

MINUTES
WASHINGTON COUNTY PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS

March 7, 2013
5:00 pm, Quorum Court Room, New Court House
280 N. College Ave.
Fayetteville, Arkansas 72701

DEVELOPMENTS REVIEWED:

ACTION TAKEN:

CONDITIONAL USE PERMIT HEARINGS

Elkins

a: White River Auctions CUP (TABLED AT THE REQUEST OF THE APPLICANT)

Tabled

Fayetteville

b: Modern Mission CUP

Approved

County

c: Jackson Hwy Tower Site CUP

Approved

County

d: Summers Tower Site CUP

Approved

County

e: East Prairie Grove Tower Site CUP

Approved

1. ROLL CALL:

Roll call was taken. Members present include Robert Daugherty, Daryl Yerton, Randy Laney, Cheryl West, and Chuck Browning. Walter Jennings and Kenley Haley were not present.

2. APPROVAL OF MINUTES: *Cheryl West made a motion to approve the minutes of February 7, 2013. Daryl Yerton seconded. All board members were in favor of approving. Motion passed.*

3. APPROVAL OF THE AGENDA:

Juliet Richey, Washington County Planning Director, noted to the board that item A was tabled. They will start with item B.

Cheryl West made a motion to approve the agenda. Daryl Yerton seconded. All board members were in favor of approving. Motion passed.

4. NEW BUSINESS

Conditional Use Permit Hearings

Elkins

a. White River Auctions CUP (TABLED AT THE REQUEST OF THE APPLICANT)

Conditional Use Permit Approval Request

Location: Section 12, Township 15 North, Range 29 West

Applicant: Jada L. Guidry

Location Address: 19123 Briarfield Rd, Elkins AR, 72727
57.7 acres
Proposed Land Use: Auction
Coordinates: Longitude: 94°6'39.734"W Latitude-36°7'24.879"N
Project #: 2013-023 Planner: Juliet Richey e-mail at jrichey@co.washington.ar.us

Fayetteville

b. Modern Mission CUP

Conditional Use Permit Approval Request

Location: Section 19, Township 17 North, Range 29 West
Owner: TCB Ventures LLC, Travis Fink
Applicant: Gray Rock, LLC, Dirk Thibodaux
Location Address: 3452 E. Joyce Blvd. Fayetteville, AR 72703
10.0 acres and 1 unit (expansion) / Proposed Land Use: commercial
Coordinates: Longitude: 94°6'39.734"W Latitude-36°7'24.879"N
Project #: 2013-022 Planner: Courtney McNair e-mail at cmcnair@co.washington.ar.us

REQUEST: Conditional Use Permit approval to allow a large building to be placed for indoor laser tag play (an expansion of the outdoor laser tag play approved with project CUP 2011-011). The property is approximately 10 acres.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre). Conditional Use Permit 2011-011 for the Outdoor Laser Tag Park.

PLANNING AREA: This project is located within the City of Fayetteville's planning area.

QUORUM COURT DISTRICT: 15, Butch Pond **FIRE SERVICE AREA:** Goshen (Fayetteville also responds) **SCHOOL DISTRICT:** Springdale

INFRASTRUCTURE: Water- Fayetteville **Electric-**Ozarks Electric **Natural Gas-** SourceGas
Telephone- ATT **Cable-** Cox

BACKGROUND/ PROJECT SYNOPSIS:

The owner of this property is TCB Ventures (Travis Fink). The applicant is Gray Rock, LLC (Dirk Thibodaux). This property is just outside of the Fayetteville City Limits off of Joyce Blvd. (**see attached map B-41**)

Modern Mission CUP is requesting to expand the approved Outdoor Laser Tag CUP project (project 2011-011). The site currently has a residential structure that was approved for use as office space with CUP 2011-011 with an existing septic system, a gravel parking area, and the play field area.

The applicant is asking to add a large structure (11,680 sq ft) with parking lot improvements for use as an indoor facility for the current operations (**please see attached applicant's letter and plans for more information B-14-17**).

The applicant has stated that this addition will not increase the total number of players (10-30 were approved with 2011-011), and that no additional lighting or noise will be added. The applicant has also stated that the hours of operation will not change (generally no play past dark). All conditions placed on project CUP 2011-011 must be followed. (**See approval letter for CUP 2011-011 on page B-32-35**).

Most issues were regarding fire safety, and screening. The applicant has addressed most of these issues with the latest CUP proposal; further details can be addressed at the Preliminary Large Scale Development Phase. (see plans B-40)

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Fayetteville Water services this property. No comments were made about the water usage for this proposal. Water improvements may be required at Preliminary Large Scale Development (LSD).

The previously approved CUP 2011-011 did not require additional fire hydrants as no new buildings were constructed. As this plan proposes an additional structure, the Washington County Fire Marshal commented that all points of the building must be within 500 feet of a hydrant. Therefore, the applicant is required to add an onsite hydrant. This hydrant is shown on the plans. The applicant will be responsible for contacting the City of Fayetteville for the requirements to add this hydrant.

In addition, at Preliminary LSD, the Fire Marshal will require Architectural Plans of the building layout that will show exit lights, emergency lights, and fire extinguishers per code. They will also be required to show clear access to the building exits (maximum 75 feet travel distance). The parking and access must meet ADA requirements.

Fire lanes are required within 150 feet of all points of the building. They must support 75,000 lbs in all weather conditions.

Sewer/Septic/Decentralized Sewer:

The existing septic system was found to be adequate and the permit was approved by the Health Department on 2/12/2013 (B-30).

Electric/Gas/Cable/Phone:

ATT Telephone had no comment and no comment was received from Ozarks Electric, SourceGas, or Cox Communications. Generally, any damage or relocation of utilities will be at the expense of the owner/applicant. Additional comments may be received at the Preliminary LSD phase of this project.

Roads/Sight Visibility/Ingress-Egress/Parking:

This property takes access off WC 553, E. Joyce Blvd. Any work that is completed in the WC Right-of-Way (ROW) must be permitted prior to construction. Both drives that connect to the WC ROW must have a hard surface apron a minimum of 20 feet in depth and must meet fire code for width.

Drainage:

The Washington County Contract Engineer has no comments at this stage of the project, but will require a full drainage study at Preliminary LSD.

Environmental Concerns:

At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Signage/Lighting/Screening Concerns:

No additional outdoor lighting is proposed.

The current building that is used as a sign/entrance must be moved out of the WC ROW. It may still be used as signage as long as it remains out of the ROW. No additional signage may be placed without review.

Screening is required along the East property line (extending at a minimum from North of the building –to the Northern edge of the fire lane, and along the parking area) in order to help provide a buffer between this proposed commercial building and the adjacent residences. The screening is required to be layered (not just a line of trees, but groupings and variation) and a screening plan (written and drawn) will be required at Preliminary LSD to be approved by Planning Staff. The screening must be installed at a reasonable size (a minimum of 4 feet in height at installation) and maintained properly. These details will be required in the screening plan.

City of Fayetteville Concerns:

The City of Fayetteville submitted comments based on the 2/1/2013 submittal of this project. The applicant has made revisions in an attempt to address some of the concerns. Please see the attached comments from the City of Fayetteville **(B-27-29)**.

Fayetteville had many of the same concerns that WC Planning Staff had:

- The building is very large and was originally proposed to be placed directly along the East property line which did not account for the adjacent residential uses,
- The screening should be increased,
- No additional outdoor lighting should be added, and the hours of operation should remain as originally approved.

The applicant has addressed many of these concerns with the latest submittal. Fayetteville submitted additional comments based on the 2/19/13 submittal of the plan **(B-26)**.

Staff has received one additional revision on 3/1/2013 of the plan. The City of Fayetteville has not had time to submit comments prior to this staff report based on this submittal. Staff will update the Board at the meeting of additional comments that the City of Fayetteville may have.

COMPATIBILITY CONCERNS:

Surrounding Density/Uses:

Generally the area is a mix of Agricultural and Residential Uses with several small Commercial and Public Uses. Directly adjacent uses: North-Agricultural, South-Agricultural and Residential, East-Residential subdivision, West-Commercial **(B-44)**.

Staff feels that conditions regarding screening (and the original approved conditions regarding lighting, signage, and hours of operation) help make this project compatible with the surrounding uses.

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION III. PHYSICAL DEVELOPMENT

A. LAND USE CONSIDERATIONS

2. LIGHT COMMERCIAL

Continuing with the primary goal of retaining the rural characteristics of Washington County, light commercial uses should be allowed if:

- a. Not incompatible with adjacent residential and agricultural uses; **or by conditions placed on such to mitigate its impact.** Together with community facilities and compatible residential uses, this use typically serves as a buffer between general commercial and strictly residential uses.

Staff feels that the proposed conditions placed on this use will reduce the impact of the proposed building to the surrounding uses.

Future Land Use Plan

This area is designated as Rural Area Residential.

While the proposed use is not residential, the property is currently being used as a commercial use and there are several surrounding commercial uses. Staff feels that with the proposed conditions placed on this use, the proposed building (while not directly compatible) will not be detrimental.

NEIGHBOR COMMENTS/CONCERNS:

(All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project.)

At the time of this report, staff has received one "in favor" comment. Staff will update the Board at the meeting of any additional comments received.

STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Modern Mission Conditional Use Permit with the following conditions:

Water/Plumbing/Fire Conditions:

1. Water improvements may be required at Preliminary Large Scale Development (LSD).
2. Onsite hydrant required (all points of the structure must be within 500 feet of the hydrant). This hydrant is shown on the plans. The applicant will be responsible for contacting the City of Fayetteville for the requirements to add this hydrant.
3. At Preliminary LSD, Architectural Plans of the building layout that will show exit lights, emergency lights, and fire extinguishers per fire code. This must show clear access to the building exits (maximum 75 feet travel distance).
4. The parking and access must meet ADA requirements.

5. Fire lanes are required within 150 feet of all points of any building. They must support 75,000 lbs in all weather conditions.

Sewer/Septic/Decentralized Sewer Conditions:

1. The existing septic system was found to be adequate and the permit was approved by the Health Department on 2/12/2013.
2. No parking is allowed on any portion of the septic system including the alternate area. (No overflow parking either).

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. The Washington County Road Department requires an apron to connect entrance drives to the County Road. The apron(s) must be paved (asphalt or concrete) and at least 20' x 20'. This must be completed prior to Final LSD/Final Plat/operating. Any extensions must be approved by the Washington County Road Department Superintendent.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Drainage Conditions:

1. A full drainage study is required at Preliminary LSD.

Environmental Conditions:

1. At this time, no stormwater permit is required by Washington County; however, the applicant must comply with all rules and regulations of the Arkansas Department of Environmental Quality (ADEQ).

Utility Conditions:

1. Any damage or relocation of utilities will be at the expense of the owner/applicant.
2. Additional comments may be received at the Preliminary LSD phase of this project.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. No additional outdoor lighting is proposed.
3. The current building that is used as a sign/entrance must be moved out of the WC ROW. It may still be used as signage as long as it remains out of the ROW. No additional signage may be placed without review.
4. Screening is required along the East property line (extending at a minimum from North of the building –to the Northern edge of the fire lane, and along the parking area) in order to help provide a buffer between this proposed commercial building and the adjacent residences. The screening is required to be layered (not just a line of trees, but groupings and variation) and a screening plan (written and drawn) will be required at Preliminary LSD to be approved by Planning Staff. The screening must be installed at a

reasonable size (a minimum of 4 feet in height at installation) and maintained properly. These details will be required in the screening plan.

5. Landscaping along WC 553 should also be included in the planting plan.

Standard Conditions:

1. All conditions of approval for 2011-011 must be adhered to with this plan.
2. All outdoor storage must be screened with opaque material. (this includes anything stored under the building overhangs)
3. ~~Pay neighbor notification mailing fees (\$90.00) within 30 days of project approval. Any extension must be approved by the Planning Office (invoice was emailed to applicant on 2/27/13).~~
4. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
5. This CUP must be ratified by the Quorum Court.
6. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - . This project requires additional review (Large Scale Development), and therefore, the applicant must submit for Preliminary Large Scale Development project review within 12 months of this CUP project's ratification.

Washington County Planner, Courtney McNair, presented the staff report for the board members.

No public comments. Public comments closed.

*Robert Daugherty made a motion to approve the **Modern Mission CUP** subject to staff recommendations. Daryl Yerton seconded. All board members were in favor of approving. Motion passed.*

Cell Tower Synopsis:

Washington County Planner Director, Juliet Richey, presented the cellular tower synopsis report which addressed issues with the cell towers. Afterwards each cell tower project will be addressed separately.

Since there are many similarities between the towers, and since it has been a while since a tower has processed through the County, we would like to give a summary of information on cellular towers:

Basic tower information:

Applicable Federal law:

1. *Sec 704 (a)(iv) of the FCC Act of 1996 prohibits us from making decisions about the possible environmental impacts of cell towers based on radio frequency emissions, etc. This includes health-related concerns in regard to radio frequency emissions.*

2. *In November of 2009, the FCC issued a Declaratory Ruling clarifying portions of the FCC Act. This clarification states the following:*
 - a. *Local governments have 150 days to review and act upon tower siting applications. If the County fails to act in that period of time, the applicant can bring action against us in court, and we will bear the burden of explaining why the delay was reasonable.*
 - b. *The County cannot deny an application solely because “one or more carriers serve a given geographic market,” as in doing so, the County would be engaging in unlawful regulation that “prohibits or has the effect of prohibiting the provision of personal wireless services.” In other words- just because one provider (i.e. AT&T, Verizon, etc) has existing good service in an area is not grounds to deny a tower from being placed in that area.*
3. *Tower types:*
 - a. *Guyed lattice-type tower -allows a tower to be tall and thin*
 - b. *Self-supporting lattice-type tower used for towers shorter than guy-wired towers; allows a tower to not have guy wires but results in a wider tower, especially at the base*
 - c. *Monopole- cylindrical metal pole with antennas located either inside or hanging on the outside; used for shorter towers*
4. *Tower heights need to be relatively even across a network in order for towers to communicate well between one another. Therefore, towers are engineered to have similar tower elevations within a network; some towers are shorter or taller than others, some might be located on a hill, and some might be located within a valley.*
5. *National Environmental Policy Act (NEPA) Report - Environmental, cultural, and archeological aspects of the proposed tower site must be thoroughly researched in a NEPA report; NEPA reports have been received for all 3 towers.*
6. *FAA (Federal Aviation Administration) and FCC (Federal Communication Commission) approval must be acquired prior to tower construction. Staff has received FAA approval and the applicant reports that he expects FCC approval soon.*
7. *Better cellular coverage can enable emergency service responders to provide even better service. The Emergency Services Director, John Luther, is in support of towers in the more rural areas of the County where cellular coverage is poor. Mr. Luther reported that:*
 - *over 85% of 911 calls are placed from cell phones*
 - *Better coverage allows First Responders to better serve citizens (transmission of data en route to hospitals, triangulation of a person’s location, GPS)*
8. *Property value: the applicant submitted a letter from an Residential Real Estate Appraiser that states that, from her 12 year experience Appraising in Northwest Arkansas, “It has not been my experience that cell phone towers negatively effect the property values of adjacent property holders. “*

She also wrote, "I have spoken with senior Real Estate Appraiser's and they have confirmed there is currently no quantifying evidence of an automatic decline in property values when a property is located adjacent to a property containing a cell phone tower."

9. *Tower Lighting: All towers will be lit with a white light during daytime hours, and a red pulsating light during nighttime hours. This corresponds with County codes.*
10. *Neighbor notifications: All neighbors owning parcels within 300' of the parcels the towers are proposed to sit on were notified via certified mail.*
11. *Building Future residences in the proximity of the towers: Some neighbors have contacted us expressing concern that they would be unable to build a future residence on their property due to the proximity of the proposed tower. This is not true!*

If the proposed tower is approved and built, new residences may be located within any distance or proximity to the tower that a property owner desires.

The 3 proposed towers to be heard this Thursday:

- *Jackson Hwy Tower Site CUP:*
 - *250-270' tall self-supporting lattice-type tower. Due to the self-supporting nature of this tower, its base will be approximately 14' wide and the top will be approximately 3' wide.*
 - *Would provide better cellular coverage where poor coverage currently exists*
 - *One neighbor has contacted Staff in opposition.*
- *Summers Tower Site CUP:*
 - *300-320' tall guy-wired lattice-type tower. The use of guy wires allows this tower to be only about 36" wide.*
 - *Would provide better cellular coverage where poor coverage currently exists*
 - *No Neighbors have contacted Staff.*
- *East Prairie Grove Tower Site CUP:*
 - *300-320' tall guy-wired lattice-type tower. The use of guy wires allows this tower to be only about 36" wide.*
 - *Would provide better cellular coverage where poor coverage currently exists*
 - *3 neighbors have contacted Staff in opposition and Staff has been told there are more in opposition who will be attending Thursday's meeting.*
 - *2 neighbors contacted Staff in support.*

Reasons these tower sites were specifically chosen by ATT and Smith Communications, LLC:

- *Location within the basic service area needing better cellular coverage*
- *Leasable land*
- *Buildable sites*
- *Road and utility access*
- *Ability to meet the County's Administrative Tower checklist of requirements*

Staff has given consideration to a number of factors related to this proposed use such as:

- *residential structure proximities,*
- *proposed tower types and heights,*
- *type of lights on the towers,*

- *fire and emergency vehicle accesses,*
- *need for even better emergency services in the rural areas of the County*
- *and all other items discussed in the Staff Report.*

County

c. Jackson Hwy Tower Site CUP

Conditional Use Permit Request

Location: Section 1, Township 15, Range 33 West

Owner: Ricky W. Frye and Lisa G. Frye

Applicant: Smith Communications, LLC; Dave Reynolds

Location Address: 19601 Rheas Community Road, Lincoln, AR 72744

18.21 acres

Proposed Land Use: Cell Tower

Coordinates: Longitude- 94° 25' 40.45" W Latitude-36° 00'10.93"N

Project #: 2013-019 Planner: Sarah Geurtz, e-mail at sgeurtz@co.washington.ar.us

REQUEST: Conditional Use Permit approval to construct an approximately 250 foot tall self-supporting, lattice-type wireless communications tower facility (with the addition of lights and a lightning rod, the overall height could increase to approximately 270 feet). The applicant (Smith Communication, LLC) is leasing an easement and a 75'x75' area on which the tower will be located. The entire parcel acreage is 18.21 acres.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is *not* located within a city's planning area. It is located solely within the County.

QUORUM COURT DISTRICT: District 13 Ron Aman & Lincoln

FIRE SERVICE AREA: Cincinnati

SCHOOL DISTRICT: Lincoln

INFRASTRUCTURE: Water- Lincoln Water **Electric-**Ozarks Electric **Natural Gas-** N/A
Telephone- Prairie Grove Phone **Cable-** N/A

BACKGROUND/ PROJECT SYNOPSIS:

The owners of this property (001-09299-000) are Ricky and Lisa Frye; the applicant is Dave Reynolds of Smith communications, LLC. The property is located north of Lincoln off Rheas Community Road WC# 68. N. Jackson Hwy WC# 669 (a Washington County road and not a State Highway) is located to the west but will not be accessed by the project site (see attachments C10-C16).

Jackson Hwy Tower Site CUP is requesting Conditional Use Permit to allow a wireless communications tower facility on property in an area where the use of Single Family Residential (maximum of 1 unit per acre) or Agricultural, is allowed by right, and all other proposed uses must be reviewed as Conditional Use Permit Requests by the County Planning Board/ Zoning Board of Adjustments. Because the proposed property use is different from the current zoning, this project must request a Conditional Use Permit. If approved, the tower will then have to process administratively through the Administrative Tower approval process. It is anticipated that this tower will qualify for Administrative Tower Review if this CUP is approved.

Approval is being requested to construct an approximately 250 foot tall, self-supporting, lattice-type wireless communications tower facility that, with the addition of lights and a lightening rod, could increase the overall height to approximately 270 feet. The tower would be approximately 14' wide at the base and approximately 3' wide at the top. The parcel acreage is 18.21 acres. The tower would be located on parcel 001-09299-000 and would be surrounded by a 6 foot tall fence around a 75'x75' graveled area (see applicant's letter C18-C26) A proposed 30' wide graveled road and utility easement would grant access from Rheas Community Road next to an immediately adjacent, existing, off-site utility easement.

The tower compound would be set back approximately 310 feet from Rheas Community Road (the proposed placement exceeds the required setback requirement of 270'-290') and the nearest residence is located 614.45' from the tower's base. This residence is owned by the Fryes (they are the property owners and are leasing the tower to Smith Communications). Washington County Code requires signed consent from owners of a residence located within 400' plus the tower height (which would be 670'). Please see the attached signed consent (attachment C26).

This proposed facility has met the requirements for approval through the Federal Aviation Administration (FAA). The applicant expects to receive approval from the Federal Communications Commission (FCC) soon; this must be received prior to tower operation. This site has met the requirements of approval through the National Environmental Preservation Act (NEPA) and The Department of Arkansas Heritage (see attachments C36 through C40).

The submitted NEPA report's assessment was that there were no NEPA sensitive conditions in connection with the site. Within this report, the Department of Arkansas Heritage reported that there appeared to be no effect on historic properties, and the cultural resources survey found no cultural resources in the project area and felt that none of the previously recorded archeological sites within $\frac{3}{4}$ of a mile of the project area would be affected by this proposed tower (see attachments C37 through C40).

The applicant, Dave Reynolds, has stated that there are no towers within a 1-mile radius on which collocation could occur. Mr. Reynolds has also stated that his facility would be unmanned and that the only reoccurring traffic would be light trucks for equipment maintenance technicians. Mr. Reynolds reported that only one or two people a month would be visiting this site. The applicant's letter states that the resulting grade and slope of the existing terrain is not supposed to significantly change and that there would be no diversion or other appreciable change to the storm water runoff.

The tower may be visible from Rheas Community Road but would be partially screened by the dense tree cover and hill that slopes sharply south from Rheas Community Road. Due to the hilly topography of this area, the tower would likely be more visible from other vantage points in this area. The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours. "Sight marker lights" would be required at 150' elevation on the tower. However, Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards and not downwards.

The applicant, Dave Reynolds, submitted voice coverage maps and maps showing current signal strengths as they exist today (**see attachment C27**). As can be seen by these maps, coverage could be better in this portion of the County; Mr. Reynolds stated that a tower at this location would provide valuable wireless coverage. Mr. Reynolds also reported that if a tower shorter than the proposed 250-270' was installed at this location, the cellular coverage area would be smaller than what the engineers need at this location, and that additional smaller

towers would be needed to cover the same area (resulting in a needless proliferation of tower sites). He also reported that substituting shorter towers can affect network performance. According to Mr. Reynolds, the antenna heights need to be about the same in order for cellular networks to work well (**see attachments C31 through C32 for further explanation and graphics related to this**).

The Washington County 911 Director, John Luther, is in support of additional cellular infrastructure in rural Washington County because it would enhance access to emergency services. He reported that first responders are becoming more dependent on wireless communications and use it to transmit vital information on a patient's condition while en route to hospitals and to triangulate a person's location. He also reported that over 85% of 911 calls in Washington County are made with cell phones. Please read the attached letter (C42) from Mr. Luther; it explains in more detail why increased cellular service in rural Washington County is important.

The primary issue with this project has been a neighbor complaint concerning safety and the concern that the tower's proximity to their property might affect property usage, property salability, and home construction. These items are explained and addressed below under the Neighbor Comments/Concerns heading.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Lincoln Water did not comment on this tower.

The Washington County Fire Marshal, Dennis Ledbetter, requires the access drive to be 26 feet in width from Rheas Community Road to the tower and the applicant's proposed gate off Rheas Community Road to be 26 feet in width. Mr. Ledbetter requires all horizontal distance clearances to be a minimum width of 20 feet. J.C. Dobbs of the Prairie Grove Fire Department reported to Mr. Ledbetter that all vertical clearances must be 13 feet in height. These distances are required in order to accommodate emergency vehicle access.

In addition, Mr. Ledbetter requires all entrance drives and parking areas to be able to support 75,000lbs in all weather conditions. Smith Communications will be installing a gate off Rheas Community Road which will be kept locked; Mr. Ledbetter requires this gate to be locked with a padlock which, if emergency access is needed, can be cut off by emergency personnel in order to gain access. The applicant, Mr. Reynolds, was in agreement with this arrangement.

Sewer/Septic/Decentralized Sewer:

Melissa Wonnacott-Center of the Arkansas Department of Health (ADH) did not comment on this tower. Note that no septic system will be needed or installed.

Electric/Gas/Cable/Phone:

Ozarks Electric reported that any relocation of one of their existing lines or any extension of a line to feed this property will be at the owner's/applicant's expense. Prairie Grove Telephone reported that, as shown on the survey, the 30' wide Road and Utility Easement from Rheas Community Road to the tower site is satisfactory for PGTelco.

Roads/Sight Visibility/Ingress-Egress/Parking:

Access between the tower site and Rheas Community Road would be provided by a 30' wide utility and access easement. This easement must be granted to Smith Communications by the Fries and filed with the Circuit Clerk's office.

The applicant has stated to Staff that the tower site would be unmanned and that the only recurring traffic would be one or two light trucks per month for equipment maintenance technicians. Because of the low vehicular volume, a traffic study is not required.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project. The applicant, Dave Reynolds, stated to Staff that the tower would not change the grade or slope of the existing terrain, and would not cause diversion or other appreciable change in the stormwater runoff to or from the proposed site. Staff feels that the tower would have a negligible impact on drainage.

Environmental Concerns:

Environmental Affairs had no comment on this project.

Existing Residential Structure Concerns:

The nearest existing residence is located 614.45' from the tower's base. This residence is owned by the Fries who are the property owners and are leasing the tower to Smith Communications.

Washington County code requires that if a residence is located within 400 feet plus the height of a tower to be constructed, the owners of that residence must consent in writing to construction of the tower in order for the tower to qualify for the Administrative Tower approval process. If consent is not acquired, the tower must be heard by the Planning Board/Zoning Board of Adjustments. Please see the attached map (C13) that shows three circle buffer distances. The inner circle represents the height of the tower and the outer two circles represent radii distances of 650 feet and 670 feet (representing the approximate tower heights, with and without the lightening rod, plus 400 feet). The Fries, whose home is located within the signed consent radius, did provide signed consent to construct this tower (attachment C26).

Administrative Tower Review:

If all criteria are met and this project is approved for a Conditional Use Permit (CUP), the developer will be required to return for Administrative Tower Review. Full Tower Review by the Planning Board will not be required if all Administrative Tower requirements can be met. Utilities and other agencies will not review the Administrative Tower Application. However, if all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.

Signage/Lighting/Screening Concerns:

The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours with the intensity of a 100 watt light bulb. "Sight marker lights" would be required at 150' elevation on the tower. Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards. Smith Communications reported to Staff that these would be the only lights on the tower.

SITE VISIT:

A site visit was conducted on 02.27.2013. The subject property is a densely wooded lot sloping steeply to the south of Rheas Community Road (see attachments C48 through C49).

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. At this time, one neighbor (the Woodard family) has contacted Staff with concerns. The Woodards submitted concerns (see attachment C45-C46) about the 400' + tower height radii overlapping onto their property; they are concerned it could curtail their usage, ability to construct a residence, and ability to sell their property.

Staff believes there may have been some miscommunication about the buffer radii displayed in the neighbor notifications. These radii distances were included in the neighbor notification mailings in an attempt to show neighbors who were required to be notified in case homes had been constructed after the County's latest aerial maps were created. Having property within these distances does not preclude someone from constructing a home. It is simply a Washington County Code notification requirement in order for a tower to process Administratively (instead of before the Planning Board for full Tower Review). **These buffer zones do not prevent someone from building a residence now or in the future.**

Mr. Reynolds consulted with a local Appraiser who wrote a letter stating that, from both her experience and from consulting with other senior Appraisers, cell phone towers do not negatively affect property values of adjacent property holders. The submitted letter additionally says that there is no quantifying evidence of automatic decline in property values due to an adjacent tower (see attachment C34).

The Woodards are the most concerned about the safety of radiation levels coming from a communications tower. However, a federal law (PUBLIC LAW 104-104—FEB. 8, 1996, TELECOMMUNICATIONS ACT OF 1996) specifically prevents Staff from considering this matter.

Staff will update the Planning Board at the meeting if any additional comments are received.

COMPATIBILITY CONCERNS:

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION II. SUMMARY OF MAJOR CONSIDERATIONS

In an effort to attain the type of development desired by county leaders and citizens alike, the following matters should be considered.

1. *Retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow the industrial and commercial uses and rural residential lands that choose to locate in the county, as well as help to insure that incompatibility with agricultural, residential, and other uses is minimized.*

Staff Comments: **There appears to be a number of valid reasons that the tower has**

been requested in this region, and at this particular location and height. Smith Communication presented maps showing the need for better cellular coverage in this area of the County, and the 911 office has told Staff that the rural areas of the County with poor cellular coverage affects their ability to provide good emergency services to the citizens of Washington County. One cannot deny the aesthetic impact of a large tower; however, Staff feels that this tower's placement in a densely wooded lot immediately adjacent to an existing power line easement helps to mitigate its appearance and does not inherently impact the rural and agricultural nature of the County. With these items taken into full consideration, Staff feels that this cellular facility should be allowed at this location.

2. *Commercial development, though necessary, must be weighed according to its impact on agricultural and residential areas.*

Staff Comments: **Staff recognizes that a tower at this location might impact the aesthetics of some surrounding properties but it would also provide increased cellular reception to this rural area for both general and emergency cellular service. Staff cannot ignore these needs, especially with the increased use of data for emergency usage of wireless networks.**

3. *The protection and preservation of agricultural lands through the proper use of regulatory mechanisms is critical to retain the rural nature of the county.*

Staff Comments: **Staff feels they have carefully considered and addressed (to the best of their abilities and knowledge) the protections and preservation of agricultural lands using the regulatory mechanisms at their disposal (primarily the Conditional Use Permit Process).**

To address the concerns listed above, staff has given consideration to a number of factors related to this proposed use such as:

- residential structure proximities,
- the proposed tower type and height,
- the type of lights on the tower,
- fire and emergency vehicle access,
- the need for even better emergency services in the rural areas of the County
- and all other items discussed in this Staff Report.

Future Land Use Plan

There is no future land use designation for this portion of the County (see attachment C16).

STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Jackson Hwy Tower Site CUP Conditional Use Permit with the following conditions:

Planning Conditions:

1. A copy of the Federal Communications Commission (FCC) approval letter must be submitted to Staff prior to tower operation.
2. Must be an approximately 250 foot tall self-supporting wireless communications tower facility that, with the addition of lights and a lightening rod, could increase the overall height to approximately 270 feet.

3. Compound must be generally sized as presented (75'x75').
4. This CUP will apply only to the lease area and related easement as presented and not to the entire 18.21 acres.
5. Proper Circuit Clerk-filed easement documents shall be recorded for the proposed access and utility easement.
6. The NEPA report shall be updated to reflect the actual height (250 to 270 feet) and location of the tower as presented to Staff.

Water/Plumbing/Fire Conditions:

1. An access drive constructed 26 feet in width from Rheas Community Road to the tower is required for emergency vehicle access.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. The proposed 30 foot wide double panel gate can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
4. The easement granting access and utility access from the tower site to Rheas Community Road shall be at least 26 feet wide and have 13 feet 6 inches of unobstructed vertical clearance.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.
2. The Washington County Road Department requires an apron to connect entrance drives to the County Road. The apron must be paved (asphalt or concrete) and at least 20' x 20'. This must be completed prior to operation. Any extensions or additions within the county right of way must be approved by the Washington County Road Department Superintendent.
3. The easement drive must be graded/designed in such a manner that gravel does not wash onto Rheas Community Road WC# 68.

Utility Conditions:

1. Ozarks Electric: Any relocation of an existing line or extension of a line to feed this property will be at the owner's/applicant's expense.
2. Any utility work in the County Road ROW must be approved and permitted by the Road Department. Call 444-1610 for details.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. The light at the top of the tower shall be as described by the applicant – a pulsing (non-strobing) light (white during the day and red during the night) producing approximately

the equivalent of a 100 watt light bulb.

3. No additional lighting, on the ground, is approved with this CUP.

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. This CUP must be ratified by the Quorum Court.
3. Must adhere to all Washington County Communication Tower Ordinance Standards.
4. Must proceed through Washington County Communication Tower Administrative Approval process.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. If all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - This project requires additional review; the applicant must submit for Administrative Tower Review within 12 months of this CUP project's ratification.

Washington County Planner, Sarah Geurtz, presented the staff report for the board members.

Sarah Geurtz added conditions regarding lighting, easement clearances for fire access, and the easement drive's grading and apron. Mrs. Geurtz described the tower as a self-supporting, lattice-type tower.

Dave Reynolds, with Smith Communications, was available to answer any questions the board members or the public had.

No public comments. Public comments closed.

*Robert Daugherty made a motion to approve the **Jackson Hwy Tower Site CUP** subject to staff recommendations. Daryl Yerton seconded. Walter Jennings and Kenley Haley were not present. Board Members Randy Laney, Daryl Yerton, Robert Daugherty, Cheryl West and Chuck Browning were in favor of approving. Motion passed.*

County

d. Summers Tower Site CUP

Conditional Use Permit Request

Location: Section 4, Township 15, Range 33 West

Owner: Burl & Becky Carter

Applicant: Smith Communications, LLC; Dave Reynolds

Location Address: 10941 N. Hwy 59 Summers, AR 72769

82.09 acres

Proposed Land Use: Cell Tower

Coordinates: Longitude- 94° 29' 41.29" W Latitude-36° 00' 19.85"N

Project #: 2013-020 Planner: Sarah Geurtz, e-mail at sgeurtz@co.washington.ar.us

REQUEST: Conditional Use Permit approval to construct an approximately 300 foot tall guyed wireless communications tower facility (with the addition of lights and a lightning rod, the overall height could increase to approximately 320 feet). The applicant (Smith Communications, LLC) is leasing easements and a 75'x75' area on which the tower will be located. The entire parcel acreage is 82.09 acres.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is *not* located within a city's planning area. It is located solely within the County.

QUORUM COURT DISTRICT: District 13 Ron Aman & Lincoln

FIRE SERVICE AREA: Cincinnati

SCHOOL DISTRICT: Lincoln

INFRASTRUCTURE: Water- Lincoln Water Electric-Ozarks Electric Natural Gas- N/A
Telephone- Prairie Grove Phone Cable- N/A

BACKGROUND/ PROJECT SYNOPSIS:

The owners of this property (001-09331-004) are Burl & Becky Carter; the applicant is Dave Reynolds of Smith communications, LLC. Ricky and Troyce England own an adjacent parcel (001-09331-000) where the tower's access and utility easement may cross. Both properties are located outside Lincoln off N. Highway 59 (see attachments D10- D16).

Summers Tower Site CUP is requesting Conditional Use Permit to allow a wireless communications tower facility on property in an area where the use of Single Family Residential (maximum of 1 unit per acre) or Agricultural, is allowed by right, and all other proposed uses must be reviewed as Conditional Use Permit Requests by the County Planning Board/ Zoning Board of Adjustments. Because the proposed property use is different from the current zoning, this project must request a Conditional Use Permit. If approved, the tower will then have to process administratively through the Administrative Tower approval process. It is anticipated that this tower will qualify for Administrative Tower Review if this CUP is approved.

Approval is being requested to construct an approximately 300 foot tall guyed, lattice-type, wireless communications tower facility approximately 36 inches wide; the addition of lights and a lightning rod could increase the overall height to approximately 320 feet. The tower will be located on parcel 001-09331-004 and will be surrounded by a 6 foot tall fence around a 75'x75' graveled area (see applicant's letter D18-D33). A proposed 30' wide graveled road and utility easement will grant access from Highway 59. The attached maps show an easement through an adjacent property (parcel 001-09331-000) to the tower site. However, due to fire access issues with this route, the applicant has stated that they will acquire an easement to the north on the same parcel as the tower site. The Fire section under Technical Concerns gives information on the reasoning behind this change.

The tower will be set back approximately 1,075 feet from N. Hwy 59 (the proposed placement exceeds the required setback of 320'-340') and the nearest residence is located 778.72' from the tower's base.

This proposed facility has met the requirements for approval through the Federal Aviation Administration (FAA). The applicant expects to receive approval from the Federal

Communications Commission (FCC) soon; this must be received prior to tower operation. This site has met the requirements for approval through the National Environmental Preservation Act (NEPA) and The Department of Arkansas Heritage (see attachments D34- D42).

The submitted NEPA report's assessment was that there were no NEPA sensitive conditions in connection with the site. Within this report, the Department of Arkansas Heritage reported that there appeared to be no effect on historic properties, and the cultural resources survey found no cultural resources in the project area and no previously recorded archeological sites within ¾ of a mile from the project area (see attachments D37-D42)

The applicant, Dave Reynolds, has stated that there are no towers within a 1-mile radius on which collocation could occur. He has stated that his facility will be unmanned, that the only reoccurring traffic will be light trucks for equipment maintenance technicians, and that only one or two people a month will be visiting this site. The applicant's letter states that the resulting grade and slope of the existing terrain is not supposed to significantly change and that there will be no diversion or other appreciable change to the storm water runoff.

The tower would be visible from N. Hwy 59 and from neighboring property due to both the flat topography and the hills in this area. However, the tower would be set back 1,075 feet from the road and located within a largely agricultural area. The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours. "Sight marker lights" would be required at 150' elevation on the tower. However, Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards and not downwards.

The applicant, Dave Reynolds, submitted voice coverage maps and maps showing current signal strengths as they exist today (see attachments D26) As can be seen by these maps, coverage is poor in this portion of the County; Mr. Reynolds stated that a tower at this location would provide valuable wireless coverage. Mr. Reynolds also reported that if a tower shorter than the proposed 300-320' was installed at this location, the resulting cellular coverage area would be smaller than what the engineers need at this location, and that additional smaller towers would be needed to cover the same area (resulting in a needless proliferation of tower sites). He also reported that substituting shorter towers can affect network performance. According to Mr. Reynolds, the antenna heights need to be about the same in order for cellular networks to work well (see attachments D30 through D31 for further explanation and graphics related to this).

Mr. Reynolds consulted with a local Appraiser who wrote a letter stating that, from both her experience and from consulting with other senior Appraisers, cell phone towers do not negatively affect property values of adjacent property holders. The submitted letter additionally says that there is no quantifying evidence of automatic decline in property values due to an adjacent tower (see attachment D33).

The Washington County 911 Director, John Luther, is in support of additional cellular infrastructure in rural Washington County because it would enhance access to emergency services. He reported that first responders are becoming more dependent on wireless communications and use it to transmit vital information on a patient's condition while en route to hospitals and to triangulate a person's location. He also reported that over 85% of 911 calls in Washington County are made with cell phones. Please read the attached letter (D44) from Mr. Luther; it explains in more detail why increased cellular service in rural Washington County is important.

The primary issues with this project have been: fire issues concerning fire access and the

location of the access and utility easement.

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Lincoln Water did not comment on this tower.

The Washington County Fire Marshal, Dennis Ledbetter, requires the access drive to be 26 feet in width from Hwy 59 to the tower and the applicant's gate off N. Hwy 59 to be 26 feet in width. Mr. Ledbetter requires all horizontal distance clearances to be a minimum width of 20 feet. J.C. Dobbs of the Prairie Grove Fire Department reported to Mr. Ledbetter that all vertical clearances must be 13 feet in height. These distances are required in order to accommodate emergency vehicle access.

An easement was acquired by Smith Communications that provided access between the tower site through the adjoining parcel 001-09331-000 (this is represented on the attached maps and survey). However, a portion of this easement passes between two structures with approximately 15-20 feet of clearance between them and with possible overhanging electric lines and an entrance feature with a top bar. These things might prevent the above Fire Code from being met. Therefore, Smith Communications has stated that they will be getting an easement from the Carters between the tower and a gate to the north along N. Hwy 59. This easement route shall be determined by the applicant and approved by Staff.

If a new easement is obtained, the NEPA Report must be updated to reflect this change.

In addition, Mr. Ledbetter requires all entrance drives and parking areas to be able to support 75,000lbs in all weather conditions. Smith Communications will be installing a gate off N. Hwy 59 which will be kept locked; Mr. Ledbetter requires this gate to be locked with a padlock which, if emergency access is needed, can be cut off by emergency personnel in order to gain access. The applicant, Mr. Reynolds, was in agreement with this arrangement.

Sewer/Septic/Decentralized Sewer:

Melissa Wonnacott-Center of the Arkansas Department of Health (ADH) did not comment on this tower. Note that no septic system will be needed or installed.

Electric/Gas/Cable/Phone:

Ozarks Electric reported that any relocation of one of their existing lines or any extension of a line to feed this property will be at the owner's/applicant's expense. Prairie Grove Telephone reported that, as shown on the survey, the 30' wide Road and Utility Easement from N. Hwy 59 west to the tower site is satisfactory for PGTelco. If the access and utility easement will be relocated, the utility companies shall be consulted and any requirements they may have shall be met.

Roads/Sight Visibility/Ingress-Egress/Parking:

Access between the tower site and N. Hwy 59 would be provided by a 30' wide utility and access easement. Access would be provided either from N. Hwy 59 through parcel 001-09931-000 and parcel 001-09331-004 to the tower site, or may be located north of parcel 001-09331-004 solely on parcel 001-09331-000.

The applicant has stated to Staff that the tower site will be unmanned and that the only recurring traffic will be one or two light trucks per month for equipment maintenance technicians. Because of the low vehicular volume, a traffic study is not required.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project. The applicant, Dave Reynolds, stated to Staff that the tower would not change the grade or slope of the existing terrain, and would not cause diversion or other appreciable change in the stormwater runoff to or from the proposed site. Staff feels that the tower would have a negligible impact on drainage.

Environmental Concerns:

No comment from Environmental Affairs was received.

Existing Residential Structure Concerns:

The nearest existing residence is located 778.72' from the tower's base.

Washington County code requires that if a residence is located within 400 feet plus the height of a tower to be constructed, the owners of that residence must consent in writing to construction of the tower in order for the tower to qualify for the Administrative Tower approval process. If consent is not acquired, the tower must be heard by the Planning Board/Zoning Board of Adjustments. Please see the attached map (D13) that shows three circle buffer distances. The inner circle represents the height of the tower and the outer two circles represent radii distances of 700 feet and 720 feet (representing the approximate tower heights, with and without the lightening rod, plus 400 feet).

Staff originally thought a structure located in the 700 and 720 foot buffer was a residence. However, Hollie Wentz with Smith Communications LLC reported to Staff that the structures shown in the aerials within the buffer distances are non-residential structures (see attached D14- and D45a). If residential structures had been located within the two larger buffers, signed consent from those home owners would have been required per Washington County code. Since there are no residential structures located within the notification buffer distances, no signed letters were required.

Administrative Tower Review:

If all criteria are met and this project is approved for a Conditional Use Permit (CUP), the developer will be required to return for Administrative Tower Review. Full Tower Review by the Planning Board will not be required if all Administrative Tower requirements can be met. Utilities and other agencies will not review the Administrative Tower Application. However, if all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.

Signage/Lighting/Screening Concerns:

The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours with the intensity of a 100 watt light bulb. "Sight marker lights" would be required at 150' elevation on the tower. Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards. Smith Communications reported to Staff that these would be the only lights on the tower.

SITE VISIT:

A site visit was conducted on 02.27.2013. The subject property is cattle pasture (see attachments D46 through D52).

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. At this time, no neighbors have contacted the Planning Office with comments or concerns. Staff will update the Planning Board at the meeting if any additional comments are received.

COMPATIBILITY CONCERNS:

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION II. SUMMARY OF MAJOR CONSIDERATIONS

In an effort to attain the type of development desired by county leaders and citizens alike, the following matters should be considered.

1. *Retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow the industrial and commercial uses and rural residential lands that choose to locate in the county, as well as help to insure that incompatibility with agricultural, residential, and other uses is minimized.*

Staff Comments: There appears to be a number of valid reasons that the tower has been requested in this region, and at this particular location and height. Smith communication presented maps showing the need for better cellular coverage in this area of the County, and the 911 office has told Staff that the rural areas of the County with poor cellular coverage affects their ability to provide good emergency services to the citizens of Washington County. One cannot deny the aesthetic impact of a large tower; however, Staff feels that it does not inherently impact the rural and agricultural nature of the county. With these items taken into full consideration, Staff feels that this cellular facility should be allowed at this location.

2. *Commercial development, though necessary, must be weighed according to its impact on agricultural and residential areas.*

Staff Comments: Staff recognizes that a tower at this location would impact the aesthetics of the surrounding properties but it would also provide increased cellular reception to this rural area for both general and emergency cellular service. Staff cannot ignore these needs, especially with the increased need and use of data for emergency usage of wireless network.

3. *The protection and preservation of agricultural lands through the proper use of regulatory mechanisms is critical to retain the rural nature of the county.*

Staff Comments: Staff feels they have carefully considered and addressed (to the best of their abilities and knowledge) the protections and preservation of agricultural lands using the regulatory mechanisms at their disposal (primarily the Conditional Use Permit Process).

To address the concerns listed above, staff has given consideration to a number of factors related to this proposed use such as:

- residential structure proximities,
- the proposed tower type and height,
- the type of lights on the tower,
- fire and emergency vehicle access,
- the need for even better emergency services in the rural areas of the County
- and all other items discussed in this Staff Report.

Future Land Use Plan

There is no future land use designation for this portion of the County (**see attachment D-15**).

STAFF RECOMMENDATION: Staff recommends *approval* of the proposed Summers Tower Site Conditional Use Permit with the following conditions:

Planning Conditions:

1. A copy of the Federal Communications Commission (FCC) approval letter must be submitted to Staff prior to tower operation.
2. Must be an approximately 300 foot tall guyed wireless communications tower facility that, with the addition of lights and a lightning rod, could increase the overall height to approximately 320 feet.
3. Compound must be generally sized as presented (75'x75').
4. This CUP will apply only to the lease area and related easement as presented and not to the entire 82.09 acres.
5. The NEPA report shall be updated to reflect the actual height of the tower as presented to Staff (300 to 320 feet).
6. Driveway permits for all new access points must be obtained via the Arkansas Highway Transportation Department (AHTD).

Water/Plumbing/Fire Conditions:

1. An access drive constructed 26 feet in width from Hwy 59 to the tower is required for emergency vehicle access; it shall have 13 feet 6 inches of unobstructed vertical clearance.

2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. The proposed 30 foot wide double panel gate can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
4. The existing entrance feature/gate off N. Hwy 59 (on parcel 001-09331-000) that will be utilized for access to this tower must be at least 26 feet wide and have 13 feet of clearance beneath it in order to provide for sufficient emergency vehicle access.
5. A different access and utility easement route shall be determined by the applicant and approved by Staff if the fire requirements of 20 feet horizontal clearance between structures and 13 feet 6 inches vertical clearance in all instances cannot be met. Proper Circuit Clerk-filed easement documents shall be recorded for this easement, and the NEPA Report shall be updated to reflect the new easement information.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Utility Conditions:

1. Ozarks Electric: Any relocation of an existing line or extension of a line to feed this property will be at the owner's/applicant's expense.
2. If the access and utility easement will be relocated, the utility companies shall be consulted and any requirements they may have shall be met.
3. Any utility work in the County Road ROW must be approved and permitted by the Road Department. Call 444-1610 for details.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. The light at the top of the tower shall be as described by the applicant – a pulsing (non-strobing) light (white during the day and red during the night) producing approximately the equivalent of a 100 watt light bulb.
3. Opaque fencing around the tower compound shall be required. The type of fencing shall be submitted to Staff for approval.
4. No additional lighting, on the ground, is approved with this CUP

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. This CUP must be ratified by the Quorum Court.
3. Must adhere to all Washington County Communication Tower Ordinance Standards.
4. Must proceed through Washington County Communication Tower Administrative Approval process.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. If all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
 - This project requires additional review; the applicant must submit for Administrative Tower Review within 12 months of this CUP project's ratification.

Washington County Planner, Sarah Geurtz, presented the staff report for the board members with an update that one neighbor contacted staff in opposition.

Sarah Geurtz added conditions regarding the Arkansas Highway Transportation Department's driveway permits, easement clearances for fire access, fencing, and lighting.

Public comments:

Shelby Lawrence, a neighbor, that lives southwest of where the tower will be, stated that he owns the majority of the mountain. There are 16 acres that are going to his brother to build a site. Shelby is concerned that when someone builds on the 16 acres (which about 5 acres of it is on a hill) they will see the cell tower. Shelby does not understand why this particular site is chosen for the cell tower when there are other locations for the cell tower that will not obstruct anybody's view. Shelby also states that he was not on the list of sites to be chosen for the cell tower but after tonight he does not want to be on that list. Shelby is concerned that the property owner cannot build on this land. There is an easement for the new gas line, it is a 50ft permanent that runs over his property line and near the proposed tower site. You can't build over that 50ft you can't have anything permanent over that structure. He talked to Source Gas, they have the permit to do it. So there's no guidelines that can be near them. He is also concerned about the property value. Shelby said that if a house is built near the cell tower it would be hard to sell it.

Daryl Yerton, Planning Board member, asked if Smith Communications has any comments on the location of the tower

Dave Reynolds, with Smith Communications, said that concerning the first issue with the gas easement, they have done extensive title search with the property and the property owners Becky and Burl Carter are present. The gas easement is not on their property and is not located near the site where the cell tower is going to be built. The gas easement is located on the other side of the property line. For the tower site selection, they look for several different criteria, 1) is that the tower meets all of Washington County's setback and administrative approval requirements for spacing from houses, roads, etc. 2) from the coverage map, there is a prominent gap in that area, you have to manage that spacing and "height above ground", both the Jackson Hwy tower and Summers tower will work in tandem with each other to cover the valley. That's how we came up with the selection for the cell tower. To be able to present this to the county and we have all the proper documents through environmental surveys, archeological surveys, and approvals from FAA, FCC, it's about a 9 month process to move this tower. FCC approval was acquired today and he'll be glad to provide it.

Daryl Yerton, asked Mr. Reynolds if he did everything he could to try to locate this tower in the best possible place and to make it aesthetically pleasing as possible?

Dave Reynolds, replied yes. That's we look for, distances from houses and road ways.

Robert Daugherty made a motion to approve the **Summers Tower Site CUP** subject to staff recommendations. Chuck Browning seconded. Walter Jennings and Kenley Haley were not present. Board Members Randy Laney, Daryl Yerton, Robert Daugherty, Cheryl West and Chuck Browning were in favor of approving. Motion passed.

County

e. East Prairie Grove Tower Site CUP

Conditional Use Permit Request

Location: Section 23, Township 15, Range 31 West

Owner: Storm-Agri Enterprise INC.

Applicant: Smith Communications, LLC; Dave Reynolds

Location Address: 11183 Storms RD, Prairie Grove, AR 72753

131.52 acres

Proposed Land Use: Cell Tower

Coordinates: Longitude- 94° 14' 21.14" W Latitude-35°58'8.15"N

Project #: 2013-021 Planner: Sarah Geurtz, e-mail at sgeurtz@co.washington.ar.us

REQUEST: Conditional Use Permit approval to construct an approximately 300 foot tall guyed wireless communications tower facility (with the addition of lights and a lightning rod, the overall height could increase to approximately 320 feet). The applicant (Smith Communications, LLC) is leasing easements and a 75' x 75' area on which the tower will be located. The entire parcel acreage is 131.52 acres.

CURRENT ZONING: Project lies within the County's Zoned area (Agriculture/Single-Family Residential 1 unit per acre).

PLANNING AREA: This project is *not* located within a city's planning area. It is located solely within the County.

QUORUM COURT DISTRICT: District 14 Ann Harbison Fork

SCHOOL DISTRICT: Greenland

FIRE SERVICE AREA: West

INFRASTRUCTURE: Water- Washington Water **Electric-**Ozarks Electric **Natural Gas-** N/A
Telephone- Prairie Grove Phone **Cable-** N/A

BACKGROUND/ PROJECT SYNOPSIS:

The owner of this property (001-08060-000) is Storms Agri-Enterprise Inc; the applicant is Dave Reynolds of Smith communications, LLC. The property is located east of Prairie Grove off Storms Road WC# 4205 (Residential Drive County Road) which connects with S. Hwy 265 (see attachments E-10 and E-14).

East Prairie Grove Tower Site CUP is requesting Conditional Use Permit to allow a wireless communications tower facility on property in an area where the use of Single Family Residential (maximum of 1 unit per acre) or Agricultural, is allowed by right, and all other proposed uses must be reviewed as Conditional Use Permit Requests by the County Planning Board/ Zoning Board of Adjustments. Because the proposed property use is different from the current zoning, this project must request a Conditional Use Permit. If approved, the tower will then have to process administratively through the Administrative Tower approval process. It is anticipated that this tower will qualify for Administrative Tower Review if this CUP is approved.

Approval is being requested to construct an approximately 300 foot tall guyed wireless communications tower facility that, with the addition of lights and a lightening rod, could increase the overall height to approximately 320 feet. The parcel acreage is 131.52 acres. The tower would be located on parcel 001-08060-000 and would be surrounded by a 6 foot tall fence around a 75'x75' graveled area (see E-13 and applicant's letter E-19). A proposed 30' wide graveled road and utility easement would grant access from the tower site to Storms Road.

The tower compound would be set back approximately 710 feet from Storms Road (the proposed placement exceeds the required setback of 320'-340') and the nearest residence is located approximately 1167' from the tower's base.

This proposed facility has met the requirements for approval through the Federal Aviation Administration (FAA). The applicant expects to receive approval from the Federal Communications Commission (FCC) soon; this must be received prior to tower operation. This site has met the requirements for approval through the National Environmental Preservation Act (NEPA) and The Department of Arkansas Heritage (see attachments E-41 & E-42).

The submitted NEPA report's assessment was that there were no NEPA sensitive conditions in connection with the site. Within this report, the Department of Arkansas Heritage reported that there appeared to be no effect on historic properties. The cultural resources survey found that there was only one previously recorded archeological site within this area and it is located roughly 0.85 miles from the tower site; the report states that that site would not be impacted by construction of this tower (see attachments E-45 through E-50).

The applicant, Dave Reynolds, has stated that there are no towers within a 1-mile radius on which collocation could occur. Mr. Reynolds has also stated that his facility would be unmanned, that the only reoccurring traffic would be light trucks for equipment maintenance technicians, and that only one or two people a month would be visiting this site. The applicant's letter states that the resulting grade and slope of the existing terrain is not supposed to significantly change and that there would be no diversion or other appreciable change to the storm water runoff.

The tower would be visible from Storms Road, S. Hwy 265, and Illinois Chapel Road, as this

area is flat land consisting mostly of pasture surrounded by hills in the distance. The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours. "Sight marker lights" would be required at 150' elevation on the tower. However, Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards and not downwards.

The applicant, Dave Reynolds, submitted a voice coverage map showing current signal strengths as they exist today (see attachments E-32). As can be seen by these maps, coverage could be better in this portion of the County; Mr. Reynolds stated that a tower at this location would provide valuable wireless coverage. Mr. Reynolds also reported that if a tower shorter than the proposed 300-320' was installed at this location, the cellular coverage area would be smaller than what the engineers need at this location, and that additional smaller towers would be needed to cover the same area (resulting in a needless proliferation of tower sites). He also reported that substituting shorter towers can affect network performance. According to Mr. Reynolds, the antenna elevations need to be similar in order for cellular networks to work well (see attachments E-34 through E-38 for further explanation and graphics related to this).

Mr. Reynolds consulted with a local Appraiser who wrote a letter stating that, from both her experience and from consulting with senior Appraisers, cell phone towers do not negatively affect property values of adjacent property holders. The submitted letter additionally says that there is no quantifying evidence of automatic decline in property values due to an adjacent tower (see attachment E-39).

The Washington County 911 Director, John Luther, is in support of additional cellular infrastructure in rural Washington County because it would enhance access to emergency services. He reported that first responders are becoming more dependent on wireless communications and use it to transmit vital information on a patient's condition while en route to hospitals and to triangulate a person's location. He also reported that over 85% of 911 calls in Washington County are made with cell phones. Please read the attached letter (E-53) from Mr. Luther; it explains in more detail why increased cellular service in rural Washington County is important.

The primary issues with this project have been neighbor complaints regarding a suspected nearby Native American burial ground site, safety, and visual impact of a tower (see the below section Neighbor Comments/Concerns).

TECHNICAL CONCERNS:

Water/Plumbing/Fire Issues:

Washington Water Authority did not comment on this tower.

The Washington County Fire Marshal, Dennis Ledbetter, requires the access drive to be 26 feet in width from Storms Road to the tower and the proposed gate off Storms Road to be 26 feet in width to accommodate emergency vehicle access.

In addition, Mr. Ledbetter requires all entrance drives and parking areas to be able to support 75,000lbs in all weather conditions. Smith Communications will be installing a gate off Storms road which will be kept locked; Mr. Ledbetter requires this gate to be locked with a padlock which, if emergency access is needed, can be cut off by emergency personnel in order to gain access. The applicant, Mr. Reynolds, was in agreement with this arrangement. Staff's site visit

revealed an existing gate on Storms Road; Staff will inquire of Mr. Ledbetter if he will apply the same gate conditions to this gate.

Sewer/Septic/Decentralized Sewer:

Melissa Wonnacott-Center of the Arkansas Department of Health (ADH) did not comment on this tower. Note that no septic system will be needed or installed.

Electric/Gas/Cable/Phone:

Ozarks Electric reported that any relocation of one of their existing lines or any extension of a line to feed this property will be at the owner's/applicant's expense. Prairie Grove Telephone reported that, as shown on the survey, the 30' wide Road and Utility Easement from Storms Road north to the tower is satisfactory for PGTelco.

Roads/Sight Visibility/Ingress-Egress/Parking:

Access between the tower site and Storms Road would be provided by a 30' wide utility and access easement.

The applicant has stated to Staff that the tower site would be unmanned and that the only recurring traffic would be one or two light trucks per month for equipment maintenance technicians. Because of the low vehicular volume, a traffic study is not required.

Drainage:

The Washington County Contract Engineer has no comments on this proposed project. The applicant, Dave Reynolds, stated to Staff that the tower would not change the grade or slope of the existing terrain, and would not cause diversion or other appreciable change in the stormwater runoff to or from the proposed site. Staff feels that the tower would have a negligible impact on drainage.

Environmental Concerns:

Environmental Affairs did not comment on this project.

Existing Residential Structure Concerns:

The nearest existing residence is located approximately 1167' from the tower's base. There are no residences within the radius of the height of the tower + 400'.

Washington County code requires that if a residence is located within 400 feet plus the height of a tower to be constructed, the owners of that residence must consent in writing to construction of the tower in order for the tower to qualify for the Administrative Tower approval process. If consent is not acquired, the tower must be heard by the Planning Board/Zoning Board of Adjustments. Please see the attached map (E-15) that shows three circle buffer distances. The inner circle represents the height of the tower and the outer two circles represent radii distances of 650 feet and 670 feet (representing the approximate tower heights, with and without the lightning rod, plus 400 feet). Since there are no residential structures located within the notification buffer distances, no signed letters were required

Administrative Tower Review:

If all criteria are met and this project is approved for a Conditional Use Permit (CUP), the developer will be required to return for Administrative Tower Review. Full Tower Review by the Planning Board will not be required if all Administrative Tower requirements can be met. Utilities and other agencies will not review the Administrative Tower Application. However, if all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.

Signage/Lighting/Screening Concerns:

The applicant has stated that FAA regulations require at the top of the tower a white pulsing light during day hours and a low intensity red pulsing light during night hours with the intensity of a 100 watt light bulb. "Sight marker lights" would be required at 150' elevation on the tower. Mr. Reynolds reported that all lights would be shielded from the ground and would shine upwards. Smith Communications reported to Staff that these would be the only lights on the tower.

COMPATIBILITY CONCERNS:

County's Land Use Plan (written document):

According to the County's Land Use Plan,

SECTION II. SUMMARY OF MAJOR CONSIDERATIONS

In an effort to attain the type of development desired by county leaders and citizens alike, the following matters should be considered.

1. *Retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow the industrial and commercial uses and rural residential lands that choose to locate in the county, as well as help to insure that incompatibility with agricultural, residential, and other uses is minimized.*

Staff Comments: There appears to be a number of valid reasons that the tower has been requested in this region, and at this particular location and height. Smith Communication presented maps showing the need for better cellular coverage in this area of the County, and the 911 office has told Staff that the rural areas of the County with poor cellular coverage affects their ability to provide good emergency services to the citizens of Washington County. One cannot deny the aesthetic impact of a large tower; indeed, this tower would be quite visible from surrounding properties. However, this proposed tower is a 36" wide guyed lattice-type tower that has less visual impact than other tower types might have (self-support lattice and monopoles). Self-supporting towers and monopoles would be substantially wider, especially at the base. The choice of the 36" wide pole helps to mitigate its appearance in this rural and agricultural area of the County. With these items taken into full consideration, Staff feels that this cellular facility should be allowed at this location, with conditions.

2. *Commercial development, though necessary, must be weighed according to its impact on agricultural and residential areas.*

Staff Comments: Staff recognizes that a tower at this location might impact the aesthetics of some surrounding properties but it would also provide increased cellular reception to this rural area for both general and emergency cellular service. Staff cannot ignore these needs, especially with the increased use of data for emergency usage of wireless networks.

3. *The protection and preservation of agricultural lands through the proper use of regulatory mechanisms is critical to retain the rural nature of the county.*

Staff Comments: Staff feels they have carefully considered and addressed (to the best of their abilities and knowledge) the protections and preservation of agricultural lands using the regulatory mechanisms at their disposal (primarily the Conditional Use Permit Process).

To address the concerns listed above, staff has given consideration to a number of factors related to this proposed use such as:

- **residential structure proximities,**
- **the proposed tower type and height,**
- **the type of lights on the tower,**
- **fire and emergency vehicle access,**
- **the need for even better emergency services in the rural areas of the County**
- **and all other items discussed in this Staff Report.**

Future Land Use Plan

There is no future land use designation for this portion of the County (see attachment E-16).

SITE VISIT:

A site visit was conducted on 02.27.2013. The subject property is a low-lying cattle pasture surrounded by hills (see attachment E-55).

NEIGHBOR COMMENTS/CONCERNS:

All neighbors within 300 feet of the boundary of this property were notified by certified mail of this proposed project. At this time, two neighbors have contacted Staff with concerns. Mike Anderson (an adjacent neighbor to the northeast) called because he thought there was a Native American burial ground located somewhere to the south of the tower site. Mr. Reynolds provided a letter from Larry Jenkins of Peregrine Environmental (the company who produced the NEPA report), in which Mr. Jenkins reiterates the study conducted by Flat Earth Archeology and the responses from multiple Native American Tribes that found/reported no adverse impact on sites of Native American significance in this area (see attachments E- through E-).

Another neighbor, Cathy Caudle, called Staff with concerns about the radiation safety, appearance of the tower, and the tower's proximity to her property. A federal law (PUBLIC LAW 104-104—FEB. 8, 1996, TELECOMMUNICATIONS ACT OF 1996) specifically prevents Staff from considering safety due to radiation. Ms. Caudle's property is located to the north of the tower site (parcel 001-07908-000 & 001-07909-000). Due to the flatness and openness (mostly pasture) of this area, this proposed tower may be quite visible from her property. However, out of the choice of towers (self-supporting, guyed, or monopole), the applicant has said that this guyed tower is generally considered to be more aesthetically neutral than the others and to have

less visual impact when viewed from a distance (this tower will be approximately 36" wide) (see attachment E-38). The applicant is compiling visual mockups of what the tower would look like at this location. If provided, Staff will provide copies of these images at the 03.07.2013 Planning Board/Zoning Board of Adjustments meeting.

Since both neighbor comments were made over the phone, there are no neighbor letters to include in this Staff Report.

Staff will update the Planning Board at the meeting if any additional comments are received.

STAFF RECOMMENDATION: Staff recommends *approval* of the proposed East Prairie Grove Tower Site CUP Conditional Use Permit with the following conditions:

Planning Conditions:

1. A copy of the Federal Communications Commission (FCC) approval letter must be submitted to Staff prior to tower operation.
2. Must be an approximately 300 foot tall guyed wireless communications tower facility that, with the addition of lights and a lightning rod, could increase the overall height to approximately 320 feet.
3. Compound must be generally sized as presented (75'x75').
4. This CUP will apply only to the lease area and related easement as presented and not to the entire 131.52 acres.
5. Proper Circuit Clerk-filed easement documents shall be recorded for the proposed access and utility easement.
6. The NEPA report shall be updated to reflect the actual height of the tower as presented to Staff (300 to 320 feet).
7. Any future generators shall utilize a fuel containment system to prevent fuel leakages.

Water/Plumbing/Fire Conditions:

1. An access drive constructed 26 feet in width from Storms Road to the tower is required for emergency vehicle access; it shall have 13 feet 6 inches of unobstructed vertical clearance.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. The proposed gate off Storms Road can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
4. The existing gate on Storms Road shall be 26 feet in width and can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.

5. The cattle guard on Storms Road must be shown to be able to support 75,000 lbs in all weather conditions, or it must be removed and filled in and shown to be able to support 75,000 lbs in all weather conditions.

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Utility Conditions:

1. Ozarks Electric: Any relocation of an existing line or extension of a line to feed this property will be at the owner's/applicant's expense.
2. Any utility work in the County Road ROW must be approved and permitted by the Road Department. Call 444-1610 for details.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. The light at the top of the tower shall be as described by the applicant – a pulsing (non-strobing) light (white during the day and red during the night) producing approximately the equivalent of a 100 watt light bulb.
3. No additional lighting, on the ground, is approved with this CUP

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. This CUP must be ratified by the Quorum Court.
3. Must adhere to all Washington County Communication Tower Ordinance Standards.
4. Must proceed through Washington County Communication Tower Administrative Approval process.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. If all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.
7. All conditions shall be adhered to and completed in the appropriate time period set out by

ordinance.

- This project requires additional review; the applicant must submit for Administrative Tower Review within 12 months of this CUP project's ratification.

Cheryl West, Planning Board member, requested to recuse herself from item E due to personal and business relationships.

Washington County Planner, Sarah Geurtz, presented the staff report for the board members with an update on neighbor and public comments received: 5 were opposed, 4 were in support.

Sarah Geurtz added conditions regarding generators, fire access regarding the gate and cattle guard on Storms Road, fire access clearances for the easement, & lighting.

Dave Reynolds, with Smith Communications, stated that he would be available to answer any issues for the board. Again, we use the same criteria to pick the site. It's 1800 ft from Illinois Chapel road. The closest resident is 1000ft away.

Public comments:

Mike Anderson, property owner adjacent to the tower, pointed out his chicken houses and property for the board. Mike wanted to address a couple of things, first the emergency services mentioned 911 does not go off cell towers they go off satellites. These cell towers won't affect emergency communications. He found that out over in Strickler one night when he couldn't get cell service but he could get 911. He stated that Mr. Storms has over 400 acres, that the tower is located near the residential area. There's a lot of land where the tower can be relocated. His other concern is property value. Mike is afraid that it will affect the sale-ability of the houses. It will slow the process of sales and lower the property value of houses. Also, Mike has renters that rent the field next to him. The renters are concerned about the cell tower. He states that it could affect his ability to rent the pasture which is adjacent to the tower. Mike rents out 8 acres which are adjacent to the tower. If the renters stop renting it will affect Mike's income. Also has a site near Illinois Chapel Road, where future renters might be hesitant to rent if the cell tower is built. Mike states that the tower might directly affect his income. Concerning the coverage area and couple of spots that do not have cell service; the people here tonight represent the area that they're talking about. They do not want it. They already get 4G service.

Mike Anderson passed out a picture for the board members. It was a picture from his backyard and neighbor's backyard. It's a beautiful property out there to look at. He stated that there is a small hill and that maybe they can move the tower behind that hill. There's 400 acres to work with here. Mike states that he doesn't want to be unreasonable, but why does the tower have to be located near the neighbor's property line. Also, if they were to get an unfavorable ruling, would the neighbors be able to get more time to gather more information. The neighbors he was talking about are Cathy and Gary Scott, who could not be here tonight, they are out of state.

Mike read a prepared statement from Cathy and Gary Scott. This communication is being submitted to express our strong opposition to the proposed cell phone communication tower being erected at the back of our property. This opposition is based on the following reasons: Speculation, there is no mention of any service provider associated with this project in the information provided to the residents in the immediate area. If that is the case, what will be the reason for this request? There are other towers in a 3 mile radius of the proposed site that provide service in the area. Is it stated that there is a need for this additional service that would benefit the local residents? Environmental Risk: How many service providers are committed to

using this tower? Regulations require that each service provider on a tower have their own back-up generator available in times of emergency. Each of these generators would require a fuel source, typically diesel, to provide emergency service in the case of a power outage. The storage tanks present additional risks to Hickory Creek, which is within the 700 foot buffer according to the documentation provided by Smith Communication. This Creek flows into the Illinois River on the Storm's property. Migratory Birds: Guyed wire towers have a documented negative impact on the migratory bird populations. The proposed site is frequented by Canadian Geese and Bald eagles. Mike states that this area is designated wetlands by the EPA. In addition, there are Red Tail Hawks that nest and reside in this area year round. The guyed wire structures create additional dangers to these bird populations. Location: The area proposed is farmland. These farms are small in nature and have little or no need for this type of technology. We personally purchased our farm about 13 years ago because of the quiet natural setting. If this was downtown Fayetteville and a tower being proposed was aesthetically pleasing and being mounted on top of a 6 story building, the impact to the area would be much less. The proposal for this tower is not in a city that is already unnatural in appearance, but in a very rural setting with a small density population. The proposal is definitely not pleasing to the eye and would most likely require a disguised tower in a more populated area. There are many other style towers that do not have this negative impact. While they may argue that there are no proven facts available to show a decrease in property values, there is not also data that says it improves property value. Erecting the cheapest type of tower to reduce cost to Smith Communication should not be whose costs are important. They stand to make significant profit if they convince carriers to use the tower, while the landowners in the area see a negative effect on their property values. There are many realtors, if not all realtors, that would admit that a tower is a negative impact on the value of a property. Conclusion: we are strongly opposed to this proposal for the following reasons: this appears to be speculation that service providers are requiring this, increased environmental risks associated with the low lying location, increased risk to migratory bird populations, decreased property values to the surrounding residents with decreased curb appeal, and 4G service is available in the area and at our residence.

Jerry Caudle, neighbor north of Illinois Chapel Road, agreed with everything Mr. Anderson said. He stated that as big as the area is, there has to be other spots that can be located for that tower. There are a lot of neighbors here that are north of the tower and it's just not pleasing to look at it. We are totally against it.

Kim Fuggitt, neighbor that lives on 10898 Illinois Chapel Road north of the area, has owned the property for 5 years and lived out there 2 years. He had moved out here intentionally to get away from things like these, night lights and the high tech issues that you would see in town. Has owned this property for 5 years and has no issues with cell reception anytime they've been there. What troubles him the most about it is how it affects the night sky. He understands that there will be a red blinking light that will be there. It may not have the same light pollution a downtown area would have but it is still a disruption of the night sky and the views from their property. Kim is curious about the dead spots on the service maps, it seems to coincide with some hill tops in the area and is interested to see how that overlays, those hills tops are not occupied there are no homes in that area and most of the homes are in the valley. Kim does not think that any one of the neighbors have any issues with cell reception there. He is also curious about the benefits of the tower, if the benefits are in the reception of the community vs. security, 911 service of the community. It would appear to be the cell providers are getting a lot of benefits but the cost of the benefits are being born by the neighbors in the area.

Ellen Feldner, neighbor on 10976 South Hwy 265 east of the area, is strongly opposed to the cell tower for a number of reasons. One is aesthetics. They moved out to the country 10 years ago precisely to get away from these types of things. In terms of the property value, she is very

concerned. While there is no proof of a problem there, certainly the absence of evidence is not evidence of absence. We can certainly intuit it that there would be an impact on property value. She is also concerned about the loss of income, particularly in folks that might be interested in renting. Ellen is very concerned about the environmental impact, particularly in the migratory bird population. She concurs with her neighbors that there must be a better, more reasonable compromise, than the current proposal.

Pat Storms, whose property the cell tower will be built on, said that his family owned this farm for 52 years. He did not pick this spot, AT&T picked our spot.

Mr. Storms has read a prepared statement. "I'm really the one that most everybody here came to tonight to keep from building a communication tower. First of all, thank you for showing up and expressing your concerns. I too love this area. We owned it for 52 years. Having been raised on his property as a true farmer I also want to keep the area free of eyesores. Since most people are here tonight because they're afraid that the tower will ruin their scenery and drop the value of their properties, let me ask you this, does anyone here have electric lines that run onto your property above the ground to provide electricity to your home? Does anyone here have a main transmission line running across your property or close to it? Does anyone here have an unbeautiful front yard or back yard or have a neighbor that has one that makes it unbeautiful? But most importantly, do any of the good folks here have cell phones in their pocket? If you can answer any of these questions with a yes, then why are we here? My family has owned this for over 50 years. We worked the farms all of our lives. I presently have the entire property for sell. Do I want to devalue the property value by placing a tower on it? The neighbor says the property value will devalue. I don't see any of their properties for sell. Granted this will be an AT&T tower but after it's constructed maybe other companies will rent space, which they always do. Verizon, T-Mobile, and other forms of communications could be using this very tower. Who knows, maybe some of the other awesome things will be available to us in the not too distant future; like competition. Here is what I know, I hold a principal broker's real estate license. What does that mean? Number one it means I am supposed to be an expert in land. Does it mean I am? No. But I do know that the tower can be an asset instead of a liability. Will this tower make your land worth more or less in the future, depending if you want to sell or not. If you don't sell it doesn't matter. I can't predict the future but I can tell you this. In my personal opinion it will not devalue the property value. Presently gravel is being applied to our road, which I worked today and the cattle guard crossing is 98% full of dirt and sediment because the county water runs down the middle of the road and I've been working on it to divert the water down my ditches. We have run hundreds of cattle trucks, 18-wheeler cattle trucks that weigh 70 tons to whatever they weigh, we have multiple chicken houses in the past, so these 75,000lb will not be a problem but I will fill it in. So that won't be a problem. And just to make something else clear. There are neighbors in the neighborhoods that really don't care if we have it or not. If you want names I can supply them. Some say they don't want it but it's our property we should be able to do with it what we want. So with that I thank you for your time."

AJ Farley, neighbor to the west of Storm's property, granted that people said it is going to hurt or not going to hurt their property value. I personally feel it will. I also feel it is an eyesore. I moved out there because it's such a beautiful place to be. When you sit on my deck you can see the beautiful mountains. Now when you sit on my deck all you would see is the 300ft tower. Now granted, Pat did say it's his land. It's been in his family for years. I've known him for years. Personally some of the information that was given by the Smith corporation about the height of their towers is a little misleading. And I did not know before tonight that we could not bring up any health issues. Only thing I got to say is that due to the microwave unit, my mom's 94, has a pacemaker. I need to find out more about this before it's voted on, that's all I'm asking.

Cathy Caudle, neighbor north of Illinois Chapel Road, stated that she does not agree with Mr. Storm's comment about trash in front of the neighbor's yard. Trash can be picked up. A cell phone tower cannot. That is a permanent fixture. But we can go around and pick the trash up. Cathy said that even though none of the neighbors have their homes for sale right now, in the future we may want to sell it. She talked to a real estate agent today. They said that yes, high line posts do cut down the price of your property and so does the cell phone tower. She stated that Mr. Storms has his property up for sale. It's not going to affect him or his family. But, I hope you guys see our point of view. There are 8 neighbors surrounding this tower and it's closer than what your map is showing. Every one of us, our backyard faces that tower. I hope that the board puts themselves in our places.

Jeremiah Jones, the renters of Mike Anderson: We are thinking about renting or owning land from Mike Anderson. We were moving out to Prairie Grove for the family atmosphere and also for the aesthetics of the land, that's one of the key features we were looking for the most, the beauty of the land. After hearing about the cell tower, we are highly reconsidering our decisions to move. As for as the property value, "how's that for property value". Someone that is not considering renting or buying land anymore. That's definitely a loss.

Rose Gergerich, neighbor off South Hwy 265, lives in the dead zone with no cell reception. She would ask everyone that has spoken that the statement they made is they have good reception and that they don't need a cell tower. Rose pointed out that somewhere there's a tower in someone's backyard that's providing reception for them. She stated that she has spent a lot of money trying to get a good signal for where they live. It's not working very well, it's intermittent. She's speaking up for neighbors in this location and also signed a petition to try to get service in her area. This cell tower would provide service in the area. If this service is not forthcoming, I hope that AT&T or some other provider would consider other towers so that all people in rural communities could have cell phone service.

Jessica Anderson, neighbor off Gifford road, said that one of her biggest concerns is the current flood levels. The water in the flood plain rises quickly, it came right to the bottom of where that tower would be. With the generator being there, even if it did have a bag or bladder to catch the leak, she is still concerned if water is covering that or gets very close to the generator. Her second concern is that even though a lot of the neighbors are home owners, there are also small business owners that run businesses from their homes. Two at least are kennels, and then we run a sustainable agricultural farm and she is also a stay at home mom. Jessica says that she loves where she lives and she enjoys the sun set every day. Her customers too compliment the beautiful scenery as well. The sun does set between the two hills where that tower will be.

John Luther, Washington County Emergency Management Director and 911, wanted to clarify about the misinformation concerning 911 from earlier. 911 does not use satellite. 911 is landline, wire line base in the ground, or wireless base on cellular towers. John stated that Mr. Anderson may have gotten information concerning GPS coordinates utilized by one carrier in triangulation in position of a caller. The voice and data are transmitted by wire line or wireless. The only thing that a satellite might do for the carrier is provide the GPS coordinates. All other carriers triangulate the position of a caller. For example, if you are driving along and having an accident by the road, you dial 911, and if you have connectivity with one tower, hopefully you have enough to provide voice call, the call will go to 911. Every other tower that your phone sees and communicates with helps the 911 call taker better locate your position. In the past, prior to wireless 911, Phase II technology, (which was what Mr. Anderson was referring to) we would get a call from a wireless caller, but they would have to tell us their location. We had no way to identify where on the planet they were. With the advent of phase II technology, the system utilizes the various towers along with time and distance information and shares your data with

the caller between those sites. It helps us triangulate a position and it presents a picture of where you are on imagery maps in our dispatch centers. I just want to clarify; we did not misstate what 911 does and how it works.

Mary Jones, mother of Jesse Jones, works for AT&T and wireless. She stated that she gets the coordinates for the satellites in their house right now, on their property. It locates me, right now. It doesn't need a cell site or tower to be there to do that. It's already doing it.

Dave Reynolds, with Smith Communications, stated that the location is selected and proven to cover the areas that aren't covered. Those areas are along the Hwy 265 corridor down to Hogeys and over towards Illinois Chapel Road out towards Prairie Grove. Dave wants to reiterate that they meet all the requirements concerning the issues with migratory birds, tower lighting, etc. They followed all the best manage practices as stated by the Department of Interior. There was extensive study on migratory birds and how to best meet the best management practices for those. The closest resident is only 1100 ft away. Illinois Chapel Road is over 1800 ft away. The tower is only 36 inches wide.

Mike Anderson, property owner adjacent to the tower, stated that this site is not the only site for the cell tower. The company has talked to other neighbors in the area about putting a tower and they were turned down. They have some leeway where they can put the tower. Mr. Storm has 400 acres that can be used. Mr. Storm will be compensated for his property value. There's some leeway here. It does not have to be in that spot.

Public Comments Closed.

Juliet Richey, Washington County Planning Director, reminded the board that the conditional use criteria checklists had been passed out to them. Juliet Richey read the Sec. 11-200. The Criteria for allowance of conditional uses and procedure for the board. That a written application has been filed with the Planning Office and the appropriate fee has been paid. That the applicant has provided proof that each property owner as set out by code has been notified by certified mail. That adequate utilities, roads, drainage and other public services are available and adequate or will be made available and adequate if the use is granted. That the proposed use is compatible with the surrounding area. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. That the conditional use will not be injurious to the use and enjoyment of other property in the surrounding area for the purposes already permitted, nor substantially diminish and impair property values within the surrounding area. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding area for uses permitted in the zone. Compatibility with the policies in the adopted county land use plan and future land use plan. Things that we cannot consider are health issues related to the cell tower and also the issue of coverage in the area, that's not something we can consider because it moves into the regulation of the industry, that's what the FCC declaratory ruling states. Neither of those things we can consider with the cell tower.

George Butler, Washington County Attorney, added that the zoning ordinance goes on to say that if it is determined that there are conditions that could be imposed by the board that would significantly lessen the impact of said use, or increase compatibility, then the board has the power to impose those conditions which shall be specifically set forth.

Robert Daugherty, Planning Board member, stated that he is sympathetic to the neighbor's concerns. He understands. These are some of the most difficult decisions that the board has to

make. Robert Daugherty personally understands the importance of the use of a cell phone to save an individual's life. He understands the value of the cell phone reception.

Robert Daugherty made a motion to approve the **East Prairie Grove Tower Site CUP** subject to staff recommendations. Daryl Yerton seconded. Walter Jennings and Kenley Haley were not present. Cheryl West Recused herself. Board Members Randy Laney, Daryl Yerton, Robert Daugherty, and Chuck Browning were in favor of approving. Motion passed.

5. Other Business

- Discussion of Current Development.
- Reminder of upcoming regular Planning Board meeting April 4, 2013
- *Juliet Richey informed the board that she will keep them updated about the upcoming appeal.*
- Any other Planning Department or Planning Board business.

6. Old Business

7. Adjourn

*Chuck Browning moved to adjourn. Robert Daugherty seconded. Motion passed.
All Board members were in favor of approving.*

Planning Board adjourned.

Minutes submitted by: Phuong Pham

Approved by the Planning Board on:

_____ Date: _____
Randy Laney, Planning Board Chairman