the Comprehensive Plan and Zoning Ordinance.

FINANCIAL CONSIDERATIONS:

None anticipated.

ATTACHMENTS:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution | <input checked="" type="checkbox"/> Plans |
| <input type="checkbox"/> Staff Report | <input checked="" type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: Findings of Fact, Applicant Evidence, Adjoining property owner's evidence and Protest documents | |

FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Tillman Infrastructure, LLC

Land Use Proposed: Telecommunications Tower

Zoning: A-1

Property Location: 904 NE 180th St.

Pursuant to the provisions of Section 400.570 concerning the minimum requirements for the issuance of a special use permit and based on the testimony and evidence presented in a public hearing of the Planning and Zoning Commission held on June 14, 2022 the Planning Commission of the City of Smithville, Missouri hereby makes the following *Finding of Facts and Conclusions of Law*.

Finding of Facts

1. The proposed special use complies with all applicable provisions of the zoning regulation including intensity of use regulations, yard regulations and use regulations.
2. It is found that the proposed special use at the specified location will contribute to and promote the welfare and convenience of the public in that it will be consistent with the nature of the neighborhood and will provide a service enhancement to spotty cellular service.
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property if it includes the natural vegetative camouflage of a tree.
4. The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.
5. There is sufficient parking for the anticipated maintenance vehicles.
6. No utility, drainage or other such facilities are needed as a result of the application.

7. Adequate access roads and entrances are provided, but the applicant must fully restore the gravel portion of the shared driveway and install or repair the concrete driveway approach to current city standards following tower construction.
8. The applicant has certified the capacity of the tower to accommodate two additional providers and a letter of intent to lease space so an additional 50 feet in height (maximum 150') may be added to accommodate co-location.
9. That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022 has been taken into consideration.

Conclusions of Law

Based on the foregoing findings of fact, we conclude that:

- A. This application and the granting of a Conditional Use permit is governed by Section 400.570 of the zoning ordinance of Smithville, Missouri.
- B. The proposed use complies with minimum standards required for the issuance of a conditional use permit as set out in Section 400.570 of the zoning ordinance.
- C. Based on a 3-3 vote, a conditional use permit should not be granted to allow the installation of a single 150' tall monopole telecommunications tower on the property at 904 NE 180th St.

Planning Commission

BILL NO. 2954-22

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF SMITHVILLE, MISSOURI BY AND GRANTING A CONDITIONAL USE PERMIT TO TILLMAN INFRASTRUCTURE, LLC FOR A TELECOMMUNICATIONS TOWER AT 904 NE 180TH STREET.

WHEREAS, On June 14, 2022, the Planning Commission of Smithville, Missouri held a public hearing relative to a request for a conditional use permit and voted 3 to 3 regarding whether to recommend the CUP to the Board of Aldermen; and

WHEREAS, On July 14th, 2022, the Planning Commission heard additional evidence and then voted on the specific areas required by Ordinance 400.570(C).

WHEREAS, the Planning Commission forwarded consideration of said request to the Board of Aldermen with the following findings of Facts, Conclusions of Law and recommendation concerning said application for a CUP;

Finding of Facts

1. *The proposed special use complies with all applicable provisions of the zoning regulation including intensity of use regulations, yard regulations and use regulations.*

2. *It is found that the proposed special use at the specified location will contribute to and promote the welfare and convenience of the public in that it will be consistent with the nature of the neighborhood and will provide a service enhancement to spotty cellular service.*

3. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property if it includes the natural vegetative camouflage of a tree.*

4. *The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.*

5. *There is sufficient parking for the anticipated maintenance vehicles.*

6. *No utility, drainage or other such facilities are needed as a result of the application.*

7. *Adequate access roads and entrances are provided, but the applicant must fully restore the gravel portion of the shared driveway and install or repair the concrete driveway approach to current city standards following tower construction.*

8. *The applicant has certified the capacity of the tower to accommodate two additional providers and a letter of intent to lease space so an additional 50 feet in height (maximum 150') may be added to accommodate co-location.*

9. *That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022 has been taken into consideration.*

Conclusions of Law

Based on the public hearing and evidence submitted, the Planning Commission concluded that:

A. *This application and the granting of a Conditional Use permit is governed by Section 400.570 of the zoning ordinance of Smithville, Missouri.*

B. *The proposed use complies with minimum standards required for the issuance of a conditional use permit as set out in Section 400.570 of the zoning ordinance.*

C. *Based on a 3-3 vote a conditional use permit should not be recommended to the Board of Aldermen to allow the installation of a single 150' tall monopole telecommunications tower on the property at 904 NE 180th St.*

WHEREAS, the Board of Aldermen, having considered the findings and the recommendation of the Planning commission as well as substantial evidence provided by the applicant, staff, and members of the public finds that applicant's proposed telecommunications tower would not seriously injure the public or the appropriate use of neighboring property and that said use would conform to the general intent and purpose of the zoning ordinance.

WHEREAS, the Board of Aldermen has voted ____ against and ____ in favor of passing the Ordinance approving the CUP. By Missouri Law it takes four (4) votes to pass an Ordinance and therefore the following Ordinance (____) fails or (____) passes. If the application received 4 or more votes in favor of the issuance of the CUP, the Smithville Board of Aldermen passes BILL NO. 2954-22 ORDINANCE NO. _____ as follows:

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI AS FOLLOWS:

Section 1. Ordinance Number 711 and the Zoning Map which is made a part thereof, is amended by granting a Conditional use permit for the installation of an telecommunications tower at 904 NE 180th St. and more particularly described as follows:

Parcel 1:

A tract of land in the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-Three (33) West, Smithville, Clay County, Missouri, more particularly described as follows: Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 30.0 feet along the East line of said Northeast Quarter to the North Right of Way line of 180th Street and the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, along the North Right of Way line of 180th Street, 697.76 feet to a point on the East line of a Tract as conveyed in Book 1112, Page 952, as Document No. C-78569; Thence N 0° 20' 19" E, along the East line of said tract, 453.11 feet; Thence N 89° 54' 39" E, 696.41 feet to a point on the East line of said Northeast Quarter; thence S 0° 10' 02" W, 453.10 feet to the TRUE POINT OF BEGINNING.

Parcel 2:

A Tract of Land in the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-three (33) West, Smithville, Clay County, Missouri, more particularly described as follows: Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 483.10 feet, along the East Line of said Northeast Quarter to the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, parallel to the South Line of said Northeast Quarter (NE 1/4), 696.41 feet to the East Line of a tract as conveyed in Book 1112, Page 952 as Document No. C-78569; Thence N 0° 20' 19" E, along the East Line of said tract, 289.38 feet; Thence S 89° 54' 39" W, along the North Line of said conveyed tract, 620.27 feet to the West Line of the East One-Half (E 1/2) of the said Northeast Quarter (NE 1/4); Thence N 0° 20' 19" E, along said West Line, 885.00 feet to the South Line of the North 30 acres of the East One-Half (E 1/2) of said Northeast Quarter; Thence N 89° 43' 19" E, along said South Line of the North 30 acres, 1313.19 feet to a point on the East Line of the said Northeast Quarter (NE 1/4); Thence S 0° 10' 02" W, along the East Line of said Northeast Quarter (NE 1/4), 1178.70 feet to the TRUE POINT OF BEGINNING.

LESS AND EXCEPT that portion of property conveyed to Raymond George Stubler and Betty May Stubler from Gary E. Beggs and Melody L. Beggs by Warranty

Deed dated April 17, 1992 and recorded April 17, 1992 in Deed Book 2111, Page 601.

LESS AND EXCEPT that portion of property conveyed to Frank Martinez and Debra A. Martinez from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated April 17, 1992 and recorded April 27, 1992 in Deed Book 2113, Page 890.

LESS AND EXCEPT that portion of property conveyed to Jack L. Pope and Gladys M. Pope from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated December 4, 1992 and recorded December 8, 1992 in Deed Book 2182, Page 593.

LESS AND EXCEPT that portion of property conveyed to Raymond G. Stubler & Betty M. Stubler from Gary E. Beggs & Melody L. Beggs by Warranty Deed dated July 23, 1993 and recorded July 26, 1993 in Deed Book 2251, Page 581.

Section 2. This ordinance shall take effect and be in full force from and after its passage according to law.

PASSED THIS _____DAY OF AUGUST, 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

1st Reading: 08/02/2022

2nd Reading ____/____/____



CONDITIONAL USE PERMIT APPLICATION **INSTRUCTIONS**

- 1) Fill out completely the attached application and return with the \$175.00 conditional use permit fee.
- 2) When the application is received, it will be placed on the Planning Commission meeting agenda for review. The Planning Commission meetings are held on the first Thursday of every month.
- 3) During this time between receiving the application and the meeting, which consists of about 45 days, the city will review the application. Certified letters will be mailed out to the current property owners within 185' of the property requesting the conditional use permit. A public notice is also placed in the local newspaper. These notices will inform the public that a public hearing will be held, and the date, time and location of said hearing. The certified letter will be addressed to the property owner as listed with the Clay County Recorder and not necessarily the person currently living at that address. The cost for the public notice and certified mailings will be billed to the applicant and must be paid prior to the Planning Commission hearing.
- 4) The Planning Commission is a recommending body and at their meetings, they will review the application, vote on a decision to accept, deny or table and then send this decision to the next Board of Aldermen meeting. For a conditional use permit, a finding of facts and conclusion of law must be prepared from the public hearing and discussion of the Commission. Because of this step, it is possible that they could make the decision for staff to prepare the findings of facts and conclusion of law for the next months meeting before giving approval. Therefore, this application could take 45– 90 days before the final decision is made.
- 5) The Board of Aldermen meets on the first and third Tuesday of the month. Items on the Planning Commission agenda upon recommendation are passed onto the Board of Aldermen. The Board of Aldermen makes the final decision.
- 6) If the decision of the Board of Aldermen is to approve the conditional use permit, an ordinance is signed, and the permit is granted with any conditions listed in the finding of facts and conclusion of law.



CONDITIONAL USE PERMIT APPLICATION

APPLICANT Patrick Erwin - Authorized Agent

DATE 5/2/2022

ADDRESS PO Box 25783 - Overland Park, KS 66225

PHONE NUMBER 913-626-4440

1) The location of the requested conditional use permit is legally described as follows: (Legally describe below or attached separate sheet)

****PLEASE SEE THE ATTACHED LEGAL DESCRIPTION****

2) The property is generally located as follows: (example: NW corner of certain intersection, west side of street between this street and this street, etc.)

Parcel is located North of NE 180th off of Beggs Road.

3) Describe the proposed conditional use request. Include drawings, if needed, to supply any information that would be helpful to the Board in evaluating the request.

To construct a 150' monopole communications tower on a 60' x 60' lease area of the property described in the attached legal description. Drawings attached.

4) A conditional use permit can not be granted unless specific written findings of facts are included as evidence regarding the following items. The applicant is required to submit a statement, justifying the conditional use request for each of the following statements.

- a) The proposed conditional use will comply with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations. 400.570.C.1

Tower is setback from all property lines a minimum of 198'. Additionally, we will provide a letter from a Missouri Professional Engineer assuring that the "Fall Zone" will not exceed property boundaries upon request.

- b) The proposed conditional use at the specific location will contribute to and promote the welfare or convenience of the public. 400.570.C.2

This tower's primary purpose is for the operation of the FirstNet system. This will enable first responders to communicate effectively. Furthermore, other commercial users will be able to utilize tower space at fair some of the lowest rates in the industry.

- c) The proposed conditional use will not cause substantial injury to the value of the other property in the neighborhood in which it is to be located.
400.570.C.3

The proposed structure is placed on a Agriculture zoned parcel and set back a minimum of 193' from all boundaries. Furthermore, the use of a monopole and the addition of a solid wooden provacy fence will minimize any adverse impacts to the surrounding area. Finally, please note there will be no tower lighting on the proposed structure.

- d) The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:

- a. The location, nature and height of buildings, structures, walls and fences on the site, and
 - b. The nature and extent of landscaping and screening on the site.
- The proposed conditional use will not, by location and size or nature and intensity of the operation, dominate the immediate neighborhood.
400.570.C.4

After construction and integration, traffic will be only a pickup sized vehicle a month. The traffic increase in the area will be minimal.

- e) Off-street parking and loading areas will be provided in accordance with the regulations and such areas will be screened from adjoining residential district to prevent any injurious effects.

Our proposal consists of one parking space with a turn road.

- f) Adequate utility, drainage and other necessary facilities have been or will be provided.

All utilities will be underground and included within a dedicated easement. Drainage will be addressed by our engineer once the full Construction Drawings are completed but at this time we see no issues.

- g) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

The access road is shown on the included drawings. There are no traffic hazards and the increase in traffic will be minimal.

Depending on the request, additional items may be added for the applicant to respond to before review.

- 5) Fee schedule: \$175.00
- 6) Applicant to provide a list of all adjoining property owners within 185' of the property lines of the subject property.
- 7) The applicant hereby declares that all information submitted is true to the best of his knowledge and that all information required for this request has been included.

Signature:

Paul E.

OFFICE USE ONLY

Date application received

5/3/22

Fee paid

\$ 175.00

Received by

b. Schuermeyer

Adjacent Owners List

received 5/3/22

APPOINTMENT OF AGENT

The undersigned, Gary E. Beggs and Melody L. Beggs a/k/a Melody Lee Beggs, husband and wife (the "Owner"), as the owner of the real property located at 904 NE 180th Street, Smithville, MO 64089 , with the PIN # of 05303000100500 (the "Property"), do hereby appoint Tillman Infrastructure LLC, their agent, successor or assigns, to act as our exclusive agent to execute any petitions or other documents necessary to affect the application for the approval, variance and necessary permits for a wireless communication tower to be located on the Property, including the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the application and future applications relating to the wireless communication tower.

Signature of Owner

Date: 1-5-2022

Gary E. Beggs
Name: Gary E. Beggs

Date: 1-5-2022

Melody L. Beggs
Name: Melody L. Beggs

State of Missouri
County of Clay

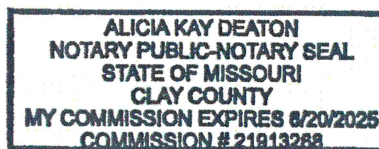
I certify that the forgoing instrument was acknowledged before me this 05 day of Jan, 2022 by Gary E. Beggs. He/She is personally known to me or has produced _____ as identification and did take an oath.

Witness my hand and official seal in the county and state stated above on the 05 day of Jan, in the year 2022.

Alicia Kay Deaton

Signature of Notary Public

Notary Public for the State of Missouri



State of Missouri
County of Clay

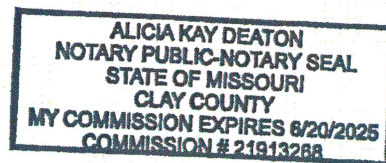
I certify that the forgoing instrument was acknowledged before me this 05 day of
Jan, 2022 by Melody L. Beggs. He/She is personally known to me or has produced
_____ as identification and did take an oath.

Witness my hand and official seal in the county and state stated above on the 05 day of
Jan, in the year 2022.

Alicia Kay Deaton

Signature of Notary Public

Notary Public for the State of Missouri



May 27, 2022

Mr. Joe Pisano
Tillman Infrastructure
152 57th Street
New York, NY 10019

RE: Proposed 150' Monopole for TI-OPP-19189, MO (Sabre Quote #22-5989-TJH-R1)

Dear Mr. Pisano,

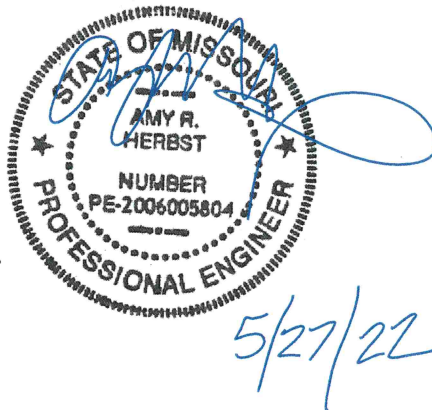
Upon receipt of order, we propose to design and supply the above-referenced monopole for an Ultimate Wind Speed of 110 mph without ice and 40 mph with 1.5" ice, Structure Classification II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-H, "Structural Standard for Antenna-Supporting Structures and Antennas and Small Wind Turbine Support Structures".

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. *Please note that this letter only applies to the above-referenced monopole designed and manufactured by Sabre Industries.* This would effectively result in a fall radius less than or equal to 198'.

Sincerely,

Amy R. Herbst, P.E.
Senior Design Engineer



Mr. Jack Hendrix

Development Director

107 W Main Street

City of Smithville, MO 64089

RE: Collocation Statement – TI-OPP-19189 (Smithville Lake)

Mr. Hendrix:

I am an authorized representative of Tillman Infrastructure LLC and have the authority to make the following acknowledgments on behalf of Tillman Infrastructure LLC. I acknowledge, on behalf of Tillman Infrastructure LLC:

Tillman Infrastructure LLC acknowledges it will:

- a) Respond within 60 days to a request for information from a potential shared use Applicant.
- b) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers.
- c) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction, and maintenance financing, return on equity, less depreciation, and all the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.
- d) Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.

Tillman Infrastructure LLC

By:



Chris Mularadelis

Managing Director

Dated this 10 day of June, 2022

June 13, 2022

Mr. Joe Pisano
Tillman Infrastructure
152 57th Street
New York, NY 10019

RE: Proposed 150' Monopole for TI-OPP-19189, MO (Sabre Quote #22-5989-TJH-R1)

Dear Mr. Pisano,

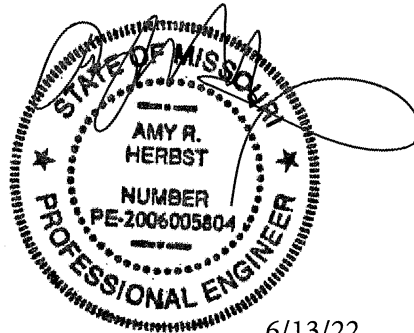
Upon receipt of order, we propose to design and supply the above-referenced monopole for an Ultimate Wind Speed of 110 mph without ice and 40 mph with 1.5" ice, Structure Classification II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-H, "Structural Standard for Antenna-Supporting Structures and Antennas and Small Wind Turbine Support Structures". The monopole will be designed to support three (3) carriers.

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. *Please note that this letter only applies to the above-referenced monopole designed and manufactured by Sabre Industries.* This would effectively result in a fall radius less than or equal to 198'.

Sincerely,

Amy R. Herbst, P.E.
Senior Design Engineer



6/13/22



BEFORE



AFTER

Smithville Lake TI-OPP-19189

View from 180th St. looking North





BEFORE



AFTER

Smithville Lake TI-OPP-19189

View from Marcus Rd. looking West





AT&T TILLMAN
INFRASTRUCTURE

FA NUMBER: 12878700 / SITE ID: TI-OPP-19189-A
SITE NAME: SMITHVILLE LAKE MO
ADDRESS: 904 NE 180TH ST.
SMITHVILLE, MO 64089
CLAY COUNTY

SITE ADDRESS:	904 NE 180TH ST. SMITHVILLE, MO 64089
LATITUDE (NAD 83):	39.422011° N (39° 25' 19.24" N)
LONGITUDE (NAD 83):	-094.567567° W (-94° 34' 03.24" W)
GROUND ELEVATION:	954.00' NAVD '88
JURISDICTION:	CITY
JURISDICTION CONTACT:	JIM WADDLE 107 WEST MAIN ST SMITHVILLE, MO 64089 (816) 532-3897
ZONING:	A1
PARCEL/TAX ID NUMBER:	05303000100500
PARCEL OWNER:	GARY E. & MELODY L BEGGS 904 NE 180TH ST. SMITHVILLE, MO 64089
TOWER OWNER:	TILLMAN INFRASTRUCTURE
STRUCTURE TYPE:	MONOPOLE
STRUCTURE HEIGHT:	150.0'-0" (AGL)

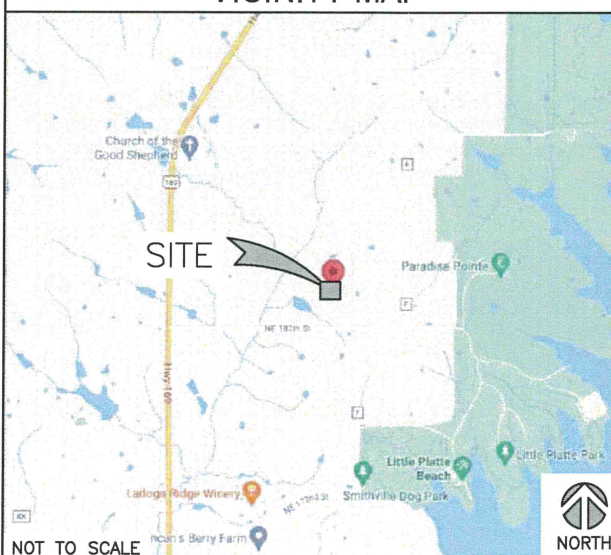
TOWER OWNER: TILLMAN INFRASTRUCTURE
1955 LAKEWAY DR. SUITE 265B
LEWISVILLE, TX 75057
CHARLIE BOOTHE
CBOOTHE@TILLMANINFRASTRUCTURE.COM
PHONE: (314) 513-0151

APPLICANT: SKYWARD LAND SERVICES
7381 WEST 133RD ST., SUITE 403
OVERLAND PARK, KS 66213
PATRICK ERWIN
PHONE: (913) 626-4440
EMAIL: ERWIN@SKYWARDSITE.COM

CONSTRUCTION: TILLMAN INFRASTRUCTURE
1955 LAKEWAY DR. SUITE 265B
LEWISVILLE, TX 75057
CHARLIE BOOTHE
CBOOTHE@TILLMANINFRASTRUCTURE.COM
PHONE: (314) 513-0151

A+E FIRM ASSOCIATED ENGINEERING, INC.
2705 NORTH MAIN STREET
ELKHORN, NE 68022
TOM MEDHI
PHONE: (402) 289-5040
TMEDHI@AE-PC.COM

VICINITY MAP



LOCATION MAP



DIRECTIONS

DIRECTIONS FROM KANSAS CITY INTERNATIONAL AIRPORT
(1 INTERNATIONAL SQUARE, KANSAS CITY, MO 64153):

GET ON I-435 E IN MAY TOWNSHIP FROM NW 120TH ST AND NW MID
CONTINENT TRAFFICWAY (2.1 MI), FOLLOW I-435 E AND US-169 N TO
NE 180 ST/NE 180TH ST IN SMITHVILLE (12.4 MI), TURN RIGHT ONTO NE
180 ST/NE 180TH ST (0.9 MI), TURN LEFT ONTO BEGGS RD AND DRIVE
ABOUT 0.2 MILES. THE DESTINATION WILL BE ON YOUR LEFT.



Know what's **below**.
Call before you dig.

TO OBTAIN LOCATION OF PARTICIPANTS' UNDERGROUND
FACILITIES BEFORE YOU DIG IN MISSOURI
MISSOURI STATE LAW REQUIRES MIN. 3 WORKING DAYS NOTICE BEFORE
YOU EXCAVATE.

CALL 811 OR 1-800-344-7483
www.missouri1call.com



AT&T SIGNATURES

INDEX OF DRAWINGS

[illegible]

SERVICE NOTE

RFDS GENERAL INFORMATION

RFDS NAME:	TBD
RFDS REVISION:	TBD
RFDS DATE:	TBD
RFDS ID:	TBD
RF MANAGER:	TBD
CARRIER:	TBD

DO NOT SCALE DRAWINGS

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SITE OWNER



APPLICANT



TE ACQUISITION /ENGINEERING



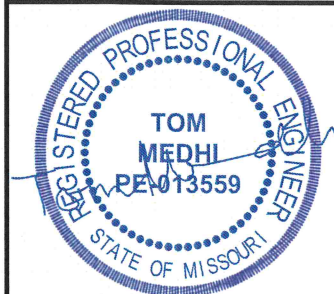
SITE INFORMATION

SMITHVILLE LAKE
TI-OPP-19189 A/FA# 12878700
PACE# TBD
PT# TBD
904 NE 180TH ST.
SMITHVILLE, MO 64089

DESIGN RECORD

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A	02/07/22	ZD DRAWINGS	M
REV	DATE	DESCRIPTION	B

PROFESSIONAL STAMP



ENGINEER

Tom Medhi 03-29-2022
Tom Medhi Date
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SHEET TITLE

TITLE SHEET

SHEET NUMBER

T-1

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LANDLORD: GARY E. & MELODY L BEGGS
ADDRESS: 904 NE 180TH STREET
SMITHVILLE, MO 64089
PARCEL NO: 05303000100500
CANDIDATE: A
LATITUDE (NAD 83): N 39.422011° (N 39° 25' 19.24")
LONGITUDE (NAD 83): W 94.567567° (W 94° 34' 03.24")
GROUND ELEVATION: 954.00' NAVD '88
TOWER HEIGHT: 150'-0" AGL
OVERALL TOWER HEIGHT: 156'-0" AGL
ZONING: A1

PRE-CONSTRUCTION ONLY
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NOTE:
SITE MAY NEED LEVELING & GRADING AFTER FINAL LOCATION.

- | | | | |
|-----|---|---------|------------------------|
| (M) | MEASURED DISTANCE | ☆ | LIGHT POST |
| (P) | PLATTED DISTANCE | ○ | HYDRANT |
| (R) | RECORDED DISTANCE | Ⓜ | WATER METER |
| (D) | DEEDED DISTANCE | —○—○—○— | FENCE - CHAIN LINK |
| ● | FOUND CORNER | —x—x—x— | FENCE - BARBED WIRE |
| ○ | SET CORNER | —FO— | FIBER OPTIC LINE |
| ⊕ | BENCH MARK | —OHP— | OVERHEAD POWER LINE |
| ⊙ | SECTION CORNER | — — — | CENTER LINE |
| Ⓜ | FOUND ALUM. CAP WITH ROW SIGN (OR AS SHOWN) | — — — | APPARENT PROPERTY LINE |
| ⊕ | POWER POLE | — — — | ROW LINE |
| Ⓜ | ELECTRIC METER | — — — | LEASE LINE |
| Ⓜ | GAS METER | — — — | EASEMENT LINE |
| Ⓜ | TELEPHONE BOX | — — — | SECTION LINE |

±198'-10"
CENTER OF TOWER TO TOWER TO PROPERTY CORNER
±312'-3"
CENTER OF TOWER TO PROPERTY CORNER

±603'-3"
CENTER OF TOWER TO PROPERTY CORNER

APPROXIMATE PROPERTY LINE (TYP)

PROPOSED 60' X 60' LEASE AREA
PROPOSED 50' X 50' FENCED AREA

PROPOSED 435' SQ FT. AT&T LEASE AREA
PROPOSED H-FRAME

APPROXIMATE PROPERTY LINE

PROPOSED 30'-0" WIDE ACCESS AND UTILITY EASEMENT.

EXISTING GRAVEL ACCESS ROAD APPROX. LENGTH = ±887.0'

APPROXIMATE R.O.W. LOCATION

CENTER OF PROPOSED 150'-0" TALL MONOPOLE
LAT.: N 39° 25' 19.24" (N 39.422011°) NAD '88
LONG.: W 94° 34' 03.24" (W 94.567567°) NAD '88
ELEV.: 954.00', NAVD '88

EXISTING GUY TOWER

EXISTING BARN

PROPOSED GRAVEL ACCESS ROAD APPROX. LENGTH = ±270'

PROPOSED DOUBLE GATE

PROPOSED FENCE (TYP.)

EXISTING POWER

EAST LINE OF THE NE 1/4

SOUTH LINE OF THE NE 1/4

NE 180TH STREET

SE CORNER NE 1/4 SECTION 11

SITE OWNER

APPLICANT

SITE ACQUISITION /ENGINEERING

SITE INFORMATION

DESIGN RECORD

PROFESSIONAL STAMP

ENGINEER

SHEET TITLE

SHEET NUMBER

TILLMAN INFRASTRUCTURE

AT&T mobility corp.

SKYWARD LAND SERVICES, INC.
ASSOCIATED Engineering & Surveying
AE INC. Project #5958

SMITHVILLE LAKE
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OVERALL SITE PLAN

ZD-1

OVERALL SITE VIEW

100' 0 50' 100' SCALE: 1"=100'-0" (22x34)
(OR) 1/2"=100'-0" (11x17)

1

BOUNDARY NOTICE
PARENT PARCEL(S) BOUNDARY LINES SHOWN ON THESE DRAWINGS ARE CALCULATED FROM RECORDED DOCUMENTS AND ARE NOT INTENDED TO BE USED FOR BOUNDARY LOCATIONS.

UTILITY NOTICE
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NE 180TH STREET

SOUTH LINE OF THE NE 1/4


EAST LINE OF THE NE 1/4






SE CORNER NE 1/4 SECTION 11

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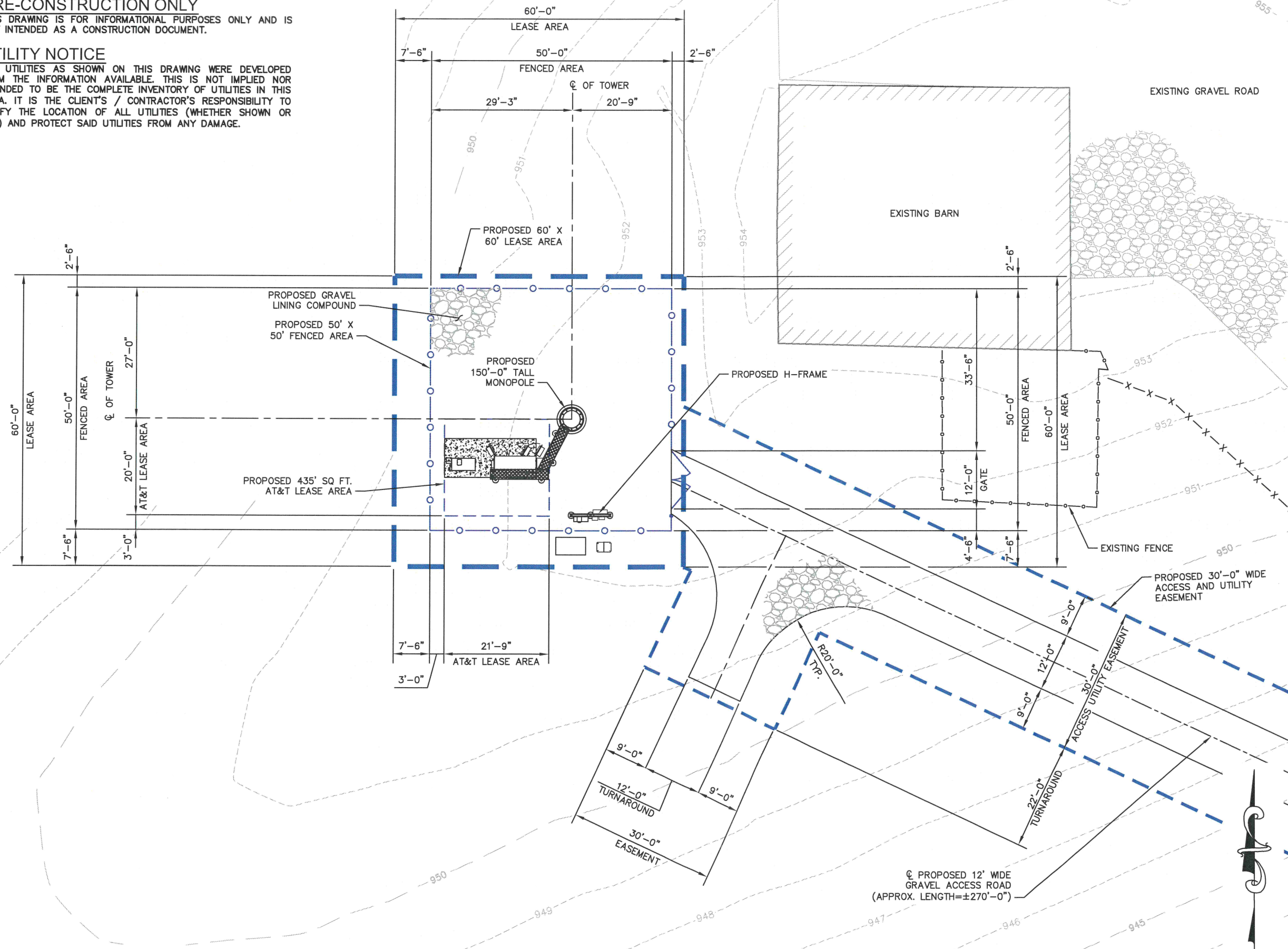


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APPLICANT																															
SITE ACQUISITION /ENGINEERING	 																														
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ENGINEER	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div> <u>Tom Medhi</u> Tom Medhi MY LICENSE RENEWAL DATE IS 12/31/2023 </div> <div> <u>03-29-2022</u> Date I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MISSOURI </div> </div>																														
SHEET TITLE	OVERALL SITE PLAN																														
SHEET NUMBER	ZD-2																														

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ENLARGED LEASE AREA DETAIL

SHEET NUMBER	SHEET TITLE	ENGINEER	PROFESSIONAL STAMP	DESIGN RECORD	SITE INFORMATION	SITE ACQUISITION /ENGINEERING	APPLICANT	SITE OWNER
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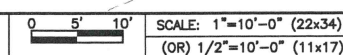


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ENLARGED SITE PLAN

ZD-3



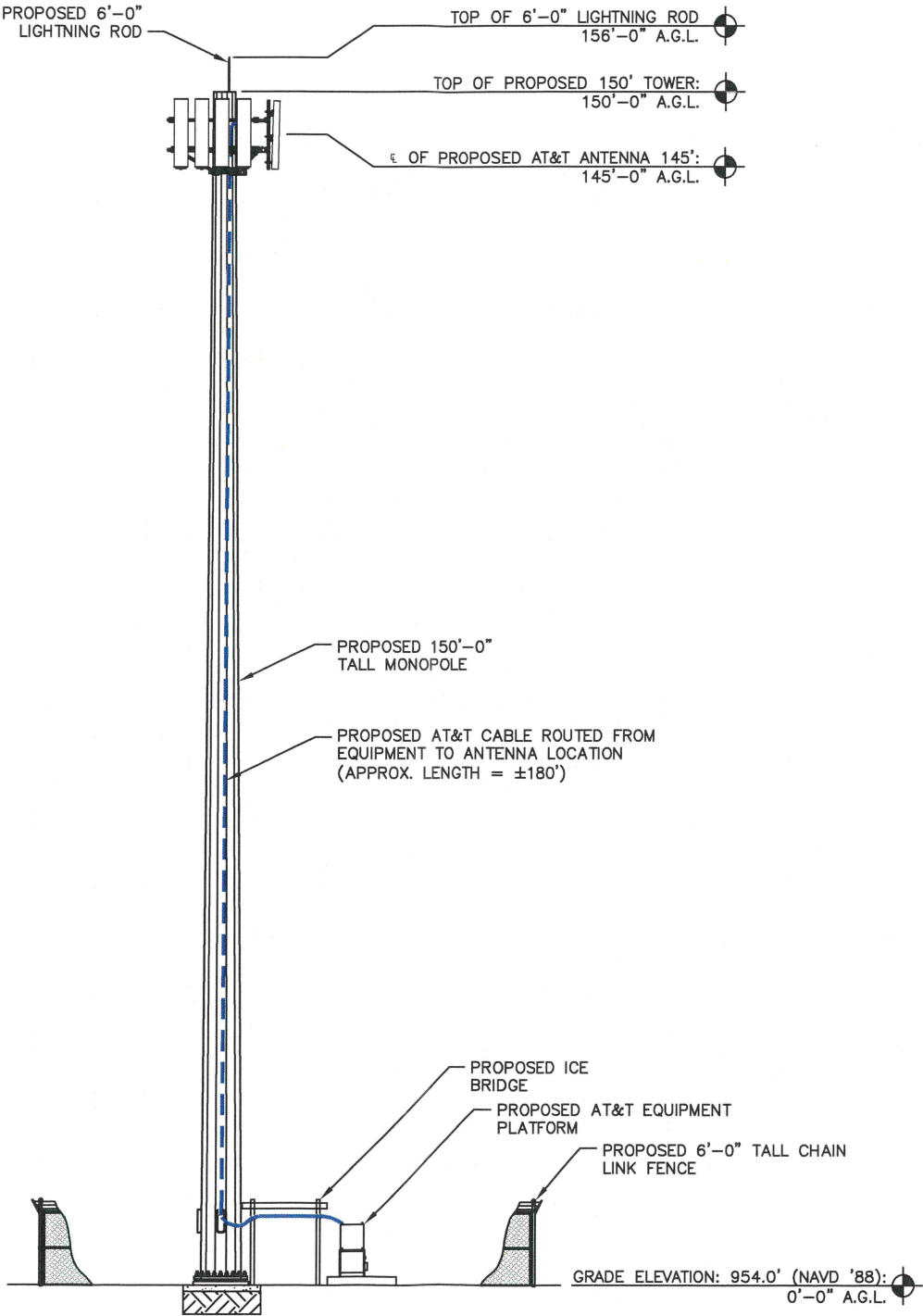
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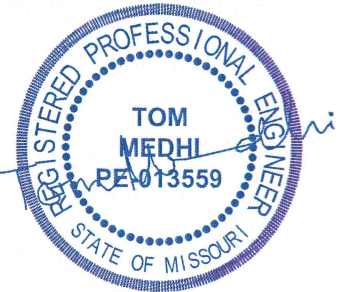
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SHEET TITLE

TOWER ELEVATION

SHEET NUMBER

ZD-4

TOWER ELEVATION

0 5' 10' SCALE: 1"=10'-0" (22x34)
(OR) 1/2"=10'-0" (11x17)

1

SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

June 14, 2022

7:00 P.M.

City Hall Council Chambers and Via Videoconference

1. CALL TO ORDER

Chairman Melissa Wilson called the meeting to order at 6:59 p.m.

A quorum of the Commission was present: Melissa Wilson, Alderman John Chevalier, Mayor Damien Boley, Billy Muessig, Rob Scarborough and Deb Dotson. Dennis Kathcart was present via Zoom (joined at 7:02 pm).

Staff present: Jack Hendrix and Brandi Schuerger.

2. MINUTES

The May 10, 2022, Regular Session Meeting Minutes were moved for approval by MAYOR BOLEY, Seconded by SCARBOROUGH.

Ayes 6, Noes 0, KATHCART was not present at the time of the vote. Motion carried.

3. STAFF REPORT

HENDRIX reported:

Informed that we are at 53 single family residential building permits since January 1, 2022. No new commercial building permits but the 7 from last year are all still under construction.

He anticipates that we will see infrastructure construction work starting and building permits for McBee's Coffee and Carwash soon. They have recently recorded the plat and paid the bonds.

There are 13 buildings with a total of 26 units under construction at Eagle Ridge. The first ones will be ready for final occupancy in about 2 to 3 weeks.

Diamond Creek Subdivision has a little more work to complete before they will be ready for construction of homes. This subdivision is open for any person or builder to buy a lot and build on.

We are still working with Fairview Crossing to get sewer issues resolved and traffic issues resolved with the developer and MODOT. We are making progress.

WILSON asked how close the Shamrock gas station is to opening?

HENDRIX stated that they just got their temporary certificate of occupancy this morning. It's a temporary because they have not gotten grass growing yet. It's also his understanding that this property has also been sold and has a new owner.

4. PUBLIC HEARING: REZONING LOTS 1-6 AND THE NORTH 100.93 FEET OF LOT 7, WAIT ACRES B-3 TO R-1A

Public Hearing opened

HENDRIX informed that the packet has the staff report addressing this. This was zoned B-3 decades ago and it was most all of the Wait's property from 169 Hwy to N. Main Street. It was subdivided in 1994 for houses and no one bothered to change the zoning. You are not supposed to build houses in the B-3 district. One of the current property owners was preparing to sell their house and wanted to know what he could do with some of his vacant lots which is how we noticed the B-3 zoning.

Truman Hiatt---18304 N. Main Street--- Stated that they have lived there for 22 years, and this was a total surprise to us. We dug through our tax paperwork, and it shows that we have paid residential taxes the whole time we have lived there.

Mark Walsh---304 NE Stanton Lane Lee's Summit, MO 64064--- Stated that him and his wife own property at 18209 N. Main Street. They are across the street from these properties. Of course, we would like to see this corrected for our neighbors. We are in the process of building our own home right across the street from the 5 acres that is undeveloped. We would not like to see a business go in across the street. If you are not familiar with N. Main St., he I would ask that you at least consider driving from 180th Street to 188th Street to see that it is all single family dwellings

and there is no commercial properties there at all. I appreciate your consideration of approving this application.

Public Hearing closed

5. REZONING LOTS 1-6 AND THE NORTH 100.93 FEET OF LOT 7, WAIT ACRES B-3 TO R-1A

MAYOR BOLEY motioned to approve rezoning lots 1-6 and the north 100.93 feet of lot 7, Wait Acres b-3 to R-1A. Seconded by MUESSIG.

DISCUSSION:

ALDERMAN CHEVALIER asked how these residents are paying residential taxes while their property is currently zoned B-3?

HENDRIX stated that you are taxed on the use of the property and not the zoning. For example, if you own a large farm, the house and one acre are taxed at the residential rate and everything else is taxed at the agricultural rate.

DOTSON stated that we just correcting a mistake made a long time ago.

HENDRIX stated yes. A potentially big mistake. His concerns were the same as what was mentioned during public comment. Someone could have potentially put a business on one of these lots had this not been caught.

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, MUESSIG -AYE, WILSON-AYE, ALDERMAN CHEVALIER-AYE, SCARBOROUGH -AYE.

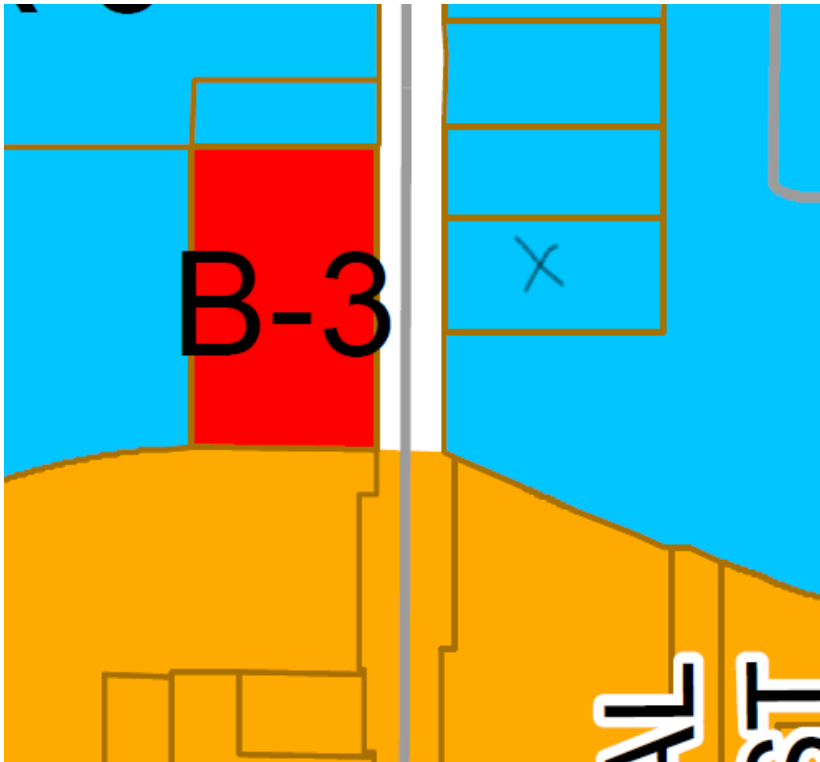
AYES-7, NOES-0. MOTION PASSED

6. PUBLIC HEARING: REZONING 211 N BRIDGE ST FROM R-3 TO B-4

Public Hearing opened

HENDRIX informed that first house on the north side of the bridge on the east side of the road. They are seeking to have their multi-family zoned property with a single-family home on it rezoned to B-4 which allows for

both residential and commercial. They would like to open a business inside their home that they can't do under the standard home occupation code. This is a transitional area. The street scape is preparing to go north. The Curry property across the road has recently sold. Page 2 of the staff report shows a colorized version of the zoning map. B-4 is all of the orange area on the south side of the river. The blue area is all multi-family. Across the street is a B-3 district which is the Patterson House Museum.



Public Hearing closed

7. REZONING 211 N BRIDGE ST FROM R-3 TO B-4

MAYOR BOLEY motioned to approve rezoning 211 N Bridge St from R-3 to B-4. Seconded by DOTSON.

DISCUSSION:

SCARBOROUGH asked what kind of business they are looking at opening?

HENDRIX believed it was selling plants. They want to have the ability to have customers come to the house. They can't do that anywhere else. For example, if you go south on the bridge the first house across from the church is now a business because it's in the B-4 district.

THE VOTE: MUESSIG-AYE, WILSON-AYE, ALDERMAN CHEVALIER-AYE, MAYOR BOLEY -AYE, KATHCART-AYE, SCARBOROUGH-AYE, DOTSON -AYE.

AYES-7, NOES-0. MOTION PASSED

8. PUBLIC HEARING: REZONING LOT 1, ADA'S ESTATES FROM A-1 TO A-R

Public Hearing opened

HENDRIX informed that this is an application to change the zoning to A-R. It's currently zoned A-1 which has a minimum lot size of 10 acres. A-R district has a minimum lot size of 2 acres with sewer or 3 acres with septic. The purpose of the rezoning is so they can divide this lot into 3 total lots. One of these lots will have the original house on it. Agenda items 10 and 11 are for the subdivision part of this and that is all contingent on this rezoning.

David Payne---13904 N Virginia Avenue— Stated that he has lived here for 35 years, and the city has told him that they have a Comprehensive Plan which explains what they want this area to look like in the future. He was told that they want it to be green space with everything to be 10 acres or more. Currently from the bridge on Amory Rd to N Virginia Rd and south the lots are 10 acres or more as far as he knows. I would like to see it left the way it is. He has lived there 35 years and doesn't want to have neighbors behind him. People near him have 40 acres so what are we going to do then? Start dividing them up and have little subdivisions or what? I just don't care to have this happen. Does this property even perk? It's kind of a low area. I would like to see if left the way it is but it's tax dollars and that's all the city is worried about.

Public Hearing closed

9. REZONING LOT 1, ADA'S ESTATES FROM A-1 TO A-R

DOTSON motioned to approve rezoning Lot 1, Ada's Estates from A-1 to A-R. Seconded by KATHCART.

DISCUSSION:

ALDERMAN CHEVALIER asked if what is being proposed meets the Comprehensive Plan?

HENDRIX stated that it meets the most recent Comprehensive Plan and the most immediate one behind it. We have Comprehensive Plans from 2 years ago, one from 2006 and prior to that it was one from 1992. The most recent one shows large lot residential or agricultural. It defines large lot as not less than 3 acres.

SCARBOROUGH stated that if he understands this correctly this could rezone to 2 acres depending on the sewers.

HENDRIX stated yes. If there were sewers available, it could be 2 acres lots but there are no sewers close though. The other thing is that in this area 2 acre lots wouldn't meet the Comprehensive Plan since it calls for 3 acres or more.

MUESSIG asked how many acres you must have for septic?

HENDRIX stated 3 acres. Mr. Payne also asked if the lots would perk. If they can't get a permit from the Clay County Health Department for a septic system, they won't get a building permit from us.

DOTSON asked if most septic systems were engineered?

HENDRIX stated yes. They now do a soil morphology test which is an engineered test conducted by a soils engineer. In the areas where they can't get that to happen there is a new design where they build it on top on the ground and then cover it with proper soil.

MAYOR BOLEY stated that there was also a comment made about tax dollars and he hears this too often. Tax dollars on this property will be about \$300.00 per year. We recently spent about \$200,000 to fix Amery Road.

\$300.00 is not motivation. This is about the property owners' rights to what they want with their property.

MR. PAYNE asked why residents are never notified when the city changes their Comprehensive Plan?

WILSON informed that there were several opportunities for the community to come to a lot of the meetings they had. Notification was on social media, the newspaper, our newsletter.

ALDERMAN CHEVALIER stated that it was a long 18-month process.

THE VOTE: ALDERMAN CHEVALIER-AYE, WILSON-AYE, MUESSIG-AYE, SCARBOROUGH-AYE, DOTSON -AYE, KATHCART-AYE, MAYOR BOLEY -AYE.

AYES-7, NOES-0. MOTION PASSED

10. PUBLIC HEARING: SINGLE PHASE FINAL PLAT, DIBBENS ESTATES (3) LOTS AT LOT 1, ADA'S ESTATES

Public Hearing opened

HENDRIX stated that this is a 3-lot subdivision of roughly 11 ½ acres. The 2 new lots on the back side would be 3.81 acres each and the lot with the existing house would be 3.9 acres. Frontage would be onto Amory Road. This plat will have a condition placed in its dedications that requires the lots to join and specifically not oppose the creation of a district to improve the roads in the future.

David Payne---13904 N Virginia Avenue— Stated that he just doesn't what this divided up. He has 10 acres next door and asked if he could divide that up? He stated he has 350 feet of road frontage but that's probably not enough. At one time the city told him that they wouldn't let him do a flagpole lot. He asked the commission to not approve this. If this was next to know you might not want it yourself. If this is approved, he is worried that he will have people trespassing on his property.

HENDRIX stated that for Mr. Payne to divide his property up it would require him to construct some sort of road to get enough frontage. This proposed

subdivision that we are considering tonight has the required frontage on Amory Road. Clay County allows flagpole lots, but we don't.

Public Hearing closed

11. SINGLE PHASE FINAL PLAT, DIBBENS ESTATES (3) LOTS AT LOT 1, ADA'S ESTATES

SCARBOROUGH motioned to approve the Single-Phase Final Plat, Dibbens Estates (3) lots at lot 1, Ada's Estates. Seconded by MUESSIG.

DISCUSSION:

DOTSON wanted to inform Mr. Payne that she understands that change is difficult the loss of his surrounding causes upset and some grief. Not too long-ago Jack and herself attended a seminar on housing and zoning. One of the things they said was to never fall in love with what you don't own. That is harsh but is true. She has been in his position. She owned a beautiful piece of land and the property around it eventually subdivided. The Dibbens have the right to develop their property if it's legal.

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, SCARBOROUGH-AYE, MUESSIG -AYE, WILSON-AYE, ALDERMAN CHEVALIER -AYE.

AYES-7, NOES-0. MOTION PASSED

**12. PUBLIC HEARING: CONDITIONAL USE PERMIT—
TELECOMMUNICATIONS TOWER AT 904 NE 180TH ST**

Public Hearing opened

HENDRIX stated that we have not had one of these Condition Use Permit requests since 2009 so it look him a little more research to go back through the process to make sure he was following the same procedures that needed to be followed. The notification process of this is the same as a rezoning. The approval process is also the same as a rezoning. It goes through this commission for a recommendation on the findings. Based upon the findings there is an ordinance that will get recorded with the county if it

is approved. The steps of this process if identified in the staff report and there is also a draft of a potential Findings of Fact. Both of these were in the packet. Code specifically says that there is a limitation of 100 feet in height unless there are certain certifications provided. You would then have the discretion to allow it to go to 150 feet in height. You have been provided the colocation certification letter and the fall certification letter. This meets the minimum standards, and it is within this commissions discretionary authority to grant the 150' monopole. The only reason they can get the extra 50 feet is if they allow more than one user on it. In this case it requires at least 2 more users.

James Allsbury---902 NE 180th Street— Stated that a 150' tower will be able to be seen Greyhawke, Harborview, Rock Point and other adjacent neighborhoods. It is literally in our backyard. The way to get to this tower will be through a driveway shared by themselves, the Beggs and another neighbor. We have concerns about this. Over the years we have all looked out for each other. When we have seen unknown vehicles, we would call each other and make sure someone knew who it was. We did this to make sure everyone was safe. Now we will have no idea who is coming up our driveway day or night, 7 days a week, 24/7. They will now have the right to do that. The driveway itself is gravel and there will be large equipment trucks using it. During heavy rains, the driveway down towards the street already washes out. What will happen when we have heavy equipment using this driveway that we have to use every day? Also concerned about pets or grandchildren getting hurt by one of these trucks using the driveway.

Rochelle Allsbury---902 NE 180th Street— Stated that she is a real estate agent and on disclosure you have to disclose certain things on your home. Right now, cell phone towers are not one of them. However, you do have to disclose any hazardous conditions and environmental issues. If I have to mark yes, when I go to sell my property will that affect the sell of my land? Health is another issue. My husband has heart issues and spots on his lungs. Is this going to make it worse on him? Will this make it work for all of the out lying areas. There is no evidence because there are no studies, but they have studied in 28 countries that there is cancer related to cell phone towers and cell phones. They say that you are not supposed to live within a quarter of a mile of a cell tower. Our property is 450 feet away. This is concerning to her. He was diagnosed with heart disease at 36 years old and has been in and out of the hospital. She doesn't want to lose him. She lost her mom to cancer at a very young age, and she doesn't want to

do that to her children. Would you all want to look out into your backyard and see this? This is all about the love of what I have, my love for my family and other people. I don't want to see anybody harmed by this. As a city there is monetary value to be gained by having a tower on the land. Why can't the city take that monetary value and put it towards historical preservation, for the schoolhouse, the animal shelter. She can't speak for the other landowner that was notified but couldn't be here tonight. She has been in contact with her, and she was supposed to be sending out her own email in opposition of this.

Gabe Grider---808 NE 180th Street— The property in question is directly behind his. In the zoning code under telecommunications, it lists out 5 criteria that need to be met. The first criteria is to encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community. He would like to point out that there are 6 towers within 5 miles. The closest one being 1.1 miles away and the next one being 2.3 miles away. The second criteria is to strongly encourage the joint use of new and existing towers and sites. There is a water tower a mile away that the city could rent out for this same purpose. There are already antennas and radios on 2 of the water towers in Smithville. The third criteria is encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal. There are currently 9 properties contiguous to this to this property with another one being planned. Not to mention Greyhawke and Harborview being able to see this. The fourth criteria is encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas. If the tower goes to the whole 150 feet in height this will be maybe 90 feet above the tree line and will be seen from everywhere. The neighbors that just spoke also received a letter to have a tower put on their property and they denied because they value their neighbors. My property is a watershed which goes onto Terry Evans property. I take great care to make sure I am not putting down chemicals on my property which goes down into his pond. He asked that the commission not recommend this for approval and stop it right here and not send it on to the Board of Alderman.

Patrick Erwin---Applicant— Tillman Infrastructure is proposing this structure in order to facilitate AT&T's First Net system. This is a nationwide broadband network dedicated to public safety for use by first responders and public safety agencies. This proposed tower will provide a much needed service for the First Net subscribers. Many of the AT&T users of the network

have complained over the years that service in this area is extremely lacking so this is the whole purpose of our application here today. Stated that he would like to address a few concerns from the neighbors. The issue with the workers that will be onsite. Once this tower is complete workers would only be accessing this site on about a monthly basis in a pickup size truck. All of the trucks would be marked with AT&T or First Net decals. As far as reduction in home values, we have done appraisal studies over the years and have never seen one that an actual quantifiable reduction in home values. I would be happy to provide one of that he did recently in the last 18 months. The health effects, we all know that this is something we can't address legally by Federal law and Missouri State law.

Public Hearing closed

13. CONDITIONAL USE PERMIT—TELECOMMUNICATIONS TOWER AT 904 NE 180TH ST

MAYOR BOLEY motioned to approve the Conditional Use Permit—Telecommunications tower at 904 NE 180th Street. Seconded by KATHCART.

DISCUSSION:

ALDERMAN CHEVALIER stated that he is going to recuse himself as he works for the Telecom industry. (Alderman Chevalier left the building.)

SCARBOROUGH asked Mr. Hendrix if he could address Mr. Grider's concerns about this not meeting our code.

HENDRIX stated that Mr. Grider wasn't saying that it didn't meet the code he was asking that the commission consider that it didn't meet the code. Our staff report and the applicant's application address all of the items that are in the code. I believe Mr. Grider is just asking you to consider those. From my perspective you have 8 items to consider in the staff report and the proposed Findings of Fact. Those are the facts you have to make. There has been a motion to accept those Findings of Facts. If you have a concern with any of those 8 items now would be the time to address them.

MAYOR BOLEY stated that one of the things he sees in the picture from the packet and the pictures passed around is that the property owner has an existing tower there already. Is that correct?

HENDRIX stated yes, there is a ham radio tower.

WILSON asked if it is known if any of our first responders use this First Net system?

HENDRIX stated that his guess is no since we don't have any towers that have it.

MAYOR BOLEY stated that we have discussed it before. We have some alternatives, but they are not great. The applicant also mentioned that a lot of these are also driven by the people complaining about the lack of service in the area. He did speak with some of the folks that live up there and they don't have good cell service. Our Police department also uses cell phones so that is a concern as well.

SCARBOROUGH asked if this would only be an AT&T tower?

HENDRIX stated no. It's an AT&T tower but there is a specific requirement that they have to allow others to put their equipment up there to get the 150 foot height approved.

DOTSON asked if our Police Department can benefit from this?

MAYOR BOLEY stated that this would be a question for Chief Lockridge. We just replaced radios so we know they can at least talk through their radio.

MUESSIG asked if they selected this property by sending out letters?

HENDRIX stated that he can't answer how they specifically selected this property. Usually, it involves elevation so you can get the biggest coverage. This is not the first company to look in this area. One of the public commenters mentioned a water tower south of here. We have had numerous people inquire about that over the years but to date no one has installed on it. He thinks that it's because it would have great coverage on the lake but lacks when you head north and east.

MR. ERWIN stated that he could speak about how they selected this property if the commission would like. WILSON said that would be great.

MR. ERWIN stated that before they start out looking for locations the engineers give them a latitude and longitude and in this case they give us a

radius. In this case it's very small and needed to be in a confined area so they way this proposed structure would work with other adjacent towers and neighboring jurisdictions. The first thing we do is look for colocations. We want to find an existing tower or a water tower that might work. In this case the water tower that the neighbor mentioned was just too far away. A mile away was just too far. We needed to be between 1200 feet of the coordinates that we have. This area meets all of our needs.

WILSON stated that there is still a lot of agricultural land north of town and wondered if that was looked at as possible sites.

MR. ERWIN stated that this property is as far north as we can go. Any parcels north of this will not work for them. We don't want to upset neighbors, but they really feel the way this parcel is set back from the road with tree cover around it that this was ideal.

SCARBOROUGH asked if all of the neighbors on this shared drive responsible for maintaining it. It's not a county or city road?

HENDRIX stated that it is private.

MUESSIG stated that maybe there should be something entered into this that they will need to address some of the issues if they are going to be utilizing that driveway. Putting a culvert in or something. Since it's a shared driveway they need to share the responsibility in that too.

HENDRIX stated that it would be an issue between the property owners. Mr. Beggs has a potential lessee on it so it would be his responsibility to maintain any damage done by the tenants. He is unaware of any private agreements on it.

WILSON asked if there was any agricultural land on the west side of 169 Hwy that would work?

MR. Erwin stated that he would have to look again at our search area, but he doesn't have that with him.

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, SCARBOROUGH-NO, MUESSIG -NO, WILSON-NO.

AYES-3, NOES-3. NO RECOMMENDATION.

14. ADJOURN

MAYOR BOLEY made a motion to adjourn. DOTSON seconded the motion.

VOICE VOTE: UNANIMOUS

WILSON declared the session adjourned at 8:01 p.m.

SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

July 12, 2022

7:00 P.M.

City Hall Council Chambers and Via Videoconference

1. CALL TO ORDER

Chairman Melissa Wilson called the meeting to order at 7:00 p.m.

A quorum of the Commission was present: Melissa Wilson, Alderman John Chevalier, Mayor Damien Boley, Billy Muessig, Dennis Kathcart and Deb Dotson. Rob Scarborough was absent.

Staff present: Jack Hendrix and Brandi Schuerger.

2. MINUTES

The June 14, 2022, Regular Session Meeting Minutes were moved for approval by MAYOR BOLEY, Seconded by MUESSIG.

Ayes 6, Noes 0. Motion carried.

3. STAFF REPORT

HENDRIX reported:

Informed that we are still at 53 single family residential building permits since January 1, 2022. No new commercial building permits have been issued.

We did receive a tenant finish permit application for a portion of the old Price Chopper building. They will be starting interior demolition soon. The contractor also states they will be coming forward for site plan approval for façade improvements including putting 7 units on the east side of the building facing 169 Hwy. We have not seen these plans yet and don't know who any of the tenants will be for sure.

Diamond Creek subdivision at 6th and Manzanola is 98% done. They do still have some work to complete. They are preparing to finalize the maintenance and performance bonds. Houses in this subdivision should start construction soon.

The medical marijuana facility is still under construction. They were hoping to be completed by July 31st, but we don't think that will even be a possibility.

The new Shamrock gas station now has their full certificate of occupancy. It has been sold and are waiting for a few closing items so the new owner can stock it and open it.

The indoor storage facility for Attic Storage on the south end of town is under construction.

4. CONDITIONAL USE PERMIT---TELECOMMUNICATIONS TOWER AT 904 NE 180TH ST—CONTINUED FROM 6-14-22 FOR THE PURPOSE OF VOTING ON THE INDIVIDUAL FINDINGS OF FACTS

CHAIRMAN WILSON asked the City's attorney John Reddoch to speak about this process.

Mr. Reddoch informed it was his understanding that at the last meeting there was a recusal and we ended up with a 3-3 vote. Because of this it doesn't go to the Board of Alderman with specific recommendations. Within our ordinances there are requirements of specific findings. We are asking that you vote on each specific finding so we can have a complete record to present to the Board of Alderman.

HENDRIX stated that Mr. Beggs whose property this proposed tower will be located on is at the meeting tonight, but the applicants are not present.

ALDERMAN CHEVALIER recused himself and will be abstaining from all votes regarding this topic.

MUESSIG motioned to discuss the findings of facts. Seconded by MAYOR BOLEY.

1. The proposed special use complies with all applicable provisions of the zoning regulation including intensity of use regulations, yard regulations and use regulations.

DISCUSSION: NONE

THE VOTE: MUESSIG-AYE, DOTSON-AYE, WILSON-AYE, MAYOR BOLEY - AYE, KATHCART-AYE.

AYES-5, NOES-0.

2. It is found that the proposed special use at the specified location will contribute to and promote the welfare and convenience of the public in that it will be consistent with the nature of the neighborhood and will provide a service enhancement to spotty cellular service.

DISCUSSION: NONE

THE VOTE: DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, WILSON - NO, MUESSIG-NO.

AYES-3, NOES-2.

3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property.

DISCUSSION:

MAYOR BOLEY mentioned the visual appearance of the pole. We may want to add something in here that they make it look more like a tree instead of a metal pole. A lot of the cell companies have started doing this.

DOTSON stated that she would feel better about this if we amended this finding so that it would not be such a visual eyesore for the neighbors. It might set a trend going forward with other communication towers as well.

DOTSON motioned to amend item #3 in the findings of facts to include that the pole must look like a tree. Seconded by MAYOR BOLEY.

THE VOTE: WILSON-AYE, MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, MUESSIG-AYE.

AYES-5, NOES-0.

WILSON stated that the finding will now read: *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property and will look like a tree.*

DISCUSSION: NONE

THE VOTE: MUESSIG-AYE, DOTSON-AYE, WILSON-NO, MAYOR BOLEY-AYE, KATHCART-AYE.

AYES-4, NOES-1.

4. The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.

THE VOTE: KATHCART-AYE, MAYOR BOLEY-AYE, WILSON-NO, DOTSON-AYE, MUESSIG-AYE.

AYES-4, NOES-1.

5. There is sufficient parking for the anticipated maintenance vehicles

DISCUSSION:

MUESSIG asked Mr. Hendrix what the setback is?

HENDRIX stated that the site is fenced 50' x 50' but the tower is 198' from the closest property line.

THE VOTE: MAYOR BOLEY-AYE, WILSON-AYE, KATHCART-AYE, MUESSIG-AYE, DOTSON-AYE.

AYES-5, NOES-0.

6. No utility, drainage or other such facilities are needed as a result of the application.

DISCUSSION:

MUESSIG asked what the power requirements are for this tower?

HENDRIX stated that he doesn't think the application specifically calls for it but our other ordinances require them to install it and it has to be under ground.

DOTSON asked if this would affect the shared driveway?

HENDRIX stated that it theoretically could.

MUESSIG stated that there are also existing transformers on the hill and they probably have enough on the primary service to tap off of that. He doesn't see them trenching along that driveway. He sees them using one of the local transformers there.

THE VOTE: KATHCART-AYE, DOTSON-AYE, MUESSIG-AYE, WILSON-AYE, MAYOR BOLEY-AYE.

AYES-5, NOES-0.

7. Adequate access roads and entrances are provided.

DISCUSSION:

DOTSON stated that she thinks they bear some responsibility towards the maintenance of the shared driveway since they are going to be using it for commercial purposes.

KATHCART there will be a lot of impact on the driveway during the construction of this tree (tower). After that they said they will only be out there monthly.

MUESSIG stated that the entrance of the driveway will get messed up as well. It's only 11 feet wide and during construction they are going to be pulling in trailers and cranes.

DOTSON stated they need to be responsible for anything and everything regarding the shared driveway during the construction phase. The residents shouldn't have to bear any aggravation from that at all.

MAYOR BOLEY stated that he noticed that the entrance of the driveway is not concrete. If an entrance was installed today the requirement would be concrete. If we had them improve the approach to replace that culvert and pour a concrete apron that would get it up to current specifications.

HENDRIX stated yes. That would get the approach up to current specifications. We have not specifications on the driveway itself.

MAYOR BOLEY stated that we could also have them replace the gravel on the driveway as well.

MUESSIG asked if they would be required to mow the setback area?

HENDRIX stated no, he believes this would be the owner of the property's responsibility.

MUESSIG stated that he would like to see a motion brought forward for amendment to include that approach be improved to current city standards up to the right of way line.

WILSON stated that she would like to add to the amendment that the driveway be restored after construction is complete.

HENDRIX stated that the discussion so far with the commission has be to install a driveway approach to city standards and restore the rest of the driveway to current conditions.

Several members of the confirmed this.

HENDRIX also suggested that the driveway approach and restoration happen after construction is complete so that it is not torn up during construction.

WILSON motioned to amend item #7 in the findings of facts that the telecommunication company or their contractor will install a new entrance to

the driveway to meet current city standards and also restore the driveway itself to preconstruction condition. Seconded by DOTSON.

THE VOTE: MAYOR BOLEY-AYE, WILSON-AYE, KATHCART-AYE, DOTSON-AYE, MUESSIG-AYE.

AYES-5, NOES-0.

WILSON stated that we will now vote on item #7 of the finding of facts as amended.

DISCUSSION: NONE

THE VOTE: MUESSIG-AYE, DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, WILSON-AYE.

AYES-5, NOES-0.

8. The applicant has certified the capacity of the tower to accommodate two additional providers and a letter of intent to lease space so an additional 50 feet in height (maximum 150') may be added to accommodate co-location.

DISCUSSION: NONE

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, WILSON-AYE, MUESSIG-AYE.

AYES-5, NOES-0.

9. That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022, has been taken into consideration.

DISCUSSION: NONE

THE VOTE: MUESSIG-AYE, DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, WILSON-AYE.

AYES-5, NOES-0.

5. PUBLIC HEARING: REZONING 551 S. COMMERCIAL---EAGLE RIDGE B-1P PARCEL TO B-3

Public Hearing opened

HENDRIX informed that in 2018 this parcel was rezoned from agricultural to B-1P as a part of the overall plan for the Eagle Ridge subdivision. The overall plan included B-1, R-2 and R-1 zonings all on one tract of land. At the time they wanted it zoned business but didn't know what they were going to use it for. They have now come forward and requested to put in an office building with the storage of equipment for a development or construction company. I have informed them that that use would not comply with the standard B-1 zoning and they would have to rezone this to B-3 and that is what they are requesting to do tonight.

Eric Craig---Applicant---1220 Bainbridge Rd--- Stated that he and his partner have a development company here in Smithville. We approached Mr. Hendrix that we would like to put in an office and have a place to store materials. We are trying to accumulate as many materials as we can and keep them on hand. There will be some construction related equipment stored on the property.

Public Hearing closed

6. REZONING 551 S. COMMERCIAL (EAGLE RIDGE B-1P PARCEL) TO B-3

ALDERMAN CHEVALIER motioned to approve rezoning 551 S. Commercial (Eagle Ridge B-1P Parcel) to B-3. Seconded by KATHCART.

DISCUSSION: NONE

THE VOTE: MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, MUESSIG - AYE, WILSON-AYE, ALDERMAN CHEVALIER-AYE.

AYES-6, NOES-0. MOTION PASSED

7. PUBLIC HEARING: OUTDOOR STORAGE REGULATIONS

Public Hearing opened

None

Public Hearing closed

8. DISCUSSION OF OUTDOOR STORAGE REGULATIONS

MAYOR BOLEY motioned to discuss the outdoor storage regulations.
Seconded by MUESSIG.

DISCUSSION:

HENDRIX informed that a staff report memorandum was provided to each commissioner addressing the issue the city is having. In 2010 the Planning Commission revised the zoning code. They took out outdoor storage in most of the zoning and required it to be inside buildings. At that time the Planning Commission wanted to tighten up outdoor storage and made that recommendation. The old provision had outdoor storage as permitted if it is screened from the public view with a 6 foot tall fence that is 80% sight obscured. This has become a very burdensome scenario for our current businesses to maintain this. Especially with the price of building a building. We have 10 businesses in town that we are currently working on this matter with so before we start taking these things to court with code violation scenarios he wanted to give this commission an opportunity to discuss it and decide if we want to continue with the current code or adjust it.

All commission members engaged in a lengthy discussion on this topic. Various questions were asked, and several scenarios proposed. City Attorney John Reddoch spoke to the commission about use variances. Ultimately the consensus was to change the code and go back to only requiring screening of outdoor storage in all commercial zonings. Hendrix stated that he will get this drafted and it will be brought back to this commission again in August. Click the attached link to listen to the entire discussion:

https://youtu.be/uhk_ck9BphY

9. ADJOURNMENT TO EXECUTIVE SESSION PURSUANT TO SECTION 610.021(1)RSMo

MAYOR BOLEY made a motion to adjourn to Executive Session Pursuant to Section 610.021(1)RSMo. MUESSIG seconded the motion.

THE VOTE: MUESSIG-AYE, MAYOR BOLEY-AYE, DOTSON-AYE, WILSON - AYE, ALDERMAN CHEVALIER-AYE, KATHCART-AYE.

AYES-6, NOES-0. MOTION PASSED

WILSON declared the session adjourned at 8:11 p.m.

NOT YET APPROVED

July 18, 2022

Stephen Grider

808 NE 180th Street

Smithville, MO 64089

816-590-9833

Received by:

Signature:

Date:

Printed Name:

City of Smithville, MO Office of City Clerk and Board of Aldermen

Pursuant to City of Smithville, MO code Section 400.565(B), this document is a Protest to the Planning Commission's decision voted upon at July 12, 2022 meeting, in continuation from the June 14, 2022 meeting, during which a hearing for Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street was conducted in reference to code sections 400.570 for a 150' telecommunications tower.

"400.565(B) Protest. If a written protest against a proposed amendment shall be filed in the office of the City Clerk within seven (7) days after the date of the action by the Planning and Zoning Commission on a proposed amendment, which protest is duly signed and acknowledged by the owners of thirty percent (30%) or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, then such proposed amendment shall not be passed except by a two-thirds (2/3) vote of the Governing Body. The provisions of Section 89.050, RSMo., relative to public hearing and official notice shall apply equally to all changes or amendments."

This document has been drafted to register a protest based upon the Planning Commission's abdication of duties to thoroughly evaluate the Finding of Facts in regards to Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street provided by Tillman Infrastructure LLC and certify the Finding of Facts as TRUE and CORRECT while holding the public hearing on June 14th, 2022 and the continuation on July 12, 2022. The Planning Commission then did not hold a vote to accept the Finding of Facts as being true and correct or amend them while holding the public hearing on June 14th, 2022 and the continuation on July 12, 2022 prior to preceding with more actions related to the Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street while conducting the continuation of the meeting on July 12, 2022.

We, the undersigned property owners, in the State of Missouri, Clay County and City of Smithville order this Protest be accepted and implemented by the Governing Body and the Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street shall not pass except by a two-thirds (2/3) vote of the Governing Body.

Name (Signature)	Date	Address	Printed Name
Maura Edinger	7/16/22	18114 Marcus Rd Smithville	Maura Edinger Hon
Dean Willadsen	7/16/22	18108 Marcus Rd Smithville	Dean Willadsen
Mary Ferguson	7-16-22	18018 Marcus Rd Smithville	Mary Ferguson
Mary Jo Essex	7/16/22	18012 Marcus Rd Smithville	Mary Jo Essex
Nancy Gail Warren	7/16/2022	800 NE 180th St	Nancy Gail Warren
James Ailsbury	7/16/2022	902 WE 180th St. Smithville	James Ailsbury
Rochelle Ailsbury	7/16/2022	902 NE 180th St Smithville	Rochelle Ailsbury
Gary Wiese	7/16/22	18102 MARCUS RD SMITHVILLE	
Sherry Wiese	7/16/22	18102 Marcus Rd Smithville	Sherry Wiese
Derrick Basye	7-17-22	18206 Marcus Rd Smithville	Derrick Basye
GABRIEL RICHES	7/17-22	1012 NE 180	GABRIEL RICHES
Rachel Saunders	7/17/22	905 Bambridge Rd	Rachel Saunders
STEPHEN G. GRIDER	7/17/22	808 NE 180th ST.	STEPHEN G. GRIDER
Ann M Grider	7/17/22	808 NE 180th ST.	Ann M Grider
Robert Marriott	7/17/22	18212 MARCUS RD	Robert Marriott
Name (Signature)	Date	Address	Printed Name
LARRY THORNTON	7-16-22	906 NE 180th	LARRY THORNTON
ELNA THORNTON	7-16-22	906 NE 180th	ELNA THORNTON
TERESA CROUCH	7-16-22	906 NE 180th ST	TERESA CROUCH
ELLIOTT HEITMAN	7/16/22	1004 NE 180th	ELLIOTT HEITMAN
AMANDA HEITMAN	7-16-22	1004 NE 180th ST	AMANDA HEITMAN

REZONING (CONDITIONAL USE PERMIT) PROTEST PETITION

We, the undersigned property owners, do hereby protest the granting by the Board of Alderman, City of Smithville, MO of proposed Conditional Use Permit on the following described property:

904 NE 180th St and legally described as follows:

Parcel 1

A tract of land in the East One-Half (E ½) of the Northeast Quarter (NE ¼) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-three (33) West, Smithville, Clay County, Missouri, more particularly described as follows; Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 30.0 feet along the East line of said Northeast Quarter to the North Right of Way line of 180th Street and the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, along the North Right of Way line of 180th Street, 697.76 feet to a point on the East line of a Tract as conveyed in Book 1112, Page 952, as Document No. C-78569; Thence N 0° 20' 19" E, along the East line of said tract, 453.11 feet; Thence N 89° 54' 39" E, 696.41 feet to a point on the East line of said Northeast Quarter; thence S 0° 10' 02" W, 453.10 feet to the TRUE POINT OF BEGINNING.

Parcel 2:

A Tract of Land in the EAST One-Half (E ½) of the Northeast Quarter (NE ¼) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-three (33) West, Smithville, Clay County, Missouri, more particularly described as follows: Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 483.10 feet, along the East Line of said Northeast Quarter to the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, parallel to the South Line of said Northeast Quarter (NE ¼), 696.41 feet to the East Line of a tract as conveyed in Book 1112, Page 952 as Document No. C-78569; Thence N 0° 20' 19" E, along the East Line of said tract, 289.38 feet; Thence S 89° 54' 39" W, along the North Line of said conveyed tract, 620.27 feet to the West Line of the East One-Half (E 1/2) of the said Northeast Quarter (NE ¼); Thence N 0° 20' 19" E, along said West Line, 885.00 feet to the South Line of the North 30 acres of the East One-Half (E ½) of said Northeast Quarter; Thence N 89° 43' 19" E, along said South Line of the North 30 acres, 1313.19 feet to a point on the East Line of the said Northeast Quarter (NE ¼); Thence S 0° 10' 02" W, along the East Line of said Northeast Quarter (NE ¼), 1178.70 feet to the TRUE POINT OF BEGINNING.

LESS AND EXCEPT that portion of property conveyed to Raymond George Stubler and Betty May Stubler from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated April 17, 1992 and recorded April 17, 1992 in Deed Book 2111, Page 601.

LESS AND EXCEPT that portion of property conveyed to Frank Martinez and Debra A. Martinez from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated April 17, 1992 and recorded April 27, 1992 in Deed Book 2113, Page 890.

LESS AND EXCEPT that portion of property conveyed to Jack L. Pope and Gladys M. Pope from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated December 4, 1992 and recorded December 8, 1992 in Deed Book 2182, Page 593.

LESS AND EXCEPT that portion of property conveyed to Raymond George Stubler and Betty May Stubler from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated July 23, 1993 and recorded July 26, 1993 in Deed Book 251, Page 581.

We are Protesting the following Finding of Facts

Pursuant to City of Smithville, MO code Section 400.565(B), this document is a Protest to the Planning Commission's decision voted upon at the July 12, 2022 meeting, in continuation from the June 14, 2022 meeting, during which a hearing for Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street was conducted in reference to code sections 400.570 for a 150' telecommunications tower.

Finding of Facts

3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property. (Planning Commission added an amendment that the tower must look like a tree)

Please see the attached pictures from our property at 902 NE 180th St and it's the same for 808 NE 180th St (Picture Attachments A and B). It is stated in the fact finding under #4b from Tillman that there's "numerous mature trees around the proposed property substantially obscuring its' visibility" As you can clearly see the fencing and 150-foot pole is in direct view with no trees on the proposed leased area to have **limited visual impact to any adjacent property**. This will affect property values of surrounding homes. Appraisals are a straightforward mathematical computation based on comparable homes that have sold in the area. Appraisers do not deduct amounts for obstructions such as water towers, cell towers, etc. However, it is ultimately the perception of the buyer that makes a property desirable. A 150ft, Clearly visible cell tower in a non- treed area is not desirable to most, therefore, indirectly driving the property prices down.

4. The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.

See comments above for #3 and see the attached picture from the Tillman Finding of Facts that they submitted for to the City of Smithville to get approval of the proposed tower site (Attachments C and D). The pictures are of two locations view with what Tillman is saying the proposed location would look like before and after if the tower was installed. However, the pictures with the proposed tower showing are NOT True to scale of how tall and visible the cell tower would be seen. The picture from 180th St is in front of our property at 902 NE 180th St. and I can tell that the picture was taken by standing in our ditch at the street looking upward and that they stood in the best place to hide the view as much as possible. The few trees you see are all on my land and not the proposed location. In both my Before and After pictures, I have marked where the top of the current 70-foot tower is at on 904 NE 180th St. that currently has KC Coyote Wireless Internet Service on the tower. The after-picture example from Tillman is very misleading and/or dishonest and does not show the correct scale of the proposed 150-foot cell tower. Based on their after-picture examples, the Cell Tower is the same height as the current tower of 70 foot with KC Coyote Internet Service on it. So, if you add an additional 80 feet to the example picture

you can clearly see that the cell tower would be much more visible to all the neighborhoods in the area and not just the few neighbors around the proposed land. I feel that if homeowners in Grey Hawk and Harbor View knew that they would be having a clear view of a 150-foot cell tower they would not be happy and would have been at the planning meeting to voice their concerns, however they have not been given the opportunity to do so.

7. Adequate access roads and entrances are provided. (Planning Commission added an amendment that the driveway entrance needs to meet current city standards for entrances)

This has been a shared private driveway since our house was built in 1992. This is a narrow gravel driveway and after the main entrance area it narrows to only 8 foot wide on average with some areas less than 8. (See attached pictures of the gravel drive E, F, G, and H). As you can see the entrance is not suitable for very large trucks and trailers to be entering the driveway, and the gravel driveway is not in the best of shape. (See attached pictures of the trucks and trailers that would be needed to bring in the equipment I and J.)

You will notice that Tillman proposed a 12-foot-wide access road leading directly to the proposed tower coming off the current driveway (See attachment K). Everything that I have found states access roads / driveways need to be at least 12 foot wide. The trucks and trailers that would be needed to bring the equipment and supplies (See attachments I and J.) to the proposed site are 8ft 6in wide and could be 80 to 85,000 pounds (That is wider than the current driveway that is not in the best of shape). The weight of these wide construction trucks and trailers could cause damage to the current shared gravel driveway.

This is not a city street. We have kids and pets that play close to this shared private driveway, this is a major safety issue. If this is approved, what happens if we are coming up our private shared driveway and then a Construction / Service truck comes over the hill? The driveway is not wide enough for two vehicles. Do we have to back down our private shared driveway and then back up into the busy 180th street just so the truck can come down our driveway. This is a major safety issue and concern, so please keep this in mind when deciding if this proposed location promotes the welfare or convenience of the public. (#2 of the finding of facts)

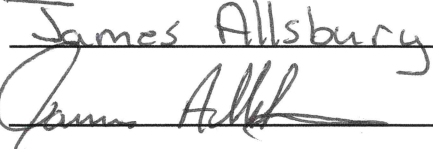
We, the undersigned, have personally signed this Petition and are owners of real property located within the area for which the rezoning (or CUP) is sought. Our residence addresses are correctly written after our names.

Note: Print name legible below or beside signature.

PRINTED NAME AND
SIGNATURE OF OWNER

ADDRESS OF PROPERTY

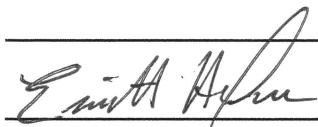
DATE

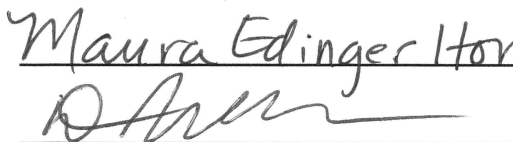
 James Allsbury 902 NE 180th St. 7-16-22
Smithville, MO 64089

Rochelle Allsbury 902 NE 180th St. 7/16/22
Rochelle Allsbury Smithville, MO 64089

Larry Thornton 906 NE 181st LARRY THORNTON 7-16-22
Elva Thornton 906 NE 180th ELVA THORNTON 7-16-22



Teresa Crouch 906 NE 180th St. Teresa Crouch 7-16-22
Annmarie Hullman 1004 NE 180th St 7-16-22

 Smith Hill 1004 NE 180th Smithville MO 64089 7-16-22

Maura Edinger 18116 Marcus Rd. Smithville MO 64089 7/16/22
 D. Hill 18108 Marcus Rd. Deane L. Hill 7/16/22

Mary Ferguson 18018 Marcus R Mary Ferguson 7/16/22
Mary Joe Essex 18012 Marcus Rd. Mary Joe Essex 7/16/22
Nancy S. Warner 800 N.E. 180th Nancy GAIL WARREN 7-16-2022

Derrick Basyl 18206 Marcus Rd Derrick Basyl 7/17/22

 Charles N Richey 1012 NE 150 CARL N RICHEY 7/17/22
 Rachel Saunders 905 Bainbridge Rd Rachel Saunders 7/17/22

PRINTED NAME AND

ADDRESS OF PROPERTY

SIGNATURE OF OWNER

DATE

Ann M. Grider ~~808~~ 808 NE 180th St. 7/17/22
Ann M Grider

Stephen G. Grider 808 NE 180th St. 7/17/2022
STEPHEN G. GRIDER

Robert D. Math 18212 MARCUS ROAD 7/17/2022

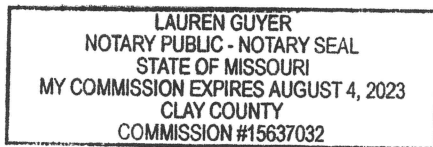
**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri

County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Maura Edinger Hon [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature] [Notary Public]

8/4/23

[Expiration Date]

Maura Joplin Edinger Hon
Printed Name

Maura J. Edinger Hon
Signature

18116 Marcus Rd. Smithville MO 64089
Address of Property

7/18/22
Date

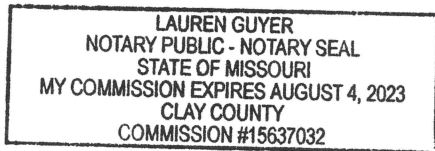
**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri

County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Robert Marriott [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



LS [Notary Public]

8/4/23
[Expiration Date]

Robert D. Marriott
Printed Name

Robert D. Marriott
Signature

18212 MARCUS ROAD SMITHVILLE MO
Address of Property

7/18/22
Date

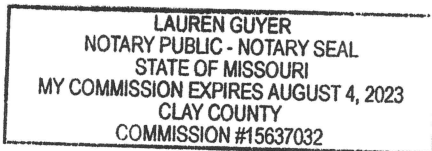
**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri

County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Larry Thornton [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature]
[Notary Public]

8/4/23
[Expiration Date]

Larry Thornton
Printed Name

Larry Thornton
Signature

906 NE 180 ST Smithville Mo
Address of Property

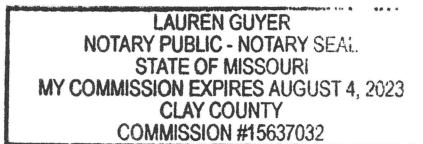
7-18-22
Date

**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri
County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Ann Grider [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature]
[Notary Public]

8/4/23
[Expiration Date]

Ann M Grider
Printed Name

Ann M Grider
Signature

800 N 100th St. Smithville MO 64089
Address of Property

7/18/22
Date

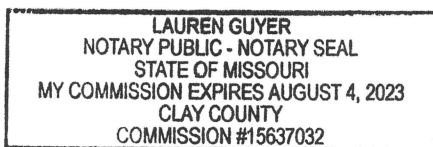
**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri

County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Stephen Grider [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature]
[Notary Public]

7/18/22
[Expiration Date]

STEPHEN GRIDER
Printed Name

[Signature]
Signature

808 NE 180TH ST. SMITHVILLE, MO 64089
Address of Property

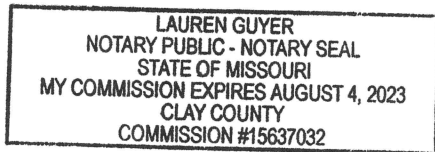
07/18/2022
Date

**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri
County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Derrick Basye [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature] [Notary Public]

8/4/23
[Expiration Date]

Derrick Basye
Printed Name

Derrick Basye
Signature

18206 Marcus Road Smithville Mo
Address of Property

7-18-22
Date

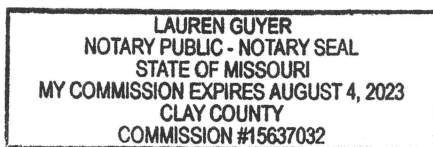
**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri

County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared Rochelle Allsbury [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature]
[Notary Public]

8/4/23
[Expiration Date]

Rochelle Allsbury
Printed Name

Rochelle Allsbury
Signature

902 NE 180th St.
Address of Property

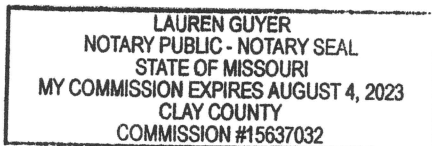
7/18/2022
Date

**MISSOURI NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Missouri
County and or City of Clay

On this 18th day of July in the year 2022 before me, Lauren Guyer [Name of Notary], a Notary Public in and for said state, personally appeared James Allsbery [Name of Individual], known to me to be the person who executed the within Rezoning (conditional use permit) Protest Petition [Type of Document], and acknowledged to me that he/she executed the same for the purposes therein stated.

[Stamp/Seal]



[Signature]
[Notary Public]

8/4/23
[Expiration Date]

James Allsbery
Printed Name

[Signature]
Signature

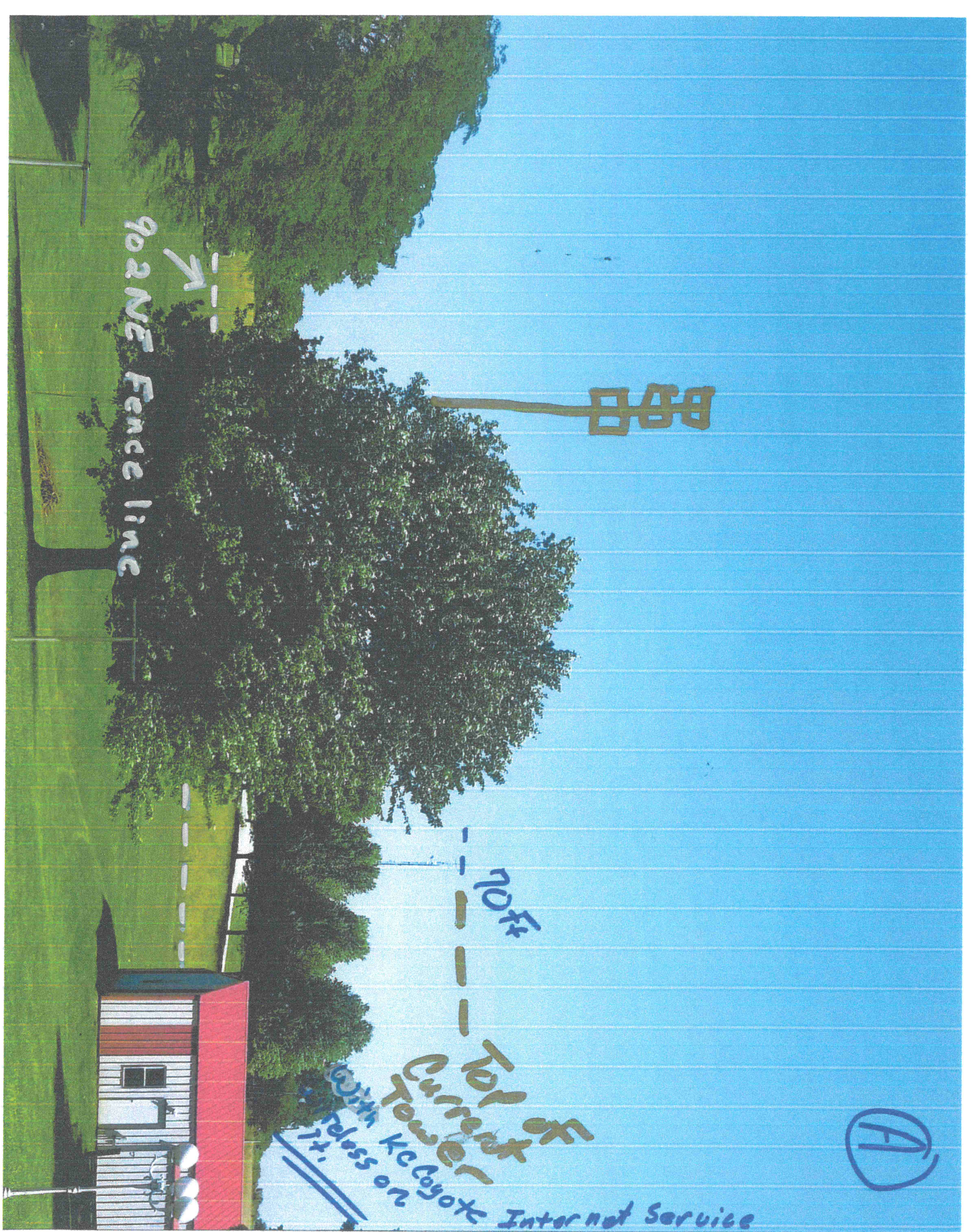
902 NE 180th St., Smithville, MO 64089
Address of Property

7-18-22
Date

The following is supporting information for the Protest. It is not meant to be a complete list but to display various lines of inquiry that could be evaluated or considered in reference to Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street.

1. The Planning Commission made no inquiries or challenges to the factual basis or accuracy of the information provided by the applicants.
2. The Planning Commission had no significant discussion or questioning related to the specific requirement of the authorization of the additional 50' of tower height as specified in Section 400.570.D.6.e(5)a
3. No members of the Planning Commission testified to their familiarity with the property in question at 904 NE 180th Street or any adjoining properties during the June 14, 2022 public hearing,
4. Tillman Infrastructure LLC representative Patrick Erwin testified that Tillman Infrastructure would prefer the tower to be constructed 200' tall, 50' taller than the proposal. Mr. Erwin also testified that Tillman Infrastructure LLC would prefer a latitude for the tower further south than the 904 NE 180th Street location. His specific testimony on the topic begins around the 55:00 mark and ending at approximately 58:00 minute mark in the archived video of the June 14, 2022 meeting.
5. Tillman Infrastructure LLC representative Patrick Erwin provided misleading pictures of the site and proposed tower that were not called into question by the Planning and Zoning Committee. The photos were misleading by concealing the existing tower on the site in one photo and misleading in the second photo by providing a grossly inaccurate representation of the proposed tower and its elevation on the sight.
6. Approval of the Special Use Permit and the construction of a 150' telecommunications tower at 904 NE 180th Street is inconsistent with the character of the neighborhood (Section 450.560.C.1) as no structure within nearly a mile reaches a comparable height.
7. Nearly all of the vegetation cited as screening is not on the property at 904 NE 180th Street and is in fact on the surrounding adjoining properties and is invalid evidence for approval of the special use permit. The vegetation could be removed at any time by the property owners or through a severe weather event. Several of the trees on adjoining properties are ash trees which have been dying the last few years due to emerald ash borers.
8. The property owners of 904 NE 180th Street did not testify in the hearing for the special use permit.
9. The property owners of 904 NE 180th Street have been planning this special use permit for a telecommunications tower since 2017 and had not disclosed or discussed the information with adjoining property owners. Adjoining property owners only learned of the proposed special use and project by letters sent by the City of Smithville in regards to the June 14th, 2022 Planning Commission hearing.
10. No testimony was given outlining the terms of the deal between Tillman Infrastructure LLC and the property owners of 904 NE 180th Street.
11. No testimony was given about liability of the tower, what or if liability coverage will be in place and which party will have liability if approval is granted and construction is completed.
12. No significant testimony or discussion took place in reference to the existing tower on the property at 904 NE 180th Street, its construction, its height or its conformity to City of Smithville, MO code and permit status.

13. No testimony or discussion took place in reference to the leasing of the existing tower on the property at 904 NE 180th Street to Isotech/KC Coyote and/or any other third parties not known.
14. Granting the special use permit and construction of the telecommunications tower will limit the number of potential purchasers for adjoining property owners to 904 NE 180th Street. This limiting factor is a well-known preference exhibited by buyers of residential property when evaluating properties located next to similar hazards and nuisances such as electrical transmission lines, substations, railroad tracks, sewer plants, industrial areas, and interstates.
15. Granting the special use permit and construction of the telecommunications tower will harm property values negatively when compared to similar properties not located next to a communications tower for the previously stated reason of reduction in marketability due to a lower number of potential buyers willing to own property next to a nuisance. (Section 450.560.C.7)
16. Granting the special use permit and construction of the telecommunications tower will negatively affect the views from any space, indoors and outdoors when viewing northward from adjoining property to 904 NE 180th Street located at 808 NE 180th Street. (Section 450.560.C.7)
17. Tillman Infrastructure LLC representative Patrick Erwin offered no information in regards to nuisance noise pollution from normal operation and/or maintenance and repair operations of the telecommunications tower.
18. Tillman Infrastructure LLC representative Patrick Erwin made unsubstantiated and evidence-free claims that the tower will be an asset to law enforcement, fire and EMT by offering FirstNet, a service of AT&T.
19. No substantial information on FirstNet was provided by Tillman Infrastructure representative Patrick Erwin, only an evidence-free claim that support for it in the Smithville area is limited.
20. No members of law enforcement, fire or EMT testified in support of the special use permit to construct the telecommunications tower at 904 NE 180th Street or the quality or adoption of FirstNet services.
21. No disclosure was offered by the Tillman Infrastructure LLC representative Patrick Erwin that AT&T's FirstNet competes against Verizon's Frontline network and that both services are offered at premium price over standard service that users under contract pay for. Nor were any questions asked by members of the Planning Committee to explore the topic. T-Mobile also has a competing service named "Connecting Heroes" which is offered for free to its conforming contract customers.
22. City of Smithville staff recommended approval of the Conditional Use Permit for Parcel ID # 05-904-00-02-011.00, 904 NE 180th Street. This recommendation by City of Smithville staff is inappropriate, is an effort to tip the scales in favor of one party over others and seeks to undermine the duties of The Planning Commission and The Board of Aldermen.
23. No evidence was provided during the Planning Commission meeting on June 14, 2022 that the proposed tower at 904 NE 180th Street meets separation requirements documented in Section 400.570.D.6.e.6.
24. No written report was presented that provides information required in Section 400.570.D.6.f.(3)f in regards to RF Radiation generated from telecommunications equipment at 904 NE 180th St. in the Planning Commission public hearing on June 14, 2022.



170 Ft Tower is on the Back side of the home at 904 NE 180th St.

ⓑ





Large View of the Tillman After Picture from the Staff Report

"180th St. Looking North"

(902 WE 180th St.)



BEFORE



AFTER

Smithville Lake TI-OPP-19189

View from 180th St. looking North

ASSOCIATED
Engineering Inc

SKYWARD
LAND SERVICES, INC

TILLMAN
INFRASTRUCTURE

C-2



Large View of the Tillman After Picture From the Staff Report

"Marcus Rd. Looking West,"



BEFORE



AFTER

Smithville Lake TI-OPP-19189

View from Marcus Rd. looking West

ASSOCIATED
Engineering Inc

SKYWARD
LAND SERVICES, INC.

TILLMAN
INFRASTRUCTURE

D-12

(E)

902 WE 180th

906 WE 180th





F



902 NE 180th

8ft+

in
902 NE 180th



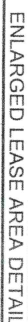
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THE UTILITIES AS SHOWN ON THIS DRAWING WERE DEVELOPED FROM THE INFORMATION AVAILABLE. THIS IS NOT IMPLIED NOR INTENDED TO BE THE COMPLETE INVENTORY OF UTILITIES IN THIS AREA. IT IS THE CLIENTS / CONTRACTORS RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE.



SHEET NUMBER	SHEET TITLE	ENGINEER	PROFESSIONAL STAMP	DESIGN RECORD	SITE INFORMATION	SITE ACQUISITION /ENGINEERING	APPLICANT	SITE OWNER																												
ZD-3	ENLARGED SITE PLAN	<div>Tommy Webb 03/26/2022</div> <div>Tom Webb DATE: 03/26/2022</div> <div>MY LICENSE EXPIRATION DATE IS 12/31/2023</div> <div>I HEREBY CERTIFY THAT THE ENGINEERING DOCUMENTS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A MEMBER OF THE PROFESSION OF ENGINEERS OF THE STATE OF MISSOURI.</div>	<div>REGISTERED PROFESSIONAL ENGINEER</div> <div>STATE OF MISSOURI</div> <div>13559</div> <div>RECEIVED</div> <div>03/26/2022</div> <div>Tom Webb</div>	<table><thead><tr><th>REV</th><th>DATE</th><th>DESCRIPTION</th><th>BY</th></tr></thead><tbody><tr><td>3</td><td>03/26/22</td><td>FINAL ZD DRAWINGS</td><td>JAM</td></tr><tr><td>2</td><td>03/22/22</td><td>FINAL ZD DRAWINGS</td><td>JAM</td></tr><tr><td>1</td><td>03/16/22</td><td>CLIENT REVISION</td><td>MS</td></tr><tr><td>0</td><td>02/11/22</td><td>ZD DRAWINGS</td><td>JAM</td></tr><tr><td>B</td><td>02/10/22</td><td>ZD DRAWINGS</td><td>JAM</td></tr><tr><td>A</td><td>02/01/22</td><td>ZD DRAWINGS</td><td>MS</td></tr></tbody></table>	REV	DATE	DESCRIPTION	BY	3	03/26/22	FINAL ZD DRAWINGS	JAM	2	03/22/22	FINAL ZD DRAWINGS	JAM	1	03/16/22	CLIENT REVISION	MS	0	02/11/22	ZD DRAWINGS	JAM	B	02/10/22	ZD DRAWINGS	JAM	A	02/01/22	ZD DRAWINGS	MS	<div>SMITHVILLE LAKE</div> <div>TI-OPP-19189 AF-54F 128787000</div> <div>P&CE TBD</div> <div>PT# TBD</div> <div>904 NE 180TH ST.</div> <div>SMITHVILLE, MO 64089</div>	<div> SKYWARD ENGINEERING & SURVEYING</div> <div> ASSOCIATED ENGINEERING & SURVEYING AE INC. Project #5958</div>	<div> AT&T mobility.com</div>	<div> TILLMAN INFRASTRUCTURE</div>
REV	DATE	DESCRIPTION	BY																																	
3	03/26/22	FINAL ZD DRAWINGS	JAM																																	
2	03/22/22	FINAL ZD DRAWINGS	JAM																																	
1	03/16/22	CLIENT REVISION	MS																																	
0	02/11/22	ZD DRAWINGS	JAM																																	
B	02/10/22	ZD DRAWINGS	JAM																																	
A	02/01/22	ZD DRAWINGS	MS																																	