

REQUEST FOR LEGISLATIVE ACTION

Version 6/10/19

Completed by County Counselor's Office:

Res/Ord No.: **5484**

Sponsor(s): **N/A**

Date: **February 8, 2021**

SUBJECT	Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance Project/Title: <u>Conditional Use Permit – Midwest Internet Technologies CU-2021-234</u>										
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" style="width: 100%;"> <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></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:</td> <td style="text-align: right;">\$</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:	\$
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Source of funding (name of fund) and account code number:	\$										
PRIOR LEGISLATION	Prior ordinances and (date): _____ Prior resolutions and (date): _____										
CONTACT INFORMATION	RLA drafted by Randy Diehl, Administrator, Development Division, 881-4577										
REQUEST SUMMARY	Requesting a renewal of a Conditional Use Permit in District LI (Light Industrial) for a period of 15 years for an above ground tower for high speed internet at 3325 W 40 Highway (Eastbound) Jackson County, Missouri, aka Lot 36, Wood Chapel and 40, and specifically described on Attachment 1. The Jackson County Plan Commission on January 21, 2021 held a public hearing and accepted testimony pertaining to the Conditional Use Permit. This request conforms to the general intent and purpose of the Unified Development Code. Therefore, the Plan Commission voted 5 to 0 to recommend <u>APPROVAL</u> for a 15 year period provided the following conditions are met. (Attachment 3-List of Conditions).										
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)										
COMPLIANCE	<input type="checkbox"/> MBE Goals <input type="checkbox"/> WBE Goals <input type="checkbox"/> VBE Goals										
ATTACHMENTS	Attachment 1: Property Description. Attachment 2: Zoning Support Documents. Attachment 3: List of Conditions										
REVIEW	<table border="1" style="width: 100%;"> <tr> <td>Department Director: Brian D. Gaddie, P.E. Director of Public Works</td> <td>Date:</td> </tr> <tr> <td>Finance (Budget Approval): <i>If applicable</i></td> <td>Date:</td> </tr> <tr> <td>Division Manager: <i>Cory M. Schutte</i></td> <td>Date: 2-1-2021</td> </tr> <tr> <td>County Counselor's Office: <i>Bryan Ginnig</i></td> <td>Date: 2/2/2021</td> </tr> </table>	Department Director: Brian D. Gaddie, P.E. Director of Public Works	Date:	Finance (Budget Approval): <i>If applicable</i>	Date:	Division Manager: <i>Cory M. Schutte</i>	Date: 2-1-2021	County Counselor's Office: <i>Bryan Ginnig</i>	Date: 2/2/2021		
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County Counselor's Office: <i>Bryan Ginnig</i>	Date: 2/2/2021										

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.

CU-2021-234

ATTACHMENT 1: PROPERTY DESCRIPTION

Description:

Lot 36, Wood Chapel and 40, a subdivision in Jackson County, Missouri

CU-2021-234

ATTACHMENT 2: ZONING SUPPORT DOCUMENTS

Attachments

Plan Commission Public Hearing Summary from January 21, 2021

Staff Report

Location Map

Map showing current zoning district in area

Staff Report

Names/Addresses of Surrounding Property Owners

Copy of letter to said property owners

Application

Pictures of Property

Copy of Ordinance 3091

Randy Diehl gave the staff report:

RE: CU-2021-234

Applicant: Midwest Internet Technologies

Location: 3325 W 40 Highway (Eastbound)

Request: Renewal of a Conditional Use Permit for an above ground tower for high speed internet.

Current Land Use and Zoning in the Area:

This is the first renewal for this Conditional Use Permit. The initial Permit was granted for a by Ordinance 3091 on December 20, 2000 for a period of 20 years.

The Unified Development Code, Section 24005.20 entitled Telecommunication Tower and Antennas provides guidelines for the location and development of commercial towers. A Conditional Use Permit is required of a commercial antenna in District LI when the above ground height exceeds 60 feet. The applicant was granted a permit for an 88 foot tower.

The structure is owned by the applicant and provides high speed internet serviced to Eastern Jackson County.

The applicant would like to renew the permit for an additional 15 years.

Recommendation:

Staff recommends APPROVAL of CU-2021-234 for a fifteen (15) year period provided the following conditions are met:

1. The tower shall not exceed 88 feet.
2. The tower shall be a galvanized finish or painted gray of light blue unless other standards are required by the Federal Aviation Agency.
3. The tower shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Agency.
4. If the antenna or tower is not operated for a continuous period of twelve (12) months then it 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,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Mr. Antey: Are there any questions for Randy?

Mr. Antey: Why are they asking for 15 years when the original was for 20 years?

Mr. Diehl: I'll let the applicant ask that.

Mr. Antey: Is the applicant here?

Tom Willoughby: 34707 E Benson Road.

Mr. Antey: Do you have anything to add to the report?

Mr. Willoughby: No.

Mr. Antey: Why the 15 years?

Mr. Willoughby: At some other point in time we may switch to a different type of service due to advancement of technology.

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. Hilliard moved to take under advisement. Mr. Tarpley seconded.

Discussion under advisement

Mr. Tarpley moved to approve. Mr. Crawford seconded.

Mr. Tarpley	Approve
Mr. Crawford	Approve
Mr. Hilliard	Approve
Ms. Mershon	Approve
Chairman Antey	Approve

Motion Carried 5 – 0

STAFF REPORT

PLAN COMMISSION

January 21, 2021

RE: CU-2021-234

Applicant: Midwest Internet Technologies

Location: 3325 W 40 Highway (Eastbound)

Request: Renewal of a Conditional Use Permit for an above ground tower for high speed internet.

Current Land Use and Zoning in the Area:

This is the first renewal for this Conditional Use Permit. The initial Permit was granted for a by Ordinance 3091 on December 20, 2000 for a period of 20 years.

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Recommendation:

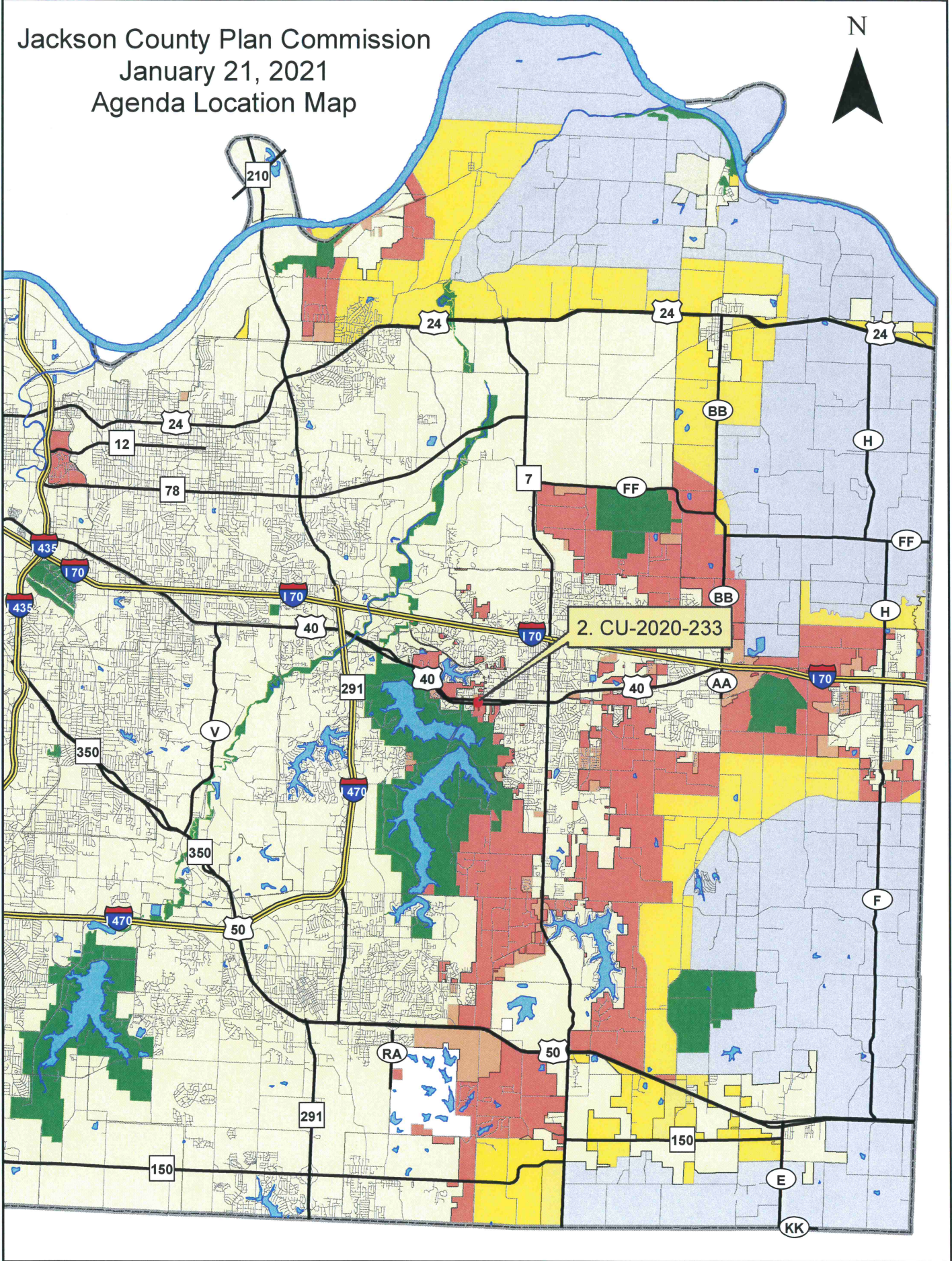
Staff recommends APPROVAL of CU-2021-234 for a fifteen (15) year period provided the following conditions are met:

1. The tower shall not exceed 88 feet.
2. The tower shall be a galvanized finish or painted gray of light blue unless other standards are required by the Federal Aviation Agency.
3. The tower shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Agency.
4. If the antenna or tower is not operated for a continuous period of twelve (12) months then it 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,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Jackson County Plan Commission
January 21, 2021
Agenda Location Map



2. CU-2020-233

Plan Commission January 21, 2021
 CU-2021-234

Property Owners Within 185 feet

Name	Name	Address	CITY	STATE	ZIP
42-210-03-09-00-0-00-000	PASQUALE MICHAEL R & KIMBERLY S	26515 E BUNDSCHU RD	INDEPENDENCE	MO	64056
42-210-02-02-00-0-00-000	HANSON STEVEN D & GRAY SEAN M	1219 N SPRING	INDEPENDENCE	MO	64050
42-210-02-01-00-0-00-000	CHAPEL HILL PRESBYTERIAN CHURCH	3108 W US 40 HWY	BLUE SPRINGS	MO	64015
42-210-03-12-00-0-00-000	MURRAY DESTIN	3300 SW 40 HWY	BLUE SPRINGS	MO	64015
42-210-03-11-00-0-00-000	KMK PROPERTIES LL	8555 W 172ND TER	STILWELL	KS	66085
42-210-03-13-00-0-00-000	WYBAR VIRGIL W & SHIRLEY M &	2200 NW 4TH ST	BLUE SPRINGS	MO	64014
42-210-02-12-00-0-00-000	NC LANNERT CONSTRUCTION LLC	3355 SW US 40 HWY	BLUE SPRINGS	MO	64015
42-210-02-11-00-0-00-000	SCHUGART JEFF	13918 BOND ST	OVERLAND PARK	KS	66221
42-210-02-14-00-0-00-000	HANSON STEVEN D & GRAY SEAN M	1219 N SPRING	INDEPENDENCE	MO	64050
42-210-02-13-00-0-00-000	WILLOUGHBY THOMAS D & VIRGINIA	PO BOX 1474	BLUE SPRINGS	MO	64013



JACKSON COUNTY Public Works Department

Jackson County Technology Center
303 West Walnut Street
Independence, Missouri 64050
jacksongov.org

(816) 881-4530
Fax: (816) 881-4448

January 6, 2021

RE: Public Hearing: CU-2021-234
Midwest Internet Technologies

Dear Property Owner:

You are hereby invited to participate in a public hearing to be held by the Jackson County Plan Commission on a request by Midwest Internet Technologies requesting a renewal of a Conditional Use Permit in District LI (Light Industrial) for a period of 15 years for an above ground tower for high speed internet at 3325 W 40 Highway (Eastbound), Jackson County, Missouri.

You are being notified pursuant to 24003.5 Chapter 240 (Unified Development Code) of the Jackson County Code, as being an adjacent property within 185' of the subject property.

The public hearing on this matter will be held by the Plan Commission on Thursday, January 21, 2021 in the Large Conference Room, 2nd Floor, Historic Truman Courthouse, 112 W. Lexington, Independence, MO.

If you know of any interested party who may not have received a copy of this letter, it would be appreciated if you would inform them of the time and place of the hearing.

If you have any questions concerning this matter, please contact the Development Division at 881-4649.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Diehl".

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Frank White, Jr., County Executive

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- 2021-
Date filed 12-14-20 Date of hearing 1-21-21
Date advertised 1-6-21 Date property owners notified 1-6-21
Date signs posted 1-6-21
Hearings: Heard by PC Date _____ Decision _____
Heard by LW Date _____ Decision _____
Heard by LG Date _____ Decision _____

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Owner(s):
 - a. Applicant(s) Name: Thomas Willoughby Jr - Midwest Internet Technologies
Address: PO Box 1474 Blue Springs MO 64013

Phone: 816-224-2300
 - b. Owner(s) Name: Virginia Willoughby
Address: 34707 E Benson Rd Lone Jack MO 64070
Phone: 816-295-2425
 - c. Agent(s) Name: Thomas Willoughby Jr

Address: PO Box 1474 Blue Springs MO 64013

Phone: 816-224-2300

d. Applicant's interest in Property: 100%

2. A CONDITIONAL USE PERMIT IS HEREBY REQUESTED for the following described use: 88 foot communications tower providing high speed internet for a period of 15 years; property described as follows: a tract of land .4 square feet/acres in size located at 3325 W US 40 Highway East Bound Road.

Present Zoning District Commercial

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

City unincorporated, SBD Woods Chapel & 40,
a subdivison in Jackson County, MO, LOT 36

4. Present Use of Property: Tower installation and storage building

5. Proposed Use of Property: Same as previous

6. Estimated Time Schedule for Development: NA

7. What effect will your proposed development have on the surrounding properties?
NA
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?
9. Describe the source/method which provides the following services, and what effect the development will have on same:
- a. Water NA
 - b. Sewage disposal NA
 - c. Electricity NA
 - d. Heating NA
 - e. Fire and Police protection NA
10. Describe existing road width and condition: NA
11. What effect will proposed development have on existing road and traffic conditions? NA
12. Are any state, federal, or other public agencies approvals or permits required for the proposed development? NO
If so, describe giving dates of application and status (include permit numbers and copies of same, if issued):

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) Virginia Willoughby 12-9-20

Applicant(s): Thomas Willoughby 12-09-20

Contract Purchaser(s): _____

STATE OF MO
COUNTY OF JACKSON

On this 9th day of Dec, in the year of 2020, before me the undersigned notary public, personally appeared VIRGINIA Willoughby
Thomas Willoughby
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 [Signature] Commission Expires 04/28/24



AG

CU-2021-234

SW WEST CO. INC. 40
Midwest Internet Technologies

Blue Springs

SW EASTBOUND US 40 HWY

AG

LI

LI





MFCASEWORKS

HANDMADE, CUSTOM MADE, TO ORDER

810 590 1311

2355

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE approving a conditional use permit to construct and operate an 88-ft. above-the-ground tower for the purpose of providing high-speed internet service as to a certain tract.

ORDINANCE 3091, November 6, 2000

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section 1. A conditional use permit for twenty years to construct and operate an 88-ft. above-the-ground tower for the purpose of providing high-speed internet service, under the Unified Development Code, is hereby approved as to a certain tract of land located at 3325 W. U.S. East Bound 40 Highway; and,

DESCRIPTION:

This parcel is legally described as Lot 36 in the Wood Chapel and 40 Subdivision lying in that part of the northwest quarter of the northeast quarter of Section 2, Township 48, Range 31 in Jackson County, Missouri aka 3325 W. US 40 East Bound Highway.

Section 2. The conditional use permit granted by this ordinance is subject to the following conditions:

1. The tower shall not exceed a height of 88 feet.
2. The tower and appurtenances shall be installed according to manufacturers specifications using sound engineering and safety practices.
3. The building permit application shall include detailed structural plans for the tower which are signed and sealed by a Missouri Registered Engineer.
4. A notice of Proposed Construction or Alteration of objects that may effect the Navigable Airspace must be filed with the Federal Aviation Agency (FAA). Information regarding the disposition of the FAA Notice will be submitted subsequent to application for a building permit.

5. The tower shall be a galvanized finish or painted gray or light blue unless other standards are required by the Federal Aviation Agency.
6. The tower shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Agency.
7. If the antenna or tower is not operated for a continuous period of twelve (12) months then it shall be considered abandoned and the owner of such antenna/tower or property owner shall remove the antenna or tower within 90 days.

Section 3. The Legislature, pursuant to the application of Thomas Willoughby, (CU-00-051), requesting approval embodied in this ordinance and with notice that the Jackson County Planning Commission unanimously recommended approval of this application in a public hearing on October 19, 2000, does adopt this ordinance pursuant to the Jackson County Charter authorizing the Legislature to exercise legislative power pertaining to planning and zoning.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Gay D. Hadler

Jan [Signature]
County Counselor

I hereby certify that the attached Ordinance, Ordinance #3091 introduced on November 6, 2000, was duly passed on December 19, 2000 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for her signature.

12/19/00
Date

Mary Jo Brogato
Mary Jo Brogato, Clerk of Legislature

I hereby approve the attached Ordinance #3091.

12/20/00
Date

Katheryn J. Shields
Katheryn J. Shields, County Executive

ATTACHMENT 3: LIST OF CONDITIONS

Condition Use Permit for a period of 15 (fifteen) years with the following Conditions:

1. The tower shall not exceed 88 feet.
2. The tower shall be a galvanized finish or painted gray or light blue unless other standards are required by the Federal Aviation Agency.
3. The tower shall only be illuminated as required by the Federal Communications Commission and/or the Federal Aviation Agency.
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