


REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office:

~~Res~~/Ord No.: 4874

Sponsor(s): None

Date: August 22, 2016

SUBJECT	Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance Project/Title: <u>Verizon Wireless c/o Selective Sites, LLC Conditional Use Permit CU-2016-219</u>													
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" data-bbox="310 495 1190 806"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT</td> </tr> <tr> <td></td> <td>TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> OTHER FINANCIAL INFORMATION: <input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: \$ _____ Prior Year Budget (if applicable): _____ Prior Year Actual Amount Spent (if applicable): _____		Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT		TO ACCT
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Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT													
	TO ACCT													
PRIOR LEGISLATION	Prior ordinances and (date): _____ Prior resolutions and (date): _____													
CONTACT INFORMATION	RLA drafted by Randy Diehl, Administrator, Development Division, 881-4577													
REQUEST SUMMARY	A Conditional Use Permit in District AG (Agricultural) to construct a 180 foot wireless communication facility on 2,500 square foot area on a 5.0 ± acre site. The proposed location is located in Section 36, Township 49, Range 30, Jackson County, Missouri, aka 35202 E. AA Highway (Old 40 Highway), Jackson County, Missouri, and specifically described on Attachment to RLA-1. The Jackson County Plan Commission on May 19, 2016 held a public hearing and accepted testimony pertaining to the Conditional Use Permit. The meeting was continued until July 21, 2016. There was no opposition to the request for the Conditional Use Permit. This request conforms to the general intent and purpose of the Unified Development Code. Therefore, the Plan Commission voted 8 to 0 to recommend <u>APPROVAL</u> for provided the following conditions are met (see attachment RLA-2)													
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)													
ATTACHMENTS	See Attachment to RLA-3													
REVIEW	Department Director: Brian D. Gaddie, P.E. Director of Public Works 	Date: Date: Date:												

Marylou Brown

8/18/16

County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

ATTACHMENT TO RLA-2:

Attachments

Plan Commission Public Hearing Summary from July 21, 2016

Location Map

Staff Report

Affidavit of Publication in Independence Examiner

Names/Addresses of Surrounding Property Owners

Copy of letter to said property owners

Map showing current zoning district in area

County Code Chapter 240 – Unified Development Code

County Master Plan – “Strategy for the Future”

Application

Pictures of Property

Plans, Engineering reports and other information provide by applicant

House Bill 650

ATTACHMENT TO RLA-2

Conditional Use Permit subject to the following conditions:

1. The commercial communication lattice tower shall not exceed a height of 180 feet as measured from ground level.
2. The lattice tower and appurtenance shall be installed according to manufacturer's specifications using sound engineering and safety practices.
3. The lattice tower shall be structurally designed so that at least four (4) other wireless co locators would be allowed space on the tower.
4. The lattice tower shall be galvanized finish or painted gray or light blue unless other standards are required by the Federal Aviation Agency.
5. The lattice tower shall only be illuminated if required by the Federal Communication Commission and/or the Federal Aviation Agency.
6. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna/tower or property owner shall remove the antenna or tower within 90 days.

CU-2016-219

ATTACHMENT TO RLA 1:

Description: That part of the Northeast $\frac{1}{4}$ Section 36, Township 49, Range 30, in Jackson County, Missouri, described as follows: Beginning at the point on the East line of said Quarter section where the South line of Interstate Route No. 70, formerly new U.S. Highway 40, as established by the deed recorded in Book 792, Page 167, filed January 29, 1947 as Recorder's Document No. 525111, in the Office of the Recorder of Deeds for Jackson County, Missouri, intersects said East line; and running thence Westerly along the South line of said Interstate Route No. 70 to the Northeast corner of the tract of land conveyed to Lloyd R. Hale and Margaret B. Hale, husband and wife, by the deed recorded in Book 1511, Page 755, filed May 16, 1961 as Recorder's Document No. 768232 in said Recorder's Office; thence South on the East line of said tract conveyed to hale by said deed to the Northerly line of the right of way of the Gulf, Mobil & Ohio Railroad Company granted to the Kansas City, St. Louis and Chicago Railroad Company by the deed filed June 25, 1878 recorded in Book 116, Page 414 as now established; thence Southeasterly along the Northerly line of said railroad right of way to the North line of the right of way of Old U.S. Highway No. 40 as established by the deed recorded in Book 434, Page 127, filed April 10, 1923 as Recorder's Document No. 17052, in said Recorder's Office; thence Easterly along the Northerly line of said of Old U.S. Highway No. 40, as established by said deed recorded in Book 434, Page 127, to the East line of said Quarter Section; thence North along the East line of said Quarter Section to the Place of Beginning, Except the following described property: that part of the Northeast Quarter of Section 36, Township 49, Range 30, in Jackson County, Missouri described as follows: Beginning at the point on the East line of said Quarter Section where the South line of Interstate Route No. 70, formerly new U.S. Highway 40, as established by the deed recorded in Book 792, Page 167, filed January 29, 1947 as Recorder's Document No. 525111, in the Office of the Recorder of Deeds for Jackson County, Missouri, intersects said East line; and running thence Westerly along the South line of said Interstate Route No. 70 to a point where said South line of Interstate No. 70 intersects the East line of Leftholtz Road; thence Southwesterly along the East line of Leftholtz Road to the point where said East line of Leftholtz Road intersects the North line of Old U.S. Highway No. 40; thence Easterly along the North line of Old U.S. No. 40 to the point where said North line of Old U.S. Highway 40 intersects the East line of said Quarter Section; thence North along East line of said Quarter Section to the Point of Beginning, Except that part in road.

RE: CU-2016-219

Randy Diehl gave the staff report:

May 19, 2016 Continued July 21, 2016

Applicant: Verizon Wireless
c/o Selective Site Consultants

Property Owner: William Hailey

Location: 35202 E Old US 40 Highway

Area: 5.00 ± acres

Request: A Conditional Use Permit for a period of 30 years to construct a 180 foot self-support lattice tower for wireless communications.

Current Zoning: District AG (Agricultural)

Present Use of Property:

The property is occupied by a single family residence.

Current Land Use and Zoning in the Area:

The surrounding land uses are residential tracts and agricultural. The zoning is Agricultural. To the East to General Business. Directly West and across I-70 to the North is the City of Grain Valley. The Jackson County Road & Bridge Maintenance Facility is located to the southwest of the proposed site and County Park, Monkey Mountain is across Old 40 Highway.

Master Plan:

The Master Plan Development Diagram illustrates this area within the Urban Development Tier (UDT).

Comments / Recommendation:

Within the Unified Development Code, Section 24005.20 entitled Telecommunication Towers and Antennas provides guidelines for the location and development of Commercial Communication towers. A Conditional Use Permit is required for a commercial antenna in District AG (Agricultural) when the above ground level height of the tower exceeds 75 feet. The applicant proposes a 180 foot self-support lattice tower which leaves a height differential between permitted and proposed of 105 feet.

This is a relocation of an existing tower located on McQuerry Road. The relocation will provide a cost savings to the applicant as well as improve

coverage and service reliability around the site, including but not limited to along I-70, west towards Grain Valley and East towards Oak Grove.

Verizon proposes to lease a 50 ft. x 50 ft. area at the west area of the property and to construct, operate and maintain a 180 foot, 4-carrier self-support lattice type tower. This structure will be contained within an appurtenant ground based equipment compound surrounded by a six foot (6') chain link fence. The site will be unmanned and the traffic following construction will usually amount to a technician visiting the site as routine operational maintenance requires.

The Unified Development Code requires a fall zone setback to be a distance equal to or greater than one-half (1/2) the height of the tower from a property line. Since the tower has a height of 180 feet, the fall zone setback is 90 feet.

Site plans were provided with the application. The proposed tower is to be located 160 feet from the west property line, 103 feet from the south property, 95 feet from the north property line and 550 feet from the east property line. The tower is 370 feet from Mr. Hailey's residence.

The self-support lattice tower will be structurally designed to accommodate four additional cellular providers beside Verizon.

The applicant is requesting a 30 year time period for the permit. On previous conditional use permits for wireless communication towers, the approved time period has typically been either 10 or 15 years. To be consistent with previous approvals, staff will recommend a 15 year period for this CUP request.

Staff recommends APPROVAL of CU-2016-219 for a period of fifteen (15) years subject to the following conditions:

1. The commercial communication lattice tower shall not exceed a height of 180 feet as measured from ground level.
2. The lattice tower and appurtenance shall be installed according to manufacturer's specifications using sound engineering and safety practices.
3. The lattice tower shall be structurally designed so that at least four (4) other wireless co locators would be allowed space on the tower.
4. The lattice tower shall be galvanized finish or painted gray or light blue unless other standards are required by the Federal Aviation Agency.
5. The lattice tower shall only be illuminated if required by the Federal Communication Commission and/or the Federal Aviation Agency.
6. Any antenna or tower that is not operated for a continuous

period of twelve (12) months shall be considered abandoned and the owner of such antenna/tower or property owner shall remove the antenna or tower within 90 days.

Respectfully submitted,

Randy Diehl
Administrator

Planning and Development Division

Mr. Tarpley asked about the size of the property vs. the size of the compound.
Answer: The property size was 5 acres and the compound will occupy a 50 ft. x 50 ft. area.

Mr. Pointer asked where the closest tower was located.
Answer: As stated in the staff report there is an existing tower on the North side of I-70.

Mr. Pointer: Is it full?

Mr. Diehl: I will defer that question to the applicant.

Mr. Tarpley: When was the last application for a tower?

Mr. Diehl: The last permit granted was over 10 years ago, the location is South of Buckner.

Mr. Pointer: I have a problem with putting in towers and having the County look like a porcupine. If there are two towers close enough, one company should rent to the other, instead of putting up their own tower.

Mr. Diehl: I will defer that question to the applicant.

Mr. Tarpley: It's been 10 years, it's not like there growing up like mushrooms.

Ms. Mershon: How long are we doing this one for?

Mr. Diehl: They are asking for 30 years, staff is recommending 15 years, since this is the first permit.

Mr. Akins: Are they currently on the other tower?

Mr. Diehl: Yes, they are wishing to relocate from that tower to this one.

Ms. Mershon: If the tower falls, will it fall into I-70?

Mr. Diehl: No, the fall zone is 90 feet. The tower is set back from the property lines greater than that distance.

Mr. Crawford: Why is the fall zone only 90 feet?

Mr. Antey: The fall zone is half the height of the tower.

Mr. Diehl: They are engineered to collapse not the fall straight over.

Mr. Tarpley: We have no report of any collapsing?

Mr. Diehl: No.

Is the applicant here?

Brit Mitchell, Selective Sites Consultants on behalf of Verizon Wireless, 9900 W 109th Street, Overland Park, Kansas 66210

Mr. Antey: *Do you have anything to add to Randy's report?*

Mr. Mitchell: The only things is with some recent legislation, Senate Bill 650, Verizon would not be able to accept two of the conditions, the 30 years for the use permit and as well as removable term be accepted. Each of those have been addressed in the lease with the landowner.

Mr. Antey: How have they been addressed?

Mr. Mitchell: The term for the 30 years is in the lease and there is a removal clause in the lease as well.

Mr. Antey: You relocating from the tower on the North to this?

Mr. Mitchell: Yes, Verizon is leasing space and is wanting to relocate for a savings per month.

Mr. Tarpley: Are there any other companies wanting to use this new tower?

Mr. Mitchell: Not at this time.

Mr. Pointer: So the other tower will stay in use?

Mr. Mitchell: Yes

Mr. Pointer: So you are building a tower within a quarter of a mile from the other?

Mr. Mitchell: Yes

Mr. Crawford: You're doing this for economic reasons...

Mr. Mitchell: And also for enhancement of coverage.

Mr. Crawford: enhancement of coverage is secondary vs. the economic reason.

Mr. Pointer: I don't know about the County, but in the cities this is becoming a problem, everybody wanting their own towers too close together. I think you should stay renting where you are at instead of building another tower.

Mr. Crawford: Is it possible for you to tell us how much the coverage will improve at the new locations? I've got two maps here and I can't

Mr. Mitchell: It's Verizon's preference to have optimal performance.

Mr. Crawford: I've got two maps here and I can't tell.

Mr. Mitchell: I wouldn't be able to speak as a radio frequency expert, the maps were provided to show the improvement.

Mr. Pointer: What's the height of the old tower?

Mr. Mitchell: I believe 170 feet.

Justin Anderson, Selective Sites Consultants on behalf of Verizon Wireless, 9900 W 109th Street, Overland Park, Kansas 66210

Mr. Anderson: If I may add, this is mostly for the corridor site that we are gaining coverage. We are in an odd position as the applicant well as the Commission, regarding the new legislation that has certain things that can and can't be considered anymore. It's fairly new and I don't think a lot of us has experienced it yet. Some of things are: the consideration of separation of towers or other co-locations opportunities are not a factor for consideration or approval of towers anymore. If it's a business opportunity, specifically we're telling you as the applicant that we did look at other opportunities for current coverage. We are trying to improve it, and trying to drastically improve our rent. The goal of every business is to cut the bottom line and improve business.

Mr. Tarpley: Can I ask how you selected this particular site?

Mr. Mitchell: It's based on a search ring issued by Verizon for a selected area and we did go out and submit for interest to parties, and this happened to be an applicant that was interested. Verizon's engineers selected this as the best option.

Mr. Tarpley: If I remember right, it doesn't necessarily need to be real tall. It's based on the surrounding topography of land. I'm curious on how you picked this site.

Mr. Mitchell: It's based on the engineers study.

Mr. Hailey: I'm curious about the legislation, are you saying it's because of new legislation or doing away with?

Mr. Anderson: Senate Bill 650 was passed in 2014. A number of things that can still be considered by governments. Any a number of things that cannot be. Separation of towers, that consideration has been off the table. The ability to co-locate on other sites, term limits.

Mr. Pointer: You're saying that the State won't let you co-locate or operate on another tower?

Mr. Antey: The Senate Bill is saying as part of our decision that We cannot say that "you can locate on that tower", so we're not going to approve it on the fact that they could put their antenna on another tower.

Mr. Anderson: It's not because there was wide spread unfair practices or the fact that we were putting up erroneous towers. It is a wireless company's least favorite thing to do is put up a tower. It takes no less than six months, costs lots of money and then they have this piece of real estate that they don't want to own or have any responsibility for. All they want to do it have their antennas in the air and provide coverage. Unfortunately there are a lot of new technology requirements that are being pushed be the consumer that requires different antennas, different radios. All of these things regardless if we are taking away or increasing loads on a tower. This current tower is owned by a tower company that is in the business of making money, not providing service to any consumer. Any changes we make to our equipment impacts our rent. It's not economically feasible for us.

Mr. Antey: You stated that you find a couple of the conditions unacceptable, that's the 15 year period.

Mr. Anderson: Were trying not to set a president with the Senate Bill.

Mr. Antey: Are the other was with the removal if not used for a period of time

Mr. Anderson: And that's another item in the Senate Bill.

Jay Haden, County Counselor's Office: If the Commission is concerned with the Senate Bill as the applicant has mentioned several times, I would recommend hearing all the testimony and tabling it for a month and give me an opportunity to review the law and give you my legal advice on to what the Commissions rights and obligation are regarding this matter.

Mr. Tarpley: What was the reason for the Senate Bill?

Mr. Mitchell: It was brought forth to steam-line the process. More and more people are cutting the cord at home. There are more people that use their mobile data over their internet. There were a few jurisdictions that were taking advantage of situations requiring extreme application fees, lots of a requirements like structural on towers when they were putting in just a generator at the base. This was to help alleviate some of this. We are here to work with you and not try and push this through.

Mr. Antey: *Are there any other questions for the applicant?*

Discussion ensued regarding the painting of the tower, which may be regulated by the FCC or FAA, and in the tower was in any airport traffic pattern, which it is not.

Discussion on tabling or continuing the public hearing.

Discussion regarding the lease between the applicant and property owner.

Mr. Antey: *Is there anyone else who is in favor of this application?*

There were none

Mr. Antey: *Is there anyone who is opposed or has questions regarding this application?*

There were none.

Motion to take under advisement.

Mr. Tarpley moved to continue to hearing. Mr. Point seconded.

Meeting resumed on July 21, 2016.

Mr. Tarpley	Approve
Mr. Gibler	Approve
Mr. Haley	Approve
Mr. Crawford	Approve
Mrs. Mershon	Approve
Mr. Pointer	Approve
Mrs. Querry	Approve
Mr. Akins	Approve
Chairman Antey	Approve

Motion Carried 9 – 0.

Continuation of meeting from May 19, 2016

RE: CU-2016-218

Randy Diehl gave a recap of the staff report with the revised recommendation as follows:

Staff recommends APPROVAL of CU-2016-219 subject to the following conditions:

1. The commercial communication lattice tower shall not exceed a height of 180 feet as measured from ground level.
2. The lattice tower and appurtenance shall be installed according to manufacturer's specifications using sound engineering and safety practices.
3. The lattice tower shall be structurally designed so that at least four (4) other wireless co locators would be allowed space on the tower.
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6. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna/tower or property owner shall remove the antenna or tower within 90 days.

Mr. Antey: Jay has some information to share with the Commission.

Jay Haden, County Counselor's Office: The Commission might recall with the packets from the last meeting, the applicant provided a copy of the State law which was adopted

in 2014. This is the first cell tower application that the Commission has seen several years. The applicant mentioned a couple of things in that law that the Commission should pay closer attention to. It was my suggestion that this hearing be continued. I've looked at it and I think there are two factors of the law that come into play that the Commission should be aware of. One is that the law states that the County and the Commission cannot put a time limit duration on this. When we approve the permit, it's indefinite, it's limited to the life of the tower. It was originally an application for 30 years, staff recommended 15 years. They raised a point that staff recommended if it stops being used as a cell tower it be disassembled and removed. There is no condition in the law and I believe the application agrees with that. The last point the applicant raised is that there was some questioning on why they were moving from across the highway. They are not the owner of the tower, they are a tenant. Their equipment is not at the location to provide maximum service, the best service for their expanding customer base. The law clearly states we are not to consider whether or not they could locate on another tower or stay on the tower they are on, provided they have provided information stating they have conducted an analysis of their service needs. I believe the evidence shows they have provided that.

Mr. Antey: *Are there any other questions for the applicant?*

Mr. Akins: Will the tower be lighted?

Mr. Mitchell: No, it is under the 200 foot limit as required by the FAA.

Mr. Antey: *Is there anyone else who is in favor of this application?*

Mr. Antey: *Is there anyone who is opposed or has questions regarding this application?*

There were none.

Motion to take under advisement.

Motion to approve.

Mr. Crawford moved take under advisement. Mr. Akins seconded.

Mr. Tarpley	Approve
Mr. Gibler	Approve
Mr. Haley	Approve
Mr. Crawford	Approve
Mrs. Mershon	Approve
Mrs. Querry	Approve
Mr. Akins	Approve
Chairman Antey	Approve

Motion to approve.

Mrs. Mershon moved to approve CU-2016-219. Mr. Tarpley seconded.

Motion Carried 8 – 0.

STAFF REPORT

PLAN COMMISSION
May 19, 2016

RE: CU-2016-219

Applicant: Verizon Wireless
c/o Selective Site Consultants

Property Owner: William Hailey

Location: 35202 E Old US 40 Highway

Area: 5.00 ± acres

Request: A Conditional Use Permit for a period of 30 years to construct a 180 foot self-support lattice tower for wireless communications.

Current Zoning: District AG (Agricultural)

Present Use of Property:

The property is occupied by a single family residence.

Current Land Use and Zoning in the Area:

The surrounding land uses are residential tracts and agricultural. The zoning is Agricultural. To the East to General Business. Directly West and across I-70 to the North is the City of Grain Valley. The Jackson County Road & Bridge Maintenance Facility is located to the southwest of the proposed site and County Park, Monkey Mountain is across Old 40 Highway.

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Comments / Recommendation:

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Site plans were provided with the application. The proposed tower is to be located 160 feet from the west property line, 103 feet from the south property, 95 feet from the north property line and 550 feet from the east property line. The tower is 370 feet from Mr. Hailey's residence.

The self-support lattice tower will be structurally designed to accommodate four additional cellular providers beside Verizon.

The applicant is requesting a 30 year time period for the permit. On previous conditional use permits for wireless communication towers, the approved time period has typically been either 10 or 15 years. To be consistent with previous approvals, staff will recommend a 15 year period for this CUP request.

Staff recommends APPROVAL of CU-2016-219 for a period of fifteen (15) years subject to the following conditions:

1. The commercial communication lattice tower shall not exceed a height of 180 feet as measured from ground level.
2. The lattice tower and appurtenance shall be installed according to manufacturer's specifications using sound engineering and safety practices.
3. The lattice tower shall be structurally designed so that at least four (4) other wireless co locators would be allowed space on the tower.
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5. The lattice tower shall only be illuminated if required by the

Federal Communication Commission and/or the Federal Aviation Agency.

- 6. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna/tower or property owner shall remove the antenna or tower within 90 days.**

Respectfully submitted,

**Randy Diehl
Administrator**

Planning and Development Division

**Plan Commission
May 19, 2016
CU-2016-219**

Applicants / Property Owners:

**37-700-01-03
William L Hailey
35202 E AA Hwy
Oak Grove MO 64075**

**Verizon Wireless by
Selective Sites Consultants
10740 Nall Ave suite 400
Overland Park KS 66211**

**Certified Mail – Return Receipt
Property Owners within 185 feet**

37-700-01-07-01-00-000
JACKSON COUNTY

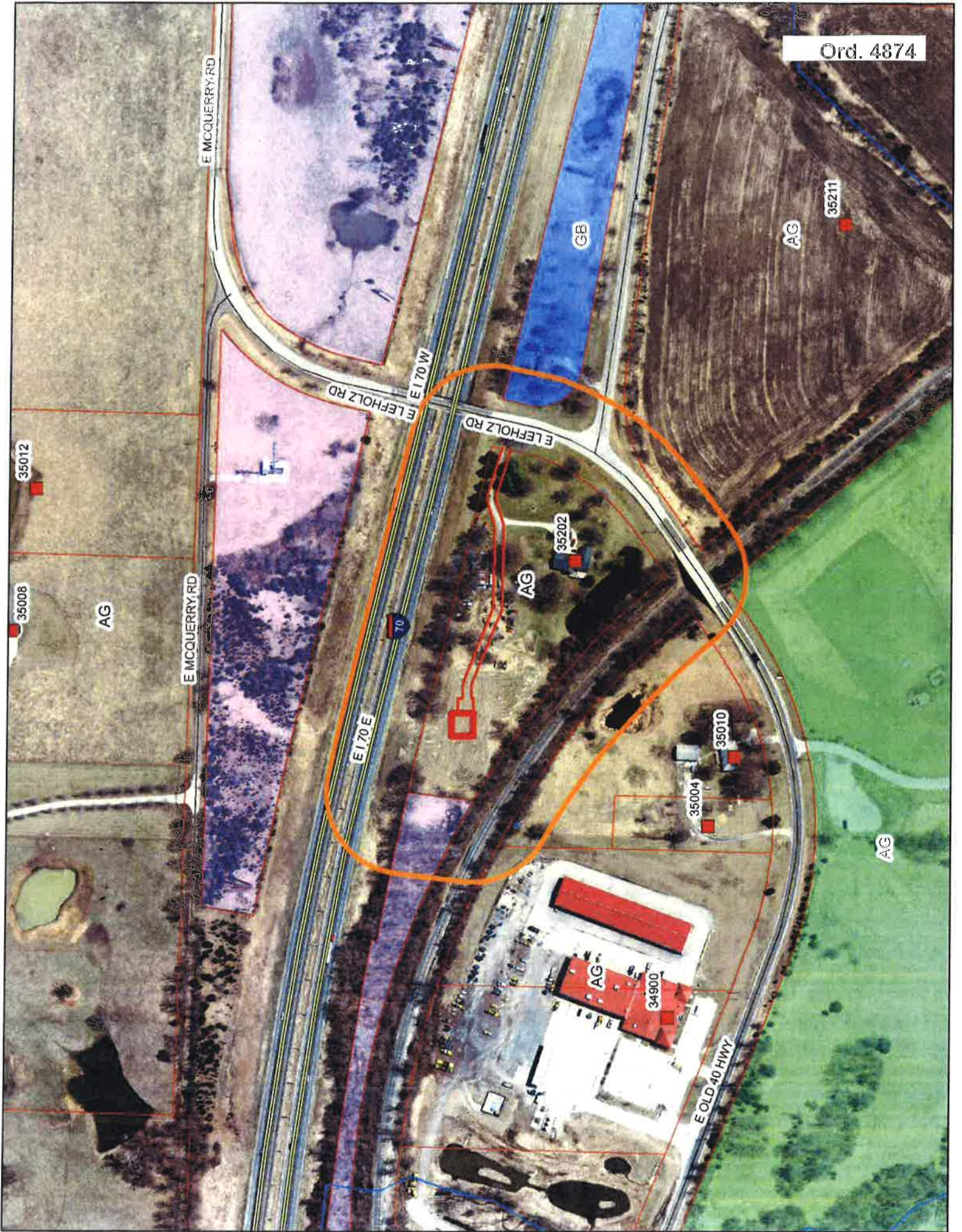
37-700-01-10-00-0-00-00
JACKSON COUNTY

37-700-01-05-00-0-00-000
WARD DAVID L & SANDRA L
35004 E McQUERRY ROAD
OAK GROVE MO 64075

37-700-01-04-00-0-00-000
SCHEFERS INVESTMENTS LLC
PO BOX 326
GRAIN VALLEY MO 64029

37-700-01-12-00-0-00-000
FAULKNER WILL M
35010 E AA HWY
OAK GROVE MO 64075

37-700-02-02-01-0-00-000
WARD DEVELOPMENT & INVESTMENT
1101 NW PAMELA BLVD STE C
GRAIN VALLEY MO 64029



JACKSON COUNTY, MISSOURI
CONDITIONAL USE PERMIT APPLICATION

APPLICANT INFORMATION:

1. Application must be filed with the Jackson County Planning and Development Division, 303 W. Walnut, Independence, MO 64050 by the deadline on the Plan Commission Calendar.
2. Application must be typed or printed in a legible manner.
3. A scaled map of the property, correlating with the legal description, and clearly showing the property's location must accompany application. Refer to Section 24003.22, pertaining to Site Plan Review within the Unified Development Code.
4. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application. Incomplete applications will not be accepted and will be returned to the applicant.
5. The filing fee \$350.00 (non-refundable) must accompany application.
(Check payable to: Manager of Finance)

TO BE COMPLETED BY OFFICE PERSONNEL ONLY:

Conditional Use Permit Number CU- 2016 - 219

Date filed _____ Date of hearing _____

Date advertised _____ Date property owners notified _____

Date signs posted _____

Hearings: Heard by _____ Date _____ Decision _____

 Heard by _____ Date _____ Decision _____

 Heard by _____ Date _____ Decision _____

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Owner(s):
 - a. Applicant(s) Name: Verizon Wireless - represented by SSC
 Address: 10740 Nall Avenue, Suite 400
Overland Park, KS 66211
 Phone: 913.438.7700
 - b. Owner(s) Name: William Hailey
 Address: 35202 E. Old US 40 Highway
 Phone: 816.918.4583
 - c. Agent(s) Name: SSC

Address: 9900 W. 109th Street, Suite 300
Overland Park, KS 66210
Phone: 913.438.7700

d. Applicant's interest in Property: Proposed Wireless Communications Facility

2. A CONDITIONAL USE PERMIT IS HEREBY REQUESTED for the following described use: Installation of a 180' wireless communications facility and ground equipment for a period of 30 years; property described as follows: a tract of land _____ square feet/acres in size located at 35202 E. M AA Highway Road.
Present Zoning District Agriculture

3. Legal Description of Property: (Write Below or Attached 9)

See Attached

4. Present Use of Property: Agriculture with residential house

5. Proposed Use of Property: Existing uses with addition of the 180' wireless communication facility.

6. Estimated Time Schedule for Development: 6 week construction period after obtaining the building permit.

7. What effect will your proposed development have on the surrounding properties?
Enhanced wireless coverage and safety for surrounding property owners and I-70 corridor
8. Is any portion of the property within the established flood plain as shown on the FEMA Flood Boundary Map? No
 If so, will any improvements be made to the property which will increase or decrease the elevation? N/A
9. Describe the source/method which provides the following services, and what effect the development will have on same:
- a. Water N/A
 - b. Sewage disposal N/A
 - c. Electricity 200A service and fiber provided by utility and Verizon.
 - d. Heating N/A
 - e. Fire and Police protection N/A
10. Describe existing road width and condition: Approximate 420' access drive that is 20' wide gravel and connects to the property owner's existing driveway.
11. What effect will proposed development have on existing road and traffic conditions? There will be no effect. No additional traffic or parking other than seldom maintenance and performance visits by Verizon technicians.
12. Are any state, federal, or other public agencies approvals or permits required for the proposed development? FAA / FCC
 If so, describe giving dates of application and status (include permit numbers and copies of same, if issued): local FCC license attached; FAA preliminary report attached. Final FAA upon receipt.

Verification: I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

Signature

Date

Property Owner(s)

William A. Harley

4-6-2016

Applicant(s):

[Signature]

4-8-2016

Contract Purchaser(s):

STATE OF Kansas

COUNTY OF Johnson

On this 8th day of April, in the year of 2016, before me the undersigned notary public, personally appeared Brit Mitchell

known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

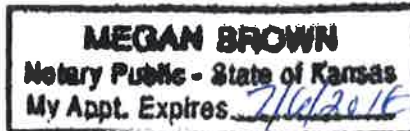
In witness whereof, I hereunto set my hand and official seal.

Notary Public

Megan Brown

Commission Expires

7/6/2016



From: Benedict Ringor – Principal RF Engineer, Verizon Wireless

April 1, 2016

To: **The City Representatives**

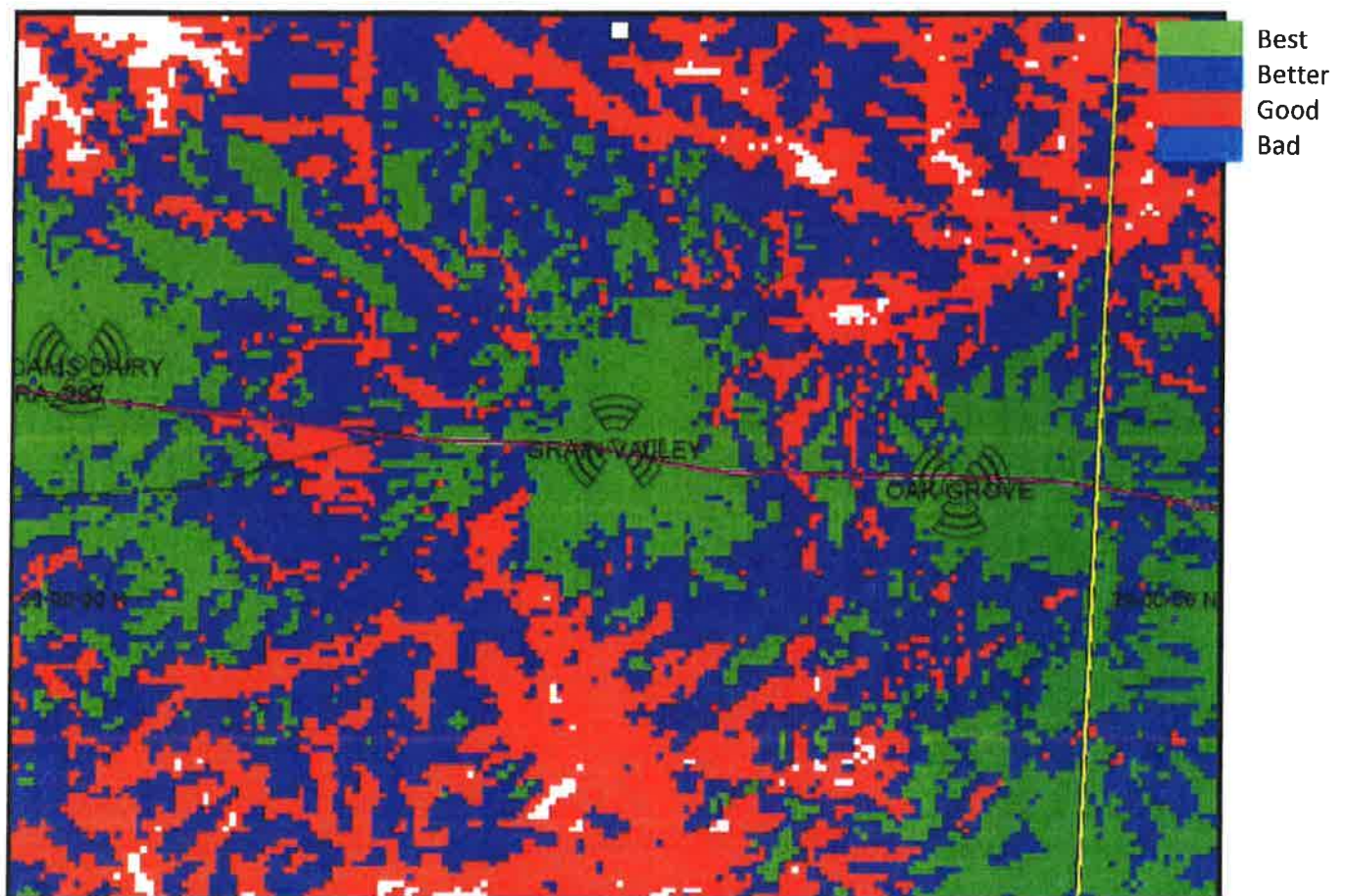
Ord. 4874

RE: **Relocation of Grain Valley to McQuery Site**

Dear City Representatives,

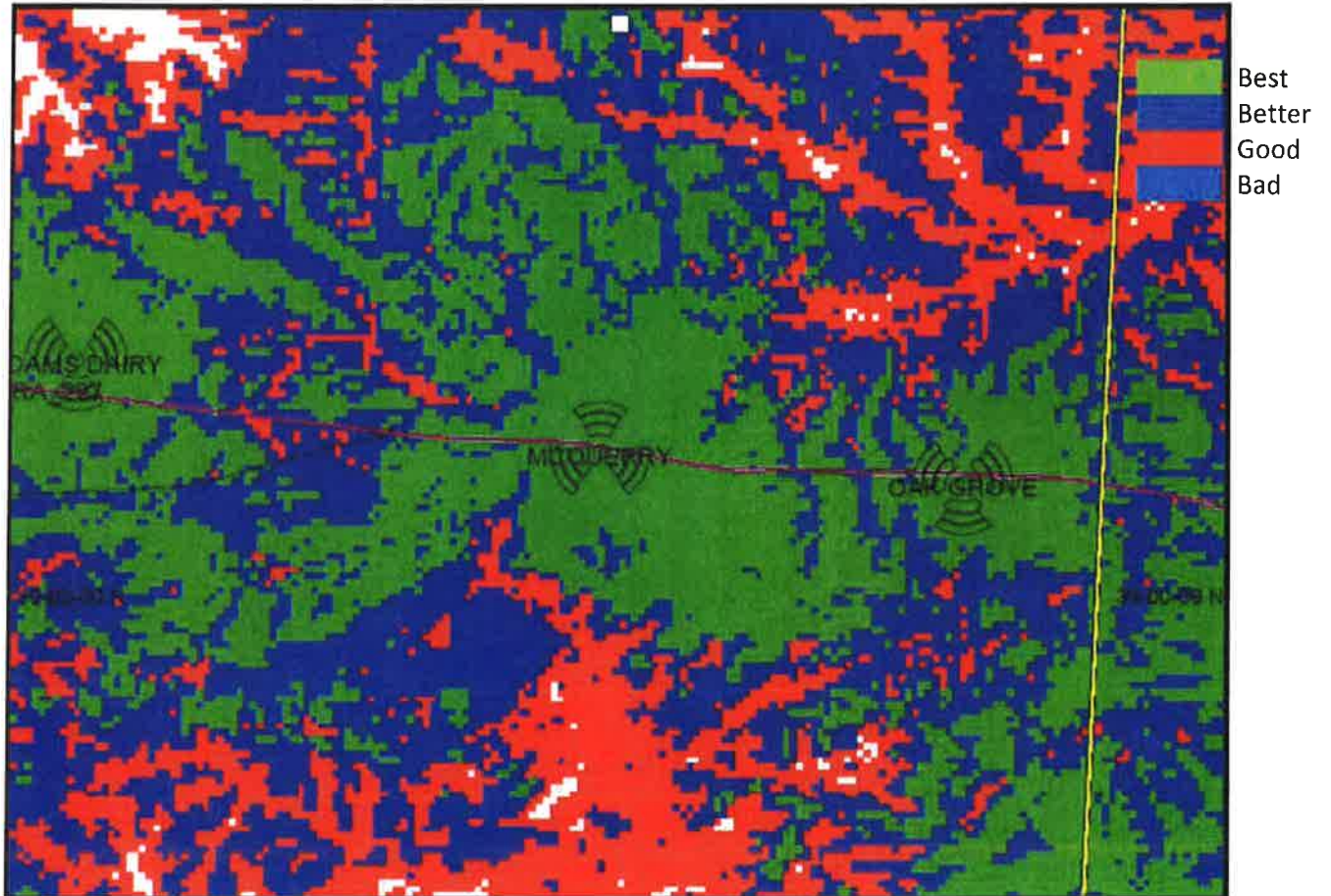
Verizon Wireless is proud to serve the Kansas City metropolitan area and we are always diligent to maintain excellent service and improvements. This time, we are trying to relocate our Grain Valley site located at 35209 E. McQuery, Grain Valley, MO 64075 to a new location called McQuery site to be located at 35202 E. M AA Highway, Oak Grove, MO 64075 because the current site rental at the existing site location is very high. Also, this relocation will improve coverage and service reliability around the site including but not limited to along I70, west towards Grain Valley and east towards Oak Grove. The map below shows the existing coverage using our Grain Valley site.

Map 1 – Existing Coverage



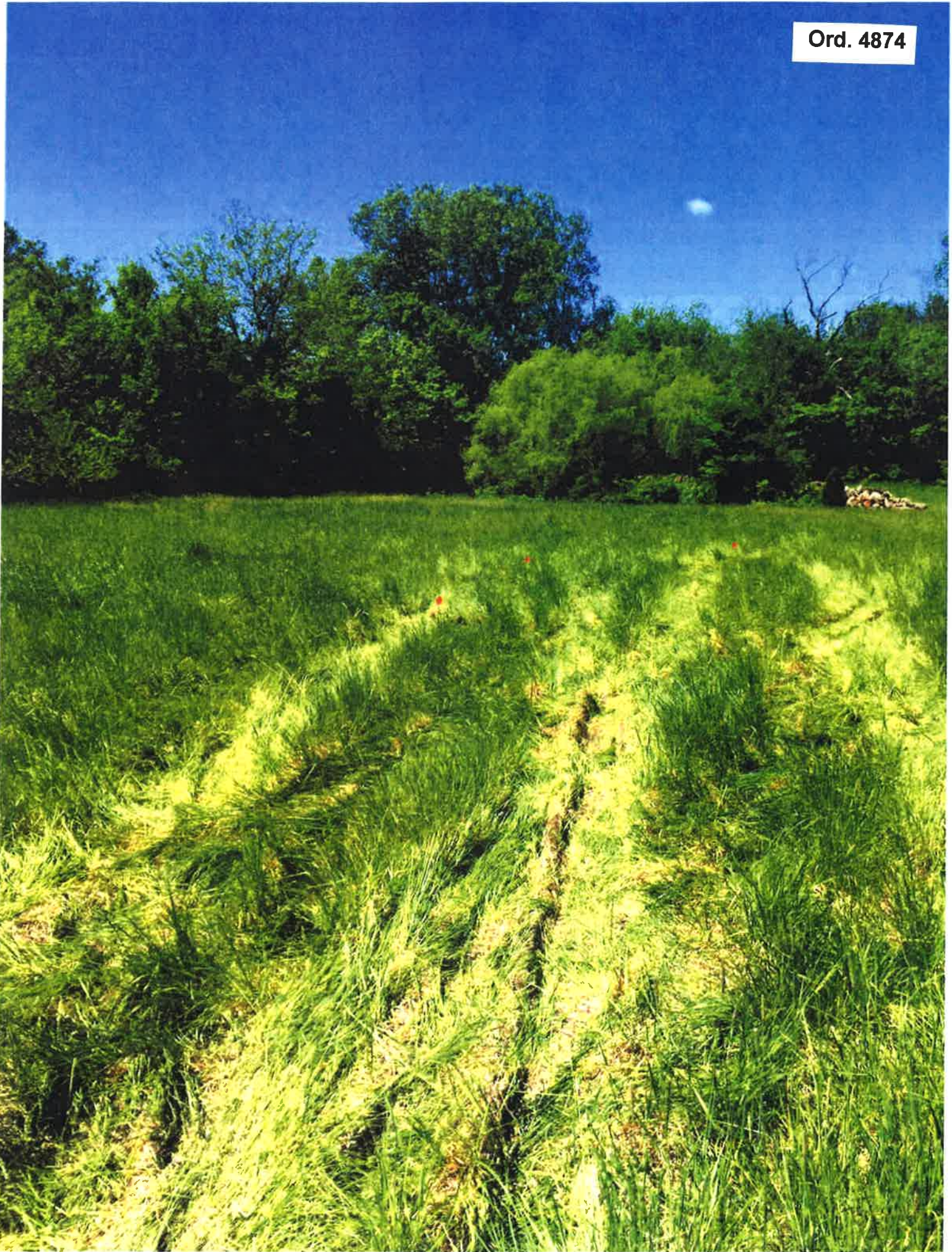
Below is map 2 showing with the proposed new site, McQuery.

Map 2 – Coverage with the new site

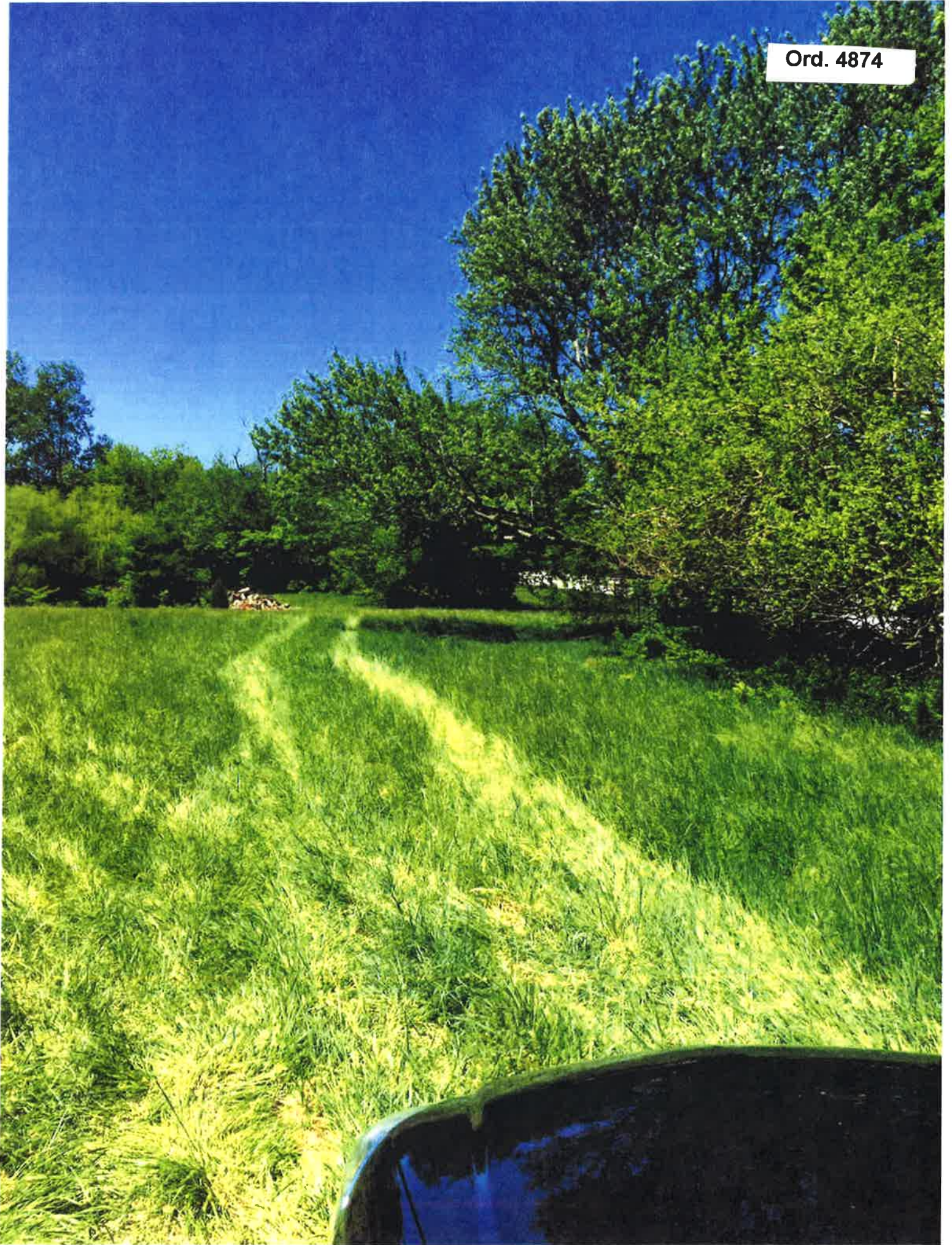




Ord. 4874



Ord. 4874



PROPOSED 3'-x2'-x2' TWFFA RATED FIBER HANDBOLE (11P)

PROPOSED 4" CONDUIT W/ (3) 1" WIREBONDS W/ FILL ROPE IN EACH WIREBOND. FIBER HANDBOLE RATED FIBER HANDBOLE AT COMPOUND TO SHELTER (APPROX. LENGTH = 20')

3" CONDUIT FOR UNDERGROUND PRIMARY POWER. W/ FILL TRENCH & CONNECT WIRING TO EXISTING TRANSFORMER AT POLE. CONTRACTOR SHALL FIELD VERIFY & ESTABLISH CONNECTION POINT WITH LOCAL UTILITY.

PROPOSED 1" WIREBOND WIRELESS EQUIPMENT (WIREBOND SHELTER V212-20-4A)

PROPOSED LEASE BOUNDARY

CENTER OF TOWER

PROPOSED 4" CONDUIT W/ (3) 1" WIREBONDS W/ FILL ROPE IN EACH WIREBOND. FIBER HANDBOLE RATED FIBER HANDBOLE AT PUBLIC ROAD TO TRAFFIC SHIELD FROM HANDHOLE AT COMPOUND (APPROX. LENGTH = 840')

PROPOSED C/A ACCESS DRAIN (APPROX. LENGTH = 430')

PROPOSED C/A NON-EXCLUSIVE ACCESS/UTILITY EASEMENT (APPROX. LENGTH = 641')

MISCELLANEOUS EQUIPMENT ETC. (TO BE MOVED BY OWNER)

PROPOSED 30" NON-EXCLUSIVE UTILITY EASEMENT (APPROX. LENGTH = 280')

VERTIZON

SSC

283200

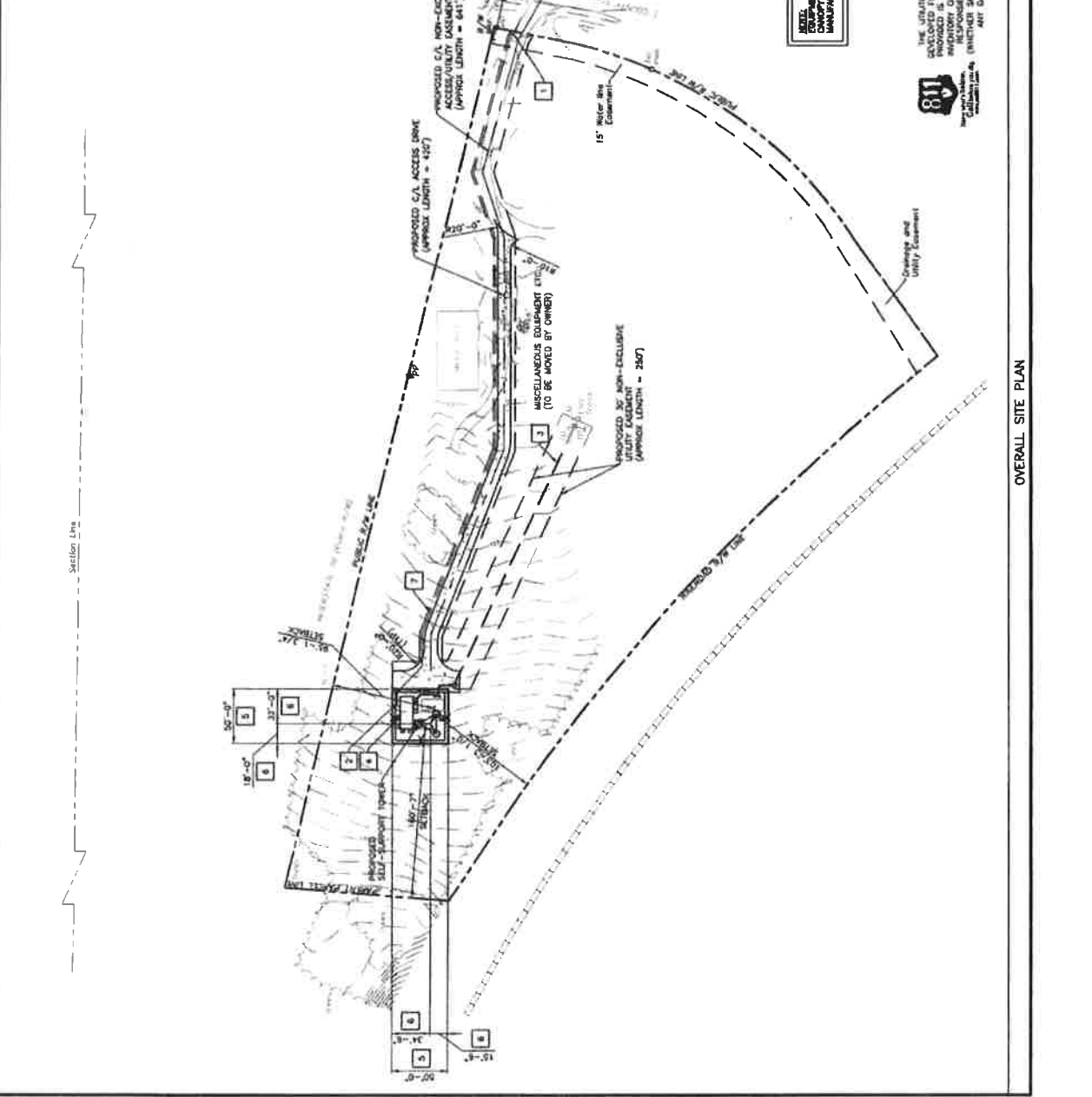
KCYC McQUERRY

283200

3801 L. COLDUS 40 HWY
UNION GROVE, MISSOURI
64487

OVERALL SITE PLAN

A-1



- 1 PROPOSED 3'-x2'-x2' TWFFA RATED FIBER HANDBOLE (11P)
- 2 PROPOSED 4" CONDUIT W/ (3) 1" WIREBONDS W/ FILL ROPE IN EACH WIREBOND. FIBER HANDBOLE RATED FIBER HANDBOLE AT COMPOUND TO SHELTER (APPROX. LENGTH = 20')
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- 10 MISCELLANEOUS EQUIPMENT ETC. (TO BE MOVED BY OWNER)
- 11 PROPOSED 30" NON-EXCLUSIVE UTILITY EASEMENT (APPROX. LENGTH = 280')

Section Line

15' x 15' Concrete Pad

PROPOSED 15' x 15' CONCRETE PAD

PROPOSED 15' x 15' CONCRETE PAD

PROPOSED 15' x 15' CONCRETE PAD

PROPOSED 15' x 15' CONCRETE PAD

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PROPOSED 15' x 15' CONCRETE PAD

PROPOSED 15' x 15' CONCRETE PAD

THE UTILITIES AS SHOWN ON THIS SET OF DRAWINGS WERE LOCATED BY THE CONTRACTOR. THE CONTRACTOR HAS PROVIDED IS NOT WARRANTEED NOR INTENDED TO BE THE COMPLETE RESPONSIBILITY OF UTILITIES IN THIS AREA. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES (UNDEGROUND AND ABOVE GROUND) PRIOR TO ANY CONSTRUCTION. ANY DAMAGE CAUSED BY CONTRACTOR'S ACTIVITIES.

811

NOTE: EQUIPMENT PLATFORMS AND TOWER SHALL BE MANUFACTURED BY OTHERS

OVERALL SITE PLAN

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 650
97TH GENERAL ASSEMBLY
2014

5012S.03T

AN ACT

To repeal sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, and 67.5103, RSMo, and to enact in lieu thereof eight new sections relating to wireless communications infrastructure deployment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 2 67.5102, and 67.5103, RSMo, are repealed and eight new sections enacted in lieu 3 thereof, to be known as sections 67.5090, 67.5092, 67.5094, 67.5096, 67.5098, 4 67.5100, 67.5102, and 67.5103, to read as follows:

67.5090. Sections 67.5090 to [67.5102] **67.5103** shall be known and may 2 be cited as the "Uniform Wireless Communications Infrastructure Deployment 3 Act" and is intended to encourage and streamline the deployment of **broadcast** 4 **and** broadband facilities and to help ensure that robust wireless **radio based** 5 communication services are available throughout Missouri.

67.5092. As used in sections 67.5090 to [67.5102] **67.5103**, the following 2 terms mean:

3 (1) "Accessory equipment", any equipment serving or being used in 4 conjunction with a wireless **communications** facility or wireless support 5 structure. The term includes utility or transmission equipment, power supplies, 6 generators, batteries, cables, equipment buildings, cabinets and storage sheds, 7 shelters, or similar structures;

8 (2) "Antenna", communications equipment that transmits or receives 9 electromagnetic radio signals used in the provision of any type of wireless 10 communications services;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 (3) "Applicant", any person engaged in the business of providing wireless
12 communications services or the wireless communications infrastructure required
13 for wireless communications services who submits an application;

14 (4) "Application", a request submitted by an applicant to an authority to
15 construct a new wireless support structure, for the substantial modification of a
16 wireless support structure, or for collocation of a wireless facility or replacement
17 of a wireless facility on an existing structure;

18 (5) "Authority", each state, county, and municipal governing body, board,
19 agency, office, or commission authorized by law and acting in its capacity to make
20 legislative, quasi-judicial, or administrative decisions relative to zoning or
21 building permit review of an application. The term shall not include state courts
22 having jurisdiction over land use, planning, or zoning decisions made by an
23 authority;

24 (6) "Base station", a station at a specific site authorized to communicate
25 with mobile stations, generally consisting of radio transceivers, antennas, coaxial
26 cables, power supplies, and other associated electronics, and includes a structure
27 that currently supports or houses an antenna, a transceiver, coaxial cables, power
28 supplies, or other associated equipment;

29 (7) "Building permit", a permit issued by an authority prior to
30 commencement of work on the collocation of wireless facilities on an existing
31 structure, the substantial modification of a wireless support structure, or the
32 commencement of construction of any new wireless support structure, solely to
33 ensure that the work to be performed by the applicant satisfies the applicable
34 building code;

35 (8) "Collocation", the placement or installation of a new wireless facility
36 on [existing structure] **a structure that already has an existing wireless**
37 **facility**, including electrical transmission towers, water towers, buildings, and
38 other structures capable of structurally supporting the attachment of wireless
39 facilities in compliance with applicable codes;

40 (9) "Electrical transmission tower", an electrical transmission structure
41 used to support high voltage overhead power lines. The term shall not include
42 any utility pole;

43 (10) "Equipment compound", an area surrounding or near a wireless
44 support structure within which are located wireless facilities;

45 (11) "Existing structure", a structure that exists at the time a request to
46 place wireless facilities on a structure is filed with an authority. The term

47 includes any structure that is capable of supporting the attachment of wireless
48 facilities in compliance with applicable building codes, National Electric Safety
49 Codes, and recognized industry standards for structural safety, capacity,
50 reliability, and engineering, including, but not limited to, towers, buildings, and
51 water towers. The term shall not include any utility pole;

52 (12) "Replacement", includes constructing a new wireless support
53 structure of equal proportions and of equal height or such other height that would
54 not constitute a substantial modification to an existing structure in order to
55 support wireless facilities or to accommodate collocation and includes the
56 associated removal of the preexisting wireless facilities or wireless support
57 structure;

58 (13) "Substantial modification", the mounting of a proposed wireless
59 facility on a wireless support structure which, as applied to the structure as it
60 was originally constructed:

61 (a) Increases the existing vertical height of the structure by:

62 a. More than ten percent; or

63 b. The height of one additional antenna array with separation from the
64 nearest existing antenna not to exceed twenty feet, whichever is greater; or

65 (b) Involves adding an appurtenance to the body of a wireless support
66 structure that protrudes horizontally from the edge of the wireless support
67 structure more than twenty feet or more than the width of the wireless support
68 structure at the level of the appurtenance, whichever is greater (except where
69 necessary to shelter the antenna from inclement weather or to connect the
70 antenna to the tower via cable);

71 (c) Involves the installation of more than the standard number of new
72 outdoor equipment cabinets for the technology involved, not to exceed four new
73 equipment cabinets; or

74 (d) Increases the square footage of the existing equipment compound by
75 more than [two thousand five hundred] **one thousand two hundred fifty**
76 square feet;

77 (14) "Utility", any person, corporation, county, municipality acting in its
78 capacity as a utility, municipal utility board, or other entity, or department
79 thereof or entity related thereto, providing retail or wholesale electric, natural
80 gas, water, waste water, data, cable television, or telecommunications or internet
81 protocol-related services;

82 (15) "Utility pole", a structure owned or operated by a utility that is

83 designed specifically for and used to carry lines, cables, or wires for telephony,
84 cable television, or electricity, or to provide lighting;

85 (16) "Water tower", a water storage tank, or a standpipe or an elevated
86 tank situated on a support structure, originally constructed for use as a reservoir
87 or facility to store or deliver water;

88 (17) **"Wireless communications service", includes the wireless**
89 **facilities of all services licensed to use radio communications pursuant**
90 **to Section 301 of the Communications Act of 1934, 47 U.S.C. § 301;**

91 (18) "Wireless facility", the set of equipment and network components,
92 exclusive of the underlying wireless support structure, including, but not limited
93 to, antennas, accessory equipment, transmitters, receivers, power supplies,
94 cabling and associated equipment necessary to provide wireless communications
95 services;

96 [(18)] (19) "Wireless support structure", a structure, such as a monopole,
97 tower, or building capable of supporting wireless facilities. This definition does
98 not include utility poles.

67.5094. In order to ensure uniformity across the state of Missouri with
2 respect to the consideration of every application, an authority shall not:

3 (1) Require an applicant to submit information about, or evaluate an
4 applicant's business decisions with respect to its designed service, customer
5 demand for service, or quality of its service to or from a particular area or site;

6 (2) Evaluate an application based on the availability of other potential
7 locations for the placement of wireless support structures or wireless facilities,
8 including without limitation the option to collocate instead of construct a new
9 wireless support structure or for substantial modifications of a support structure,
10 or vice versa; provided, however, that solely with respect to an application for a
11 new wireless support structure, an authority may require an applicant to state
12 in [its] **such applicant's** application that it conducted an analysis of available
13 **[collection] collocation** opportunities on existing wireless towers within the
14 same search ring defined by the applicant, solely for the purpose of confirming
15 that an applicant undertook such an analysis; **For collocation to any**
16 **certified historic structure as defined in section 253.545, in addition to**
17 **all other applicable time requirements, there shall be a thirty day time**
18 **period before approval of an application. During such time period, an**
19 **authority shall hold one or more public hearings on collocation to a**
20 **certified historic structure.**

21 (3) Dictate the type of wireless facilities, infrastructure or technology to
22 be used by the applicant, including, but not limited to, requiring an applicant to
23 construct a distributed antenna system in lieu of constructing a new wireless
24 support structure;

25 (4) Require the removal of existing wireless support structures or wireless
26 facilities, wherever located, as a condition for approval of an application;

27 (5) With respect to radio frequency emissions, impose environmental
28 testing, sampling, or monitoring requirements or other compliance measures on
29 wireless facilities that are categorically excluded under the Federal
30 Communication Commission's rules for radio frequency emissions under 47 CFR
31 1.1307(b)(1) or other applicable federal law, as the same may be amended or
32 supplemented;

33 (6) Establish or enforce regulations or procedures for RF signal strength
34 or the adequacy of service quality;

35 (7) **Establish or enforce regulations or procedures for**
36 **environmental safety for any wireless communications facility that is**
37 **inconsistent with or in excess of those required by OET Bulletin 65,**
38 **entitled Evaluating Compliance with FCC Guidelines for Human**
39 **Exposure to Radio Frequency Electromagnetic Fields, Edition 97-01,**
40 **released August, 1997, and Supplement A: Additional Information for**
41 **Radio and Television Broadcast Stations;**

42 (8) In conformance with 47 U.S.C. Section 332(c)(7)(b)(4), reject an
43 application, in whole or in part, based on perceived or alleged environmental
44 effects of radio frequency emissions;

45 [(8)] (9) Impose any restrictions with respect to objects in navigable
46 airspace that are greater than or in conflict with the restrictions imposed by the
47 Federal Aviation Administration;

48 [(9)] (10) Prohibit the placement of emergency power systems that
49 comply with federal and state environmental requirements;

50 [(10)] (11) Charge an application fee, consulting fee, or other fee
51 associated with the submission, review, processing, and approval of an application
52 that is not required for similar types of commercial development within the
53 authority's jurisdiction. Fees imposed by an authority for or directly by a
54 third-party entity providing review or technical consultation to the authority
55 must be based on actual, direct, and reasonable administrative costs incurred for
56 the review, processing, and approval of an application. Except when mutually

57 agreeable to the applicant and the authority, total charges and fees shall not
58 exceed five hundred dollars for a collocation application or one thousand five
59 hundred dollars for an application for a new wireless support structure or for a
60 substantial modification of a wireless support structure. Notwithstanding the
61 foregoing, in no event shall an authority or any third-party entity include within
62 its charges any travel expenses incurred in a third-party's review of an
63 application and in no event shall an applicant be required to pay or reimburse an
64 authority for consultation or other third-party fees based on a contingency or
65 result-based arrangement;

66 ~~[(11)]~~ **(12)** Impose surety requirements, including bonds, escrow deposits,
67 letters of credit, or any other type of financial surety, to ensure that abandoned
68 or unused facilities can be removed unless the authority imposes similar
69 requirements on other permits for other types of commercial development or land
70 uses;

71 ~~[(12)]~~ **(13)** Condition the approval of an application on the applicant's
72 agreement to provide space on or near the wireless support structure for
73 authority or local governmental services at less than the market rate for space
74 or to provide other services via the structure or facilities at less than the market
75 rate for such services;

76 ~~[(13)]~~ **(14)** Limit the duration of the approval of an application;

77 ~~[(14)]~~ **(15)** Discriminate or create a preference on the basis of the
78 ownership, including ownership by the authority, of any property, structure, or
79 tower when promulgating rules or procedures for siting wireless facilities or for
80 evaluating applications;

81 ~~[(15)]~~ **(16)** Impose any requirements or obligations regarding the
82 presentation or appearance of facilities, including, but not limited to, those
83 relating to the kind or type of materials used and those relating to arranging,
84 screening, or landscaping of facilities if such regulations or obligations are
85 unreasonable;

86 ~~[(16)]~~ **(17)** Impose any requirements that an applicant purchase,
87 subscribe to, use, or employ facilities, networks, or services owned, provided, or
88 operated by an authority, in whole or in part, or by any entity in which an
89 authority has a competitive, economic, financial, governance, or other interest;

90 ~~[(17)]~~ **(18)** Condition the approval of an application on, or otherwise
91 require, the applicant's agreement to indemnify or insure the authority in
92 connection with the authority's exercise of its police power-based regulations; or

93 [(18)] (19) Condition or require the approval of an application based on
94 the applicant's agreement to permit any wireless facilities provided or operated,
95 in whole or in part, by an authority or by any entity in which an authority has
96 a competitive, economic, financial, governance, or other interest, to be placed at
97 or collocated with the applicant's wireless support structure.

67.5096. 1. Authorities may continue to exercise zoning, land use,
2 planning, and permitting authority within their territorial boundaries with
3 regard to the siting of new wireless support structures, subject to the provisions
4 of sections 67.5090 to 67.5103, including without limitation section 67.5094, and
5 subject to federal law.

6 2. Any applicant that proposes to construct a new wireless support
7 structure within the jurisdiction of any authority, planning or otherwise, that has
8 adopted planning and zoning regulations in accordance with sections 67.5090 to
9 67.5103 shall:

10 (1) Submit the necessary copies and attachments of the application to the
11 appropriate authority. Each application shall include a copy of a lease, letter of
12 authorization or other agreement from the property owner evidencing applicant's
13 right to pursue the application; and

14 (2) Comply with applicable local ordinances concerning land use and the
15 appropriate permitting processes.

16 3. Disclosure of records in the possession or custody of authority
17 personnel, including but not limited to documents and electronic data, shall be
18 subject to chapter 610.

19 4. The authority, within one hundred twenty calendar days of receiving
20 an application to construct a new wireless support structure or within such
21 additional time as may be mutually agreed to by an applicant and an authority,
22 shall:

23 (1) Review the application in light of its conformity with applicable local
24 zoning regulations. An application is deemed to be complete unless the authority
25 notifies the applicant in writing, within thirty calendar days of submission of the
26 application, of the specific deficiencies in the application which, if cured, would
27 make the application complete. Upon receipt of a timely written notice that an
28 application is deficient, an applicant may take thirty calendar days from receiving
29 such notice to cure the specific deficiencies. If the applicant cures the deficiencies
30 within thirty calendar days, the application shall be reviewed and processed
31 within one hundred twenty calendar days from the initial date the application

32 was received. If the applicant requires a period of time beyond thirty calendar
33 days to cure the specific deficiencies, the one hundred twenty calendar days'
34 deadline for review shall be extended by the same period of time;

35 (2) Make its final decision to approve or disapprove the application; and

36 (3) Advise the applicant in writing of its final decision.

37 5. If the authority fails to act on an application to construct a new
38 wireless support structure within the one hundred twenty calendar days' review
39 period specified under subsection 4 of this section or within such additional time
40 as may be mutually agreed to by an applicant and an authority, the application
41 shall be deemed approved.

42 6. A party aggrieved by the final action of an authority, either by its
43 affirmatively denying an application under the provisions of this section or by its
44 inaction, may bring an action for review in any court of competent jurisdiction
45 **within this state.**

67.5098. 1. Authorities may continue to exercise zoning, land use,
2 planning, and permitting authority within their territorial boundaries with
3 regard to applications for substantial modifications of wireless support structures,
4 subject to the provisions of sections 67.5090 to 67.5103, including without
5 limitation section 67.5094, and subject to federal law.

6 2. Any applicant that applies for a substantial modification of a wireless
7 support structure within the jurisdiction of any authority, planning or otherwise,
8 that has adopted planning and zoning regulations in accordance with sections
9 67.5090 to 67.5103 shall:

10 (1) Submit the necessary copies and attachments of the application to the
11 appropriate authority. Each application shall include a copy of a lease, letter of
12 authorization or other agreement from the property owner evidencing applicant's
13 right to pursue the application; and

14 (2) Comply with applicable local ordinances concerning land use and the
15 appropriate permitting processes.

16 3. Disclosure of records in the possession or custody of authority
17 personnel, including but not limited to documents and electronic data, shall be
18 subject to chapter 610.

19 4. The authority, within [ninety] **one hundred twenty** calendar days of
20 receiving an application for a substantial modification of wireless support
21 structures, shall:

22 (1) Review the application in light of its conformity with applicable local

23 zoning regulations. An application is deemed to be complete unless the authority
24 notifies the applicant in writing, within thirty calendar days of submission of the
25 application, of the specific deficiencies in the application which, if cured, would
26 make the application complete. Upon receipt of a timely written notice that an
27 application is deficient, an applicant may take thirty calendar days from receiving
28 such notice to cure the specific deficiencies. If the applicant cures the deficiencies
29 within thirty calendar days, the application shall be reviewed and processed
30 within ninety calendar days from the initial date the application was received. If
31 the applicant requires a period of time beyond thirty calendar days to cure the
32 specific deficiencies, the ninety calendar days' deadline for review shall be
33 extended by the same period of time;

34 (2) Make its final decision to approve or disapprove the application; and

35 (3) Advise the applicant in writing of its final decision.

36 5. If the authority fails to act on an application for a substantial
37 modification within the ninety calendar days' review period specified under
38 subsection 4 of this section, or within such additional time as may be mutually
39 agreed to by an applicant and an authority, the application for a substantial
40 modification shall be deemed approved.

41 6. A party aggrieved by the final action of an authority, either by its
42 affirmatively denying an application under the provisions of this section or by its
43 inaction, may bring an action for review in any court of competent jurisdiction
44 **within this state.**

67.5100. 1. Subject to the provisions of sections 67.5090 to 67.5103,
2 including section 67.5094, collocation applications and applications for
3 replacement of wireless facilities shall be reviewed for conformance with
4 applicable building permit requirements, National Electric Safety Codes, and
5 recognized industry standards for structural safety, capacity, reliability, and
6 engineering, but shall not otherwise be subject to zoning or land use
7 requirements, including design or placement requirements, or public hearing
8 review.

9 2. The authority, within forty-five calendar days of receiving a collocation
10 application or application for replacement of wireless facilities, shall:

11 (1) Review the collocation application or application to replace wireless
12 facilities in light of its conformity with applicable building permit requirements
13 and consistency with sections 67.5090 to 67.5103. A collocation application or
14 application to replace wireless facilities is deemed to be complete unless the

15 authority notifies the applicant in writing, within fifteen calendar days of
16 submission of the application, of the specific deficiencies in the application which,
17 if cured, would make the application complete. Each collocation application or
18 application to replace wireless facilities shall include a copy of a lease, letter of
19 authorization or other agreement from the property owner evidencing applicant's
20 right to pursue the application. Upon receipt of a timely written notice that a
21 collocation application or application to replace wireless facilities is deficient, an
22 applicant may take fifteen calendar days from receiving such notice to cure the
23 specific deficiencies. If the applicant cures the deficiencies within fifteen calendar
24 days, the application shall be reviewed and processed within forty-five calendar
25 days from the initial date the application was received. If the applicant requires
26 a period of time beyond fifteen calendar days to cure the specific deficiencies, the
27 forty-five calendar days' deadline for review shall be extended by the same period
28 of time;

29 (2) Make its final decision to approve or disapprove the collocation
30 application or application for replacement of wireless facilities; and

31 (3) Advise the applicant in writing of its final decision.

32 3. If the authority fails to act on a collocation application or application
33 to replace wireless facilities within the forty-five calendar days' review period
34 specified in subsection 2 of this section, the application shall be deemed approved.

35 4. The provisions of sections 67.5090 to 67.5103 shall not:

36 (1) Authorize an authority, except when acting solely in its capacity as a
37 utility, to mandate, require, or regulate the placement, modification, or collocation
38 of any new wireless facility on new, existing, or replacement poles owned or
39 operated by a utility;

40 (2) Expand the power of an authority to regulate any utility; or

41 (3) Restrict any utility's rights or authority, or negate any utility's
42 agreement, regarding requested access to, or the rates and terms applicable to
43 placement of any wireless facility on new, existing, or replacement poles,
44 structures, or existing structures owned or operated by a utility.

45 5. A party aggrieved by the final action of an authority, either by its
46 affirmatively denying an application under the provisions of this section or by its
47 inaction, may bring an action for review in any court of competent jurisdiction
48 **within this state.**

67.5102. In accordance with the policies of this state to further the
2 deployment of wireless communications infrastructure:

3 (1) An authority may not institute any moratorium on the permitting,
4 construction, or issuance of approval of new wireless support structures,
5 substantial modifications of wireless support structures, or collocations if such
6 moratorium exceeds six months in length and if the legislative act establishing
7 it fails to state reasonable grounds and good cause for such moratorium. No such
8 moratorium shall affect an already pending application;

9 (2) To encourage applicants to request construction of new wireless
10 support structures on public lands and to increase local revenues:

11 (a) An authority may not charge a wireless service provider or wireless
12 infrastructure provider any rental, license, or other fee to locate a wireless
13 **facility or wireless** support structure on an authority's property in excess of the
14 current market rates for rental or use of similarly situated property. If the
15 applicant and the authority do not agree on the applicable market rate for any
16 such public land and cannot agree on a process by which to derive the applicable
17 market rate for any such public land, then the market rate will be determined by
18 a [panel of three certified appraisers] **state-certified general real estate**
19 **appraiser** licensed under chapter 339[, using the following process. Each party
20 will appoint one certified appraiser to the panel, and the two certified appraisers
21 so appointed will appoint a third certified appraiser. Each appraiser will
22 independently appraise the appropriate lease rate, and the market rate shall be
23 set at the mid-point between the highest and lowest market rates among the
24 three independent appraisals, provided the mid-point between the highest and
25 lowest appraisals is greater than or less than ten percent of the appraisal of the
26 third appraiser chosen by the parties' appointed appraisers. In such case, the
27 third appraisal will determine the rate for the lease] **mutually agreed upon by**
28 **the parties at the applicant's cost.** The appraisal process shall be concluded
29 within ninety calendar days from the date the applicant first tenders its proposed
30 lease rate to the authority. [Each party will bear the cost of its own appointed
31 appraiser, and the parties shall share equally the cost of the third appraiser
32 chosen by the two appointed appraisers.] **In the event either party is**
33 **dissatisfied with the value determined by the appraiser, such party may**
34 **bring an action for review in any court of competent jurisdiction. The**
35 **court shall rule on any such petition for review in an expedited**
36 **manner.** Nothing in this paragraph shall bar an applicant and an authority
37 from agreeing to reasonable, periodic reviews and adjustments of current market
38 rates during the term of a lease or contract to use an authority's property; and

39 (b) An authority may not offer a lease or contract to use public lands to
40 locate a wireless support structure on an authority's property that is less than
41 fifteen years in duration unless the applicant agrees to accept a lease or contract
42 of less than fifteen years in duration;

43 (3) Nothing in subdivision (2) of this section is intended to limit an
44 authority's lawful exercise of zoning, land use, or planning and permitting
45 authority with respect to applications for new wireless support structures on an
46 authority's property under subsection 1 of section 67.5096.

67.5103. Notwithstanding any provision of sections 67.5090 to [67.5102]
2 **67.5103**, nothing herein shall provide any applicant the power of eminent domain
3 or the right to compel any private or public property owner, the department of
4 conservation, the department of natural resources, or the state highways and
5 transportation commission to:

6 (1) Lease or sell property for the construction of a new wireless support
7 structure; or

8 (2) Locate or cause the collocation or expansion of a wireless facility on
9 any existing structure or wireless support structure.

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