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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Clifton B. Newman, Circuit Court Judge

Appellate Case No. 2024-000659

David L. Lambert and Julia H. Beamish, Appellants,

v.
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions for Verizon Wireless, Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	C.A. No. 2023-CP-02-00412
	)	
David L. Lambert and Julia H. Beamish,	)	
	)	
Appellants,	)	**Order Denying Appeal**
	)	
vs.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions for Verizon Wireless,	)	
	)	
Respondents.	)	

Appellants David L. Lambert and Julia H. Beamish appeal the Aiken County Planning Commission's decision to approve Verizon Wireless' Application for a permit for a wireless telecommunications facility (cell tower) on a rural tract of property located at Old 96 Indian Trail Road in Aiken County (the Indian Trail Property) (Tax Parcel No. 262-00-01-002).[1]

Underlying Facts

Verizon applied to the Commission for a permit to build a cell tower on the Indian Trail Property to address wireless coverage deficiencies that exist between Wagner and I-20. Record Ex. 2 at p. 48; Record Ex. 2 at p. 56. Appellants own property adjacent to the proposed tower location (the Bluffwood Road Property) (Tax Parcel No. 262-00-01-043) and opposed Verizon's Application.[2]

[1] The Indian Trail Property is over one hundred acres of vacant and wooded land with no structures on it. It is zoned for rural development. Verizon leases or plans to lease the Indian Trail Property for the purpose of constructing and operating the cell tower.

[2] A map of the proposed cell tower location on the Indian Trail Property indicates that it would sit approximately 1,600 feet away from Appellants' property line. Record Ex. 2 at pp. 59, 64-65.

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The Commission considered Verizon's Application at multiple meetings. At the first meeting, on October 20, 2022, Appellants argued that the construction and operation of a cell tower on the Indian Trail Property are prohibited by the restrictive covenants attached to the Bluffwood Road Property Deed. Based on that objection, the Commission tabled Verizon's Application and requested additional information supporting the parties' respective positions on the issue. Verizon submitted detailed information explaining that the restrictive covenants do not apply to the Indian Trail Property and copies of the deeds for each property.

A second Commission meeting was held on November 17, 2022. Appellants again argued that restrictive covenants prohibit commercial activity on the Indian Trail Property. Appellants provided a copy of the restrictive covenants to the Commission but did not include a copy of the deed to which they were are attached. Verizon's Application was tabled a second time to allow Appellants an opportunity to produce the relevant deed.

A third and final meeting was held on January 19, 2023. Appellants did not present the Commission with any new information. Verizon reiterated its position that its Application meets county requirements for wireless telecommunication towers and that the restrictive covenants do not apply to the Indian Trail Property. The Commission verbally approved Verizon's Application with contingencies by a majority vote. Details of the vote and a summary of the arguments and evidence presented are found in the January 19, 2023 meeting minutes. Record Ex. 9 at p. 4. Finally, on January 25, 2023, the Aiken County Planning and Development Department issued a written notice of approval with conditions to Pyramid Network Services.[3] Record Ex. 1.

[3] The January 25, 2023 approval letter complies with LMR Section 24-3.5.16(2), which requires that, if the Commission "approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing within ten (10) calendar days of the Planning Commission's action."

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On February 20, 2023, Appellants filed a Notice of Appeal in the circuit court, challenging the Commission's decision to approve Verizon's Application. Appellants generally contend that (1) the Commission's approval is legally insufficient because the Commission did not issue written findings and conclusions supporting its decision; (2) the Commission's decision is unsupported by the record because it failed to consider certain factors outlined in the Aiken County Land Management Regulations (LMR); and (3) the proposed cell tower would violate certain restrictive covenants applicable to the Indian Trail Property.[4]

A hearing was held on October 16, 2023. Clarke McCants III, Esq. appeared on behalf of Appellants, Brad Farrar, Esq. appeared on behalf of the Commission and the Aiken County Government, and Catherine Wrenn, Esq. appeared on behalf of Verizon. Having carefully considered the pleadings, briefings, record on appeal, and arguments of counsel, Appellants' appeal is DENIED.

Standard of Review

This Court reviews the Commission's decision to approve Verizon's Application for an abuse of discretion. Grays Hill Baptist Church v. Beaufort Cnty., 431 S.C. 630, 637, 850 S.E.2d 29, 33 (2020). In other words, the Court may not reverse the Commission's decision "unless [the Commission's] findings have no evidentiary support or [the Commission] has committed an error of law." Id. (internal citation omitted). Furthermore, an appellate court "will not substitute [its] judgment for that of the reviewing body, even if [it] disagree[s] with the decision." Id.

[4] Appellants did not raise the restrictive covenants issue in their Notice of Appeal but maintained that the issue remained "alive" at the hearing.

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Analysis

A. The Commission maintained a sufficient record of its decision to approve Verizon's Application in compliance with Section 6-29-360(B).

Appellants contend that the Commission did not maintain a sufficient record of its decision as required by Section 6-29-360(B) of the South Carolina Local Government Comprehensive Planning Enabling Act (the Act) and seek to reverse the decision or remand the matter to the Commission for further findings of fact and conclusions of law. Specifically, Appellants complain that the Commission did not issue written findings of fact and conclusions of law setting forth the basis for the Commission's approval.

Appellants' argument proves too much. The Act mandates only that "a record of [the Commissions] resolutions, findings, and determinations" be kept—it does not specify what form the record must take or require the Commission to explain its decision.[5] S.C. Code Ann. § 6-29-360(B). Here, the Commission's staff investigated and prepared a report in which it determined that Verizon's proposed cell tower "has met and/or exceeded County adopted IBC and ANSI codes," "does not conflict with any designated historical site," and does not pose an "unacceptable risk or unreasonable probability of" risk to residents, the public, employees, and agents of the County or employees of service providers," which the Commission considered and made a part of the record. Record Exhibit 2 at pp.45-46. The Commission recorded and transcribed each meeting in addition to maintaining meeting agendas and detailed meeting minutes. And, as noted earlier,

[5] The absence of conditional language in Section 6-29-360(B) is also noteworthy when read in the context of other similar provisions within the Act. For example, a provision in Article 5 permits approval of a zoning variance in an individual case of unnecessary hardship "*if the board makes and explains in writing*" certain enumerated findings. S.C. Code § 6-29-800(A)(2) (emphasis added). The specificity of the language in Section 6-29-800(A)(2) suggests that the legislature did not intend to impose similar written formalities in Section 6-29-360(B). See 82 C.J.S. Statutes § 418 ("When the legislature includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that the legislature acts intentionally and purposely in such disparate inclusion or exclusion and that the legislature intended different results.").

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the Commission's vote approving Verizon's Application is recorded in the January 19, 2023 meeting minutes. Record Ex. 9 at p. 4. See Wyndham Enterprises, LLC v. City of N. Augusta, 401 S.C. 144, 149, 735 S.E.2d 659, 662 (Ct. App. 2012) (noting that a zoning appeal board's "minutes normally constitute" its "final findings").

The record is robust, and there is simply no cause for this Court to undo the work of the Commission or delay finality by imposing additional formalities to effectuate the Commission's vote that do not exist in the statute or county regulations. See, e.g., State v. Cty. of Florence, 406 S.C. 169, 180, 749 S.E.2d 516, 522 (2013) (declining to "augment the statutory language" to include a requirement that is not contained in the statute at issue); Grier v. AMISUB of S.C., Inc., 397 S.C. 532, 540, 725 S.E.2d 693, 698 (2012) (noting "when a statute is clear on its face, it is 'improvident to judicially engraft extra requirements to legislation'"); Smith v. Georgetown Cnty. Council, 292 S.C. 235, 238, 355 S.E.2d 864, 865 (Ct. App. 1987) (holding that the circuit court improperly invalidated county council's decision to amend a zoning ordinance because it did not make a specific finding that the amendment was in the public interest where no such requirement existed by statute). Therefore, I find the Commission not only met, but well exceeded its modest obligation under Section 6-29-360(B) of the Act and deny Appellants' appeal on this ground.

B. The Commission's decision was made in accordance with all applicable regulations and is supported by the record.

Next, Appellants contend that the Commission's approval is unsupported by the record because it failed to consider factors outlined in the Aiken County regulations applicable to permit applications for wireless communication towers.[6] The regulations provide that the Commission

[6] Appellants' Notice of Appeal does not identify which portion of the Commission's decision is unsupported by evidence or specify the regulatory factors that the Commission failed to consider. See S.C. Code Ann. § 6-29-1155 (requiring Appellants to file a "petition in writing setting forth plainly, fully, and distinctly *why* the decision is contrary to law") (emphasis added).

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"*may disapprove* an application" if there is "substantial evidence in the record" that any one of four criteria are met. LMR § 24-3.5.7(1) (emphasis added). The record reflects that the Commission considered those factors: The Commission's staff prepared a report separately addressing each and concluded that the Application does not meet any of the regulatory grounds for rejection.[7] Notably, Appellants do not contend that the Commission failed to consider substantial evidence proving any one or more grounds for denial actually exist, nor could they.[8] Appellants did not present any evidence to dispute the staff report, which the Commission was entitled to consider and made a part of the record.

At the hearing, Appellants indicated that the proposed cell tower location would negatively affect the equestrian character of the surrounding property, including Appellants' Bluffwood Road Property. Appellants appear to suggest that the Commission's approval violates the County's "desired goals" for wireless telecommunications facilities—specifically that it "regula[te] the location of wireless telecommunications facilities in such a manner as to minimize adverse, aesthetic and visual impacts on the land, property, buildings, and other facilities located in the area of wireless telecommunications facilities." LMR Section 24-3.5.2. But that concern alone, even if true, is not legally sufficient to limit the Commission's discretionary authority and overturn its approval of Verizon's Application.

[7] LMR 24-3.5.7(1) provides as follows: "The planning commission may disapprove an application for any of the following reasons based upon substantial evidence in the record before it: (a) Conflict with safety and safety-related codes and requirements; (b) Conflict with a designated historical site; (c) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the county, or employees of the service provider or other service providers; (d) Conflicts with the provisions of this section 24-3.5."

[8] Even if there was substantial evidence before the Commission that would permit denial of Verizon's Application, the Aiken County regulations do not require it. LMR § 24-3.5.7(1) (The Commission "*may* disapprove an application" if there is "substantial evidence in the record" that any one of four criteria are met.) (emphasis added).

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Appellants' objections appear to be grounded in their argument that they do not know why the Commission approved the Application because it chose not to issue written findings and conclusions, which the Court has rejected. Nevertheless, the nearly three-hundred-page record indicates that the Commission considered Verizon's Application, the relevant property records and deeds, the Commission's staff report, and the arguments presented at the hearings. I find the Commission's decision was made in accordance with all applicable regulations and is supported by sufficient evidence. For these reasons, the Commission acted well within its discretion when it approved Verizon's Application with contingencies.

C. There are no restrictive covenants that prohibit the proposed cell tower on the Indian Trail Property and Appellants failed to preserve the issue on appeal.

Appellants final argument that the proposed cell tower would violate certain restrictive covenants applicable to the Indian Trail Property is forfeited and fails as a matter of law. Appellants to provide arguments or supporting authority for their position even after Verizon argued extensively that the restrictive covenants do not apply at the hearing. Therefore, I find the question of whether restrictive covenants apply to the Indian Trail property and is not properly before the Court in this appeal. Glasscock, Inc. v. U.S. Fid. & Guar. Co., 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001) ("South Carolina law clearly states that short, conclusory statements made without supporting authority are deemed abandoned and therefore not presented for review.") (internal citations omitted).

Nevertheless, even if the issue were properly presented, I find in the restrictive covenants attached to and referenced in the Bluffwood Road Property Deed (including the covenant prohibiting commercial activity) do not–either by express language or unmistakable implication—apply to the Indian Trail Property or prohibit the construction or operation of the proposed cell tower and deny Appellant's appeal on this ground. See Record Exhibit 13. I further find that no

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restrictive covenants are attached to or referenced in the Indian Trail Property Deed that would prohibit the construction or operation of the proposed telecommunications tower on the that property. See Kinard v. Richardson, 407 S.C. 247, 257-58, 754 S.E.2d 888, 894 (Ct. App. 2014) (quoting Taylor v. Lindsey, 332 S.C. 1, 498 S.E.2d 862 (1998) ("A restriction on the use of property must be created in express terms or by plain and unmistakable implication, and all such restrictions are to be strictly construed, with all doubts resolved in favor of the free use of property.")); See also Buffington v. T.O.E. Enterprises, 383 S.C. 388, 392, 680 S.E.2d 289, 291 (2009) (noting that "courts tend to strictly interpret restrictive covenants, and to enforce a restrictive covenant, a party must show that the restriction applies to the property either by the covenant's express language or by a plain and unmistakable implication").

For the reasons set forth above, Appellants' Appeal of the Aiken County Planning Commission's decision to approve Verizon's Application for a permit for a telecommunications facility is DENIED.

This ____ day of December 2023

_____

The Honorable Judge Clifton Newman

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Aiken Common Pleas

Case Caption: David Lambert , plaintiff, et al VS Aiken County Planning And Development Commission , defendant, et al

Case Number: 2023CP0200412

Type: Order/Other

So Ordered

s/ Clifton B. Newman, 2127

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	C.A. No. 2023-CP-02-00412
	)	
David L. Lambert and Julia H. Beamish,	)	
	)	
Appellants,	)	**Order Denying Motion to Alter And/Or Amend**
	)	
vs.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions for Verizon Wireless,	)	
	)	
Respondents.	)	

This matter is before the Court on Motion of the Appellants to alter and/or amend the Order of the Court filed December 28, 2023.

Having fully considered the matter, the Motion to Alter and/or Amend is hereby denied.

AND IT IS SO ORDERED.

March 18, 2024

Clifton Newman
Presiding Judge

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Aiken Common Pleas

Case Caption: David Lambert , plaintiff, et al VS Aiken County Planning And Development Commission , defendant, et al

Case Number: 2023CP0200412

Type: Order/Amend

So Ordered

s/ Clifton B. Newman, 2127

ELECTRONICALLY FILED - 2023 Feb 20 4:25 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

State of South Carolina	)	
	)	In the Court of Common Pleas
County of Aiken	)	
David L. Lambert and Julia H. Beamish,	)	**NOTICE OF APPEAL**
Appellants,	)	
vs.	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions, LLC for Verizon Wireless,	)	
Respondents.	)	

COME NOW THE APPELLANTS, David L. Lambert and Julia H. Beamish, and hereby appeal the decision of the Aiken County Planning Commission granting an application presented by Pyramid Network Solutions, LLC for Verizon Wireless to construct a wireless communication tower upon certain real property located at Old 96 Indian Trail, Wagener, South Carolina, which is otherwise identified as Aiken County, South Carolina Tax Parcel 262-00-01-002.

The Appellants would respectfully show to the Court as follows:

1. The Appellants are interested parties in this matter in that they own certain real property directly adjacent to the property for which the application for the wireless communication tower was granted.

2. Verbal notice of the granting of this application was made by the Aiken County Planning Commission at its meeting held on January 19, 2023.

3. Upon information and belief, no written decision granting the application has been issued by the Planning Commission.

4. The verbal decision of the Planning Commission is not supported by the evidence and other information presented to it in conjunction with its consideration of the application for the construction of the wireless communication tower.

5. The Planning Commission did not consider certain factors outlined in the Code of Ordinances for Aiken County, and which is required for consideration of applications for the construction of wireless communication towers within the County.

6. The Appellants hereby request pre-litigation mediation in accordance with S.C. Code Ann. §6-29-1155 (1976), and as required by the Code of Ordinances for Aiken County.

Respectfully Submitted,

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February 20, 2023

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ELECTRONICALLY FILED - 2023 Mar 15 3:04 PM - AIKEN - COMMON PLEAS - CASE#2023CP020412

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF AIKEN	)	
David L. Lambert and Julia H. Beamish,	)	
	)	Civil Action No. 2022-CP-02-00412
Appellants,	)	
	)	
v.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions, LLC for Verizon Wireless,	)	**RETURN TO NOTICE OF APPEAL**
	)	
Respondents.	)	
	)	

The Respondents Aiken County Planning Commission and Aiken County Government, make their Return to the Notice of Appeal electronically filed on February 20, 2023, as follows:

Background

Pyramid Network Services, LLC, for Verizon Wireless applied (the "Application") to the Aiken County Planning Commission for permission to place a telecommunications tower on property known as Old 96 Indian Trail, Wagener, South Carolina 29164, bearing Aiken County Tax Parcel Number 262-00-01-002 (the "Property").

The Property owner is Gerald L. Waters, Trustee of the Gerald L. Waters Living Trust.

The application proceeded to the Planning Commission for a public hearing on October 20, 2022. At the hearing, Appellant Lambert advised the Planning Commission that the placement of a telecommunications tower violated restrictive covenants he contended applied to the Property.

S.C.Code Ann. § 6-29-1145 provides in relevant part:

> (B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:
>
> (1) in the application for the permit;

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> (2) from materials or information submitted by the person or persons requesting the permit; or
>
> (3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order. (Emphasis supplied herein).

Based on Appellant Lambert's representation to the Planning Commission regarding restrictive covenants that may be relevant to this Application, the Commission tabled the matter until its next regular meeting scheduled for November 17, 2022.

At its meeting on November 17, 2022, in addition to the Staff Report on the Application, the Planning Commission included in the record of this case the following:

1) Letter of November 17, 2022, from Clarke W. McCants III, Esquire;

2) E-mail of November 15, 2022, From Nick Steinhaus, Esquire;

3) Limited Warranty Deed recorded on January 27, 2006, in Deed Book RB 4042, Pages 1955-1960, in the Office of the Register of Mesne Conveyance for Aiken County;

4) Title to Real Estate recorded on March 30, 2010, in Deed Book RB 4301, Pages 1238-1243, in the Office of the Register of Mesne Conveyance for Aiken County; and

5) Title to Real Estate recorded on March 26, 2014, in Deed Book RB 4499, Pages 2015-2019, in the Office of the Register of Mesne Conveyance for Aiken County.

In addition, at the November 17th meeting counsel for the Appellants offered a copy of Restrictive Covenants For Bluffwood East for the Commission's consideration.

The Planning Commission continued this matter until its meeting in January 2023.[1]

Following the Planning Commission's November 17, 2022, meeting, counsel for the Commission sent a letter dated November 21, 2022, to counsel for the Appellants and to counsel

[1] Counsel for Respondent Aiken County Planning Commission was on overseas military duty during the regularly scheduled Planning Commission for December 2022, so the Commission continued the matter from its November 17, 2022, meeting until its meeting held on January 19, 2023.

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for Respondent Pyramid Network Solutions, LLC for Verizon Wireless, advising in relevant part as to the restrictive covenant issue pursuant to § 6-29-1145:

> Importantly, Subsection (C) provides in relevant part:
>
> As used in this section:
>
> (1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants; (Emphasis supplied herein).
>
> In accordance with 6-29-1145(C)(1), you are encouraged to submit any relevant documents or exhibits you believe bear upon the facts of this request, preferably prior to the call of this matter so that they may be included in the agenda packet, as the Aiken County Planning Department is not required to search for any documents, whether recorded or not, that relate to restrictive covenants and it does not represent either the applicant or anyone in opposition to a matter that comes before the Planning Commission.

At its regularly scheduled meeting held on January 19, 2023, the Planning Commission approved the Application.

This appeal followed.[2]

Discussion

1. Respondent denies each and every allegation of the Notice of Appeal not hereinafter specifically admitted, qualified, or explained.

2. As to the allegation set forth in Paragraph 1 of the Notice of Appeal, Respondents admit that the Appellants are interested parties and have standing to appeal a decision of the Aiken County Planning Commission to this Court based on the South Carolina Supreme Court's decision in the case of *Citizens for Quality Rural Living, Inc., Appellant, v. Greenville County Planning Commission and RMDC, Inc., Respondents* (Opinion No. 5629, Filed February 27, 2019).

[2] Appellants do not raise any issue with restrictive covenants in their Notice of Appeal.

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3. As to the allegation set forth in Paragraph 2 of the Notice of Appeal, Respondents admit that the Aiken County Planning Commission gave verbal notice of its decision granting the application subject to this appeal at its meeting held on January 19, 2023.

4. As to the allegations set forth in Paragraph 3 of the Notice of Appeal, Respondents deny that there was no written decision granting the application issued by the Planning Commission. Written decisions or notice of the Planning Commission's action in matters before that body are mailed to the applicant as designated for the matter at issue. A copy of the Planning Commission's decision in this case is attached to this Return as Exhibit 1.

5. As to the allegations set forth in Paragraphs 4 and 5 of the Notice of Appeal, Respondent denies the same.

S.C.Code Ann. § 6-29-360 provides in relevant part:

> (B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record...

Despite the fact that § 6-29-360(B) imposes no requirements whatsoever as to the "record" of its findings and determinations that county planning commissions are to keep, Respondent had before it for consideration numerous written submissions from Aiken County Planning Staff, the applicant, the Appellants and their counsel, input from all interested speakers over three (3) separate meetings, and all of the items set forth in its agenda packets for those meetings. Included among those submissions and a key part of the record of this case are the Staff Reports, which provided in part:

> According to Chapter 24, Article 3, Section 5.7(1) of the Aiken County Code of Ordinances, the Planning Commission shall review applications for new telecommunication towers based on four criteria. The criteria and staff comments related to each are provided below. Disapproval from the Planning Commission must be based on substantial evidence in the record and the reasons stated on the record.
>
> a. "Conflict with safety and safety-related codes and requirements."

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The site has met and/or exceeded County adopted IBC and ANSI codes.

b. "Conflict with a designated historical site."

The site does not conflict with any designated historical site listed with the State Historic Preservation Office.

c. "The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers."

Staff is not aware of any unacceptable risk or reasonable probability of such that the placement and location of the wireless telecommunication facility would create to residents, the public, employees, and agents of the County, or employees of the service provider or other service providers.

d. "Conflicts with the provisions of this section 24-3.5."

A list of deficient items is attached and was forwarded to the applicant by email on 9/28/2022.

The telecommunication tower regulations are intended to protect the County's health, safety, public welfare, environmental features, and nature and character of the community.

The Aiken County Planning Staff Report further provided in the "Deficient Items List for Old 96 Indian Trail":

• The Functional Performance Standards and Guaranty need to be completed and submitted.

• Sec. 24-3.5.5 (8, k) "The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure." The center line height has already been shown, that part of this section does not need to be completed.

• Sec. 24-3.5.5 (8, l) A bufferyard plan will need to be submitted.

• Sec. 24-3.5.5 (11) "The applicant shall provide certification from a professional civil or structural engineer licensed in the state that the telecommunications facility is designed and will be constructed to meet all county, state, and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute)

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guidelines." The applicant has indicated this item will be submitted prior to permitting.

• Sec. 24-3.5.13 (2) "There shall be no development or construction of habitable (residential) buildings within the fall zone or setback area set forth in the immediately preceding section 24-3.5.13.1. The applicant shall provide written proof that the owner of property on which a tower is proposed to be erected has been notified of this limiting provision regarding habitable (residential) buildings. Such proof of notification of this limiting provision shall be in the form of a written and properly executed agreement between the applicant and the owner of the property, or in other form which is approved by the planning and development director." Letter from the property owner will need to be submitted.

• Engineer shown on CDs is licensed by the State of Alabama, per ordinance, engineers must be licensed by the State of South Carolina.

The Planning Commission had before it all of those items set forth in the Staff Reports, including the Aiken County Code of Ordinance requirements for telecommunications towers, in addition to all of the documents and exhibits offered by the Appellants and by anyone else interested in this case available to it for its consideration, and devoted substantial time and took extensive testimony from all interested speakers before voting to approve the Application. Its decision is supported by the record of this case, under circumstances where State law imposes no requirements as to the type, form, or detail of the record a planning commission is to keep. S.C.Code Ann. § 6-29-360.

6. As to the request for pre-litigation mediation in accordance with S.C.Code. Ann. § 6-29-1155 and the Code of Ordinances for Aiken County, South Carolina,[3] while Respondents believe that Appellants meet the definition of "any party in interest" for purposes of S.C.Code Ann. § 6-29-1150(C) to appeal staff action to the planning commission, and to appeal therefrom

[3] Aiken County Code of Ordinances references to "pre-litigation mediation" are identical to the requirements of S.C.Code. Ann. § 6-29-1155.

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to the circuit court pursuant to § 6-29-1150(D)(1), as the Court noted in *Citizens for Quality Rural Living:*

> The plain language of section 6-29-1150 as a whole provides Appellant the right to appeal the Commission's decision to the circuit court. First, subsection (C) allows "any party in interest" to appeal staff action to the planning commission. This language clearly contemplates an organization such as Appellant. In turn, subsection (D)(1) allows this class of persons to appeal a commission decision to the circuit court. From this class of appellants, subsection (D)(2) carves out the subclass of property owners and gives this subclass the option of seeking pre-litigation mediation in addition to an appeal.
>
> Further, subsection (D) as a whole gives different treatment to the larger class of appellants and the subclass of property owners who seek pre-litigation mediation. Under subpart (1), the larger class of appellants have thirty days after receiving actual notice of a commission decision to file an appeal to the circuit court; the use of the word "must" indicates that the appellant must file within the designated deadline in order to invoke the circuit court's appellate jurisdiction. On the other hand, subpart (2) uses the word "may" to indicate that a property owner has the option of adding a request for pre-litigation mediation to his notice of appeal, and if he takes advantage of this option, he must file the notice of appeal and the mediation request within thirty days after the Commission's decision is mailed in order to invoke the circuit court's appellate jurisdiction. (Citations omitted) (Emphasis supplied herein).

Specifically, § 6-29-1150(D)(2) provides:

> A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155. (Emphasis supplied herein).

Upon information and belief, and as alleged in Paragraph 1 of the Notice of Appeal, Appellants:

> own certain real property directly adjacent to the property for which the application for the wireless tower was granted. (Emphasis supplied herein).

As Appellants do not own "the land that is subject of a decision of the planning commission," they are not entitled as a matter of law to pre-litigation mediation pursuant to

§ 6-29-1150 and § 6-29-1155.

Lastly, Aiken County Government is not a proper party to this appeal and should be dismissed therefrom. First, there is no legal entity known as "Aiken County Government." Second, only the Aiken County Planning Commission considered the Application and made a decision on its disposition. No one other than members of the Planning Commission participated in this matter, and the Planning Commission is a distinct legal entity from which appeals, such as this one, may be taken without the need to name any other entity responsible for the decision relative to the Application subject to this appeal.

WHEREFORE, having fully made its Return to the Notice of Appeal, Respondent Aiken County Government prays that this Court dismiss it as a party to this appeal as an improper party in its naming and designation, substantively as not a legal entity, and not relevant to an appeal from a decision of the Aiken County Planning Commission, and Respondent Aiken County Planning Commission prays that the Court inquire into the matters set forth in the Notice of Appeal and in the Return, and uphold the decision of the Planning Commission.

s/ Bradley T. Farrar
BRADLEY T. FARRAR #66381
AIKEN COUNTY ATTORNEY'S OFFICE
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Counsel for Respondents, Aiken County Planning Commission and Aiken County Government

March 15, 2023

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Aiken County
Planning and Development Department

Remembering the Past, Preparing for the Future

Joel T. Duke, AICP
Department Director

January 25, 2023

Mr. Lannie Greene
Pyramid Network Services
2421 St. Martin Way
Monroe, GA 30656

RE: Verizon Wireless's application to allow for a 305-foot Self Supporting Lattice Telecommunications Tower on Property Located at Old 96 Indian Trail, Aiken County, South Carolina (Tax Parcel Number 262-00-01-002)

Dear Mr. Greene,

Section 24-3.5.16 (2) "Action on an Application for a Permit for Wireless Telecommunications Facilities" of the Aiken County Land Management Regulations (LMR) states "(i)f the Planning Commission approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing within ten (10) calendar days of the Planning Commission's action, and the permit shall be issued within thirty (30) days after all conditions of such approval is met. Except for necessary Building Permits and subsequent Certificates of Occupancy, once a permit has been granted hereunder, no additional permits or approvals from the County shall be required by the County for the wireless telecommunications facility covered by the permit." In accordance with the ordinance, this letter is to inform you of the decision of the Aiken County Planning Commission. The application was approved with contingencies by a majority, at the January 19, 2023 meeting of the Aiken County Planning Commission. When contingencies are met, the LMR permit for the site will be issued and then the project may proceed with applying for a Building Permit. If you have any concerns or if I can assist you with anything, please don't hesitate to let me know.

Sincerely,

Rhonda C Connelly
Planner II

EXHIBIT 1

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	C.A. NO. 2023-CP-02-00412
	)	
David L. Lambert and Julia H. Beamish,	)	
	)	
Appellants,	)	**Verizon Wireless' Memorandum in Opposition to Appellants' Appeal of Aiken County Planning Commission's Approval of Application for Cell Tower**
	)	
vs.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions for Verizon Wireless,	)	
	)	
Respondents.	)	

This is a meritless appeal of the Aiken County Planning Commission's ("**Commission**") approval of the application of Verizon Wireless ("**Verizon**")[1] to build a much-needed telecommunications facility ("**Cell Tower**") on rural, wooded property that will enhance customer service in an area that currently has poor wireless service.

Appellants David Lambert and Julia Beamish ("**Appellants**"), whose real property is adjacent to the Cell Tower's proposed location,[2] have appealed the Commission's approval of the Cell Tower, arguing that the Court should overturn the approval as there is no written decision reflecting it and the approval is not supported by evidence or applicable regulations. As explained below, Appellants' arguments fail because the Commission's approval of the Cell Tower is in fact reflected by a written decision and is supported by substantial evidence in the record and applicable law.

[1] Verizon's agent, Pyramid Network Solutions, LLC ("**Pyramid**"), submitted the application on Verizon's behalf. The caption improperly identifies Pyramid as a party to this appeal.

[2] Although the real estate parcels are adjacent, the proposed Cell Tower is located 1,656 feet and 11 inches (over 0.3 miles) away from Appellants' property line. Record on Appeal, at Ex. 2, at pp. 64-65.

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I. Factual Background:

The appeal revolves around the Commission's approval of Verizon's application to build a Cell Tower on a rural tract of land in Aiken County, South Carolina. During the Commission's approval process, Appellants argued that certain restrictive covenants applied to and prohibited the building of the Cell Tower on that land.

The property on which Verizon proposes to build the Cell Tower was previously part of a larger tract of land to which Appellants' property also once belonged. On January 23, 2006, Gerald L. Waters ("**Waters**") purchased that larger tract of land, Tax Parcel No. 262-00-01-002, which, at the time consisted of approximately 123 acres ("**the Waters Parcel**"). As reflected by the deed for that purchase,[3] the Waters Parcel was ***not*** subject to any restrictive covenants. Record on Appeal ("ROA"), at Ex. 8, at pp. 45-50 (2006 Deed for Property).

1. Creation of Appellants' Bluffwood Road Parcel.

Subsequently, in March 2010, Waters subdivided the Waters Parcel, selling a 17-acre portion of it (now known as Tax Parcel No. 262-00-01-043) to Appellants. ROA, at Ex. 8, at pp. 51-56 (2010 Deed for Appellants' Property) ("**Appellants' Deed**").[4] Appellants' property has an address of 364 Bluffwood Road, Wagener, South Carolina 29164 ("**Appellants' Property**" or "**the Bluffwood Road Parcel**").

When conveying the Bluffwood Road Parcel to Appellants, Waters attached restrictive covenants to Appellants' Deed. See id. Appellants' Deed contains the following language:

---

[3] For convenience purposes, Verizon has included the Waters Parcel Deed (the copy included in the ROA) as Exhibit A to this Memo.

[4] For convenience purposes, Verizon has included Appellants' Deed (the copy included in the ROA and the same, but more legible copy from the Aiken RMC) as Exhibit B to this Memo.

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> This conveyance is made subject to Easements, Restrictions, Covenants, and Conditions of record, including matters shown on recorded plats as well as those Restrictive Covenants for Bluffwood East set forth on Exhibit A attached hereto and incorporated herein.

Id., at p. 1 (Book 4301, Page 1238).

Exhibit A to Appellants' Deed contains the restrictive covenants, which are entitled "Restrictive Covenants for Bluffwood East" ("**Restrictive Covenants**"). Id., at pp. 53-54. The Restrictive Covenants' language is clear – the covenants apply to the property described in Appellants' Deed (e.g. the Bluffwood Road Parcel).

> The property described herein is specifically made subject to the following Restrictive Covenants.

Id. The Restrictive Covenants provide that:

- "In addition to barns and out-buildings . . . owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only." Id., at p. 53, at ¶ 4.

- "No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming nuisances to their neighbors." Id., at p. 53, at ¶ 6.

- "No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view. It shall be the responsible of each owner to prevent any unclean, unsightly, or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East . . . ." Id., at p. 53, at ¶ 8.

- "A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners . . . ." Id., at p. 54, at ¶ 9.

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2. **Creation of Old 96 Indian Trail Road Property.**

Roughly four years after the sale of the Bluffwood Road Parcel to Appellants, Waters, in March 2014, conveyed the remainder of the Waters Parcel – Tax Parcel No. 262-00-01-002 and what is referred to herein as the "**Old 96 Indian Trail Road Property**" - to the Gerald L. Waters Living Trust ("**Waters Trust**"). ROA, at Ex. 8, at pp. 57-61 and Ex. 11. That real estate is located on Old 96 Indian Trail Road, Wagener, South Carolina 29164. The deed for the Old 96 Indian Trail Road Property ("**Old 96 Indian Trail Road Property Deed**") is included in the Record on Appeal.[5] Id.

Significantly, unlike Appellants' Deed, the Old 96 Indian Trail Road Property Deed:

- Contains no language referencing the Restrictive Covenants (or any other restrictive covenants), and
- Does not attach the Restrictive Covenants as an exhibit.

Id.

3. **Verizon's Application for Cell Tower:**

In the Fall of 2022, Verizon submitted an application to the Commission for approval to build the Cell Tower on a portion of the Old 96 Indian Trail Road Property. ROA, at Ex. 2, at p. 48 (Application). The Old 96 Indian Trail Road Property is 100+ acres, is rural[6] and wooded, and is vacant with no structures on it. ROA, at Ex. 2, at p. 45 (Staff Report regarding Application) (Noting description of Old 96 Indian Trail Road Property). The Waters Trust leased a small portion of the Old 96 Indian Trail Road Property to Verizon for construction of the Cell Tower.[7]

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[5] For convenience purposes, Verizon has included the Old 96 Indian Trail Road Property Deed (the copy included in the ROA and the same, but more legible copy from the Aiken RMC) as Exhibit C to this Memo. The Old 96 Indian Trail Road Property is referred to as "Parcel 1" by this Deed.

[6] The Old 96 Indian Trail Road Property is zoned for Rural Development.

[7] ROA, at Ex. 2, at p. 66 (Overall Site Plan, noting the proposed leased premises of 100' x 100').

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The Old 96 Indian Trail Road Property is in an area where Verizon has wireless coverage deficiencies,[8] and Verizon sought permission from the Commission to build the Cell Tower on the that property in order to expand its coverage in the area and thereby address customer issues and complaints about coverage. Id., at Ex. 2, at p. 56 (Explaining that the area in question is in a "coverage problem area"); id., at Ex. 3 (Transcript of Oct. 20, 2022, Commission Meeting), at p. 4 ("Verizon Wireless has a need to fill a gap along Old 96 Indian Trail Road between Wagner, and I-20").

Exhibit 2 of the Record on Appeal includes maps (which Verizon provided to the Commission) that reflect the proposed location of the Cell Tower on the Old 96 Indian Trail Road Property (nearby the frontage of Old 96 Indian Trail Road). Id., at Ex. 2, at pp. 59 and 64-65.[9] From those maps, it is visibly evident that Appellants' Bluffwood Road Parcel is a great distance away from the frontage of Old 96 Indian Trail Road and nearly 0.3 miles away from the proposed Cell Tower location. Id.

4. The Commission's Thorough Consideration and Approval of Verizon's Application for Cell Tower:

The Commission considered Verizon's application for the Cell Tower at its October 20, 2022, Meeting. ROA, at Ex. 2, at p. 2 (Commission Agenda for October 20, 2022, Meeting). At that meeting, Appellants opposed the application, arguing that the Restrictive Covenants apply to the Property and prohibit construction and operation of a Cell Tower. Id., at Ex. 3 (Transcript of Oct. 20, 2022, Commission Meeting), at pp. 10-11. Based on that objection, the Commission tabled Verizon's application until its November 2022 meeting in order to allow for investigation into the Restrictive Covenants' applicability. Id., at pp. 18-19.

[8] There is a gap in wireless coverage between Wagener and I-20. ROA, at Ex. 2, at p. 56; Ex. 3, at p. 4.
[9] For convenience purposes, two of these maps from the ROA are attached as Exhibit D.

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Aiken County's attorney requested that Appellants and Verizon provide information in support of their position about the Restrictive Covenants' application to the Old 96 Indian Trail Road Property. Appellants provided no response. See ROA, at Ex. 3; Ex. 6 (November 17, 2022, Commission Meeting Minutes), at pp. 4-5; Exhibit 7 (Transcript of November 17, 2022, Commission Meeting), at pp. 3-4. Verizon's attorney, via a November 15, 2022, email to Aiken County's attorney, submitted detailed information – including the Old 96 Indian Trail Road Property Deed and Appellants' Deed – explaining why the Restrictive Covenants do not apply to the Old 96 Indian Trail Road Property. See Ex. 6, at pp. 4-5 and Ex. 8, at p. 41. In that email, Verizon emphasized:

- [T]there are no restrictive covenants that apply" to the Old 96 Indian Trail Road Property;
- The Old 96 Indian Trial Road Property Deed contains "no mention of the Restrictive Covenants;"
- The Restrictive Covenants only apply to the Bluffwood Road Parcel; and
- The Restrictive Covenants thus should "have no bearing on Aiken County's issuance of a permit to Verizon" for the Cell Tower.

Id., at Ex. 8, at p. 41.

At a November 17, 2022, Commission Meeting, Appellants again verbally objected to Verizon's application for the Cell Tower, continuing to argue that the Restrictive Covenants prohibit the Cell Tower as they ban commercial activity and only allow construction of a house, guest house, and apartment. Id., at Ex. 3 and Ex. 6 (November 17, 2022, Commission Meeting Minutes), at pp. 4-5. Appellants provided a copy of the Restrictive Covenants to the Commission, but they did not provide the Commission with the deed to which they are attached (e.g., Appellants' Deed). Id, at Ex. 6, at pp. 4-5; Exhibit 7 (Transcript of Commission's Nov. 17, 2022, Meeting), at p. The Commission requested that Appellants provide that deed to it in order for the Commission

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to further investigate the Covenants' applicability to the Old 96 Indian Trail Road Property. Id., at Ex. 6, at pp. 5-6; Ex. 7, at pp. 27-31; 39-41. The Commission then tabled additional consideration of Verizon's application until its January 2023 Meeting. Id., at Ex. 6, at pp. 5-6.

On November 21, 2022, the Commission, via letter, encouraged the parties to "submit any relevant documents or exhibits" prior to the January 19, 2023, Meeting. Id., at Ex. 11.

At the Commission's January 19, 2023, Meeting, Appellants presented no new information. Id., at Ex. 9 (Jan. 19, 2023, Commission Meeting Minutes) and Ex. 10 (Jan. 19, 2023, Commission Meeting Transcript), at p. 10 (Appellants' Attorney noting: "I don't have any new information"). The Commission verbally approved Verizon's application for the Cell Tower with contingencies by a majority vote. See, e.g. id., at Ex. 9; Ex. 8; and Ex. 1 (Commission's Approval Letter).

On January 25, 2023, the Commission sent Verizon a written letter of approval with contingencies for the Cell Tower. Id., at Ex. 1.

5. Appellants' Notice of Appeal.

Subsequently, and pursuant to S.C. Code Ann. § 6-29-1150, Appellants filed a "Notice of Appeal" with this Court in which they:

- Argued "no written decision granting [Verizon's application] has been issued by the Planning Commission,"
- Submitted that "[t]he verbal decision of the Planning Commission is not supported by the evidence and other information presented to it," and
- Asserted the Commission "did not consider factors outlined in the Code of Ordinances for Aiken County, and which is required for consideration of applications for the construction of wireless communication towers within the County."

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In the Notice of Appeal, Appellants also requested pre-litigation mediation. Verizon agreed to the pre-litigation mediation, which resulted in an impasse on August 30, 2023.[10]

II. Standard of Review:

Under South Carolina law, "[i]n the zoning context, a decision of the reviewing body will not be disturbed if there is evidence in the record to support its decision." Grays Hill Baptist Church v. Beaufort Cnty., 431 S.C. 630, 637, 850 S.E.2d 29, 33 (2020). Furthermore, an appellate court "will not substitute [its] judgment for that of the reviewing body, even if [it] disagree[s] with the decision." Id.

Thus, the standard of review "in appealing decisions of the Planning Commission is the abuse of discretion standard." Chisolm Green Property Owners Ass'n, Inc. v. the Charleston County Planning Com'n, No. 2005-CP-10-4312, 2007 WL 5658876 (S.C.Com.Pl. Dec. 06, 2007). "[T]hat is, '[t]he circuit court should not disturb the findings of the board unless the board has acted arbitrarily or in an obvious abuse of discretion, or unless the Board has acted illegally or in excess of its lawfully delegated authority.' It is well settled that an abuse of discretion occurs when a decision 'is based upon an error of law or, when based upon factual conclusions, is without evidentiary support.'" Id. (Internal citation omitted). "To this end, 'a court will uphold the decisions of a reviewing body if there is any evidence in the record to support its decision.'" Id. (Internal citation omitted).

[10] Arguably, Appellants did not follow S.C. Code Ann. § 6-29-1155's requirements. The statute requires that appellants file a separate appeal petition following mediation impasse. Per the statute, once a mediation is unsuccessful, appellants *then* file an appeal "by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law" and that they file such petition with the Circuit Court within thirty (30) days of the mediation's impasse. Appellants have filed no such petition following the mediation's impasse on August 30, 2023.

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III. Analysis:

As explained below, the Commission's granting of Verizon's application for the Cell Tower – and its underlying finding that the Restrictive Covenants do not prohibit the Cell Tower on the Property – is reflected in a written decision, is supported by substantial evidence in the record, and complies with all relevant regulations and laws. Therefore, the Court should deny Appellants' request to overturn that decision.

A. The Commission Issued Written Approval of the Cell Tower.

Appellants' Notice of Appeal mistakenly claims that "no written decision granting [Verizon's Application] has been issued by the Planning Commission." To the contrary, the Commission, on January 25, 2023, issued a written decision outlining its approval with contingencies of Verizon's Application ("**Commission Decision**"). The Commission Decision, which the Commission issued within six days of its January 19, 2023, meeting, is in the Record on Appeal. Id., at Ex. 1.

Notably, the Commission Decision complies with Aiken County Land Management Regulations Section 24-3.5.16(2), which simply requires that, if the Commission "approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing within ten (10) calendar days of the Planning Commission's action . . . ."

In short, Appellants' assertions that the Court should overturn the Commission's decision to approve the Cell Tower because of an alleged lack of a written decision is baseless.

B. Substantial Evidence Supports the Commission's Decision.

Moreover, Appellants' contention that the Commission's decision to grant Verizon's Application for the Cell Tower is unsupported by evidence lacks merit. This is underscored by the fact that the Notice of Appeal provides no supporting detail for the argument – in fact, it never

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outlines which portion of the Commission's decision is supposedly unsupported by evidence. See S.C. Code Ann. § 6-29-1155 (Requiring Appellants to file a "petition in writing setting forth plainly, fully, and distinctly *why* the decision is contrary to law") (Emphasis added).

However, based on Appellants' arguments to the Commission, Verizon presumes Appellants' argument revolves around the Restrictive Covenants and their position that they apply to the Old 96 Indian Trail Road Property and prohibit the Cell Tower on that property. As set forth below, that argument fails. The evidence plainly establishes that the Restrictive Covenants do not apply to the Old 96 Indian Trail Road Property.

a. No Restrictive Covenants Apply to the Old 96 Indian Trail Road Property (Or Prohibit the Cell Tower on that Property).

Based on South Carolina law and the evidence in the record, the Commission correctly concluded that no Restrictive Covenants apply to the Old 96 Indian Trail Road Property or prohibit the Cell Tower on that property. Under South Carolina law, "[a] restriction on the use of property must be created in express terms or by plain and unmistakable implication, and all such restrictions are to be strictly construed, with all doubts resolved in favor of the free use of property." Kinard v. Richardson, 407 S.C. 247, 257–58, 754 S.E.2d 888, 894 (Ct. App. 2014). See also Buffington v. T.O.E. Enterprises, 383 S.C. 388, 392, 680 S.E.2d 289, 291 (2009) (Noting that "courts tend to strictly interpret restrictive covenants, and to enforce a restrictive covenant, a party must show that the restriction applies to the property either by the covenant's express language or by a plain and unmistakable implication").

Here, there are no "express terms" – in a deed or otherwise – or any "plain and unmistakable implication" that establish the Restrictive Covenants' application to the Old 96 Indian Trail Road Property. That is underscored by the following undisputed facts:

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- Waters created the Restrictive Covenants on October 7, 2004. See Ex. 2, at Ex. A. That date is reflected on the last page of the Covenants:

> Date
>
> October 7, 2004

- At the time Waters created the Restrictive Covenants in 2004, he did not yet own Tax Parcel No. 262-00-01-002.

- On January 23, 2006, Waters purchased Tax Parcel No. 262-00-01-002.

- Nearly four years later, in March 2010, Waters subdivided Tax Parcel No. 262-00-01-002, selling the Bluffwood Road Parcel to Appellants. Appellants' Deed for that property expressly subjects the Bluffwood Road Parcel to the Restrictive Covenants; it plainly states:

> This conveyance is made subject to Easements, Restrictions, Covenants, and Conditions of record, including matters shown on recorded plats as well as those Restrictive Covenants for Bluffwood East set forth on Exhibit A attached hereto and incorporated herein.

  See Ex. 2. Appellants' Deed has the Restrictive Covenants attached as Exhibit A. Those Restrictive Covenants' expressly state:

> The property described herein is specifically made subject to the following Restrictive Covenants.

  Id., at Ex. A. The only property "described herein" is the property subject to the Appellants' Deed.

- Four years after the sale of the Bluffwood Road Parcel to Appellants, Waters, in March 2014, conveyed the remainder of the Waters Parcel ("the Old 96 Indian Trail Road Property") to the Waters Trust.

  In stark contrast to Appellants' Deed, the Old 96 Indian Trail Road Property Deed contains no language incorporating or referencing the Restrictive Covenants (or any other restrictive covenants), and it does not attach the Restrictive Covenants as an exhibit. Furthermore, nothing in the Old 96 Indian Trail Road Property Deed references the Bluffwood East subdivision, which is governed by the Restrictive Covenants.

As a result, there is no language in the Old 96 Indian Trail Road Property Deed or any other evidence that Waters, as grantor, intended – much less *unmistakably* intended – for the Old 96

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Indian Trail Road Property to be subject to the Restrictive Covenants, which he had created ten years earlier and had expressly applied to Appellants' Deed in 2010. See, e.g. Kinard, at 258, 754 S.E.2d at 894 (In "construing a deed, the intention of the grantor must be ascertained and effectuated, unless that intention contravenes some well settled rule of law or public policy. In determining the grantor's intent, the deed must be construed as a whole and effect given to every part if it can be done consistently with the law. **The intention of the grantor must be found within the four corners of the deed**") (Emphasis added). See also Snow v. Smith, 416 S.C. 72, 88, 784 S.E.2d 242, 250 (Ct. App. 2016) ("The court is without authority to consider parties' secret intentions, and therefore words cannot be read into a contract to impart an intent unexpressed when the contract was executed").

In light of the above evidence, and because South Carolina law resolves all doubts about restrictions "in favor of free use of the property," the Commission did not err in finding that the Restrictive Covenants are inapplicable to the Old 96 Indian Trail Road Property. Snow v. Smith, 416 S.C. 72, 90, 784 S.E.2d 242, 251 (Ct. App. 2016) (Holding that because restrictions were "unclear" about their application to real estate, the court would resolve any doubt in favor of free use of the property).

C. The Commission Complied with Applicable Regulations in Granting Verizon's Application.

Furthermore, the Commission complied with all applicable regulations in granting Verizon's application for the Cell Tower and its decision is supported by substantial evidence in the record.

First, when Appellants raised their argument that the Restrictive Covenants barred the Cell Tower, the Commission tabled Verizon's application in order to investigate the Restrictive Covenants' applicability and instructed the parties to provide it with information about the issue.

That was in compliance with S.C. Code Ann. § 6-29-1145, which requires a local planning agency to "inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity." As explained above, the Restrictive Covenants do not – either by express language or unmistakable implication – apply to the Property or in any way bar the Cell Tower.

Second, the Commission acted in accordance with Aiken County Land Management Regulations (LMR). Those regulations, specifically Section 24-3.5.7, permit the Commission to approve an application for a Cell Tower *unless* "substantial evidence in the record" shows that the proposed Cell Tower: (a) conflicts with safety and safety-related codes and requirements; (b) conflicts with a designated historical site; (c) has a placement and location that would "create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the county, or employees of the service provider or other service providers; (d) otherwise conflicts with the provisions of the regulation. The Commission's Staff Report concluded that the Cell Tower did not meet any of those grounds for rejection. ROA, at Ex. 2, at p. 45 (Staff Report). Furthermore, Appellants raise no argument and no evidence was presented to the Commission otherwise. The Commission was certainly within its discretion to accept the findings of the Staff Report and approve the Application.

Additionally, despite Appellants' vague allegations otherwise, the Commission's granting of Verizon's application complies with LMR Section 24-3.5.2, which outlines "desired goals" for wireless telecommunications facilities. One such goal is "regulating the location of wireless telecommunications facilities in such a manner as to minimize adverse, aesthetic and visual impacts on the land, property, buildings, and other facilities located in the area of wireless telecommunications facilities." Appellants are concerned that the Cell Tower could "affect the

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character of" the "equestrian" community in which Appellants' Property is a part. ROA, at Ex. 7, at pp. 25-26. However, that concern does not justify overturning the Commission's approval of the Cell Tower as:

- Appellants have presented no evidence to support their concern;
- There is no easement that permits Appellants to horseback ride on any part of the Old 96 Indian Trail Road Property.
- The Old 96 Indian Trail Road Property is approximately 100 acres, and the Cell Tower will be located on the end opposite from Appellants' Bluffwood Road Parcel (and over 0.3 miles away).
- Additionally, the Old 96 Indian Trail Road Property is heavily wooded and rural; in other words, the Cell Tower will not be "out in the open." The Cell Tower thus will have minimal adverse, aesthetic, or visual impact on Appellants' land.

Moreover, that concern, standing alone, would not be grounds for reversing the Commission's approval of Verizon's application. The Commission was well within its discretion to consider that concern and decide that it was outweighed by the evidence supporting approval of Verizon's application.

Conclusion:

The Commission did not err in granting Verizon's application for the Cell Tower's placement on the Old 96 Indian Trail Road Property. There are no restrictive covenants that prohibit construction of the Cell Tower on that property, and the Commission's granting of the application complied with all applicable regulations, is supported by substantial evidence in the record, and is reflected by a written decision.

This 11th day of October 2023
Greenville, South Carolina

Catherine Wrenn

Catherine Wrenn (SC Bar No. 76042)
cwrenn@bakerdonelson.com
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
40 Calhoun Street, Suite 200B
Charleston, SC 29401
T: (864) 918-3544

Attorneys for Verizon Wireless

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EXHIBIT A

ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

2006002871

DEED
RECORDING FEES $10.00
STATE TAX $556.40
COUNTY TAX $235.40
PRESENTED & RECORDED:
01-27-2006 08:31 AM
JUDITH WARNER
REGISTER OF DEEDS CONVEYANCE
AIKEN COUNTY, SC
By: JOYCE R EAGLE DEPUTY RMC
BK:RB 4042
PG:1955-1960

AIKEN COUNTY ASSESSOR
Tax Map:

After recording, return to:
Mary O. Guynn, Esq.
Smith, Massey, Brodie & Thurmond, P.A.
P. O. Box 519
Aiken, South Carolina 29802

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into this 23rd day of January, 2006, by and between **BLUE SKY TIMBER PROPERTIES LLC**, a Delaware limited liability company, duly authorized by law to transact business in the State of South Carolina, with an address of 6775 Lenox Center Court, Fourth Floor, Memphis, Tennessee 38115, the party of the first part, and GERALD WATERS a South Carolina resident, with an address of 2820 Old 96 Indian Trail Road, Wagener, South Carolina 29164, the party of the second part:

WITNESSETH:

That first party, for and in consideration of the sum of Ten ($10.00) Dollars and other good and valuable consideration to it in hand paid, at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, released, conveyed and confirmed, and by these presents does grant, bargain, sell, release, convey and confirm, unto second party, his heirs and assigns, all of the property ("Property") described on Exhibit A, attached hereto and

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made a part hereof.

The Property is conveyed, however, subject to the following exceptions and reservations.

1. Current year's ad valorem taxes and rollback taxes, if any;

2. Matters of record, licenses, rights of way, easements, conditions, restrictions, recorded reservations of mineral rights, zoning laws, ordinances, regulations, and other matters affecting the Property, of record as of the date hereof;

3. Any state of facts which an accurate survey or an inspection of the Property would reveal, including, but not limited to, the location of boundary lines, improvements and encroachments, if any; and

4. Prior reservations by third parties (other than first party herein) or conveyances to third parties (other than first party herein) of oil and gas and other minerals or mineral leases of any kind and character.

TOGETHER WITH ALL AND SINGULAR the rights, easements, ways, members and appurtenances to said land being, belonging, or in any wise appertaining, and the remainders, reversions, rents, issues and profits thereof, and every part thereof.

TO HAVE AND TO HOLD said land and all and singular the members and appurtenances thereto belonging as aforesaid, and every part thereof, unto the party of the second party, his heirs and assigns, forever in fee simple.

And first party, its successors and assigns, shall and will specially warrant, and forever defend by these presents, the title to the Property unto second party, his heirs and assigns, against first party, its successors and assigns, and against lawful claim or claims of all persons claiming by, through or under first party.

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IN WITNESS WHEREOF, first party has caused these presents to be executed by its proper officers authorized thereunto, and its seal affixed, the day and year first above written.

Signed, Sealed and Delivered
in the presence of:

Witness 1

Witness 2

BLUE SKY TIMBER PROPERTIES LLC,
a Delaware limited liability company

By: E. Wayne Plummer
Name: E. Wayne Plummer
As Its: Vice - President

Attest: Becky Hoyser
Name: Becky Hoyser
As Its: Assistant Secretary

STATE OF TENNESSEE

COUNTY OF SHELBY

ACKNOWLEDGMENT

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named E. Wayne Plummer as Vice - President and Becky Hoyser as Assistant Secretary, of Blue Sky Timber Properties LLC, and as the act and deed of said limited liability company, sign, seal and, as their act and deed, deliver the within-written Deed for the purposes therein mentioned and that s/he, with the other witness whose signature appears above, witnessed the execution thereof.

SWORN to before me this 23rd day of January, 2006

Notary Public, Shelby County, State of Tennessee

My Commission expires: 7/14/09
(NOTARY SEAL)

Witness No. 1

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Exhibit A

371-1E UNION CAMP CORPORATION/FRAZIER TRACT

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing [illegible], more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the R.M.C. Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed reference is hereby specially made, said deed describing a total of 620.166 acres, more or less.

Tax ID#: 00-311.0-01-030

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STATE OF SOUTH CAROLINA)
) **AFFIDAVIT**
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

2. The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number (00-311.0-01-030) was transferred by (Blue Sky Timber Properties) to (Gerald Waters)on the (23) day of (January), 2006.

3. Check one of the following: The deed is
(a) ____X_____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) _____ _____ exempt from the deed recording fee because (*See Information section of affidavit):*

(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) ___ X_____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of ___$214,000.00
(b) _____ The fee is computed on the fair market value of the realty which is _____
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check Yes _____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$ 214,000.00
(b) Place the amount listed in item 5 above here:	$
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$ 214,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $791.80

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this
23 day of January 2006

Crystal Adams
Notary Public for South Carolina
My Commission Expires

Responsible Person Connected with the Transaction

Mary O. Guynn
Print or Type Name Here

CRYSTAL ADAMS NOTARY PUBLIC EXP 6-26-15 STATE OF SOUTH CAROLINA

Book 4042 Page 1959

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INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS

1 transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2 transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions including school districts;
3 that are otherwise exempted under the laws and Constitution of this State or the United States;
4 transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5 transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6 transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7 that constitute a contract for the sale of timber to be cut;
8 transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9 transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10 transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11 transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12 that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and
13 transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings;
14 transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty;
15 transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

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EXHIBIT B

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AIKEN COUNTY ASSESSOR
Tax Map:
262-00-01-002 PORTION
262-00-01-043
AIKEN COUNTY GIS
Tax Map:
262-00-01-043

2010007211
DEED
RECORDING FEES $10.00
STATE TAX $260.00
COUNTY TAX $110.00
PRESENTED & RECORDED:
03-30-2010 08:30 AM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
By: MARILYN SEIGLER DEPUTY
BK:RB 4301
PG:1238-1243

Space above this line for recording information

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

0046

KNOW ALL MEN BY THESE PRESENTS THAT, GERALD WATERS A/K/A GERALD L. WATERS herein referred to as Grantor for and in consideration of the sum of ONE HUNDRED THOUSAND AND 00/100 (100,000.00) Dollars to me paid by DAVID LAMBERT AND JULIA BEAMISH, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, hereinafter referred to as Grantees in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantees, their heirs, successors, and assigns forever:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the County of Aiken, State of South Carolina, being shown and designated as 17.00 acres on that certain Plat of Survey prepared for Julia Beamish and David Lambert by W. J. Webb, PLS dated February 12, 2010 and recorded simultaneously herewith in Plat Book 55, Page 199, Aiken County Records. Reference is made to the aforesaid for a more accurate and complete description of the metes and bounds of the subject property.

BEING a portion of the same property conveyed to Gerald Waters by deed of Blue Sky Timber

Properties LLC dated January 23, 2006 and recorded January 27, 2006 in Record Book 4042, Page 1955, Aiken County Records. Also being a portion of the same property conveyed to Gerald L. Waters by deed of the Sue G. Howard Family Limited Partnership, Cynthia I. Mallard, Merla Ann I. Wall and Bonnie Ingram Futch said deed being dated November 6, 2003 and recorded November 12, 2003 in Deed Book 2371, Page 84, Aiken County Records.

Tax Parcel No. 262-00-01-002 (Portion)
262-00-01-043

Reserving, however, unto the Grantor an easement thirty feet (30') in width for ingress and egress to access the remaining property of Grantor located to the east of the subject property as more particularly shown on the aforesaid plat.

This conveyance is made subject to Easements, Restrictions, Covenants, and Conditions of record, including matters shown on recorded plats as well as those Restrictive Covenants for Bluffwood East set forth on Exhibit A attached hereto and incorporated herein.

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Grantees' Address: 3200 Damascus Road
Brookville, Maryland 20833

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs, and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs, and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 26th day of March, in the year of our Lord 2010.

Signed, Sealed and Delivered
in the Presence of:

Crystal Brown

Gerald L. Waters

Gerald Waters a/k/a Gerald L. Waters

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Personally appeared before me the undersigned and made oath that she saw the within named Grantor sign, seal and as His act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that she with the other witness subscribed aboved witnessed the execution thereof.

Crystal Brown

SWORN to before me this
26th day of March, 2010

Notary Public for the State of South Carolina
My Commission Expires:

OFFICIAL SEAL
MARY O. GUYNN
NOTARY PUBLIC-STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES NOV. 21, 2011

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EXHIBIT A

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
) FOR
COUNTY OF AIKEN) BLUFFWOOD EAST

The property described herein is specifically made subject to the following Restrictive Covenants.

1. Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East.

2. No mobile homes are allowed. Modular homes or custom-built residential dwellings are permitted. All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property.

3. Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items.

4. In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only.

5. The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6. No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors.

7. Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire. Interior fencing other than road frontage is permitted at the discretion of owner.

8. No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view.

0050

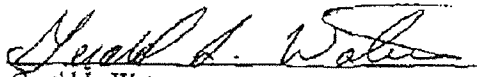
It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East. Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

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vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9. A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.



Gerald L. Waters
Owner/Developer

Date:

October 7, 2004

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STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is known as 17 Acres on Bluffwood Road, in Aiken County, bearing County Tax Map Number 262-00-01-043; 262-00-01-002 which was transferred by Gerald Waters a/k/a Gerald L. Waters to David Lambert and Julia Beamish, as Joint Tenants with Rights of Survivorship and Not as Tenants in Common on March 26, 2010
   Check one of the following: The deed is

   (a) __X__ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
   (c) _____ exempt from the deed recording fee because (See Information section of affidavit):
   (If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
   (a) __X__ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $100,000.00
   (b) _____ The fee is computed on the fair market value of the realty which is _____.
   (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes ____ or No __X__ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$100,000.00
(b) Place the amount listed in item 5 above here:	$
(c) (If no amount is listed, place zero here.)	$0

0054

(c) Subtract Line 6(b) from Line 6(a) and place result here: $100,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 370.00.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this 26 day of March, 2010

Crystal Brown

Notary Public for SC

My Commission Expires:

Print or Type Name Here: Mary O. Guynn

CRYSTAL BROWN
Notary Public
State of South Carolina
Commission Expires June 28, 2015

Deed Consideration Affidavit

Book 4301 Page 1242

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ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

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(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitute a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. "Family" means the grantor, the grantor's spouse,

parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of them, and the grantor's and grantor's spouse's heirs under a statute of descent and distribution. A "family partnership" or "family trust" also includes charitable entities, other family partnerships and family trusts of the grantor, and charitable remainder and charitable lead trusts, if all the beneficiaries are charitable entities or members of the grantor's family. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);

(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;

(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,

(12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.

(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.

(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.

(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

0057

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ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

AIKEN COUNTY ASSESSOR
Tax Map:
262-00-01-002 PORTION
262-00-01-043
AIKEN COUNTY GIS
Tax Map:

2010007211
DEED
RECORDING FEES $10.00
STATE TAX $260.00
COUNTY TAX $110.00
PRESENTED & RECORDED:
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
By: MARILYN SEIGLER DEPUTY
BK:RB 4301
PG:1238-1243

Space above this line for recording information

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS THAT, A/K/A GERALD L. WATERS herein referred to as Grantor for and in consideration of the sum of ONE HUNDRED THOUSAND AND 00/100 (100,000.00) Dollars to me paid by AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, hereinafter referred to as Grantees in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantees, their heirs, successors, and assigns forever:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the County of Aiken, State of South Carolina, being shown and designated as 17.00 acres on that certain Plat of Survey prepared for Julia Beamish and David Lambert by W. J. Webb, PLS dated February 12, 2010 and recorded simultaneously herewith in Plat Book 55, Page 199, Aiken County Records. Reference is made to the aforesaid for a more accurate and complete description of the metes and bounds of the subject property.

BEING a portion of the same property conveyed to Gerald Waters by deed of Blue Sky Timber Properties LLC dated January 23, 2006 and recorded January 27, 2006 in iken County Records. Also being a portion of the same property conveyed to Gerald L. Waters by deed of the Sue G. Howard Family Limited Partnership, Cynthia I. Mallard, Merla Ann I. Wall and Bonnie Ingram Futch said deed being dated November 6, 2003 and recorded November 12, 2003 in Deed Book 2371, Page 84, Aiken County Records.

Tax Parcel No.
262-00-01-043

Reserving, however, unto the Grantor an easement thirty feet (30') in width for ingress and egress to access the remaining property of Grantor located to the east of the subject property as more particularly shown on the aforesaid plat.

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Grantees' Address: 3200 Damascus Road
Brookville, Maryland 20833

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs, and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs, and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 26th day of March, in the year of our Lord 2010.

Signed, Sealed and Delivered
in the Presence of:

Crystal Brown

Gerald Waters a/k/a Gerald L. Waters

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Personally appeared before me the undersigned and made oath that she saw the within named Grantor sign, seal and as His act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that she with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
26th day of March, 2010

Crystal Brown

Notary Public for the State of South Carolina
My Commission Expires:

OFFICIAL SEAL
MARY O GUYNN
NOTARY PUBLIC-STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES NOV. 21, 2011

Book 4301 Page 1239

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EXHIBIT A

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
) FOR
COUNTY OF AIKEN) BLUFFWOOD EAST

1 Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East

2 No mobile homes are allowed. Modular homes or custom-built residential dwellings are permitted. All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property

3 Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items

4 In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only

5 The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6 No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors

7 Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire. Interior fencing other than road frontage is permitted at the discretion of owner

8 No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view. It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East. Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

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vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9. A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.

Gerald L. Waters
Owner/Developer

Date

October 7, 2004

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STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is known as 17 Acres on Bluffwood Road, in Aiken County, bearing County Tax Map Number 262-00-01-043, 262-00-01-002 which was transferred by Gerald Waters a/k/a Gerald L. Waters to David Lambert and Julia Beamish, as Joint Tenants with Rights of Survivorship and Not as Tenants in Common on March 26, 2010
   Check one of the following: The deed is

   (a) __X__ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
   (c) _____ exempt from the deed recording fee because (See Information section of affidavit):
   (If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
   (a) __X__ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $100,000.00
   (b) _____ The fee is computed on the fair market value of the realty which is _____
   (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____
5. Check Yes ____ or No __X__ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$100,000.00
(b) Place the amount listed in item 5 above here:	$
(c) (If no amount is listed, place zero here.)	$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$100,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 370.00

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this 26 day of March, 2010

Crystal Brown
Notary Public for SC
My Commission Expires:

Print or Type Name Here: Mary O. Guynn

CRYSTAL BROWN
Notary Public
State of South Carolina
Commission Expires June 28, 2015

Deed Consideration Affidavit

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INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts,
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39,
(7) that constitute a contract for the sale of timber to be cut,
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust,
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. "Family" means the grantor, the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of them, and the grantor's and grantor's spouse's heirs under a statute of descent and distribution. A "family partnership" or "family trust" also includes charitable entities, other family partnerships and family trusts of the grantor, and charitable remainder and charitable lead trusts, if all the beneficiaries are charitable entities or members of the grantor's family. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A),
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation,
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership, and,
(12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings,
(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

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EXHIBIT C

ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

AIKEN COUNTY ASSESSOR
Tax Map:
262-Q0-01-002
201-00-02-003
201-00-03-001
Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10.00
STATE TAX $0.00
COUNTY TAX $0.00
PRESENTED & RECORDED
03-26-2014 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
BK: RB 4499
PG: 2015 - 2019

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

0065

KNOW ALL MEN BY THESE PRESENTS:

That GERALD WATERS (hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by GERALD L. WATERS, TRUSTEE OF THE GERALD L. WATERS LIVING TRUST U/A DATED MARCH 12, 2014, as amended (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns forever, all his right, title and interest in and to the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and his heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12 day of March, 2014.

0066

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ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP020412

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: _____

Witness: _____

_____
GERALD WATERS

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named GERALD WATERS sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that they, with the other witness whose signature appears above witnessed the execution thereof.

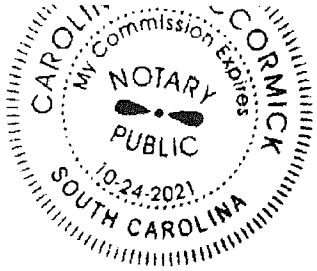
SWORN to before me this
12 day of March, 2014

_____
Notary Public for South Carolina
My Commission Expires: 10-24-21

_____

NE C. MC

After recording return to Smith, Massey, Brodie, Guynn & Mayes, P.A.



After recording return to Smith, Massey, Brooks, Gaylor & Hayes, P.A.

8900

Book 4499 Page 2016

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Exhibit A

PARCEL 1:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Twenty-two and 996/1000 (122.996) acres, more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the RMC Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed is reference is hereby specifically made, said dead describing a total of 620.166 acres, more or less.

Derivation: This being the same property conveyed unto Gerald Waters by Quit Claim Deed of Sustainable Forests, LLC dated January 23, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1966, records of the RMC Office for Aiken County, South Carolina.

Tax Parcel Number: 262-00-01-002

PARCEL 2:

All that certain lot, tract of parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Eleven and 33/100 (111.33) acres, more or less, and being the property conveyed to Catawba Newsprint Company by J.W. Rushton by Deed recorded in the RMC Office of Aiken County, South Carolina, at Book 684, Page 189, to which deed reference is hereby specifically made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at

Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-02-003

PARCEL 3:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Fifty-four and 86/100 (154.86) acres, more or less, and being the property conveyed to Catawba Newsprint Company by Trent L. Hutto by deed recorded in the RMC Office of Aiken County, South Carolina, at Book 731, page 4, to which deed reference is hereby specially made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at

0070

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ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP020412

Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-03-001

Grantee's Address: 349 Gooseneck Rd.
Aiken, SC 29805

RMC Documents

Book 4499 Page 2018

8/21/23, 10:54 AM

https://www.aikencountysc.gov/View/?qID=1085055

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STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number 262-00-01-002, 201-00-02-003 and 201-00-03-001 transferred by GERALD WATERS to GERALD L. WATERS, TRUSTEE OF THE GERALD L. WATERS LIVING TRUST U/A DATED MARCH 12, 2014 On this 12 day of March, 2014.

0073

2. Check one of the following: The deed is
(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) ___X___ exempt from the deed recording fee because (*See Information section of affidavit):* 8.
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $.
(b) _____ The fee is computed on the fair market value or the realty which is _____.
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes_____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:_____.

6. The deed recording fee is computed as follows:
   (a) Place the amount listed in item 4 above here: $0
   (b) Place the amount listed in item 5 above here: $0.
   (c) Subtract Line 6(b) from Line 6(a) and place result here: $0

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this
12 day of March, 2014

Caroline C McCormick
Notary Public for South Carolina
My Commission Expires: 10-24-21

William Ray Massey
Print or Type Name Here

CAROLINE C. MCCORMICK
My Commission Expires
NOTARY PUBLIC
10-24-2021
SOUTH CAROLINA

Book 4499 Page 2019

0074

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ELECTRONICALLY FILED - 2023 Oct 11 12:48 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

AIKEN COUNTY ASSESSOR
Tax Map:
[illegible]
[illegible]
[illegible]
Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10.00
STATE TAX $0.00
COUNTY TAX $0.00
PRESENTED & RECORDED
03-26-2014 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
BK: RB 4499
PG: 2015 - 2019

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS:

That GERALD WATERS (hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by GERALD E. WATERS, TRUSTEE OF THE GERALD E. WATERS LIVING TRUST U/A DATED MARCH 12, 2014, as amended (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns forever, all his right, title and interest in and to the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and his heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12 day of March, 2014.

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SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: Wm Rogers Mayes

GERALD WATERS

Witness: Caroline C McCormick

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named GERALD WATERS sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that they, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
12 day of March, 2014

Wm Rogers Mayes

Caroline C McCormick
Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C MCCORMICK NOTARY PUBLIC SOUTH CAROLINA 10-24-2021

After recording return to Smith, Masssey, Brodie, Guynn & Mayes, P.A.

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Exhibit A

PARCEL 1:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Twenty-two and 996/1000 (122.996) acres, more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the RMC Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed is reference is hereby specifically made, said dead describing a total of 620.166 acres, more or less.

Derivation: This being the same property conveyed unto Gerald Waters by Quit Claim Deed of Sustainable Forests, LLC dated January 23, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1966, records of the RMC Office for Aiken County, South Carolina.

Tax Parcel Number: 262-00-01-002

PARCEL 2:

All that certain lot, tract of parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Eleven and 33/100 (111.33) acres, more or less, and being the property conveyed to Catawba Newsprint Company by J.W. Rushton by Deed recorded in the RMC Office of Aiken County, South Carolina, at Book 684, Page 189, to which deed reference is hereby specifically made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-02-003

PARCEL 3:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Fifty-four and 86/100 (154.86) acres, more or less, and being the property conveyed to Catawba Newsprint Company by Trent L. Hutto by deed recorded in the RMC Office of Aiken County, South Carolina, at Book 731, page 4, to which deed reference is hereby specially made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at

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Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-03-001

Grantee's Address: 349 Gooseneck Rd.
Aiken, SC 29805

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STATE OF SOUTH CAROLINA)
) **AFFIDAVIT**
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number 202-00-01-002, 201-00-02-003 and 201-00-03-001 transferred by GERALD WATERS to GERALD I. WATERS, TRUSTEE OF THE GERALD I. WATERS LIVING TRUST U/A DATED MARCH 12, 2014 On this 12 day of March, 2014.

2. Check one of the following: The deed is
(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) __X__ exempt from the deed recording fee because (*See Information section of affidavit*) $_____.
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $.
(b) _____ The fee is computed on the fair market value or the realty which is _____.
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes_____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:
(a) Place the amount listed in item 4 above here: $0
(b) Place the amount listed in item 5 above here: $0
(c) Subtract Line 6(b) from Line 6(a) and place result here: $0

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

William Ray Massey
Print or Type Name Here

SWORN to before me this
12 day of March, 2014

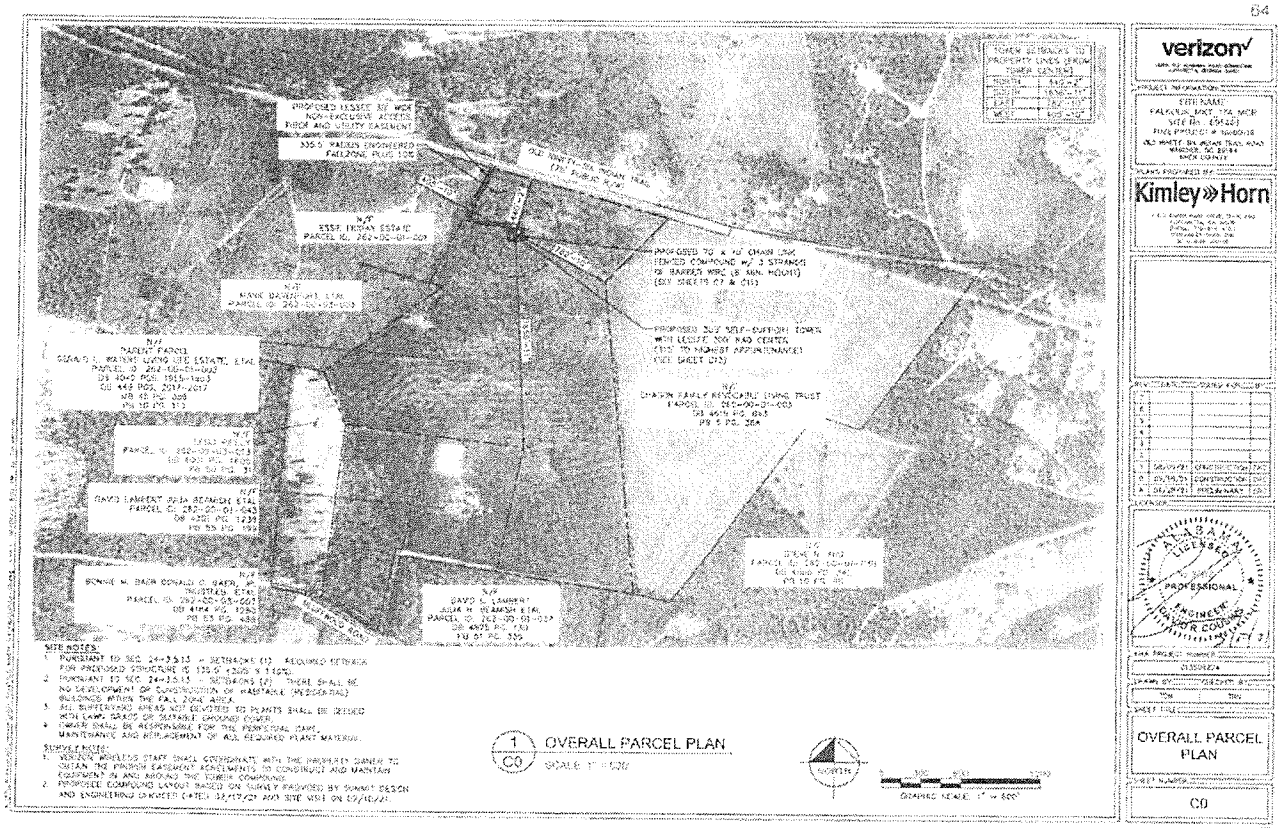
Caroline C. McCormick
Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C. MCCORMICK NOTARY PUBLIC SOUTH CAROLINA My Commission Expires 10-24-2021

Book 4499 Page 2019

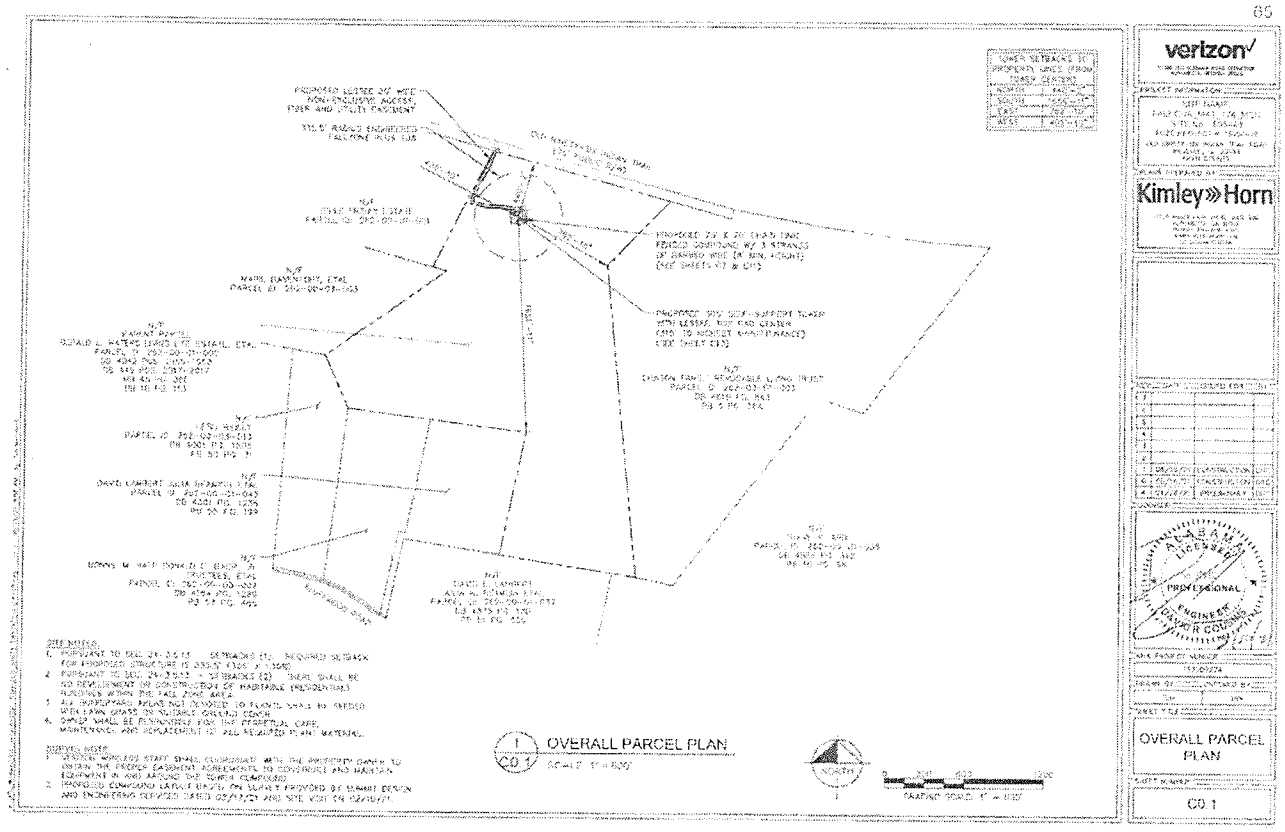
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EXHIBIT D



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ELECTRONICALLY FILED - 2024 Jan 08 4:49 PM - AIKEN - COMMON PLEAS - CASE#2023CP0200412

State of South Carolina County of Aiken	)	In the Court of Common Pleas
David L. Lambert and Julia H. Beamish, Appellants, vs. Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions, LLC for Verizon Wireless, Respondents.	)	CA No. 2023CP02000412 **NOTICE OF MOTION AND MOTION TO ALTER AND / OR AMEND**

PLEASE TAKE NOTICE that the Appellants, through their undersigned counsel, will move before the Court at such time and place as is hereafter directed, notice of which will be given to you, for an Order pursuant to Rules 52 and 59, SCRCP, and other applicable law and regulation, altering and/or amending the Order filed in this matter on December 28, 2023. In support of this Motion Counsel for the Appellants respectfully show unto the Court as follows:

1. It is undisputed that the Aiken County Planning Commission did not prepare or issue a written decision setting forth its factual findings and conclusions following multiples public hearings held to consider Verizon's application for permission to construct a cell tower on property directly adjoining the Appellants' residence.

2. This Court did not address the Planning Commission's failure in this respect despite the Court's recognition of the clear mandate of S.C. Code Ann. § 6-29-360(B)(1976).[1]

3. In Paragraph two on Page 4 of its Order this Court states the "Appellants' argument proves too much." The Appellants respectfully request that the Court

[1] While the Order makes reference to "staff investigations" and "staff reports", these do not constitute a decision of the Aiken County Planning Commission.

clarify this statement.

4. This Court did not address the effect of the language in the Restrictive Covenants for the Bluffwood East Development which states that Mr. Waters, the developer of that property, intends that those covenants apply to and restrict not only the Appellant's property, but also "nearby" property which is owned by Mr. Waters or his successors in interest. This argument was specifically presented to the Court at the hearing held on October 16, 2023 because Verizon seeks to build the cell tower on property owned by Mr. Waters which is directly adjacent to the Appellant's residence.

5. This Court failed to address the Appellants' request that this matter be remanded to the Aiken County Planning Commission for purposes of making findings of facts and conclusions. Given that the Commission is required to issue a written decision, which address the requirements of Aiken County Ordinance pertaining to the construction of cell towers, the Appellant respectfully contend that it is impossible for any Court to review an action of the Commission without having the benefit of knowing what criteria the Commission used, or what facts it relied upon, to reach any decision it made.[2]

6. In the absence of this Court specifically addressing the issues presented in this Motion an appellate court is unable to fully consider the merits of any further appeals the Appellants may pursue as part of this case.

7. Pending a ruling by this Court, the Appellants reserve the right to amend this Motion.

Respectfully Submitted,

NANCE & MCCANTS

s/ Clarke W. McCants, III
Clarke W. McCants, III
Clarke W. McCants, IV
Post Office Box 2881
Aiken, S.C. 29802
(803) 649-6200 x 3

Dated: January 8, 2024

[2] For example, the Court's Order recognizes that the Commission is required to consider and address whether or not a cell tower impacts the nature of the surrounding neighborhood. There is absolutely no evidence in the record for this matter showing the Commission did so here.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached document(s) was /were served this date upon the following by electronic transmission and / or by First Class Mail, with sufficient postage affixed thereto to ensure proper delivery:

Bradley T. Farrar, Esquire
Aiken County Government
1930 University Parkway Aiken, SC 29801.

Catherine F. Wrenn, Esquire
Baker Donelson Bearman Caldwell & Berkowitz, P.C
850 Morrison Dr., Suite 775
Charleston, SC 29403

NANCE & MCCANTS

s/ Clarke W. McCants, III
Clarke W. McCants, III
Post Office Box 2881
Aiken, S.C. 29802
(803) 649-6200 x 3

Dated: January 8, 2024

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	C.A. NO. 2023-CP-02-00412
	)	
David L. Lambert and Julia H. Beamish,	)	
	)	
Appellants,	)	**Memorandum in Opposition to Appellants' Motion to Alter or Amend Order**
	)	
vs.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions for Verizon Wireless,	)	
	)	
Respondents.	)	

Verizon Wireless ("**Verizon**") opposes Appellants David L. Lambert and Julia H. Beamish's ("**Appellants**) motion for the Court to alter or amend its December 28, 2023, Order ("**Order**") because the Order sufficiently addresses and/or rules upon each of the appealed issues that were before the Court.

Brief Background:

By way of brief background, this appeal revolves around the Aiken County Planning Commission's ("**Commission**") approval of Verizon's application ("**the Application**") for a permit to construct a wireless telecommunications facility ("**the Cell Tower**") on property in Aiken County, South Carolina known as the "Indian Trail Property."

On February 20, 2023, Appellants filed a Notice of Appeal to this Court, generally contending that "(1) the Commission's approval [was] legally insufficient because the Commission did not issue written findings and conclusions supporting its decision; (2) the Commission's decision [was] unsupported by the record because it failed to consider certain factors outlined in the Aiken County Land Management Regulations (LMR); and (3) the proposed

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[C]ell [T]ower would violate certain restrictive covenants applicable to the Indian Trail Property." Order, at p. 3.[1]

On October 16, 2023, the Court held a hearing on the appeal. Id. After "carefully consider[ing] the pleadings, briefings, record on appeal, and arguments of counsel," id., the Court entered the Order denying Appellants' appeal and specifically holding:

- "The Commission maintained a sufficient record of its decision to approve Verizon's Application in compliance with Section 6-29-360(B)." Id., at p. 4. In so holding, the Court rejected Appellants' contention that the statute required the Commission to issue "written findings of fact and conclusions of law." Id.
- The Commission's decision "was made in accordance with all applicable regulations and is supported by the record." Id., at p. 5.
- "There are no restrictive covenants[2] that prohibit the proposed cell tower on the Indian Trail Property and Appellants failed to preserve the issue on appeal." Id., at p. 7.

Subsequently, Appellants, pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure, filed a Motion to alter and/or amend ("**Motion**") the Order, asserting that the Court: (1) did not "address the [] Commission's failure" to "prepare or issue a written decision setting forth its factual findings and conclusions," Motion, at p. 1; (2) did not "address the effect of the language in the Restrictive Covenants for the Bluffwood East Development which states that Mr. Waters, the developer of that property, intends that those covenants apply to and restrict not only

[1] As the Court noted in the Order, "Appellants did not raise the restrictive covenants issue in their Notice of Appeal but maintained that the issue remained 'alive' at the hearing." Order, at p. 3, at n.4.

[2] Gerald Waters created the restrictive covenants allegedly at issue, which are entitled "Restrictive Covenants for Bluffwood East" ("**Restrictive Covenants**"). ROA, at Ex. 8, at pp. 53-54.

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the Appellant's property, but also 'nearby' property which is owned by Mr. Waters or his successors in interest," id., at p. 2; and (3) "failed to address the Appellants' request that this matter be remanded to the [] Commission for purposes of making findings of fact and conclusions," id.

Standard of Review:

Rule 52 provides that, "[u]pon motion of a party made not later than 10 days after receipt of written notice of entry of judgment[,] the court may amend its findings or make additional findings and may amend the judgment accordingly, and the motion may be made with a timely motion for a new trial."

Rule 59 of the South Carolina Rules of Civil Procedure permits a party to file a motion for reconsideration when it "believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). The grant or denial of a Rule 59 motion is within the discretion of the Court and that decision "will not be disturbed on appeal unless it is unsupported by the evidence or is controlled by an error of law." Daves v. Cleary, 355 S.C. 216, 231, 584 S.E.2d 423, 430 (Ct. App. 2003).

Argument:

I. The Court Should Deny Appellants' Motion as the Order Sufficiently Considers, Addresses, and/or Rules on the Issues in Question.

Appellants baselessly assert that the Court, in the Order, did not address several issues, including: (1) the lack of a written decision by the Commission "setting forth its factual findings and conclusions" and whether the matter should be remanded to the Commission to make such findings and conclusions, and (2) the "effect" of certain language in the Restrictive Covenants." Motion, at pp. 1-2. However, as explained below, the Court's Order sufficiently considers,

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addresses, and/or rules upon each of those "issues" and it therefore need not alter or amend the Order to make any additional findings or rulings.

A. The Order Addresses the Planning Commission's Lack of a Written Decision, Determining South Carolina Law Does Not Require the Commission to Draft a Written Decision (and Thereby Remand to the Commission to Draft Such a Decision Is Unnecessary).

Appellants incorrectly assert that the Court's Order "did not address the Planning Commission's failure" to publish a written decision of its findings of facts and conclusions and did not address Appellants' request to remand the matter to the Commission to make such a written decision.[3] Motion, at pp. 1-2. To the contrary, the Order devotes an entire section to analyzing Appellants' complaint that the Commission should have, but did not, draft "written findings of fact and conclusions of law setting forth the basis for the Commission's approval." Order, at p. 4. The Court ultimately concluded that South Carolina law imposes no obligation on the Commission to issue a written decision and it explained that finding in detail in the Order.[4] Such a finding necessarily rejects any request to remand the matter to the Commission "for purposes of making" written "findings of facts and conclusions."[5]

Specifically, in the Order, the Court found that S.C. Code Ann. § 6-29-360(B) imposes only a "modest obligation" on the Commission to maintain a "'record of [the Commission's] resolutions, findings, and determinations.'" Id., at pp. 4-5 (Quoting the statute). It emphasized that the statute does not specify "what form the record must take or require the Commission to explain its decision" or otherwise publish a written decision of its findings of fact and conclusions.

---

[3] Significantly, this was not an issue before the Court. Appellants' Notice of Appeal did not request the Court remand the matter to the Commission to issue a written decision of its findings and conclusions.

[4] As the Order noted, Appellants' argument is flawed and "proves too much." Order, at p. 4. See https://onlinelibrary.wiley.com/doi/abs/10.1002/9781119165811.ch41 ("An argument that proves too much demonstrates a lack of soundness").

[5] As noted above, Verizon contends that a remand request was not properly before the Court.

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Id., at p. 4. The lack of such specification is noteworthy as, per the Order, other statutes (such as § 6-29-800) specifically impose written formality requirements. In short, the Order clearly finds that South Carolina law does not require the Commission to "prepare or issue a written decision setting forth its factual findings and conclusions," Motion, at p. 1.

Furthermore, the Court's Order outlines the Commission's satisfaction (and exceeding) of § 6-29-360(B)'s modest requirement to maintain a record of findings and determinations. See Order, at pp. 4-5. It emphasizes that the Commission's record included:

- The Commission's staff's report, which concluded, after investigation, that "Verizon's proposed cell tower 'has met and/or exceeded County adopted IBC and ANSI codes,' 'does not conflict with any historical site,' and does not 'pose an unacceptable risk or unreasonable probability of risk to residents, the public, employees, and agents of the County or employees of service providers.'" Id. at p. 4 (Citing Record Exhibit 2 at pp. 45-46).
- Recordings and transcriptions of "each meeting in addition to maintaining meeting agendas and detailed meeting minutes." Id.
- Recording of the Commission's vote approving Verizon's Application in the January 19, 2023, meeting minutes. Id., at pp. 4-5.

Based on that "robust" record,[6] the Court's Order finds the Commission "not only met, but well exceeded its modest obligation under Section 6-29-360(B)." Id. It further denied Appellants' appeal to the extent it was based on a lack of "written findings of fact and conclusions of law" as § 6-29-360(B) does not require such a writing. Id.

As a result, Appellants' contention that the Court "did not address" the lack of a written decision by the Commission is baseless and the Court should deny Appellants' Motion to the extent it is premised on that allegation. Moreover, to the extent Appellants' Motion is premised on the Order's alleged failure to address whether this matter should be remanded to the Commission for purposes of making findings of fact and conclusion, the Court should deny the Motion as the Order

[6] This robust record reflects what the Commission considered in ruling on the Application.

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determined that South Carolina law does not require the Commission to publish any written findings of facts and conclusions (and therefore a remand to do so would be unnecessary and contrary to South Carolina law).

B. The Order Fully Addresses the Restrictive Covenant's Effect (and Lack Thereof) on the Indian Trail Property and the Cell Tower.

Appellants move the Court to alter or amend the Order because the Order allegedly does "not address the effect of the language in the Restrictive Covenants for the Bluffwood East Development which states that Mr. Waters, the developer of that property, intends that those covenants apply to and restrict not only the Appellant's property, but also 'nearby' property which is owned by Mr. Waters or his successors in interest." Motion, at p. 2. Appellants' contention is incorrect. The Order fully evaluates and rules on that issue.

First, the Order determined that Appellants "forfeited" any argument that the proposed Cell Tower violates the Restrictive Covenants because they failed to "provide arguments or supporting authority for their position even after Verizon argued extensively that the restrictive covenants do not apply at the [H]earing." Order, at p. 7. As the Order noted, "short, conclusory statements made without supporting authority" – such as Appellants' arguments about the applicability of the Restrictive Covenants – are "deemed abandoned and therefore not presented for review." Id. (Citing Glasscock, Inc. v. U.S. Fid. & Guar. Co., 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001)).

Second, the Order included the Court's finding that, "even if the issue" about Restrictive Covenants was "properly presented," the Restrictive Covenants do not prohibit the proposed Cell Tower. Id. The Court premised that finding on several grounds:

- Its determination that the Restrictive Covenants do not "***either by express language or unmistakable implication***" apply to the Indian Trail Property (on which the

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proposed Cell Tower will be located) or "prohibit the construction or operation of the proposed cell tower." Id. (Emphasis added)

- No restrictive covenants are attached to or referenced in the Indian Trail Property Deed "that would prohibit the construction or operation of the proposed telecommunications tower on that property." Id., at pp. 7-8.

Those findings necessarily incorporate and reject that any language in the Restrictive Covenants applies to or somehow prohibits the proposed Cell Tower on the Indian Trail Property. As a result, there is no need for the Court to alter or amend the Order to repetitively address whether the Restrictive Covenants' language applies to and restricts the Indian Trail Property.[7]

[7] Appellants' Motion specifically seeks for the Court to address "the effect of the language in the Restrictive Covenants for the Bluffwood East Developments which states that Mr. Waters, the developer of that property, intends that those covenants apply to and restrict not only the Appellant's property, but also 'nearby' property which is owned by Mr. Waters or his successors in interest." Motion, at p. 2. Verizon contends the Court's Order sufficiently addresses that. Nonetheless, it notes that Mr. Waters *did not own* the Indian Trail Property at the time he created the Restrictive Covenants and thus the Indian Trail Property was not "nearby property" he owned and to which he intended the covenants to automatically or by unmistakable implication apply.

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Conclusion:

The Court, in its discretion and based upon the detailed findings and rulings in the Order, should deny Appellants' Motion to alter or amend.

This 31st day of January 2024
Greenville, South Carolina

/s Catherine Wrenn
Catherine Wrenn (SC Bar No. 76042)
cwrenn@bakerdonelson.com
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
850 Morrison Drive, Suite 775
Charleston, SC 29403
Telephone: (854) 214-5914
Attorneys for Verizon Wireless

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF AIKEN	)	
David L. Lambert and Julia H. Beamish,	)	
	)	Civil Action No. 2022-CP-02-00412
Appellants,	)	
	)	
v.	)	
	)	
Aiken County Planning Commission, Aiken County Government, Pyramid Network Solutions, LLC for Verizon Wireless,	)	**RECORD ON APPEAL**
	)	
Respondents.	)	

I, the undersigned employee of the Aiken County Planning and Development Department, certify that the foregoing constitutes the Record on Appeal in this case.

Sandra Colvin

Sandra Colvin
Administrative Assistant
Planning & Development Dept.
Aiken County
1930 University Parkway, Suite 2800
Aiken, SC 29801
(803)642-1520 ext. 2600

April 27, 2023

FILED April 27 20 23
C.C.P. & G.S.
Deputy Clerk

2023-CP-02-00412
David Lambert vs.
Aiken County Planning and
Development Commission, et al.

Contents for Exhibits 1-16

Exhibit No.	***Description of Exhibit***
Exhibit 1:	January 25, 2023 Letter to Mr. Lannie Greene, Pyramid Network Services from Aiken County Planning Commission.
Exhibit 2:	October 20, 2022 Aiken County Planning Commission Agenda
Exhibit 3:	October 20, 2022 Aiken County Planning Commission Meeting Minutes
Exhibit 4:	Transcript from October 20, 2022 Aiken County Planning Commission Meeting
Exhibit 5:	November 17, 2022 Aiken County Planning Commission Agenda
Exhibit 6:	November 17, 2022 Aiken County Planning Commission Meeting Minutes
Exhibit 7:	Transcript from November 17, 2022 Aiken County Planning Commission Meeting
Exhibit 8:	January 19, 2023 Aiken County Planning Commission Agenda
Exhibit 9:	January 19, 2023 Aiken County Planning Commission Meeting Minutes
Exhibit 10:	Transcript from January 19, 2023 Aiken County Planning Commission Meeting
Exhibit 11:	November 21, 2022 Letter from Bradley T. Farrar to Clark W. McCants, III Esq. and Nick Steinhaus, Esq.
Exhibit 12:	Verizon Site Plans
Exhibit 13:	Restrictive Covenants
Exhibit 14:	Preliminary Plat of Bluffwood Estate
Exhibit 15:	Geographical Information System (GIS) Map from qPublic.net

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

Aiken County
Planning and Development Department

Remembering the Past, Preparing for the Future

Joel T. Duke, AICP
Department Director

January 25, 2023

Mr. Lannie Greene
Pyramid Network Services
2421 St. Martin Way
Monroe, GA 30656

RE: Verizon Wireless's application to allow for a 305-foot Self Supporting Lattice Telecommunications Tower on Property Located at Old 96 Indian Trail, Aiken County, South Carolina (Tax Parcel Number 262-00-01-002)

Dear Mr. Greene,

Section 24-3.5.16 (2) "Action on an Application for a Permit for Wireless Telecommunications Facilities" of the Aiken County Land Management Regulations (LMR) states "(i)f the Planning Commission approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing within ten (10) calendar days of the Planning Commission's action, and the permit shall be issued within thirty (30) days after all conditions of such approval is met. Except for necessary Building Permits and subsequent Certificates of Occupancy, once a permit has been granted hereunder, no additional permits or approvals from the County shall be required by the County for the wireless telecommunications facility covered by the permit." In accordance with the ordinance, this letter is to inform you of the decision of the Aiken County Planning Commission. The application was approved with contingencies by a majority, at the January 19, 2023 meeting of the Aiken County Planning Commission. When contingencies are met, the LMR permit for the site will be issued and then the project may proceed with applying for a Building Permit. If you have any concerns or if I can assist you with anything, please don't hesitate to let me know.

Sincerely,

Rhonda C Connelly
Planner II

FILED April 27 2023
Robert L. Kittle CPA
C.C.C.P. & G.S.
Charla Griffin
Deputy Clerk

E "Exhibit 1"

Aiken County
Planning & Development Department
Remembering the Past, Preparing for the Future

Joel T. Duke, AICP
Chief Development Officer

WORKSESSION
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1st FLOOR – SANDLAPPER ROOM
5:30 P.M., THURSDAY, OCTOBER 20, 2022
MEETING NO. 22-10-01

1. Review of October, 2022 agenda
2. Planning Commission Reminder Dates:
   - **Thursday, October 20, 2022** – Worksession

AGENDA
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1ST FLOOR – SANDLAPPER ROOM
6:00 P.M., THURSDAY, OCTOBER 20, 2022
MEETING NO. 22-10-01

A) CALL TO ORDER

B) RECOGNITION OF VISITORS

C) APPROVAL OF MINUTES: Meeting No. 22-09-01

D) APPROVAL OF AGENDA

E) PRESENTATIONS:

1. **Deerfoot Pines – Preliminary Plat Extension**
   Applicant: Blue Sky Properties & Investments, LLC
   Engineer: Civil Design Solutions
   Location: Pine Street (S-202)
   Total Acreage: 83.39
   Total Number of Lots: 142
   Tax Parcel Number: 070-18-04-003
   Zoning: RUD
   County Council District: 6 – Phil Napier

2. **Highland Hills Commercial Subdivision – Preliminary Plat Approval (Public Hearing)**
   Applicant: Highland Hills, LLC
   Engineer: HB Engineering, Inc.
   Location: Bettis Academy Road S-144
   Total Acreage: 13.92
   Total Number of Lots: 5
   Tax Parcel Number: 048-00-02-012

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

Zoning: LD & RUD
County Council District: 6 – Phil Napier

3. **Waterfall at Flat Rock – Preliminary Plat Approval (Public Hearing)**
Applicant: Sage Mill Residential, Ltd.
Engineer: Hass & Hilderbrand, Inc.
Location: Sage Mill Blvd. (C-2624)
Total Acreage: 138.1
Total Number of lots: 297
Tax Parcel Number: 068-00-05-001
Zoning: PUD A
County Council District: 6 – Phil Napier

4. **BridgeWay – Preliminary Plat Approval (Public Hearing)**
Applicant: Beazley Development Co., Inc.
Engineer: Southern Partners, Inc.
Location: Springdale Road (C-2583)
Total Acreage: 235.17
Total Number of Lots: 107
Tax Parcel Numbers: 033-00-06-004, 033-00-06-001 & 048-00-08-013
Zoning: RUD
County Council District: 6 – Phil Napier

5. **Proposed Private Road – Preliminary Plat Approval (Public Hearing)**
Applicant: Bruce Berret
Engineer: Hass & Hilderbrand, Inc.
Location: John Scott Road C-2847
Total Acreage: 2.1
Tax Parcel Numbers: 173-00-01-002, 173-00-01-008, & 173-00-01-009
Zoning: RUD
County Council District: 1 – Kathy Rawls

6. **Wireless Telecommunication Tower – (Public Hearing)**
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002
Zoning: RUD, Rural Development
Proposed Tower: 305' self supporting telecommunications tower
County Council District: 1 – Kathy Rawls

7. **Wireless Telecommunication Tower – (Public Hearing)**
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Peach Cider Road, Batesburg
Tax Parcel: 180-00-05-002
Zoning: RUD
Proposed Tower: 305' self supporting telecommunications tower
County Council District 1 – Kathy Rawls

(F) OLD BUSINESS:

(G) NEW BUSINESS: None

(H) NEXT REGULAR MEETING: November 17, 2022

(I) ADJOURNMENT:

MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR– SANDLAPPER ROOM
6:00 P.M., THURSDAY, SEPTEMBER 15, 2022
MEETING NO. 22-09-01

A. CALL TO ORDER

Chairwoman Vance called the regularly scheduled meeting of the Aiken County Planning Commission to order at 6:00pm. The Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Grace Vance, Chairwoman
2. Richard Adams
3. Denise Fulmer
4. Dennis Gmerek
5. William Harris, Jr
6. Robert Mitchell
7. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson
2. Liz Stewart, Vice Chairwoman

STAFF PRESENT

Sandra Colvin, Administrative Assistant
Joel T. Duke, AICP, Director
Brad Farrar, County Attorney
Terry Reames, Code Enforcement
Vickie Reynolds, Senior Planner
Amy Roberts, Planning Technician

B. RECOGNITION OF VISITORS

Chairwoman Vance welcomed the visitors to the Planning Commission meeting.

C. MOTION TO RECONSIDER

Mr. Harris made a motion for the reconsideration of the vote for Weeping Willows from the August 18, 2022 Planning Commission meeting. Mr. Mitchell seconded the motion. The motion passed with unanimous approval. Mr. Gmerek abstained.

Mr. Mitchell made a motion to postpone further action on Weeping Willows PUD Amendment, and address it as the first item of Old Business. Mr. Harris seconded the motion. The motion passed by unanimous approval.

D. APPROVAL OF MINUTES: Meeting No. 22-06-01

Chairwoman Vance asked for a motion to approve the minutes. Mr. Harris made a motion to approve the amended minutes to reflect the reconsideration vote on Weeping Willows PUD Amendment. Mr. Mitchell seconded the motion. The motion passed by unanimous approval.

E. APPROVAL OF AGENDA:

Mr. Gmerek made a motion to approve the amended agenda. Mr. Harris seconded the motion. The motion passed by unanimous approval.

F. PRESENTATIONS:

1. Clearwater Preserve Section 1 – Preliminary Plat Extension

Applicant: Beazley Development Company, Inc.
Engineer: Southern Partners, Inc.
Location: Jefferson Davis Highway/ U.S. Hwy 1
Total Acreage: 71.09
Total Number of Lots: 98
Tax Parcel: 036-17-15-001 & 023-20-01-004
Zoning: RD
County Council District3 – Danny Feagin

Mr. Duke addressed the Commission stating there is a two year time limit on preliminary plat approval. The subdivision was approved in 2020. The Aiken County Planning department has received one final plat for a portion of this development. The applicant is making progress, but completion of the plat will require longer than the two years. The applicant is requesting a one year extension as permitted by code.

David Banks with Southern Partners, representing the applicant addressed the Commission requesting the one year extension to complete Phase One.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve the one year extension. Mr. Palmer seconded the motion. The motion passed unanimously.

2. Arbor Ridge Subdivision – Preliminary Plat Extension

Applicant: J&E Properties
Engineer: C.E. Dudley
Location: Columbia Highway North
Total Acreage: 10
Total Number of Lots: 8
Tax Parcel: 134-10-04-002
Zoning: UD
County Council District: 6 – Phil Napier

Mr. Duke addressed the Commission stating there is a two year time limit on preliminary plat approval. The subdivision was approved in 2020 with contingencies.

Ed Dudley, 1018 Wildwood Road, Aiken, SC, addressed the Commission stating this is a request for a one year extension.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve the one year extension. Ms. Fulmer seconded the motion. The motion passed unanimously.

3. **Weeping Willows Subdivision – PUD A Amendment – Public Hearing**
Applicant: Turner Development, LLC
Engineer: CES Group Engineer, LLP
Location: Old Aiken Road S-365
Total Acreage: 174.79
Tax Parcel: 013-12-01-001
Zoning: PUD A
County Council District: 5 – Sandy Haskell

Moved to Old Business number one.

G. OLD BUSINESS:

1. **Weeping Willows Subdivision – PUD A Amendment – Public Hearing**
Applicant: Turner Development, LLC
Engineer: CES Group Engineer, LLP
Location: Old Aiken Road S-365
Total Acreage: 174.79
Tax Parcel: 013-12-01-001
Zoning: PUD A
County Council District: 5 – Sandy Haskell

Mr. Duke addressed the Commission stating this item was on the August 2022 agenda for an amendment to the original PUD approval granted last year. The amendment changes a section of single family homes to townhomes. He stated that there was consideration and a vote at the August meeting, and now back for the amendment reconsideration of the original motion to approve. He reminded the Commission that there were questions concerning the PUD document clearly delineating the proposed changes, and whether the traffic analysis reflects the changes requested in the first and second amendments. The Aiken County Planning department has received the updated documents, and now recommends approval with contingencies.

Chairwoman Vance opened the public hearing.

Tracy Turner, with Turner Development, addressed the Commission stating the traffic analysis has been updated. He stated Mr. Ingram is available to answer any questions. Chairwoman Vance asked about the slave gravesites. Mr. Turner stated there are no documented slave graves on property. He continued stating the former property owner is here to verify that no slave graves are on property.

Chairwoman Vance asked if new traffic study reflects the amendments to the PUD.

Jeff Ingham, 1413 Point Bluff Ct, Mt. Pleasant, SC, stated that his firm had updated the traffic study to reflect the latest land plan, which includes the townhomes. He continued stating the recommendations in the previous report remain the same. There are some timelines extensions, some phasing adjustments, and improvement to the signals that will be part of the required SCDOT encroachment permit process.

Laura Phinzey, 756 Tripps Court, Augusta, Ga., addressed the Commission stating there are no slave graves on the property, and she has documentation.

Chairwoman Vance closed the public hearing, stating the motion made by Ms. Fulmer at the August 18, 2022 meeting remains on the floor. (to approve with contingency that the clerical concerns be addressed and the updated traffic study meet county and state regulations. Mr. Harris seconded the motion). The motion passed with a 5 to 1 vote, with Mr. Gmerek abstaining.

2. Variance Request from Section 24-7.3.8 – Subdivision roadway construction requirements

Applicant: Ernest Odom
Location: Dry Branch Road (S-504)
Tax Parcel: 125-17-01-002
Zoning: RD
County Council District 2 – Camille Furgiuele

Ms. Fulmer made a motion to remove the old business item from the table. Mr. Harris seconded the motion. The motion passed by unanimous approval.

Mr. Duke addressed the Commission stating this is request was tabled at the July 2, 2022 and August 18, 2022 meetings. The applicant is asking for a variance to allow an access road constructed to a lesser standard.

Ernest Odom, 106 Lochweed Drive, Columbia, SC, addressed the Commission and presented pictures to the Commission, (see attached). Chairwoman Vance asked if the applicant has a different presentation for the Commission. Mr. Odom stated the previous application was based on RD zone, and the property is AP. Mr. Odom stated the family is not developing a subdivision, the property will continue to be used for forestry. Mr. Duke stated since property is over five acres, the subdivision regulation are considered. Aiken County allows two lots by way of private driveway. The driveway may be the bladed off dirt access as presented. Mr. Duke continued stating if more than two lots, it must be provided as an engineered private road with private road maintenance agreement. The road does not need to be paved. It needs to show sufficient base and drainage. The current zone for this property is RD. Mr. Odom stated there is a third access road off of Dry Branch Road, the information is on page seven of hand-out. Mr. Duke stated the road maybe used, however the owner will need to transfer the thirty foot easement to the larger parcel.

Mr. Gmerek asked Mr. Duke if the variance would be needed if Mr. Odom was to have a signed recorded easement. Mr. Duke stated the variance ill not be required. Mr. Gmerek suggested to Mr.

Odom to get the recorded deed of easement and obtain a property attorney. Chairwoman Vance asked if Mr. Odom would like to talk further with Mr. Duke or vote tonight. Mr. Odom stated would like a vote.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to deny the variance due to what the applicant request can be done in compliance with current regulations. Mr. Harris seconded the motion. The motion passed unanimously.

H. NEW BUSINESS:

I. NEXT REGULAR MEETING: October 20, 2022

J. ADJOURNMENT:

Chairwoman Vance asked for a motion to adjourn. Mr. Gmerek made a motion to adjourn the meeting. Mr. Harris seconded the motion. The motion passed by unanimous consent with the meeting ending at 7:20 p.m.

Respectfully Submitted,

_____ _____ _____ _____

Joel T. Duke, Secretary Date Grace Vance, Chair Date

PRESENTATION #6

Staff Report
Telecommunication Tower Application

To: Aiken County Planning Commission
From: Rhonda C Connelly
Planner I

Date: September 30, 2022
Public Hearing: October 20, 2022

PROPERTY OWNER: Gerald L Waters, Trustee Of the Gerald L Waters Living Trust

APPLICANT: Pyramid Network Services for Verizon Wireless

LOCATION: Old 96 Indian Trail
Wagener, SC 29164

PRESENT ZONING: RUD

TAX PARCEL NUMBER: 262-00-01-002

MAXIMUM HEIGHT ALLOWED BY LMR: Rural (RUD, RUC) that is more than one (1) mile from existing RC zoning district allows for: monopole, self supporting lattice, or guyed towers with a height not to exceed three hundred fifty (350) feet. Variances from the height limitations exceeding an additional ten (10%) percent of the height allowed in the zoning district or type of wireless telecommunications facility shall not be granted or approved.

PROPOSAL: After unsuccessfully attempting to find a tower to co-locate on within a one mile radius, the applicant has applied for a new telecommunication facility on the proposed parcel.

SURROUNDING ZONING & LAND USES:

North: Road (RUD)

East: Agricultural/Vacant (RUD)

South: Residential/Agricultural/Vacant (RUD)

West: Agricultural/Vacant (RUD)

ANALYSIS: Pyramid Network Solutions for Verizon Wireless submitted an application for a three hundred five (305) foot self-supporting lattice telecommunication facility on September 21, 2022. The proposed tower is to be placed on tax parcel number 262-00-01-002 off of Old 96 Indian Trail, Wagener. The proposed tower will be setback from Old 96 Indian Trail 440.2 feet and from the rear property line (south) 1,656.11 feet. The tower will also be setback from the property lines 405.10 feet (west) and 782.10 feet (east). The property is 97.12 acres and contains no structures.

PLANNING COMMISSION REVIEW: According to Chapter 24, Article 3, Section 5.7(1) of the Aiken County Code of Ordinances, the Planning Commission shall review applications for new telecommunication towers based on four criteria. The criteria and staff comments related to each are provided below. Disapproval from the Planning Commission must be based on substantial evidence in the record and the reasons stated on the record.

a. *"Conflict with safety and safety-related codes and requirements."*
The site has met and/or exceeded County adopted IBC and ANSI codes.

b. "Conflict with a designated historical site."

The site does not conflict with any designated historical site listed with the State Historic Preservation Office.

c. "The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers."

Staff is not aware of any unacceptable risk or reasonable probability of such that the placement and location of the wireless telecommunication facility would create to residents, the public, employees, and agents of the County, or employees of the service provider or other service providers.

d. "Conflicts with the provisions of this section 24-3.5."

A list of deficient items is attached and was forwarded to the applicant by email on 9/28/2022.

The telecommunication tower regulations are intended to protect the County's health, safety, public welfare, environmental features, and nature and character of the community.

Deficient Items List for Old 96 Indian Trail

- The Functional Performance Standards and Guaranty need to be completed and submitted.
- Sec. 24-3.5.5 (8, k) "The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure." *The center line height has already been shown, that part of this section does not need to be completed.*
- Sec. 24-3.5.5 (8, l) A bufferyard plan will need to be submitted.
- Sec. 24-3.5.5 (11) "The applicant shall provide certification from a professional civil or structural engineer licensed in the state that the telecommunications facility is designed and will be constructed to meet all county, state, and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) guidelines." The applicant has indicated this item will be submitted prior to permitting.
- Sec. 24-3.5.13 (2) "There shall be no development or construction of habitable (residential) buildings within the fall zone or setback area set forth in the immediately preceding section 24-3.5.13.1 The applicant shall provide written proof that the owner of property on which a tower is proposed to be erected has been notified of this limiting provision regarding habitable (residential) buildings. Such proof of notification of this limiting provision shall be in the form of a written and properly executed agreement between the applicant and the owner of the property, or in other form which is approved by the planning and development director." Letter from the property owner will need to be submitted.
- Engineer shown on CDs is licensed by the State of Alabama, per ordinance, engineers must be licensed by the State of South Carolina.

Deficient items list sent to applicant by email 9/28/2022.

PROPOSED USE(S) OF TOWER/ANTENNA (I.E. NEW, CO-LOCATE INCREASING HEIGHT OF TOWER, ETC.):
New 305' self-supporting tower for Verizon Wireless

APPLICANT NAME: Lannie Greene for Verizon Wireless **PHONE #:** 678-780-9221

ADDRESS OF APPLICANT: 2421 St. Martin Way, Monroe, GA 30656 lgreene@pyramidns.com

TOWER OWNER NAME: Verizon Wireless c/o Matt Hartley **PHONE #:** 678-277-3612

ADDRESS OF TOWER OWNER: 10300 Old Alabama Road Connector, Alpharetta, GA 30022

ADDRESS/LOCATION OF DEVELOPMENT: Old 96 Indian Trl, Wagener, SC 29164

TAX PARCEL NUMBER OF DEVELOPMENT: 262-00-01-002

Note: Review and approval of this site plan may require at least 30 working days. Failure to provide any of the previously noted information may delay approval of the site plan.

I hereby submit the following for review and approval: (check all which are applicable)

- ☐ Seven site plans
- ☐ Functional Performance Standards
- ☐ Functional Performance Standards Compliance Guaranty
- ☐ Notice of Intent (NOI) Form
- ☐ Development Permit Review Fee ($10,000.00)

SIGNATURE: Lannie Greene **DATE:** 09-19-22

NAME (Printed): Lannie Greene **TITLE:** Representative for Verizon Wireless

ADDRESS: 2421 St. Martin Way, Monroe, GA 30656

PHONE #: 678-780-9221

RF Propagation Maps for FALKOUR

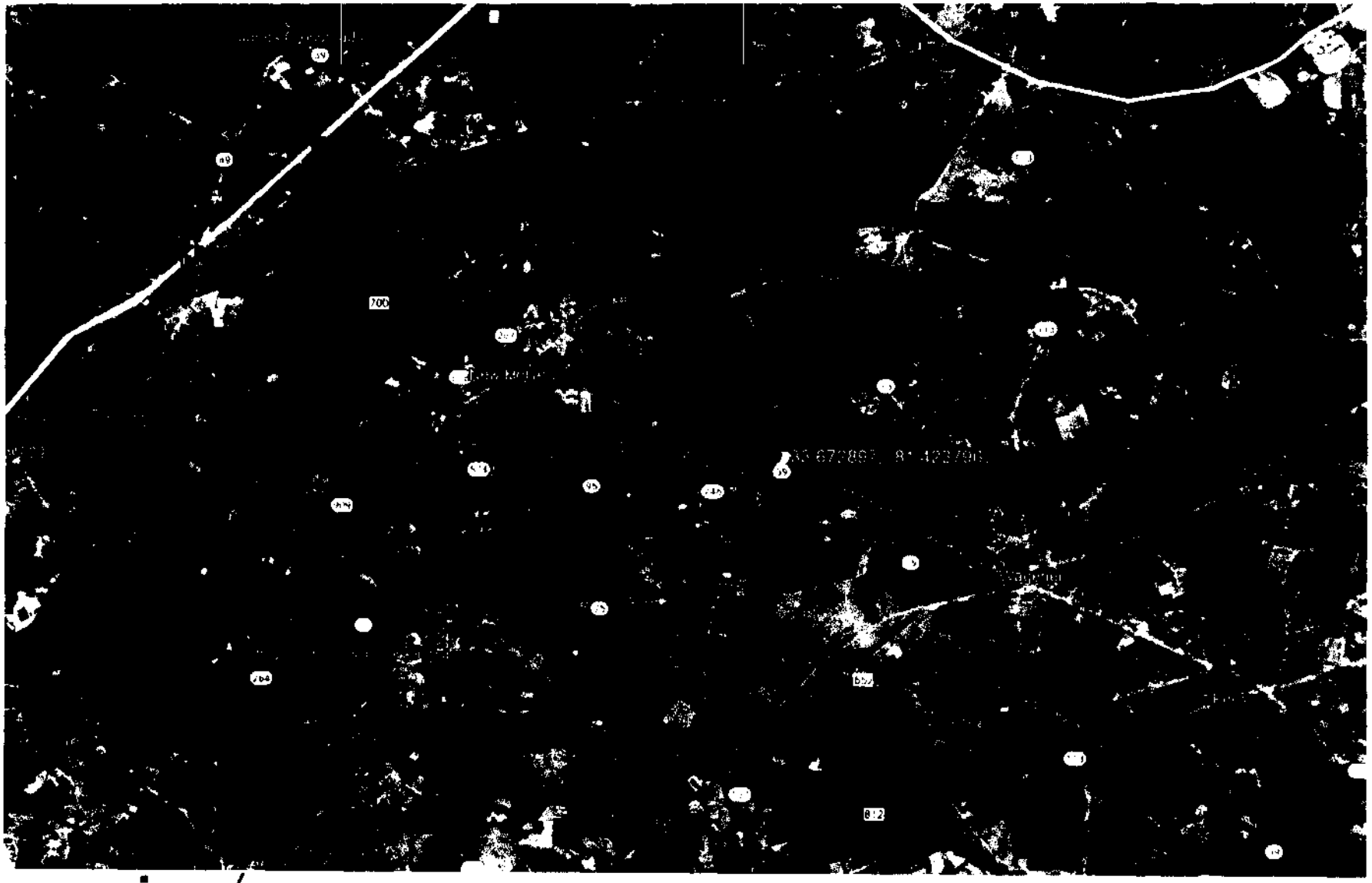
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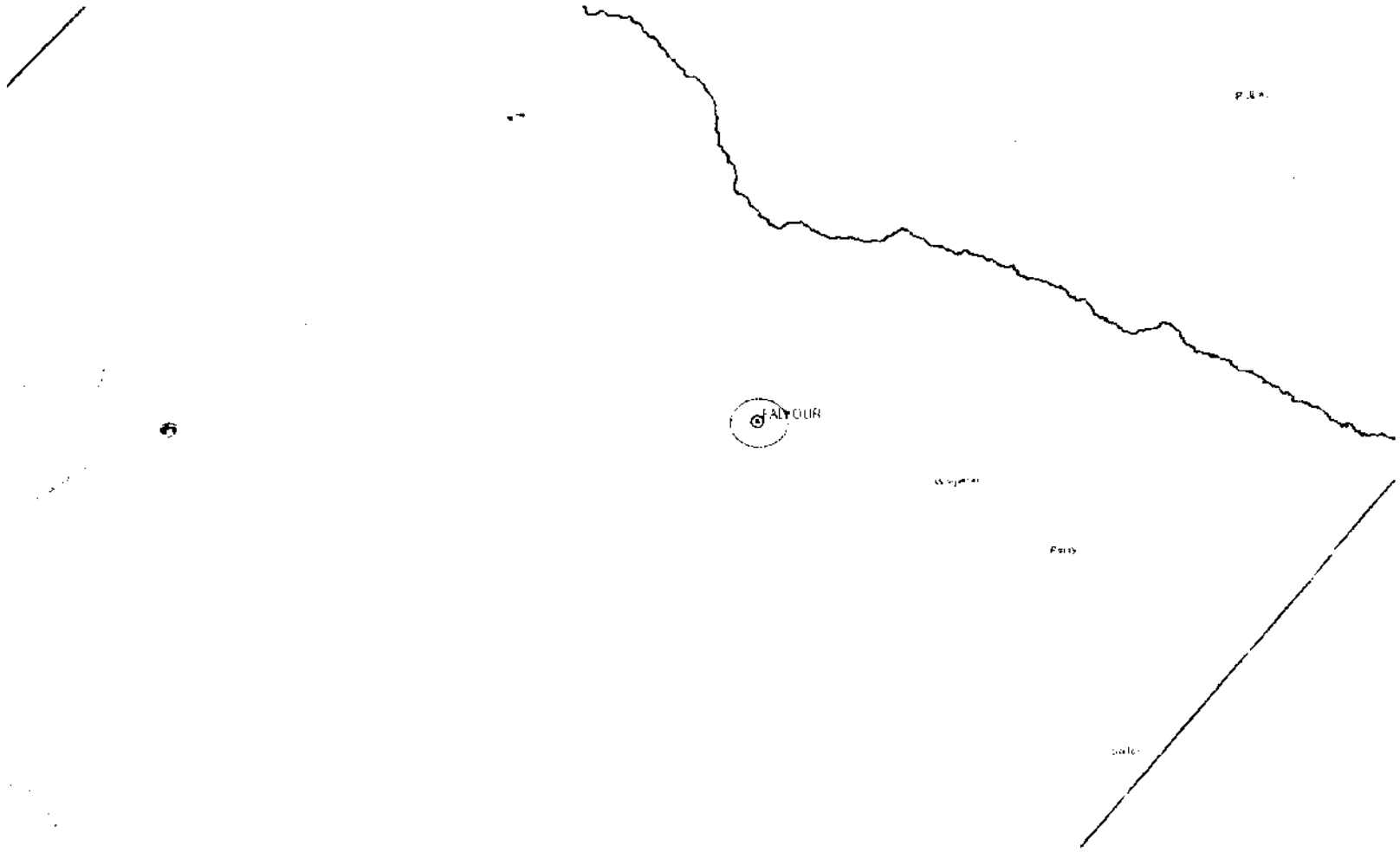
Google map location



verizon

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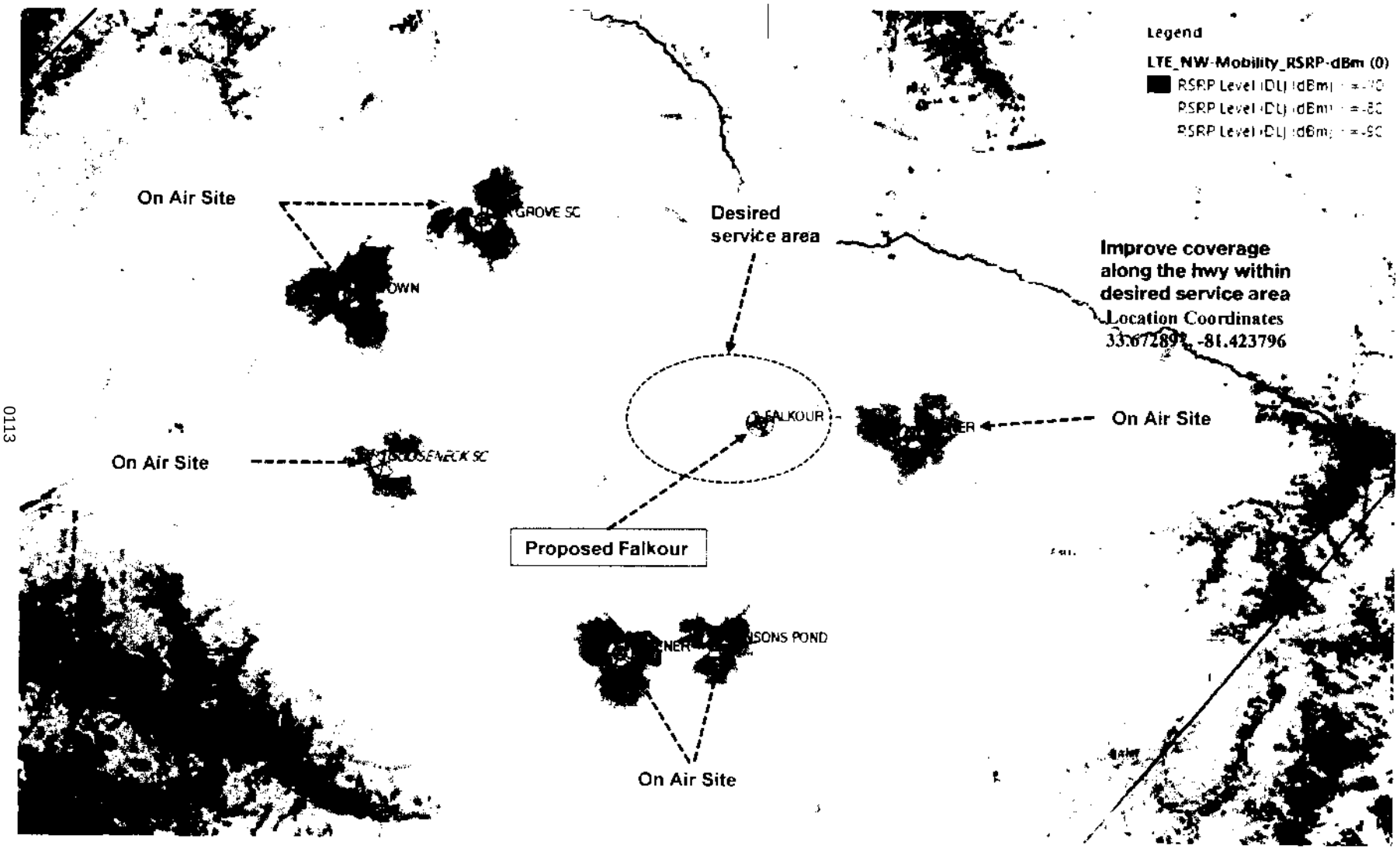
Search Ring



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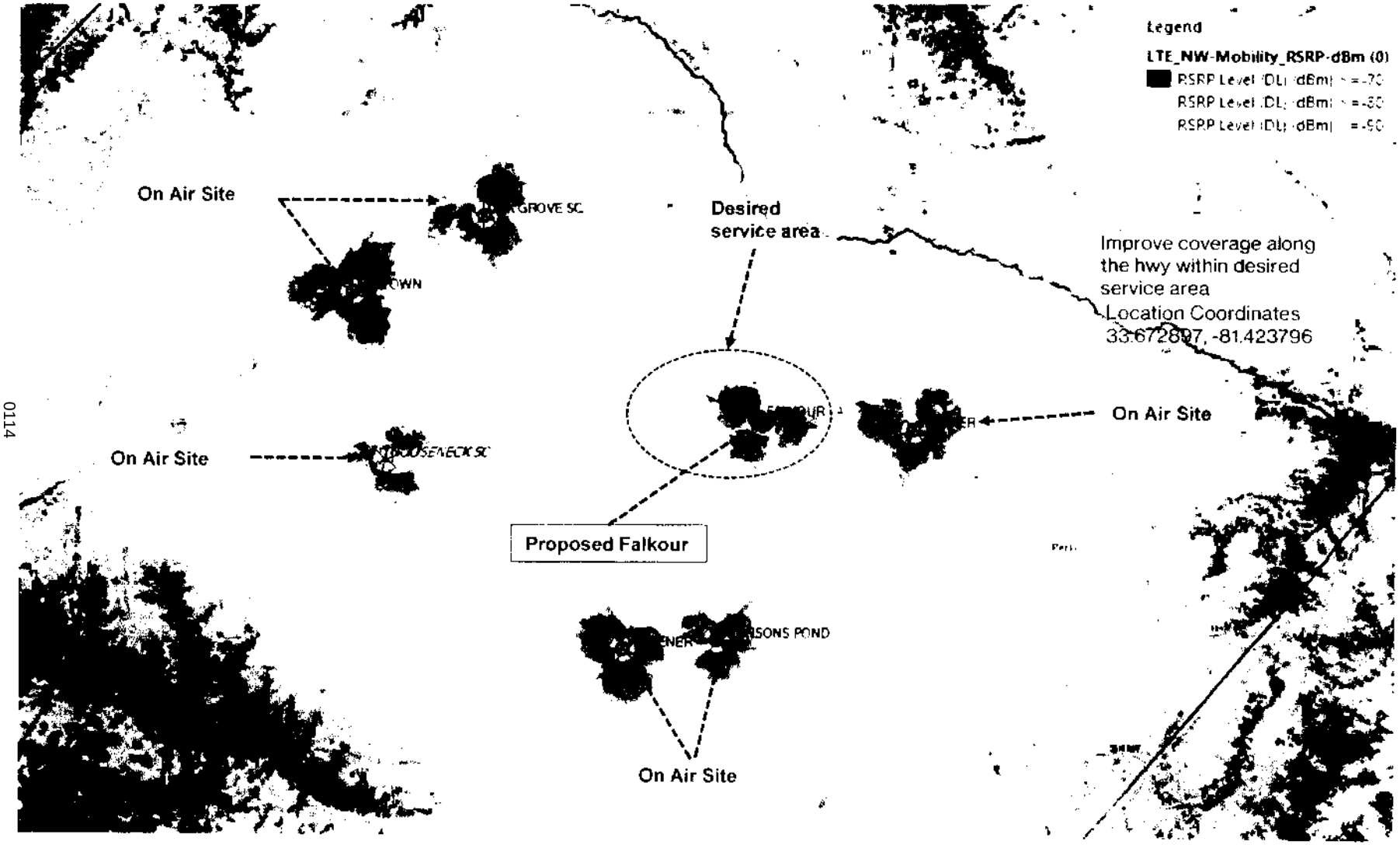
Existing LTE coverage



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Proposed LTE coverage with Falkour



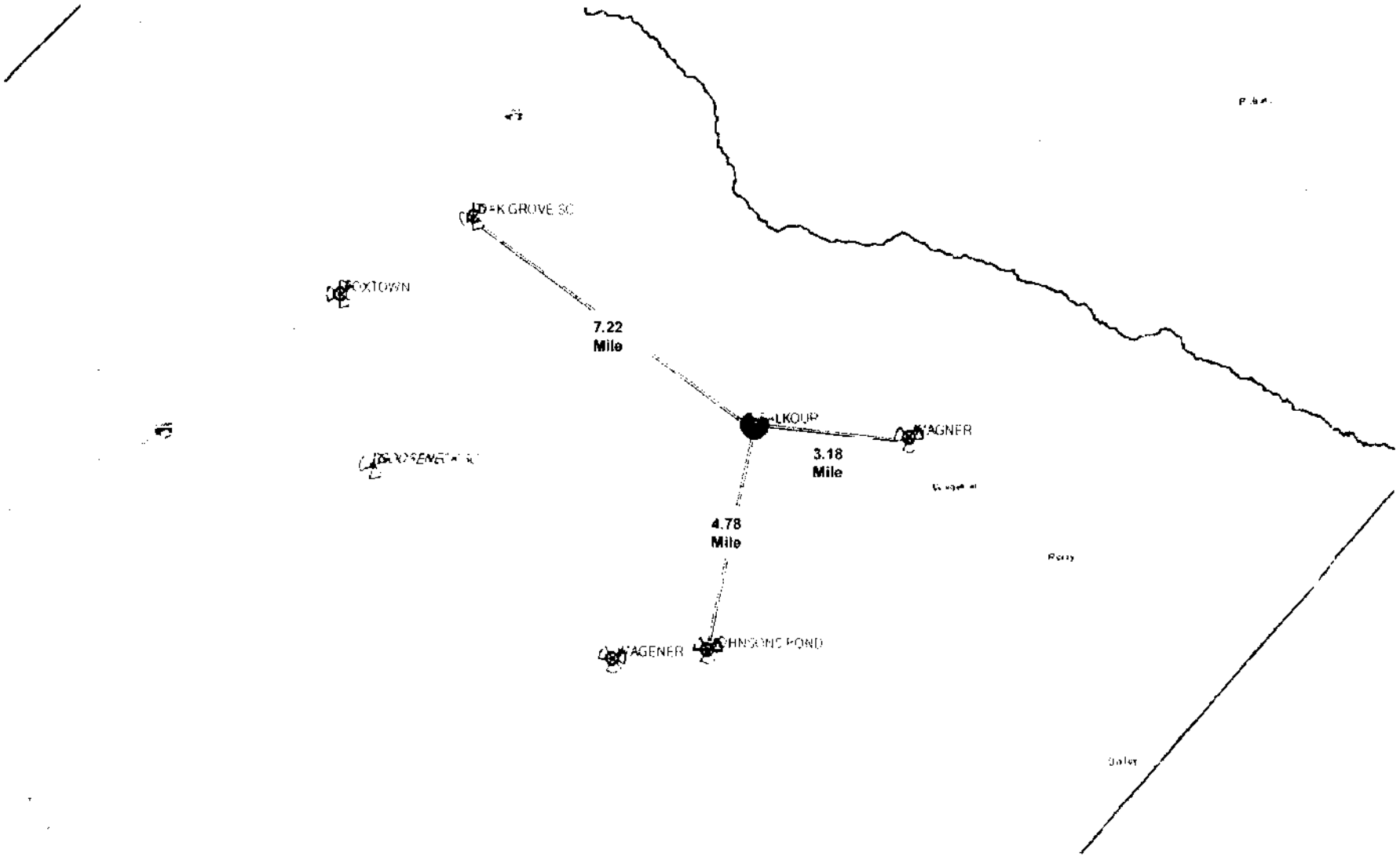
verizon

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Inventory Of Existing Verizon on-Air

Site Name	Latitude	Longitude	Structure Type	Street Address	City	State	County	Zip Code
Oak Grove	33.739431	-81.520289	240 Ft. Self Support Lattice Tower	Old 96 Indian Trail	Monetta	SC	Aiken	29006
FoxTown	33.717911	-81.569894	199 Ft. Guyed Tower	2211 Wire Road	Aiken	SC	Aiken	29805
Gooseneck	33.66613333	-81.560999	190 Ft. Monopole	312 Wilderness Road	Aiken	SC	Aiken	29805
Wagener	33.604592	-81.478506	260 Ft. Self Support Lattice Tower	360 Four Oaks Road	Wagener	SC	Aiken	29164
Johnsons Pond	33.605833	-81.444222	179 Ft. Self Support Lattice Tower	5665 Wagener Road	Salley	SC	Aiken	29137
Wagner	33.667028	-81.369203	300 Ft. Guyed structure	209 Randy Wayne Lane	Wagener	SC	Aiken	29164

Distance of proposed FALKOUR site to the existing VZW on-air sites



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verizon

Summary

he sit is located in agener, A'ken C . The o jective to r vide c ve age alon y d ine y Six India Trail and surro nding area of Wa en r.

We are adding more spectrum of 850 for the low band and AWS/PCS for the high band. We are modifying our existing radios with a new dual band radios and new RET capable antennas with 4TX/RX (Transmit/Receive diversity) to improve user experience by allocating more resources.

The antennas at each site (eNodeB and UE) have to be uncorrelated to provide independent paths as a baseline for up to four different data channels at the same time.

0117

Therefore; in order to improve customer experience in the rural area and reach maximum potential customers, our design tower height set at 295' feet. It's a coverage problem area and the nearest site is about 3.18 miles East. The new site will help us to address customer issue and complains, therefore; any reduction on the antenna height will jeopardize our main coverage objectives.

This particular candidate was chosen, because it was within the intended specific search ring and based in all engineering survey and calculation, and based on VZW engineering requirements for coverage

verizon

Thank you.

verizon

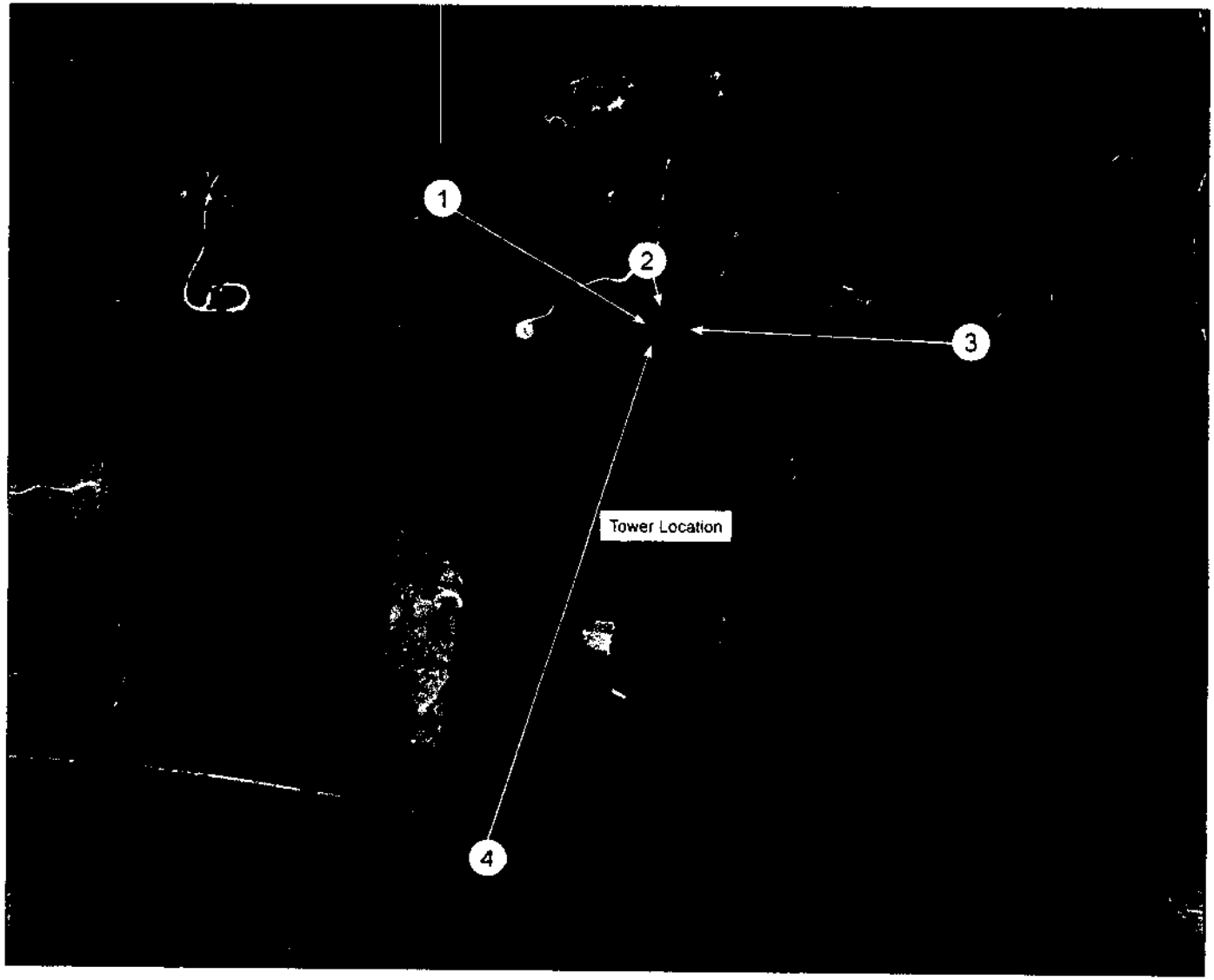


Photo sim location	Distance to proposed tower
Location #1	1,670'
Location #2	640'
Location #3	1,800'
Location #4	3,220'

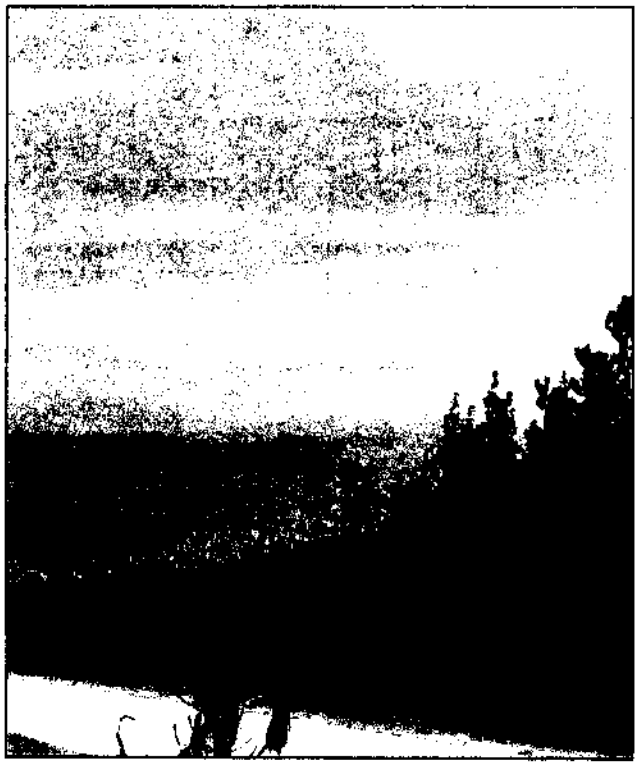
Location Map

Kimley »Horn

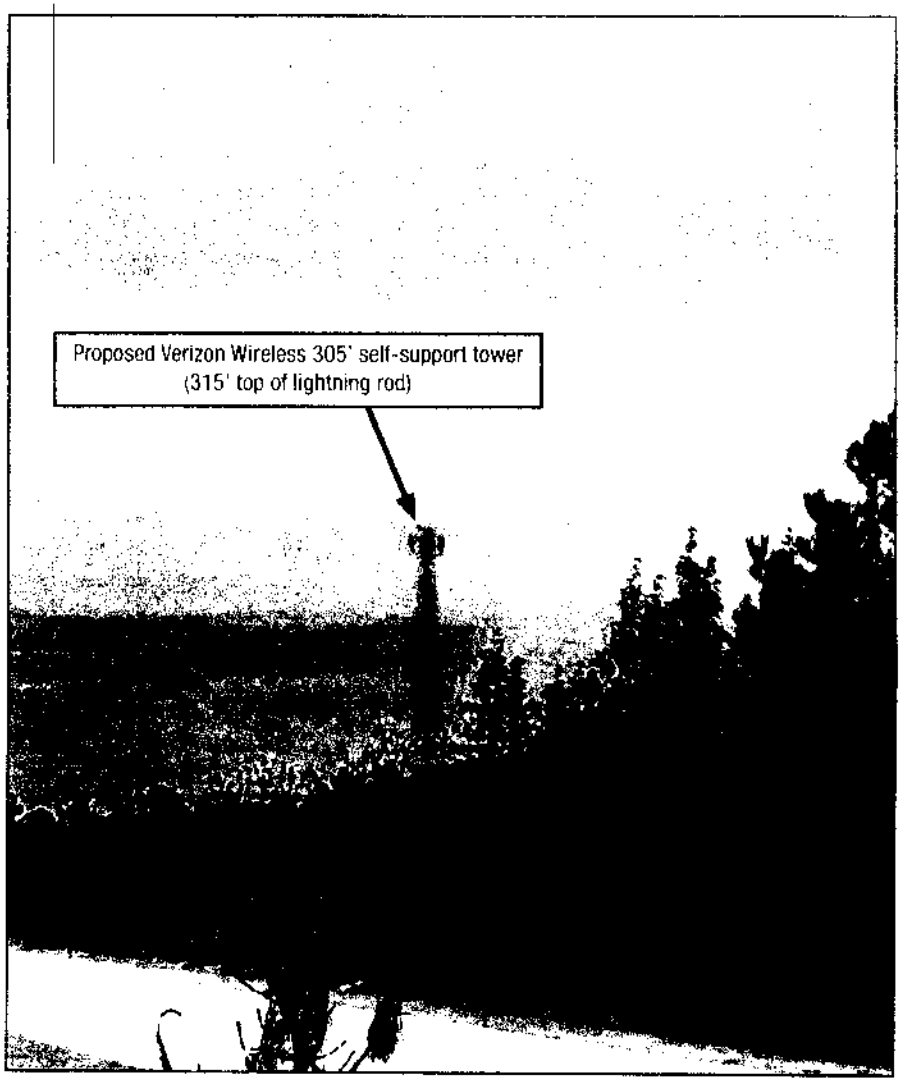
Verizon Wireless - Falkour mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

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Existing



Proposed

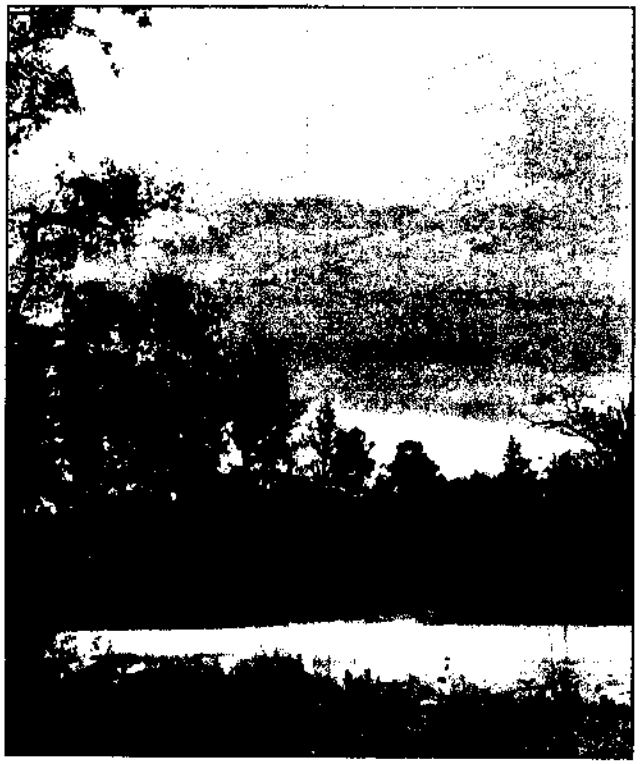
Location #1 - View looking east southeast from Old Ninety-Six Indian Trail Road

Kimley »Horn

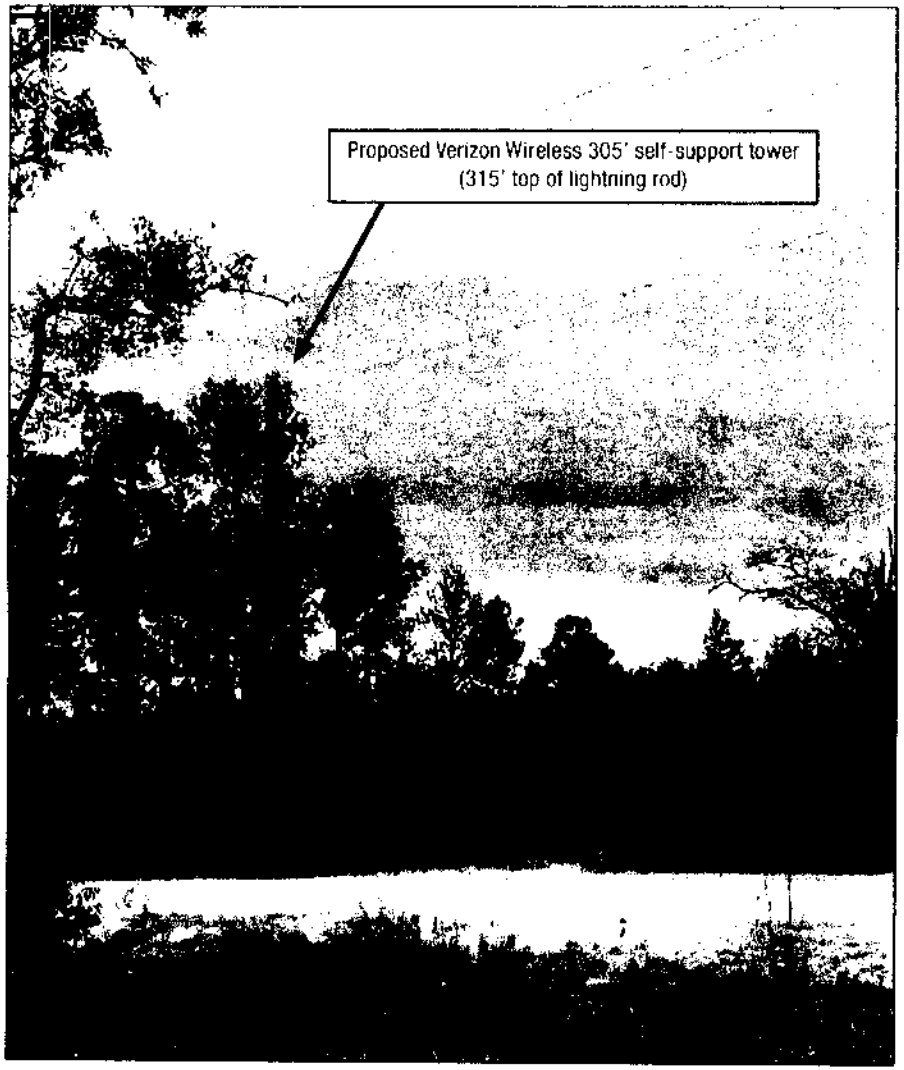
Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

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Existing



Proposed

Location #2 - View looking southeast from Old Ninety-Six Indian Trail Road

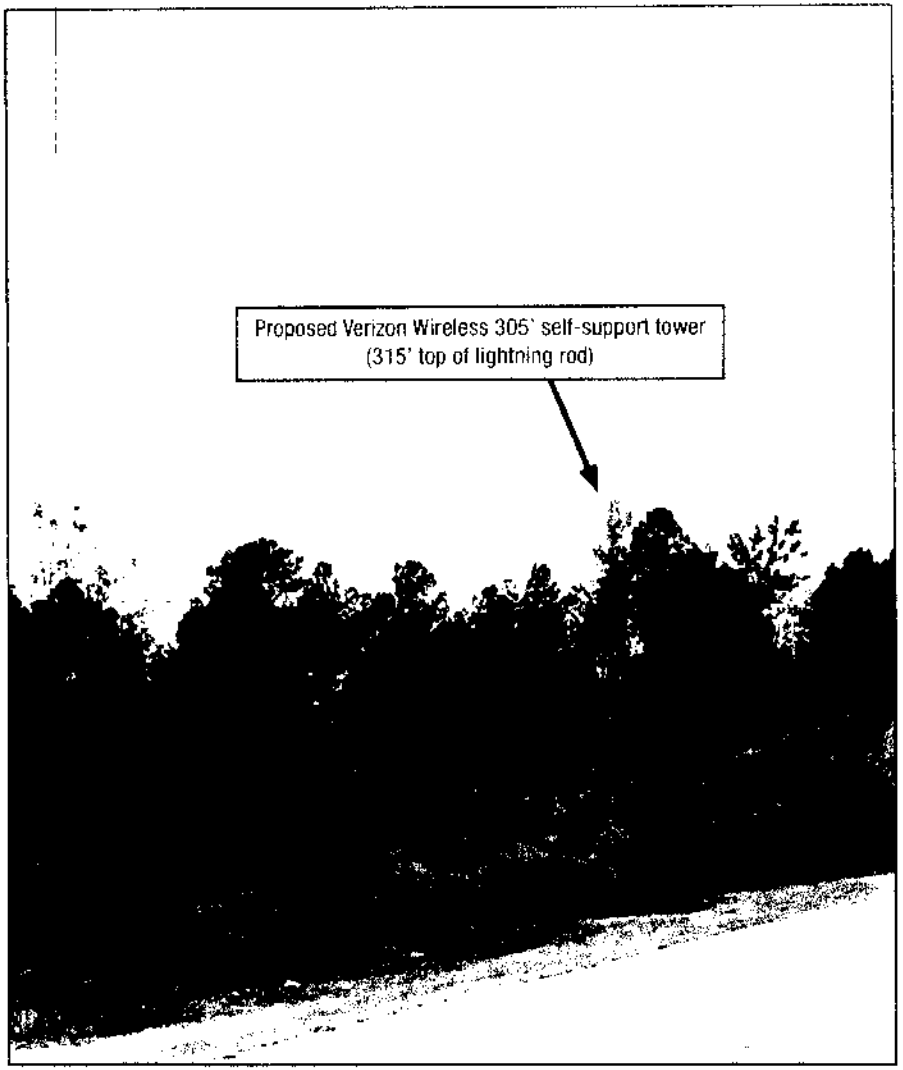
Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



Existing



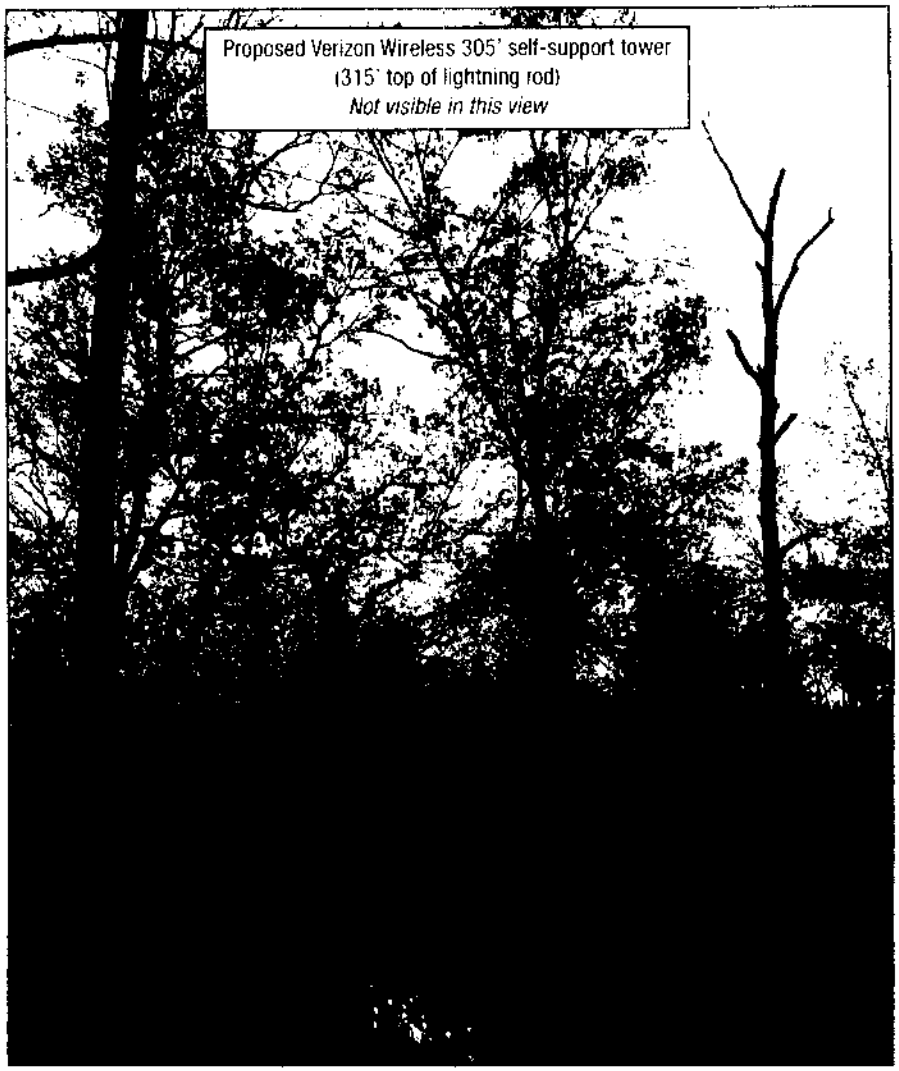
Proposed

Location #3 - View looking west from Old Ninety-Six Indian Trail Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



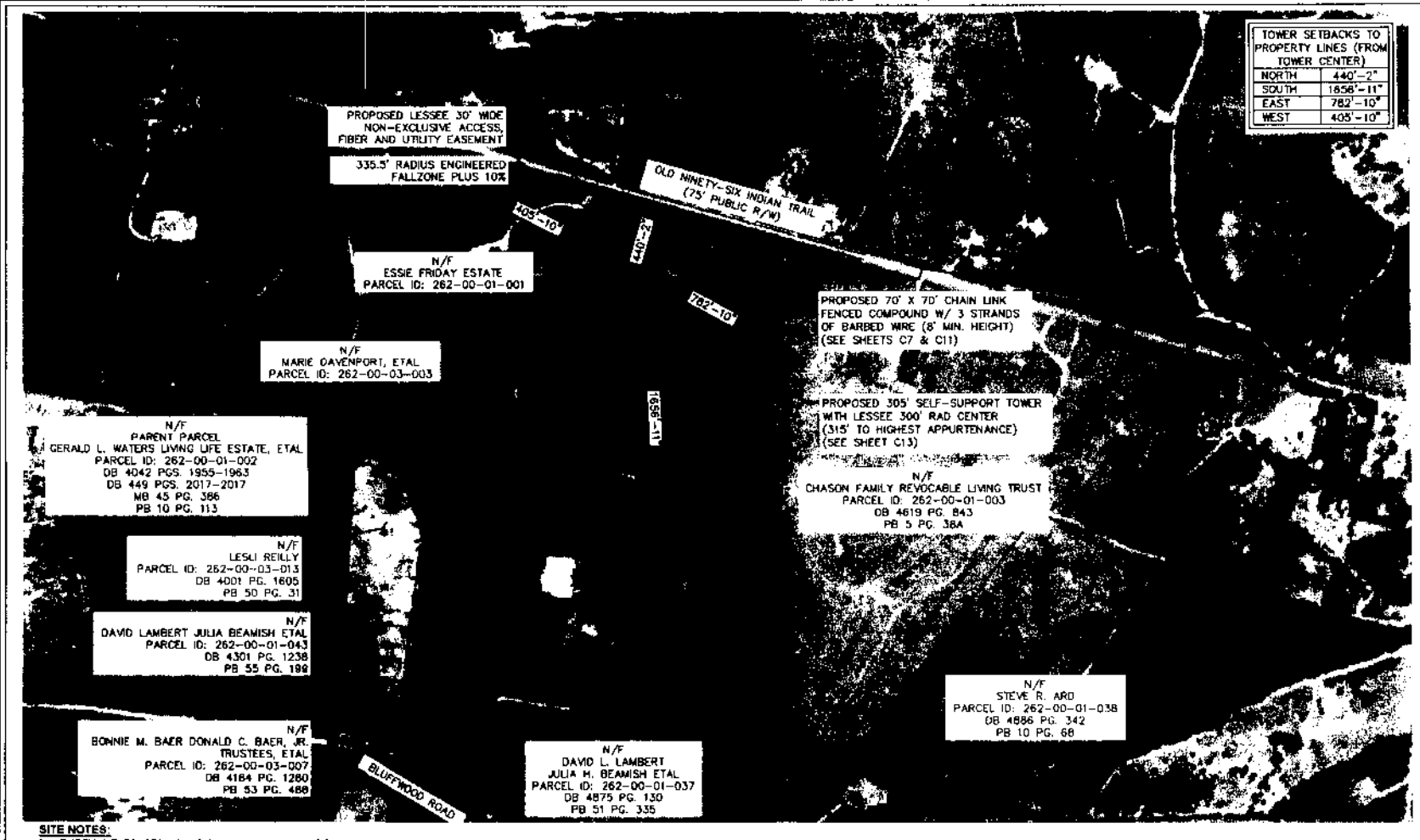
Existing

Location #4 - View looking north northeast from Bluffwood Road

Kimley »Horn

Verizon Wireless - Falkour mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1658'-11"
EAST	782'-10"
WEST	405'-10"

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' x 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
3. ALL BUFFERYARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0 OVERALL PARCEL PLAN

SCALE 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

0125

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verizon

10300 OLD ALABAMA ROAD CONNECTOR ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME: FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600 ALPHARETTA, GA 30009 PHONE: 770-818-4200 WWW.KIMLEY-HORN.COM SC License: C00186

REV:	DATE:	ISSUED FOR:	BY:
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3			
2			
1	08/09/21	CONSTRUCTION	DRC
0	05/18/21	CONSTRUCTION	DRC
A	04/26/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

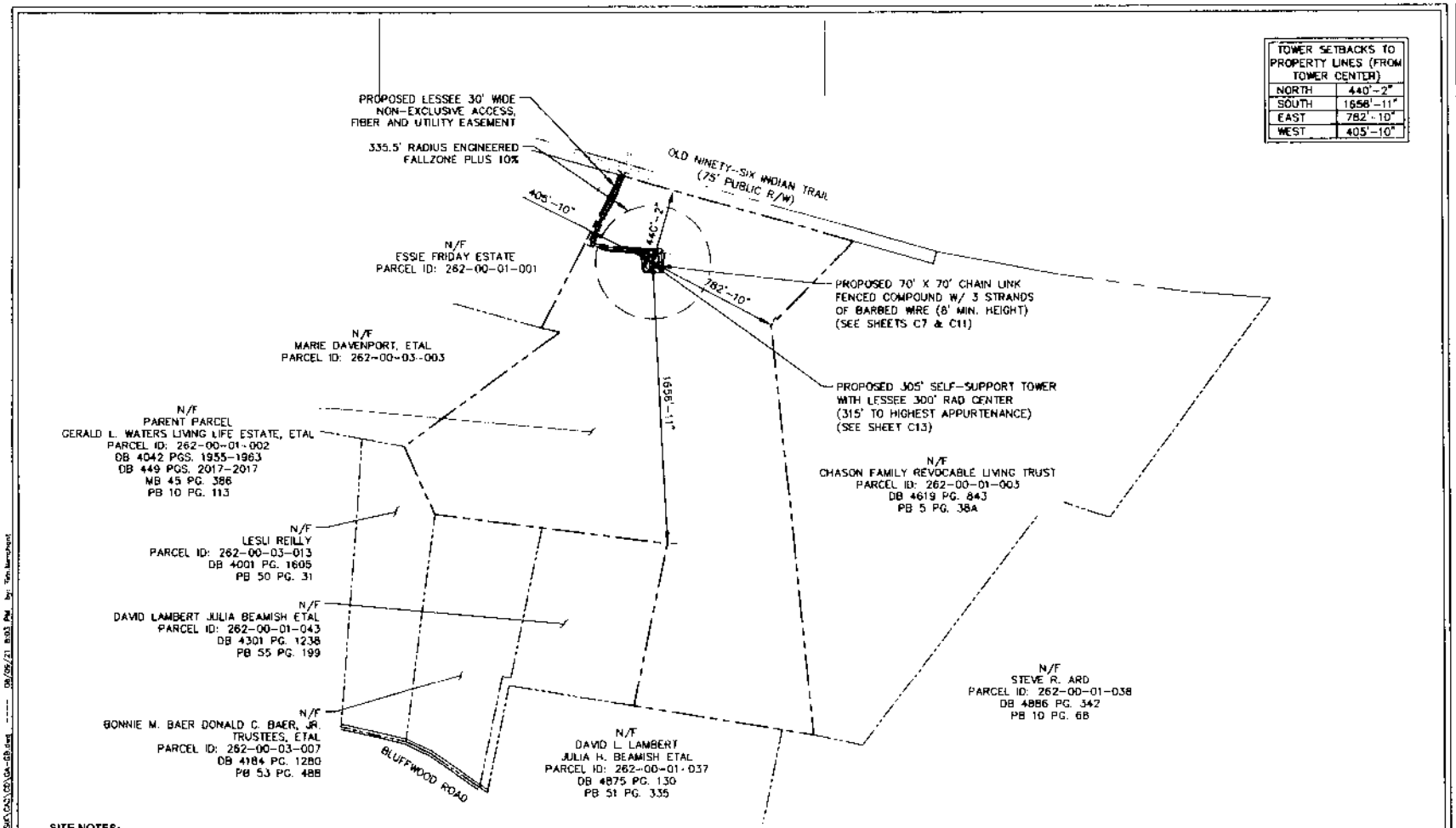
5/14/21

KHA PROJECT NUMBER: 013509274

DRAWN BY:	CHECKED BY:
TDM	TRN

SHEET TITLE: OVERALL PARCEL PLAN

SHEET NUMBER: C0



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1658'-11"
EAST	782'-10"
WEST	405'-10"

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1 / C0.1 OVERALL PARCEL PLAN

SCALE: 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

16000 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME
FALKOUR_MK1_174_MOR
SITE No. 695446
FUZE PROJECT # 19600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC License #C00188

REV:	DATE:	ISSUED FOR:	BY:
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1	08/09/21	CONSTRUCTION	ORC
0	05/18/21	CONSTRUCTION	ORC
A	04/28/21	PRELIMINARY	ORC

LICENSER:

ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS 11/2/21

KHA PROJECT NUMBER:
013508274

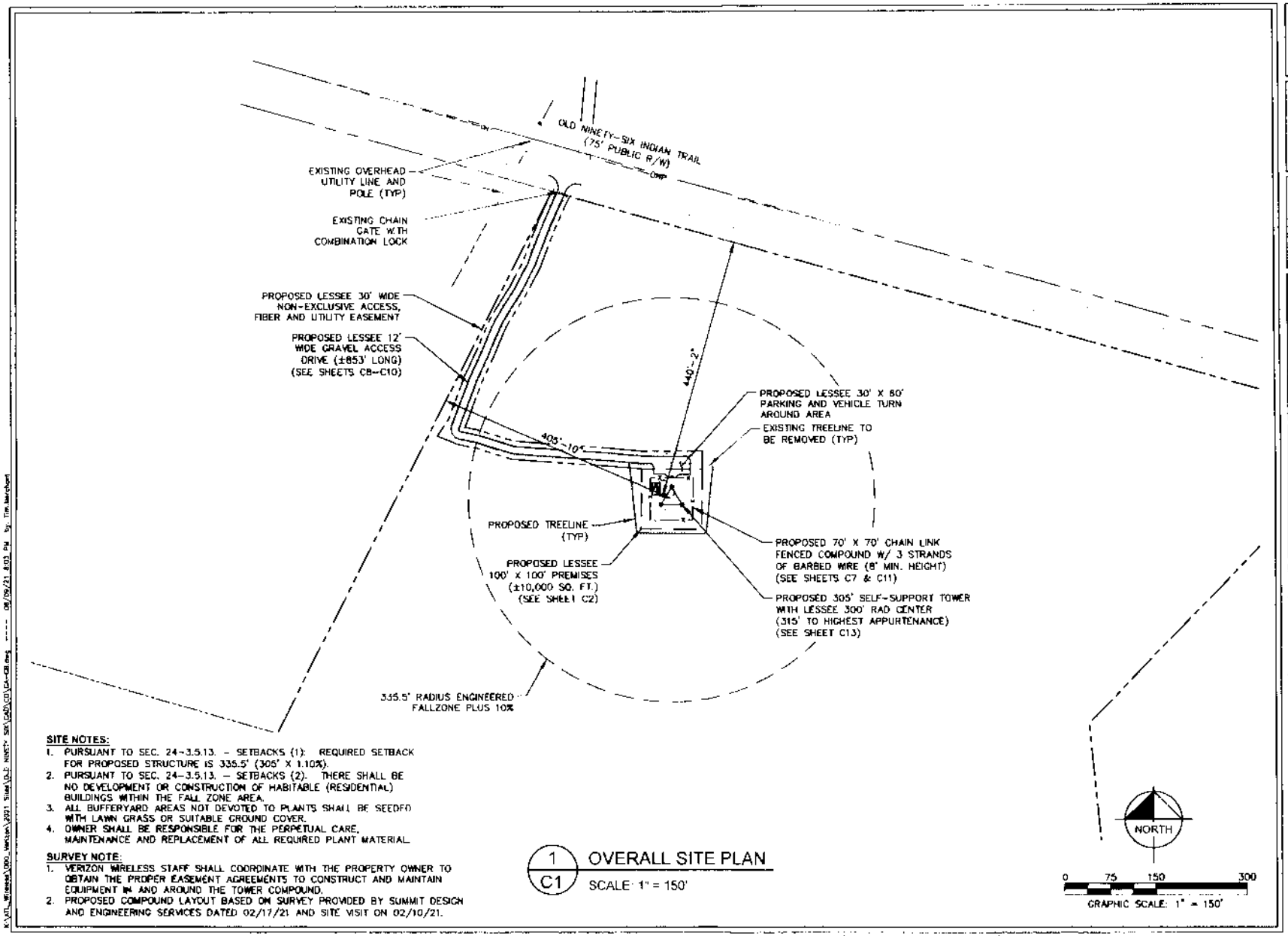
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SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
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SITE NOTES:

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1/C1 OVERALL SITE PLAN
SCALE: 1" = 150'

vertzon
10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No. 695446
FUZE PROJECT # 16600619
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC License: C00185

REV:	DATE:	ISSUED FOR:	BY:
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1	08/09/21	CONSTRUCTION	DRC
0	05/18/21	CONSTRUCTION	DRC
A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No 32912 PROFESSIONAL ENGINEER DAVID R. COUSINS
11/1/21

KHA PROJECT NUMBER:
013509274

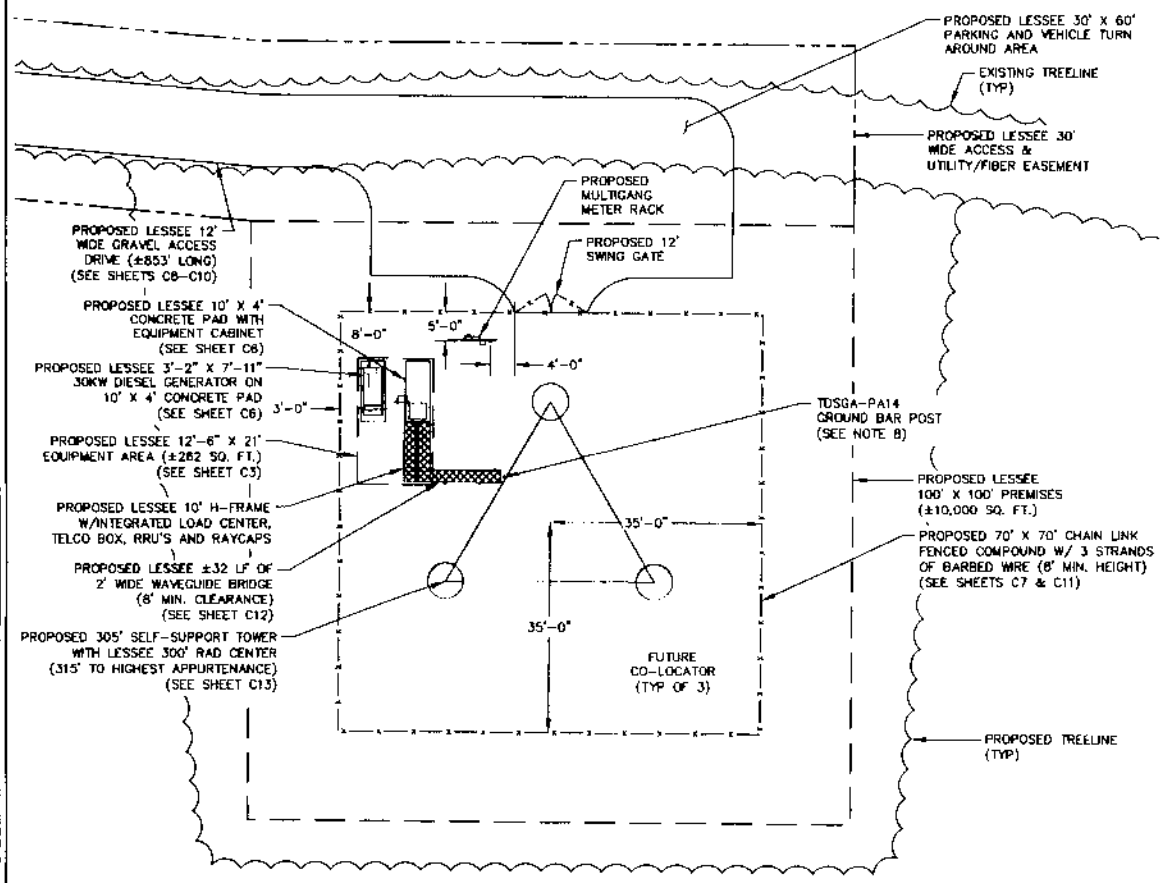
DRAWN BY:	CHECKED BY:
TOM	TRN

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
C1

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1/C2 SITE PLAN

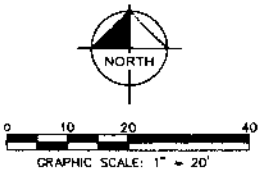
SCALE: 1" = 20'

SITE PLAN NOTES:

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2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.
3. CONTRACTOR TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER THAT THE EQUIPMENT SHOWN HAS BEEN ORDERED/SCHEDULED FOR DELIVERY TO THIS SITE.
4. THE BASIS OF EQUIPMENT DESIGN INCLUDES ONE (1) RF CABINET, ONE (1) FUTURE BATTERY CABINET, AND ONE (1) FUTURE EXPANSION CABINET.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING AND MODIFYING SCOPE OF WORK TO ACCOMMODATE ANY CHANGES IN THE EXACT EQUIPMENT PROCURED BY VERIZON WIRELESS. COORDINATE ANY CHANGES WITH VERIZON WIRELESS CONSTRUCTION MANAGER.
6. ROUTE COAX/FIBER UP TOWER PER STRUCTURAL ANALYSIS BY TOWER OWNER.
7. TOWER DIMENSIONS SHOWN ON THIS PLAN ARE FOR TOWER CENTER LOCATION. CONTRACTOR TO OBTAIN COPY OF TOWER ERECTION DRAWINGS FROM VERIZON CONSTRUCTION MANAGER PRIOR TO DRILLING TOWER FOUNDATIONS. CAISSONS AND TOWER SHOWN ON THIS PLAN ARE ILLUSTRATIVE, SEE DESIGN DRAWING BY OTHERS. DO NOT SCALE.
8. INSTALL 3/4" O.D. GALVANIZED STEEL POST FOR TDSGA-PA14 GROUND BAR. POST TO EXTEND 78" ABOVE GRADE AND SHALL BE EMBEDDED IN A 12"ø CONCRETE FOOTING A MINIMUM OF 36". FOOTING SHALL EXTEND A MINIMUM OF 42" BELOW GRADE.

SITE NOTES:

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GRAPHIC SCALE: 1" = 20'

0128

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verizon

10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT # 16600818
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
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REV:	DATE:	ISSUED FOR:	BY:
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1	08/09/21	CONSTRUCTION	DRC
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A	04/28/21	PRELIMINARY	DRC

LICENSER:

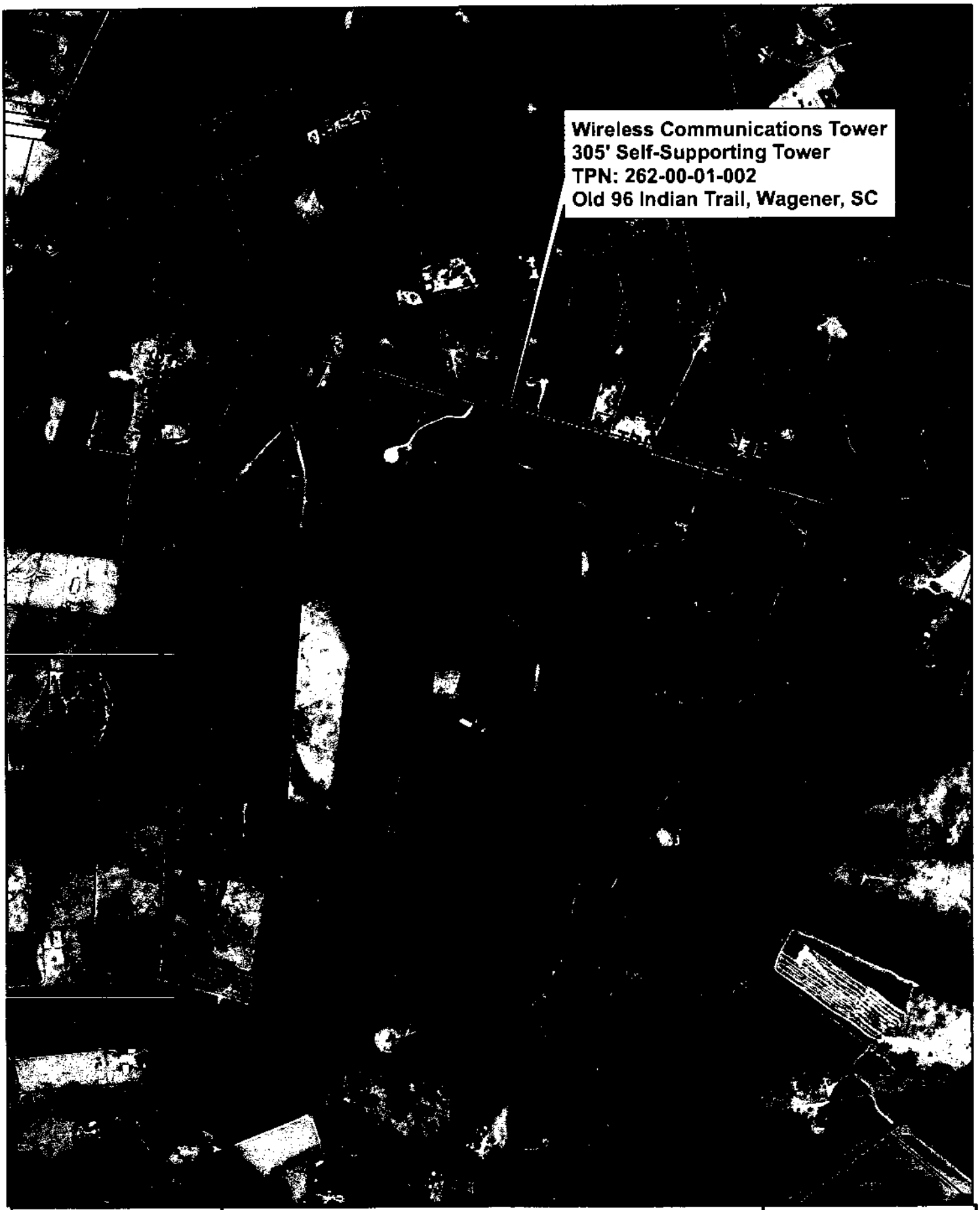
ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

KHA PROJECT NUMBER:
013509274

DRAWN BY:	CHECKED BY:
TDM	TRN

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
C2

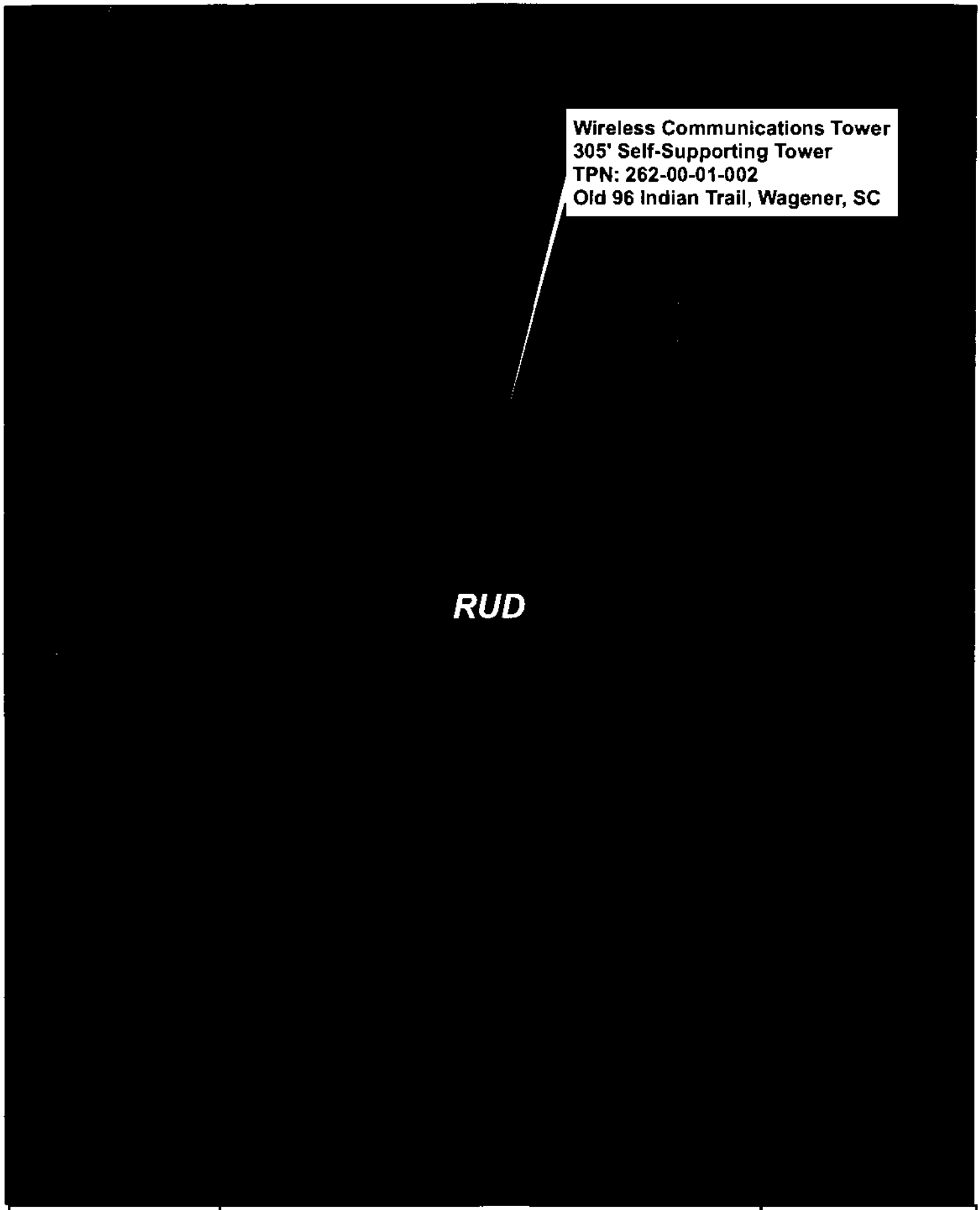


Prepared by:
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

N

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Prepared by:
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

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MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR– SANDLAPPER ROOM
6:00 P.M., THURSDAY, OCTOBER 20, 2022
MEETING NO. 22-09-01

A. CALL TO ORDER

Chairwoman Vance called the regularly scheduled meeting of the Aiken County Planning Commission to order at 6:00pm. The Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Grace Vance, Chairwoman
2. Liz Stewart, Vice Chairwoman
3. Denise Fulmer
4. Dennis Gmerek
5. William Harris, Jr
6. Robert Mitchell
7. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson
2. Richard Adams

STAFF PRESENT

Sandra Colvin, Aiken County Planning & Development Staff
Rhonda Connelly, Aiken County Planning & Development Staff
Joel T. Duke, AICP, Director
Brad Farrar, County Attorney
Terry Reames, Code Enforcement
Amy Roberts, Aiken County Planning & Development Staff

B. RECOGNITION OF VISITORS

Chairwoman Vance welcomed the visitors to the Planning Commission meeting.

C. APPROVAL OF MINUTES: Meeting No. 22-09-01

Chairwoman Vance asked for a motion to approve the minutes. Ms. Fulmer made a motion to approve the minutes. Mr. Harris seconded the motion. The motion passed by unanimous approval.

D. APPROVAL OF AGENDA:

Mr. Gmerek made a motion to approve the agenda. Vice-Chairwoman Stewart seconded the motion. The motion passed by unanimous approval.

FILED April 27 20 23
Robert L. White CMP
C.C.C.P. & G.S.
Charla Griffin Bowden
Deputy Clerk

"Exhibit 3"

E. PRESENTATIONS:

1. **Deerfoot Pines – Preliminary Plat Extension**
   Applicant: Blue Sky Properties & Investments, LLC
   Engineer: Civil Design Solutions
   Location: Pine Street (S-202)
   Total Acreage: 83.39
   Total Number of Lots: 142
   Tax Parcel Number: 070-18-04-003
   Zoning: RUD
   County Council District: 6 Phil Napier

   Mr. Duke addressed the Commission stating the county code establishes a two year time limit on preliminary plat approval. The subject was approved in 2020. The applicant is requesting a one year extension as allowed by county code.

   David Thompson, 348 Old Sudlow Lake Road, Aiken, SC addressed the Commission requesting the one year extension to complete the remaining Phase Three and Four.

   Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman Stewart made a motion to approve the one year extension. Mr. Mitchell seconded the motion. The motion passed unanimously.

2. **Highland Hills Commercial Subdivision – Preliminary Plat Approval (Public Hearing)**
   Applicant: Highland Hills, LLC
   Engineer: HB Engineering, Inc.
   Location: Bettis Academy Road S-144
   Total Acreage: 13.92
   Total Number of Lots: 5
   Tax Parcel: 048-00-02-012
   Zoning: LD & RUD
   County Council District: 6 Phil Napier

   Mr. Duke addressed the Commission stating this is a request for approval for five lots on 13.92 acres. The property fronts Bettis Academy Road and has frontage along Carmine Avenue. The property is located south of I-20, just south of the QT convenience store currently under development. The five lots are identified as commercial lots.

   Tom Britt, 720 Old Cherokee, Aiken, SC, addressed the Commission stating he will answer questions from the Commission. Chairwoman Vance asked if Mr. Britt could address staff comments 7 thru 11 submitted by the Aiken County Planning Department. (see page 15 of the agenda packet)

7. *Additional information is required to determine appropriateness of the proposed use and proposed street configuration. For commercial properties, county staff recommends platting property once the final use is determined rather than as smaller lots that may not fit the ultimate use.* Mr. Britt stated willing to work with Aiken County Planning.

8. *Is it possible to reduce the number of street intersections with Bettis Academy Road? Proposed intersection of Onyx Road and Carmine Avenue will be right-in/right-out only. Aiken County will not approve a median cut.* Mr. Britt stated the developer feels strongly that two access points would be appropriate for the frontage that is about 1400 feet, they are trying to coordinate with SCDOT.

9. *Any consideration to creating single street at Bettis Academy Road at the proposed Aquamarine Drive intersection and running through to Carmine Avenue? Such a configuration would eliminate the Bettis Academy Road/Onyx Avenue intersection.* Mr. Britt stated his response is same as number eight.

10. *Unclear on the configuration and location of Lots 3 & 4. Configuration appears designed for a specific use or project. Otherwise, lots depth may be inadequate to accommodate landscaping, open space and parking codes common to commercial uses in Aiken County.* Mr. Britt stated lots three and four are not designed for a specific use. He is open to not designating those lot lines and then platting it as one piece of property.

11. *Per Section 19-80(a)(12)-ponds and storm should be private associated with commercial development (proposed public with roads). Recommend roads also be private for commercial development. If roods remain public, recommend accepting maintenance (storm) only within ROW.* Mr. Britt stated the ponds can be private.

Chairwoman Vance asked Mr. Duke if spoken with applicant concerning these issues. Mr. Duke stated no, but Mr. Britt's information resented her has been helpful. Chairwoman Vance asked if it would be better to table item, and allow Planning and the applicant further discussion. Mr. Duke stated that would be the staff recommendation.

Chairwoman Vance closed the public hearing and asked for a motion. Ms. Fulmer made a motion to table item until next month. Mr. Harris seconded the motion. The motion passed unanimously.

3. **<u>Waterfall at Flat Rock – Preliminary Plat Approval</u>**
Applicant: Sage Mill Residential, Ltd.
Engineer: Hass & Hilderbrand, Inc.
Location: Sage Mill Blvd. (C-2624)
Total Acreage: 138.1
Total Number of lots: 297
Tax Parcel: 068-00-05-001
Zoning: PUD A
County Council District: 6 Phil Napier

Ms. Fulmer recuse herself due to her employment with applicant.

Mr. Duke addressed the Commission stating this is preliminary plat request for Waterfall at Sage Creek. This is a continuation of the planned unit development, Flat Rock at Sage Creek, which was approved in 2015. He continued stating this is the last phase, and the proposed development consists of 18 acres, developed as 297 single family patio homes lots.

Chairwoman Vance opened the public hearing.

Tilden Hilderbrand, with Hass & Hilderbrand, addressed the Commission stating this is the last parcel for development. There will be 297 lots at 45 and 60 feet wide. It will be served by an extension of Sage Creek Boulevard. The developer is aware of Aiken County Planning Department comments, and are willing to work with the department. Chairwoman Vance asked about the sidewalks listed in comments. Mr. Hilderbrand stated the developer intends to install natural trails and graded walkways along Sage Creek Boulevard. Chairwoman Vance asked about the reduced wetland buffer. Mr. Hilderbrand stated buffers less than 50 feet adjacent to wetlands require a double row of silt fence. He continued with the last row of that fence can be a minimum of 10 feet from the wetlands and the developer must provide justification.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve with contingency. Mr. Harris seconded the motion. The motion passed unanimously.

4 **BridgeWay – Preliminary Plat Approval (Public Hearing)**
Applicant: Beazley Development Co., Inc.
Engineer: Southern Partners, Inc.
Location: Springdale Road (C-2583)
Total Acreage: 235.17
Total Number of Lots: 107
Tax Parcel Numbers: 033-00-06-004, 033-00-06-001 & 048-00-08-013
Zoning: RUD
County Council District: 6 – Phil Napier

Mr. Duke addressed the Commission stating this is the first phase of a multi-phase subdivision, with an overall acreage of 235, and 476 lots. The first phase will consist of 107 lots. He continued stating this property connects to Bettis Academy Road, and Springdale Road. The zone is RUD. The Aiken County Planning staff has posed questions related to traffic impact. He stated Springdale Road is a county road and Bettis Academy Rod is a state road. Both entities must grant approval for the new intersection. Chairwoman Vance asked Mr. Duke about discrepancies between sections of the traffic impact study. Mr. Duke stated the discrepancies is between tables showing the suggested improvements on Springdale Road and on Bettis Academy Road, and actual narrative in document.

Chairwoman Vance opened the public hearing.

David Banks, with Southern Partners, addressed the Commission stating received the comments and will forward analysis to Mr. Duke once SCDOT responses. Chairwoman Vance asked the purpose of the stubbed out driveway on the main access. Mr. Banks stated the owner intends to build a sales office for the residential portion of the development. Chairwoman Vance asked about the Pond 1 outlet inside of the 30 foot buffer. Mr. Banks stated has spoken with Aiken County Engineering Department.

Charles Hilton, 539 Whaley Pond Road, addressed the Commission with concerns of traffic, the condition of the secondary roads to be used, the wetland areas, and possible storm water runoff impacting Little horse Creek, which serves as supply water for the Breezy Hill system to the water supply. Mr. Hilton inquired about traffic lights being proposed at Whaley Pond Road, Bettis Academy Road, and Springdale Road and the impact of this new development.

Chairwoman Vance asked Mr. Duke what can be done about possible impacts to water supply. Mr. Duke stated once the listed concerns are addressed, this development will also have to comply with the regulations of Aiken County, and federal regulations concerning the wetlands. Mr. Hilton asked if there could be a 100 or 200 foot buffer from the wetlands. Mr. Duke stated the county requirement is 50 foot buffer.

Hazel Turner, 270 Springdale Road, addressed the Commission wanting to know where the main entrance will be, with concerns about additional traffic, the condition of the roads, and storm water runoff. Mr. Duke stated the main access with first phase will connect to Bettis Academy Road. The future phases there will be connection to Springdale Road. Mr. Duke stated no lots will have direct access to Springdale Road. Ms. Turner asked about the trees being removed. Mr. Duke stated there will be a vegetative buffer between the lots and Springdale Road.

Sherman Carpenter, 233 Springdale Road, addressed the Commission with concerns of additional traffic, storm water runoff, the condition of the roads, and privacy.

Herman Carpenter, 221 Springdale Road, addressed the Commission with concerns of additional traffic, and condition of the roads.

Carla Wagener, 253 Fields Cemetery Road, addressed the Commission with concerns about taxes and fire department. Chairwoman Vance stated this Commission has no authority with taxes or fire departments.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek asked Brad Farrar, Aiken County attorney, if there is any regulation or state law that will help with Mr. Hilton's concern with storm water runoff contaminant. Mr. Farrar stated this is more of a local government issue with the ordinance. He stated Table 11, page 327 of the Land Management Regulations, regarding preliminary plat approval a number of issues need to be addressed. Mr. Farrar stated with storm water analysis, it is covered under Chapter 19 of Aiken County code. Chairwoman Vance asked about protecting the drinking water source. Mr. Farrar stated that could be review with SC DHEC. Mr. Gmerek asked Mr. Banks, with Southern Partners, if the developer would be

willing to accept a 100 foot buffer. Mr. Banks replied the developer is very cognizant of the wetlands, but would not be willing to stipulate the 100 foot buffer. Mr. Gmerek asked for 90 foot buffer. Mr. Banks stated no. Mr. Gmerek asked for 75 foot buffer. Mr. Banks stated would have to answer at a later time, but would like the plan speak for itself since it meets the Aiken county guidelines. He stated the developer has stayed away from the wetlands, seeing them as an amenity.

Mr. Gmerek made a motion to table the item until next month and to direct staff and the developer to have a discussion as to whether they will be willing to accept additional requirements around the two creeks in order to protect the water source. Vice-Chairwoman Stewart seconded the motion. The motion passed with a 4 to 2 vote, with Ms. Fulmer and Mr. Palmer voting in opposition.

5. Proposed Private Road – Preliminary Plat Approval (Public Hearing)

Applicant: Bruce Berret
Engineer: Hass & Hilderbrand, Inc.
Location: John Scott Road C-2847
Total Acreage: 2.1
Tax Parcel Numbers: 173-00-01-002, 173-00-01-008, & 173-00-01-009
Zoning: RUD
County Council District: 1 - Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for private road approval. This is an existing private driveway. There is a request to divide additional lots off of the roadway, which requires conversion to a private road. This is located off John Scott Road. Staff recommends approval.
Chairwoman Vance opened the public hearing.

Tilden Hilderbrand, 133 Greenville Street, Aiken, addressed the Commission stating this is a 1,600 foot country road serving horse lots. The road has been built, and it is a private drive to become a private road to serve more lots in the future.

Bruce Berret, 772 Firetower Road, addressed the Commission stating he is the applicant, and does not want the road paved. Vice-Chairwoman Stewart asked if he is the applicant and did he not sign the application. Mr. Berret stated he is the applicant and does not know if he signed the application. Mr. Berret stated the road has been compacted for years, and only one part of the road is a steeper slope than five percent. Vice-Chairwoman asked if it is currently a dirt road. Mr. Berret stated yes. Mr. Gmerek asked if the applicant wants to withdraw the application. Mr. Berret asked to amend the application. Mr. Gmerek stated the Commission can approve, deny, or applicant can withdraw the application.

Chairwoman Vance asked if the application could be amended. Mr. Duke stated adjustments need to be made and come back to the Commission. The Commission can only react to what has been submitted.

Lannie Greene, 2421 Saint Martin Way, Monroe, Ga, representing Verizon Wireless addressed the Commission stating Verizon Wireless wants to provide coverage for the gap between Wagener and I-20. Verizon did look for potential sites to co-locate on such as existing towers and water towers. He continued with Verizon was unable to co-locate and found property that meets the code. He stated this will provide a valuable service to the community. The tower will be built based on all federal, state, and local requirements. Chairwoman Vance asked Mr. Greene to speak on the deficient items one thru six on page 47 of the agenda. Mr. Greene addressed the comments and agreed that Verizon will provide complete details before permit.

Dave Lambert, 364 Bluffwood Road, Wagener, SC addressed the Commission stating many of the neighbors are opposing this tower. He stated this is an equestrian community Mr. Waters established, and is subject to the recorded covenants for equestrian only development. Chairwoman Vance asked if Mr. Lambert has a copy of the covenants and please give the copy to Brad Farrar, Aiken County attorney, for a review. (covenants attached) Mr. Lambert stated the notice of the meeting was not received within 10 days. Mr. Lambert stated he has retained counsel, Clark McCants, to represent them in this matter. Vice-Chairwoman Stewart asked is your basic contention that the sale of this property to Verizon is a violation of the covenants. Mr. Lambert stated it violates the covenants.

Brad Farrar stated there is a statute, SC Code Section6-29-1145, which states if there is actual knowledge of neighborhood restrictive covenant, planning has to investigate. Since Mr. Lambert has retained counsel, he recommended that Mr. Lambert's attorney draft a letter stating the issue with the covenants. Mr. Farrar recommended the Commission table item until next month. Mr. Lambert stated would have attorney draft a letter.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to table this item until next month. Ms. Fulmer seconded the motion. The motion passed unanimously.

7. **Wireless Telecommunication Tower – (Public Hearing)**
   Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
   Location: Peach Cider Road, Batesburg
   Tax Parcel: 180-00-05-002
   Zoning: RUD
   Proposed Tower: 305' self-supporting telecommunications tower
   County Council District 1 – Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for a new telecommunication tower. It will be located off Old 96 Indian Trail and Peach Cider Road. He continued stating this is for a 305 foot tower, and the zoning is RUD.

Chairwoman Vance opened the public hearing.

Tilden Hilderbrand, 133 Greenville Street, Aiken, addressed the Commission stating the plans show a paved road section and also shows a dirt road section. The existing road has a short section that is over five percent, which requires pavement. Aiken County allows private roads at five percent or less grade to be unpaved. He continued stating there is a short section that will need to be paved. Chairwoman Vance asked Mr. Hilderbrand what they are asking for tonight. Mr. Hilderbrand stated an unpaved road if it is graded to five percent or less. He continued stating about 200 feet of the road is over five percent, which needs to be paved. Mr. Gmerek asked Mr. Duke do the plans presented tonight meet county requirements. Mr. Duke stated the plans do meet requirements. He continued stating Mr. Hilderbrand will need to tell the Commission is what the applicant is requesting different from the set of plans presented. Mr. Gmerek suggested the Commission table this item. Chairwoman stated this is a public meeting at this time.

Pierce Buckingham, 1128 Carpenter Lane, addressed the Commission stating his confusion with the situation. He stated not wanting to wait another thirty days. Chairwoman Vance stated the request presented to the Commission is now different than what the applicant is now wanting.

Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman Stewart stated it seems that our primary obligation is to response to the applicant's wishes, and the applicant is clear about not wanting the paved road. She continued stating it needs to be withdrawn. Mr. Gmerek stated the other alternative is to deny the request. Mr. Gmerek made a motion that the Commission deem the applicant as withdrawing the application. Ms. Stewart seconded the motion. Chairwoman Vance asked Mr. Duke about meeting deadline for November meeting. Mr. Duke stated one option is to table and the applicant can come back and amend the application with different plans. Chairwoman Vance asked Brad Farrar, Aiken County attorney, if there are any legal issues. Mr. Farrar stated there is an issue with notice and advertisement. The applicant needs to have different plans to the Aiken County Planning Department for a new notice, if needed. Chairwoman Vance asked for a vote for the motion on the floor. The motion failed.

Mr. Harris made a motion to table item until next month. Mr. Palmer seconded the motion. The motion passed unanimously.

8. **Wireless Telecommunication Tower – (Public Hearing)**
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002
Zoning: RUD, Rural Development
Proposed Tower: 305' self-supporting telecommunications tower
County Council District: 1 - Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for a new telecommunication tower. It will be located in Wagener County off Old 96 Indian Trail. He continued stating this is for a 305 foot tower, and the zoning is RUD.

Chairwoman Vance opened the public hearing.

Lannie Greene, 2421 Saint Martin Way, Monroe, Ga, representing Verizon Wireless addressed the Commission stating Verizon looked for an available tower to co-locate, unable to find a tower. Verizon found Mr. Watson's property that meets the requirements of Aiken County. Chairwoman Vance asked Mr. Greene to speak on the deficient items. Mr. Greene addressed the comments and agreed that Verizon will provide complete details before permit.

Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman made a motion to approve with contingency. Mr. Gmerek seconded the motion. The motion passed unanimously.

F. OLD BUSINESS:

G. NEW BUSINESS:

H. NEXT REGULAR MEETING: November 17, 2022

I. ADJOURNMENT:

Chairwoman Vance asked for a motion to adjourn. Mr. Harris made a motion to adjourn the meeting. Mr. Mitchell seconded the motion. The motion passed by unanimous consent with the meeting ending at 8:10 p.m.

Respectfully Submitted,

Joel T. Duke, Secretary Date 12/15/22

Grace R Vance Grace Vance, Chair Date 12/15/22

TRANSCRIPT OF
RECORDED AIKEN COUNTY PLANNING COMMISSION MEETING

****

Thursday, October 20, 2022

FILED April 27 20 23
Robert L. Hunter CCP
C.C.C.P. & G.S.
Charla Griffin Deputy Clerk

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

"Exhibit 4"

CHAIRWOMAN: All right. And we're now on Application Number 6. Wireless Telecommunications Tower, Public Hearing. Applicant: Pyramid Network Solutions, LLC for Verizon Wireless. Location: Old 96 Indian Trial, Wagner. Tax Parcel: 262-00-01-002. Zoning: RUD. Proposed Tower: 305 feet self-supporting telecommunications tower. County Council District: One, Kathy Rawls.

Mr. Duke?

MR. DUKE: Yes, ma'am. You have a request for a new telecommunications tower. If you recall this board has oversight over the placement of all new towers, the County. This particular location is in the Wagner community off of Old 96 Indian Trail. It is for a 305-foot tower, as you've stated. And, and the zoning is RUD, which is -- which allows for this unit and for the heighth of this proposed. I think Commissioner review is very specific in Code, it says you have review over whether or not there's a conflict in safety or safety related codes, any conflicts with the designated historic site and whether or not the placement or location of facilities, which would create

an unacceptable risk for or a reasonable probability of such to the residence, the public or the employees or agents of the County, or employees -- or, of the service provider, or other service provider, whether or not if conflicts with the provisions of Sections 24-3.5, which basically, are the County standards for the, for the placement of the unit.

On page 47 of your packet you have a list of items that are still outstanding for this particular application. I'll be glad to answer any questions at this point.

CHAIRWOMAN: Any questions for Mr. Duke?

(No audible response.)

CHAIRWOMAN: Okay. Seeing none, this public hearing is open. Is the Applicant here, please? Please, step forward.

MR. GREENE: Good evening. My name is Lannie Greene, I'm here tonight representing Verizon Wireless ---

CHAIRWOMAN: I'm sorry. Your last name again?

MR. GREENE: Greene. Greene ---

CHAIRWOMAN: Thank you.

MR. GREENE: --- with an E at the end. Yes, ma'am.

Verizon Wireless has a need to fill a gap along Old 96 Indian Trail Road between Wagner and, and I-20. As a part of the application I provided coverage plots that show a huge hole that we currently have with existing cell towers that are currently on air. And this particular location will fill that gap. When we go into an area of need, we first look for potential sites in which to co-locate on, that would be existing towers or buildings or water tanks, or something such as that that has elevation in which we could place antennas on to provide the coverage that require. Unfortunately, within this area there's no towers, water towers, buildings, anything such as that, that -- which we could co-locate on. So with that, we didn't find a property that will meet the ordinance of the particular jurisdiction that we are located in. And in this case, we have found a property, Mr. Waters' property that does meet the Code. We've met all the requirements set forth in the Code, such as the setbacks. One of, one of the items that is listed on here that we were shown as missing, is a letter from Mr. Waters stating

that there would be no residential buildings built within the setback radius, which is 335 feet. I actually provided that to Ms. Conley (ph) before the meeting, signed by Mr. Waters. So, he has agre- -- he is, he is agreeable to that, that there will be no residential -- he has no plans to build on the property anyway. So -- but, we have found a property that meet your Code. It will provide a valuable service to the community. The tower will be built based on all federal, state and local requirements, and it will be operated in such a manner. And if you have any questions for me, I'll be glad to answer them.

CHAIRWOMAN: Mr. Greene, I'm looking at page 47, that says deficient items list for Old 96 Indian Trail. Are you looking at that?

MR. GREENE: Yes, ma'am.

CHAIRWOMAN: Okay. Can you go through here, there's a list of -- one, two, three, four, five, six bullets, and just go through and tell me where you are on this?

MR. GREENE: Yes, ma'am. I -- I've spoken with Ms. Conley (ph) and we've agreed to provide all this documentation, and -- if you so desired to

approve it with these contingencies, that we provide this documentation, but we did provide the revised survey ---

CHAIRWOMAN: Okay. Let's just go through the first one ---

MR. GREENE: Okay.

CHAIRWOMAN: --- and see. It talks about the functional performance standards and guarantee need to be completed and submitted. Where are you on that?

MR. GREENE: We will have that, we will have that completed by Verizon Wireless. I will not do that. That will actually be provided by Verizon Wireless since they will be the owner of the tower, and we'll have that submitted to Ms. Conley (ph).

CHAIRWOMAN: The next one?

MR. GREENE: That was actually submitted to Ms. Conley (ph) a couple weeks ago.

CHAIRWOMAN: So, that's been submitted?

MR. GREENE: Yes, ma'am.

CHAIRWOMAN: The sec- -- nex- -- third one? A buffer yard?

MR. GREENE: The buffer yard, we're actually -- I actually spoke with Ms. Conley (ph) about that.

We're actually in the, in the woods.

CHAIRWOMAN: What does that mean?

MR. GREENE: Well, we're situated where it's -- there are heavily wooded.

CHAIRWOMAN: Uh-huh.

MR. GREENE: And we would like to possibly do an undisturbed buffer, rather than go in and plant additional landscaping because it's, it's natural landscaping, it wouldn't, really, wouldn't do anything -- if we have to, we'll do it ---

CHAIRWOMAN: Yes, it's -- you -- is this something you want or something you've discussed with the planning com- ---

MR. GREENE: I actually, briefly, discussed it with Ms. Conley (ph), about the possibility of just doing an ---

CHAIRWOMAN: That was today? You discussed ---

MR. GREENE: Earlier today, yes, ma'am.

CHAIRWOMAN: Okay.

MR. GREENE: About the possibility of -- but, no, if, if, you know, if that's not possible, if preferred we plant landscaping back there, that's fine, but it's currently heavily wooded back there.

CHAIRWOMAN: Okay. I hear what you're saying.

MR. GREENE: And it would just ---

CHAIRWOMAN: So, the next one about certification, where are you on that?

MR. GREENE: Okay. That's -- that particular -- typically, what we do -- it -- typically, with towers we will get the zoning approval and then we will go out and actually do the design of the tower, because that would actually require us to go out and do a geotechnical report, which requires us to go out into the -- to the location which may require some clearing of trees to do a geotechnical boring and sample so we can do the report, which would design the foundation and be able to provide the actual tower design of the tower, and that would be a part of our building permit application.

CHAIRWOMAN: All right.

MR. GREENE: So, that, that would be something that we would prov- -- provide at a later date.

CHAIRWOMAN: All right. The next one?

MR. GREENE: That actually -- letter was what I spoke of earlier ---

CHAIRWOMAN: Uh-huh.

MR. GREENE: The letter from Mr. Waters stating that

there would be no development of residential structures within the setback area. I actually provided that letter to Ms. Conley (ph) ---

CHAIRWOMAN: So, that's been submitted?

MR. GREENE: Yes, ma'am.

CHAIRWOMAN: Okay. And the next one about engineer chos- -- needs to be licenced by the State of South Carolina, has that been resolved?

MR. GREENE: Oh, yeah. Everything -- yeah, everything will be ---

CHAIRWOMAN: Okay, but has it been resolved?

MR. GREENE: I actually don't have that, but ---

CHAIRWOMAN: It says it's -- an engineer is shown on ---

MR. GREENE: Oh. No ---

CHAIRWOMAN: --- (inaudible) -- license plate, Alabama.

MR. GREENE: I see that now. I see that now. Okay. Yes, ma'am.

CHAIRWOMAN: (Per ordinance engineer must be licensed by the ---

MR. GREENE: I see that ---

CHAIRWOMAN: --- State of South Carolina).

MR. GREENE: --- now. That -- I will, I will have a word with my engineer about that. I -- yes.

Because we're a long ways from Alabama. So I will make sure that gets taken care of.

CHAIRWOMAN: Okay. Any other questions from the Commission?

(No audible response.)

CHAIRWOMAN: Thank you, Mr. Greene.

MR. GREENE: Thank you.

CHAIRWOMAN: All right. Is there anybody here that wishes to address this specific issue, please come forward.

MR. LAMBERT: Dave Lambert. 364 Bluffwood Road. Our lot is right below the, the purple one there. It's -- that's the square lot ---

CHAIRWOMAN: If you can, we've got a pointer. Mr. Lambert, if you could -- yeah. Please.

MR. LAMBERT: (Inaudible.)

CHAIRWOMAN: Okay.

MR. LAMBERT: We've got -- many of our neighbors are here also, objecting to this. What we heard from Mr. Duke and others is about many of the requirements that they've looked at for purposes of this cell tower, and what none of them have mentioned is -- this is an equestrian community that Mr. Waters established, and that lot is subject to covenants that prohibit any

sort of commercial activity. So, my neighbors and others in this community rely on these covenants for equestrian only development. So, all of these other requirements that seem to have been met, do not meet the covenants that are filed as part of this equestrian community, which is called Bluffwood East, which was formed by Mr. Waters and sold to us with the covenants that protect the nature and character of this property.

CHAIRWOMAN: Do you have a copy of those covenants with you?

MR. LAMBERT: Yes, ma'am.

CHAIRWOMAN: Could you please hand those over to ---

MR. LAMBERT: They're also public record.

CHAIRWOMAN: Fine. Just, if you could please hand them over to the -- Mr. Farrar, right there. You will be able to -- just a few minutes for him to read it.

MR. LAMBERT: I'll tell you what they say. No commercial activity other than horse activity. No mobile homes. There are easements, trail easements surrounding that property and others devoted solely to horse riding activities. We also have this map that shows you ---

CHAIRWOMAN: Why don't you go ahead and give that map over to Mr. Farrar too, please. Or, Mr. Duke, pr- ---

(Background commentary.)

CHAIRWOMAN: Okay. Thank you. Give us -- give them a few minutes to review it, please. Anything else you'd like to say?

MR. LAMBERT: There are some other issues with this hearing, we think. One, the Notice wasn't timely, we didn't get it within 10 days. In fact, the only reason we got notice was because this lot has our address. We obviously, don't live there, we live next to it, but it is listed as 364 Bluffwood Road, which is our address. So, there are some problems, we think, with the paperwork here. So, we don't know how that effected the Notice, this address problem. This is obviously, not ---

CHAIRWOMAN: Do you have a copy of that Notice by any chance?

MR. LAMBERT: I sure do.

CHAIRWOMAN: Well, if you want to hand that over too.

MR. LAMBERT: It's ---

CHAIRWOMAN: (To Mr. Greene) do you have that?

MR. GREENE: We issued the Notice.

CHAIRWOMAN: Oka- -- I just wanted to make sure if you ---

MR. LAMBERT: Yeah. It's dated September 30th, but we did not get it until nine days before the hearing.

CHAIRWOMAN: That was mailed?

MR. LAMBERT: Correct.

MR. GREENE: Correct. And I mean, I don't, I don't know the date that we mailed it, but certainly well before that. So, certainly, the date on the letter is when we mailed it ---

MR. DUKE: Uh-huh.

CHAIRWOMAN: Okay. So ---

MR. GREENE: I, I ---

CHAIRWOMAN: All right. That's -- we're just going through it one by one as we get these -- anything else?

MR. LAMBERT: For these reasons, we're opposing this and we've retained counsel.

CHAIRWOMAN: Uh-huh.

MR. LAMBERT: Clarke McCants is our Attorney at Nance and McCants to represent us on this matter.

CHAIRWOMAN: Okay. Go ahead, please. Ms. Stewart.

VICE-CHAIRWOMAN: So, sir, is your basic contention that the sale of this property to Verizon by Mr. Waters was not valid?

MR. LAMBERT: I don't believe he sold the property to them. He's retaining ---

VICE-CHAIRWOMAN: Or leasing it, or whatever he's doing ---

MR. LAMBERT: It violates the covenants.

CHAIRWOMAN: Okay. So whatever the arrangement is that he has made with Verizon is what you are challenging as not being appropriate according to the covenants?

MR. LAMBERT: The construction of a cell tower and operation of a cell tower would violate the covenants. The same as bringing a manufactured home on any of the properties in Bluffwood East would violate the covenants.

CHAIRWOMAN: Will you need further time to look at this?

MR. GREENE: No, ma'am. There's a Statute, Title 6 that talks about, you know, if you have actual knowledge of a neighborhood restriction covenant then planning has to kind of put the pause on up, and run that down to make sure that it, you know, that any activity by the

Planning Commission the approval wouldn't be inconsistent with the restrictive covenant. So, I think, probably, since he retained counsel, I don't -- you know, it would probably -- it would be helpful if your attorney would send us something in writing that says, you know, I -- I've got the restrictive covenants. But he's also gonna need to run down -- because, I -- I would be concerned -- I would have to look at not, not what the restricted covenants say, but I have no doubt that Verizon's gonna come back and say, well, you know, the federal -- it's a telecommunications act and whatever, you know, that it may be preempting some state, you know, requirement. It would be very, very helpful if your Attorney would address, you know, any federal laws dealing with cell towers as it relates, because, you know, restrictive covenants don't say anything about cell towers. They do talk about commercial activity, and I know that's what you're gonna say it falls under, but it doesn't, you know -- so, the -- he needs to, kind of, tie that up in a -- and he can probably do it in a one page letter. But, if

you would have your Attorney please send something to me and I can give you my business card. I'd be more than happy to look at that, but I would recommend that, in light -- and this is, this has happened before. When we get at the meeting, you know, when somebody just hands us, at the meeting, restrictive covenants that we had no knowledge of, Mr. Duke had no information about prior to the meeting -- you know, if that had happened before the meeting it might've changed, you know, when they would've scheduled this hearing, so just -- you know, obviously, get that to us as soon as possible, but I would recommend that you postpone this or table this until that information comes in. You know, 30 days, if they want us -- you know -- you're hiring a lawyer, I'm -- you know, I'm paid by taxpayers, you're paying this guy out of your pocket, if you'd -- you don't wanna pay for a letter that's up to you, but if you would submit us something between now and the next meeting that addresses not only the covenants but any federal laws that veri- -- that they protect Verizon's right to put cell towers in some

place, that would be appreciated. Again -- I can't, I can't make you get a lawyer letter, so. That would be my recommendation, that you, you continue it until next month and we run down the -- all the sources of authority that may come into place, not just the ones we've seen right now.

CHAIRWOMAN: Okay. Any ---

MR. LAMBERT: Happy to get our lawyer to do that. I will go out on a limb, and I will tell you that Verizon has no federal law protecting it from violating the covenants that run with this land.

MR. GREENE: No, no -- I'm sorry, I don't mean Verizon, specifically, I -- just -- so, there -- there's a federal telecommunications act, and I think it's 1996, but these groups have very very powerful lobbyist, okay, they've done a lot of things at the federal level that may come into play in this situation, so your Attorney will know what I'm talking about and I -- you know, I know those guys, they're Columbia, right? Is that -- is that where your law firm ---

UNKNOWN FEMALE VOICE: Aiken.

UNKNOWN MALE VOICE: No, No. Clarke is here in Aiken.

MR. GREENE: You said, Yancy?

UNKNOWN MALE VOICE: McCants ---

MR. LAMBERT: Nance and McCants.

UNKNOWN MALE VOICE: Nance and McCants ---

MR. GREENE: Yance and McCants, okay. I'm thinking of a different guy, but -- okay. Very similar name in Columbia. Yeah, if they would please send -- and just ask them to, to confirm that there's nothing at the federal level from their perspective that would preempt the restrictive covenants of the state law. And I, I don't discount what you're saying, but that would be nice if they would address that issue.

MR. LAMBERT: We'll -- (inaudible) -- all the issues.

CHAIRWOMAN: Okay. Anything else, Mr. Lambert?

MR. LAMBERT: That's all.

CHAIRWOMAN: All right. Thank you. Mr. Gmerek?

MOTION:

MR. GMEREK: Would it be appropriate to continue the public meeting for the next month -- (inaudible). I'd make a motion to continue the public hearing until the next meeting, which I

believe is ---

CHAIRWOMAN: November 17th.

MR. GMEREK: November 17th.

CHAIRWOMAN: Do I hear a second?

MS. FULMER: I second it.

CHAIRWOMAN: Ms. Fulmer. If you will, all those in favor to continue this public hearing to November 17th, all say I. Raise your hand. One, two, three ---

UNKNOWN MALE VOICE: I.

CHAIRWOMAN: Okay. The Motion passes to continue -- to table this public hearing until next month and continue the public hearing. All right. Thank you.

(Recording ended.)

Aiken County
Planning & Development Department
Remembering the Past, Preparing for the Future

Joel T. Duke, AICP
Chief Development Officer

WORKSESSION
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1st FLOOR – SANDLAPPER ROOM
5:30 P.M., THURSDAY, NOVEMBER 17, 2022
MEETING NO. 22-11-01

1. Review of November, 2022 agenda
2. Planning Commission Reminder Dates:
   - **Thursday, November 17, 2022 – Worksession**

AGENDA
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1ST FLOOR – SANDLAPPER ROOM
6:00 P.M., THURSDAY, NOVEMBER 17, 2022
MEETING NO. 22-11-01

A) CALL TO ORDER

B) RECOGNITION OF VISITORS

C) APPROVAL OF MINUTES: Meeting No. 22-10-01

D) APPROVAL OF AGENDA

E) PRESENTATIONS:

1. **Bridle Creek Phase 3B-2 – Preliminary Plat Approval (Public Hearing)**
   Applicant: Bridle Creek at Three Runs, LLC
   Engineer: HB Engineering, Inc.
   Location: Gundy Drive P-2050
   Total Acreage: 85.16
   Total Number of Lots: 13
   Tax Parcel Number: 175-00-01-001
   Zoning: RUD
   County Council District: 1 – Kathy Rawls

FILED April 27 20 23

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"Exhibit 5"

(F) OLD BUSINESS:

1. **Highland Hills Commercial Subdivision – Preliminary Plat Approval**
   Applicant: Highland Hills, LLC
   Engineer: HB Engineering, Inc.
   Location: Bettis Academy Road S-144
   Total Acreage: 13.92
   Total Number of Lots: 5
   Tax Parcel Number: 048-00-02-012
   Zoning: LD & RUD
   County Council District: 6 – Phil Napier

2. **BridgeWay – Preliminary Plat Approval**
   Applicant: Beazley Development Co., Inc.
   Engineer: Southern Partners, Inc.
   Location: Springdale Road (C-2583)
   Total Acreage: 235.17
   Total Number of Lots: 107
   Tax Parcel Numbers: 033-00-06-004, 033-00-06-001 & 048-00-08-013
   Zoning: RUD
   County Council District: 6 – Phil Napier

3. **Proposed Private Road – Preliminary Plat Approval**
   Applicant: Bruce Berret
   Engineer: Hass & Hilderbrand, Inc.
   Location: John Scott Road C-2847
   Total Acreage: 2.1
   Tax Parcel Numbers: 173-00-01-002, 173-00-01-008, & 173-00-01-009
   Zoning: RUD
   County Council District: 1 – Kathy Rawls

4. **Wireless Telecommunication Tower**
   Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
   Location: Old 96 Indian Trail, Wagener
   Tax Parcel: 262-00-01-002
   Zoning: RUD, Rural Development
   Proposed Tower: 305' self supporting telecommunications tower
   County Council District: 1 – Kathy Rawls

(G) NEW BUSINESS: None

(H) NEXT REGULAR MEETING: December 15, 2022

(I) ADJOURNMENT:

MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR– SANDLAPPER ROOM
6:00 P.M., THURSDAY, SEPTEMBER 15, 2022
MEETING NO. 22-09-01

A. CALL TO ORDER

Chairwoman Vance called the regularly scheduled meeting of the Aiken County Planning Commission to order at 6:00pm. The Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Grace Vance, Chairwoman
2. Liz Stewart, Vice Chairwoman
3. Denise Fulmer
4. Dennis Gmerek
5. William Harris, Jr
6. Robert Mitchell
7. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson
2. Richard Adams

STAFF PRESENT

Sandra Colvin, Aiken County Planning & Development Staff
Rhonda Connelly, Aiken County Planning & Development Staff
Joel T. Duke, AICP, Director
Brad Farrar, County Attorney
Terry Reames, Code Enforcement
Amy Roberts, Aiken County Planning & Development Staff

B. RECOGNITION OF VISITORS

Chairwoman Vance welcomed the visitors to the Planning Commission meeting.

C. APPROVAL OF MINUTES: Meeting No. 22-09-01

Chairwoman Vance asked for a motion to approve the minutes. Ms. Fulmer made a motion to approve the minutes. Mr. Harris seconded the motion. The motion passed by unanimous approval.

D. APPROVAL OF AGENDA:

Mr. Gmerek made a motion to approve the agenda. Vice-Chairwoman Stewart seconded the motion. The motion passed by unanimous approval.

E. PRESENTATIONS:

1. **Deerfoot Pines – Preliminary Plat Extension**
   Applicant: Blue Sky Properties & Investments, LLC
   Engineer: Civil Design Solutions
   Location: Pine Street (S-202)
   Total Acreage: 83.39
   Total Number of Lots: 142
   Tax Parcel Number: 070-18-04-003
   Zoning: RUD
   County Council District: 6 – Phil Napier

   Mr. Duke addressed the Commission stating the county code establishes a two year time limit on preliminary plat approval. The subject was approved in 2020. The applicant is requesting a one year extension as allowed by county code.

   David Thompson, 348 Old Sudlow Lake Road, Aiken, SC addressed the Commission requesting the one year extension to complete the remaining Phase Three and Four.

   Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman Stewart made a motion to approve the one year extension. Mr. Mitchell seconded the motion. The motion passed unanimously.

2. **Highland Hills Commercial Subdivision – Preliminary Plat Approval (Public Hearing)**
   Applicant: Highland Hills, LLC
   Engineer: HB Engineering, Inc.
   Location: Bettis Academy Road S-144
   Total Acreage: 13.92
   Total Number of Lots: 5
   Tax Parcel: 048-00-02-012
   Zoning: LD & RUD
   County Council District: 6 – Phil Napier

   Mr. Duke addressed the Commission stating this is a request for approval for five lots on 13.92 acres. The property fronts Bettis Academy Road and has frontage along Carmine Avenue. The property is located south of I-20, just south of the QT convenience store currently under development. The five lots are identified as commercial lots.

   Tom Britt, 720 Old Cherokee, Aiken, SC, addressed the Commission stating he will answer questions from the Commission. Chairwoman Vance asked if Mr. Britt could address staff comments 7 thru 11 submitted by the Aiken County Planning Department. (see page 15 of the agenda packet)

7. *Additional information is required to determine appropriateness of the proposed use and proposed street configuration. For commercial properties, county staff recommends platting property once the final use is determined rather than as smaller lots that may not fit the ultimate use.* Mr. Britt stated willing to work with Aiken County Planning.

8. *Is it possible to reduce the number of street intersections with Bettis Academy Road? Proposed intersection of Onyx Road and Carmine Avenue will be right-in/right-out only. Aiken County will not approve a median cut.* Mr. Britt stated the developer feels strongly that two access points would be appropriate for the frontage that is about 1400 feet, they are trying to coordinate with SCDOT.

9. *Any consideration to creating single street at Bettis Academy Road at the proposed Aquamarine Drive intersection and running through to Carmine Avenue? Such a configuration would eliminate the Bettis Academy Road/Onyx Avenue intersection.* Mr. Britt stated his response is same as number eight.

10. *Unclear on the configuration and location of Lots 3 & 4. Configuration appears designed for a specific use or project. Otherwise, lots depth may be inadequate to accommodate landscaping, open space and parking codes common to commercial uses in Aiken County.* Mr. Britt stated lots three and four are not designed for a specific use. He is open to not designating those lot lines and then platting it as one piece of property.

11. *Per Section 19-80(a)(12)-ponds and storm should be private associated with commercial development (proposed public with roads). Recommend roads also be private for commercial development. If roads remain public, recommend accepting maintenance (storm) only within ROW.* Mr. Britt stated the ponds can be private.

Chairwoman Vance asked Mr. Duke if spoken with applicant concerning these issues. Mr. Duke stated no, but Mr. Britt's information resented her has been helpful. Chairwoman Vance asked if it would be better to table item, and allow Planning and the applicant further discussion. Mr. Duke stated that would be the staff recommendation.

Chairwoman Vance closed the public hearing and asked for a motion. Ms. Fulmer made a motion to table item until next month. Mr. Harris seconded the motion. The motion passed unanimously.

3. **Waterfall at Flat Rock – Preliminary Plat Approval**

Applicant: Sage Mill Residential, Ltd.
Engineer: Hass & Hilderbrand, Inc.
Location: Sage Mill Blvd. (C-2624)
Total Acreage: 138.1
Total Number of lots: 297
Tax Parcel: 068-00-05-001
Zoning: PUD A
County Council District: 6 – Phil Napier

Ms. Fulmer recuse herself due to her employment with applicant.

Mr. Duke addressed the Commission stating this is preliminary plat request for Waterfall at Sage Creek. This is a continuation of the planned unit development, Flat Rock at Sage Creek, which was approved in 2015. He continued stating this is the last phase, and the proposed development consists of 18 acres, developed as 297 single family patio homes lots.

Chairwoman Vance opened the public hearing.

Tilden Hilderbrand, with Hass & Hilderbrand, addressed the Commission stating this is the last parcel for development. There will be 297 lots at 45 and 60 feet wide. It will be served by an extension of Sage Creek Boulevard. The developer is aware of Aiken County Planning Department comments, and are willing to work with the department. Chairwoman Vance asked about the sidewalks listed in comments. Mr. Hilderbrand stated the developer intends to install natural trails and graded walkways along Sage Creek Boulevard. Chairwoman Vance asked about the reduced wetland buffer. Mr. Hilderbrand stated buffers less than 50 feet adjacent to wetlands require a double row of silt fence. He continued with the last row of that fence can be a minimum of 10 feet from the wetlands and the developer must provide justification.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve with contingency. Mr. Harris seconded the motion. The motion passed unanimously.

4 .**BridgeWay – Preliminary Plat Approval (Public Hearing)**
Applicant: Beazley Development Co., Inc.
Engineer: Southern Partners, Inc.
Location: Springdale Road (C-2583)
Total Acreage: 235.17
Total Number of Lots: 107
Tax Parcel Numbers: 033-00-06-004, 033-00-06-001 & 048-00-08-013
Zoning: RUD
County Council District: 6 – Phil Napier

Mr. Duke addressed the Commission stating this is the first phase of a multi-phase subdivision, with an overall acreage of 235, and 476 lots. The first phase will consist of 107 lots. He continued stating this property connects to Bettis Academy Road, and Springdale Road. The zone is RUD. The Aiken County Planning staff has posed questions related to traffic impact. He stated Springdale Road is a county road and Bettis Academy Rod is a state road. Both entities must grant approval for the new intersection. Chairwoman Vance asked Mr. Duke about discrepancies between sections of the traffic impact study. Mr. Duke stated the discrepancies is between tables showing the suggested improvements on Springdale Road and on Bettis Academy Road, and actual narrative in document.

Chairwoman Vance opened the public hearing.

David Banks, with Southern Partners, addressed the Commission stating received the comments and will forward analysis to Mr. Duke once SCDOT responses. Chairwoman Vance asked the purpose of the stubbed out driveway on the main access. Mr. Banks stated the owner intends to build a sales office for the residential portion of the development. Chairwoman Vance asked about the Pond 1 outlet inside of the 30 foot buffer. Mr. Banks stated has spoken with Aiken County Engineering Department.

Charles Hilton, 539 Whaley Pond Road, addressed the Commission with concerns of traffic, the condition of the secondary roads to be used, the wetland areas, and possible storm water runoff impacting Little horse Creek, which serves as supply water for the Breezy Hill system to the water supply. Mr. Hilton inquired about traffic lights being proposed at Whaley Pond Road, Bettis Academy Road, and Springdale Road and the impact of this new development.

Chairwoman Vance asked Mr. Duke what can be done about possible impacts to water supply. Mr. Duke stated once the listed concerns are addressed, this development will also have to comply with the regulations of Aiken County, and federal regulations concerning the wetlands. Mr. Hilton asked if there could be a 100 or 200 foot buffer from the wetlands. Mr. Duke stated the county requirement is 50 foot buffer.

Hazel Turner, 270 Springdale Road, addressed the Commission wanting to know where the main entrance will be, with concerns about additional traffic, the condition of the roads, and storm water runoff. Mr. Duke stated the main access with first phase will connect to Bettis Academy Road. The future phases there will be connection to Springdale Road. Mr. Duke stated no lots will have direct access to Springdale Road. Ms. Turner asked about the trees being removed. Mr. Duke stated there will be a vegetative buffer between the lots and Springdale Road.

Sherman Carpenter, 233 Springdale Road, addressed the Commission with concerns of additional traffic, storm water runoff, the condition of the roads, and privacy.

Herman Carpenter, 221 Springdale Road, addressed the Commission with concerns of additional traffic, and condition of the roads.

Carla Wagener, 253 Fields Cemetery Road, addressed the Commission with concerns about taxes and fire department. Chairwoman Vance stated this Commission has no authority with taxes or fire departments.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek asked Brad Farrar, Aiken County attorney, if there is any regulation or state law that will help with Mr. Hilton's concern with storm water runoff contaminant. Mr. Farrar stated this is more of a local government issue with the ordinance. He stated Table 11, page 327 of the Land Management Regulations, regarding preliminary plat approval a number of issues need to be addressed. Mr. Farrar stated with storm water analysis, it is covered under Chapter 19 of Aiken County code. Chairwoman Vance asked about protecting the drinking water source. Mr. Farrar stated that could be review with SC DHEC. Mr. Gmerek asked Mr. Banks, with Southern Partners, if the developer would be

willing to accept a 100 foot buffer. Mr. Banks replied the developer is very cognizant of the wetlands, but would not be willing to stipulate the 100 foot buffer. Mr. Gmerek asked for 90 foot buffer. Mr. Banks stated no. Mr. Gmerek asked for 75 foot buffer. Mr. Banks stated would have to answer at a later time, but would like the plan speak for itself since it meets the Aiken county guidelines. He stated the developer has stayed away from the wetlands, seeing them as an amenity.

Mr. Gmerek made a motion to table the item until next month and to direct staff and the developer to have a discussion as to whether they will be willing to accept additional requirements around the two creeks in order to protect the water source. Vice-Chairwoman Stewart seconded the motion. The motion passed with a 4 to 2 vote, with Ms. Fulmer and Mr. Palmer voting in opposition.

5. Proposed Private Road – Preliminary Plat Approval (Public Hearing)

Applicant: Bruce Berret
Engineer: Hass & Hilderbrand, Inc.
Location: John Scott Road C-2847
Total Acreage: 2.1
Tax Parcel Numbers: 173-00-01-002, 173-00-01-008, & 173-00-01-009
Zoning: RUD
County Council District: 1 – Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for private road approval. This is an existing private driveway. There is a request to divide additional lots off of the roadway, which requires conversion to a private road. This is located off John Scott Road. Staff recommends approval.
Chairwoman Vance opened the public hearing.

Tilden Hilderbrand, 133 Greenville Street, Aiken, addressed the Commission stating this is a 1,600 foot country road serving horse lots. The road has been built, and it is a private drive to become a private road to serve more lots in the future.

Bruce Berret, 772 Firetower Road, addressed the Commission stating he is the applicant, and does not want the road paved. Vice-Chairwoman Stewart asked if he is the applicant and did he not sign the application. Mr. Berret stated he is the applicant and does not know if he signed the application. Mr. Berret stated the road has been compacted for years, and only one part of the road is a steeper slope than five percent. Vice-Chairwoman asked if it is currently a dirt road. Mr. Berret stated yes. Mr. Gmerek asked if the applicant wants to withdraw the application. Mr. Berret asked to amend the application. Mr. Gmerek stated the Commission can approve, deny, or applicant can withdraw the application.

Chairwoman Vance asked if the application could be amended. Mr. Duke stated adjustments need to be made and come back to the Commission. The Commission can only react to what has been submitted.

Tilden Hilderbrand, 133 Greenville Street, Aiken, addressed the Commission stating the plans show a paved road section and also shows a dirt road section. The existing road has a short section that is over five percent, which requires pavement. Aiken County allows private roads at five percent or less grade to be unpaved. He continued stating there is a short section that will need to be paved. Chairwoman Vance asked Mr. Hilderbrand what they are asking for tonight. Mr. Hilderbrand stated an unpaved road if it is graded to five percent or less. He continued stating about 200 feet of the road is over five percent, which needs to be paved. Mr. Gmerek asked Mr. Duke do the plans presented tonight meet county requirements. Mr. Duke stated the plans do meet requirements. He continued stating Mr. Hilderbrand will need to tell the Commission is what the applicant is requesting different from the set of plans presented. Mr. Gmerek suggested the Commission table this item. Chairwoman stated this is a public meeting at this time.

Pierce Buckingham, 1128 Carpenter Lane, addressed the Commission stating his confusion with the situation. He stated not wanting to wait another thirty days. Chairwoman Vance stated the request presented to the Commission is now different than what the applicant is now wanting.

Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman Stewart stated it seems that our primary obligation is to response to the applicant's wishes, and the applicant is clear about not wanting the paved road. She continued stating it needs to be withdrawn. Mr. Gmerek stated the other alternative is to deny the request. Mr. Gmerek made a motion that the Commission deem the applicant as withdrawing the application. Ms. Stewart seconded the motion. Chairwoman Vance asked Mr. Duke about meeting deadline for November meeting. Mr. Duke stated one option is to table and the applicant can come back and amend the application with different plans. Chairwoman Vance asked Brad Farrar, Aiken County attorney, if there are any legal issues. Mr. Farrar stated there is an issue with notice and advertisement. The applicant needs to have different plans to the Aiken County Planning Department for a new notice, if needed. Chairwoman Vance asked for a vote for the motion on the floor. The motion failed.

Mr. Harris made a motion to table item until next month. Mr. Palmer seconded the motion. The motion passed unanimously.

8. **Wireless Telecommunication Tower – (Public Hearing)**
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002
Zoning: RUD, Rural Development
Proposed Tower: 305' self-supporting telecommunications tower
County Council District: 1 – Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for a new telecommunication tower. It will be located in Wagener County off Old 96 Indian Trail. He continued stating this is for a 305 foot tower, and the zoning is RUD.

Chairwoman Vance opened the public hearing.

Lannie Greene, 2421 Saint Martin Way, Monroe, Ga, representing Verizon Wireless addressed the Commission stating Verizon Wireless wants to provide coverage for the gap between Wagener and I-20. Verizon did look for potential sites to co-locate on such as existing towers and water towers. He continued with Verizon was unable to co-locate and found property that meets the code. He stated this will provide a valuable service to the community. The tower will be built based on all federal, state, and local requirements. Chairwoman Vance asked Mr. Greene to speak on the deficient items one thru six on page 47 of the agenda. Mr. Greene addressed the comments and agreed that Verizon will provide complete details before permit.

Dave Lambert, 364 Bluffwood Road, Wagener, SC addressed the Commission stating many of the neighbors are opposing this tower. He stated this is an equestrian community Mr. Waters established, and is subject to the recorded covenants for equestrian only development. Chairwoman Vance asked if Mr. Lambert has a copy of the covenants and please give the copy to Brad Farrar, Aiken County attorney, for a review. (covenants attached) Mr. Lambert stated the notice of the meeting was not received within 10 days. Mr. Lambert stated he has retained counsel, Clark McCants, to represent them in this matter. Vice-Chairwoman Stewart asked is your basic contention that the sale of this property to Verizon is a violation of the covenants. Mr. Lambert stated it violates the covenants.

Brad Farrar stated there is a statute, SC Code Section6-29-1145, which states if there is actual knowledge of neighborhood restrictive covenant, planning has to investigate. Since Mr. Lambert has retained counsel, he recommended that Mr. Lambert's attorney draft a letter stating the issue with the covenants. Mr. Farrar recommended the Commission table item until next month. Mr. Lambert stated would have attorney draft a letter.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to table this item until next month. Ms. Fulmer seconded the motion. The motion passed unanimously.

7. **Wireless Telecommunication Tower – (Public Hearing)**
   Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
   Location: Peach Cider Road, Batesburg
   Tax Parcel: 180-00-05-002
   Zoning: RUD
   Proposed Tower: 305' self-supporting telecommunications tower
   County Council District 1 – Kathy Rawls

Mr. Duke addressed the Commission stating this is a request for a new telecommunication tower. It will be located off Old 96 Indian Trail and Peach Cider Road. He continued stating this is for a 305 foot tower, and the zoning is RUD.

Chairwoman Vance opened the public hearing.

Lannie Greene, 2421 Saint Martin Way, Monroe, Ga, representing Verizon Wireless addressed the Commission stating Verizon looked for an available tower to co-locate, unable to find a tower. Verizon found Mr. Watson's property that meets the requirements of Aiken County. Chairwoman Vance asked Mr. Greene to speak on the deficient items. Mr. Greene addressed the comments and agreed that Verizon will provide complete details before permit.

Chairwoman Vance closed the public hearing and asked for a motion. Vice-Chairwoman made a motion to approve with contingency. Mr. Gmerek seconded the motion. The motion passed unanimously.

F. OLD BUSINESS:

G. NEW BUSINESS:

H. NEXT REGULAR MEETING: November 17, 2022

I. ADJOURNMENT:

Chairwoman Vance asked for a motion to adjourn. Mr. Harris made a motion to adjourn the meeting. Mr. Mitchell seconded the motion. The motion passed by unanimous consent with the meeting ending at 8:10 p.m.

Respectfully Submitted,

_____ _____ _____ _____

Joel T. Duke, Secretary Date Grace Vance, Chair Date

OLD BUSINESS #4

PROPOSED USE(S) OF TOWER/ANTENNA (I.E. NEW, CO-LOCATE INCREASING HEIGHT OF TOWER, ETC.):
New 305' self-supporting tower for Verizon Wireless

APPLICANT NAME: Lannie Greene for Verizon Wireless **PHONE #:** 678-780-9221

ADDRESS OF APPLICANT: 2421 St. Martin Way, Monroe, GA 30656 lgreene@pyramidns.com

TOWER OWNER NAME: Verizon Wireless c/o Matt Hartley **PHONE #:** 678-277-3612

ADDRESS OF TOWER OWNER: 10300 Old Alabama Road Connector, Alpharetta, GA 30022

ADDRESS/LOCATION OF DEVELOPMENT: Old 96 Indian Trl, Wagener, SC 29164

TAX PARCEL NUMBER OF DEVELOPMENT: 262-00-01-002

Note: Review and approval of this site plan may require at least 30 working days. Failure to provide any of the previously noted information may delay approval of the site plan.

I hereby submit the following for review and approval: (check all which are applicable)

- ☐ Seven site plans
- ☐ Functional Performance Standards
- ☐ Functional Performance Standards Compliance Guaranty
- ☐ Notice of Intent (NOI) Form
- ☐ Development Permit Review Fee ($10,000.00)

SIGNATURE: Lannie Greene **DATE:** 09-19-22

NAME (Printed): Lannie Greene **TITLE:** Representative for Verizon Wireless

ADDRESS: 2421 St. Martin Way, Monroe, GA 30656

PHONE #: 678-780-9221

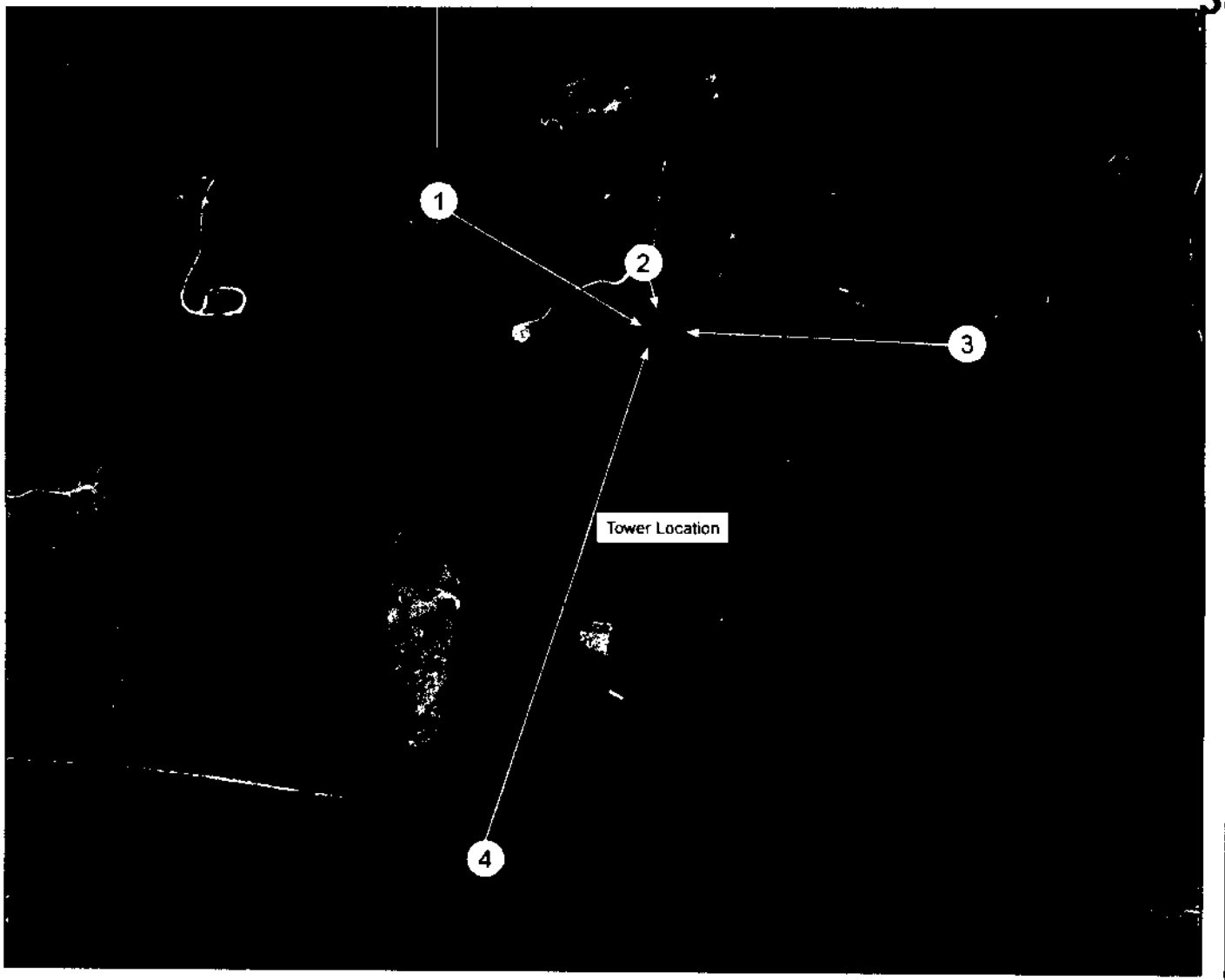


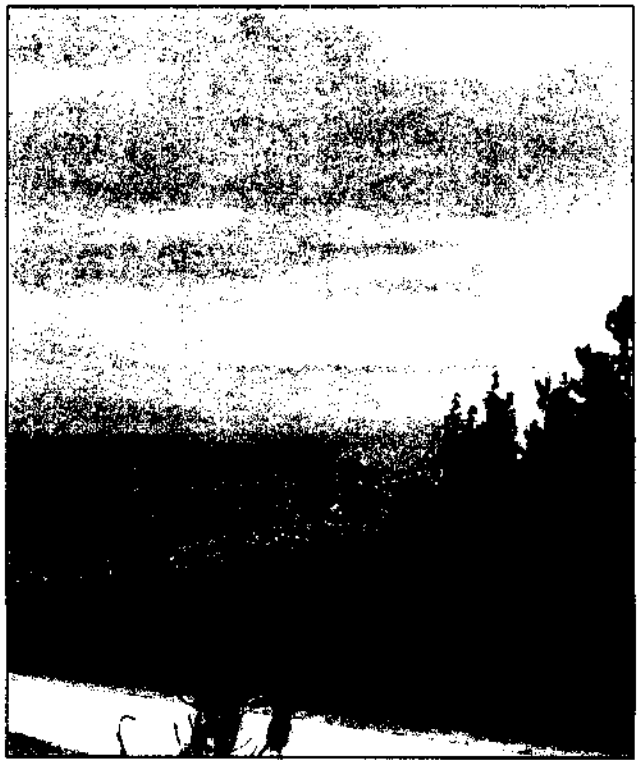
Photo sim location	Distance to proposed tower
Location #1	1,670'
Location #2	640'
Location #3	1,800'
Location #4	3,220'

Location Map

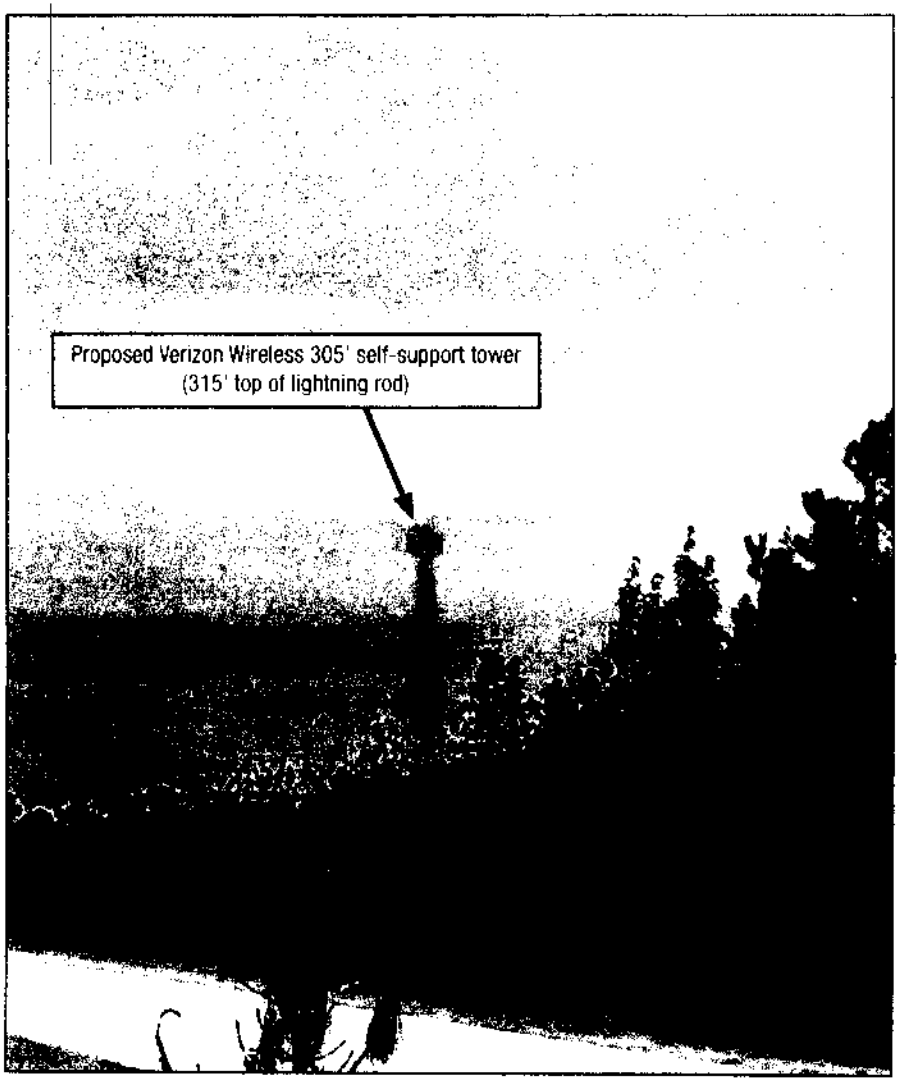
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Verizon Wireless - Falkour mkt_174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

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Existing



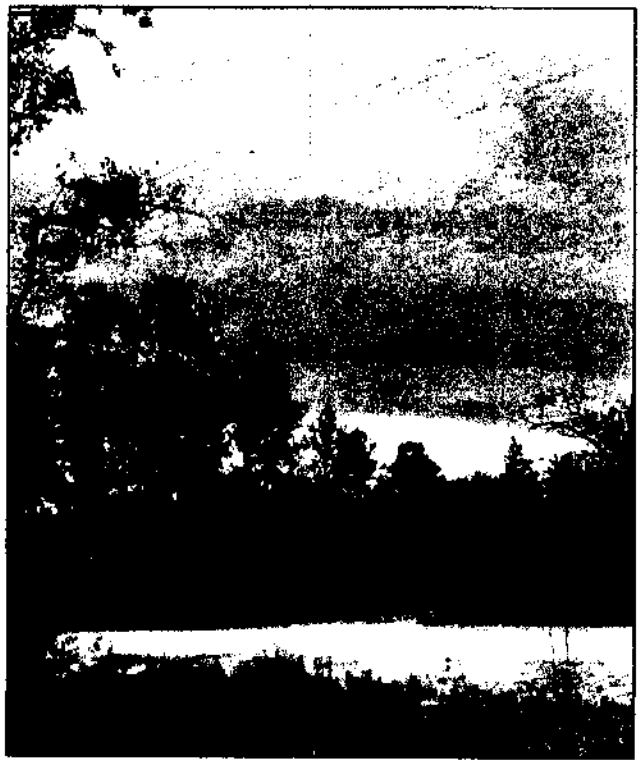
Proposed

Location #1 - View looking east southeast from Old Ninety-Six Indian Trail Road

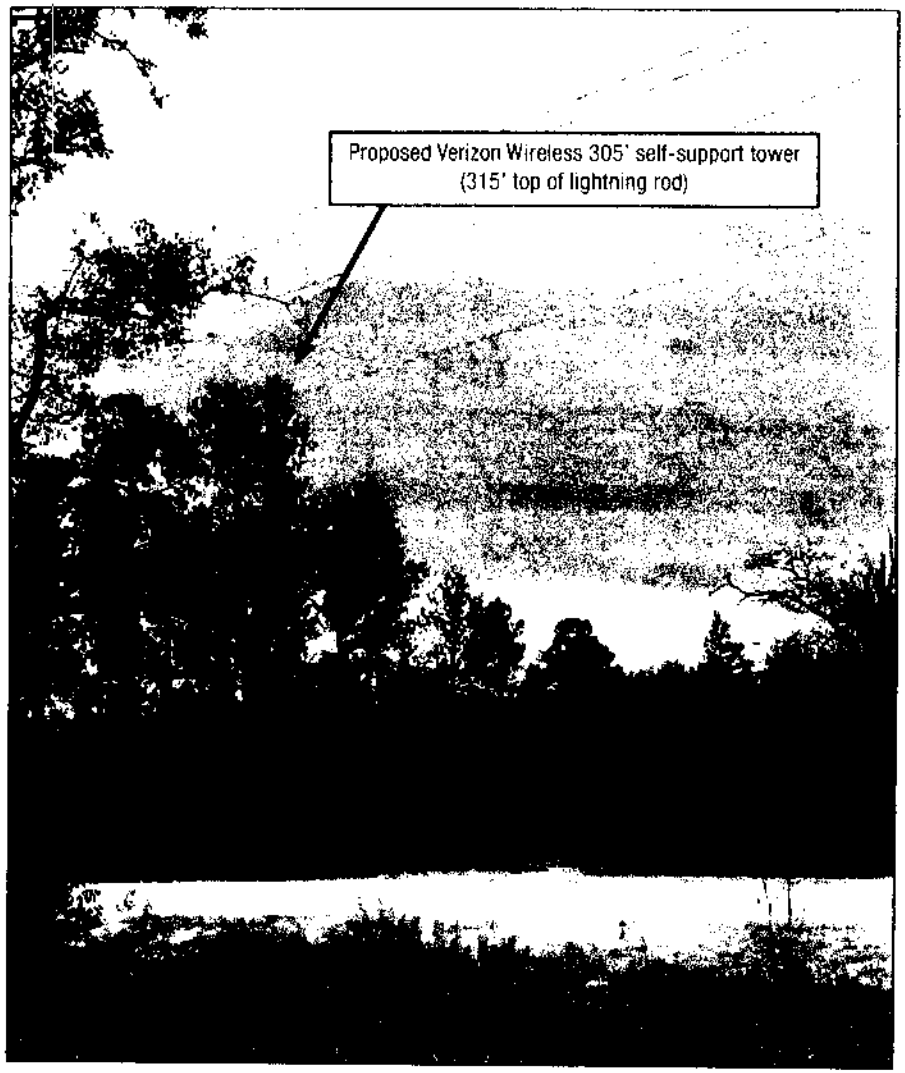
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Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



Existing



Proposed

Location #2 - View looking southeast from Old Ninety-Six Indian Trail Road

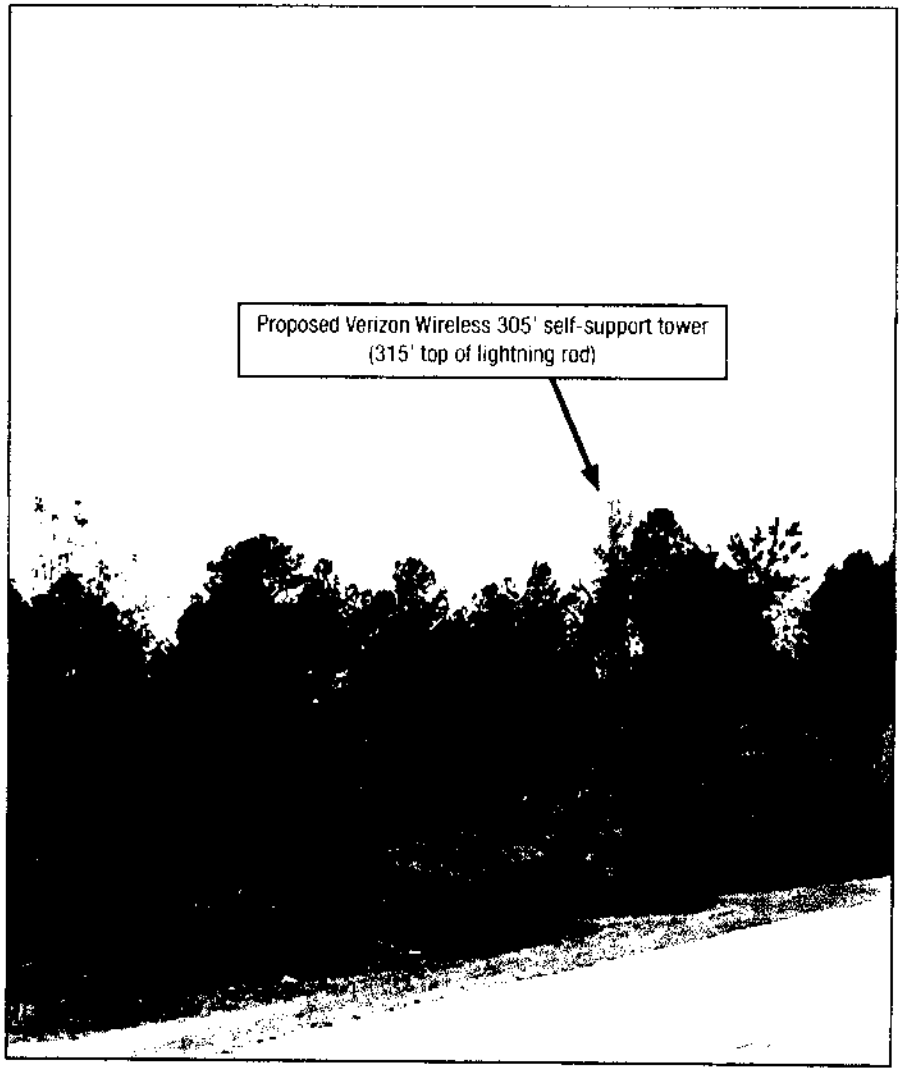
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Verizon Wireless - Falkour mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



Existing



Proposed

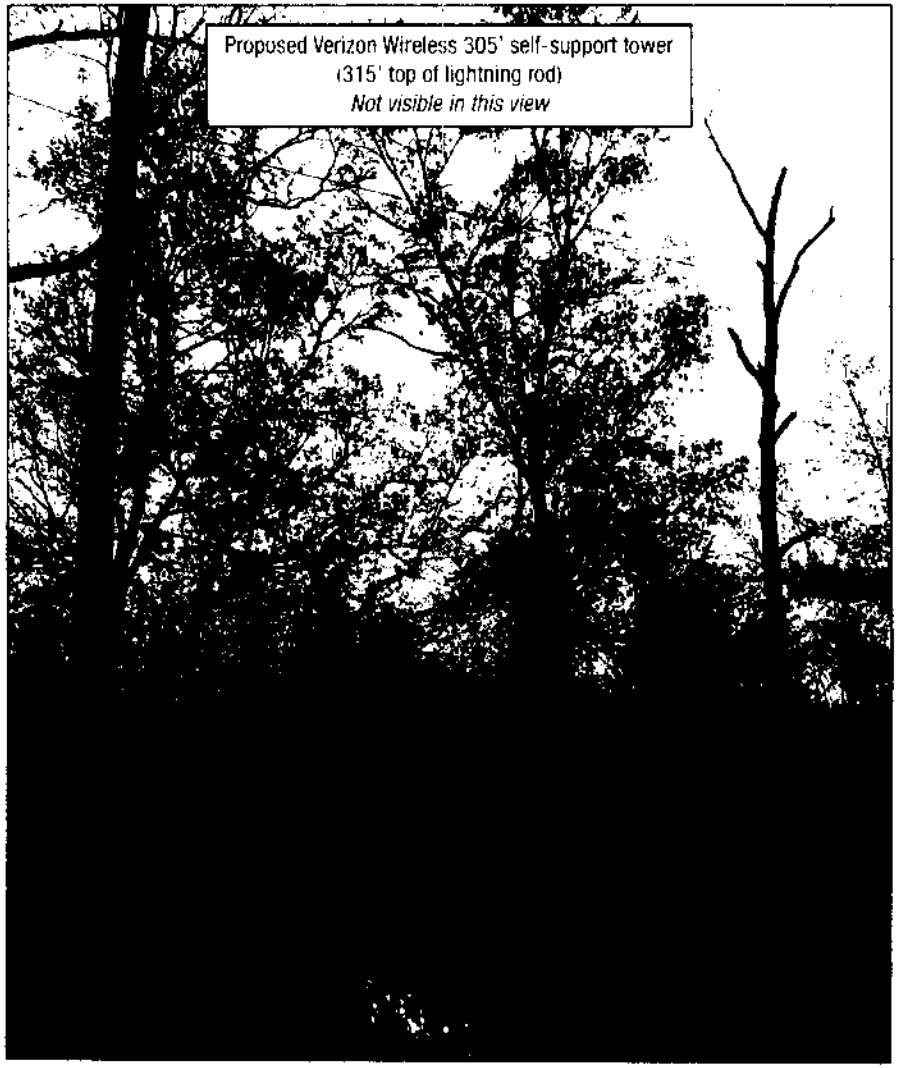
Location #3 - View looking west from Old Ninety-Six Indian Trail Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

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Existing

Location #4 - View looking north northeast from Bluffwood Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

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RF Propagation Maps for FALKOUR

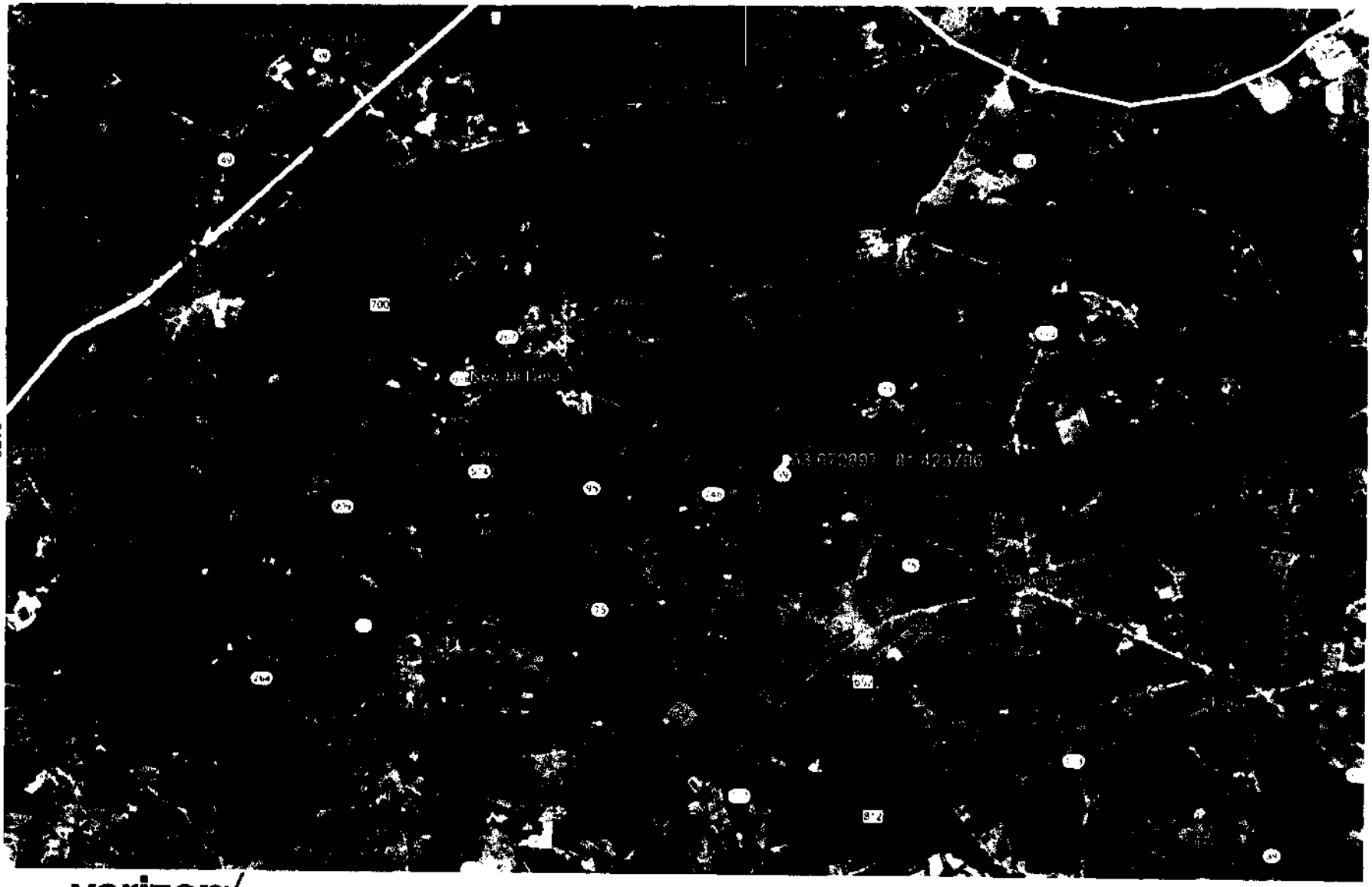
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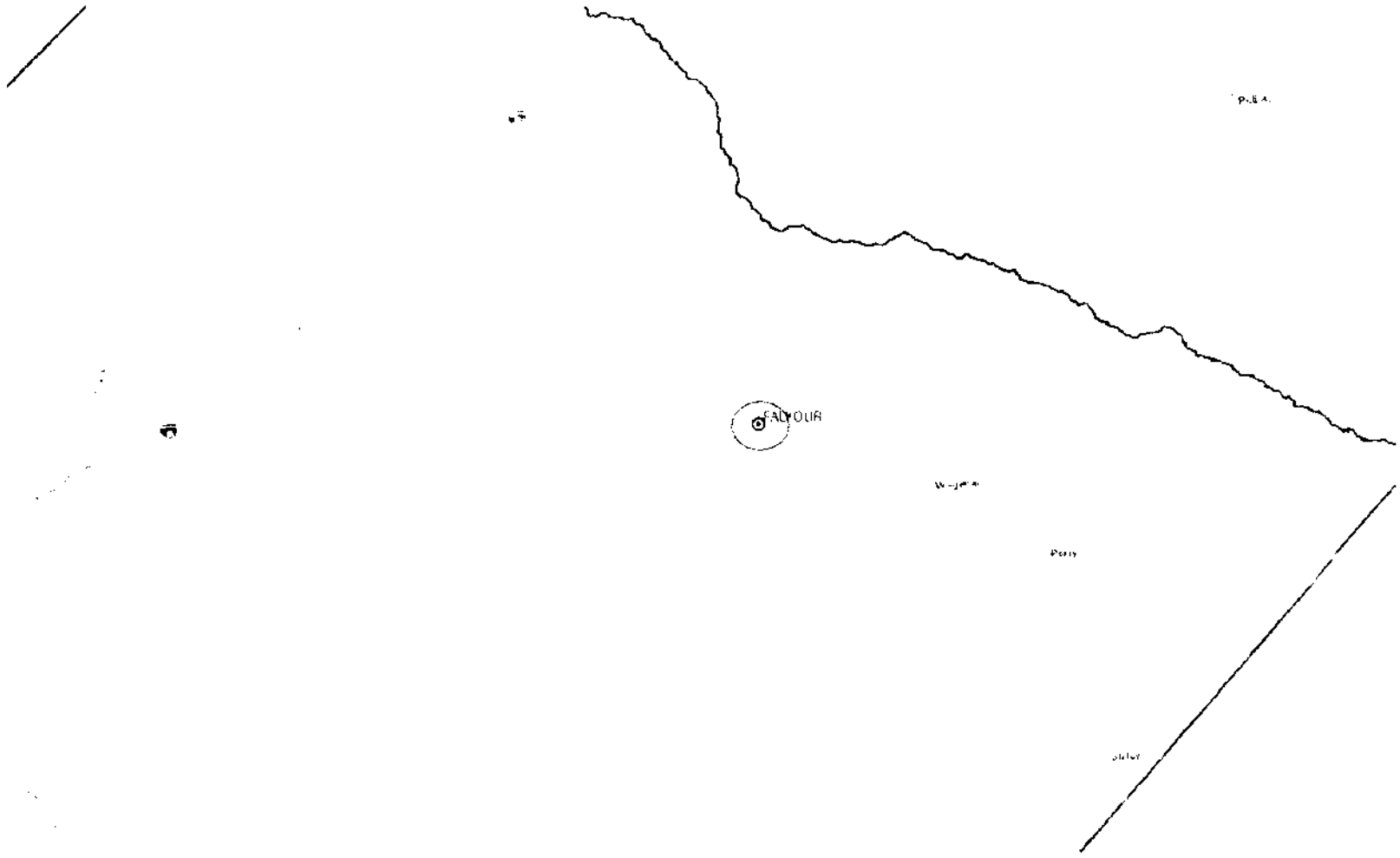
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Google map location



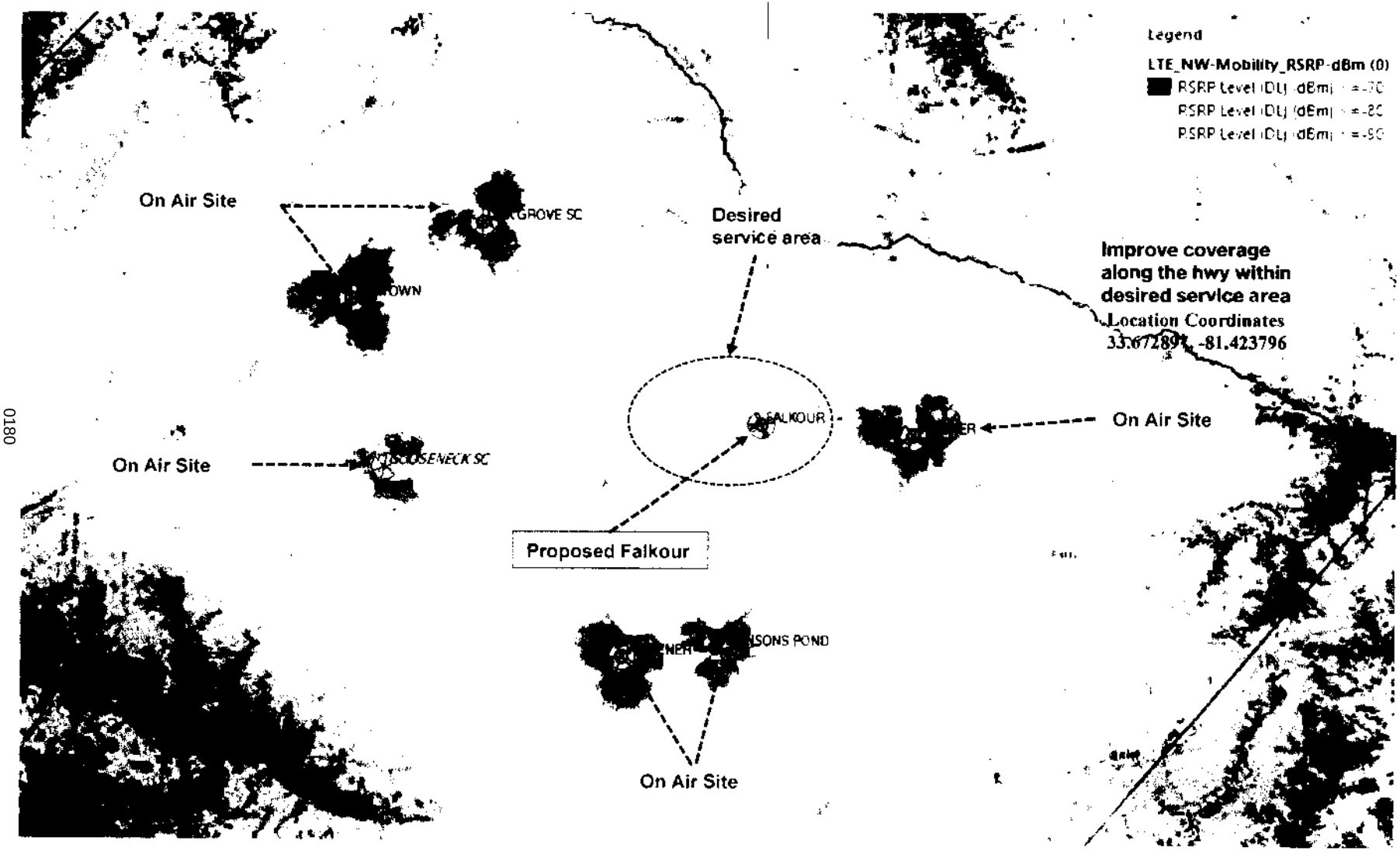
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Search Ring



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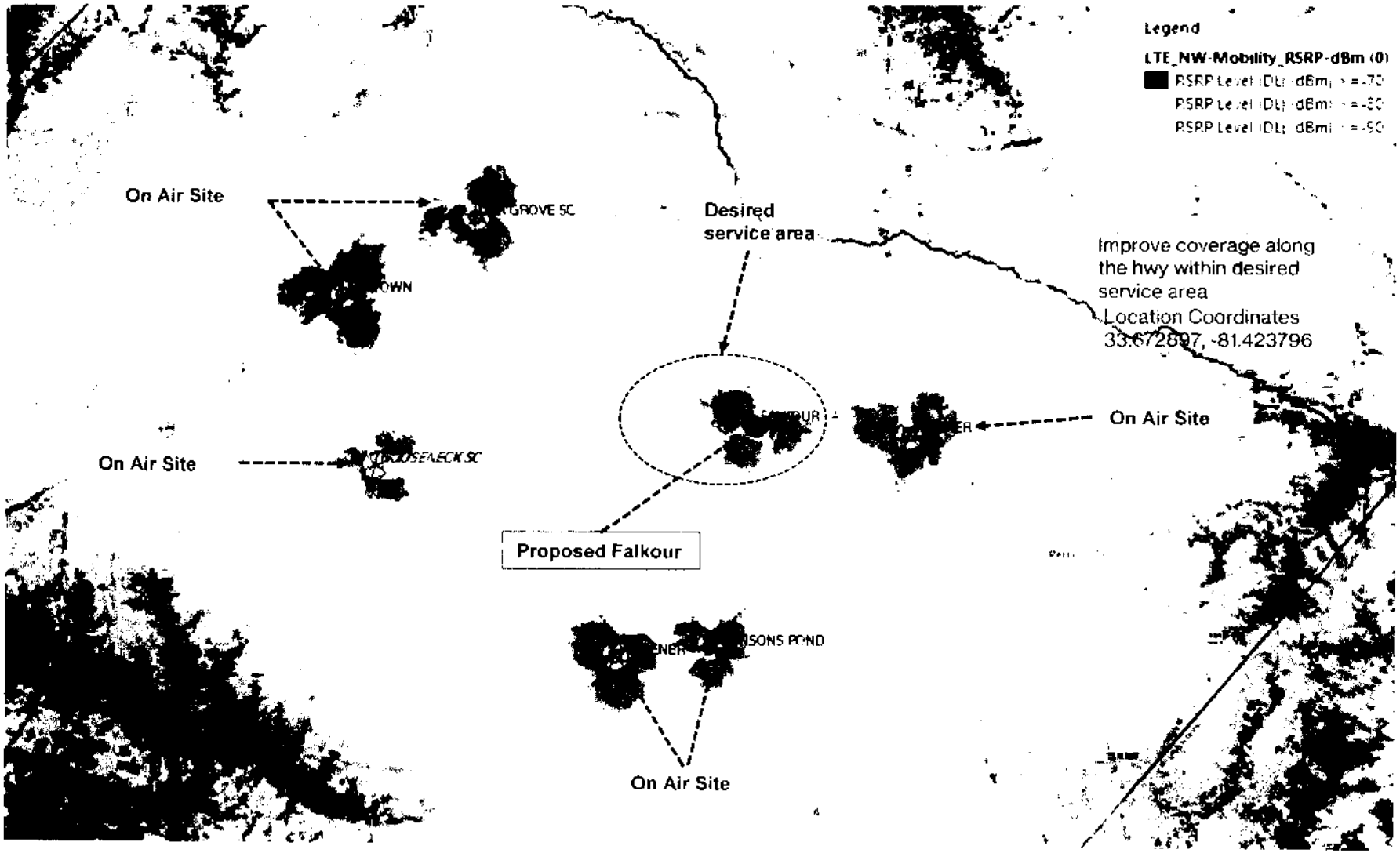
Existing LTE coverage



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Proposed LTE coverage with Falkour



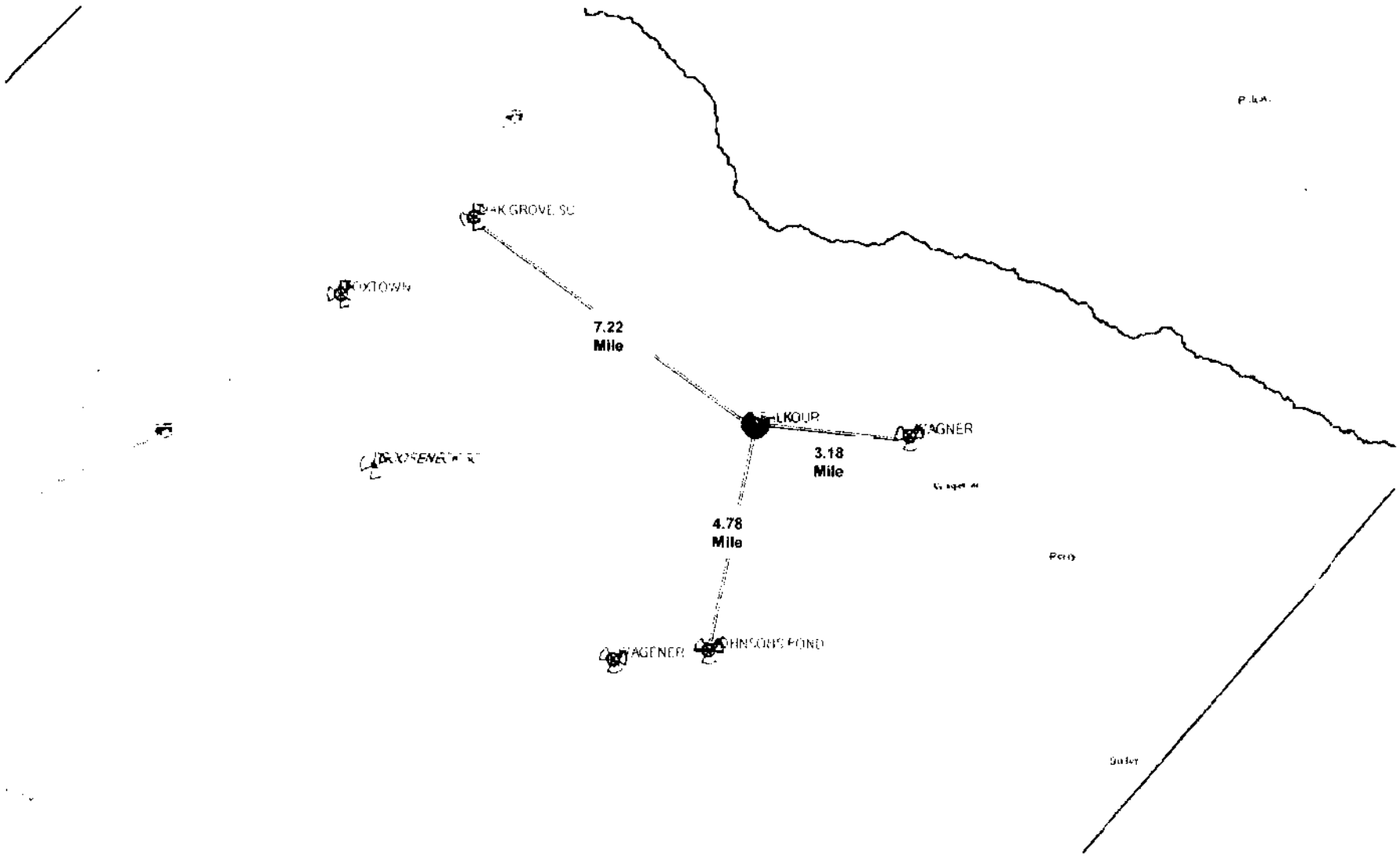
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0181

Inventory Of Existing Verizon on-Air

Site Name	Latitude	Longitude	Structure Type	Street Address	City	State	County	Zip Code
Oak Grove	33.739431	-81.520289	240 Ft. Self Support Lattice Tower	Old 96 Indian Trail	Monetta	SC	Aiken	29006
FoxTown	33.717911	-81.569894	199 Ft. Guyed Tower	2211 Wire Road	Aiken	SC	Aiken	29805
Gooseneck	33.66613333	-81.560999	190 Ft. Monopole	312 Wilderness Road	Aiken	SC	Aiken	29805
Wagener	33.604592	-81.478506	260 Ft. Self Support Lattice Tower	360 Four Oaks Road	Wagener	SC	Aiken	29164
Johnsons Pond	33.605833	-81.444222	179 Ft. Self Support Lattice Tower	5665 Wagener Road	Salley	SC	Aiken	29137
Wagner	33.667028	-81.369203	300 Ft. Guyed structure	209 Randy Wayne Lane	Wagener	SC	Aiken	29164

Distance of proposed FALKOUR site to the existing VZW on-air sites



verizon

Summary

he sit is located in agener, A'ken C . The o jective to r vide c ve age alon y d ine y Six India Trail and surro nding area of Wa en r.

We are adding more spectrum of 850 for the low band and AWS/PCS for the high band. We are modifying our existing radios with a new dual band radios and new RET capable antennas with 4TX/RX (Transmit/Receive diversity) to improve user experience by allocating more resources.

The antennas at each site (eNodeB and UE) have to be uncorrelated to provide independent paths as a baseline for up to four different data channels at the same time.

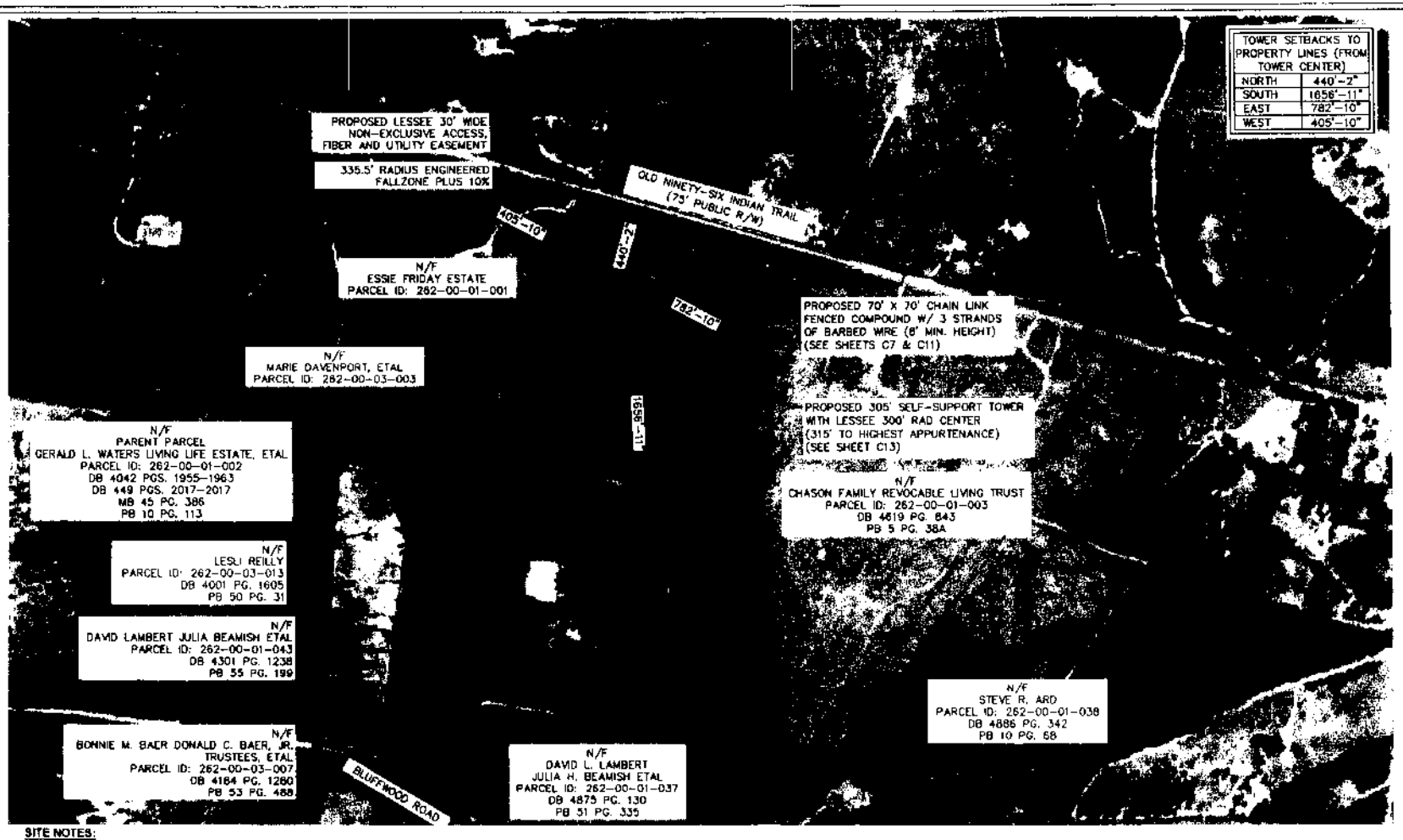
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Therefore; in order to improve customer experience in the rural area and reach maximum potential customers, our design tower height set at 295' feet. It's a coverage problem area and the nearest site is about 3.18 miles East. The new site will help us to address customer issue and complains, therefore; any reduction on the antenna height will jeopardize our main coverage objectives.

This particular candidate was chosen, because it was within the intended specific search ring and based in all engineering survey and calculation, and based on VZW engineering requirements for coverage

Thank you.

0185



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1656'-11"
EAST	782'-10"
WEST	405'-10"

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
3. ALL BUFFERYARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0 OVERALL PARCEL PLAN
SCALE: 1" = 600'

NORTH

0 300 600 1200
GRAPHIC SCALE: 1" = 600'

verizon
15380 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:
SITE NAME
FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT #: 18600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4280
WWW.KIMLEY-HORN.COM
SC License: C08166

REV:	DATE:	ISSUED FOR:	BY:
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1	06/09/21	CONSTRUCTION	DRC
0	05/18/21	CONSTRUCTION	DRC
A	04/28/21	PRELIMINARY	DRC

LICENSER:
ALABAMA LICENSED No. 31912 PROFESSIONAL ENGINEER DAVID R. COUSINO
6/9/21

KHA PROJECT NUMBER:
013509274

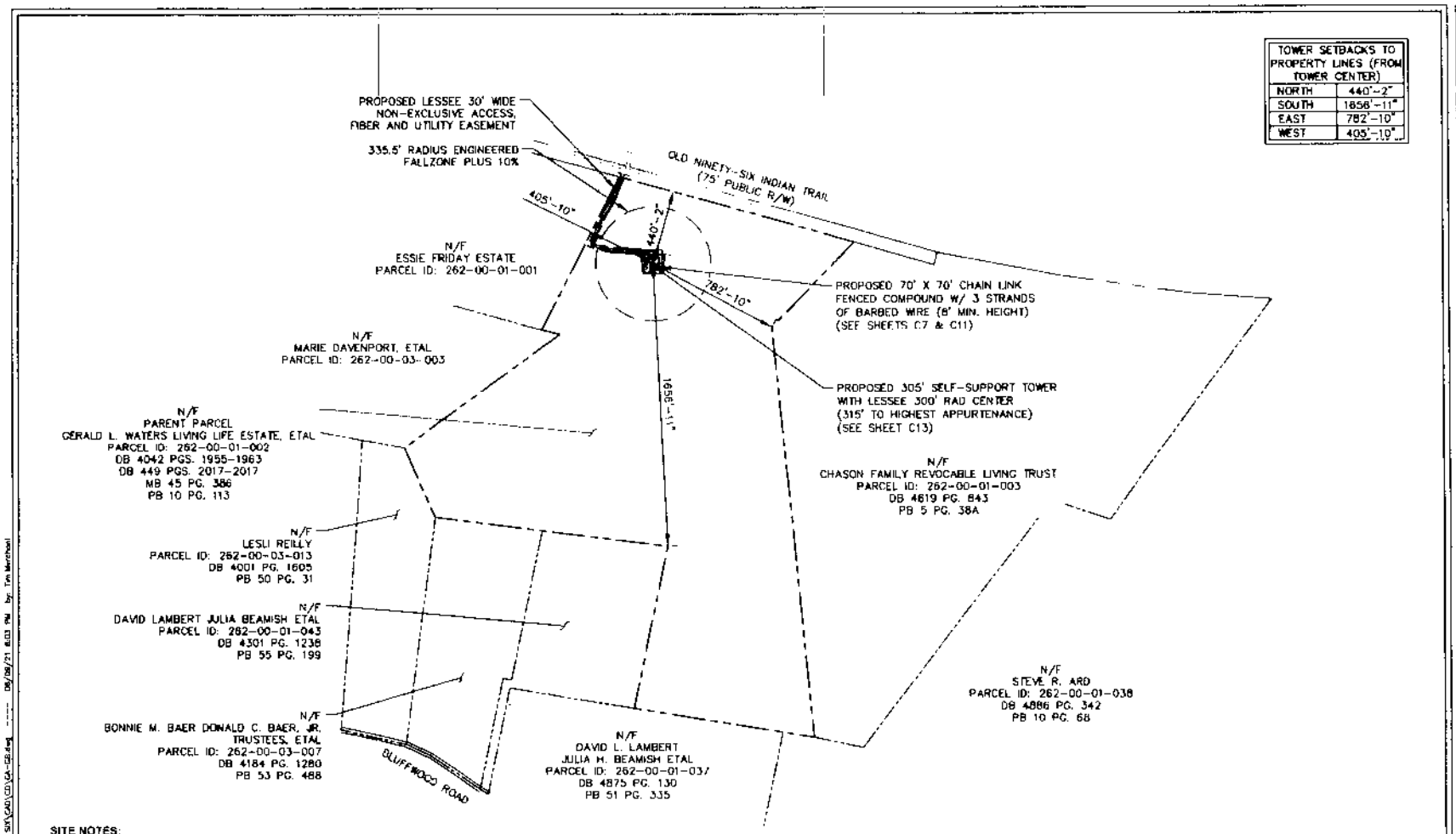
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SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
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0187

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TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1656'-11"
EAST	782'-10"
WEST	405'-10"

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' x 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
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4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

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2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 C0.1 OVERALL PARCEL PLAN

SCALE: 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

11360 OLD ALABAMA ROAD CONNECTOR ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No. 695446
FUZE PROJECT # 16800619
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC License C00188

REV.	DATE	ISSUED FOR:	BY:
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1	08/09/21	CONSTRUCTION	DRC
0	06/18/21	CONSTRUCTION	DRC
A	04/26/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED PROFESSIONAL ENGINEER No. 37512 DAVID R. COUSINS

KHA PROJECT NUMBER:
013509274

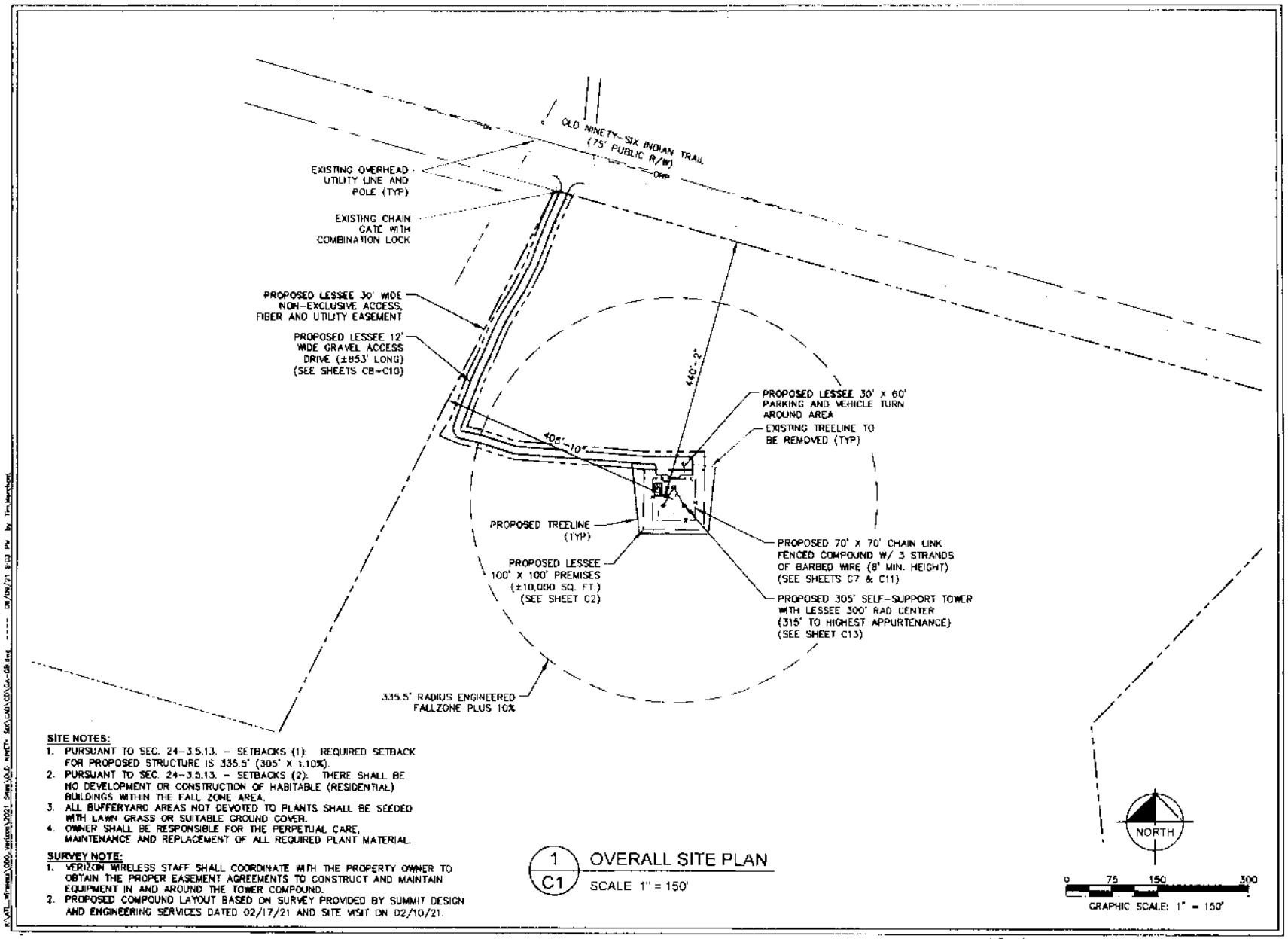
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SHEET TITLE:
OVERALL PARCEL PLAN

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SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
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SURVEY NOTE:

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1 / C1 OVERALL SITE PLAN
SCALE 1" = 150'

NORTH

0 75 150 300
GRAPHIC SCALE: 1" = 150'

verizon

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT # 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 900
ALPHARETTA, GA 30009
PHONE: 770-818-4286
WWW.KIMLEY-HORN.COM
SC License C00166

REV:	DATE:	ISSUED FOR:	BY:
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1	06/09/21	CONSTRUCTION	DRC
0	05/18/21	CONSTRUCTION	DRC
A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED PROFESSIONAL ENGINEER
No. 37812
DAVID R. COUSINS
12/2/21

KHA PROJECT NUMBER:
013509274

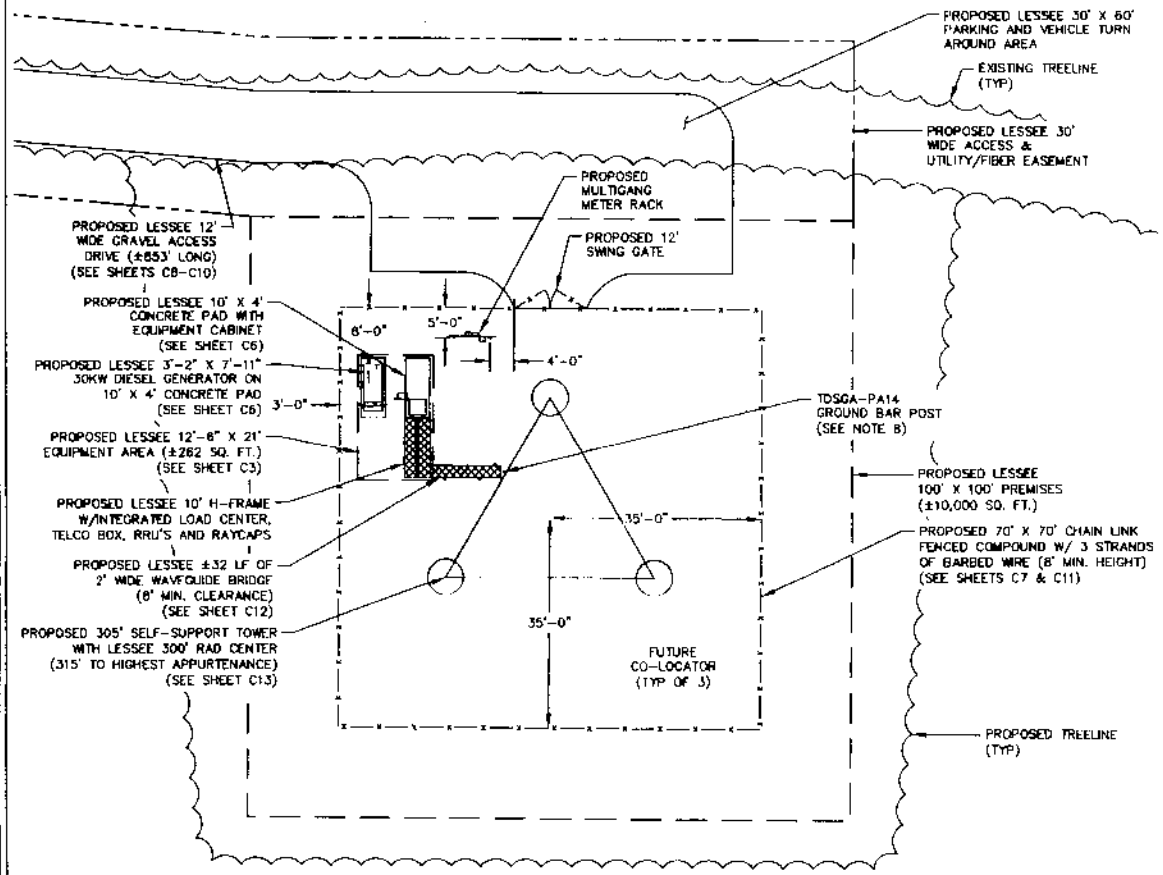
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SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
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1 / C2 SITE PLAN

SCALE: 1" = 20'

SITE PLAN NOTES:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.
3. CONTRACTOR TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER THAT THE EQUIPMENT SHOWN HAS BEEN ORDERED/SCHEDULED FOR DELIVERY TO THIS SITE.
4. THE BASIS OF EQUIPMENT DESIGN INCLUDES ONE (1) RF CABINET, ONE (1) FUTURE BATTERY CABINET, AND ONE (1) FUTURE EXPANSION CABINET.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING AND MODIFYING SCOPE OF WORK TO ACCOMMODATE ANY CHANGES IN THE EXACT EQUIPMENT PROCURED BY VERIZON WIRELESS. COORDINATE ANY CHANGES WITH VERIZON WIRELESS CONSTRUCTION MANAGER.
6. ROUTE COAX/FIBER UP TOWER PER STRUCTURAL ANALYSIS BY TOWER OWNER.
7. TOWER DIMENSIONS SHOWN ON THIS PLAN ARE FOR TOWER CENTER LOCATION. CONTRACTOR TO OBTAIN COPY OF TOWER ERECTION DRAWINGS FROM VERIZON CONSTRUCTION MANAGER PRIOR TO DRILLING TOWER FOUNDATIONS. CASSIONS AND TOWER SHOWN ON THIS PLAN ARE ILLUSTRATIVE, SEE DESIGN DRAWING BY OTHERS. DO NOT SCALE.
8. INSTALL 3½" O.D. GALVANIZED STEEL POST FOR TDSGA-PA14 GROUND BAR. POST TO EXTEND 78" ABOVE GRADE AND SHALL BE EMBEDDED IN A 12"ø CONCRETE FOOTING A MINIMUM OF 36". FOOTING SHALL EXTEND A MINIMUM OF 42" BELOW GRADE.

SITE NOTES:

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0 10 20 40

GRAPHIC SCALE: 1" = 20'

verizon

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT # 18600619
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4280
WWW.KIMLEY-HORN.COM
SC License C00160

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1	08/09/21	CONSTRUCTION	DRC
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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37912 PROFESSIONAL ENGINEER DAVID R. COUSINS

KHA PROJECT NUMBER:
013509274

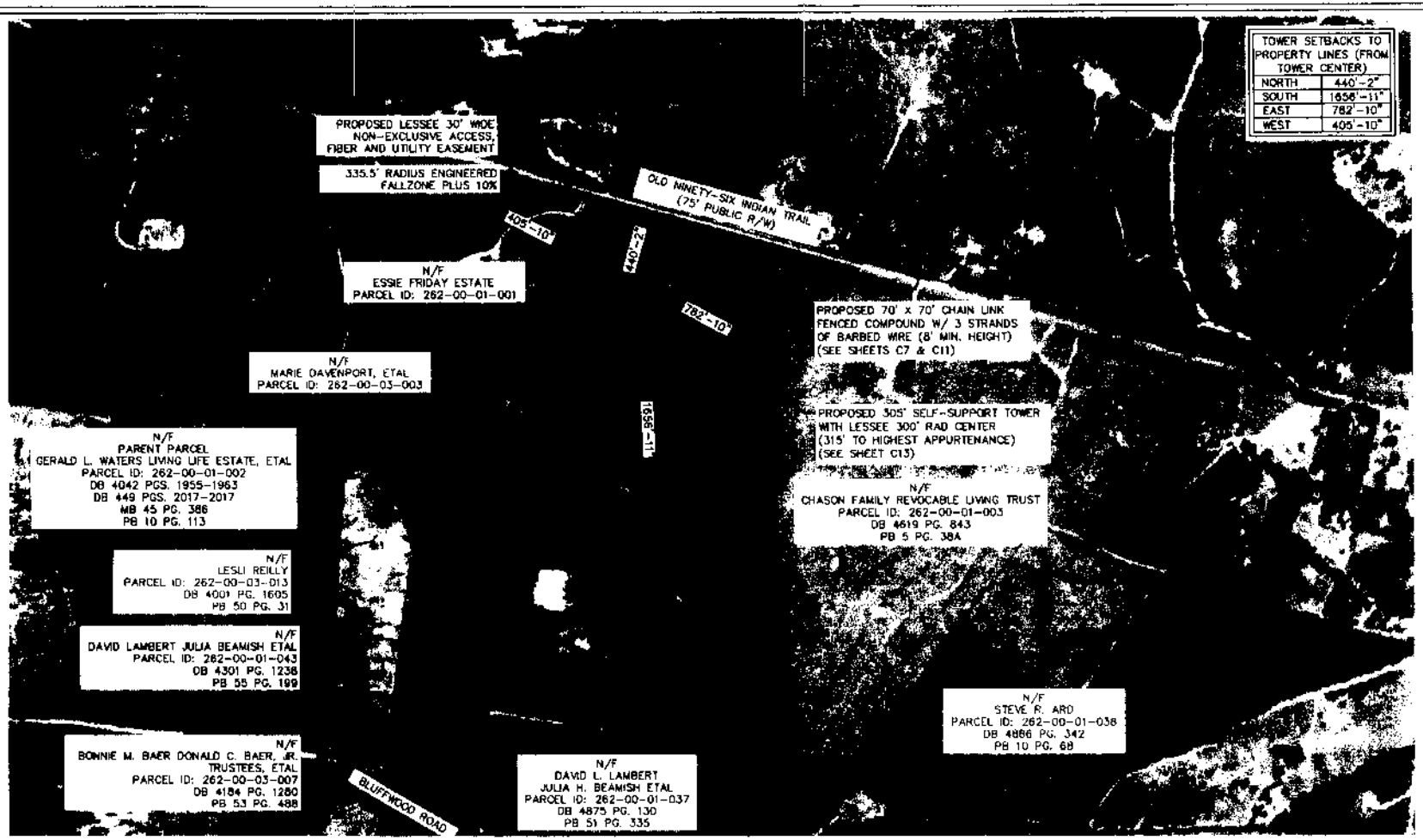
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SHEET TITLE:
SITE PLAN

SHEET NUMBER:
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SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
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1 / C0 OVERALL PARCEL PLAN

SCALE: 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

16000 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No.: 695446
FUZE PROJECT #: 18600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC License: C00186

REV:	DATE:	ISSUED FOR:	BY:
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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

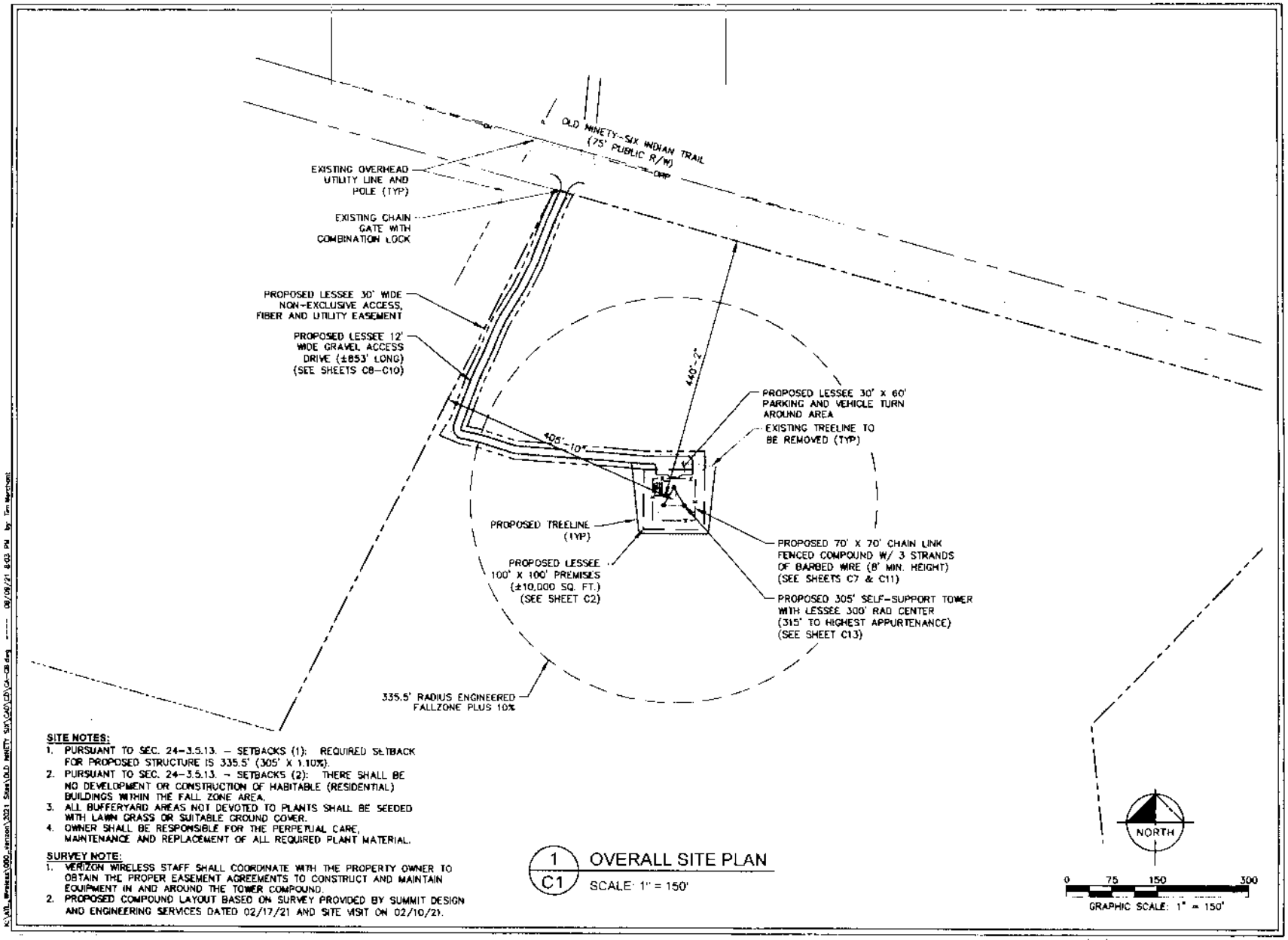
KHA PROJECT NUMBER:
013509274

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SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
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1 / C1 OVERALL SITE PLAN

SCALE: 1" = 150'

SITE NOTES:

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verizon

10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No. 695445
FUZE PROJECT # 15600818
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-819-4280
WWW.KIMLEY-HORN.COM
SC License C00166

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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37912 PROFESSIONAL ENGINEER DAVID R. COUSINS

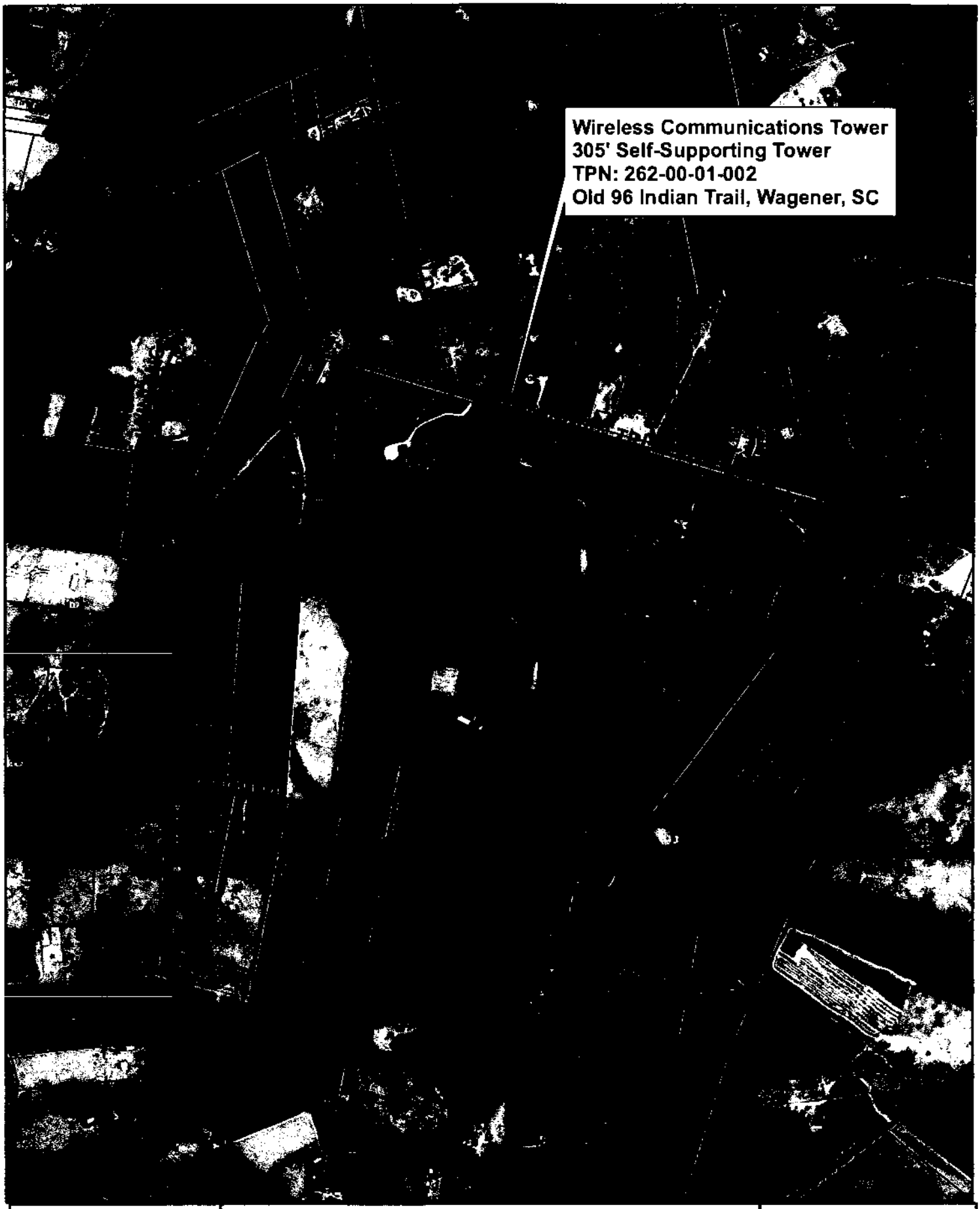
8/9/21

KHA PROJECT NUMBER:
013509274

DRAWN BY:	CHECKED BY:
TDM	TRN

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
C1

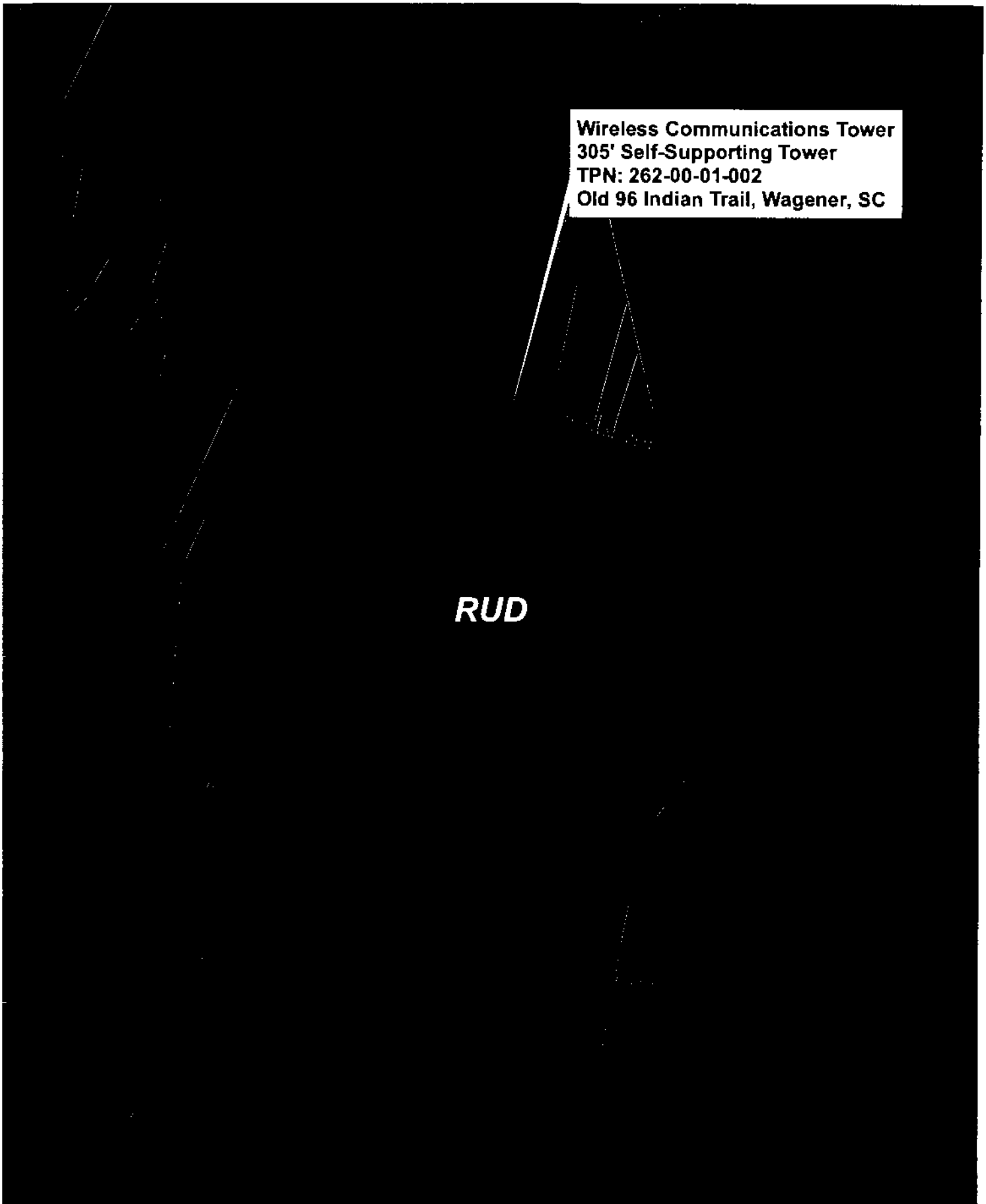


Prepared by:
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

N

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Aiken County makes no warranty, representation or guaranty as to the content, sequence, accuracy or timeliness of the database information provided herein. Users of this data are hereby notified that public information sources should be consulted for verification of the information contained on these maps. Aiken County assumes no liability for any errors, omissions or inaccuracies in the information provided regardless of how caused. OR for any decision made or action taken or not taken by any person in



Prepared by:
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

N

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Aiken County Monthly Travel-Mileage Record

61

I certify that the record below represents a true and actual accounting of necessary, authorized miles traveled in my personal vehicle in the performance of official duties for Aiken County for the period from: _____ Acct# _____ Code _____

Employee # and Printed Name _____ Employee's Signature _____ Date _____ Purchase Order # _____

Date	Odometer Depart	Odometer Return	Miles		Trip Starting Point		Destination	Purpose of Travel
	0	0	0					
TOTAL							X $0.585/per mile = $ 0.00	Due to Employee

Procurement Department _____ Department Head Signature _____ Date _____

0195

MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR- SANDLAPPER ROOM
6:00 P.M., THURSDAY, NOVEMBER 17, 2022
MEETING NO. 22-11-01

A. CALL TO ORDER

The regularly scheduled meeting of the Aiken County Planning Commission was called to order at 6:01pm by Vice-Chairwoman Stewart. The Vice-Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Liz Stewart, Vice Chairwoman
2. Richard Adams
3. Denise Fulmer
4. Dennis Gmerek
5. William Harris, Jr
6. Robert Mitchell
7. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson
2. Grace Vance, Chairwoman

STAFF PRESENT

Sandra Colvin, Administrative Assistant
Rhonda Connelly, Planner I
Joel Duke, Director
Terry Reames, Code Enforcement
Vickie Reynolds, Senior Planner
Amy Roberts, Planning Technician

B. RECOGNITION OF VISITORS

Vice-Chairwoman Stewart welcomed the visitors to the Planning Commission meeting.

C. APPROVAL OF MINUTES: Meeting No. 22-10-01

Vice-Chairwoman Stewart asked for a motion to approve the minutes. Mr. Harris seconded the motion. The motion passed with majority approval. Mr. Mitchell abstained.

D. APPROVAL OF AGENDA:

Vice-Chairwoman Stewart asked for any amendments to the agenda. Mr. Duke stated the applicant for Old Business Presentations Number 1 requested to be removed from the agenda. Ms. Fulmer made a motion to approve the amended agenda. Mr. Harris seconded the motion. The motion passed by unanimous approval.

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

"Exhibit 6"

E. PRESENTATIONS:

1. Bridle Creek Phase 3B-2 – Preliminary Plat Approval – (Public Hearing)

Applicant: Bridle Creek at Three Runs, LLC
Engineer: HB Engineering, Inc.
Location: Gundy Drive P-2050
Total Acreage: 85.16
Total Number of Lots: 13
Tax Parcel: 175 -00-01-001
Zoning: RUD
County Council District: 1 Kathy Rawls

Mr. Duke addressed the Commission reviewing the request to extend an existing preliminary plat approval. He concluded stating that County staff recommends approval.

Vice-Chairwoman Stewart opened the public hearing.

Wayne Raiford, 235 Mount Vintage, North Augusta, SC, addressed the Commission stating development is underway, and are requesting an extension of the preliminary plat approval.

Vice-Chairwoman Stewart closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve. Mr. Adams seconded the motion. The motion passed unanimously.

F. OLD BUSINESS:

1. Highland Hills Commercial Subdivision Preliminary Plat Approval

Applicant: Highland Hills, LLC
Engineer: HB Engineering, Inc.
Location: Bettis Academy Road S-144
Total Acreage: 13.92
Total Number of Lots: 5
Tax Parcel Number: 048-00-02-012
Zoning: LD & RUD
County Council District: 6 - Phil Napier

The applicant requested to be removed from the agenda.

2. **BridgeWay – Preliminary Plat Approval**
Applicant: Beazley Development Co., Inc.
Engineer: Southern Partners, Inc.
Location: Springdale Road (C-2583)
Total Acreage: 235.17
Total Number of Lots: 107
Tax Parcel: 033-00-06-004, 033-00-06-001 & 048-00-08-013
Zoning: RUD
County Council District: 6 Phil Napier

Mr. Duke presented the proposed subdivision to the Commission stating that this request was before the Commission in October, and was tabled to allow additional review by Aiken County staff. The comments reflected the concerns for additional traffic and widening the buffer along Little Horse Creek.

Vice-Chairwoman Stewart opened the public hearing.

David Banks, with Southern Partners, addressed the Commission stating that at the October meeting he was hesitant to agree to the 100 foot buffer. He cited the need for sewer lines to run at lower elevations, and requested the design for other small encroachments. Mr. Banks stated that the developer sees no issue with staying out of wetlands. He stated it may be considered a no build zone. The developer plans to install walking trails, and a community area near and in the wetland as permitted by Cops of Engineer guidelines.

Joe Gulino, 7009 Evans Town Center Blvd, Evans, Ga., addressed the Commission, as a representative of Beazley Development, stating the desire to take advantage of the area and add walking trails for the community. He stated the construction will not impact the wetlands, and that the developer will agree to a no build zone. Mr. Gulino stated wants to develop places where the community wants to live. Mr. Gulino presented the proposed revised plat to the Commission. (see attached Exhibit 1)

Mr. Palmer asked Mr. Duke if the original plat design met the county's requirements. Mr. Duke stated the required buffer was not shown in the original drawing. The wetlands created a buffer larger than the 50 foot required. He continued stating the 50 foot buffer would have been added at final plat. Mr. Duke reminded the Commission there are still several outstanding contingencies from staff review.

Vice-Chairwoman Stewart closed the discussion and asked for a motion. Mr. Gmerek made a motion to approve with the contingencies outlined from Planning staff and 100 foot buffer, with agreement not to build structure requiring electricity or utilities. Mr. Mitchell seconded the motion.

Ms. Fulmer made a substitute motion to approve with contingencies outlined from the Planning staff. Mr. Adams seconded the motion. The substitute motion was approved with a 5 to 1 vote, with Mr. Gmerek voting in opposition.

3. Proposed Private Road – Preliminary Plat Approval

Applicant: Bruce Berret
Engineer: Hass & Hilderbrand, Inc.
Location: John Scott Road C-2847
Total Acreage: 2.1
Tax Parcel173-00-01-002, 173-00-01-008, & 173-00-01-009
Zoning: RUD
County Council District: 1 Kathy Rawls

Tilden Hilderbrand, 133 Greenville Street, SW, Aiken, SC, addressed the Commission stating that revised plans had been submitted to Planning Department. He reviewed the minor changes, which require the road to be paved everywhere the finished road grade exceeds five percent.

Bruce Berret, 772 Firetower Road, Aiken, SC, addressed the Commission stating he agrees with the revised plans.

Vice-Chairwoman Stewart ended the discussion and asked for a motion. Mr. Gmerek made a motion to approve with contingencies. Mr. Harris seconded the motion. The motion passed by unanimous approval.

4. Wireless Telecommunication Tower

Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002
Zoning: RUD, Rural Development
Proposed Tower: 305' self-supporting telecommunications tower
County Council District: 1 Kathy Rawls

Brad Farrar, Aiken County Attorney, addressed the Commission stating:

1. During the public hearing for this item at the October 2022 meeting, adjacent property owners raised concerns about restrictive covenants.
2. Per SC Code, the governing body, or local planning authority, if made aware of a protective covenant, must consider all potential impact on the application under consideration
3. After consideration of the application was tabled on October 22, 2022, he emailed Mr. Green, Verizon representative, and Mr. *(name)* Lambert stating the county obligations under the federal Telecommunications Act of 1996 and local ordinance. The email included a request to Mr. Lambert for a copy of the restrictive covenants referenced in Mr. Lambert's public hearing testimony and any supporting information.

4. As of the November 17 meeting he had not received a response from Mr. Lambert. He stated received email from Nick Steinhaus, attorney for Verizon, with comments concerning property and covenants. Mr. Steinhaus' email states there are no restrictive covenants that apply to parcel 262-00-01-002.

Clark McCants, attorney with Nance & McCants, representing David Lambert and Julia Beamish, addressed the Commission requesting a copy of the entire cell tower application, and a copy of the owner's authorization for placement of the cell tower. Mr. McCants asked to see the project application. Mr. Duke stated that the Aiken County Planning and Development has a complete application, and offered to allow Mr. McCants to review. Mr. Duke and Mr. McCants discussed whether a FOIA request had been filed for a copy of the application and whether the FOIA was necessary to review the information. Mr. McCants asked whether the site lease provided by Verizon included property description. Mr. Duke stated he did not have that information at the meeting, but will provide access to all requested documents. Mr. McCants stated the entire Bluffwood East subdivision is subject to restrictive covenants. He showed copies of the recorded deeds to the Commission. Mr. McCants continue asserting the covenants he referenced state that in addition to barns and outbuildings, owners may construct one house, one guesthouse, and one residential apartment only. He continued referencing covenant item number six; no commercial activity shall be conducted on subject property, including but not limited to, chicken houses, hog farms, or bait farms. He stated the residences of Bluffwood East are opposed to the construction of a cell tower.

Lannie Greene, with Pyramid Network Services, representing Verizon, addressed the Commission stating Verizon is requesting permission to proceed with the cell tower. He stated that Verizon has provided the documentation requested by Mr. Farrar, and that the subject property meets the Aiken County ordinance for mobile communication towers. He continued stating Verizon's attorney found no restrictive covenants affecting the subject property.

Vice-Chairwoman Stewart asked Mr. Farrar for comments regarding Mr. McCants information. Mr. Farrar questioned whether the covenant documents provided to the Commission by Mr. McCants was part of a deed. He asked Mr. McCants which property deed contains the presented document. Mr. McCants maintained that the document references the Bluffwood East subdivision. Mr. Farrar stated that he was unclear whether the presented document applied to the entire subdivision or only to a referenced, but not presented, individual property deed. Mr. McCants stated there is no property description.

Mr. Farrar stated that he would be unable to attend the December 15, 2022 Planning Commission due to required military service. He recommended the Commission assemble the people with interest in this item together for a further discussion at the January meeting.

Vice-Chairwoman Stewart ended the discussion and asked for a motion.

Mr. Gmerek asked Mr. Farrar and Mr. Duke for guidance and opinion concerning this item of the restrictive covenants. Mr. Duke stated this is the first time Mr. Lambert or Mr. McCants

has provided information requested by Mr. Farrar following the October 2022 meeting; the applicant submitted their response, which was included in the agenda packet. He stated staff will need addition time to review Mr. McCants' information. Mr. Farrar recommended the Commission assemble the people with interest in this item at the January 2023 meeting. Mr. Gmerek made a motion to table until the January 2023 meeting. Ms. Fulmer seconded the motion. The motion passed by unanimous approval.

G. NEXT REGULAR MEETING: December 15, 2022

H. ADJOURNMENT:
Vice-Chairwoman Stewart asked for a motion to adjourn. Mr. Harris made a motion to adjourn the meeting. Ms. Fulmer seconded the motion. The motion passed by unanimous consent with the meeting ending at 7:26 p.m.

Respectfully Submitted,

Joel T. Duke, Secretary 12/15/22 Date

Liz Stewart, Vice-Chairwoman 01/16/2023 Date

TRANSCRIPT OF
RECORDED AIKEN COUNTY PLANNING COMMISSION MEETING

****

Thursday, November 17, 2022

FILED April 27 2023
Robert L. Hitchcock
C.C.C.P. & G.S.
Charla Griffin Deputy Clerk

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

"Exhibit 7"

VICE-CHAIRWOMAN: On number four, Wireless Telecommunication Tower, the Applicant is Pyramid Network Solutions, LLC for Verizon Wireless. Location is Old 96 Indian Trail in Wagner. Tax Parcel: 262-00-01-002. Zoning: RUD Rural Development. Proposed Tower: 305-foot self-supporting telecommunications tower. In Council District One, Kathy Rawls. The Applicant present.

Okay. Mr. Duke, anything you ...

MR. DUKE: Yes, ma'am. I will note and I'll refer -- very quickly, to Mr. Farrar, I will note, before you is a packet of information, emails, and letters that have been received in this regard, but I will go ahead and just recognize Mr. Farrar to, kind of, fill in some of the blanks.

VICE-CHAIRWOMAN: All right, sir?

MR. FARRAR: Yes. So, as you recall, last month, when this came up there was an issue of restricted covenants and -- of course, that's something that the legislature, a few years ago, put in the state law that says if the governing body -- or the local planning authority is aware of, or has actual knowledge

of, a restricted covenant, that my impact a -- an application that you've gotta do some due diligence on that and see what the restricted covenant is. And so, the matter was continued -- I believe it was the day after the hearing. I sent an email to Mr. Greene -- I don't remember if he's the -- is he the Applicant, Mr. Greene ---

UNKNOWN MALE VOICE: Yes.

MR. FARRAR: --- is that from Verizon? And Mr. Lambert, who spoke at last meeting, regarding the restricted covenants, and ask them to -- I quoted it -- extensive provision from federal law, dealing with the Telecommunications Act of 1996 and it's talking about mobile services and asked them, just, to comment on that. I, also, asked for a copy of the restricted covenants -- that issue, we don't -- still don't have those restricted covenants. Mr. -- I got an email on Monday, of this week, from Attorney named Nick Steinhaus ---

UNKNOWN MALE VOICE: Second tab.

MR. FARRAR: --- he's at the Law Firm of Baker Donelson Bearman Caldwell and Berkowitz, in Columbia. And, I believe, this -- did members

have this?

UNKNOWN MALE VOICE: The packet -- that email will be under the second tab.

MR. FARRAR: Okay. Yeah, so he comments on the restricted covenant issue and says that there are no restrictive covenants that apply to parcel 262-00-01-002, which I believe is the parcel at issue. He attached three deeds to that -- which, I guess, are tabs three, four and five, of your packet. And so, his position is there are no restrictive covenants that would come into play, and so you don't reach the issue of the state law, that I cited. Also, in my email, which is in the second tab, there's a State Law: 6-29-1145, determining existence of restricted covenants. And so, once again, that was raised to us. You know, we asked to have a copy of those -- we don't have those, but even if we did, Mr. Steinhaus is saying that those -- there are no covenants on the property at question, so -- you know, that you have the deeds where you can, kind of, see for yourself the highlighted language that Mr. Steinhaus emphasized. And so, that's, kind of, their position.

I got -- and I don't know where the Applicant is. Usually, the Applicant would either be here, or explain why they're not. I hope the person's okay, but you don't have to have the Applicant to -- I mean, you can decide the case, one way or the other, without the Applicant. Which you may want continuance, since the person's not here, you may want to decide it -- however you wanna deal with. But I think the other piece that's missing is if anybody wants to comment.

We also got -- I think it was a letter, dated today, from -- here it is, first tab -- it's from Clarke McCants, Firm of Nance and McCants, here in Aiken. He's been retained by David Lambert and Julia Beamish, with respect to an application by Pyramid Network Services, for this particular case. Please note, my appearance in this matter -- I understand it's a matter of schedule to be heard for the Planning Commission, this evening at 6:00. I will look forward to appearing before the Commission, at that time. And so, that's what we received today. And so, if there's any testimony or input from anybody who is here,

I'm sure you would want to take that, at this time.

VICE-CHAIRWOMAN: Uh-huh. Thank you. All right, since the Applicant is not here, is there anyone else who would like to speak to this application?

UNKNOWN MALE VOICE: I'm Jerry -- (inaudible) ---

VICE-CHAIRWOMAN: Yes.

MR. MCCANTS: Good evening. Madam Chair Lady, I have to apologize to you, though, before I do anything else. I sent that letter, that Brad just read to you, to my colleague, and former law school classmate, Mr. Gmerek, forgetting that you had to send it to this ---

VICE-CHAIRWOMAN: All right. I have it. I'm only the vice-chair. I'm just filling in today ---

MR. MCCANTS: Who's the Chairman? Is it -- is he still ...

VICE-CHAIRWOMAN: No, he's not.

MR. MCCANTS: Well, whoever's the Chairman, I ---

VICE-CHAIRWOMAN : Greene is the ---

MR. MCCANTS: --- apologize.

VICE-CHAIRWOMAN: Yeah. That's all right. That's fine.

MR. MCCANTS: Thank you.

VICE-CHAIRWOMAN: Thank you.

MR. MCCANTS: Good to see everybody.

VICE-CHAIRWOMAN: Good to see you.

MR. MCCANTS: As Mr. Farrar just indicated, I'm here on behalf of Dave (ph) Lambert and Julia Beamish, who own properties, directly adjacent to the parcel, for which an application for a cell tower has been presented to the County. Dave, stand up so they can see you -- he's the one that asked about the minutes, earlier. And I encouraged him, just wait til the minutes are finalized.

MR. LAMBERT: (Complies.)

MR. MCCANTS: And my son, here, he practices law with me, is here too. He would've been -- but he's the fourth, Ms. Stewart. And there are other residents of Bluffwood here tonight, is that correct? Could y'all stand up and just let them know you're here and I'm sure she'll give you a chance to speak earl- -- a little bit later.

(Complies.)

MR. MCCANTS: Ms. Stewart, as I indicated to you, I'm here on behalf of Mr. Lambert and Ms. Beamish. They own properties, directly,

adjacent with the parcel for which this cell tower is being proposed. Now, I've spent some time going through the application, itself, and I'm a little perplexed to hear that the Applicant is not here tonight because I think that strikes at a -- at a core issue that's involved in this matter. And I have to ask Mr. Duke, or anybody else -- perhaps, members of the Planning Department, with your permission in question, or if I could ask you the question, have you address it to them.

The first thing I did was ask for the application for this cell tower, and this is what I got, and it's this. And I understand, perhaps, it's new information in that application that makes reference, perhaps, to some CDs, or things like that -- electronic-type media that may be part of the application. But I do think that you got to address a threshold issue in this case before -- I'm sorry, your podium's not big enough for everything I've got. I don't mean to throw that on the ground, necessarily -- but a threshold issue, in this matter, is whether or not as part of that application, which is

Section: 24 tac 3.5.5 of the Land Management Provisions for Aiken County. Which is -- which is very specific. It says, the Applicant, which I understand, is Verizon through Pyramid, has got to demonstrate that they've got a right to proceed with this application, before you. They either have to tell you that they have that right, or Mr. Waters, who owns the parcel, here, has to be here, to tell you that he is okay with the proposed cell tower. Now, I have actually confronted this issue before, not before the County, but before the City. And my question to Mr. Duke, or the rest of the folks within the Planning Department, is there some document in there, which -- I'm gonna call them Verizon/Pyramid -- some document in there that they have, which says they have the right to proceed with this application, or is there something from Mr. Waters, who owns the dirt, saying I'm okay with Verizon/Pyramid asking for this? And here's the reason, in the city we -- every now and then, we've confronted individuals who have asked the boards and commissions, charged with implementing use and restrictions and guidelines, make sure they're

not asking for an advisory opinion, as to whether or not you would allow this tower. And in the absence of that -- and I guess -- can I ask that question, whether or not it's in here, before I continue further? Because if it's in there, I'll stop on that issue.

VICE-CHAIRWOMAN: Okay. Mr. Duke.

MR. DUKE: Yes, this is a complete application. That is a requirement. And Ms. Conley (ph) is actually looking through the document for that, at the moment. We do have that in hand. That is -- that is not an outstanding item.

MR. MCCANTS: I haven't seen it. If I might have a chance to see it, I would appreciate it, in that regard.

UNKNOWN MALE VOICE: Because normally if the Applicant is not present -- (inaudible) ---

MR. DUKE: All right. That's it. Yeah. Apparent-- apparently, we didn't know -- (inaudible) --

MR. MCCANTS: And like I say, I'm Clarke McCants, I'm on behalf of the -- (inaudible) -- can I see what we have? Is it -- would that be possible? (Reviews document.) Thank you, Duke. All right.

VICE-CHAIRWOMAN: Mr. Duke?

MR. DUKE: Sure. So, we have a lease agreement. And certainly there's -- all of this information is available, so if there's some portion of the application that was not provided to Mr. McCants, we can certainly make sure that is corrected. And this is a public document and he's welcome to come inspect the whole application packet. Copies are available in the office.

MR. MCCANTS: Somebody, please, examine these.

UNKNOWN MALE VOICE: Is there a problem?

VICE-CHAIRWOMAN: Mr. Duke, would it be possible for him to look at that now?

MR. DUKE: We'll go with whatever flow you would like to go with, Madam Chair, so you can ---

VICE-CHAIRWOMAN: All right ---

MR. DUKE: --- take your time.

VICE-CHAIRWOMAN: --- well then, Mr. McCants, what I would suggest is if you want to take a moment to look at that since the Applicant has arrived, I'm gonna call him forward and see if he wants to ---

MR. DUKE: I can't let you run off with that -- (inaudible) ---

VICE-CHAIRWOMAN: --- say something and that would give you a chance to review it.

MR. GREENE: Good evening.

VICE-CHAIRWOMAN: All right. Sir, please don't take it as a personal front, that we locked you out ---

UNKNOWN MALE VOICE: Ma'am, I'm -- (inaudible) ---

VICE CHAIRWOMAN: --- it happens to all of us.

MR. GREENE: Yeah, I'm from Georgia, so, you know, I can't -- I can't help from where I come from, but anyway.

My name is Lannie Greene, I'm here tonight representing Verizon Wireless. I work for a company named Pyramid Network Services. As you are aware, from our previous hearing, we're asking for permission to proceed with a cell phone tower for Verizon Wireless. We have provided the documentation requested, worked with Ms. Conley (ph) and Mr. Duke in this application, to make sure we have everything taken care of. This particular location meets the ordinance, as written as adopted by the County. We meet the setbacks, we meet the fall zone, we do have an agreement with Mr. Waters and that actual agreement is noted -- or it is

a part of the record as a memorandum of the agreement which is actually recorded with the -- with the courthouse. So, that actually is a -- is a matter of public record, as well. Mr. Waters also signed a letter, that is required by the County, that he understands that he cannot develop anything within the fall zone of the tower.

VICE-CHAIRWOMAN: Uh-huh.

MR. GREENE: So, another part of that, that he is aware of the tower going on his property -- 'cause he understands he can't build anything within that fall zone area. At the last hearing, we -- you know, it was continued due to concerns about the fact that Mr. Waters property, actually, falls under certain covenants that restrict commercial development on the property. Our Attorneys have gone and looked through the records -- the title records, and could find no record of any kind of restrictive covenant on this particular piece of property. What we have

found are parcels that he'd sold, he did attach covenants to. As far as his properties are -- in the area, these same covenants do not -- do not hold the same rules on that -- on his property.

So, he's not under the same restrictions as some of the folks he sold property to.

And as I stated, when we go into an area, we look for -- first of all, we look for something to, what we call co-locate. We look for an existing facility to co-locate on. There's nothing out there. So, the next thing we do is we go out, and we look at the jurisdictions' ordinance and their laws, to make sure we can find a property that meets that requirement. The last thing we want to do is ask for any kind of bearings. This particular location meets that requirement. Then we have to have a willing and interested property owner, which we have with Mr. Waters. So, we have located this property that meets the requirements. As a part of our due

diligence, our Attorneys do a title search, prior to Verizon signing an agreement. Verizon is very, very particular in their agreements, and what they will sign. I've had many sites rejected because of covenants. Covenants that, I believed, we -- did not really impact us. Nonetheless, Verizon's legal said, no, we're not signing that agreement, just because of situations like this, whereas, in this case, the covenants do not impact our property. But they're not going to go down the path of a property that may have covenants on it, or does have covenants on it. In the future it could be impacted, whether it's within a month or ten years. They stay away from it unless it's something that they can get taken off and then recorded as a part of the record. But, in this particular case -- I just want to show you that Verizon is very, very particular about what they will sign. This particular case, they do not -- the covenants that are in question do not regulate this property. That is -- that is our opinion. I believe our Attorneys spoke with Mr. Duke and Mr. Farrar about this and supplied some information. Our Attorney was

unable to make it tonight, but he has spoke to Mr. Farrar -- I'm not privy to the conversation, but I know he provided some information regarding that, so. And as far as Mr. Water -- as far as us having a right to make this application, we have an agreement with Mr. Waters as a part of that agreement. It does have information in there. It does have legal leads in there about him working with us and obtaining all the permits that we need to obtain. So, he's well aware that I'm here, before y'all, tonight. But -- well, not necessarily tonight, but he's well aware that we're proceeding with this application. So, you know, we're asking that we -- based on the ordinance, based on our application being complete, or anything that we need to work out with, such as, the buffer area, that we're looking to keep natural instead of doing a landscape strip -- which, I believe, they're still looking into -- we're asking that we -- that you approve this application because the covenants that are in question, all the documentation we provided, show they do not regulate this property. So, if you have any

questions, I'll be glad to answer them, and if not I'll sit down.

VICE-CHAIRWOMAN: All right. Commissioners, any questions for Mr. Greene?

(No audible response.)

MR. GREENE: Thank you.

VICE-CHAIRWOMAN: Thank you. Mr. Duke, Mr. Farrar, any comments in response?

MR. FARRAR: So, just for clarification -- and I'll stand -- I'll be happy to stand corrected. We don't think that we received a FOIA request. I think that we, basically, provided Mr. Lambert a copy of the packet that was provided to this Commission, which is not -- it is never the entire packet. There are documents that they are, certainly, welcome to inspect. These are public documents. We have no attempt, here, to keep them from Mr. Lambert or any other member of the public.

VICE-CHAIRWOMAN: Thank you.

MR. FARRAR: Again, I'll stand corrected. I don't believe we received the FOIA request. Regardless, we would've made them available -- the entire packet.

VICE-CHAIRWOMAN: All right. Okay. Mr. McCants, do

you have any comments, now that you've had a chance to review the document?

MR. MCCANTS: Yes, ma'am.

VICE-CHAIRWOMAN: All right, sir, step up.

MR. MCCANTS: I, frankly, wasn't aware that retrieval of information, I have to request, would be necessary from an adjoining land owner to find out what was in an application, as far as this case. But thank you for providing this document, which was not in the -- it was not in what my client received, but regardless, there was a document in there. However, I took a moment to look at the document while the gentleman on behalf of Verizon/Pyramid was here. It is a memorandum of a land-lease agreement between Gerald Waters and Verizon. It talks about a lease and when it gets to where the real property is located, or a description of the real property, it makes reference to an Exhibit A to this document, which is not attached. Do we have an exhibit? 'Cause we'd like to know what land is referenced in this lease agreement. And that should be stapled to, and made a part, of this important document, and it's not with the copy

I received.

VICE-CHAIRWOMAN: Mr. Duke, is that a part of this packet?

MR. DUKE: It is not. And I'm not sure that we actually have that attachment. I'll have to look into that further. I don't have an answer to that question.

VICE-CHAIRWOMAN: Okay.

MR. MCCANTS: Well, that's obviously extremely important. You know, the real property being affected -- and I can continue on with some other points, but the position of my clients, and I suspect every other resident of Bluffwood East, is that you should summarily deny this application on that basis, alone. But let me go to another issue, if I'm right ---

VICE-CHAIRWOMAN: Okay.

MR. MCCANTS: --- and that's the covenant issue that we have in this case. Because it's been pointed out, there is a state statute, which says, this Commission must consider whether or not there's covenants and restrictions. And I was listening, with great interest, the comments made that whether or not Counsel for Verizon, or that someone else that is not

named, that this property, that's on the screen, is impacted by covenants. I will tell you, based on some prior litigation I was involved in, I know for a fact, the entire Bluffwood East development is subject to the restrictions that Mr. Waters placed on it when he developed this property. They are recorded, and I have copies for everybody right here, this evening. They're recorded with Ms. Warner's (ph) office, in Book: 4253, page 69. Can I hand copies of them ---

VICE-CHAIRWOMAN: Yes, sir.

MR. MCCANTS: --- now, before I talk about the specifics of the covenants, I want to share another document with the Commission, that was part of the prior litigation that I mentioned. And, unfortunately, I don't have multiple copies of this.

VICE-CHAIRWOMAN: Can y'all share?

(Complies.)

MR. MCCANTS: I'm gonna give these to -- (inaudible) -- perhaps, give everybody a chance to look at that, initially.

VICE-CHAIRWOMAN: (Inaudible) -- in the book.

MR. MCCANTS: I apologize for the poor copy.

Frankly, this is a relatively old plat that you will be looking at. If you look on the left-hand side -- I don't know if I highlighted the title of this document to everybody, but it is called, Preliminary Plat of Bluffwood East, prepared for Gerald L. Waters, based upon a survey completed by a Mr. Webb (ph), dated August ---

VICE-CHAIRWOMAN: Oh, sorry.

MR. MCCANTS: --- 18th, 2004. And I took a moment with a straight-edge and red pen, with my hand -- it's not entirely clear and I want it straight -- but if you look on my diagram, and you look at what's on the screen, a strange resemblance between this property, on this document, and what's on that screen. It's not strange, it is the same parcel of real estate. And we can go to the plat, we can go to tax numbers to confirm, but I don't think that's an issue. But what I can tell you, is that this plat, they submitted to courts -- to Aiken County, by Mr. Waters, back in 2004 -- in that time frame, seeking approval for this development. And that land, over there on the right side of that plat that's highlighted in

red, is part of Bluffwood East. And there is no question about that. As an Officer of the Court, I am telling you that there was testimony, to that effect, in that prior litigation. And if there is a dispute, members of the Commission, about that, Mr. Waters needs to come in here and tell you folks that I'm wrong. And he's not here. He's part of this development and he is asking for permission to put a cell tower on property that he knows is part of the development where these folks live. And I'm gonna talk with -- about it in a second -- a little bit more about the nature of this property. But again, I am suggesting to the Commission that it is no question, in my mind, that is what is outlined on the screen in purple, and what is outlined in this document I gave to you, outlined in red, is subject to the restrictions and covenants that I just handed up. And if we look at those covenants and the restrictions -- anyway, I gave all my copies to everybody, but ---

VICE-CHAIRWOMAN: Picture -- (inaudible) ---

MR. MCCANTS: --- if you will look at these covenants with me, particularly, on page one,

there's nothing unclear about this, in my mind. Paragraph four says, an addition to barns and outbuildings, as described in here, herein above -- keeping in mind this an equestrian development -- owners may construct one house, one guest house, and one residential apartment, only. That's what you can build on properties within Bluffwood East. Probably, more important than that, number six of these restrictive covenants says, no commercial activity shall be conducted on subject property, specifically including but not limited to, chicken houses, hog farms, or bait farms -- we all know the problems with those kind of enterprises in any neighborhood or development. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors. Those are what you see in equestrian community restrictions and covenants. Which brings me to -- and let's keep in mind, the state statute says you got to consider these, it's not an option. You've got to consider them.

And, kind of, in closing, I want to fall back on our ordinances, here, in Aiken County, with regard to the construction of cellular towers. It's interesting because right there, in the provision, Section: 24 tac 3.5.2 of our ordinance, is a provision dealing with cell towers and what the construction of cell towers is not supposed to interfere with. And it says, cell towers are not to be constructed if they affect the character of the community where the tower is constructed. Now, let's go back again to the nature of this property and where my clients live. I did a diagram, but if you look down, right below -- it's on the screen, Dave and Julia own, almost, all that property, south, of this property, where that cell tower is proposed -- but if you see the little -- there's a flag right there, you can see it a little more toward the end -- in the middle of this construction and everything. And Mr. Waters was apparently given permission for a property -- that he agreed is subject to covenant. Permission to put a tower right next door to where my clients, temporarily on occasion, reside and come down to enjoy Aiken

County. And I'm sure the other residents, there -- some of them here are permanent -- will talk about it too. Here's the point, if my clients, along with everybody else, I believe, in Bluffwood East, has made substantial financial investments in this area of our beautiful county, and has relied upon Mr. Waters and his assurances, that he would protect and preserve this land as an equestrian development. And with all due respect, I know Mr. Waters -- he's a nice gentleman and whatnot -- but my folks are particularly offended by the fact that he took their money, and promised that this would be an equestrian area, and now he wants to put a commercial establishment, literally, next door to them. So, the legal reasons I'm suggesting to the Commission, Madam Vice-Chairman, summarily deny this application. Thank you. I'd be happy to answer any questions anybody may have.

VICE-CHAIRWOMAN: All right. Commissioners, any questions for Mr. McCants?

MS. FULMER: Mr. McCants, I just want to make sure that I understood you correctly. You're missing an exhibit in some of the documents

that you were reviewing?

MR. MCCANTS: I'm not missing it, it's not in the folder.

MS. FULMER: Okay. But ---

MR. MCCANTS: The County says ---

MS. FULMER: --- you did not receive it?

MR. MCCANTS: Because it's not there.

MS. FULMER: Which means you did not receive it, correct?

MR. MCCANTS: That's correct.

MS. FULMER: Yeah. Okay. Just verifying.

MR. MCCANTS: Thank you.

VICE-CHAIRWOMAN: All right. Thank you. Mr. Farrar, based on this document, Mr. McCants has just presented us with, do you have any additional information for us?

MR. FARRAR: It says the property described herein, is specifically made subject to following the restrictive covenants and if we don't have the property -- is this part of a deed? I mean, is this -- it just looks like it's -- it would go to a deed. Is it?

MR. MCCANTS: I'm happy to help you with that, Brad.

MR. FARRAR: I mean, yeah, where's the property?

MR. MCCANTS: Back in Section 24 it makes reference

to Bluffwood East, which is the plat I showed you, earlier.

MR. FARRAR: I understand, but where is the -- this wouldn't be attached to the deed that this would be the restricted covenant for.

MR. MCCANTS: What I can tell you is this, based on my prior experience, that Mr. Waters attached these covenants to certain deeds to certain people who were buying his property within this development. The law, however, is that -- what you're looking at, does not have to be attached to a deed. People buying property are charged with actual constructive, and also legal, notice of the existence of covenants. And that may seem like a harsh rule, but I've confronted it many times with property owners who've come in and said, I didn't know there was covenants. The law in this state is, if they're on the record, and I gave you the book and page, and they pertain to these properties. Period.

MR. FARRAR: And I understand that, but that -- this says the property described, herein, and there's no herein. I just need to -- we just need to see what this pertains to. I understand what you're saying -- you're saying

it pertains to, but where is the recording of the property that this is associated with?

MR. MCCANTS: The title of the document is Bluffwood East. The County approved the plat for Bluffwood East. That's the connection. I'll agree with you, but in those restrictive covenants it is not a property description.

MR. FARRAR: Okay. And -- right. Is there -- and what is this, not official, written across here? What is that? Do you know what that's for?

MR. MCCANTS: When we go on the internet to pull county documents, we ensure the integrity of them. The computer spits out a copy with, not official ---

MR. FARRAR: Okay.

MR. MCCANTS: --- written across the top of it.

MR. FARRAR: Okay. So this is not recorded with not official written across, is what you're saying?

MR. MCCANTS: It is recorded right because there's a book and page at the bottom of that.

MR. FARRAR: No, no. But when you -- when you go pull it from the RMC, it's not actually saying not official on there?

MR. MCCANTS: Oh, no.

MR. FARRAR: Okay. Again, so ---

MR. MCCANTS: All right.

MR. FARRAR: --- so, this is just a copy of it?

MR. MCCANTS: In fact, if I file pleadings, I come down here and get a clean docket. I don't like filing things that say they're not official, I'm just showing y'all that for y'alls benefit, tonight.

MR. FARRAR: Very good. Can I ask you -- did you get the email that I sent on October 21st to Pyramid and to Mr. Lambert?

MR. MCCANTS: Short answer's no. I probably didn't have an appearance and also, I got over 2,000 emails that I'm having to look through ---

MR. FARRAR: Well, yeah, when Mr. Lambert came last month he said you were his Lawyer, so I didn't ---

MR. MCCANTS: All right.

MR. FARRAR: --- know.

MR. MCCANTS: I did not see it. I'm sorry.

MR. FARRAR: Gotcha. Okay. But my recommendation on this is to get everybody in the same room at the same time and if you've got Mr. -- well, I don't know Mr. Waters. Is he able to come to any? I don't know his status ---

VICE-CHAIRWOMAN: He's here. He was here before.

MR. FARRAR: Okay. If he was here before, I would recommend you get him here next month and the people who, you know -- and then he can explain what he, you know -- what this pertains to, and maybe we can get a copy of the deed that it pertains to and you can have everything, you know, at that time. However, you can go -- you can go forward, you have that option. You can -- you could do it next month. I will say this, 'cause I don't want there to be any surprises. This chair is gonna be empty next month because I'm gonna be in Germany on military duty. I will not be here at the next meeting. I can phone in -- it'll be seven, six hours difference, it'll be one in the morning, that's fine, I can do that, but I would recommend you get everybody in the same room to answer these questions.

MR. MCCANTS: May I, just for the record Ms. Stewart, make a comment?

VICE-CHAIRWOMAN: Yes.

MR. MCCANTS: The absence of that exhibit on that, so-called, lease agreement is fatal to this application. You don't need to wait another

month. Verizon needs to get it's wires in order and bring a complete and proper application to this board. Period.

MS. FULMER: Madam Chair, can I just ask another question?

VICE-CHAIRWOMAN: Yes.

MS. FULMER: Mr. McCants, do you have a record plat? That, what you showed us, was a preliminary plat.

MR. MCCANTS: I tell you, we ---

MS. FULMER: Do you have a record plat ---

MR. MCCANTS: --- Ms. Fulmer, we ---

MS. FULMER: --- because the shape of that -- the shape of that parcel is actually different than what's highlighted there. So at some point in time, something was recorded and what you showed us was preliminary, not record.

MR. MCCANTS: That may have been -- is you talking about my red line on that document ---

MS. FULMER: Yeah -- (inaudible) ---

MR. MCCANTS: --- that's me and my bad hand.

MS. FULMER: No, I'm just saying that the plat that you showed us is not -- it's not stamped, it's not signed off, it's not a record plat, it's a preliminary plat.

MR. MCCANTS: It -- we struggled with the word preliminary, in the prior limit -- litigation. What I can tell you is, the Court found that that was a plat, which set forth Mr. Waters outline of Bluffwood East and which properties would be included in this covenant.

MS. FULMER: Okay.

MR. MCCANTS: That's the best I can tell you. And I'm not challenging you, Ms. Fulmer, I'm ---

MS. FULMER: No, I'm fine if you challenge me ---

MR. MCCANTS: I ---

MS. FULMER: --- I'm just asking to produce a record plat of such.

MR. MCCANTS: I think that's recorded. Can I borrow this from you, please, Mr. Duke -- (inaudible) ---

MS. FULMER: Yeah, it does -- it doesn't have a stamp or a signature on it and the shape of the lot is different, so. And it's ---

UNKNOWN MALE VOICE: It's good.

MS. FULMER: --- showing as preliminary.

MR. MCCANTS: Yeah, and I agree with you. The word preliminary was very struggling for us. I thought we would have -- we had one -- (inaudible) ---

MS. FULMER: Uh-huh. Yeah.

MR. MCCANTS: --- and you can see that is not the case.

MS. FULMER: No. There's nothing in there ---

MR. MCCANTS: I don't -- (inaudible) ---

MS. FULMER: --- that indicates that it's official.

MR. MCCANTS: I'll look for you -- (inaudible) ---

VICE-CHAIRWOMAN: Well, maybe that's where we leave today. All right. Commissioners, any other questions for Mr. McCants?

(No audible response.)

VICE-CHAIRWOMAN: All right.

MR. GREENE: Give me one second -- (inaudible) ---

VICE-CHAIRWOMAN: Get that title, right? All right. Mr. Greene, you had your ...

MR. GREENE: I just wanted the opportunity to do a -- address some of the questions that were -- some of the accusations, I guess, for lack of a better term, that have been made. Verizon has thousands of sites across the nation and, basically, we use the same agreement our -- the agreement's never been questioned. There's a question about the exhibit to the memorandum that is recorded with the County. I tried to find it, of course, you know, I never -- I

couldn't find it. But it's somewhere online. We do have it. It is recorded. Whether or not it was turned in, as a part of the application and it fell off, I don't know, but to say that you don't have that piece of paper, please deny it. Well, now I'm gonna say if he -- if there is no recorded plat, and if these -- the -- these -- the covenants cannot be shown to be related to this property on this plat, and if the property that is on this plat, if it's not recorded then it's the same situation. There's no case for the opposition. It's exactly what we say, the covenants do not regulate this particular parcel. If the plat is not recorded, it's not official. We couldn't find anything on Bluffwood East in the county records. If there is something, I'd love to see it because we need it. As I stated, Verizon doesn't want to go into an agreement where there's questions about the legal ---

VICE-CHAIRWOMAN: So you have not seen this document?

MR. GREENE: --- no ma'am -- well, as it relates to the parcel, I have not seen anything recorded, or a plat, or a subdivision ---

VICE-CHAIRWOMAN: Okay.

MR. GREENE: --- plat, showing that property in relation to the Bluffwood East. The only document we've seen in the Bluffwood East, were the covenants that are attached to the deeds. And as far as Mr. Waters, I can't speak to what he did when he sold the property -- maybe he had -- I -- I'm not even gonna go that way. But we have taken your ordinance and found a property that meets the ordinance. We -- and I can appreciate the fact that, you know -- to some of these folks, this is a second home for them and they come here to relax. And I'm not -- as I said, I'm from Georgia, I'm not from South Carolina, but wireless is very important at -- aspect of our world, today, like it or not. There are more people using their cell phones than there are land lines, except that wireless people need them for emergency situations, day-to-day activities, business, whatever. The people that actually live in this community, without knowing anyone in the area and without knowing that they're Verizon customers, would probably appreciate better service along this stretch of road. The fact

that Verizon is here, there's an obvious need, there's an obvious gap, which I've shown to you on the coverage maps. There's an obvious need. They're not gonna spend, probably close to, a million dollars, when it's all said and done -- that's everything, you know, all the -- all the work, all the due diligence -- spend a thousand dollars for a cell tower that they don't need. So, we have an agreement with the property owner, it is recorded with the County, we have met all the requirements for the application, our site meets all the requirements. But with that being said, if you so desire, we requested it be continued and I would like for Mr. Farrar to be there so if we could, I guess -- if we could postpone it until his return -- if we need to come back here or maybe we could have a meeting, maybe not -- but just us meeting together and try to go over this. Our Attorney is actually in Columbia, so that wouldn't be -- you know, they're local. So, we can do that. But we meet the ordinance, we've done all our due diligence, we have the right to this property. This property, you know, we can build a tower on this town -- on this property,

if it comes to it. So, thank you, if you have any questions -- thank you.

VICE-CHAIRWOMAN: Any questions for Mr. Greene?

(No audible response.)

VICE-CHAIRWOMAN: Okay. Commissioners, it's back to us. Any comments or discussion, before I ask for a motion?

UNKNOWN MALE VOICE: (Inaudible) ---

VICE-CHAIRWOMAN: I'm sorry, sir, this isn't a public hearing. This is -- this wasn't a public hearing.

UNKNOWN MALE VOICE: (Inaudible) ---

VICE-CHAIRWOMAN: No, it was not, so. No, we aren't taking any comments from the public, at this time.

UNKNOWN MALE VOICE: (Inaudible) ---

VICE-CHAIRWOMAN: Yes.

UNKNOWN MALE VOICE: (Inaudible) ---

MR. DUKE: Madam Chair?

VICE-CHAIRWOMAN: Yes, sir?

MR. DUKE: So, Mr. Farrar asked the folks, basically making the contention that there is a restrictive covenant, asked that they submit that information. This evening is the first time they have submitted that information. He

asked that, of both parties, the Applicant, Verizon -- or Pyramid, excuse me -- before Verizon submitted their version of that. We can certainly go look for that. I think it would be helpful if we had an opportunity to review the documents you have tonight. We don't have a copy of the -- of the map. I took Ms. Fulmer's copy of the -- of the restrictive covenant, which appears -- based on my looking at the RMC document, appears to be a portion of a deed, not in -- not the recorded restrictive covenant. So, we have questions. And I think it would be helpful if we could get though -- that information submitted. I mean, I don't know the answer, okay. So, I think it would be helpful if we could get those submitted and have a chance to review them in depth because I don't know that anybody on this -- at this table can offer you a good answer.

MR. FARRAR: Let me, just read to you -- (technical audio interference) ---

(Audio interference.)

MR. FARRAR: Well, I can give you an opinion but let me read you what a statute says. This is 6291145, determining existence of restrictive

covenants in subsection C, as used in this section, one actual notice is not constructive notice -- which would be somebody telling us there's something there, would be actualiy aware of -- aware of the document. Not constructive notice of documents filed on local offices, concerning the property -- which would be the RMC -- which, by the way, Aiken is the only county in the state that still has an RMC, just an odd fact, but everybody else has an ROD -- and does not require the local planning agency, which would be Mr. Duke's office, to conduct searches in any records offices for filed restrictive covenants. That's why we asked last month -- it's just like, look, you know, we can go looking for it or if you -- obviously, they're aware of it, they can just give us a copy of whatever they have and we've got these restrictive covenants that apply to -- was it Bluffton (ph) -- was it Bluffton (ph) East -- Bluffwood East, sorry. But it looks like if they were -- would've be affixed to a particular deed. This other property described, herein, and that part was missing. So, if we could just get that, that would be

quite helpful. And I'll be honest with you, I'm turning into a pumpkin this weekend, 'cause I'm heading over to -- I mean, I -- I'm -- I work at U.S. European Command, that's the unit that deals with the Ukraine situation, so they're bringing me in for something for that, so I'm -- you know, I -- look, this ain't the closest gator to my boat right now, I'm sorry. I mean, I'm not gonna be looking for their restrictive covenants, I'm gonna be dealing with some other issues, so I'm happy to do it when I get back, but I can't -- I cannot do that right now.

VICE-CHAIRWOMAN: Well, I think that -- you know, would it be fair, Commissioners, to say that I think we still feel we need this additional information before we can make a valid decision? And so, having said that, would everyone like to make a motion regarding this application?

MOTION:

UNKNOWN MALE VOICE: I agree with that -- (inaudible) ---

VICE-CHAIRWOMAN: Is there a second?

MS. FULMER: Yes. Madam Chair, I'd like the record

to show that I agree with Mr. Gmerek. And I'd like ---

(Laughter.)

MS. FULMER: I'd like to second his motion that we staple this until January. Certainly feels like there is some I's that need to be dotted, a few T's that need to be crossed.

VICE-CHAIRWOMAN: Thank you. All right. We have a motion and a second. Any discussion?

(No audible response.)

VICE-CHAIRWOMAN: All right. I'll call for the vote. All in favor?

(Unanimous response.)

VICE-CHAIRWOMAN: Thank you. All right. And that would give the Applicant and the concerned citizens plenty of time to research this and provide us with any additional information that we may need. All right, having said that ---

(Recording ended.)

Aiken County
Planning & Development Department
Remembering the Past, Preparing for the Future

Joel T. Duke, AICP
Chief Development Officer

WORKSESSION
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1st FLOOR – SANDLAPPER ROOM
5:30 P.M., THURSDAY, JANUARY 19, 2023
MEETING NO. 23-01-01

1. Practice of approving items with contingencies.
2. Planning Commission Reminder Dates:
   - **Thursday, February 16, 2023** – Worksession

AGENDA
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY – 1ST FLOOR – SANDLAPPER ROOM
6:00 P.M., THURSDAY, JANUARY 19, 2023
MEETING NO. 23-01-01

A) CALL TO ORDER

B) RECOGNITION OF VISITORS

C) APPROVAL OF MINUTES: Meeting No. 22-12-01

D) APPROVAL OF AGENDA

E) ELECTION OF 2023 OFFICERS

F) PRESENTATIONS:

1. **Variance Request from Sec. 24-7.9-4 a 3 Separation between easements (Public Hearing)**
   Applicant: Barbara Sanders & Jacquelyn Godwin
   Engineer: Rikard Enerprises, LLC
   Location: Chalk Bed Road (S-104)
   Tax Parcel Number: 050-06-05-002
   Zoning: RUD
   County Council District: 3 – Danny Feagin

2. **Proposed Private Road – Preliminary Plat Approval (Public Hearing)**
   Applicant: Barbara Sanders & Jacquelyn Godwin
   Engineer: Rikard Enterprises, LLC
   Location: Chalk Bed Road (S-104)
   Total Acreage: .5
   Tax Parcel Numbers: 050-06-05-002
   Zoning: RUD
   County Council District: 3 – Danny Feagin

FILED April 27, 23

"Exhibit 8"

3. **Proposed Private Road Name Change – (Public Hearing)**
   Applicant: Michele A. Gomez
   Current Name: Smoot Drive P-488
   Proposed Name: Gomez Loop P-488
   Location: Williston Road US-278
   Tax Parcel Number: 111-08-05-001
   County Council District: 2 – Mike Kellems

4. **The Abbey 2E at Trolley Run Station – Preliminary Plat Approval (Public Hearing)**
   Applicant: Sage Mill Residential, Ltd.
   Engineer: Hass & Hildebrand, Inc
   Location: Beadlow Street (C-2956)
   Total Acreage: 12.0
   Total Number of Lots: 85
   Tax Parcel Number: 086-00-19-001
   Zoning: PUD A
   County Council District: 8 – Willar Hightower

G) OLD BUSINESS:

1. **Wireless Telecommunication Tower**
   Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
   Location: Old 96 Indian Trail, Wagener
   Tax Parcel: 262-00-01-002
   Zoning: RUD, Rural Development
   Proposed Tower: 305' self supporting telecommunications tower
   County Council District: 1 – Ron Felder

H) NEW BUSINESS: None

I) NEXT REGULAR MEETING: February 16, 2023

J) ADJOURNMENT

MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR– SANDLAPPER ROOM
6:00 P.M., THURSDAY, NOVEMBER 17, 2022
MEETING NO. 22-11-01

A. CALL TO ORDER

The regularly scheduled meeting of the Aiken County Planning Commission was called to order at 6:00pm by Chairwoman Vance. The Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Grace Vance, Chairwoman
2. Liz Stewart, Vice Chairwoman
3. Richard Adams
4. Denise Fulmer
5. Dennis Gmerek
6. William Harris, Jr
7. Robert Mitchell
8. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson

STAFF PRESENT

Sandra Colvin, Administrative Assistant
Rhonda Connelly, Planner 1
Joel Duke, Director
Terry Reames, Code Enforcement
Vickie Reynolds, Senior Planner

B. RECOGNITION OF VISITORS

Chairwoman Vance welcomed the visitors to the Planning Commission meeting.

C. APPROVAL OF MINUTES: Meeting No. 22-11-01

Chairwoman Vance asked for a motion to approve the minutes. Mr. Gmerek made a motion to approve the minutes. Mr. Harris seconded the motion. The motion passed with majority approval.

D. APPROVAL OF AGENDA:

Chairwoman Vance asked for any amendments to the agenda. Mr. Duke stated there are no amendments. Mr. Harris made a motion to approve the agenda. Mr. Mitchell seconded the motion. The motion passed by unanimous approval.

E. PRESENTATIONS:

1. **Byrd Village –Resubmittal for Preliminary Plat Approval (Public Hearing)**
Applicant: ALR Townhouses, LLC / DR Horton, Inc.
Engineer: Southern Partners, Inc.
Location: Off of Ascauga Lake Road (S-33)
Total Acreage: 30.05
Total Number of Lots changed to Patio Homes: 34
Tax Parcel: 049-16-05-001 & Byrd Village, Sect.1 (Aiken County RMC PB 63/PG 935)
Zoning: RUD
County Council District: 6 – Phil Napier

Mr. Duke addressed the Commission stating this is a request to revise the existing preliminary plat approval. The project was developed as a townhome community accessed from Ascauga Lake Road. The request before the Commission is a shift of property lines in several lots. Aiken County staff has reviewed the request and see no issue with it. This is a self-contained neighborhood. It has one access point. Mr. Duke stated a five foot variance from the side setbacks was granted by Aiken County Board of Appeals at the December 2022 meeting.

Chairwoman Vance opened the public hearing.

Jared Poe, 4234 Wheeler Road, Martinez, Ga, representing the applicant, addressed the Commission stating seeking approval of a revised preliminary plat that would allow the applicant to break up the streetscape in the village by adding patio home lots. Ms. Fulmer asked if this would increase or decrease density. Mr. Poe stated no increase or decrease. Ms. Fulmer asked for explanation. Mr. Poe discussed the plan to disconnect the end unit townhome and essentially create a standalone patio home for each of the original four lots.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Adams made a motion to approve. Mr. Gmerek seconded the motion. The motion passed unanimously.

2. **Weeping Willows Phase 2 – Preliminary Plat Approval (Public Hearing)**
Applicant: Turner Development, LLC
Engineer: CES Group Engineer, LLP / David Lutz, PE
Location: Old Aiken Road (S-365)
Total Acreage: 54 +/- acres
Total Number of Lots: 83 Single Family Lots & 69 Townhome Units
Tax Parcel: 013-12-01-001
Zoning: PUD A
County Council District: 5 – Sandy Haskell

Mr. Duke addressed the Commission stating the development was approved as a planned unit development type A earlier in 2022. It is located off of Old Aiken Road and US 1. The initial phase was approved several months ago for preliminary plat with applicant working through a number of contingency items. The current request for phase two, is a mixture of single

families site built structures and connected townhomes. SCDOT has approved a turnout required for this phase under consideration, and has approved an additional permit for accessing phase one or a future part of phase one.

Chairwoman Vance opened the public hearing.

Tracey Turner, with Turner Development, addressed the Commission stating this is a request for Phase 2 for 89 single family structures and 69 connected townhomes. The applicant is willing to work with Aiken County Planning and Development.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Gmerek made a motion to approve with contingencies. Mr. Mitchell seconded the motion. The motion passed unanimously.

3. **Variance Request from Section 24-7.3(5) – Intersections – (Public Hearing)**
Proposed Development: Commercial Property
Applicant: Elcan & Associates, Inc.
Location: 3600 Block of Charleston Highway
Tax Parcel: 190-00-17-040
Zoning: RUD
County Council District: 1 – Kathy Rawls

Mr. Duke addressed the Commission reviewing the request for a variance from the required driveway separation on a major thoroughfare. He reviewed the staff memorandum which provided the background and the Commission authority to grant a variance. He addressed specifics of the case stating the applicant has under contract property located at corner Hatchaway Bridge Road and Charleston Highway, and is proposing for a driveway separated by less than 300 feet from the closest roadway. The variance request is in anticipation of submission of a development plan for retail development that would have both driveways on Hatchaway Bridge Road and Charleston Highway. Project will have requested distance of approximately 169 feet separation between Hatchaway Bridge Road and Charleston Highway.

Mr. Gmerek asked if it would be better to wait for a SCDOT review before going further with the request. Mr. Duke stated the SCDOT will not consider without formal applicarion, which the development will not purse unless a variance is granted by Aiken COunty. Mr. Palmer stated it may be premature and wait for SCDOT review. Mr. Gmerek made a motion to suspend this item until SCDOT undergoes their reviews. Mr. Adams seconded the motion. Chairwoman Vance called for a vote. The motion was denied, with a four to three vote.

Chairwoman Vance opened the public hearing.

Reid Fawcett, 2862 Dauphia Street, with Elcan & Associates, addressed the Commission stating have had preliminary talks with SCDOT. There hadn't been a formal submission just trading emails. SCDOT stated to Mr. Fawcett that the access point on Charleston Highway would need to be a right in/right out.

Sean Wilson, with Kimley Horn, addressed the Commission stating that as far as the engineering goes, SCDOT past action to acquire a portion of the original site, left kind of a smaller site. He stated designers were unable to create a delivery truck route around the building with just one entrance off of Hatchway Bridge Road, leading to the request for entrances off of Charleston Highway and Hatchway Bridge Road.

Joseph Mogelnick, 3603 Charleston Hwy, addressed the Commission with concerns of increased traffic. He stated concern with more accidents.

Melanie Oldham, 118 Wisteria Drive, addressed the Commission with concerns safety and additional traffic.

Caroline Albright, 1111 Hatchway Bridge Road, addressed the Commission with concerns of increase traffic and safety issues.

Fran Robinson, 280 Wisteria Drive, addressed the Commission with concerns for safety and increase traffic.

Joyce Egge, 214 Wisteria Drive, addressed the Commission with concerns of safety and liability.

Mark Melton, 140 Wisteria Drive, addressed the Commission with concerns of safety, increase traffic, and increase speeding.

Leigh Partlow, 1111 Hatchaway Bridge Road, addressed the Commission with concerns of increase in traffic and safety.

Alyssa Carpenter, 261 Wisteria Drive, addressed the Commission with concerns of traffic and safety issues. (provided pictures of horse trailer)

Carolyn Barrett, 252 Old Bell Road, addressed the Commission with concerns of additional traffic and safety issues.

Greg Sandomirsky, 253 Wisteria Drive, addressed the Commission with concerns of traffic and safety issues.

Reid Cresswell, 1601 Joyner Pond, addressed the Commission with concerns of additional traffic.

Jerry Rowe, 281 Wisteria Drive, addressed the Commission with concerns additional traffic, safety issues, and stormwater flooding.

Barbara Davidson Miles, 129 Wisteria Drive, addressed the Commission with traffic and safety issues.

Tim Gant, 1639 Joyner Pond Road, addressed the Commission stating there was a business on property for many years.

Chairwoman Vance closed the public hearing and asked for a motion. Ms. Stewart made a motion to deny the variance. Mr. Mitchell seconded the motion. The motion passed unanimously.

F. OLD BUSINESS:

G. NEW BUSINESS:

1. **Discussion – Possible Land Management Regulations Modification - Artificial Light Nuisances**

   Requested by: Joel Duke, AICP, Chief Development Officer

   Mr. Duke briefly reviewed a public request to examine ordinances regarding light encroachment on individual lots.

   Vice-Chairwoman Stewart stated will serve on committee. Commission agreed to postpone until January 2023 meeting.

H. NEXT REGULAR MEETING: January 19, 2023

Mr. Duke commented on the retirement of Vickie Reynolds and her 29 years of service to Aiken County. Chairwoman Vance commented on the end of Mr. Robert Mitchell's term as a Commissioner and thanked Mr. Mitchell for his service to Aiken County.

I. ADJOURNMENT:

Chairwoman Vance asked for a motion to adjourn. Mr. Mitchell made a motion to adjourn the meeting. Ms. Stewart seconded the motion. The motion passed by unanimous consent with the meeting ending at 7:30 p.m.

Respectfully Submitted,

Joel T. Duke, Secretary	Date	Grace Vance, Chairwoman	Date

OLD BUSINESS #1

Aiken County
County Attorney

Remembering the Past, Preparing for the Future

Bradley T. Farrar
County Attorney

November 21, 2022

Nick Steinhaus, Esquire
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
1501 Main Street, Suite 310
Columbia, South Carolina 29201

Clark W. McCants III, Esquire
Nance & McCants
218 Newberry Street, S.W.
Aiken, South Carolina 29802

Re: Wireless Telecommunications Tower
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002

Dear Gentlemen:

Attached are copies of documents provided to the members of the Aiken County Planning Commission and included in the record of the above-referenced matter at the Commission's meeting on November 17, 2022. They include:

1) Letter of November 17, 2022, from Clarke W. McCants III, Esquire;
2) E-mail of November 15, 2022, From Nick Steinhaus, Esquire;
3) Limited Warranty Deed recorded on January 27, 2006, in Deed Book RB 4042, Pages 1955-1960, in the Office of the Register of Mesne Conveyance for Aiken County;
4) Title to Real Estate recorded on March 30, 2010, in Deed Book RB 4301, Pages 1238-1243, in the Office of the Register of Mesne Conveyance for Aiken County; and
5) Title to Real Estate recorded on March 26, 2014, in Deed Book RB 4499, Pages 2015-2019, in the Office of the Register of Mesne Conveyance for Aiken County.

At last Thursday's meeting, Mr. McCants, Esq., also offered the attached Restrictive Covenants For Bluffwood East for the Commission's consideration.

The Planning Commission continued this matter until its meeting in January 2023.

S.C.Code Ann. Section 6-29-1145 provides in relevant part:

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order. (Emphasis supplied herein).

Importantly, Subsection (C) provides in relevant part:

As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants: (Emphasis supplied herein).

In accordance with 6-29-1145(C)(1), you are encouraged to submit any relevant documents or exhibits you believe bear upon the facts of this request, preferably prior to the call of this matter so that they may be included in the agenda packet, as the Aiken County Planning Department is not required to search for any documents, whether recorded or not, that relate to restrictive covenants and it does not represent either the applicant or anyone in opposition to a matter that comes before the Planning Commission.

Thank you for your help in this matter. With kindest regards, I am

Sincerely Yours,

Bradley T. Farrar
Aiken County Attorney

Enclosures

Cc: Aiken County Planning Commission
Aiken County Planning Director

NANCE & MCCANTS

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218 Newberry Street, S.W.
Aiken, South Carolina 29802
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James D. Nance, LLC
Clarke W. McCants, III, P.C.
Amy Patterson Shumpert
Clarke W. McCants, IV

Post Office Box 2881
Aiken, SC 29802-2881
Fax: (803) 649-5566
clarkemccants4@gmail.com

November 17, 2022

Mr. Dennis M. Gmerek
Chairman - Aiken County Planning Commission
1930 University Pkwy #3600
Aiken, South Carolina 29801

Re: Telecommunications Tower Application; tax parcel #262-00-01-002

Dear Dennis:

I have been retained by David Lambert and Julia Beamish with respect to an application presented to the Aiken County Planning Commission by Pyramid Network Services for the construction of a telecommunications tower on Aiken County Tax Parcel No. 262-00–01-002. Please note my appearance in this matter in that regard.

I understand this matter is scheduled to be heard before the Planning Commission this evening at 6:00 p.m. I would look forward to appearing before the Commission at that time.

With best regards, I remain,

Respectfully yours,

Clarke W. McCants III

cc: Mr. Dave Lambert
Bradley T. Farrar, Esquire (via email to: bfarrar@aikencountysc.gov)
Mr. Joel T. Duke

Bradley Farrar

From: Steinhaus, Nick <nsteinhaus@bakerdonelson.com>
Sent: Tuesday, November 15, 2022 7:22 PM
To: Bradley Farrar
Cc: Joel Duke; lgreene@pyramidns.com
Subject: FW: Falkour - Zoning Opposition
Attachments: 4042 1955.pdf; 4301 1238.pdf; 4499 2015.pdf

*** **Important Notice:** This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. ***

Brad:

It was a pleasure speaking with you yesterday. You've raised some very interesting questions regarding the interplay between the Telecom Act and Sec. 6-29-1145. Fortunately, I believe there is a much simpler resolution to the matter at hand. As discussed on our call yesterday, I am of the opinion that there are no restrictive covenants that apply to Parcel ID 262-00-01-002. I've attached the vesting deed (Book 4042, Page 1955) for PID 262-00-01-002 whereby Gerald Walters acquired title to the then 122 acre tract on January 27, 2006. If you review that deed, I'm sure you will agree that there are no restrictive covenants contained therein.

In 2010, Mr. Waters sold off a portion of PID 262-00-01-002. The portion consisted of a 17 acre tract (n/k/a PID 262-00-01-043) which was sold to David Lambert and Julia Beamish by deed recorded in Book 4301, Page 1238. When conveying the 17 acre outparcel, Mr. Waters created and attached restrictive covenants in question (see Exhibit A to the deed). As noted above, the restrictive covenants did not exist prior to that conveyance. Furthermore, Exhibit A is clearly limited to the 17 acre tract because it states "The *property described herein* is specifically made subject to the following Restrictive Covenants". The 17 acre tract is the only property that is described in the deed.

It's worth noting that that Mr. Waters conveyed the remainder of Parcel ID 262-00-01-002 (along with several other parcels) to the Gerald L. Walters Living Trust U/A on March 26, 2014 pursuant to a deed recorded in Book 4499, Page 2015. There is no mention of the Restrictive Covenants in that subsequent deed, which further evidences the fact that the Restrictive Covenants were only intended to apply to the 17 acre tract (PID 262-00-01-043).

In light of the above, it is our position that Section 6-29-1145 should have no bearing on Aiken County's issuance of a permit to Verizon Wireless. I will be traveling much of the day tomorrow but you can reach me on my cell phone if you would like to discuss further.

Regards,

Nick Steinhaus
Office Managing Shareholder
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
1501 Main Street, Suite 310
Columbia, South Carolina 29201
Direct: 803.251.8828
Mobile: 803.727.9410
Email: nsteinhaus@bakerdonelson.com

From: Bradley Farrar <BFarrar@aikencountysc.gov>
Sent: Friday, October 21, 2022 4:53 PM
To: Greene, Lannie <lgreene@pyramidns.com>; Dave.l.lambert@outlook.com
Cc: Joel Duke <JDuke@aikencountysc.gov>
Subject: Pyramid Network Services for Verizon Wireless (October 2022 Aiken County Planning Commission)

Gentlemen,

As discussed at last evening's Aiken County Planning Commission meeting, I wanted to give you an opportunity to submit in writing to the Commission any comments you may have regarding the issue of neighborhood restrictive covenants and the placement of cell towers in light of the restrictive covenants Mr. Lambert introduced, and the requirements under the federal Telecommunications Act of 1996. It is entirely up to you if you want to submit further input or not.

Specifically, 47 U.S. Code § 332 - Mobile services, provides in relevant part:

"...(c) REGULATORY TREATMENT OF MOBILE SERVICES

...(7) PRESERVATION OF LOCAL ZONING AUTHORITY

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(i)The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) Definitions

For purposes of this paragraph—

(i) the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and

(iii) the term "unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) of this title)."

Another relevant source of authority in this area is S.C.Code Ann. Section 6-29-1145, "Determining existence of restrictive covenant; effect," which provides:

"(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and

(3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land."

Please in particular address the highlighted portions of this statute.

Any information you can provide from your perspective on the interplay of the above federal and state laws, and the restrictive covenants at issue, would be appreciated. As to the latter, I saw a portion of the restrictive covenants at last night's meeting, but do not have a copy of them. Mr. Lambert, if you could please provide us with a full copy of the restrictive covenants you introduced, or a Book and Page cite to them at the Aiken County Register of Mesne Conveyances, that also would be helpful. Thank you.

Sincerely,

Bradley T. Farrar
Aiken County Attorney
1930 University Parkway, Suite 3628
Aiken, South Carolina 29801
Direct Dial Office: 803-642-3628
Mobile: 803-348-4456
BFarrar@aikencountysc.gov

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION NOT FOR DISSEMINATION BEYOND ORIGINAL ADDRESSEE(S) AND COPIED RECIPIENT(S)

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2006002871
DEED
RECORDING FEES $10.00
STATE TAX $556.40
COUNTY TAX $235.40
PRESENTED & RECORDED:
01-27-2006 08:11 AM
JUDITH HAMMER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: JOYCE H EAGLE DEPUTY RMC
BK:RB 4042
PG:1955-1960

AIKEN COUNTY ASSESSOR
Tax Map:
[illegible]

After recording, return to:
Mary O. Guynn, Esq.
Smith, Massey, Brodie & Thurmond, P.A.
P. O. Box 519
Aiken, South Carolina 29802

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into this 23rd day of January, 2006, by and between **BLUE SKY TIMBER PROPERTIES LLC**, a Delaware limited liability company, duly authorized by law to transact business in the State of South Carolina, with an address of 6775 Lenox Center Court, Fourth Floor, Memphis, Tennessee 38115, the party of the first part, and [illegible] a South Carolina resident, with an address of 2820 Old 96 Indian Trail Road, Wagener, South Carolina 29164, the party of the second part:

WITNESSETH:

That first party, for and in consideration of the sum of Ten ($10.00) Dollars and other good and valuable consideration to it in hand paid, at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, released, conveyed and confirmed, and by these presents does grant, bargain, sell, release, convey and confirm, unto second party, his heirs and assigns, all of the property ("Property") described on Exhibit A, attached hereto and

made a part hereof.

The Property is conveyed, however, subject to the following exceptions and reservations.

1. Current year's ad valorem taxes and rollback taxes, if any;

2. Matters of record, licenses, rights of way, easements, conditions, restrictions, recorded reservations of mineral rights, zoning laws, ordinances, regulations, and other matters affecting the Property, of record as of the date hereof;

3. Any state of facts which an accurate survey or an inspection of the Property would reveal, including, but not limited to, the location of boundary lines, improvements and encroachments, if any; and

4. Prior reservations by third parties (other than first party herein) or conveyances to third parties (other than first party herein) of oil and gas and other minerals or mineral leases of any kind and character.

TOGETHER WITH ALL AND SINGULAR the rights, easements, ways, members and appurtenances to said land being, belonging, or in any wise appertaining, and the remainders, reversions, rents, issues and profits thereof, and every part thereof.

TO HAVE AND TO HOLD said land and all and singular the members and appurtenances thereto belonging as aforesaid, and every part thereof, unto the party of the second party, his heirs and assigns, forever in fee simple

And first party, its successors and assigns, shall and will specially warrant, and forever defend by these presents, the title to the Property unto second party, his heirs and assigns, against first party, its successors and assigns, and against lawful claim or claims of all persons claiming by, through or under first party.

IN WITNESS WHEREOF, first party has caused these presents to be executed by its proper officers authorized thereunto, and its seal affixed, the day and year first above written.

Signed, Sealed and Delivered
in the presence of

Witness 1

Witness 2

BLUE SKY TIMBER PROPERTIES LLC,
a Delaware limited liability company

By:
Name: E. Wayne Plummer
As Its: Vice - President

Attest:
Name: Becky Hoyser
As Its: Assistant Secretary

STATE OF TENNESSEE

COUNTY OF SHELBY

ACKNOWLEDGMENT

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named E. Wayne Plummer as Vice - President and Becky Hoyser as Assistant Secretary, of Blue Sky Timber Properties LLC, and as the act and deed of said limited liability company, sign, seal and, as their act and deed, deliver the within-written Deed for the purposes therein mentioned and that s/he, with the other witness whose signature appears above, witnessed the execution thereof.

SWORN to before me this 28th day of January, 2006

Notary Public, Shelby County, State of Tennessee

My Commission Expires: 7/14/09

(NOTARY SEAL)

Witness No. 1

Exhibit A

371-1E UNION CAMP CORPORATION/FRAZIER TRACT

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Twenty [illegible] (120.967) acres, more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the R.M.C. Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed reference is hereby specially made, said deed describing a total of 620.186 acres, more or less.

Tax ID#: 00-311.0-01-030

STATE OF SOUTH CAROLINA)
) **AFFIDAVIT**
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

2. The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number (00-311.0-01-030) was transferred by (Blue Sky Timber Properties) to (Gerald Waters)on the (23) day of (January), 2006.

3. Check one of the following: The deed is
   (a) ____X_____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) ___ _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
   (c) _ ___ ___ exempt from the deed recording fee because (*See Information section of affidavit*)

   (If exempt, please skip items 4 7 and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
   (a) ___ X_____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of___$214,000.00
   (b) _____ The fee is computed on the fair market value of the realty which is _____
   (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check Yes ___ or No ____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:_____

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$ 214,000.00
(b) Place the amount listed in item 5 above here:	$
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$ 214,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: ___$791 80

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this
23 day of January 2006

Notary Public for South Carolina
My Commission Expires

Responsible Person Connected with the Transaction

Mary Q. Guynn
Print or Type Name Here

CRYSTAL ADAMS NOTARY PUBLIC EXP 6-28-15 STATE OF SOUTH CAROLINA

Book 4042 Page 1959

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXCEPTED FROM THE FEE ARE DEEDS

1. transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2. transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3. that are otherwise exempted under the laws and Constitution of this State or the United States;
4. transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5. transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6. transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7. that constitute a contract for the sale of timber to be cut;
8. transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9. transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10. transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11. transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12. that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed, and;
13. transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings;
14. transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty;
15. transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

AIKEN COUNTY ASSESSOR
Tax Map:
262-00-01-002 PORTION
262-00-01-043
AIKEN COUNTY GIS
Tax Map:

2010007211
DEED
RECORDING FEES $10.00
STATE TAX $260.00
COUNTY TAX $110.00
JUDITH HARPER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
By: MARILYN SEIGLER DEPUTY
BK: RB 4301
PG: 1236-1243

Space above this line for recording information

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS THAT, A/K/A GERALD L. WATERS herein referred to as Grantor for and in consideration of the sum of ONE HUNDRED THOUSAND AND 00/100 (100,000.00) Dollars to me paid by AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, hereinafter referred to as Grantees in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantees, their heirs, successors, and assigns forever:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the County of Aiken, State of South Carolina, being shown and designated as 17.00 acres on that certain Plat of Survey prepared for Julia Beamish and David Lambert by W. J. Webb, PLS dated February 12, 2010 and recorded simultaneously herewith in Plat Book 55, Page 199, Aiken County Records. Reference is made to the aforesaid for a more accurate and complete description of the metes and bounds of the subject property.

BEING a portion of the same property conveyed to Gerald Waters by deed of Blue Sky Timber Properties LLC dated January 23, 2006 and recorded January 27, 2006 in Aiken County Records. Also being a portion of the same property conveyed to Gerald L. Waters by deed of the Sue G. Howard Family Limited Partnership, Cynthia I. Mallard, Merle Ann I. Wall and Bonnie Ingram Futch said deed being dated November 6, 2003 and recorded November 12, 2003 in Deed Book 2371, Page 84, Aiken County Records.

Tax Parcel No.
262-00-01-043

Reserving, however, unto the Grantor an easement thirty feet (30') in width for ingress and egress to access the remaining property of Grantor located to the east of the subject property as more particularly shown on the aforesaid plat.

Grantees' Address: 3200 Damascus Road
Brookville, Maryland 20833

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs, and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs, and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 26th day of March, in the year of our Lord 2010.

Signed, Sealed and Delivered
in the Presence of:

Crystal Brown

Gerald Waters a/k/a Gerald L. Waters

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Personally appeared before me the undersigned and made oath that she saw the within named Grantor sign, seal and as His act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that she with the other witness subscribed above witnessed the execution thereof.

Crystal Brown

SWORN to before me this
26th day of March, 2010

Notary Public for the State of South Carolina
My Commission Expires:

OFFICIAL SEAL
MARY O. GUYNN
NOTARY PUBLIC-STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES NOV. 21, 2011

Book 4301 Page 1239

EXHIBIT A

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
FOR
COUNTY OF AIKEN) BLUFFWOOD EAST

1 Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East

2 No mobile homes are allowed Modular homes or custom-built residential dwellings are permitted All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property

3 Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items

4 In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only

5 The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6 No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors

7 Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire Interior fencing other than road frontage is permitted at the discretion of owner

8 No unsightly items may be kept on the property which are visible from the roadway Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East Horse trailers, campers, motor homes vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway

9 A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails Provided however, that horse drawn carts or carriages are specifically permitted Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East

Gerald L. Waters
Owner/Developer

Date

October 7, 2004

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

Page 1 of 2
AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1 I have read the information on this affidavit and I understand such information.

2. The property being transferred is known as 17 Acres on Bluffwood Road, in Aiken County, bearing County Tax Map Number 262-00-01-043, 262-00-01-002 which was transferred by Gerald Waters a/k/a Gerald L. Waters to David Lambert and Julia Beamish, as Joint Tenants with Rights of Survivorship and Not as Tenants in Common on March 26, 2010
Check one of the following: The deed is

(a) __X__ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary
(c) _____ exempt from the deed recording fee because (See Information section of affidavit):
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) __X__ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $100,000.00
(b) _____ The fee is computed on the fair market value of the realty which is _____
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5 Check Yes ___ or No __X__ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:

6 The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$100,000.00
(b) Place the amount listed in item 5 above here:	$
(c) (If no amount is listed, place zero here.)	$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$100,000.00

7 The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 370.00

8 As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9 I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this 26
day of March, 2010

Crystal Brown
Notary Public for SC
My Commission Expires:

Print or Type Name Here: Mary O. Guynn

CRYSTAL BROWN
Notary Public
State of South Carolina
Commission Expires June 28, 2015

Deed Consideration Affidavit

Book 4301 Page 1242

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitute a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. "Family" means the grantor, the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of them, and the grantor's and grantor's spouse's heirs under a statute of descent and distribution. A "family partnership" or "family trust" also includes charitable entities, other family partnerships and family trusts of the grantor, and charitable remainder and charitable lead trusts, if all the beneficiaries are charitable entities or members of the grantor's family. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership, and;
(12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

AIKEN COUNTY ASSESSOR
Tax Map
[illegible]
[illegible]
[illegible]
Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10.00
STATE TAX $0.00
COUNTY TAX $0.00
PRESENTED & RECORDED
03-26-2014 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
BK: RB 4499
PG: 2015 - 2019

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS:

That GERALD E. WATERS (hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by GERALD E. WATERS, TRUSTEE OF THE GERALD E. WATERS LIVING TRUST U/A DATED MARCH 12, 2014, as amended (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns forever, all his right, title and interest in and to the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and his heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12 day of March, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: _____

GERALD WATERS

Witness: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named GERALD WATERS sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that they, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
12 day of March, 2014

_____
Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C MCCORMICK
My Commission Expires
NOTARY PUBLIC
10-24-2021
SOUTH CAROLINA

After recording return to Smith, Massey, Brodie, Guynn & Mayes, P.A.

Exhibit A

PARCEL 1:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Twenty-two and 996/1000 (122.996) acres, more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the RMC Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed is reference is hereby specifically made, said dead describing a total of 620.166 acres, more or less.

Derivation: This being the same property conveyed unto Gerald Waters by Quit Claim Deed of Sustainable Forests, LLC dated January 23, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1966, records of the RMC Office for Aiken County, South Carolina.

Tax Parcel Number: 262-00-01-002

PARCEL 2:

All that certain lot, tract of parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Eleven and 33/100 (111.33) acres, more or less, and being the property conveyed to Catawba Newsprint Company by J.W. Rushton by Deed recorded in the RMC Office of Aiken County, South Carolina, at Book 684, Page 189, to which deed reference is hereby specifically made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-02-003

PARCEL 3:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Fifty-four and 86/100 (154.86) acres, more or less, and being the property conveyed to Catawba Newsprint Company by Trent L. Hutto by deed recorded in the RMC Office of Aiken County, South Carolina, at Book 731, page 4, to which deed reference is hereby specially made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at

Page 1984. ALSO, conveyed by Quit Claim Deed of Sustainable Forests, LLC in Book 4042, at Page 1989, records of the RMC office for Aiken County, South Carolina.

Tax Parcel Number: 201-00-03-001

Grantee's Address: 349 Gooseneck Rd.
Aiken, SC 29805

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number 262-00-01-002, 201-00-02-003 and 201-00-03-001 transferred by GERALD WATERS to GERALD L. WATERS, TRUSTEE OF THE GERALD L. WATERS LIVING TRUST U/A DATED MARCH 12, 2014 On this 12 day of March, 2014.

2. Check one of the following: The deed is
(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) X exempt from the deed recording fee because (*See Information section of affidavit*): 8.
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $.
(b) _____ The fee is computed on the fair market value or the realty which is _____.
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes_____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:_____ _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$0
(b) Place the amount listed in item 5 above here:	$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$0

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this
12 day of March, 2014

Caroline C McCormick
Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C. MCCORMICK
My Commission Expires
NOTARY PUBLIC
10-24-2021
SOUTH CAROLINA

William Ray Massey
Print or Type Name Here

Book 4499 Page 2019

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
) FOR
COUNTY OF AIKEN) BLUFFWOOD EAST

The property described herein is specifically made subject to the following Restrictive Covenants.

1. Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East.

2. No mobile homes are allowed. Modular homes or custom-built residential dwellings are permitted. All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property.

3. Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items.

4. In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only.

5. The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6. No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors.

7. Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire. Interior fencing other than road frontage is permitted at the discretion of owner.

8. No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view. It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East. Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9. A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.

Gerald L. Waters
Owner/Developer

Date:

October 7, 2004

Application Documents - Previously Reviewed by Commission

PROPOSED USE(S) OF TOWER/ANTENNA (I.E. NEW, CO-LOCATE INCREASING HEIGHT OF TOWER, ETC.):
New 305' self-supporting tower for Verizon Wireless

APPLICANT NAME: Lannie Greene for Verizon Wireless **PHONE #:** 678-780-9221

ADDRESS OF APPLICANT: 2421 St. Martin Way, Monroe, GA 30656 lgreene@pyramidns.com

TOWER OWNER NAME: Verizon Wireless c/o Matt Hartley **PHONE #:** 678-277-3612

ADDRESS OF TOWER OWNER: 10300 Old Alabama Road Connector, Alpharetta, GA 30022

ADDRESS/LOCATION OF DEVELOPMENT: Old 96 Indian Tr, Wagener, SC 29164

TAX PARCEL NUMBER OF DEVELOPMENT: 262-00-01-002

Note: Review and approval of this site plan may require at least 30 working days. Failure to provide any of the previously noted information may delay approval of the site plan.

I hereby submit the following for review and approval: (check all which are applicable)

- ☐ Seven site plans
- ☐ Functional Performance Standards
- ☐ Functional Performance Standards Compliance Guaranty
- ☐ Notice of Intent (NOI) Form
- ☐ Development Permit Review Fee ($10,000.00)

SIGNATURE: Lannie Greene **DATE:** 09-19-22

NAME (Printed): Lannie Greene **TITLE:** Representative for Verizon Wireless

ADDRESS: 2421 St. Martin Way, Monroe, GA 30656

PHONE #: 678-780-9221

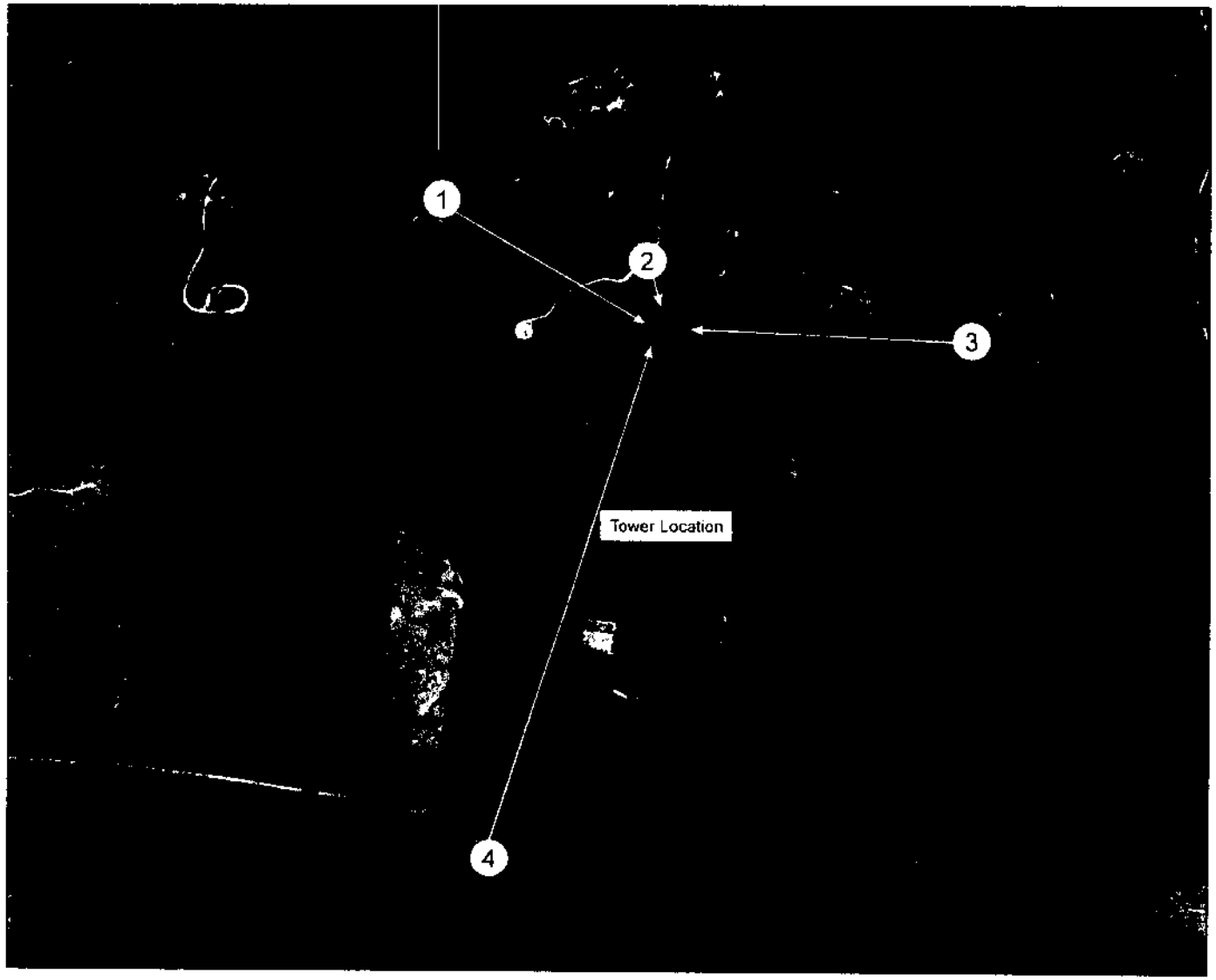


Photo sim location	Distance to proposed tower
Location #1	1,670'
Location #2	640'
Location #3	1,800'
Location #4	3,220'

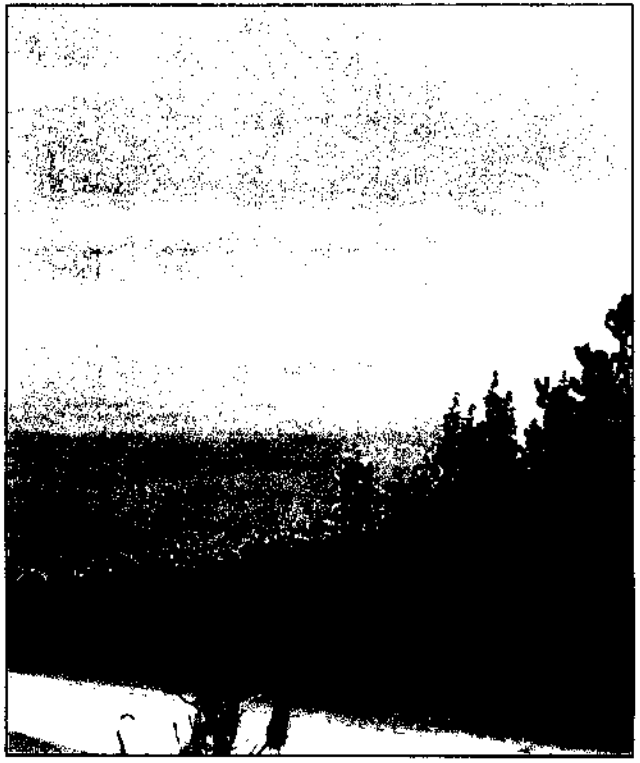
Location Map

Kimley »Horn

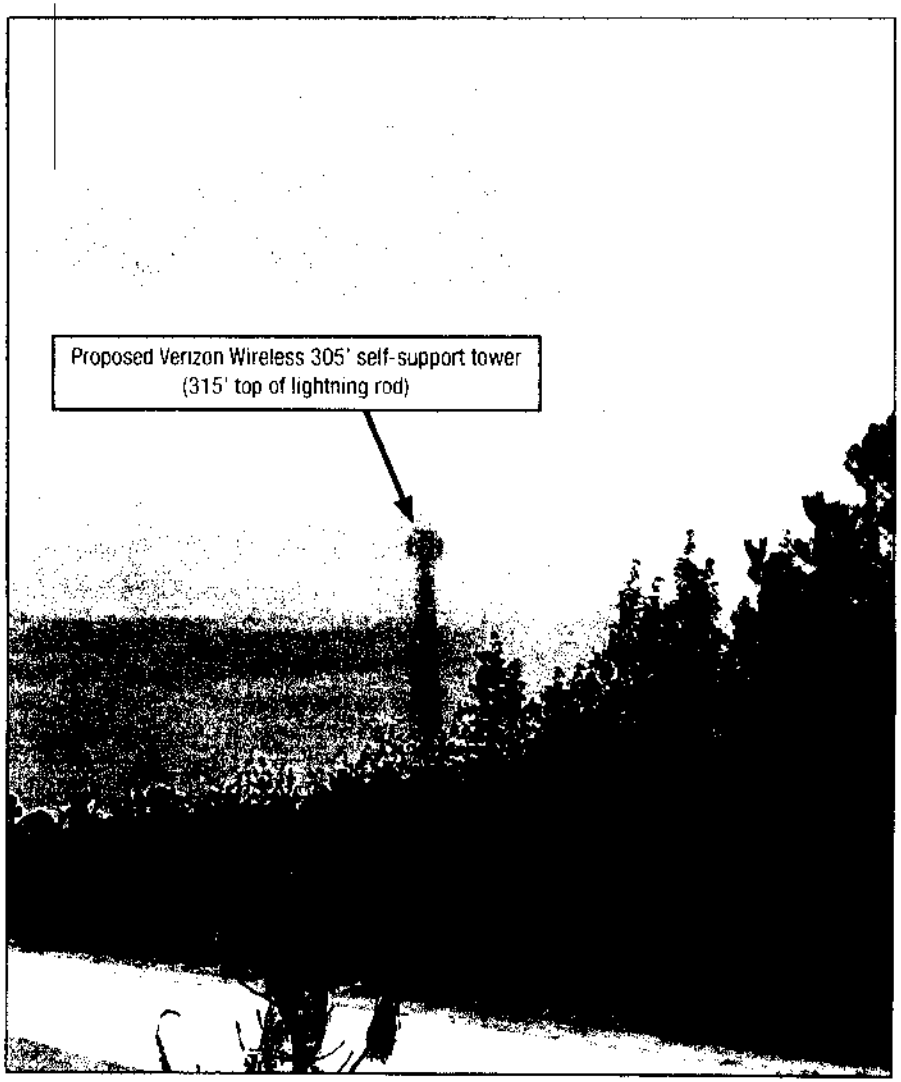
Verizon Wireless - Falkour mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0280



Existing



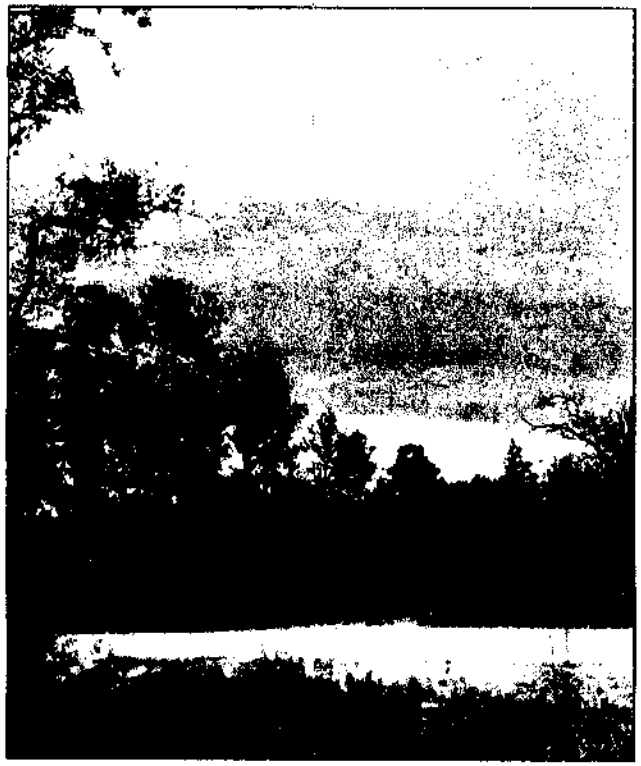
Proposed

Location #1 - View looking east southeast from Old Ninety-Six Indian Trail Road

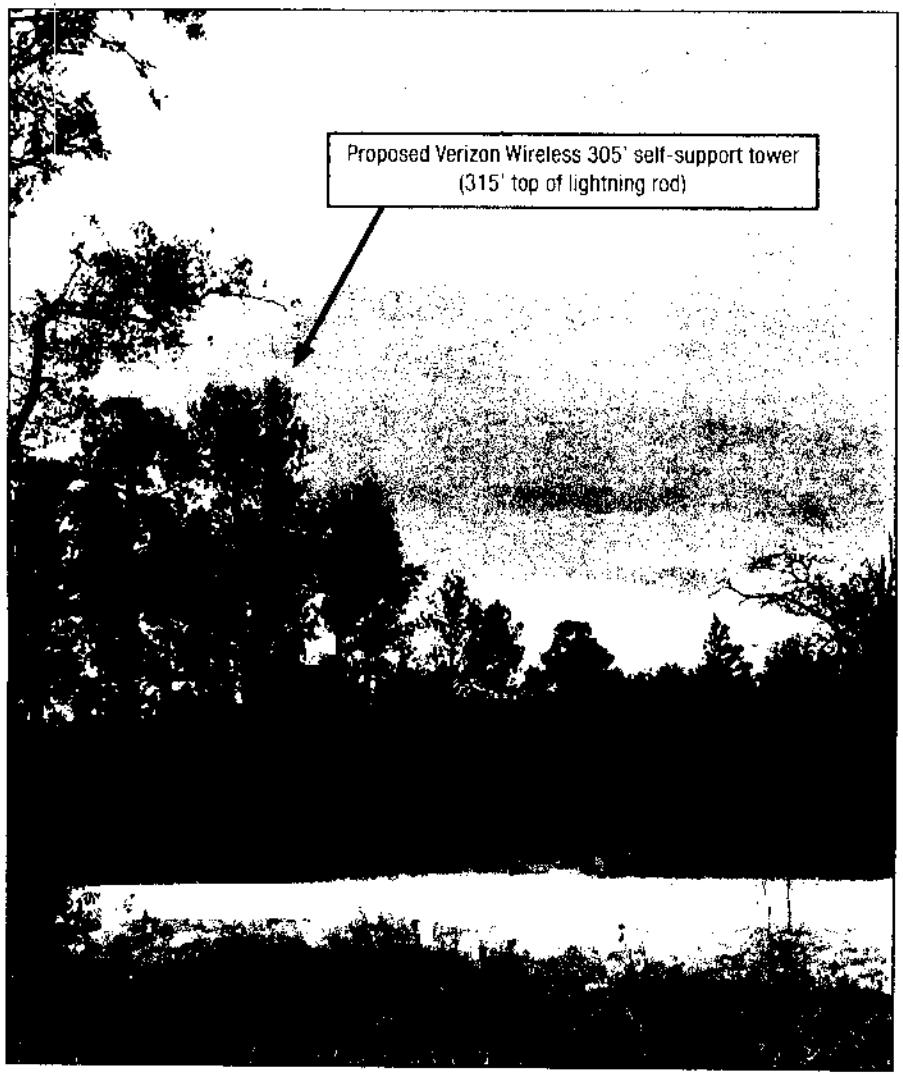
Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon



Existing



Proposed

Location #2 - View looking southeast from Old Ninety-Six Indian Trail Road

Kimley »Horn

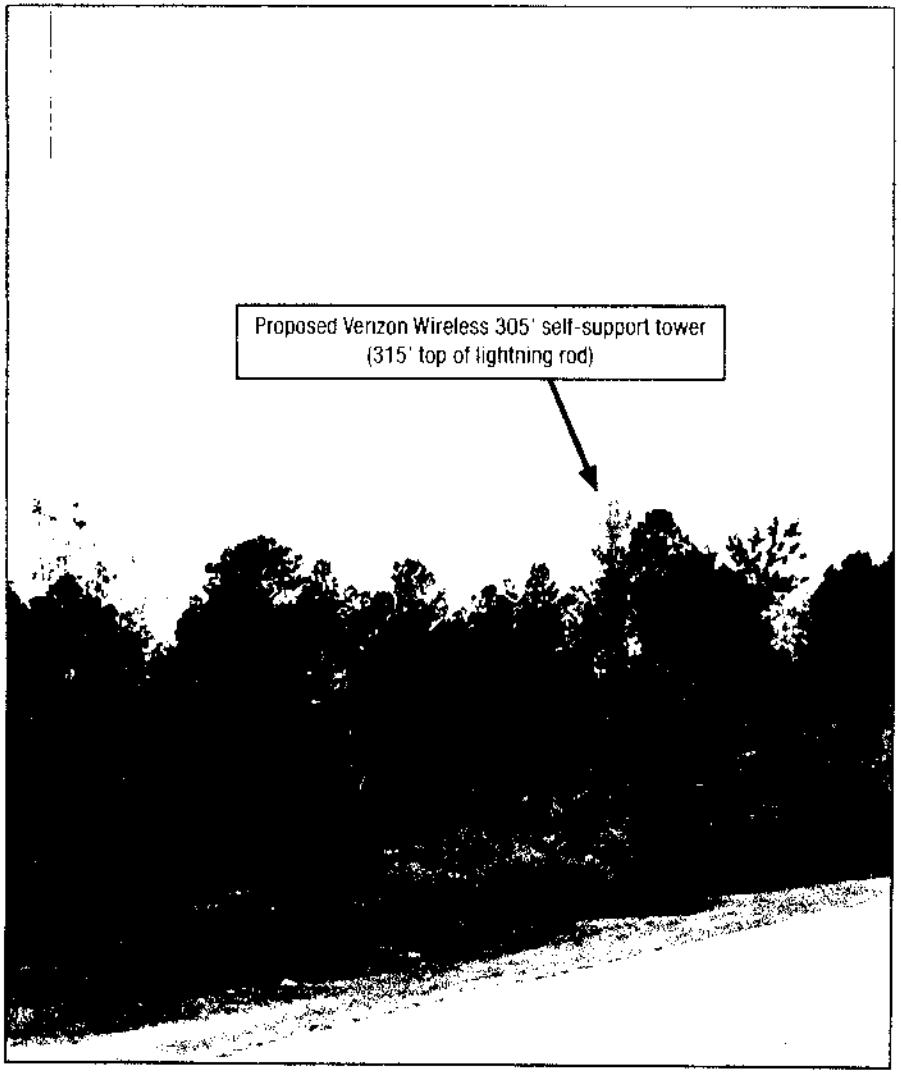
Verizon Wireless - Falkour mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0282



Existing



Proposed

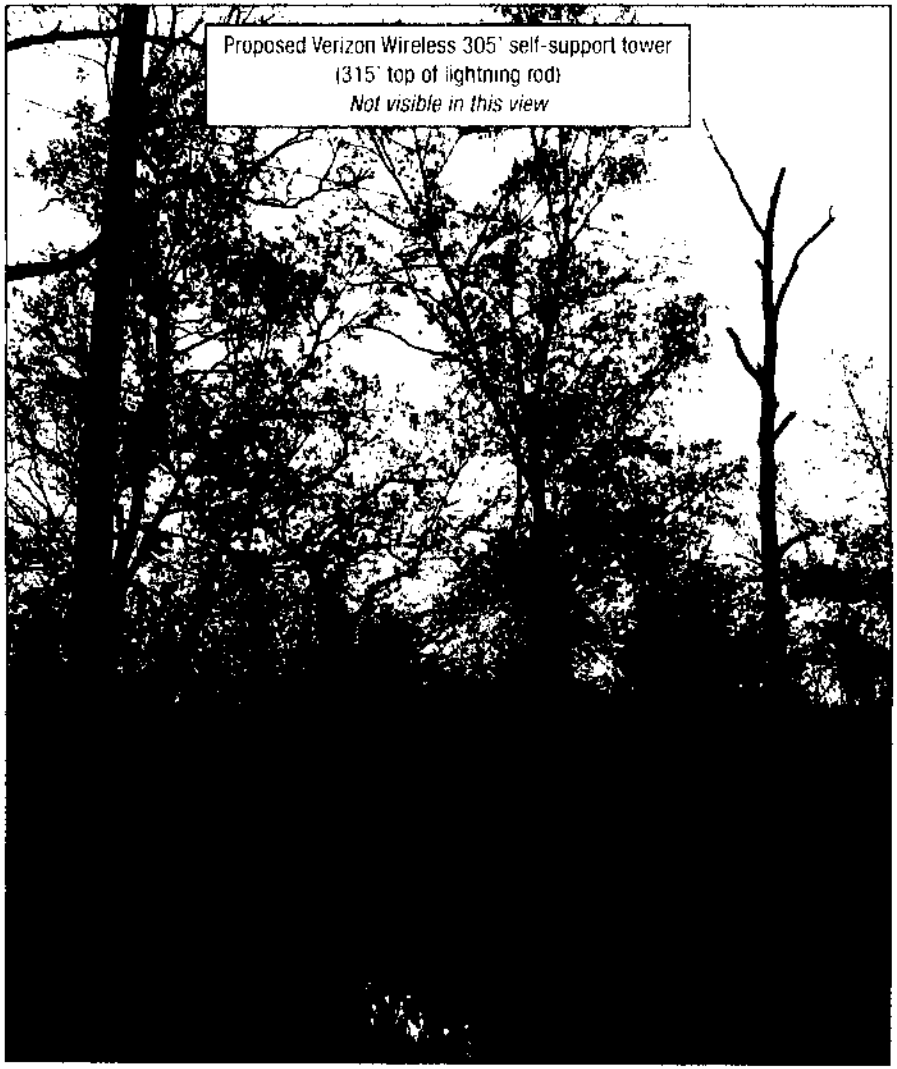
Location #3 - View looking west from Old Ninety-Six Indian Trail Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0283



Existing

Location #4 - View looking north northeast from Bluffwood Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

RF Propagation Maps for FALKOUR

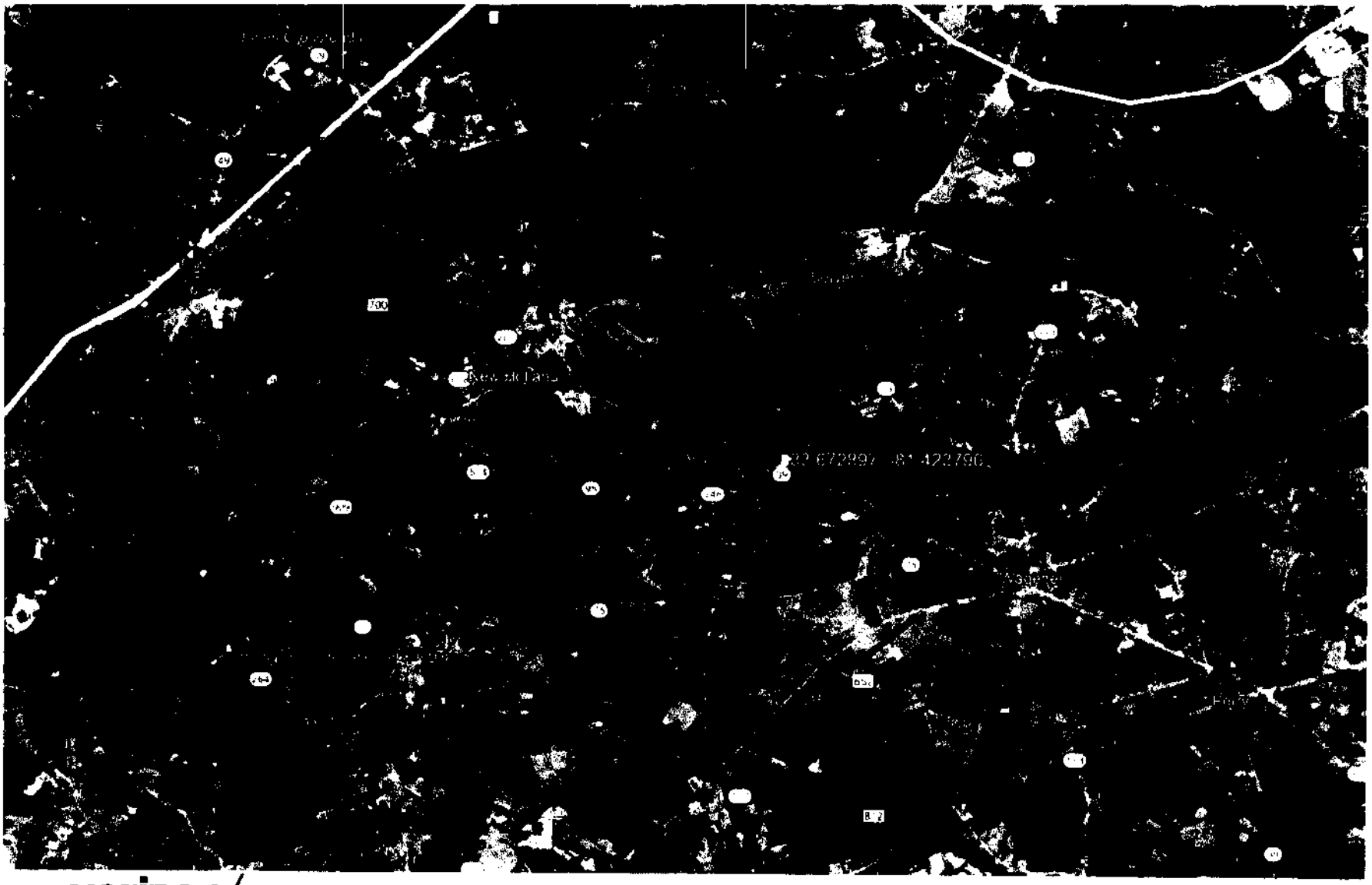
0285

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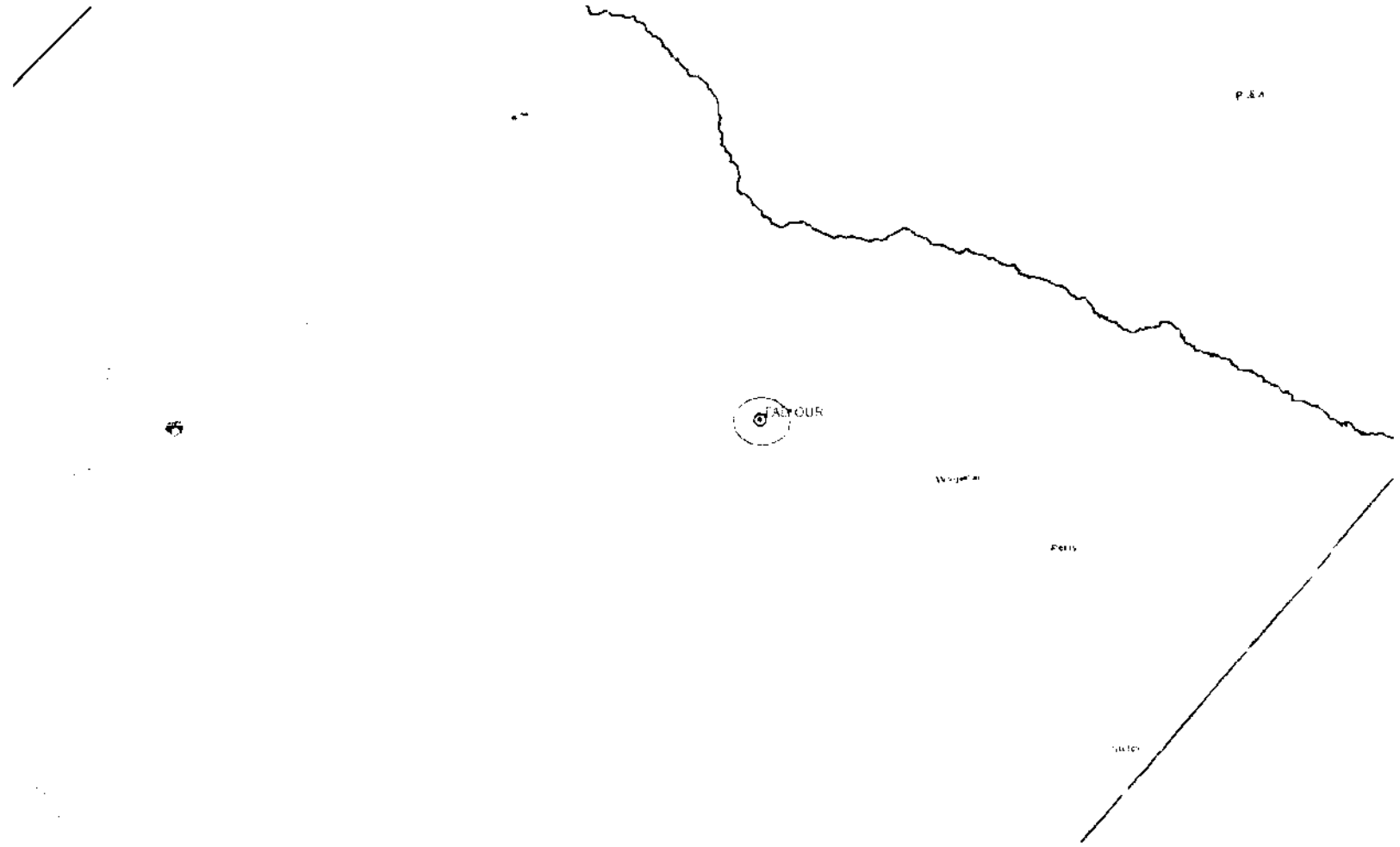
Google map location



0286

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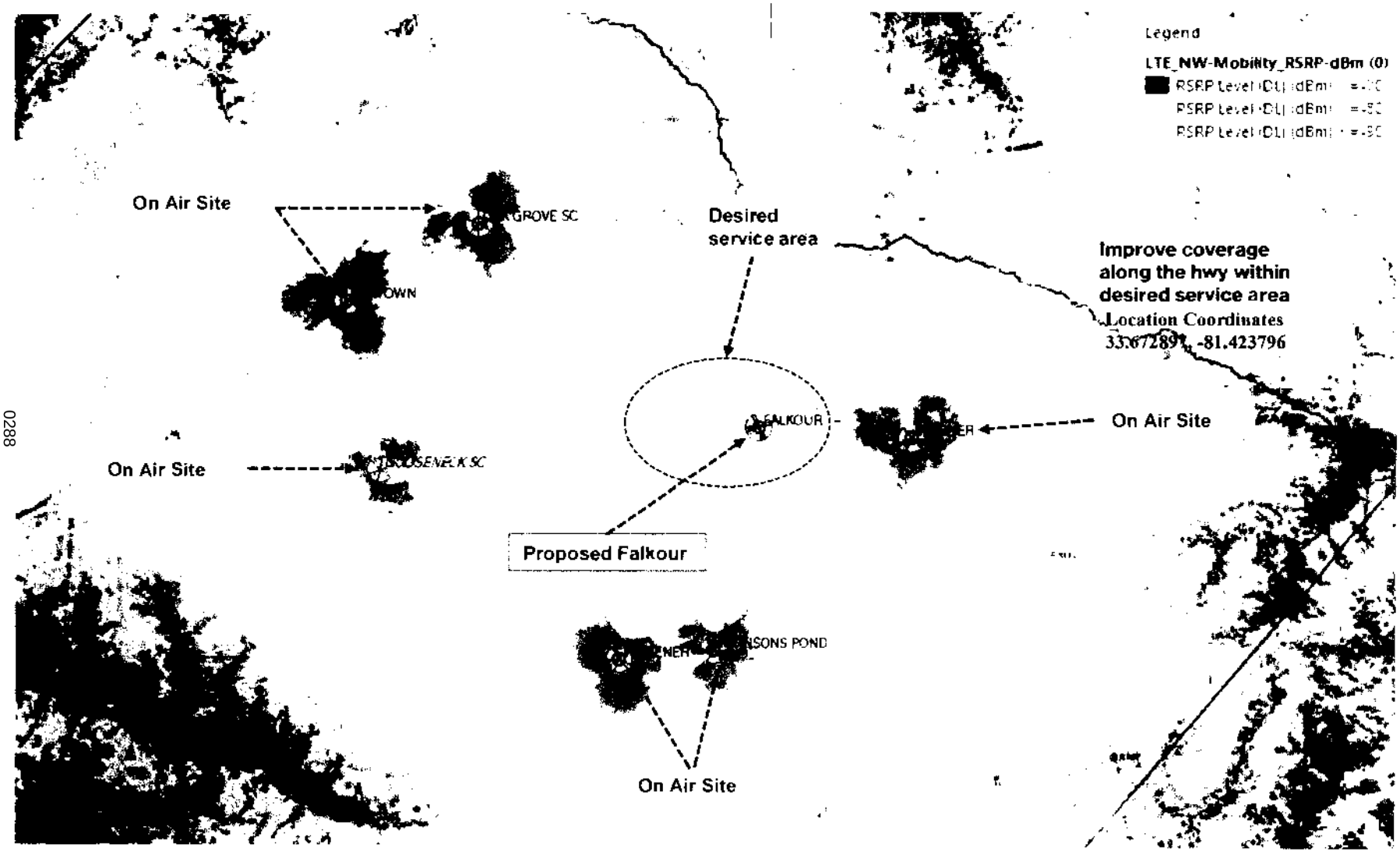
Search Ring



0287

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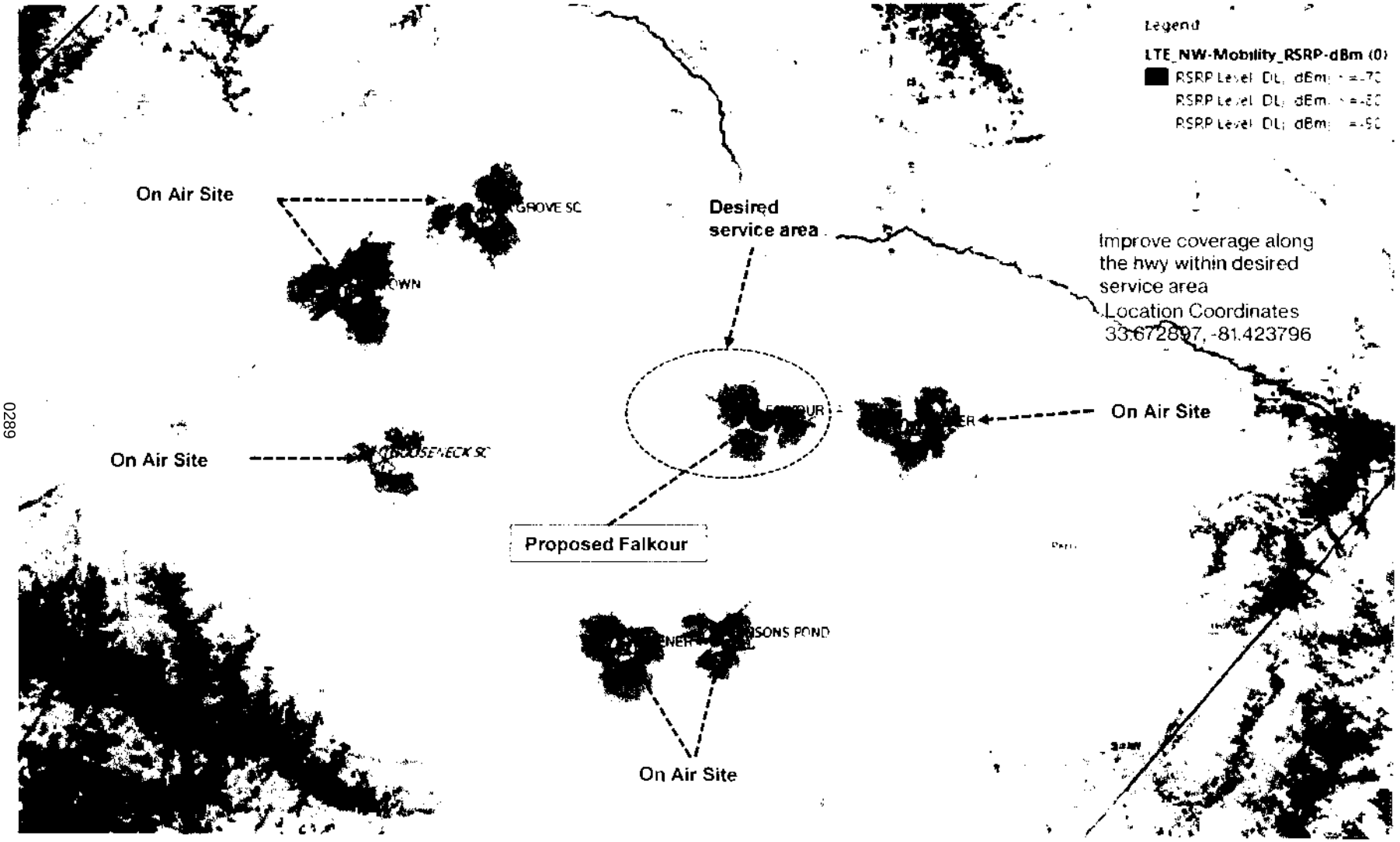
Existing LTE coverage



0288

verizon

Proposed LTE coverage with Falkour



verizon

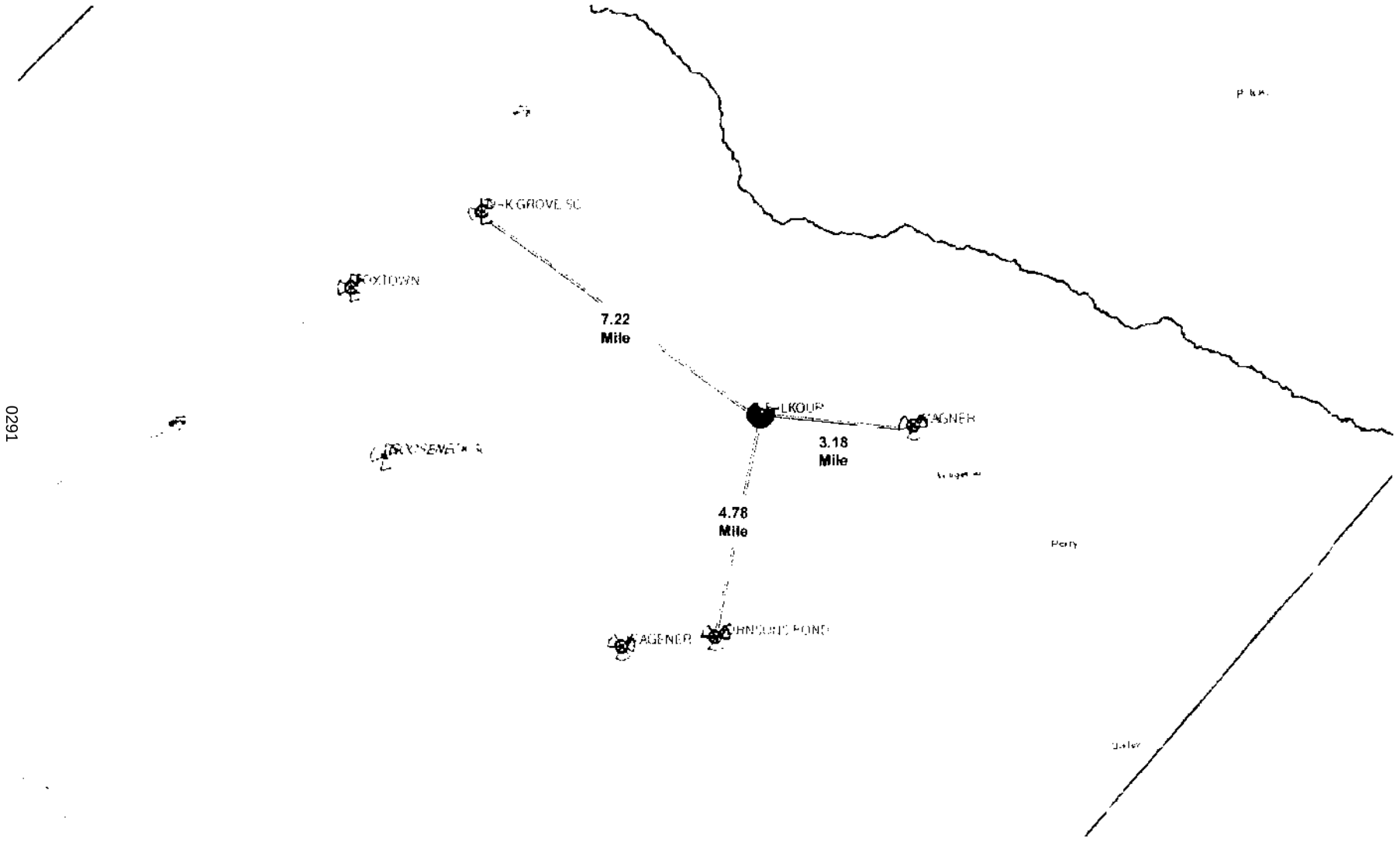
0289

Inventory Of Existing Verizon on-Air

Site Name	Latitude	Longitude	Structure Type	Street Address	City	State	County	Zip Code
Oak Grove	33.739431	-81.520289	240 Ft. Self Support Lattice Tower	Old 96 Indian Trail	Monetta	SC	Aiken	29006
FoxTown	33.717911	-81.569894	199 Ft. Guyed Tower	2211 Wire Road	Aiken	SC	Aiken	29805
Gooseneck	33.66613333	-81.560999	190 Ft. Monopole	312 Wilderness Road	Aiken	SC	Aiken	29805
Wagener	33.604592	-81.478506	260 Ft. Self Support Lattice Tower	360 Four Oaks Road	Wagener	SC	Aiken	29164
Johnsons Pond	33.605833	-81.444222	179 Ft. Self Support Lattice Tower	5665 Wagener Road	Salley	SC	Aiken	29137
Wagner	33.667028	-81.369203	300 Ft. Guyed structure	209 Randy Wayne Lane	Wagener	SC	Aiken	29164

0290

Distance of proposed FALKOUR site to the existing VZW on-air sites



0291

verizon

Summary

he sit is located in agener. A'ken C . The o jective to r vide c ve nge alon y d ine y Six India Trail and surro nding area of Wa en r.

We are adding more spectrum of 850 for the low band and AWS/PCS for the high band. We are modifying our existing radios with a new dual band radios and new RET capable antennas with 4TX/RX (Transmit/Receive diversity) to improve user experience by allocating more resources.

The antennas at each site (eNodeB and UE) have to be uncorrelated to provide independent paths as a baseline for up to four different data channels at the same time.

0292

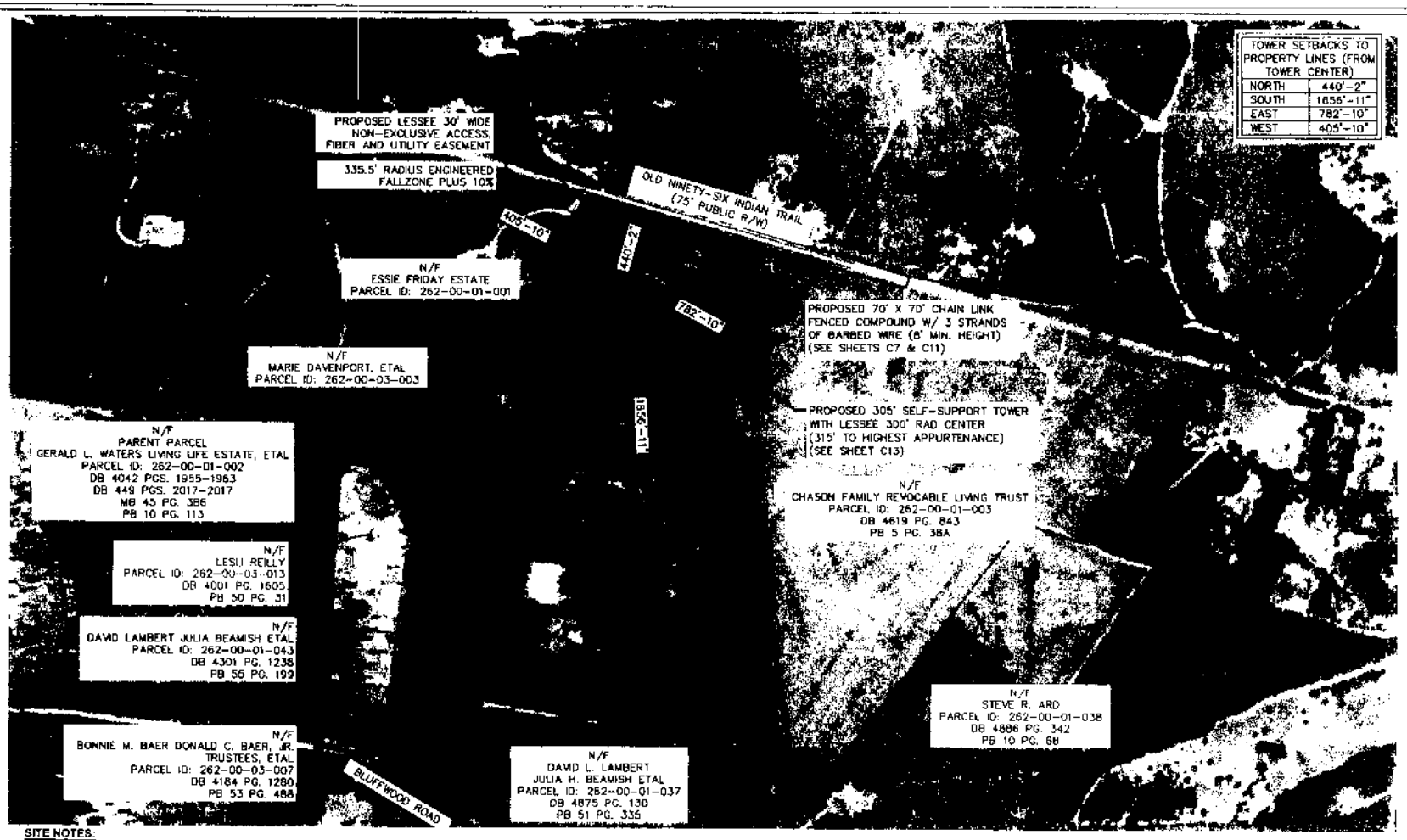
Therefore; in order to improve customer experience in the rural area and reach maximum potential customers, our design tower height set at 295' feet. It's a coverage problem area and the nearest site is about 3.18 miles East. The new site will help us to address customer issue and complains, therefore; any reduction on the antenna height will jeopardize our main coverage objectives.

This particular candidate was chosen, because it was within the intended specific search ring and based in all engineering survey and calculation, and based on VZW engineering requirements for coverage

Thank you.

0293

verizon



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1656'-11"
EAST	782'-10"
WEST	405'-10"

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
3. ALL BUFFERYARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0 OVERALL PARCEL PLAN

SCALE: 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

0295

K:\ATL_Wireless\VZ05_Verizon\2021_Sites\OLD NINETY SIX\CAD\C0VZA-CB.dwg ---- 05/06/21 @ 02 PM by: Tim.Merchant

vertizon

10300 OLD ALABAMA ROAD CONNECTION ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No: 695446
FUZE PROJECT #: 16600618
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 800
ALPHARETTA, GA 30009
PHONE: 770-619-1200
WWW.KIMLEY-HORN.COM
SC License: C00166

REV:	DATE:	ISSUED FOR:	BY:
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A	04/28/21	PRELIMINARY	DRC

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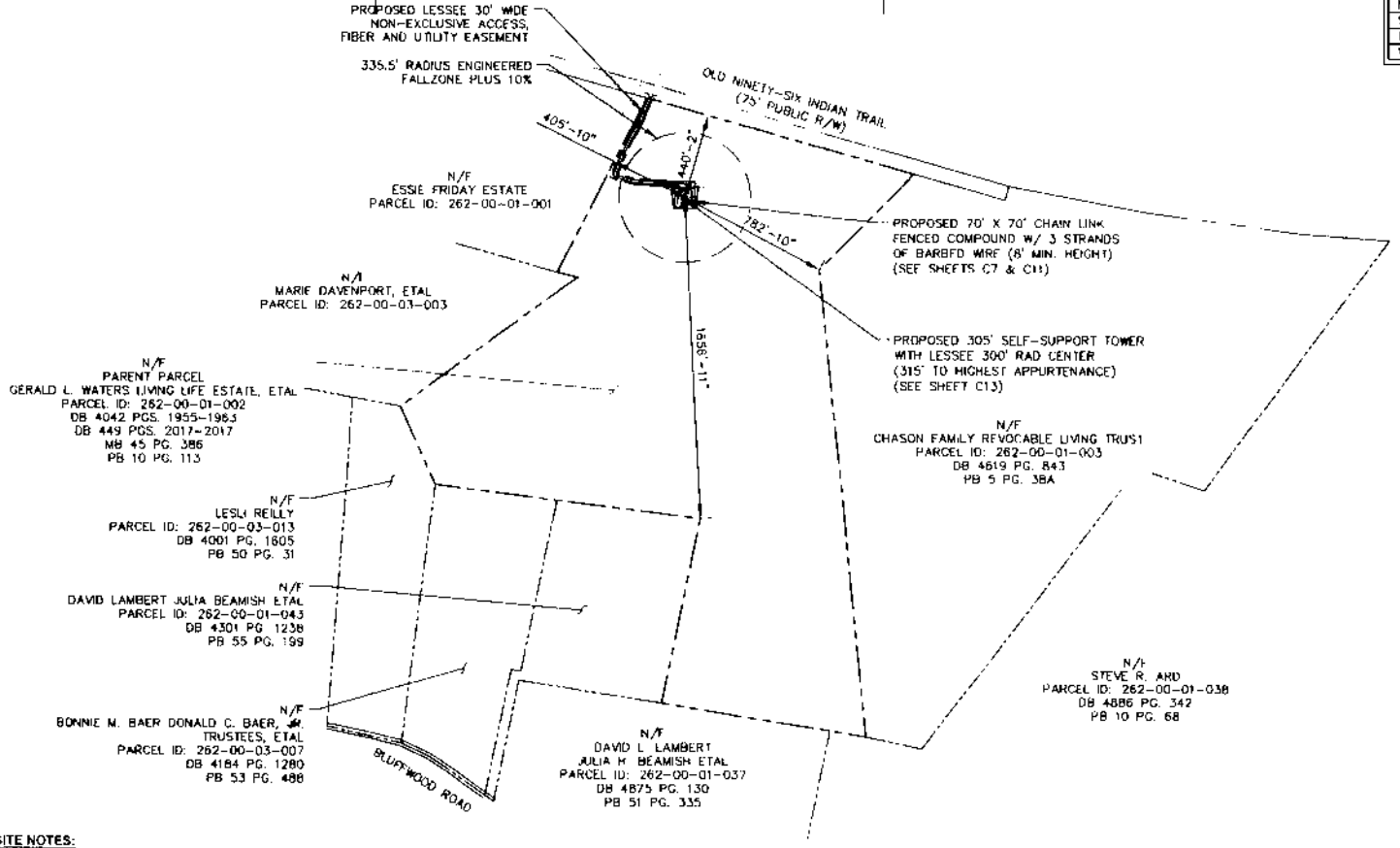
ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

KHA PROJECT NUMBER:
013509274

DRAWN BY:	CHECKED BY:
TDM	TRM

SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
C0



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1656'-11"
EAST	782'-10"
WEST	405'-10"

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
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3. ALL BUFFERYARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

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2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0.1 OVERALL PARCEL PLAN

SCALE 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

10300 OLD ALABAMA ROAD CONNECTOR ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MK1_174_MCR
SITE No. 895446
FUZE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC License C00186

REV:	DATE:	ISSUED FOR:	BY:
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1	06/09/21	CONSTRUCTION	DRC
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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

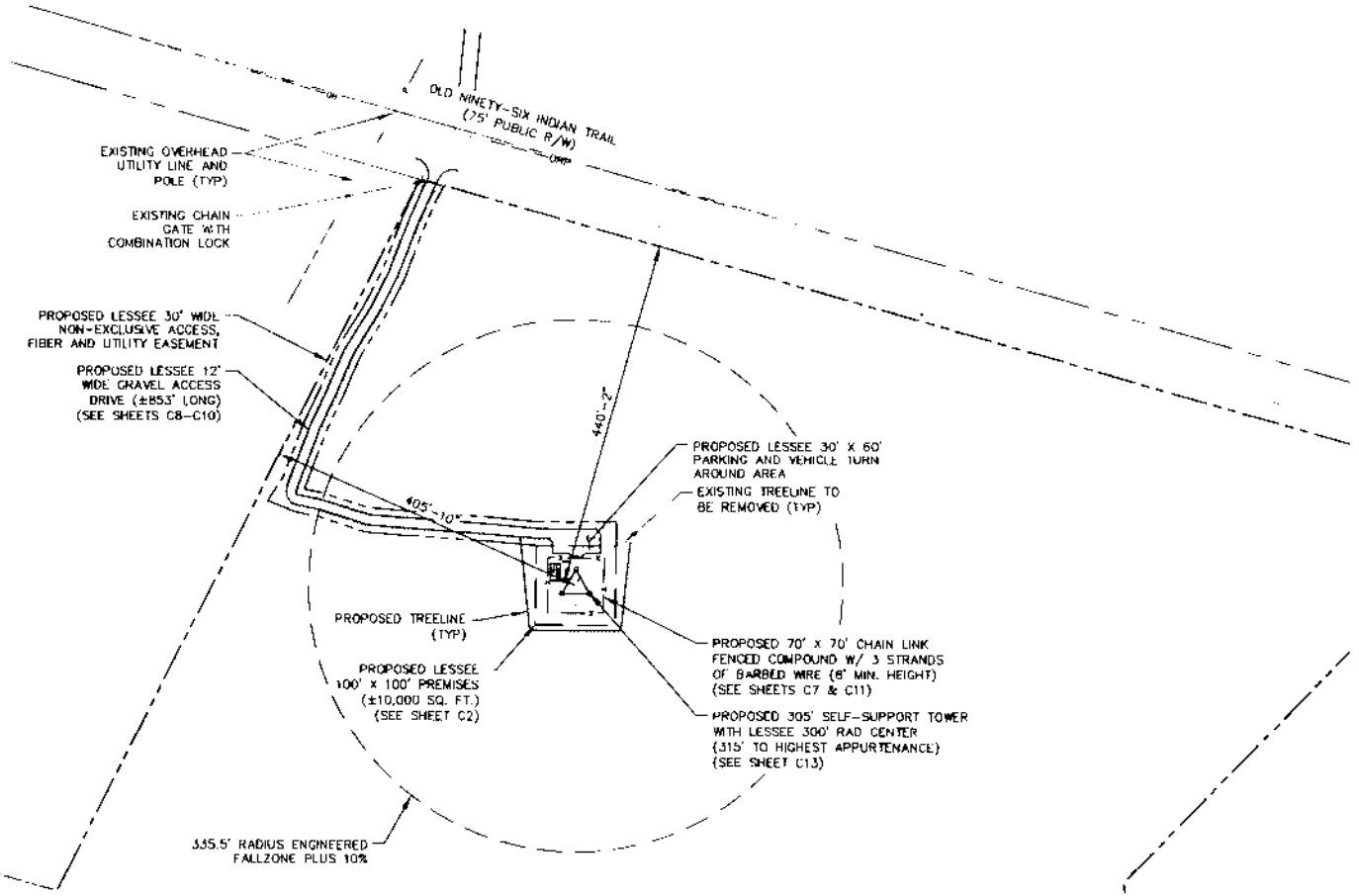
KHA PROJECT NUMBER:
013509274

DRAWN BY:	CHECKED BY:
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SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
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SITE NOTES:

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1/C1 OVERALL SITE PLAN

SCALE: 1" = 150'

NORTH

0 75 150 300

GRAPHIC SCALE: 1" = 150'

verizon

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No 695446
FUZE PROJECT # 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4080
WWW.KIMLEY-HORN.COM
SC License C00765

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LICENSER:

ALABAMA LICENSED No 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

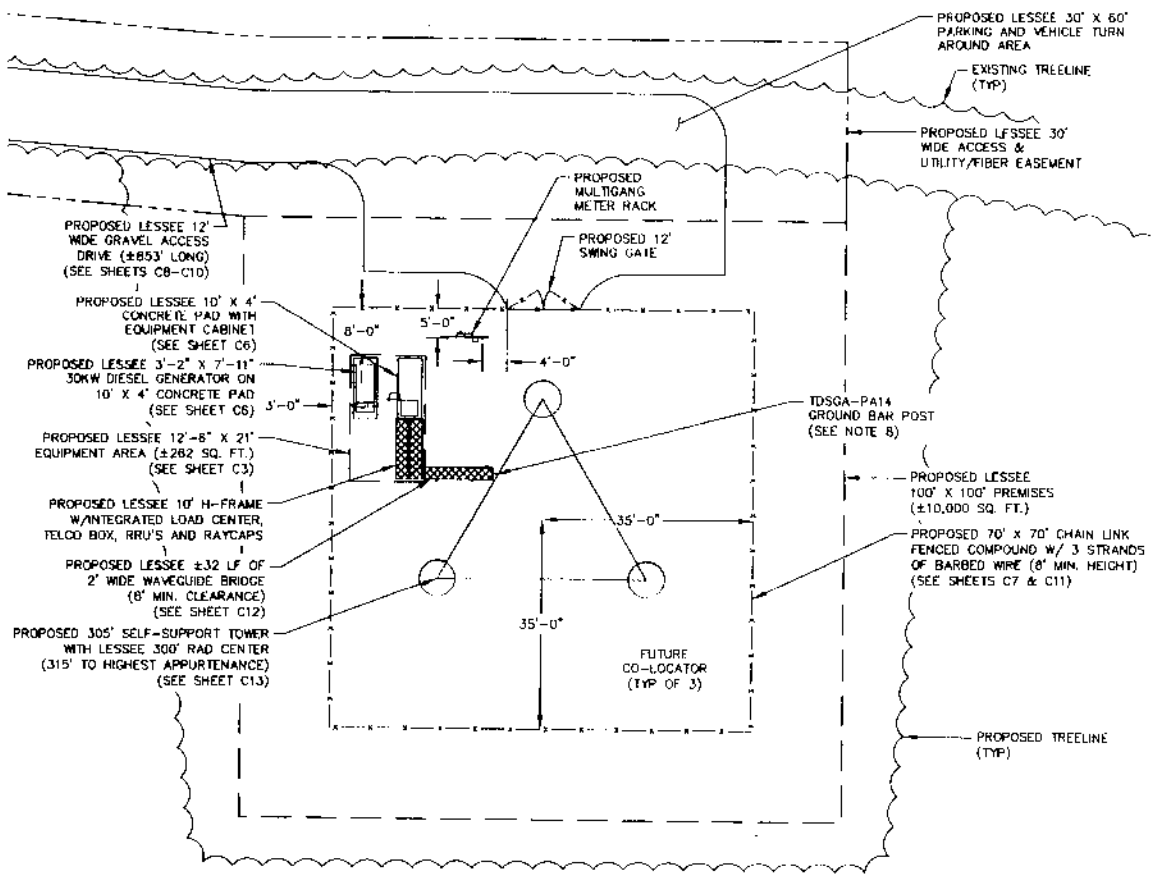
KHA PROJECT NUMBER:
013509274

DRAWN BY:	CHECKED BY:
TDM	TRN

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
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1 / C2 SITE PLAN

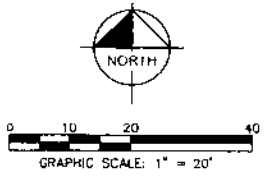
SCALE: 1" = 20'

SITE NOTES:

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2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.
3. CONTRACTOR TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER THAT THE EQUIPMENT SHOWN HAS BEEN ORDERED/SCHEDULED FOR DELIVERY TO THIS SITE.
4. THE BASIS OF EQUIPMENT DESIGN INCLUDES ONE (1) RF CABINET, ONE (1) FUTURE BATTERY CABINET, AND ONE (1) FUTURE EXPANSION CABINET.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING AND MODIFYING SCOPE OF WORK TO ACCOMMODATE ANY CHANGES IN THE EXACT EQUIPMENT PROCURED BY VERIZON WIRELESS. COORDINATE ANY CHANGES WITH VERIZON WIRELESS CONSTRUCTION MANAGER.
6. ROUTE COAX/FIBER UP TOWER PER STRUCTURAL ANALYSIS BY TOWER OWNER.
7. TOWER DIMENSIONS SHOWN ON THIS PLAN ARE FOR TOWER CENTER LOCATION. CONTRACTOR TO OBTAIN COPY OF TOWER ERECTION DRAWINGS FROM VERIZON CONSTRUCTION MANAGER PRIOR TO DRILLING TOWER FOUNDATIONS. CASSIONS AND TOWER SHOWN ON THIS PLAN ARE ILLUSTRATIVE, SEE DESIGN DRAWING BY OTHERS. DO NOT SCALE.
8. INSTALL 3½" O.D. GALVANIZED STEEL POST FOR TDSGA-PA14 GROUND BAR. POST TO EXTEND 78" ABOVE GRADE AND SHALL BE EMBEDDED IN A 12"ø CONCRETE FOOTING A MINIMUM OF 36". FOOTING SHALL EXTEND A MINIMUM OF 42" BELOW GRADE.



GRAPHIC SCALE: 1" = 20'

verizon
10380 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No. 695446
FUZE PROJECT # 16800819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4200
WWW.KIMLEY-HORN.COM
SC License #00195

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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED PROFESSIONAL ENGINEER
No. 37812
DAVID R. COUSINS
8/9/21

KHA PROJECT NUMBER:
013509274

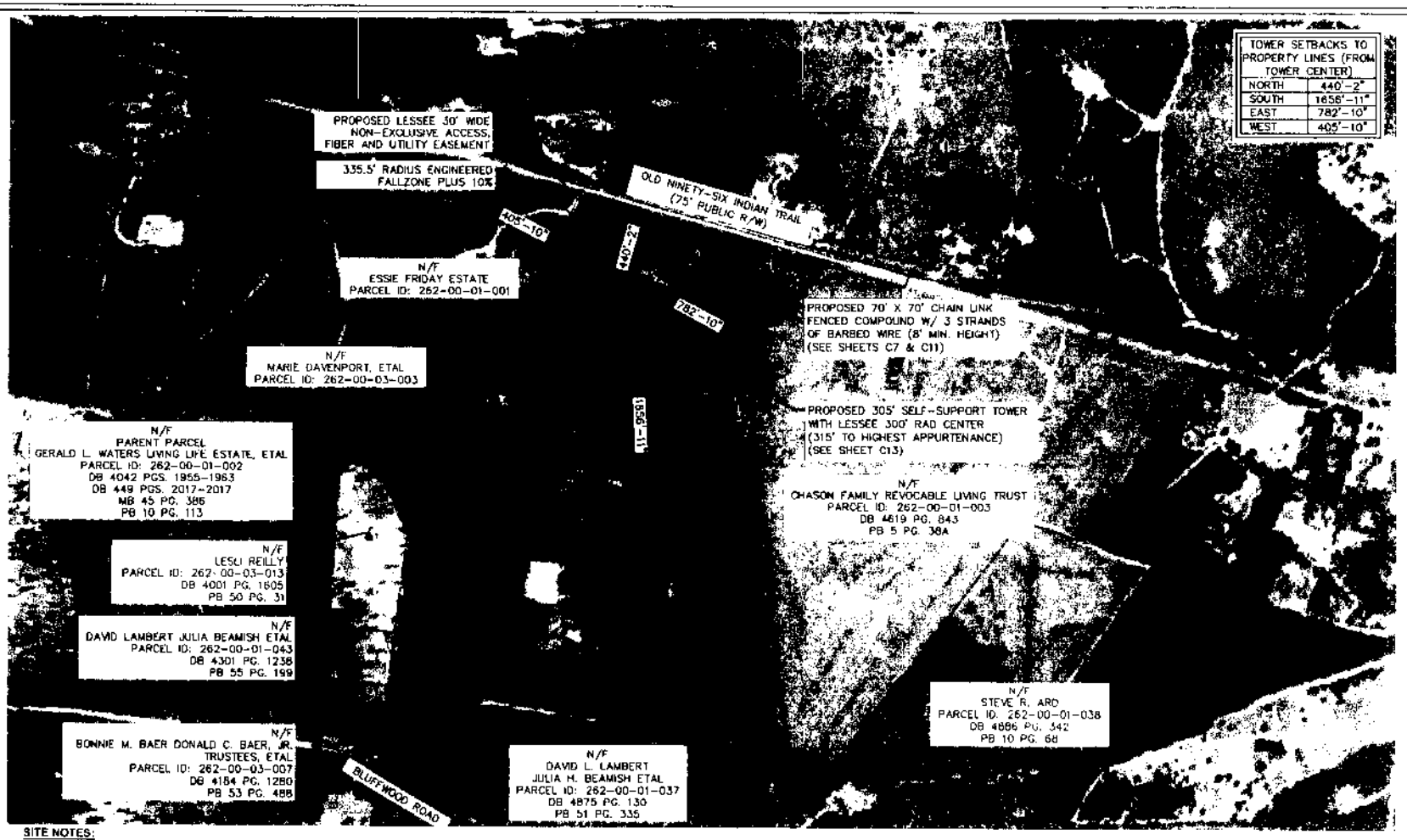
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SHEET TITLE:
SITE PLAN

SHEET NUMBER:
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8629



TOWER SETBACKS TO PROPERTY LINES (FROM TOWER CENTER)	
NORTH	440'-2"
SOUTH	1656'-11"
EAST	782'-10"
WEST	405'-10"

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1 / C0 OVERALL PARCEL PLAN

SCALE: 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

1630B OLD ALABAMA ROAD CONNECTOR ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME
FALKOUR_MKT_174_MCR
SITE No 695446
FUZE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC LICENSE C00194

REV:	DATE	ISSUED FOR:	BY:
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A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 37812 PROFESSIONAL ENGINEER DAVID R. COUSINS

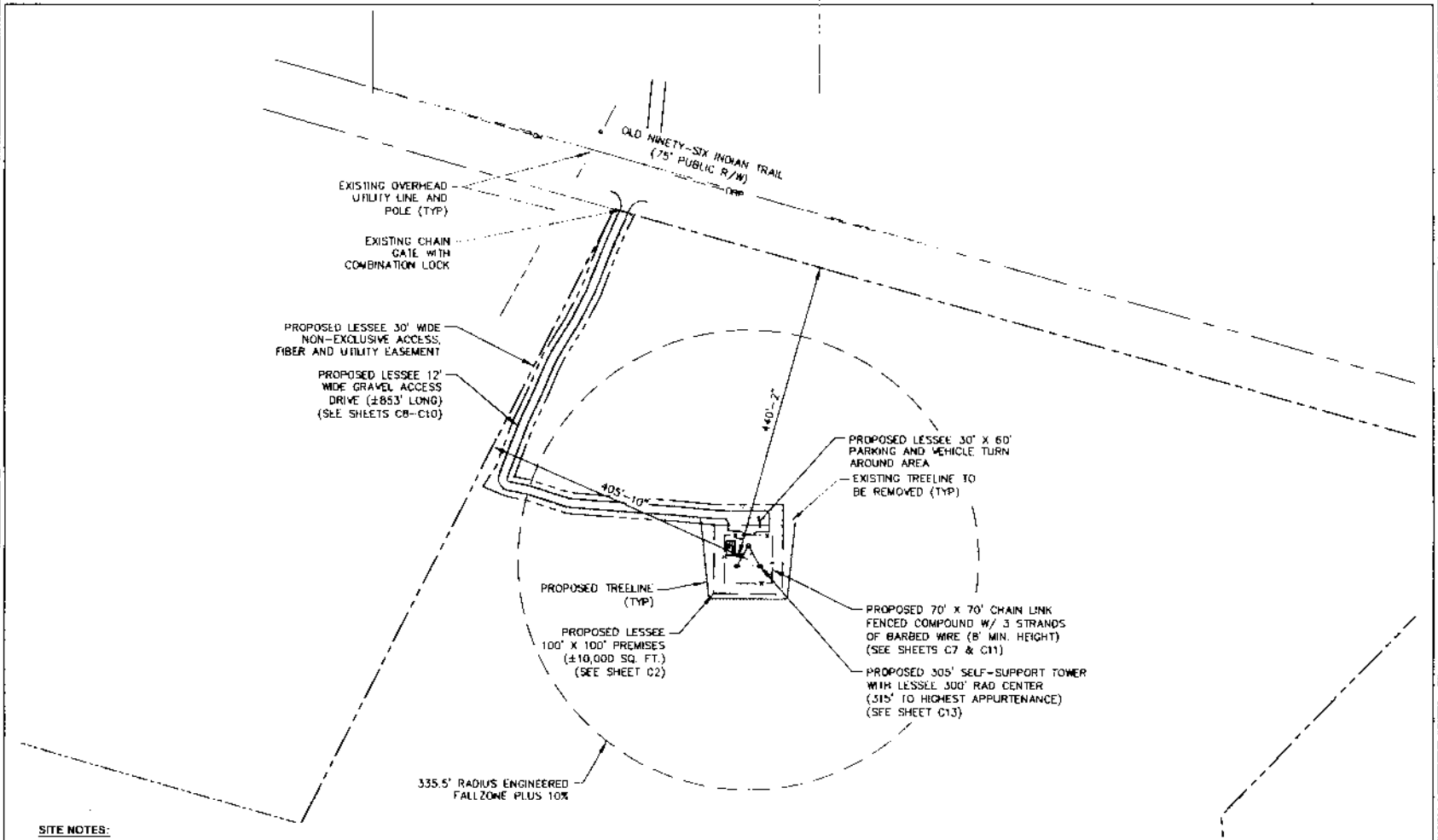
KHA PROJECT NUMBER:
013509274

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TDM	TRN

SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
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SITE NOTES:

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1/C1 OVERALL SITE PLAN

SCALE 1" = 150'

NORTH

0 75 150 300

GRAPHIC SCALE: 1" = 150'

verizon

10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE No. 695446
FUZE PROJECT # 18800819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn
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PHONE: 770-819-4280
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ALABAMA LICENSED PROFESSIONAL ENGINEER
No. 32512
DAVID R. COUSINS
8/9/21

KHA PROJECT NUMBER:
013509274

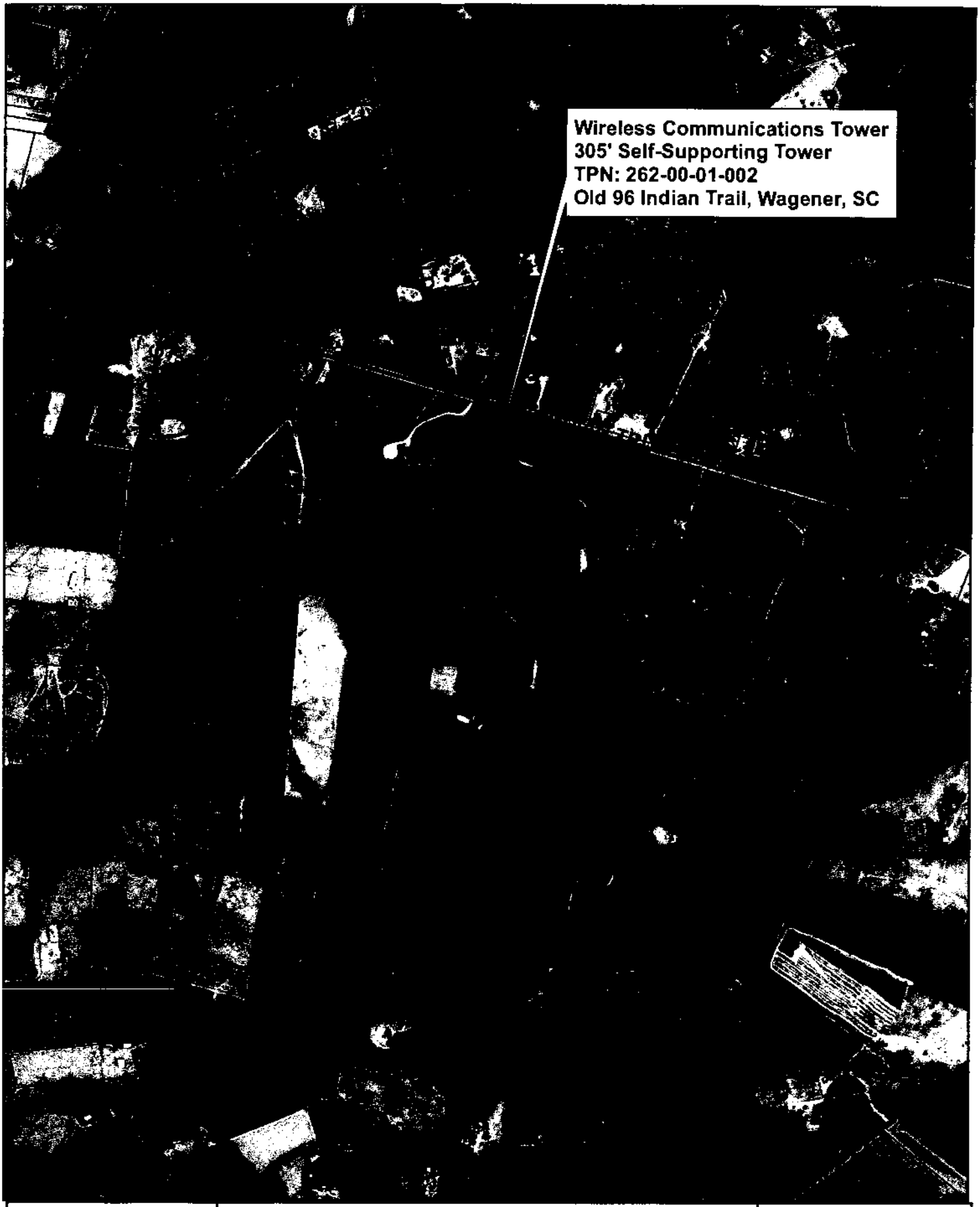
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SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
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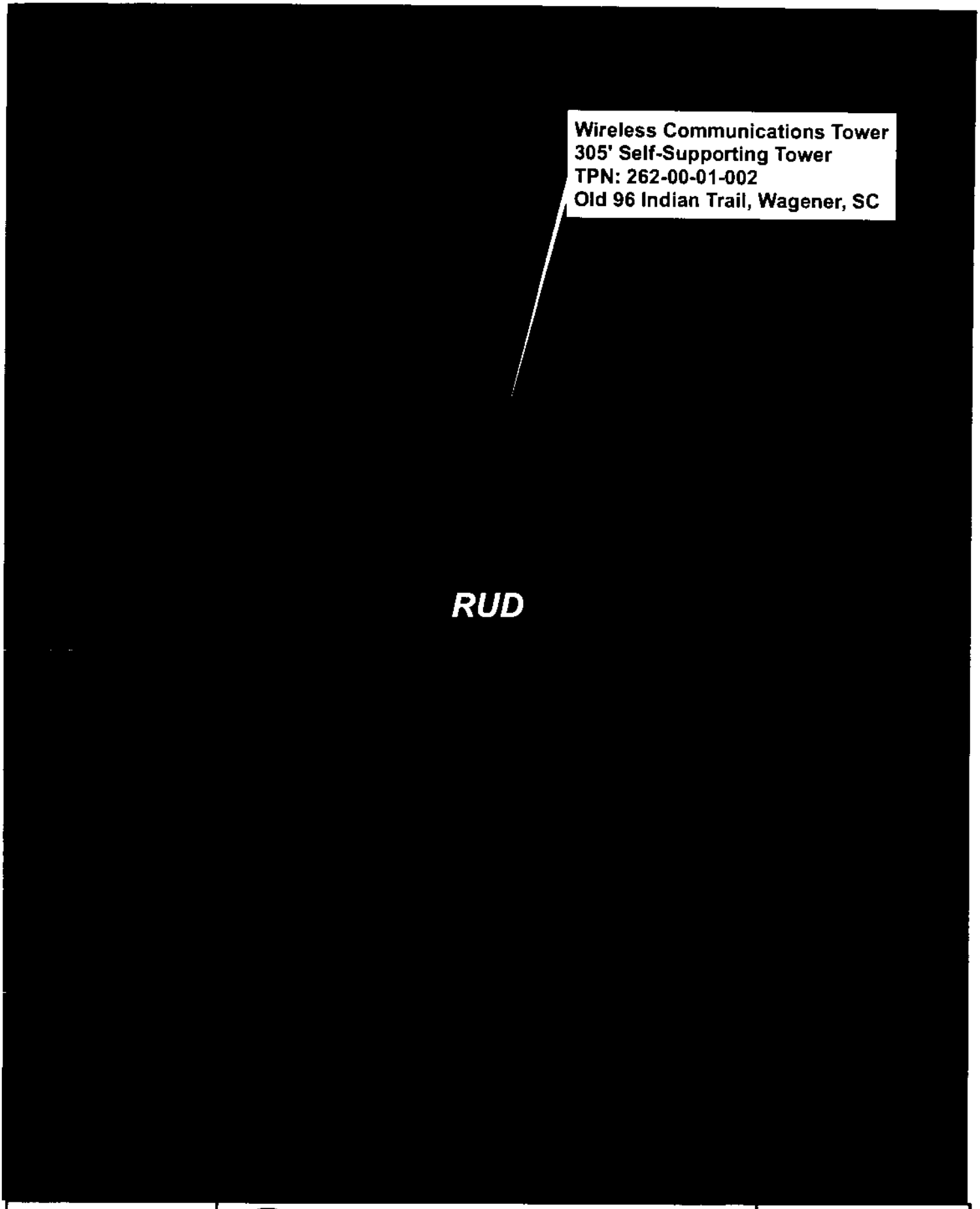


Prepared by:
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

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Prepared by:
Aiken County Government
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Wireless Communications Tower
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MINUTES
AIKEN COUNTY PLANNING COMMISSION
1930 UNIVERSITY PARKWAY, 1st FLOOR– SANDLAPPER ROOM
6:00 P.M., THURSDAY, JANUARY 19, 2023
MEETING NO. 23-01-01

A. CALL TO ORDER

The regularly scheduled meeting of the Aiken County Planning Commission was called to order at 6:00pm by Chairwoman Vance. The Chairwoman declared the presence of a quorum.

MEMBERS PRESENT

1. Grace Vance, Chairwoman
2. Liz Stewart, Vice Chairwoman
3. Richard Adams
4. William Harris, Jr
5. Jason Palmer

MEMBERS ABSENT:

1. Nyles Ellefson
2. Denise Fulmer
3. Dennis Gmerek

STAFF PRESENT

Sandra Colvin, Planning Staff
Rhonda Connelly, Planning Staff
Joel Duke, Director
Terry Reames, Code Enforcement
Amy Roberts, Planning Staff

B. RECOGNITION OF VISITORS

Chairwoman Vance welcomed the visitors to the Planning Commission meeting.

C. APPROVAL OF MINUTES: Meeting No. 22-12-01

Chairwoman Vance asked for a motion to approve the minutes. Mr. Williams made a motion to amend the date to December 15, 2022. Ms. Stewart made a motion to approve with the amendment. Mr. Palmer seconded the motion. The motion passed with majority approval.

D. APPROVAL OF AGENDA:

Chairwoman Vance asked for any amendments to the agenda. Mr. Duke stated the applicant for Item Number Three requested postponement until the February 16, 2023 meeting, and the applicant of Item Number Four requested a postponement until February 16, 2023 meeting. Ms. Stewart made a motion to approve the amended agenda. Mr. Adams seconded the motion. The motion passed by unanimous approval.

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

"Exhibit 9"

E. **ELECTION OF 2023 OFFICERS:**

Mr. Palmer made a motion to postpone until the February 16, 2023 meeting. Mr. Harris seconded the motion. The motion passed unanimously.

F. **PRESENTATIONS:**

1. **Variance Request from Sec. 24-7.9-4 a 3 Separation between easements (Public Hearing)**

Applicant: Barbara Sanders & Jacquelyn Godwin
Engineer: Rikard Enerprises, LLC
Location: Chalk Bed Road (S-104)
Tax Parcel Number: 050-06-05-002
Zoning: RUD
County Council District: 3 Danny Feagin

Mr. Duke addressed the Commission recommending the Commission consider Presentation One and Two together. He stated the applicant is requesting a variance from the standard driveway separation stated by Section 24-7.9-4. The variance would allow the platting of two private driveways separated by less than the 100 feet. Mr. Duke continued stating two of the proposed lots created by the subdivision will have a property line joining Benelli Trail (a proposed private road), and the other two lots will access the private road through access easements crossing the first two lots. He continued stating both access easements will intersect Benelli Trail at the proposed cul-de-sac separated by less than the 100 feet required by Section 24-7.9-4.

Chairwoman Vance opened the public hearing.

Jacqulyn Godwin, 759 Benelli Trail, Graniteville, SC, addressed the Commission stating her request for a variance to allow two easements within 100 feet of each other. She stated the variance would maximize use of the property.

Chairwoman Vance asked Mr. Duke about contingencies concerning the proposed private road. Mr. Duke stated there are minor issues, and the applicant must submit revised plans.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Palmer made a motion to approve. Mr. Harris seconded the motion. The motion passed unanimously.

2. **Proposed Private Road – Preliminary Plat Approval (Public Hearing)**

Applicant: Barbara Sanders & Jacquelyn Godwin
Engineer: Rikard Enterprises, LLC
Location: Chalk Bed Road (S-104)
Total Acreage: .5
Tax Parcel Numbers: 050-06-05-002
Zoning: RUD
County Council District: 3 Danny Feagin

The discussion concerning the proposed private road was conducted in conjunction with Presentation One.

Chairwoman Vance closed the public hearing and asked for a motion. Mr. Palmer made a motion to approve with contingencies. Mr. Adams seconded the motion. The motion passed unanimously.

3. **Proposed Private Road Name Change – (Public Hearing)**
Applicant: Michele A. Gomez
Current Name: Smoot Drive P-488
Proposed Name: Gomez Loop P-488
Location: Williston Road US-278
Tax Parcel Number: 111-08-05-001
County Council District: 2 Mike Kellems

Per applicant's request, the item was postponed until February 16, 2023 meeting.

4. **The Abbey 2E at Trolley Run Station – Preliminary Plat Approval (Public Hearing)**
Applicant: Sage Mill Residential, Ltd.
Engineer: Hass & Hildebrand, Inc.
Location: Beadlow Street (C-2956)
Total Acreage: 12.0
Total Number of Lots: 85
Tax Parcel Number: 086-00-19-001
Zoning: PUD A
County Council District: 8 Willar Hightower

Per applicant's request, item was postponed until February 16, 2023 meeting. Chairwoman Vance elected to allow the public present for the item to speak.

Tom Walton, 4649 Vaucluse Road, Aiken, SC, addressed the Commission with concerns of additional density on 12 acres and the infrastructure required.

Celeste Walton, 4649 Vaucluse Road, Aiken, SC, addressed the Commission with concerns of additional traffic and housing density.

Mike Gittings, 448 Whitby Court, Aiken, SC, addressed the Commission asking will it be townhomes or single family homes. Mr. Duke no changes have been made with the Planning Department.

George Hayes, 4551 Vaucluse Road, Aiken, SC, addressed the Commission with concerns of additional density.

G. OLD BUSINESS:

1. Wireless Telecommunication Tower

Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002
Zoning: RUD, Rural Development
Proposed Tower: 305' self-supporting telecommunications tower
County Council District: 1 Kathy Rawls

Vice-Chairwoman Stewart made a motion to remove item from the table. Mr. Adams seconded the motion, and motion passed unanimously.

Brad Farrar, Aiken County Attorney, addressed the Commission stating sent letters to attorneys representing Verizon and the concerned neighbors, citing statute 6-29-1145 which outlines the Planning Commission and Aiken County Planning & Development department response to restrictive covenants. (See attached letter)

Clark McCants, representing David Lambert and Julia Beamish, addressed the Commission stating the entire Bluffwood East subdivision is subject to restrictive covenants. He stated the residences of Bluffwood East are opposed to the construction of a cell tower. Mr. McCants stated that the requirements for the cell tower do not meet Aiken County regulations.

Lannie Greene, with Pyramid Network Services, representing Verizon, addressed the Commission stating Verizon is requesting permission to proceed with the cell tower. He stated that Verizon has provided the documentation requested by Mr. Farrar, and that the subject property meets the Aiken County ordinance for mobile communication towers. He continued stating Verizon's attorney found no restrictive covenants affecting the subject property.

Nick Steinhaus, attorney representing Verizon, addressed the Commission stating after researching, he found no restrictive covenants for the subject property. The restrictive covenants for Bluffwood East were established in 2004, and Mr. Waters purchased this parcel in 2006.

Chairwoman Vance ended the discussion and asked for a motion. Vice-Chairwoman Stewart made a motion to recommend approval based on information received. No second to the motion. There was discussion with the Commission. Vice-Chairwoman Stewart made a motion to recommend approval based on information received. Mr. Adams seconded the motion. The motion was approved with a three to one vote, with Mr. Harris voting in opposition.

H. NEXT REGULAR MEETING: February 16, 2023

I. ADJOURNMENT:

Chairwoman Vance asked for a motion to adjourn. Mr. Adams made a motion to adjourn the meeting. Mr. Harris seconded the motion. The motion passed by unanimous consent with the meeting ending at 7:37 p.m.

Respectfully Submitted,

Joel T. Duke, Secretary — Date: 2/16/23

Grace Vance, Chairwoman — Date: 2/16/23

TRANSCRIPT OF RECORDED AIKEN COUNTY PLANNING COMMISSION MEETING

****

Thursday, January 19, 2023

FILED April 27 20 23

Robert F. White CMP
C.C.C.P. & G.S.

Charla Griffin Pearce
Deputy Clerk

CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

"Exhibit 10"

CHAIRWOMAN: Okay. Hold on. So, what I'd like for you to do, please come forward. Not only to -- (inaudible) --

UNKNOWN MALE VOICE: Okay.

CHAIRWOMAN: Okay? So, please step forward. And could you state your name for the record.

MR. MCCANTS: Certainly. And I'm Clarke McCants. And I -- (inaudible) -- the attorney -- (inaudible) ---

CHAIRWOMAN: Okay.

MR. MCCANTS: I don't have any new information. I'm not -- I don't think that you were here at the last meeting, that's my understanding.

CHAIRWOMAN: Sir, that's not the question. The question was specifically -- and it's information that was requested by the County Attorney -- (inaudible) -- and the Commission has -- (inaudible) -- the answer to why that information was not provided and is up for review.

MR. MCCANTS: And it's in the record already.

CHAIRWOMAN: You're saying it's in the record. So, you know nothing else that's required ---

MR. MCCANTS: Anything new.

CHAIRWOMAN: -- (inaudible) -- or response.

MR. MCCANTS: I don't have any new information. I might on behalf of my client, but -- (inaudible) -- respond, in his position they -- (inaudible) ---

CHAIRWOMAN: Great. That's not -- (inaudible) -- the record, so. If you'd rather do -- (inaudible) ---

UNKNOWN MALE VOICE: Sure.

MR. MCCANTS: (Inaudible.)

CHAIRWOMAN: Okay. All right.

MR. MCCANTS: Thank you very much, again. (Inaudible.)

This was discussed at the last meeting, the requirement. And I've done to enlarge it -- (inaudible) ---

CHAIRWOMAN: Do you mind bringing it -- can you get closer?

MR. MCCANTS: I be pleased to. I did my best to enlarge it for you.

CHAIRWOMAN: It's all right. Can everybody see that? All right.

MR. MCCANTS: Hang on a minute.

(Background noise.)

MR. MCCANTS: All right. And the folks that were here the last time remember, I believe, this

document. It is a plat -- and granted, it's what's labeled -- (inaudible). Mr. Waters, of course, is working with Verizon to ask permission for Verizon to build a cell tower on this property that I've highlighted, this fracture of land here. (Inaudible) -- highlighted. You can tell this is the boarder on these plats -- (inaudible). Now, Brad mentioned that he did research on the issue of restrictions, there at the facility to this project. And I found something that I want to add, but again, I'm commenting on the documents that's already in the record -- (inaudible). Some restrictive covenants is what we're here -- (inaudible). In fact, we discussed the last time. And what Mr. Farrar has indicated to you, that there's nothing of record to demonstrate that this -- well, wait, let me put -- (inaudible) ---

CHAIRWOMAN: Can you indicate what page number it appears it's on?

MR. MCCANTS: I can't -- (inaudible) -- they were discussing it right before -- (inaudible) ---

UNKNOWN MALE VOICE: (Inaudible.)

MR. MCCANTS: Everybody with me?

CHAIRWOMAN: All right. (Inaudible.) Is this the complete -- (inaudible).

MR. MCCANTS: Well, can I help with that?

CHAIRWOMAN: Yeah.

MR. MCCANTS: These are restrictions that Mr. Waters put together, sub-dividing the property owned by him, it was -- (inaudible) -- because what he -- he sold a lot of property out there to a lot of different individuals, as you can see. My client's here, you can see. I don't challenge our position that

(Incomplete - inaudible.)

Aiken County
County Attorney

Remembering the Past, Preparing for the Future

Bradley T. Farrar
County Attorney

November 21, 2022

Nick Steinhaus, Esquire
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
1501 Main Street, Suite 310
Columbia, South Carolina 29201

Clark W. McCants III, Esquire
Nance & McCants
218 Newberry Street, S.W.
Aiken, South Carolina 29802

Re: Wireless Telecommunications Tower
Applicant: Pyramid Network Solutions, LLC for Verizon Wireless
Location: Old 96 Indian Trail, Wagener
Tax Parcel: 262-00-01-002

Dear Gentlemen:

Attached are copies of documents provided to the members of the Aiken County Planning Commission and included in the record of the above-referenced matter at the Commission's meeting on November 17, 2022. They include:

1) Letter of November 17, 2022, from Clarke W. McCants III, Esquire;
2) E-mail of November 15, 2022, From Nick Steinhaus, Esquire;
3) Limited Warranty Deed recorded on January 27, 2006, in Deed Book RB 4042, Pages 1955-1960, in the Office of the Register of Mesne Conveyance for Aiken County;
4) Title to Real Estate recorded on March 30, 2010, in Deed Book RB 4301, Pages 1238-1243, in the Office of the Register of Mesne Conveyance for Aiken County; and
5) Title to Real Estate recorded on March 26, 2014, in Deed Book RB 4499, Pages 2015-2019, in the Office of the Register of Mesne Conveyance for Aiken County.

At last Thursday's meeting, Mr. McCants, Esq., also offered the attached Restrictive Covenants For Bluffwood East for the Commission's consideration.

The Planning Commission continued this matter until its meeting in January 2023.

S.C.Code Ann. Section 6-29-1145 provides in relevant part:

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

1930 University Parkway • Suite 3628 • Aiken • South Carolina 29801
803-642-3628 • BFarrar@aikencountysc.gov

"Exhibit 11"

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order. (Emphasis supplied herein).

Importantly, Subsection (C) provides in relevant part:

As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants; (Emphasis supplied herein).

In accordance with 6-29-1145(C)(1), you are encouraged to submit any relevant documents or exhibits you believe bear upon the facts of this request, preferably prior to the call of this matter so that they may be included in the agenda packet, as the Aiken County Planning Department is not required to search for any documents, whether recorded or not, that relate to restrictive covenants and it does not represent either the applicant or anyone in opposition to a matter that comes before the Planning Commission.

Thank you for your help in this matter. With kindest regards, I am

Sincerely Yours,

Bradley T. Farrar
Aiken County Attorney

Enclosures

Cc: Aiken County Planning Commission
Aiken County Planning Director

NANCE & MCCANTS

Attorneys & Counselors at Law
218 Newberry Street, S.W.
Aiken, South Carolina 29802
Telephone (803) 649-6200

James D. Nance, LLC
Clarke W. McCants, III, P.C.
Amy Patterson Shumpert
Clarke W. McCants, IV

Post Office Box 2881
Aiken, SC 29802-2881
Fax: (803) 649-5566
clarkemccants4@gmail.com

November 17, 2022

Mr. Dennis M. Gmerek
Chairman - Aiken County Planning Commission
1930 University Pkwy #3600
Aiken, South Carolina 29801

Re: Telecommunications Tower Application; tax parcel #262-00-01-002

Dear Dennis:

I have been retained by David Lambert and Julia Beamish with respect to an application presented to the Aiken County Planning Commission by Pyramid Network Services for the construction of a telecommunications tower on Aiken County Tax Parcel No. 262-00–01-002. Please note my appearance in this matter in that regard.

I understand this matter is scheduled to be heard before the Planning Commission this evening at 6:00 p.m. I would look forward to appearing before the Commission at that time.

With best regards, I remain,

Respectfully yours,

Clarke W. McCants III

cc: Mr. Dave Lambert
Bradley T. Farrar, Esquire (via email to: bfarrar@aikencountysc.gov)
Mr. Joel T. Duke

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any rights. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

EXEMPTED FROM THE FEE ARE DEEDS

1 transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
2 transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
3 that are otherwise exempted under the laws and Constitution of this State or the United States;
4 transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
5 transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
6 transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
7 that constitute a contract for the sale of timber to be cut;
8 transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty for a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
9 transferring realty from a family partnership to a partner or from family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
10 transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
11 transferring realty in a merger or consolidation from constituent partnership to the continuing or new partnership;
12 that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid to or is to be paid under the corrective or quitclaim deed; and,
13 transferring realty subject to a mortgage whether by a deed in lieu or foreclosure executed by the mortgagor or deed executed pursuant to foreclosure proceedings;
14 transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty;
15 transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or take functional control of electric transmission assets as defined in the Federal Power Act.

AIKEN COUNTY ASSESSOR
Tax Map:
262-00-01-002 PORTION
262-00-01-043
AIKEN COUNTY GIS
Tax Map:
262-00-01-043

2010007211
DEED
RECORDING FEES $10.00
STATE TAX $260.00
COUNTY TAX $110.00
PRESENTED & RECORDED:
01-31-2010 12:00:34 PM
JUDITH HARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
By: MARILYN SEIGLER DEPUTY
BK: RB 4301
PG: 1238-1243

Space above this line for recording information

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS THAT, [redacted] A/K/A GERALD L. WATERS herein referred to as Grantor for and in consideration of the sum of ONE HUNDRED THOUSAND AND 00/100 (100,000.00) Dollars to me paid by [redacted] AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, hereinafter referred to as Grantees in the State aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantees, their heirs, successors, and assigns forever:

ALL that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being in the County of Aiken, State of South Carolina, being shown and designated as 17.00 acres on that certain Plat of Survey prepared for Julia Beamish and David Lambert by W. J. Webb, PLS dated February 12, 2010 and recorded simultaneously herewith in Plat Book 55, Page 199, Aiken County Records. Reference is made to the aforesaid for a more accurate and complete description of the metes and bounds of the subject property.

BEING a portion of the same property conveyed to Gerald Waters by deed of Blue Sky Timber Properties LLC dated January 23, 2006 and recorded January 27, 2006 in [redacted] Aiken County Records. Also being a portion of the same property conveyed to Gerald L. Waters by deed of the Sue G. Howard Family Limited Partnership, Cynthia I. Mallard, Merla Ann I. Wall and Bonnie Ingram Futch said deed being dated November 6, 2003 and recorded November 12, 2003 in Deed Book 2371, Page 84, Aiken County Records.

Tax Parcel No. [redacted]
262-00-01-043

Reserving, however, unto the Grantor an easement thirty feet (30') in width for ingress and egress to access the remaining property of Grantor located to the east of the subject property as more particularly shown on the aforesaid plat

[redacted]

Grantees' Address: 3200 Damascus Road
Brookville, Maryland 20833

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs, and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs, and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 26th day of March, in the year of our Lord 2010.

Signed, Sealed and Delivered
in the Presence of:

Crystal Brown

Gerald L. Waters

Gerald Waters a/k/a Gerald L. Waters

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Personally appeared before me the undersigned and made oath that she saw the within named Grantor sign, seal and as His act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that she with the other witness subscribed above witnessed the execution thereof.

Crystal Brown

SWORN to before me this
26th day of March, 2010

Notary Public for the State of South Carolina
My Commission Expires:

OFFICIAL SEAL
MARY O. GUYNN
NOTARY PUBLIC-STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES NOV. 21, 2011

Book 4301 Page 1239

EXHIBIT A

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
COUNTY OF AIKEN) FOR
BLUFFWOOD EAST

1 Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East

2 No mobile homes are allowed Modular homes or custom-built residential dwellings are permitted All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property

3 Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items

4 In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only

5 The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts

6 No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors

7 Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire Interior fencing other than road frontage is permitted at the discretion of owner

8 No unsightly items may be kept on the property which are visible from the roadway Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9 A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.

Gerald L. Waters
Owner/Developer

Date

October 7, 2004

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

Page 1 of 2
AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is known as 17 Acres on Bluffwood Road, in Aiken County, bearing County Tax Map Number 262-00-01-043; 262-00-01-002 which was transferred by Gerald Waters a/k/a Gerald L. Waters to David Lambert and Julia Beamish, as Joint Tenants with Rights of Survivorship and Not as Tenants in Common on March 26, 2010
   Check one of the following: The deed is

   (a) __X__ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
   (c) _____ exempt from the deed recording fee because (See Information section of affidavit):
   (If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See information section of this affidavit):
   (a) __X__ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $100,000.00
   (b) _____ The fee is computed on the fair market value of the realty which is _____.
   (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes ____ or No __X__ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$100,000.00
(b) Place the amount listed in item 5 above here:	$
(c) (If no amount is listed, place zero here.)	$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$100,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 370.00

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this 26 day of March, 2010

Crystal Brown
Notary Public for SC
My Commission Expires:

Print or Type Name Here: Mary O Guynn

CRYSTAL BROWN
Notary Public
State of South Carolina
Commission Expires June 28, 2015

Deed Consideration Affidavit

Book 4301 Page 1242

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
(7) that constitute a contract for the sale of timber to be cut;
(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. "Family" means the grantor, the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of them, and the grantor's and grantor's spouse's heirs under a statute of descent and distribution. A "family partnership" or "family trust" also includes charitable entities, other family partnerships and family trusts of the grantor, and charitable remainder and charitable lead trusts, if all the beneficiaries are charitable entities or members of the grantor's family. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
(12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
(15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

AIKEN COUNTY ASSESSOR
Tax Map:
[illegible]
201-00-03-001
Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10.00
STATE TAX $0.00
COUNTY TAX $0.00
PRESENTED & RECORDED:
03-26-2014 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
BK: RB 4499
PG: 2015 - 2019

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS:

That GERALD WATERS (hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by GERALD L. WATERS, TROSTEE OF THE GERALD L. WATERS LIVING TRUST U/A DATED MARCH 12, 2014, as amended (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns forever, all his right, title and interest in and to the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and his heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12 day of March, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: _____

GERALD WATERS

Witness: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named GERALD WATERS sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that they, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
12 day of March, 2014

_____

Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C MCCORMICK
My Commission Expires
NOTARY PUBLIC
10-24-2021
SOUTH CAROLINA

After recording return to Smith, Massey, Brodie, Guynn & Mayes, P.A.

Exhibit A

PARCEL 1:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Twenty-two and 996/1000 (122.996) acres, more or less, and being the first of two tracts conveyed to Union Camp Corporation by Weyerhaeuser Company, by deed recorded in the RMC Office of Aiken County, South Carolina, at Deed Book 1659, page 175, to which deed is reference is hereby specifically made, said dead describing a total of 620.166 acres, more or less.

Derivation: This being the same property conveyed unto Gerald Waters by Quit Claim Deed of Sustainable Forests, LLC dated January 23, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1966, records of the RMC Office for Aiken County, South Carolina.

Tax Parcel Number: 262-00-01-002

PARCEL 2:

All that certain lot, tract of parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Eleven and 33/100 (111.33) acres, more or less, and being the property conveyed to Catawba Newsprint Company by J.W. Rushton by Deed recorded in the RMC Office of Aiken County, South Carolina, at Book 684, Page 189, to which deed reference is hereby specifically made.

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Tax Parcel Number: 201-00-02-003

PARCEL 3:

All that certain lot, tract or parcel of land situate, lying and being in Aiken County, South Carolina containing One Hundred Fifty-four and 86/100 (154.86) acres, more or less, and being the property conveyed to Catawba Newsprint Company by Trent L. Hutto by deed recorded in the RMC Office of Aiken County, South Carolina, at Book 731, page 4, to which deed reference is hereby specially made.

Derivation: This being the same property conveyed unto Gerald Waters by Limited Warranty Deed of Blue Sky Timber Properties, LLC dated January 19, 2006 and recorded January 27, 2006 in Deed Book 4042, at Page 1978, and also in book 4042, at

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Tax Parcel Number: 201-00-03-001

Grantee's Address: 349 Gooseneck Rd.
Aiken, SC 29805

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information of this affidavit and I understand such information.

The property being transferred is located in Aiken County, bearing Aiken County Tax Map Number 262-00-01-002, 201-00-02-003 and 201-00-03-001 transferred by GERALD WATERS to GERALD L. WATERS, TRUSTEE OF THE GERALD L. WATERS LIVING TRUST U/A DATED MARCH 12, 2014 On this 12 day of March, 2014.

2. Check one of the following: The deed is
(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) ___X___ exempt from the deed recording fee because (*See Information section of affidavit*): ___8___.
(If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

4 Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $.
(b) _____ The fee is computed on the fair market value of the realty which is _____.
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes_____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is:_____

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	$0
(b) Place the amount listed in item 5 above here:	$0
(c) Subtract Line 6(b) from Line 6(a) and place result here:	$0

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

_____
Responsible Person Connected with the Transaction

SWORN to before me this
12 day of March, 2014

_____
Notary Public for South Carolina
My Commission Expires: 10-24-21

_____
William Ray Massey
Print or Type Name Here

CAROLINE C. MCCORMICK NOTARY PUBLIC SOUTH CAROLINA My Commission Expires 10-24-2021

Book 4499 Page 2019

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
FOR
COUNTY OF AIKEN) BLUFFWOOD EAST

The property described herein is specifically made subject to the following Restrictive Covenants.

1. Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East.

2. No mobile homes are allowed. Modular homes or custom-built residential dwellings are permitted. All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property.

3. Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items.

4. In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only.

5. The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6. No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors.

7. Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire. Interior fencing other than road frontage is permitted at the discretion of owner.

8. No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view. It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East. Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9. A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.

Gerald L. Waters
Owner/Developer

Date:

October 7, 2004

No Reference to Restrictions

AIKEN COUNTY ASSESSOR
Tax Map:
262-00-01-002
201-00-02-003
201-00-03-001
Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10.00
STATE TAX $0.00
COUNTY TAX $0.00
PRESENTED & RECORDED
[redacted] 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
[redacted]

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

KNOW ALL MEN BY THESE PRESENTS:

That [redacted] (hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by [redacted] as amended (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, its successors and assigns forever, all his right, title and interest in and to the following described real estate, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED BY REFERENCE

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining thereto,

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever, and the Grantor does hereby bind himself and his heirs and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and his heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12 day of March, 2014.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness: _____

GERALD WATERS

Witness: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named GERALD WATERS sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that they, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this
12 day of March, 2014

_____

Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C. MCCORMICK
NOTARY PUBLIC
SOUTH CAROLINA
My Commission Expires 10-24-2021

After recording return to Smith, Masssey, Brodie, Guynn & Mayes, P.A.

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PARCEL 1:

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Tax Parcel Number: 262-00-01-002

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Tax Parcel Number: 201-00-02-003

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SWORN to before me this
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Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C. MCCORMICK
My Commission Expires
NOTARY PUBLIC
10-24-2021
SOUTH CAROLINA

William Ray Massey
Print or Type Name Here

Book 4499 Page 2019

AIKEN COUNTY ASSESSOR
Tax Map

Date: 04/03/2014

2014006143
DEED
RECORDING FEES $10 00
STATE TAX $0 00
COUNTY TAX $0 00
PRESENTED & RECORDED
03-26-2014 02:50 PM
JUDITH WARNER
REGISTER OF MESNE CONVEYANCE
AIKEN COUNTY, SC
BY: MARILYN SEIGLER DEPUTY
BK: RB 4499
PG: 2015 - 2019

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF AIKEN)

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That hereinafter called "Grantor"), for and in consideration of the sum of FIVE AND 00/1.00 Dollars ($5.00), to him in hand paid at and before the sealing of these presents by

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IN THE PRESENCE OF

Witness: _____

GERALD WATERS

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)
COUNTY OF AIKEN)

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_____

Notary Public for South Carolina
My Commission Expires: 10-24-21

CAROLINE C MCCORMICK
NOTARY PUBLIC
SOUTH CAROLINA
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Book 4499 Page 2016

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9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

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Responsible Person Connected with the Transaction

SWORN to before me this
12 day of March, 2014

_____
Notary Public for South Carolina
My Commission Expires 10-24-21

CAROLINE C. MCCORMICK
NOTARY PUBLIC
SOUTH CAROLINA
My Commission Expires 10-24-2021

William Ray Massey
Print or Type Name Here

Book 4499 Page 2019

FILED April 27, 2023
C.C.C.P. & G.S.
Deputy Clerk

0340

"Exhibit 12"

verizon

10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GA 30022

FALKOUR_MKT_174_MCR

SITE #: 695446

FUZE PROJECT ID: 16600819

SITE ADDRESS (E-911 TBD)
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY
LATITUDE: 33° 40' 22.43" N
LONGITUDE: 81° 25' 25.06" W
TAX/PIN #: 262-00-01-002
ZONING: RUD, RURAL

ZONING DISTRICT: RUD, RURAL
CURRENT USE: UNDEVELOPED AND WOODED
PROPERTY SIZE: 122.795 ACRES
LEASE AREA SIZE: [illegible]

AIKEN COUNTY SHERIFF'S OFFICE
[illegible] HAMPTON AVENUE NE
AIKEN, SC 29801
PHONE: (803) 642-1650
ATTN: CUSTOMER SERVICE

CENTER FIRE DEPARTMENT #3
2585 COLUMBIA HWY N
AIKEN, SC 29801
PHONE: (803) 649-6611
ATTN: CUSTOMER SERVICE

SITE

VICINITY MAP

DRIVING DIRECTIONS

JURISDICTION
AIKEN COUNTY

STATE
SOUTH CAROLINA

TOWER TYPE
SELF SUPPORT TOWER

TOWER HEIGHT
[illegible] TO HIGHEST APPURTENANCE

NUMBER OF CARRIERS
[illegible] PROPOSED

USE
PROPOSED TELECOMMUNICATIONS TOWER AND UNMANNED EQUIPMENT

FLOOD INFO
SITE IS LOCATED WITHIN FEMA FIRM MAP AREA #[illegible] DATED [illegible] WITHIN FLOOD ZONE X

PROJECT SUMMARY

DEVELOPER
VERIZON WIRELESS
[illegible] OLD ALABAMA RD
ALPHARETTA, GA 30022
PHONE: [illegible]
ATTN: MATT HARTLEY

POWER COMPANY
DOMINION ENERGY
PHONE: [illegible]
ATTN: [illegible]

PROPERTY OWNER
GERALD E. WATERS LIVING TRUST ETAL
[illegible] CROSSNECK ROAD
AIKEN, SC [illegible]
PHONE: [illegible]
ATTN: GERALD WATERS

CONSULTANT
KIMLEY-HORN AND ASSOCIATES, INC.
[illegible] PARK DRIVE, SUITE [illegible]
ALPHARETTA, GA 30009
PHONE: (770) 274-5032
ATTN: DAVID COUSINS, PE

CONTACTS

SHEET NUMBER	SHEET DESCRIPTION
T1	COVER SHEET
[illegible]	GENERAL NOTES
[illegible]	OVERALL PROPERTY PLAN
[illegible]	OVERALL COMPOUND PLAN
[illegible]	SITE PLAN
[illegible]	EQUIPMENT PLANS
[illegible]	ELEVATIONS
[illegible]	EQUIPMENT RACK DETAILS - PROPOSED
[illegible]	EQUIPMENT RACK DETAILS - EXISTING
[illegible]	CONCRETE FOUNDATION DETAILS
[illegible]	FENCE, GATE AND COMPOUND DETAILS
[illegible]	GRADING AND DRAINAGE PLAN
[illegible]	GRADING AND EROSION CONTROL PLAN
[illegible]	GRADING AND EROSION CONTROL DETAILS
[illegible]	ACCESS ROAD DETAILS
[illegible]	SITE SIGNAGE DETAILS
[illegible]	WAVEGUIDE ANTENNA DETAILS
[illegible]	ANTENNA AND ELEVATION PLAN
[illegible]	EROSION NOTES
[illegible]	UTILITY SERVICE ROUTING PLAN
[illegible]	OVERALL UTILITY ROUTING PLAN
[illegible]	METER RACK DETAILS - PROPOSED
[illegible]	METER RACK DETAILS - EXISTING
[illegible]	TELECOM RACK DETAILS - [illegible]
[illegible]	CABLE LADDER DETAILS
[illegible]	GROUNDING DETAILS
[illegible]	GROUNDING PLAN
[illegible]	GROUNDING SCHEDULE AND DIAGRAM
[illegible]	GROUNDING DETAILS
[illegible]	GROUNDING DETAILS

SHEET INDEX

AIKEN COUNTY PLANNING & DEVELOPMENT DEPT.
[illegible] UNIVERSITY PKWY #2800
AIKEN, SC 29801
PHONE: (803) 642-1525
ATTN: CUSTOMER SERVICE

PERMIT INFORMATION

verizon

10300 OLD ALABAMA ROAD CONNECTOR
ALPHARETTA, GA 30022

PROJECT INFORMATION:

SITE NAME:
FALKOUR_MKT_174_MCR
SITE NO.: 695446
[illegible]
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY

Kimley»Horn

[illegible]

REV	DATE	ISSUED FOR	BY
[illegible]			
[illegible]			
[illegible]			
[illegible]			
[illegible]			
[illegible]			
7	08/01/23	CONSTRUCTION	DAG
6	05/15/23	CONSTRUCTION	DAG
A	04/27/23	PRELIMINARY	DAG

[illegible]

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS [illegible]

VAA PROJECT NUMBER:
[illegible]

DRAWN BY: DAG | CHECKED BY: DRC

SHEET TITLE

COVER SHEET

SHEET NUMBER

T1

[illegible]

TITLE EXCEPTIONS:
This survey was made with the aid of Title work prepared by U.S. Title Solutions, report date of 2/10/2021, examined from 6/9/1976 to 2/4/2021, being File No. 67200-SC2102-5034, for the Parent Parcel to determine the effects of existing title exceptions listed below:

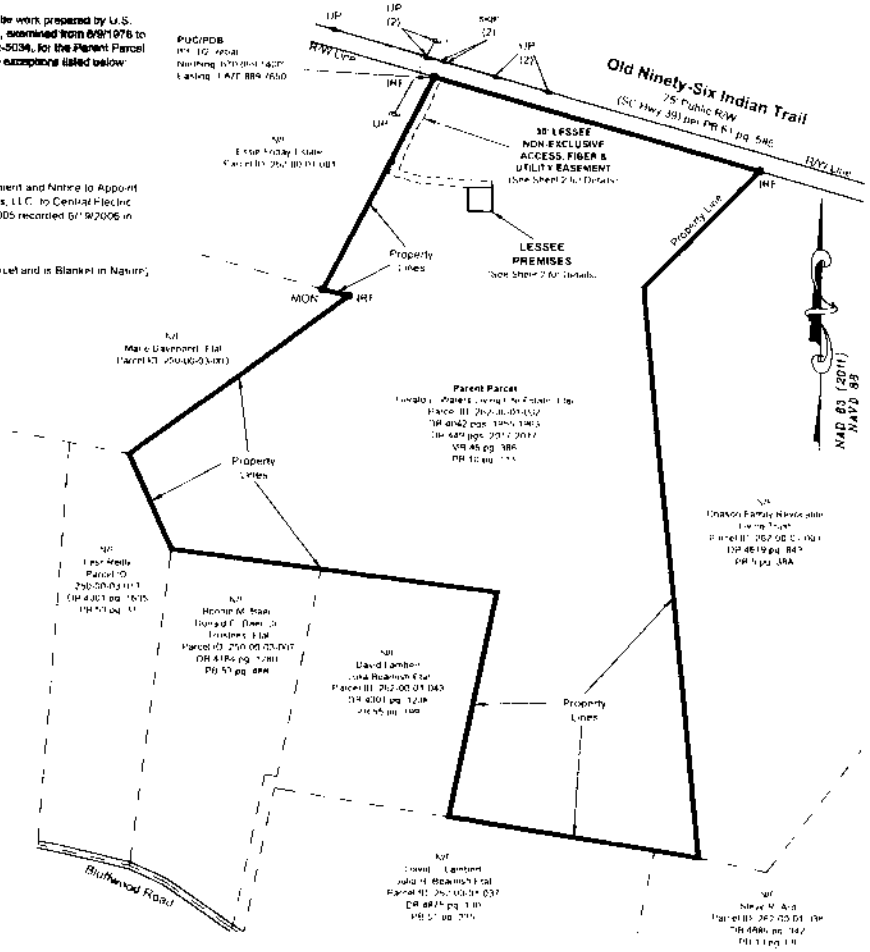
(Judgement, Lien, UCC)
5. None within period searched

(Covenants/Restrictions)
6. None within period searched

(Easements and Right of Ways)
7. Condemnation Notice Tender of Payment and Notice to Appoint Appraiser by Blue Sky Timber Properties, LLC to Central Electric Power Cooperative, Inc., dated 10/25/2005 recorded 6/19/2006 in book 4070 page 1592
Notes: Electric transmission

(This item is applicable to the Parent Parcel and is Blanket in Nature)

(Other Filed Documents)
None within period searched



PARENT PARCEL:

Owner:
Gerald L Waters Living Trust Etal
Site Address:
Old Ninety-Six Indian Trail
Parcel ID:
262-00-01-002
Area:
122.996 Acres
Zoning:
RUD (Rural Development)
References:
DB 4042 pgs. 1955-1960
DB 4499 pgs. 2015-2019
MB 45 pg. 386
PB 10 pg. 113

LEGEND

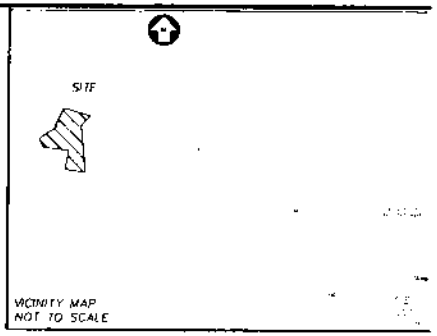
AP - Antenna Pole
CB - Catch Basin
CO = Sanitary Sewer Cleanout
DB = Deed Book
DI = Drop Inlet
FH = Fire Hydrant
FO = Fiber Optic
GV = Gas Valve
GW = Guy Wire
HH = Handhole
IPF = Iron Pipe Found
IRF = Iron Rebar Found (1/2" rebar)
LP = Light Pole
MB = Miscellaneous Book
MON = 4'X4' Concrete R/W Monument
PB = Plat Book
PG = Page
PKF = PK Nail Found
POB = Point of Beginning
POC = Point of Commencement
R/W = Right-of-Way
TBM = Temporary Benchmark
TP = Telephone Pedestal
UP = Utility Pole
WM = Water Meter
WV = Water Valve

GENERAL NOTES

1. This Specific Purpose Survey is for the Lessee Premises and Easements Only. This Specific Purpose Survey was prepared for the exclusive use of Verizon Wireless and exclusively for the transferal of the Lessee Premises and the Rights of Easement shown hereon and shall not be used as an exhibit or evidence in the fee simple transferal of the Parent Parcel nor any portion or portions thereof. Boundary information shown hereon has been compiled from tax maps and deed descriptions only. No boundary survey of the Parent Parcel was preformed.
2. This drawing does not represent a boundary survey.
3. The Specific Purpose Survey was prepared without benefit of a title report which may reveal additional conveyances, easements or rights-of-way not shown hereon.
4. Survey equipment used for angular & linear measurements: Trimble S5 Robotic Total Station.
5. The 1' contours and spot elevations shown on the Specific Purpose Survey are adjusted to NAVD 88 Datum (computed using GEOID 18) and have a vertical accuracy of +/- 0.5. Contours outside the immediate site area are approximate.
6. Bearings shown on this Specific Purpose Survey are based on Grid North (NAD83).
7. Per FEMA Floodplain Maps, this site is located in an area designated as Zone X (Areas of Minimal Flood Hazard). Community Panel # 45003C0220F. Dated: June 19th, 2012.
8. No wetland areas have been investigated by this Specific Purpose Survey.
9. All zoning information should be verified with Aiken County Zoning Officials.
10. Any underground utilities shown have been located from above ground field survey information. The Surveyor makes no guarantees that any underground utilities shown comprise all such utilities in the area, either in-service or abandoned. The Surveyor further does not warrant that any underground utilities shown are in the exact location indicated although they are located as accurately as possible from information available. The Surveyor has not physically located any underground utilities.

POSITIONAL ACCURACY:

Class of Survey: Class "A"
Positional Accuracy: ≤0.10
GPS Procedure: SCGS Network RTK using a Trimble SP5985 GPS Rover with TSC3 Controller
Datum/Epoch: NAD83 (NSRS2011) / NAVD 88
Public/Fixed Control: SCVRS Network
Geoid Model: Geoid18 (CONUS)
Combined Grid Factor: 0.9997745
Units: International Survey Feet
Dates of Survey: February 16-17, 2021



SURVEYOR'S CERTIFICATION:

I, Neal H. O'Connor, Jr., do hereby certify that this map was drawn under my supervision from an actual GPS/conventional field survey made under my supervision and accurately depicts the locations of the site as surveyed in the field and is not intended to represent a Boundary Survey of the Property or Properties shown hereon. This survey is not for Recordation purposes.

March 8th, 2021
Neal H. O'Connor, Jr. — Date
SCPLS # 15190

SOUTH CAROLINA PROFESSIONAL SEAL 15190 LAND SURVEYOR NEAL H. O'CONNOR, JR.

LINETYPE LEGEND

- Parcel Line
- Fence Line
- Curb & Gutter
- Fiber Optic Line
- Water Line
- Overhead Electric Power Line
- Underground Electric Line

HATCH LEGEND

- Concrete
- Brick Walkway
- Planter
- Wall

GRAPHIC SCALE
250 0 125 250 500 1000
(IN FEET)
1 inch = 500 ft.

South Carolina 811 Call 811 Before you Dig

CIVIL ENGINEER & LAND SURVEYOR OF RECORD
SUMMIT DESIGN AND ENGINEERING SERVICES

PREPARED FOR
verizon wireless
Kimley»Horn

REVISIONS					
NO.	DATE	DESCRIPTION	BY	CHK	APP

SPECIFIC PURPOSE SURVEY

FALKOUR_MKT_174_MCR

OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC
AIKEN COUNTY
DATES OF SURVEY: FEBRUARY 16-17, 2021

SUMMIT DESIGN AND ENGINEERING SERVICES

SPECIFIC PURPOSE SURVEY
TOWER LESSEE PREMISES SITE
SHEET 1 OF 3

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S74°09'58"E	60.57'
L2	S27°00'40"W	18.58'
L3	S24°11'54"W	16.77'
L4	S20°56'19"W	32.77'
L5	S20°59'11"W	51.49'
L6	S21°23'37"W	50.31'
L7	S21°55'08"W	53.56'
L8	S29°00'17"W	60.23'
L9	S34°16'25"W	21.64'
L10	S22°13'41"W	29.14'
L11	S26°54'31"W	46.61'
L12	S31°29'25"W	56.06'
L13	S20°48'34"W	28.04'
L14	S33°27'24"W	27.78'
L15	S78°08'14"E	25.12'
L16	S72°58'03"E	51.08'
L17	S85°16'21"E	42.22'
L18	S86°05'24"E	54.30'
L19	S86°00'55"E	58.10'
L20	S84°46'16"E	56.65'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L21	S89°09'33"E	98.26'
L22	S89°28'58"E	36.09'
L23	S64°40'36"E	52.32'
L24	N80°08'55"W	52.75'
L25	N86°09'29"W	53.81'
L26	N85°16'21"W	35.72'
L27	N71°56'00"W	46.34'
L28	N78°58'14"W	26.03'
L29	N87°18'16"W	16.44'
L30	N33°39'09"E	10.73'
L31	N44°22'43"E	24.76'
L32	N20°48'34"E	28.69'
L33	N20°24'25"E	42.05'
L34	N25°32'17"E	47.02'
L35	N22°13'41"E	29.71'
L36	N29°16'07"E	25.41'
L37	N29°03'53"W	12.00'
L38	N41°03'39"E	5.06'
L39	N27°22'17"E	47.01'
L40	N20°58'11"E	39.77'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L41	N20°56'18"E	21.65'
L42	N24°11'54"E	17.91'
L43	N74°09'58"W	14.57'

NAD 83 (2011)
NAVD 88

Parcel Parcel

Parcel Parcel

50' LESSEE NON EXCLUSIVE ACCESS FIBER & UTILITY EASEMENT

POC & POB Easement

Property Line

Old Dailey Road

Old Ninety-Six Indian Trail

TBM

LESSEE PREMISES

POB Lessee Premises

S01°29'53"W 100.00'

0342

LINETYPE LEGEND

- Parcel Line
- Fence Line
- Curb & Gutter
- Fiber Optic Line
- Water Line
- Overhead Electric Power Line
- Underground Electric Line
- Calculated Point
- Edge of Wood Line

LEGEND

AP - Antenna Pole
CB - Catch Basin
CO - Sanitary Sewer Cleanout
DB - Deed Book
DI - Drop Inlet
FH - Fire Hydrant
FO - Fiber Optic
GV - Gas Valve
GW - Guy Wire
HH - Handhole
IPF - Iron Pipe Found
IRF - Iron Rebar Found (1/2" rebar)
LP - Light Pole
MB - Miscellaneous Book
MON - 4"X4" Concrete R/W Monument
PB - Plat Book
PG - Page
PKF - PK Nail Found
POB - Point of Beginning
POC - Point of Commencement
R/W - Right-of-Way
TBM - Temporary Benchmark
TP - Telephone Pedestal
UP - Utility Pole
WM - Water Meter
WV - Water Valve

GRAPHIC SCALE:
30 0 15 30 60 120
(IN FEET)
1 inch = 60 ft.

SITE INFORMATION:

Lessee Premises:
10,000.00 Square Feet (0.230 Acres)
Latitude at center of Premises:
N 33° 48' 22.4298"(NAD83)(33.672897)
Longitude at center of Premises:
W 81° 25' 25.064"(NAD83)(-81.423796)

Elevation at center of Premises
497.66' A.M.S.L.

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DESIGN AND ENGINEERING SERVICES

PREPARED FOR
verizonwireless
Kimley»Horn

REVISIONS					
No.	DATE	DESCRIPTION	BY	CHK	APP

SPECIFIC PURPOSE SURVEY

FALKOUR_MKT_174_MCR

OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER SC
AIKEN COUNTY
DATES OF SURVEY: FEBRUARY 16-17, 2021

SUMMIT DESIGN AND ENGINEERING SERVICES

SPECIFIC PURPOSE SURVEY
TOWER LESSEE PREMISES SITE
SHEET 2 OF 3

PARENT PARCEL

Property located in Aiken County, South Carolina

All that certain piece, parcel or tract of land lying and being situated on road in the town of Wagener, Aiken County, South Carolina, containing one hundred and twenty-two and 99/100 (122.99) acres, more or less, and being more particularly described according to a plat of property for "Patrick Baughman", surveyed by S. Perrine Ioole RLS, dated August 17, 1959, which plat is recorded in Miscellaneous Book 45 at page 386, in the office of the Register of Deeds for Aiken County, is by reference incorporated herein as a part of this description and being the same property conveyed to Gerald L. Waters Living Trust Etal by Deed Book 4042 pages 1955-1960, dated January 27th, 2006 and Deed Book 4499 pages 2015-2019, dated March 26th, 2014

TAX PARCEL ID 262 00 01-002

LESSEE PREMISES

All that tract or parcel of land lying and being in the Town of Wagener, Aiken County, South Carolina, and being a portion of the lands of Gerald L. Waters Living Trust Etal, as recorded in Deed Book 4042 pages 1955, Aiken County records, and being more particularly described as follows:

To find the Point of Beginning, Commence at a 1/2" rebar found on the northwest corner of said Waters lands and the southern Right of Way of Old Ninety-Six Indian Trail (having a 75' Public Right of Way), said 1/2" rebar having a South Carolina Grid North (NAD83) value of N 670,069.1400 and E 1,870,889.7650; thence easterly with said Right of Way S 74° 09' 58" E 30.57 feet to a point on said Right of Way; thence leaving said Right of Way S 27° 03' 40" W 18.58 feet to a point; thence S 24° 11' 54" W 36.77 feet to a point, thence S 20° 50' 18" W 22.77 feet to a point; thence S 20° 50' 13" W 51.48 feet to a point; thence S 27° 22' 17" W 50.51 feet to a point, thence S 31° 53' 08" W 53.80 feet to a point; thence S 29° 03' 17" W 10.22 feet to a point; thence S 24° 02' 25" W 23.62 feet to a point; thence S 22° 13' 41" W 29.14 feet to a point; thence S 25° 42' 17" W 46.56 feet to a point; thence S 20° 29' 25" W 50.95 feet to a point; thence S 20° 46' 32" W 28.04 feet to a point, thence S 33° 27' 29" W 0.78 feet to a point; thence S 78° 00' 14" E 25.17 feet to a point; thence S 72° 36' 00" E 61.38 feet to a point; thence, S 85° 16' 21" E 42.22 feet to a point; thence S 86° 05' 29" E 53.30 feet to a point, thence S 86° 00' 55" E 58.10 feet to a point; thence S 84° 46' 16" E 56.55 feet to a point; thence S 89° 31' 07" E 98.76 feet to a point; thence S 00° 28' 53" W 30.00 feet to a point at the true POINT OF BEGINNING; thence S 00° 28' 53" W 100.00 feet to a point, thence N 89° 31' 07" W 100.00 feet to a point; thence N 00° 28' 53" W 100.00 feet to a point; thence S 89° 31' 07" E 100.00 feet to the POINT OF BEGINNING.

Bearings based on South Carolina Grid North, NAD83

Said described parcel containing 0.230 Acres (10,000.00 square feet), more or less and subject to any and all easements, reservations, restrictions and conveyances of record, being as shown in a survey prepared for Verizon Wireless by Summit Design and Engineering Services, PLLC, dated March 8th, 2021.

30' LESSEE NON-EXCLUSIVE ACCESS, FIBER & UTILITY EASEMENT

Together with a 30-foot wide Lessee Non-Exclusive Access, Fiber & Utility Easement lying and being in the Town of Wagener, Aiken County, South Carolina, and being a portion of the lands of Gerald L. Waters Living Trust Etal, as recorded in Deed Book 4042 pages 1955, Aiken County Records, and being more particularly described as follows:

Commence at a 1/2" rebar found on the northwest corner of said Waters lands and the southern Right of Way of Old Ninety-Six Indian Trail (having a 75' Public Right of Way), said 1/2" rebar having a South Carolina Grid North (NAD83) value of N 670,069.1400 and E 1,870,889.7650 and being the TRUE POINT OF BEGINNING; thence easterly with said Right of Way S 74° 09' 58" E 30.57 feet to a point on said Right of Way; thence leaving said Right of Way S 27° 03' 40" W 18.58 feet to a point, thence S 24° 11' 54" W 36.77 feet to a point; thence S 20° 50' 18" W 22.77 feet to a point; thence S 20° 50' 13" W 51.48 feet to a point; thence S 27° 22' 17" W 50.51 feet to a point; thence S 31° 53' 08" W 53.80 feet to a point; thence S 29° 03' 17" W 10.22 feet to a point; thence S 24° 02' 25" W 23.62 feet to a point, thence S 22° 13' 41" W 29.14 feet to a point; thence S 25° 42' 17" W 46.56 feet to a point; thence S 20° 29' 25" W 50.95 feet to a point; thence S 20° 46' 32" W 28.04 feet to a point; thence S 33° 27' 29" W 0.78 feet to a point; thence S 78° 00' 14" E 25.17 feet to a point; thence S 72° 36' 00" E 61.38 feet to a point; thence, S 85° 16' 21" E 42.22 feet to a point; thence S 86° 05' 29" E 53.30 feet to a point; thence S 86° 00' 55" E 58.10 feet to a point; thence S 84° 46' 16" E 56.55 feet to a point; thence S 89° 31' 07" E 98.76 feet to a point; thence S 00° 28' 53" E 30.00 feet to the corner of the Lessee Premises Line; thence with said Lessee Premises Line thence N 89° 31' 02" W 100.00 feet to a point at the corner of said Lessee Premises Line, thence leaving said Lessee Premises line N 84° 46' 16" W 57.47 feet to a point; thence N 86° 00' 55" W 57.75 feet to a point; thence N 86° 05' 29" W 53.50 feet to a point; thence N 85° 16' 21" W 45.77 feet to a point; thence N 72° 36' 00" W 63.29 feet to a point; thence N 78° 00' 14" W 30.23 feet to a point; thence N 67° 18' 16" W 35.53 feet to a point; thence N 33° 13' 56" E 10.11 feet to a point; thence N 33° 27' 29" E 24.26 feet to a point; thence N 20° 46' 32" E 24.63 feet to a point; thence N 20° 29' 25" E 52.24 feet to a point; thence N 25° 42' 17" E 47.02 feet to a point, thence N 22° 13' 41" E 28.71 feet to a point; thence N 24° 02' 25" E 25.41 feet to a point; thence N 29° 03' 17" E 12.27 feet to a point; thence N 31° 53' 08" E 53.36 feet to a point; thence N 27° 22' 17" E 47.61 feet to a point; thence N 20° 50' 13" E 49.77 feet to a point; thence N 20° 50' 18" E 23.65 feet to a point; thence N 24° 11' 54" E 37.65 feet to a point on the property line of said Waters lands; thence with said Waters lands N 26° 57' 15" E 14.12 feet to the POINT OF BEGINNING

Bearings based on South Carolina Grid North, NAD83.

Said described parcel containing 0.590 Acres (25,708.20 square feet), more or less and subject to any and all easements, reservations, restrictions and conveyances of record, being as shown in a survey prepared for Verizon Wireless by Summit Design and Engineering Services, PLLC, dated March 8th, 2021.

SITE INFORMATION:

Lessee Premises:
10,000.00 Square Feet (0.230 Acres)
Latitude at center of Premises:
N 33° 40' 22.4298"(NAD83)(33.672897)
Longitude at center of Premises:
W 81° 25' 25.864"(NAD83)(-81.423796)

Elevation at center of Premises:
497.66' A.M.S.L.

0343

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PREPARED FOR
verizonwireless
Kimley»Horn

REVISIONS

NO.	DATE	DESCRIPTION	BY	CHK	APP

SPECIFIC PURPOSE SURVEY

FALKOUR_MKT_174_MCR

OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER SC
AIKEN COUNTY
DATES OF SURVEY FEBRUARY 16-17, 2021

SUMMIT
DESIGN AND ENGINEERING SERVICES

SPECIFIC PURPOSE SURVEY

TOWER LESSEE PREMISES SITE
SHEET 3 OF 3

1.00 GENERAL NOTES

1.01 ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE DRAWINGS AND SPECIFICATIONS. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE STATE, LOCAL AND NATIONAL CODES, ORDINANCES AND/OR REGULATIONS APPLICABLE TO THE PROJECT.

1.02 THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE WORK OF ALL TRADES AND SHALL CHECK ALL DIMENSIONS AS SHOWN ON THE DRAWINGS AND VERIFY THEM IN THE FIELD. IN CASE OF CONFLICT BETWEEN DRAWINGS AND/OR SPECIFICATIONS, THE VERIZON WIRELESS PROJECT MANAGER AND/OR ENGINEER SHOULD BE CONTACTED FOR CLARIFICATION.

1.03 ALL INFORMATION SHOWN ON THE DRAWINGS RELATIVE TO EXISTING CONDITIONS IS GIVEN AS THE BEST PRESENT KNOWLEDGE, BUT WITHOUT GUARANTEE OF ACCURACY. WHERE ACTUAL CONDITIONS CONFLICT WITH THE DRAWINGS, THEY SHALL BE REPORTED TO THE PROJECT MANAGER AND/OR ENGINEER SO THAT PROPER REVISIONS MAY BE MADE. MODIFICATION OF DETAILS OF CONSTRUCTION SHALL NOT BE MADE WITHOUT WRITTEN APPROVAL OF THE PROJECT MANAGER AND/OR ENGINEER.

1.04 CONTRACTOR SHALL REVIEW AND BE FAMILIAR WITH SITE CONDITIONS AS SHOWN ON THE ATTACHED SITE PLAN AND/OR SURVEY DRAWINGS.

1.05 WAVEGUIDE BRIDGE AND EQUIPMENT CABINETS ARE SHOWN FOR REFERENCE ONLY. REFER TO SEPARATE DRAWINGS FOR SPECIFIC INFORMATION.

1.06 ALL FINISHED GRADES SHALL SLOPE A MINIMUM 1/4 INCH PER FOOT AWAY FROM EQUIPMENT IN ALL DIRECTIONS. CONTRACTOR SHALL NOTIFY ENGINEER AS REQUIRED IF ANY EXISTING TERRAIN TO DRAIN AWAY FROM COMPOUND AND AS DETAILED ABOVE.

1.07 THE PROPOSED TOWER AND TOWER FOUNDATIONS WERE DESIGNED BY OTHERS. TOWER INFORMATION PROVIDED ON THESE PLANS ARE PROVIDED FOR REFERENCE PURPOSES ONLY. NOTIFY ENGINEER OR PROJECT MANAGER OF ANY CONFLICTS OR DISCREPANCIES. CONTRACTOR TO OBTAIN COPY OF TOWER DESIGN DRAWINGS, IF AVAILABLE, FROM VERIZON PROJECT MANAGER TO CONFIRM COAX ROUTING AND ANTENNA MOUNT INFORMATION.

1.08 THE CONTRACTOR SHALL PROVIDE ADEQUATE EXCAVATION SHORING, BRACING, AND GUYING IN ACCORDANCE WITH ALL NATIONAL, STATE, AND LOCAL SAFETY ORDINANCES.

1.09 UPON COMPLETION OF CONSTRUCTION, CONTRACTOR IS RESPONSIBLE FOR REPAIRING ANY DAMAGE CAUSED BY CONSTRUCTION ACTIVITIES TO THE EXISTING ACCESS ROAD AND COMPOUND GRAVEL AREAS. ANY DISTURBED MATERIALS SHALL BE COMPACTED.

1.10 THE CONTRACTOR IS HEREBY NOTIFIED THAT PRIOR TO COMMENCING CONSTRUCTION, IT IS RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES INVOLVED AND SHALL REQUEST A VERIFICATION AT THE CONSTRUCTION SITE OF THE LOCATIONS OF THEIR UNDERGROUND UTILITIES AND WHERE THEY MAY POSSIBLY CONFLICT WITH THE PLACEMENT OF IMPROVEMENTS AS SHOWN ON THESE PLANS. THE CONTRACTOR OR ANY SUBCONTRACTOR FOR THIS CONTRACT WILL BE REQUIRED TO NOTIFY "SOUTH CAROLINA 811" 72 HOURS IN ADVANCE OF PERFORMING ANY WORK BY CALLING THE TOLL FREE NUMBER (888) 721-7877 (OR 811) AND UTILITIES DAMAGED BY CONSTRUCTION ACTIVITIES SHALL BE REPAIRED BY THE CONTRACTOR, AT NO EXPENSE TO THE OWNER.

1.11 CONTRACTOR TO PROVIDE DUMPSTER AND PORTABLE TOILET FACILITY DURING CONSTRUCTION.

1.12 CONTRACTOR TO PROVIDE SYMIE LOCK OR EQUIVALENT AS APPROVED BY VERIZON PROJECT MANAGER.

1.13 CONTRACTOR TO PROVIDE ANY NECESSARY STORAGE PER VERIZON PROJECT MANAGER'S INSTRUCTIONS. SEE DETAIL ON SHEET C11.

2.00 EQUIPMENT FOUNDATION NOTES

2.01 EXCAVATION AND DISPOSAL FOR A PRE-CAST PIER AND POST FOUNDATION SHALL BE ACCOMPLISHED BY USING AUGERED HOLES OF 24" DIAMETER AND 48" DEPTH. ALL EXCAVATION SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE OSHA REGULATIONS.

2.02 EXCAVATE A MINIMUM 12" BELOW PROPOSED EQUIPMENT FOUNDATION OR APPARENT DEPTH OF UNSUITABLE SOILS, WHICHEVER IS GREATER. REMOVE ALL UNSUITABLE MATERIAL AND REPLACE WITH COMPACTED MATERIAL ACCEPTABLE TO VERIZON.

2.03 EXCAVATE SUFFICIENT SPACE FOR FORMS, REINFORCING, AND CONCRETE PLACEMENT. ALL EXCAVATIONS SHALL BE NEAT LINES AS CLOSE AS POSSIBLE TO THE DIMENSIONS GIVEN. ALL EXCAVATIONS SHALL BE INSPECTED BY THE VERIZON WIRELESS PROJECT MANAGER PRIOR TO PLACEMENT OF CONCRETE.

2.04 CONTRACTOR TO UTILIZE EXISTING COMPACTED SUBSOIL TO PROVIDE AN AREA AS LEVEL AS POSSIBLE FOR THE EQUIPMENT FOUNDATIONS. ALL THE AREAS AREA TO BE FILLED WITH SUITABLE MATERIALS. THE MATERIALS ARE TO BE PLACED, COMPACTED, AND TESTED IN MAXIMUM LAYERS OF 8". COMPACTION OF EACH MATERIAL SHALL ACHIEVE 95 PERCENT OF MAXIMUM DRY DENSITY AT OPTIMUM MOISTURE CONTENT IN ACCORDANCE WITH ASTM D698. ONE ALL TESTS MUST MEET THE MINIMUM SPECIFIED SOIL BEARING CAPACITY. COMPACTION TESTING BY AN GEOTECHNICAL TESTING COMPANY DESIGNATED FOR THE PROJECT SCHEDULING AND COORDINATION OF THE TESTS SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR. REPORTS OF ALL TESTING ARE TO BE PROMPTLY DELIVERED OR FAXED TO THE VERIZON WIRELESS PROJECT MANAGER.

2.05 CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI AT 28 DAYS AND SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST REVISION OF ACI 318 BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE.

2.06 CONCRETE SHALL HAVE A SLUMP OF 4" AND 5".

2.07 FIBERS FOR CONCRETE SHALL BE POLYMESH 650, FIBER MESH 300 OR FIBER MESH 150 POLYPROPYLENE FIBRILLATED FIBERS, AS PATENTED TECHNOLOGY PATENTED TECHNOLOGY, CONTAINING NO SILICA DUST OR ASBESTOS. THE FIBERS SHALL CONFORM TO ASTM C1116 TYPE III, MANUFACTURED SPECIFICALLY FOR SECONDARY REINFORCEMENT OF CONCRETE.

2.08 THE FIBERS SHALL BE MANUFACTURED IN AN ISO 9001:2008 CERTIFIED MANUFACTURING FACILITY. UNLESS OTHERWISE STATED, THE SPECIFIED FIBER VOLUME-SYSTEM OF FIBERS SHALL BE ADDED TO THE CONCRETE AT THE BATCHING PLANT AT THE RECOMMENDED APPLICATION RATE OF 1.5LBS/YD AND MIXED FOR A SUFFICIENT TIME (MINIMUM 5 MINUTES AT FULL MIXING SPEED) TO ENSURE UNIFORM DISTRIBUTION OF THE FIBERS THROUGHOUT THE CONCRETE. FIBROUS CONCRETE REINFORCEMENT SHALL BE MANUFACTURED BY FIBERMESH, 4019 INDUSTRY DRIVE, CHATTANOOGA, TN 37416 USA, TEL (800) 341-1273, (423) 344-8888, WWW.FIBERMESH.COM.

2.09 AT THE REQUEST OF THE VERIZON WIRELESS PROJECT MANAGER, TEST CYLINDERS SHALL BE MOLDED AND LABORATORY CURED IN ACCORDANCE WITH ASTM C31. THREE CYLINDERS SHALL BE TAKEN FOR EACH DAY'S CONCRETE PLACEMENT. CYLINDERS SHALL BE TESTED IN ACCORDANCE WITH THE LATEST REVISION TO ASTM C39.

2.10 CHAMFER ALL EXPOSED EXTERNAL CORNERS OF CONCRETE WITH 3/4" x 45° CHAMFER, UNLESS OTHERWISE NOTED.

2.11 CONCRETE FORMWORK IS TO BE STRIPPED WITHIN 48 HOURS. VIBRATION OF THE CONCRETE MUST ENSURE THAT HONEYCOMBING WILL BE AT A MINIMUM. MECHANICAL VIBRATION OF ALL CONCRETE IS REQUIRED UNLESS OTHERWISE SPECIFIED BY VERIZON WIRELESS' PROJECT MANAGER. ABOVE GRADE CONCRETE IS TO BE RUBBED AND PATCHED TO ENSURE SMOOTH FINISH AT TIME OF FORMS REMOVAL. CONTRACTOR SHALL PROVIDE A GROUT FINISH ON THE TOP SURFACE OF THE EQUIPMENT FOUNDATION UNLESS OTHERWISE SPECIFIED BY VERIZON WIRELESS' PROJECT MANAGER.

2.12 TOP OF CONCRETE FOUNDATION MUST BE WITHIN 2.00" OF ELEVATION REQUIRED.

2.13 TOP OF FOUNDATION ON SITE TO BE AT LEVEL +/- 1/2".

2.14 TOP OF FOUNDATION TO HAVE WIDOW BROOM FINISH.

2.15 CONTRACTOR SHALL REFER TO DRAWINGS OF OTHER TRADES AND VENDOR DRAWINGS FOR UNBUDDED ITEMS AND REQUIREMENTS SHOWN ON THE STRUCTURAL DRAWINGS. CONTRACTOR SHALL VERIFY PLACEMENT OF EQUIPMENT AND LOCATION OF CONDUIT FOR MANUFACTURER'S EQUIPMENT. SPECIFICATIONS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALL OPENINGS AND SLEEVES FOR PROPER INSTALLATION OF ALL UTILITIES.

0344

verizon

PROJECT INFORMATION

SITE NAME:
CANDLER MKT 374 SEC1
SITE NO.: 160446
SITE TYPE: # OF SECTORS
CONCRETE ON SOLID ROCK W/ ACCESS ROAD
ANNETTE COUNTY

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	ISSUED FOR	BY
3	08/29/14	CONSTRUCTION	DRC
2	05/18/14	CONSTRUCTION	DRC
1	04/25/14	PRELIMINARY	DRC

LICENSED:

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

VENDOR PROJECT NUMBER:

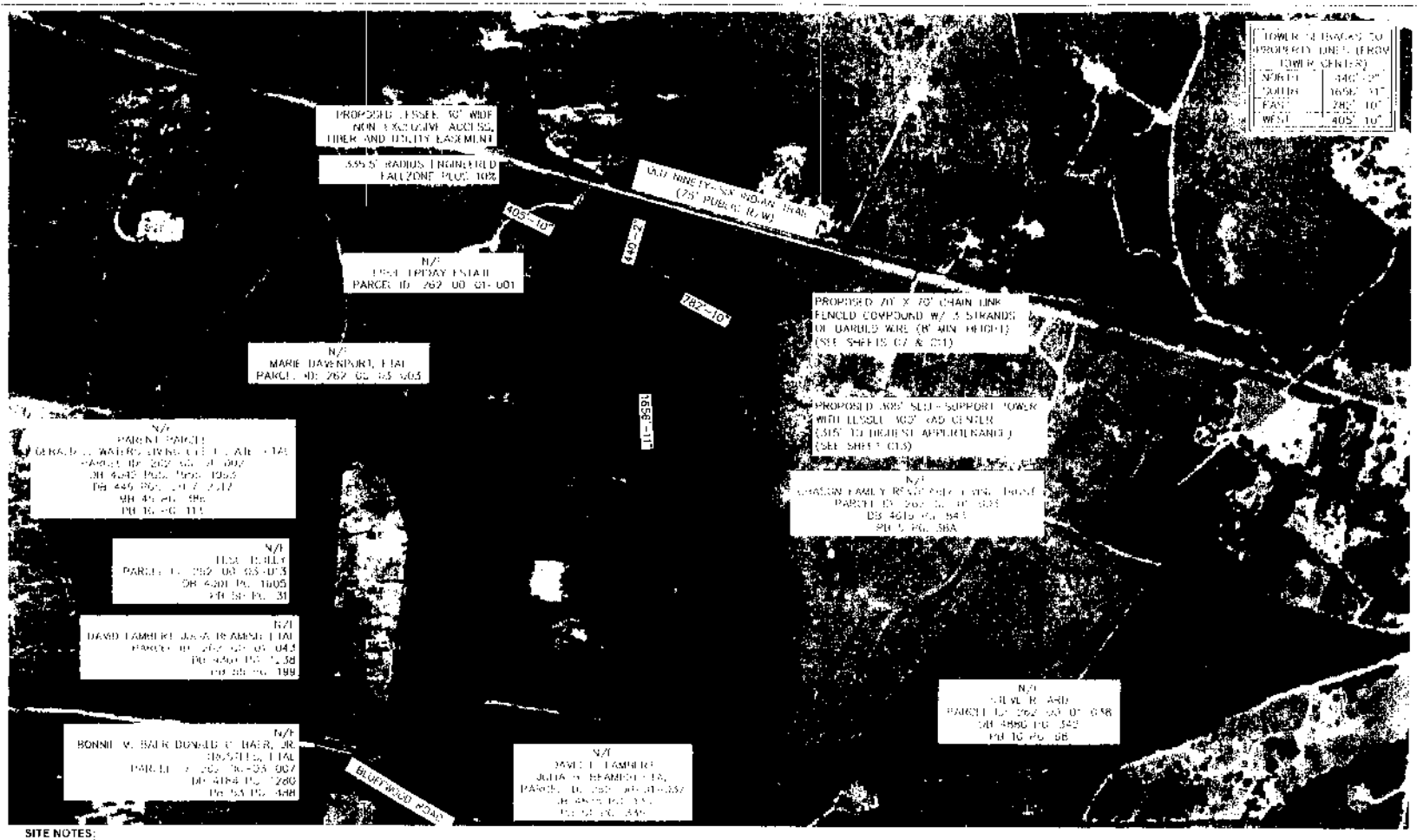
DRAWN BY: CHECKED BY:
DRC

SHEET TITLE:

GENERAL NOTES

SHEET NUMBER:

N1



SITE NOTES:

1. PURSUANT TO SEC. 24-5.1.5 SETBACKS (T) REQUIRED SETBACK FOR PROPOSED STRUCTURE = 330'-0" (305' x 1.10%)
2. PURSUANT TO SEC. 24-5.1.2 SETBACKS (T) NO SETBACK IS NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA
3. ALL BUFFER/YARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL

SURVEY NOTE:

1. VERIZON WIRELESS SHALL COMMENCE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO GRANT RIGHT AND WARRANT EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT SURVEYING AND ENGINEERING, SURVEYED DATED 05/12/21 AND UPDATED 09/10/21

1 / C0 OVERALL PARCEL PLAN

SCALE 1" = 60'

NORTH

0 30' 60' 120'

GRAPHIC SCALE: 1" = 60'

verizon

9360 OLD ALPHARETTA ROAD, COMMERCE
ALPHARETTA, GEORGIA 30022

PROJECT INFORMATION

SITE NAME
GAINESVILLE MKT 174 WEST
SITE NO. 405446
POST OFFICE ADDRESS
810 NINETY-SIX INDIAN TRAIL ROAD
GAINESVILLE, GA 29864
HALL COUNTY

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	ISSUED FOR	BY
1	08/03/21	CONSTRUCTION	JRC
0	05/18/21	CONSTRUCTION	JRC
A	04/26/21	PRELIMINARY	JRC

LICENSED PROFESSIONAL ENGINEER
ALABAMA
No. 31471
DAVID R. COUSINS
5/18/21

KHA PROJECT NUMBER:
061062274

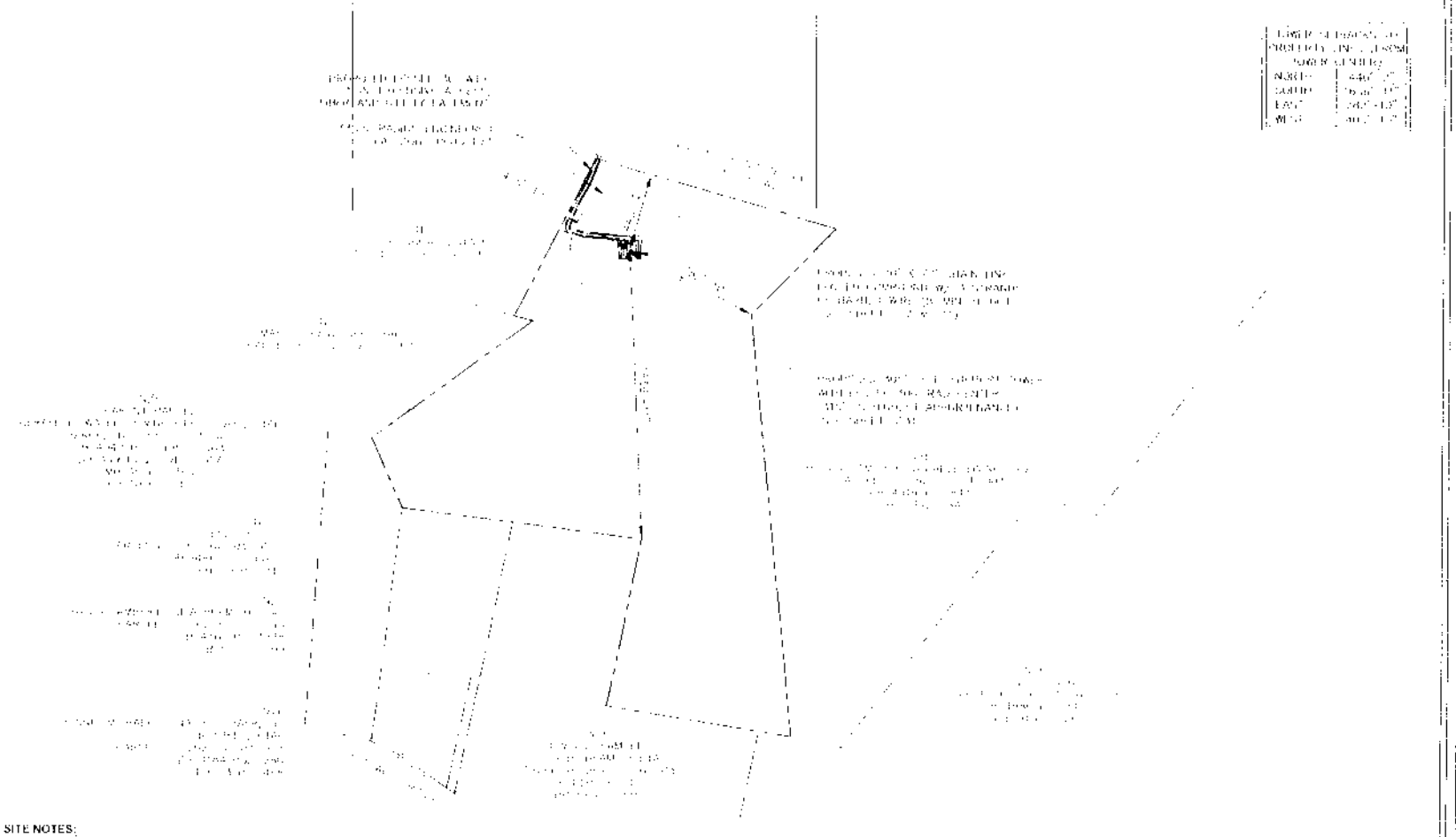
DRAWN BY: JRC CHECKED BY: DRC

SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
C0

0345

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SITE NOTES:

1. PURSUANT TO [illegible] SQUARE FEET REQUIRED FOR PROPOSED STRUCTURE IS [illegible] SQUARE FEET.
2. PURSUANT TO [illegible] SQUARE FEET. THIS SITE IS NOT DEVELOPMENT OR CONSTRUCTION OF HABITABLE BUILDING AND SHOULD NOT BE IN FLOOD ZONE AREA.
3. ALL DISTURBED AREAS NOT COVERED BY GRAVEL SHALL BE SEEDED WITH LAWN GRASS OR NATIVE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR ALL NORMAL MAINTENANCE AND REPAIR TREATMENT OF ALL PROTECTIVE PLANT MATERIAL.

SURVEY NOTE

1. VERIZON WIRELESS [illegible] SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE EASEMENT AS DESCRIBED HEREON AND MAINTAIN EASEMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND AREA [illegible] SHALL BE SURVEYED BY KIMLEY-HORN AND ENGINEERING SERVICES DATED 04/26/21 AND THE SITE PLAN DATED 04/26/21.

1 C0.1 OVERALL PARCEL PLAN

SCALE: 1" = 80'

NORTH

GRAPHIC SCALE: 1" = 80'

verizon

Kimley»Horn

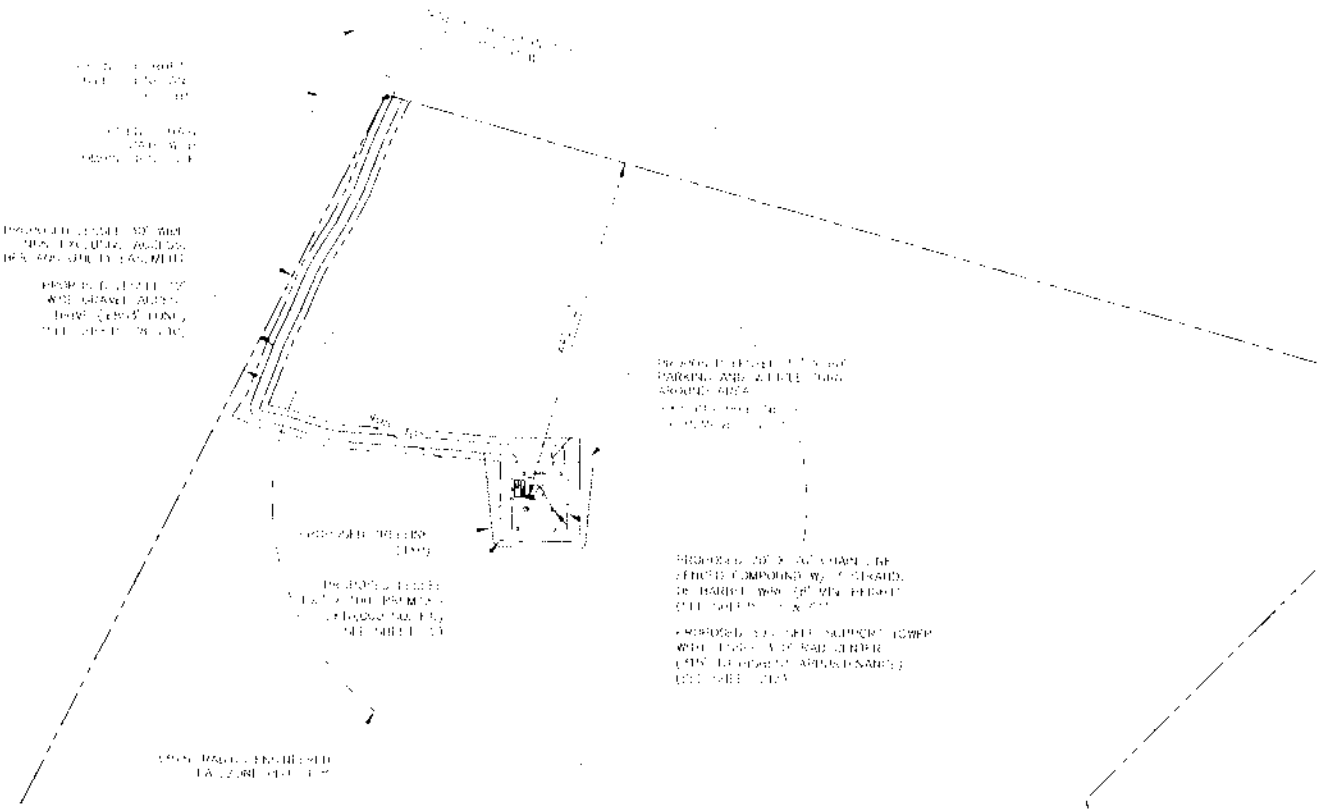
NO.	DATE	DESCRIPTION
1	04/26/21	CONSTRUCTION
0	03/16/21	CONSTRUCTION
A	04/26/21	PRELIMINARY

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

OVERALL PARCEL PLAN

C0.1

0346



SITE NOTES:

1. PURSUANT TO SEC. 24-5(C)(1) OF THE CODE OF ORDINANCES OF THE CITY OF ALEXANDRIA, VIRGINIA, THE PROPOSED TOTAL LAND DISTURBANCE IS APPROXIMATELY 0.05 ACRES.
2. PURSUANT TO SEC. 24-5(C)(2) OF THE CODE OF ORDINANCES OF THE CITY OF ALEXANDRIA, VIRGINIA, NO DEVELOPMENT OR CONSTRUCTION IS PROPOSED IN THE FLOOD HAZARD AREA.
3. ALL BUFFERYARD AREAS SHALL BE DEVOID OF STRUCTURES AND SHALL BE PLANTED WITH LAWN GRASS OR NATIVE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS' LEASE AREA SURVEY WILL BE PERFORMED BY A LICENSED SURVEYOR TO OBTAIN THE PROPER EASEMENT AGREEMENTS FOR ACCESS AND UTILITIES. ALL MARKERS, EQUIPMENT OR ARE ACQUIRE THE SURVEY PURPOSES.
2. PROPOSED COMPOUND FEATURE HEIGHTS OR SPACES PROVIDED BY SUMMIT SURVEY & ENGINEERING SERVICES DATED 02/22/21 AND SITE WALK ON 02/26/21.

1/C1 OVERALL SITE PLAN

SCALE: 1" = 20'

NORTH

0' 10' 20' 40'

GRAPHIC SCALE: 1" = 20'

verizon

PROJECT INFORMATION

SITE NAME
LEASE AREA: 324 SQ.FT.
SITE ID: 554366
SITE ADDRESS
ALEXANDRIA, VA 22304
ZONING DISTRICT

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	ISSUED FOR	BY
1	02/25/21	CONSTRUCTION	GR
2	03/15/21	CONSTRUCTION	GR
3	04/28/21	PRELIMINARY	GR

LICENSED
ALABAMA
PROFESSIONAL
ENGINEER
DAVID R. COUSINS

RFDS VERSION / NUMBER:

DRAWN BY: DM
CHECKED BY: RN

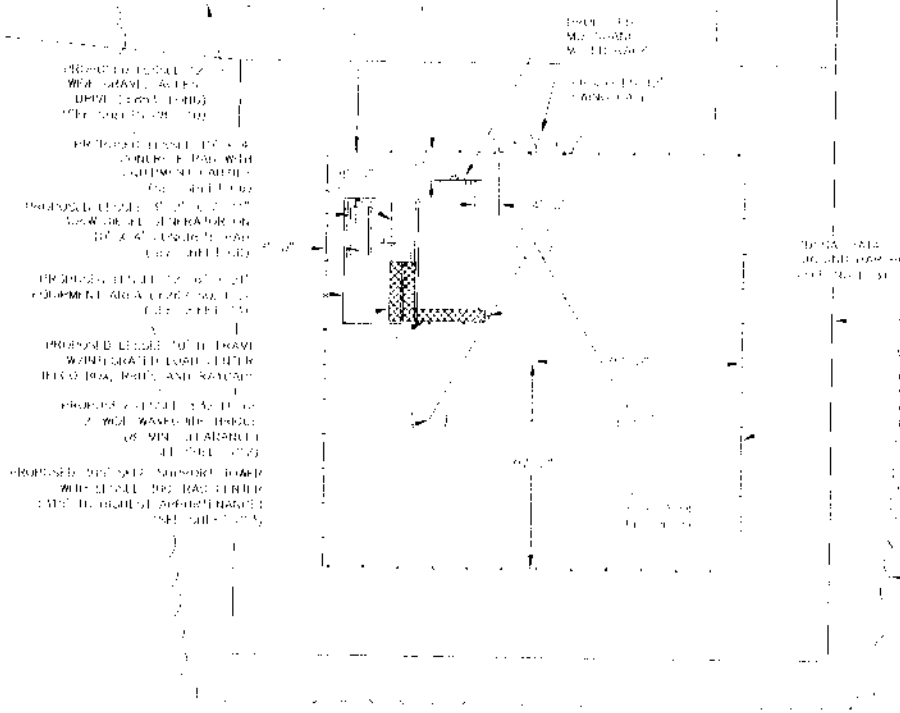
SHEET TITLE:

OVERALL SITE PLAN

SHEET NUMBER:

C1

0347



1 C2 SITE PLAN

SCALE: 1" = 20'

SITE PLAN NOTES

SITE NOTES:

NORTH

verizon

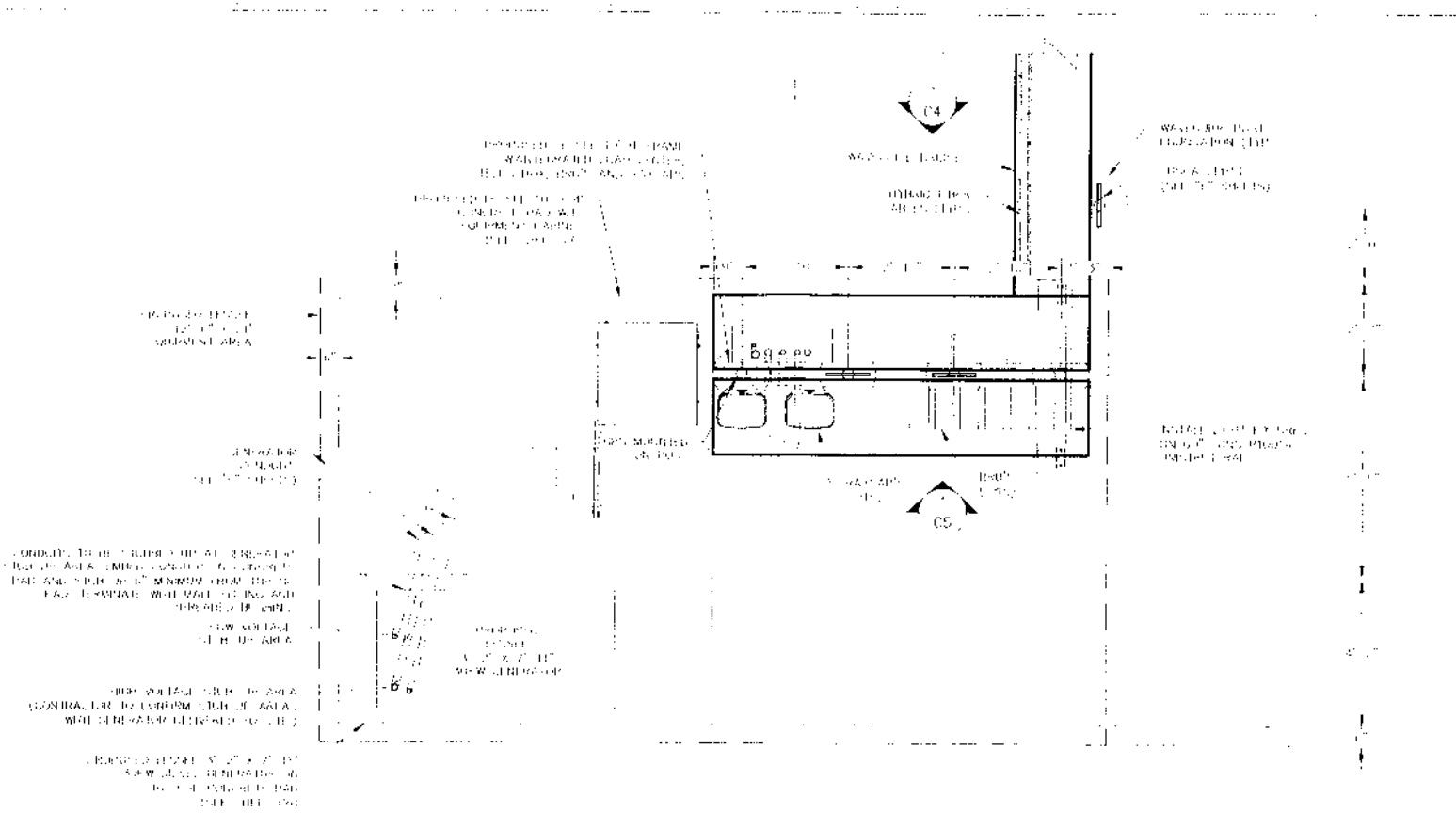
Kimley»Horn

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

SITE PLAN

C2

0348



1 / C3 EQUIPMENT PAD LAYOUT
SCALE: 1" = 2'

EQUIPMENT PAD/ROOFTOP NOTES:

1. REFER TO THE SITE PLAN FOR OVERALL EQUIPMENT LOCATION AND AREA.
2. [illegible]
3. RUN 2" FLEX POWER CONDUIT FROM ELECTRICAL PANEL TO EQUIPMENT AREA. FLEX CONDUIT TO BE OF SUFFICIENT LENGTH TO ALLOW FOR EQUIPMENT MOVEMENT.
4. RUN 2" FLEX FIBER CONDUIT FROM BUILDING TO EQUIPMENT AREA. FLEX CONDUIT TO BE OF SUFFICIENT LENGTH TO ALLOW FOR EQUIPMENT MOVEMENT.
5. RUN (2) 1" FLEX POWER CONDUITS FROM EQUIPMENT AREA TO ELECTRICAL PANEL. FLEX CONDUIT TO BE OF SUFFICIENT LENGTH TO ALLOW FOR EQUIPMENT MOVEMENT.
6. SUPPORT FLEX CONDUIT ON HORIZONTAL RUNS FROM EQUIPMENT AREA TO BUILDING WALL PENETRATIONS AT 4' O.C. MAXIMUM.
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]

GRAPHIC SCALE: 1" = 2'

verizon

Kimley»Horn

REV	DATE	DESCRIPTION	BY
1	06/03/21	CLIENT REVISION	DWG
0	05/18/21	CLIENT REVISION	DWG
A	04/26/21	PRELIMINARY	DWG

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

SITE NUMBER:

DRAWN BY: CHECKED BY:

SHEET TITLE:
EQUIPMENT PAD LAYOUT

SHEET NUMBER:
C3

0349

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) GALVANIZED GROUND ROD, TYPICAL

(B) #2 AWG BARE SOLID TINNED COPPER GROUND WIRE

(C) 3" GALVANIZED RISER PIPE, TYPICAL

(D) 3/8" X 1 1/2" GALVANIZED STEEL CHANNEL FOR MOUNTING #2 AWG GROUND WIRE AT EQUIPMENT RACK, TYPICAL

(E) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM UTILITY METER

(F) ONE (1) #2 AWG BARE SOLID TINNED COPPER GROUND WIRE ROUTED FROM EQUIPMENT RACK GROUND BAR TO EXOTHERMIC WELD CONNECTION ON GROUND RING

(G) 1" PVC CONDUIT FOR ROUTING GENERATOR CONTROL WIRES FROM ATS TO GENERATOR

(H) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO ATS EQUIPMENT

(J) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE POWER METER SECTION OF THE INTEGRATED LOAD CENTER WITH AUTOMATIC TRANSFER SWITCH TO THE ATS EQUIPMENT

(K) 4" PVC SCH 40 CONDUIT WITH TWO (2) 4" LONG 90° SWEEPS

(L) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE ATS EQUIPMENT TO THE GENERATOR EQUIPMENT PAD, TYPICAL

(M) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE LOAD CENTER METER SECTION TO ROUTING NEMA 3R EQUIPMENT PAD, TYPICAL

(N) 1" PVC CONDUIT FROM INTEGRATED LOAD CENTER TO ROUTING NEMA 3R EQUIPMENT PAD, TYPICAL FOR ALARM SIGNAL CABLE. REFER TO ROUTING NEMA 3R EQUIPMENT PAD, TYPICAL

(P) ¾" PVC CONDUIT WITH ONE (1) #2 AWG BARE TINNED COPPER GROUNDING CABLE FOR GROUNDING OF EQUIPMENT. REFER TO GROUNDING DETAILS FOR MORE INFORMATION

(Q) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO AREA LIGHTS

(R) GROUND ROD (3/4" Ø X 10'-0" LENGTH)

(S) GROUND PAD, EXOTHERMIC WELD TO GROUND RING (3" X 3" X 1/4")

(T) CONCRETE FOUNDATION FOR EQUIPMENT RACK AND METER SECTION. CONCRETE SHALL HAVE A 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI AND PROPER REINFORCEMENT.

(U) #6 X 1" SELF TAPPING SCREWS FOR ATTACHMENT OF EQUIPMENT TO RACK. QUANTITY AND LOCATION TO BE DETERMINED BY INSTALLER

(V) INSTALL LIGHT FIXTURES ON 10'-0" TALL PRESTA UNIVERSAL WALL MOUNT EQUIPMENT PALLET. SEE "EQUIPMENT PALLET" SHEET FOR ATTACHMENT DETAILS. LIGHT FIXTURES SHALL BE MOUNTED ON THE FRONT SIDE OF THE EQUIPMENT FRAME. EQUIPMENT TO BE MOUNTED AT 7'-0" ABOVE GRADE

(W) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE UTILITY METER TO THE INTEGRATED LOAD CENTER WITH AUTOMATIC TRANSFER SWITCH

KEY NOTES - ELECTRICAL EQUIPMENT

(1) NEMA 3R ENCLOSURE WITH LOCKABLE DOOR AND REMOVABLE FRONT PANEL, 24" X 18" X 6" NOMINAL

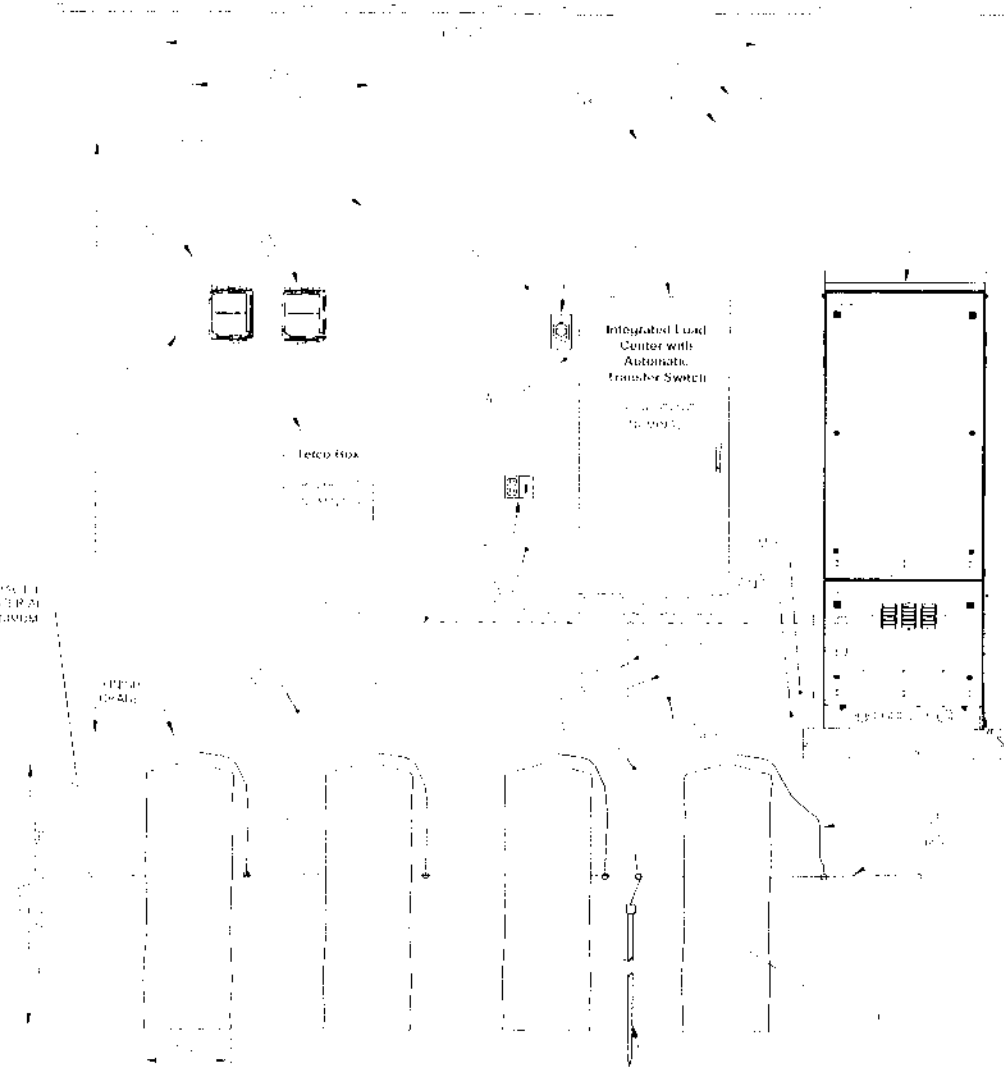
(2) 20 AMP, 2 POLE, 10 KAIC PLUG-IN TYPE CIRCUIT BREAKER FOR CONNECTION TO APPROVED EQUIPMENT IN BACKFEED MODE PER 705.12(D)(2). SIZE AND TYPE AS SHOWN ON ONE-LINE DIAGRAM

(3) 200 AMP, 120/240 VOLT, INTEGRATED LOAD CENTER AND 30 SPACE, 60 CIRCUIT AUTOMATIC TRANSFER SWITCH (24" X 20" X 6" NOMINAL)

(4) INSTALLER PROVIDED

(5) VERIZON SUPPLIED

(6) EMERGENCY METER SOCKET WITH LEVER BYPASS MECHANISM (200 AMP RATED) LOCATED ON THE FRONT SIDE OF THE EQUIPMENT RACK



NOTE: FOR CLARITY PURPOSES, THE FRONT ELEVATION OF THE "H" FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE FRONT SIDE. SEE REAR SHEET FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE REAR SIDE OF THE "H" FRAME.

1 / C4 EQUIPMENT RACK DETAILS - FRONT

NOT TO SCALE

0350

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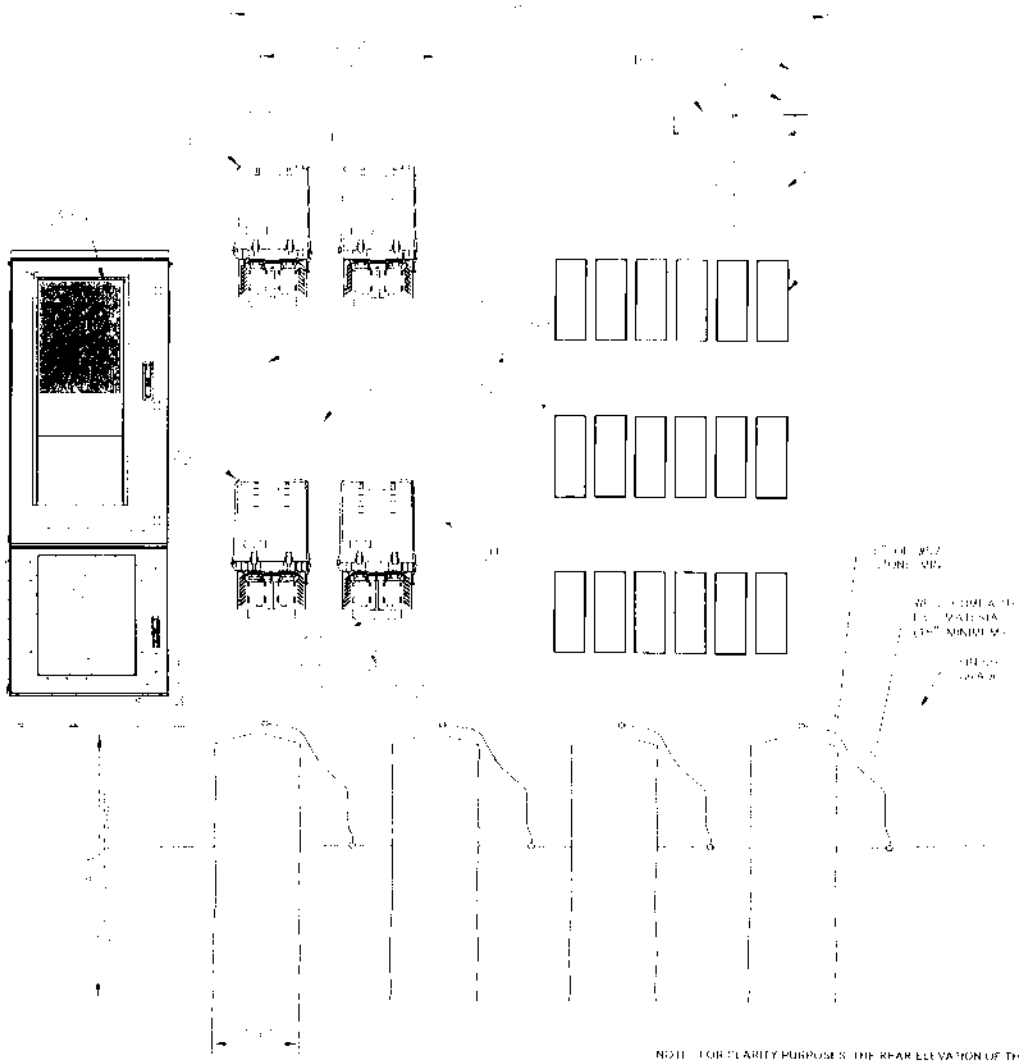
REV	DATE	DESCRIPTION	BY
3	08/03/21	CONSTRUCTION ISSUE	DMC
2	07/19/21	CONSTRUCTION ISSUE	DMC
1	04/26/21	PRELIMINARY	DMC

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

DRAWN BY: DMC CHECKED BY: SK

EQUIPMENT RACK DETAIL - FRONT

SHEET NUMBER: C4



1
C5
EQUIPMENT RACK DETAILS - REAR
NOT TO SCALE

NOTE: FOR CLARITY PURPOSES THE REAR ELEVATION OF THE IE FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE REAR SIDE. SEE FRONT SHEET FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE FRONT SIDE OF THE IE FRAME.

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) [illegible]

(B) [illegible]

(C) [illegible]

(D) [illegible]

(E) [illegible]

(F) [illegible]

(G) [illegible]

(H) [illegible]

(I) [illegible]

(J) [illegible]

KEY NOTES - ELECTRICAL EQUIPMENT

(1) VERIZON RF RRUS, MODEL, QUANTITY OF, AND CONFIGURATION AS PROVIDED BY RF ENGINEER

(2) VERIZON RAYCAP, MODEL, QUANTITY OF, AND CONFIGURATION AS PROVIDED BY RF ENGINEER

(3) VERIZON RF EQUIPMENT - FRONT VIEW

(4) [illegible]

verizon

Kimley»Horn

REV	DATE	DESCRIPTION	BY
1	04/29/22	CONSTRUCTION	SMT
A	03/29/22	CONSTRUCTION	SMT
0	04/29/21	PRELIMINARY	SMT

ALABAMA LICENSED PROFESSIONAL ENGINEER OLIVER R. COUSINS

EQUIPMENT RACK DETAIL - REAR

C5

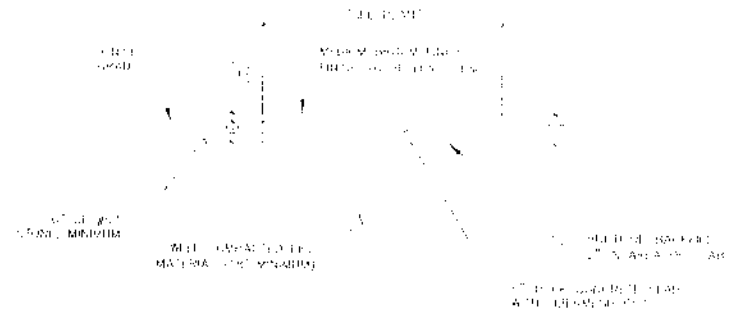
0351

CONCRETE PAD SCHEDULE





1 / C6 CONCRETE PAD PLAN
NOT TO SCALE



2 / C6 CONCRETE PAD FOUNDATION SECTION
NOT TO SCALE

0352

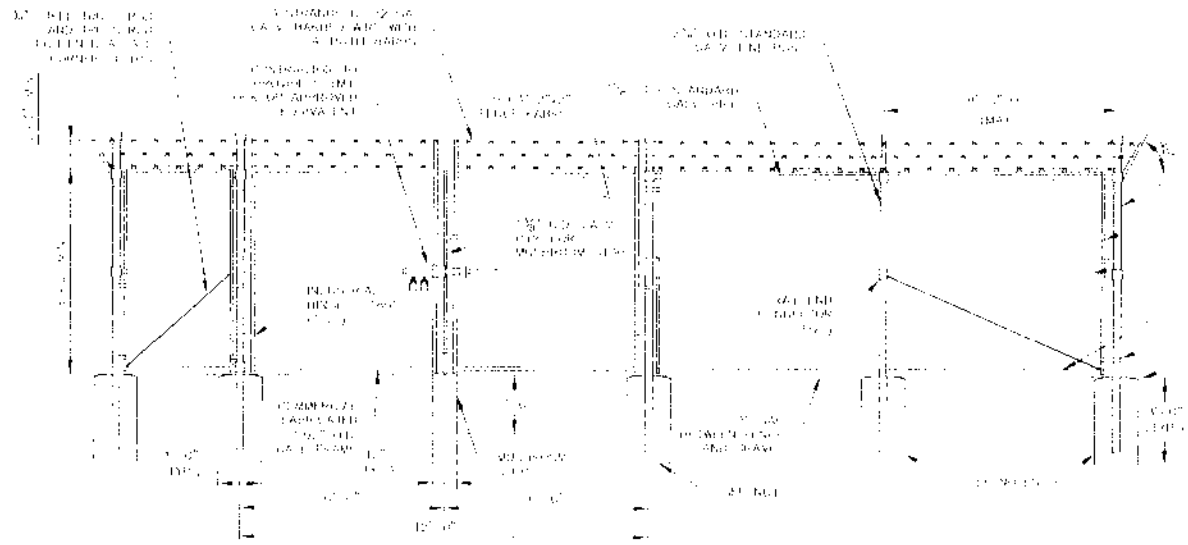
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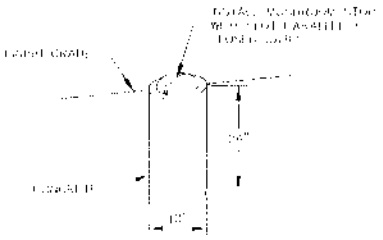
ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

CONCRETE PAD FOUNDATION DETAILS

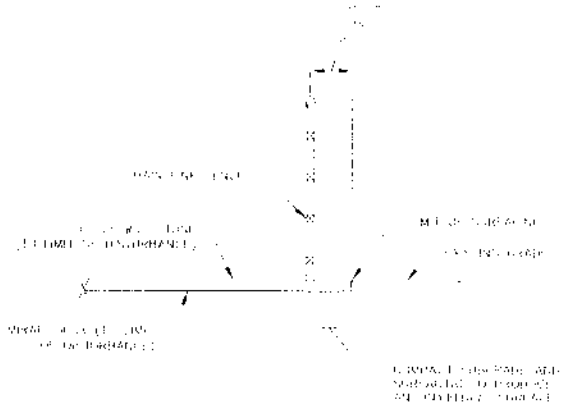
C6



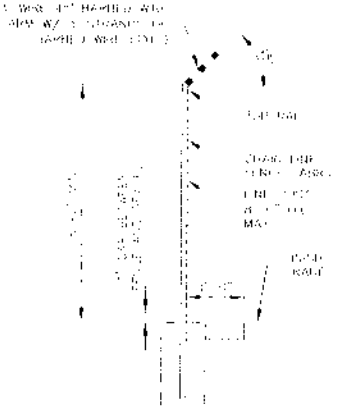
(1 / C7) CHAIN LINK FENCE AND GATE ELEVATION
NOT TO SCALE



(2 / C7) MUSHROOM STOP
NOT TO SCALE



(3 / C7) SITE COMPOUND SURFACE DETAIL
NOT TO SCALE



(4 / C7) SECTION AT FENCE
NOT TO SCALE

verizon

Kimley»Horn

REV.	DATE	DESCRIPTION	BY
C	08/09/21	CONSTRUCTION	BM
B	07/26/21	CONSTRUCTION	BM
A	04/29/21	PRELIMINARY	BM

ALABAMA LICENSED PROFESSIONAL ENGINEER
DAVID R. COUSINS
8/9/21

PROJECT NUMBER
015560224

DRAWN BY | CHECKED BY
DM | DC

SHEET TITLE
FENCE, GATE AND COMPOUND DETAILS

SHEET NUMBER
C7

0353

NOTES:
CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS AND NOTIFY ENGINEER OF ANY DISCREPANCIES BEFORE PROCEEDING WITH CONSTRUCTION.
APPROXIMATE LIMITS OF DISTURBANCE AND AREAS OF CLEARING AND GRADING ARE SHOWN ON THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CLEARING AND GRADING ONLY AS NECESSARY TO PERFORM THE WORK SHOWN ON THE PLANS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND OWNER PRIOR TO ANY VARIANCE.

GRADING NOTES:
1. THE CONTRACTOR SHALL STAKE AND VERIFY THE LIMITS AND GRADES OF WORK AND MAKE ANY NECESSARY FIELD ADJUSTMENTS TO THE PROPOSED GRADES AND IMPROVEMENTS. SPECIFICATIONS FOR FILL MATERIAL SHALL BE APPROVED BY THE GEOTECHNICAL ENGINEER PRIOR TO PLACEMENT.
2. ALL PROPOSED CONTOURS ARE SPOT ELEVATIONS, REFLECT FINISHED GRADES.
3. CONTRACTOR SHALL MATCH EXISTING GRADES SMOOTHLY TO TRANSITION POINTS TO EXISTING GRADE.
4. PORTIONS OF THE SITE MAY CONTAIN KARST FEATURES WHICH MAY BE ENCOUNTERED. REFER TO GEOTECHNICAL REPORT FOR ADDITIONAL INFORMATION.
5. FILL SHALL BE PLACED IN MAXIMUM 8" LIFTS (LOOSE) AND COMPACTED TO 95 PERCENT OF THE MATERIAL'S MAXIMUM DRY DENSITY WITHIN 3 PERCENT OF OPTIMUM MOISTURE CONTENT.
6. UNDISTURBED AREAS WITHIN THE LIMITS OF DISTURBANCE, ACCESS DRIVES, EASEMENTS, AND SLOPES TO BE GRADED TO DRAIN SHALL REMAIN UNDISTURBED.
7. GROUND WATER SHALL BE DIVERTED AND CONTROLLED AND BE WATER FREE DURING EXCAVATION AND BACKFILL OPERATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEWATERING AND SHALL BE INCLUDED IN THE CONTRACT PRICE.
8. SEED ALL DISTURBED AREAS NOT COVERED WITH GRAVEL, PAVEMENT, OR BUILDINGS AS SHOWN ON THE PLANS.
9. MAXIMUM SLOPE ALONG ACCESS DRIVES, UNLESS NOTED OTHERWISE.
10. MAXIMUM SLOPE ALONG PARKING AREAS, UNLESS NOTED OTHERWISE.

LEGEND

EXISTING CONTOURS

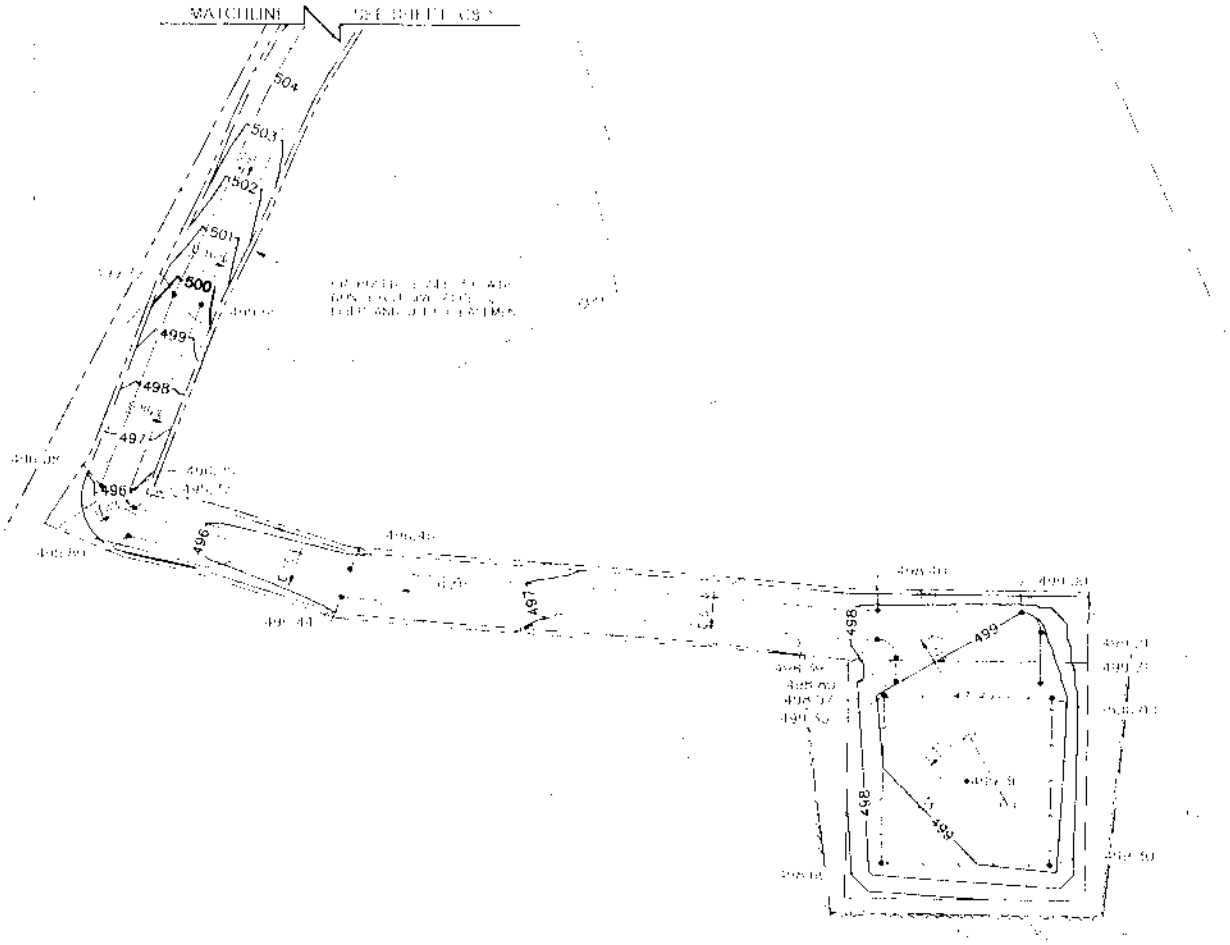
PROPOSED CONTOURS

EXISTING FENCE

TREE

EXISTING SPOT ELEVATION

PROPOSED SPOT ELEVATION



1 C8 GRADING & EROSION CONTROL PLAN
SCALE: 1" = 50'

NORTH

GRAPHIC SCALE

verizon

Kimley»Horn

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

GRADING AND EROSION CONTROL PLAN

C8

0354

NOTES:
CURRENT DESIGN ANTICIPATES APPROXIMATELY 39,850± SQ. FT. (0.91± ACRES) OF CLEARING AND GRADING FOR THE PROPOSED PROJECT. IF ADDITIONAL CLEARING IS REQUIRED BEYOND WHAT IS SHOWN IN THE PLANS THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND/OR PROJECT MANAGER.

GRADING NOTES:
1. THE CONTRACTOR SHALL CLEAR AND GRUB THE SITE AND PLACE, COMPACT, AND MOISTURE CONDITION ALL FILL PER THE PROJECT GEOTECHNICAL ENGINEER'S RECOMMENDATIONS. FILL MATERIAL SHALL BE APPROVED BY THE GEOTECHNICAL ENGINEER PRIOR TO PLACEMENT.
2. ALL PROPOSED CONTOURS ARE TO FINISH GRADE UNLESS NOTED OTHERWISE.
3. CONTRACTOR SHALL BLEND EARTHWORK SMOOTHLY TO TRANSITION BACK TO EXISTING GRADE.
4. PORTIONS OF THE SITE NOT SPECIFICALLY MENTIONED WITHIN THE GEOTECHNICAL REPORT SHALL BE COMPACTED TO AT LEAST 95 PERCENT OF THE MATERIAL'S MAXIMUM DRY DENSITY WITHIN 3 PERCENT OF OPTIMUM MOISTURE CONTENT.
5. FILL SHALL BE PLACED IN MAXIMUM 8 INCH LOOSE LIFTS.
6. UNDISTURBED AREAS WITHIN 30' (UNLESS ALABAMA POWER EASEMENT NOTED) OF CABLE ROUTING TO BE LEFT UNDISTURBED.
7. GROUND WATER SHOULD BE REASONABLY EXPECTED AND DE-WATERING OR MOISTURE CONDITIONING IS THE RESPONSIBILITY OF THE CONTRACTOR AND SHOULD BE INCLUDED IN THE CONTRACT PRICE.
8. SEED ALL DISTURBED AREAS NOT PAVED WITH GRAVEL PER SEEDING SCHEDULE ON DETAIL ON SHEET C9.
9. MAXIMUM CUT SLOPE 3H:1V UNLESS OTHERWISE NOTED.
10. MAXIMUM FILL SLOPE 3H:1V UNLESS OTHERWISE NOTED.

LEGEND

EXISTING CONTOURS

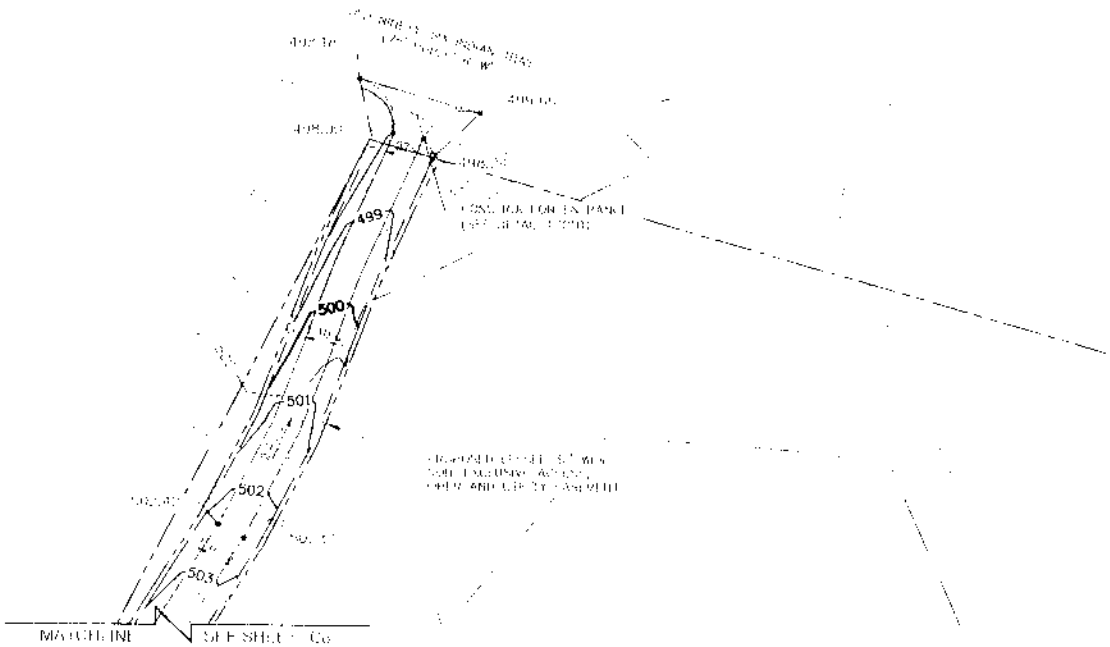
PROPOSED CONTOURS

LOD/SILT FENCE

TBD

EXISTING SPOT ELEVATION

PROPOSED SPOT ELEVATION ● XXX



1 C8.1 GRADING & EROSION CONTROL PLAN
SCALE: 1" = 30'

GRAPHIC SCALE: 1" = 30'

verizon

PROJECT INFORMATION:
SITE NAME:
DAUPHIN MAIN - 3TH MAIN
SITE NO.: 419446
SITE ADDRESS:
[illegible]

PLANS PREPARED BY:
Kimley»Horn

REV.	DATE	ISSUED FOR	BY
1	08/09/21	CONSTRUCTION	JRC
0	06/16/21	CONSTRUCTION	JRC
A	04/28/21	PRELIMINARY	JRC

SEAL:
ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

VZW PROJECT NUMBER:
[illegible]

DRAWN BY: CHECKED BY:
JRC JRC

SHEET TITLE:
GRADING AND EROSION CONTROL PLAN

SHEET NUMBER:
C8.1

0355

EROSION CONTROL NOTES:

SEEDING SCHEDULE FOR WINTER / SPRING CONSTRUCTION ACTIVITIES

SEEDING MIXTURE

SEEDING DATES

SOIL AMENDMENTS

MULCH

MAINTENANCE

SEEDING SCHEDULE FOR SUMMER CONSTRUCTION ACTIVITIES

SEEDING MIXTURE

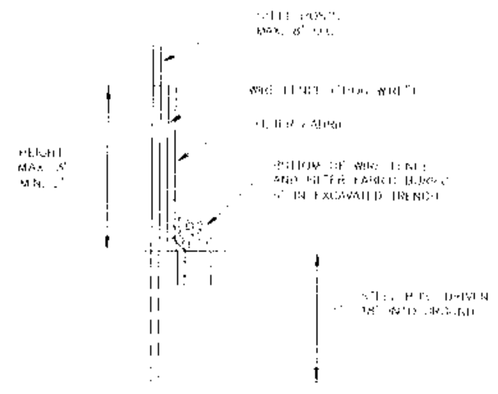
Species — Rate (lbs/acre)

SEEDING DATES

SOIL AMENDMENTS

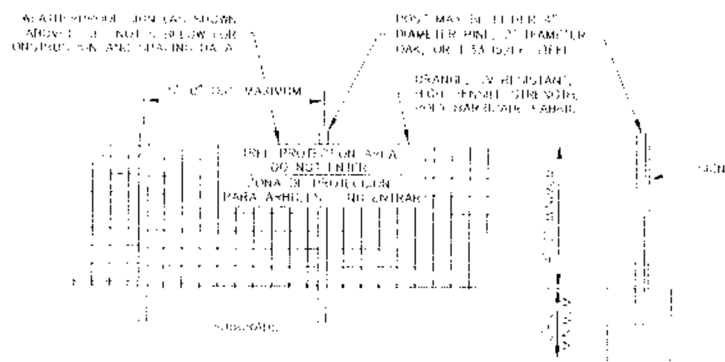
MULCH

MAINTENANCE



1/C9 SEDIMENT FENCE (SILT FENCE)

NOT TO SCALE



2/C9 TREE PROTECTION FENCE

NOT TO SCALE

verizon

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	DESCRIPTION	BY
1	08/09/21	CONSTRUCTION	DRC
0	06/18/21	CONSTRUCTION	DRC
A	04/28/21	PRELIMINARY	DRC

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

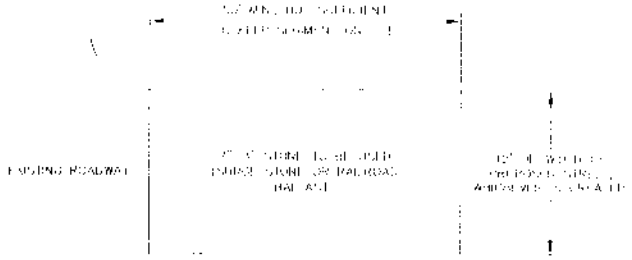
DRAWN BY: IDR

CHECKED BY: BNI

GRADING AND EROSION CONTROL DETAILS

SHEET NUMBER

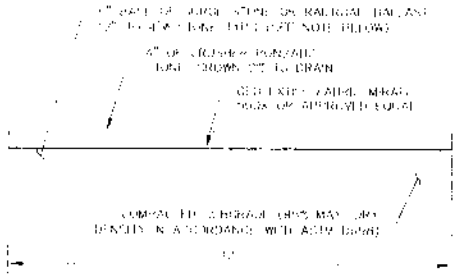
C9





1 / C10 CONSTRUCTION ENTRANCE

NOT TO SCALE



2 / C10 STANDARD ACCESS ROAD AND TURN-AROUND DETAIL

NOT TO SCALE

verizon

Kimley»Horn

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

ACCESS ROAD DETAILS

C10

0357

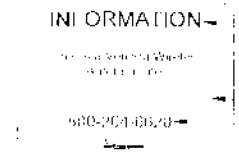


NOTE: FOR TYPICAL SIGNAGE AND SPECIFICATIONS, REFER TO THE DETAILS FOR ADDITIONAL INFORMATION.

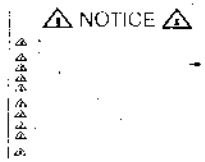
1 C11 SIGN PLACEMENT PLAN VIEW
NOT TO SCALE



1 NO-TRESPASSING SIGN



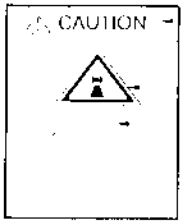
2 VERIZON WIRELESS - SITE ID SIGN



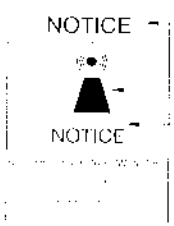
3 NOTICE-RFE SIGN



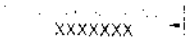
4 WARNING-RF SIGN (RED)



5 CAUTION-RF SIGN (YELLOW)

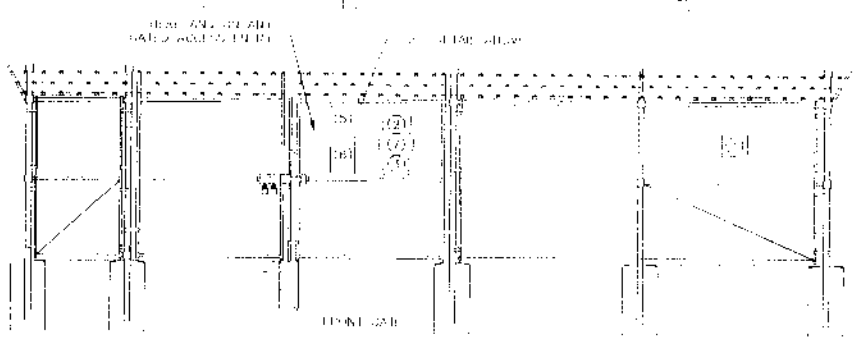


6 NOTICE-RF SIGN (BLUE)



7 FCC REGISTRATION SIGN

2 C11 TYPICAL SIGNS AND SPECIFICATIONS
NOT TO SCALE



3 C11 SIGN PLACEMENT FRONT GATE VIEW
NOT TO SCALE

GENERAL NOTES:
1. SIGNS SHALL BE FABRICATED FROM .040 ALUMINUM RUST RESISTANT FINISHED METAL AND EMBOSSED WITH LONG LASTING UV RESISTANT COATING.
2. SIGNS (EXCEPT WHERE NOTED OTHERWISE) SHALL BE MOUNTED TO THE FENCE, GATE, AND ETHOS USING A MINIMUM OF 18 GAUGE ALUMINUM WIRE, RIVETS OR OTHER APPROVED METHOD. ATTACHING OR TRACKS TO WHERE NECESSARY. BRACKETS SHALL BE OF SIMILAR METAL AND FINISH TO AVOID GALVANIC CORROSION.

verizon

Kimley»Horn

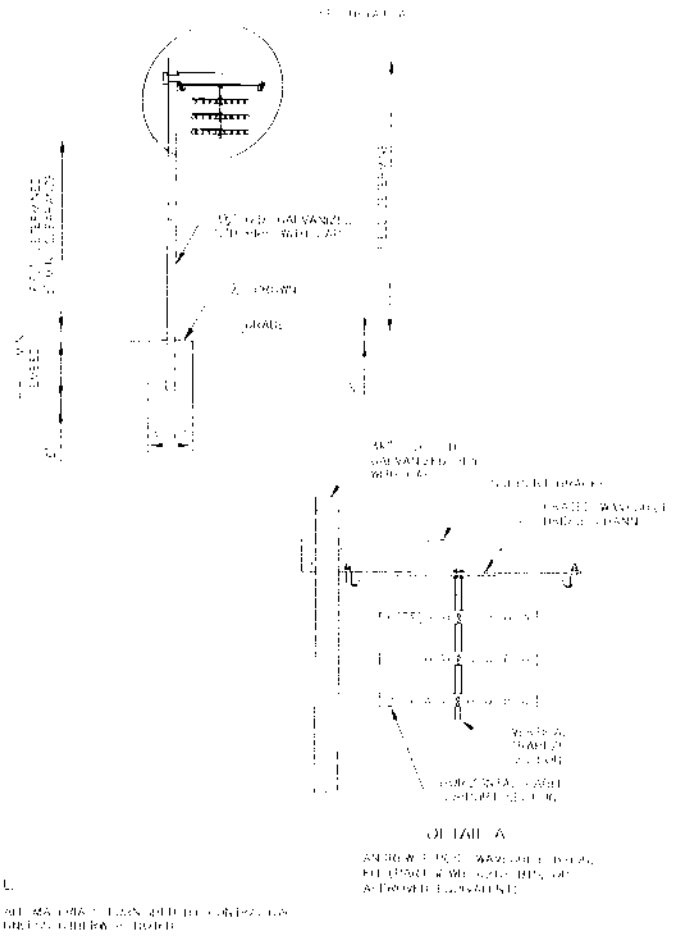
REV	DATE	ISSUED FOR	BY
1	08/09/21	CONSTRUCTION	DWG
0	05/18/21	CONSTRUCTION	DWG
A	04/26/21	PRELIMINARY	DWG

ALABAMA LICENSED PROFESSIONAL ENGINEER JOAV R. COUSINS

SITE SIGNAGE DETAILS

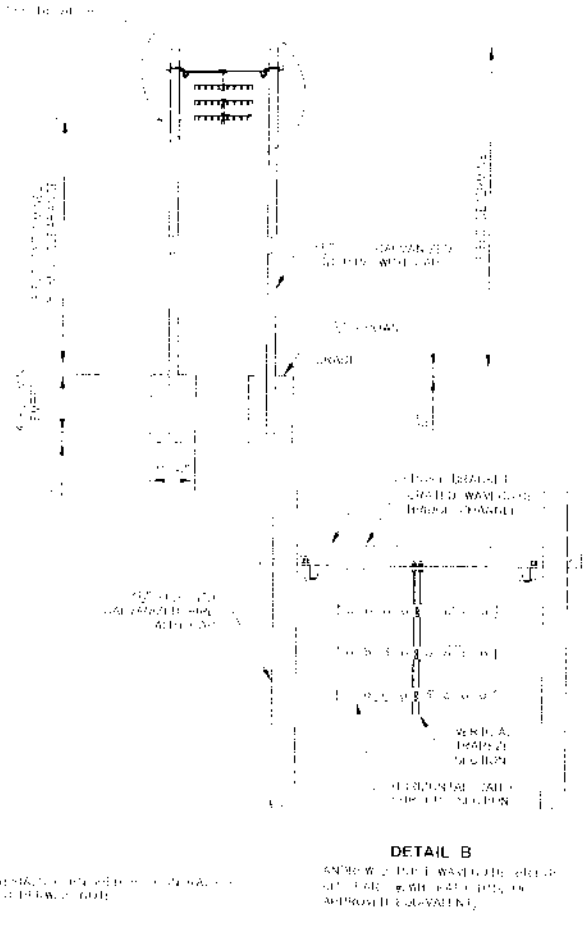
C11

0358



DETAIL A

1/C12 WAVEGUIDE BRIDGE DETAIL
NOT TO SCALE



DETAIL B

2/C12 WAVEGUIDE BRIDGE DETAIL (ALT DESIGN - 2 PIPE COLUMNS)
NOT TO SCALE

verizon

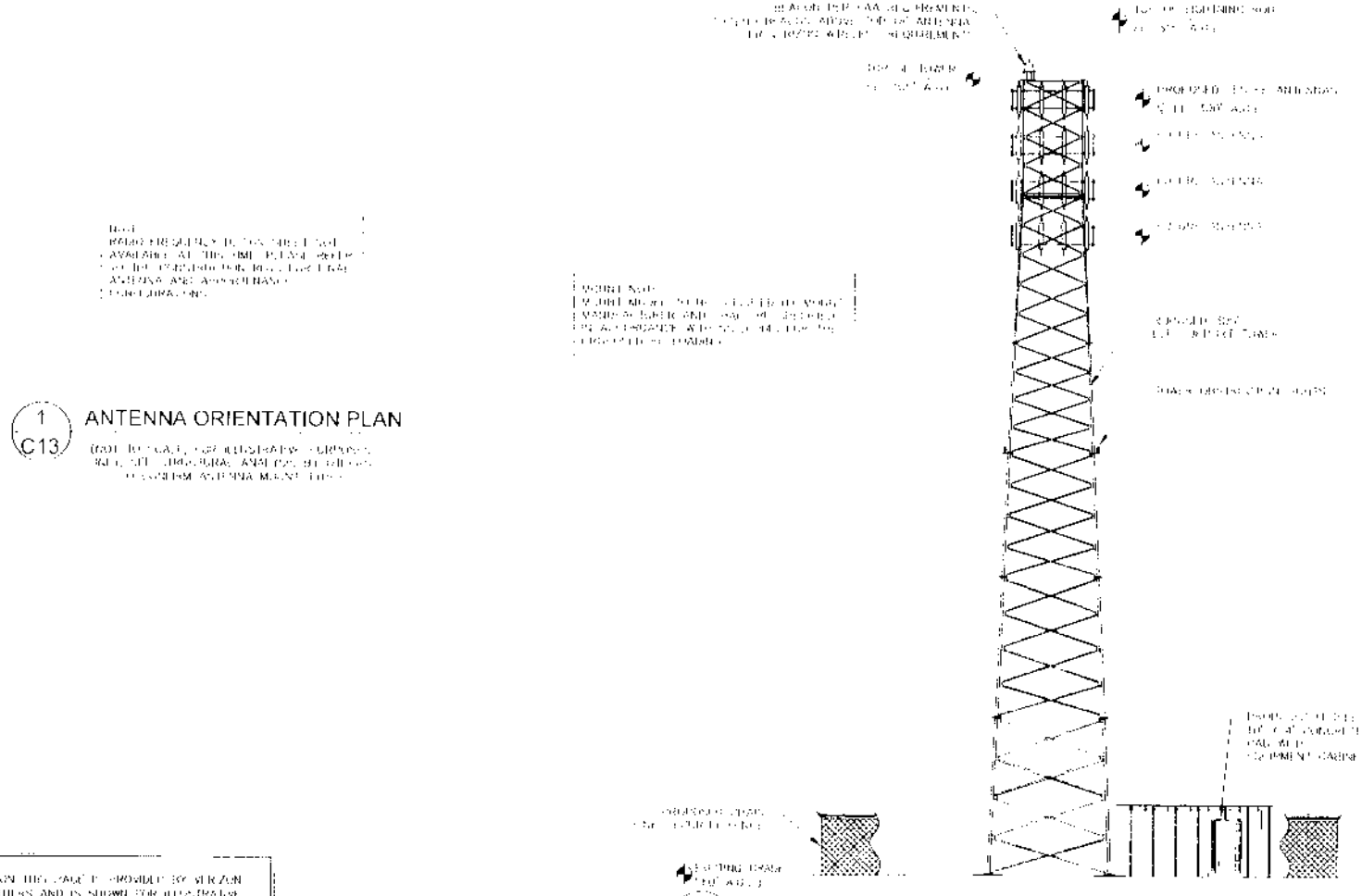
Kimley»Horn

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COUSINS

WAVEGUIDE BRIDGE DETAILS

C12

0359



1 C13 ANTENNA ORIENTATION PLAN

NOT TO SCALE

2 C13 SELF SUPPORT TOWER ELEVATION - N VIEW (FACING S)

NOT TO SCALE

verizon

Kimley»Horn

FOR ILLUSTRATIVE PURPOSES ONLY- NO SIGNATURE REQUIRED

ANTENNA AND TOWER ELEVATION DETAILS

C13

0360

ELECTRICAL NOTES

1.00 CODES, STANDARDS, & SPECIFICATIONS

2.00 GENERAL

3.00 MATERIALS

4.00 PRE-CONSTRUCTION COORDINATION

0361

verizon

SITE NAME:
FALKOUR MKE 1/4 MCR
SITE No. 885446
FUZE PROJECT # 10009819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

REV.	DATE	ISSUED FOR	BY
5			
4			
3			
2			
1	05/18/21	CONSTRUCTION	CH
A	04/26/21	PRELIMINARY	CH

LICENSED PROFESSIONAL ENGINEER
No. 37013
CORBIN C. HARDY
5/14/21

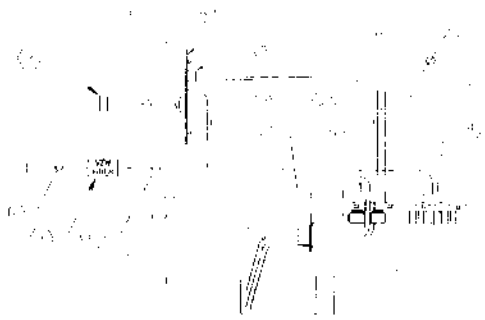
VZW PROJECT NUMBER:

DRAWN BY: CHECKED BY:

ITEM: REV:

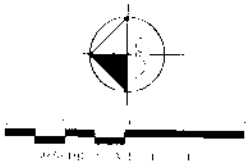
SHEET TITLE:
ELECTRICAL NOTES

SHEET NUMBER:
E1



1 / E2 UTILITY SERVICE ROUTING PLAN

SCALE: 1" = 10'



KEY NOTES - ELECTRICAL EQUIPMENT

(1) 200A METER MAIN (SEE DETAIL 1/E4)

(2) POWER UTILITY COMPANY PROVIDED METER SOCKET

(3) RADIO PORT BY OTHERS (SEE SHEET C-1)

(4) DISCONNECT (SEE DETAIL 1/E4)

(5) PETRA RADIO CABINET (SEE SHEET C-1)

(6) GPS ANTENNA (SEE EQUIPMENT AND PORT TABLE 1/C-1)

(7) GENERATOR CONNECTION PANEL (SEE SHEET C-1)

(8) HAZARD LIGHTING CONTROL PANEL (SEE SHEET C-1)

KEY NOTES - CONDUIT, CONDUCTORS, & MISC.

(A) 40'-0" 4" PVC POWER CONDUIT FOR INCOMING SERVICE FEEDERS FROM LOCAL UTILITY (SEE TRENCH DETAIL 2/E2)

(B) 2" PVC POWER CONDUIT FROM PROPOSED METER BASE TO EQUIPMENT RACK (SEE TRENCH DETAIL 2/E2)

(C) 4" PVC ELEC CONDUIT W/ (2) #4/0 THWN-2 STRANDED COPPER (SEE TRENCH DETAIL 2/E2)

(D) 140'-0" 2" PVC CONDUIT FROM ROUTE OF WAY TO TWR (SEE TRENCH DETAIL 2/E2 AND SHEET C-1)

(E) 2" PVC CONDUIT TO BE ABANDONED (SEE TRENCH DETAIL 2/E2)

(F) 1" PVC CONDUIT FOR ROUTING GENERATOR LOW VOLTAGE ALARM SIGNAL CABLES TO THE GENERATOR (SEE TRENCH DETAIL 2/E2)

(G) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTOR TO THE GENERATOR BATTERY CHARGER AND RF GENERATOR BLOCK HEATER (SEE TRENCH DETAIL 2/E2)

(H) 1" PVC POWER CONDUIT FROM PROPOSED HAZARD LIGHTING CONTROL PANEL ON METER RACK TO TOWER LIGHTING

(I) 1" PVC CONDUIT FROM PROPOSED HAZARD LIGHTING CONTROL PANEL TO PROPOSED GPS

(J) 1" PVC POWER CONDUIT FROM PROPOSED HAZARD LIGHTING CONTROL PANEL TO PROPOSED GPS

verizon

PROJECT INFORMATION

SITE NAME
FALKOUR MKT 174_MCR
SITE No.: 695445
FUZE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY

Kimley»Horn

KEY	DATE	ISSUED FOR	BY
5	05/28/21	CONSTRUCTION	CLC
4	04/28/21	PRELIMINARY	CLC



RDA PROJECT NUMBER

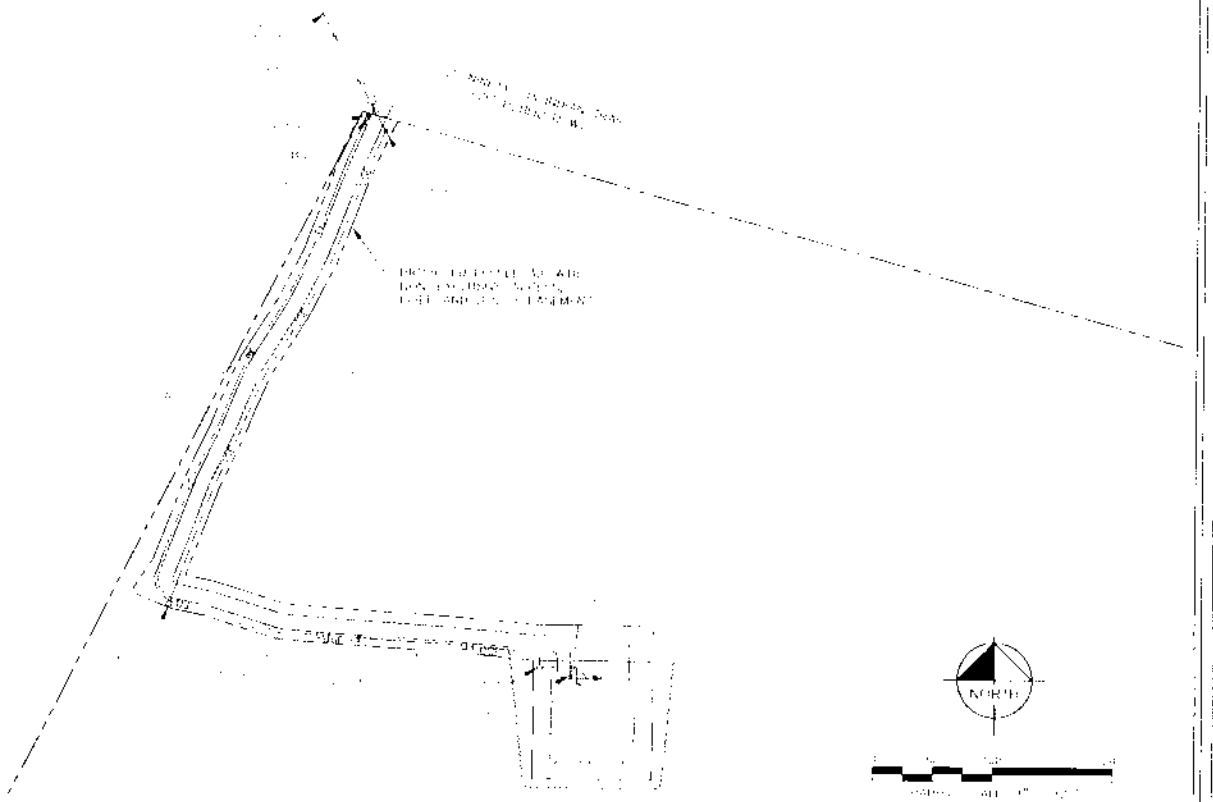
DRAWN BY CHECKED BY

UTILITY SERVICE ROUTING PLAN

SHEET NUMBER

E2

0362



1 E3 OVERALL UTILITY SERVICE ROUTING PLAN

SCALE: 1" = 100'

POWER NOTES:

1. [illegible]

2. [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

KEY NOTES - ELECTRICAL EQUIPMENT

(1) [illegible]

(2) [illegible]

(3) [illegible]

(4) PROPOSED UTILITY POLE WITH GUY ANCHOR, TRANSFORMER, AND INSTALLED BY DOMINION ENERGY

(5) PROPOSED JUNCTION BOX/CABINET TRANSFORMER AND TO BE INSTALLED BY DOMINION ENERGY. LOCATION TO BE VERIFIED WITH DOMINION ENERGY PRIOR TO CONSTRUCTION (LOCATION MAY BE INSTALLED AROUND JUNCTION BOX/CABINET)

(6) PROPOSED 50KVA PAD MOUNTED TRANSFORMER TO BE INSTALLED BY DOMINION ENERGY. LOCATION TO BE VERIFIED WITH DOMINION ENERGY PRIOR TO CONSTRUCTION (MAY NEED TO STAKE WITH INSTALLED AROUND TRANSFORMER)

KEY NOTES - CONDUIT, CONDUCTORS, & MISC.

A. [illegible]

B. [illegible]

C. [illegible]

D. [illegible]

E. [illegible]

F. [illegible]

verizon

Kimley»Horn

PROJECT INFORMATION

SITE NAME:
FALKOUR MKT_174 MCR
SITE No: 695446
USE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY

REV.	DATE	DESCRIPTION	BY
0	09/28/21	CONSTRUCTION	CH
A	04/26/21	PRELIMINARY	CH

ISSUED:

CORBIN C. HARDY
No. 37013
PROFESSIONAL ENGINEER
9/28/21

VERIZON PROJECT NUMBER:

DRAWN BY: CH CHECKED BY: RK

SHEET TITLE:

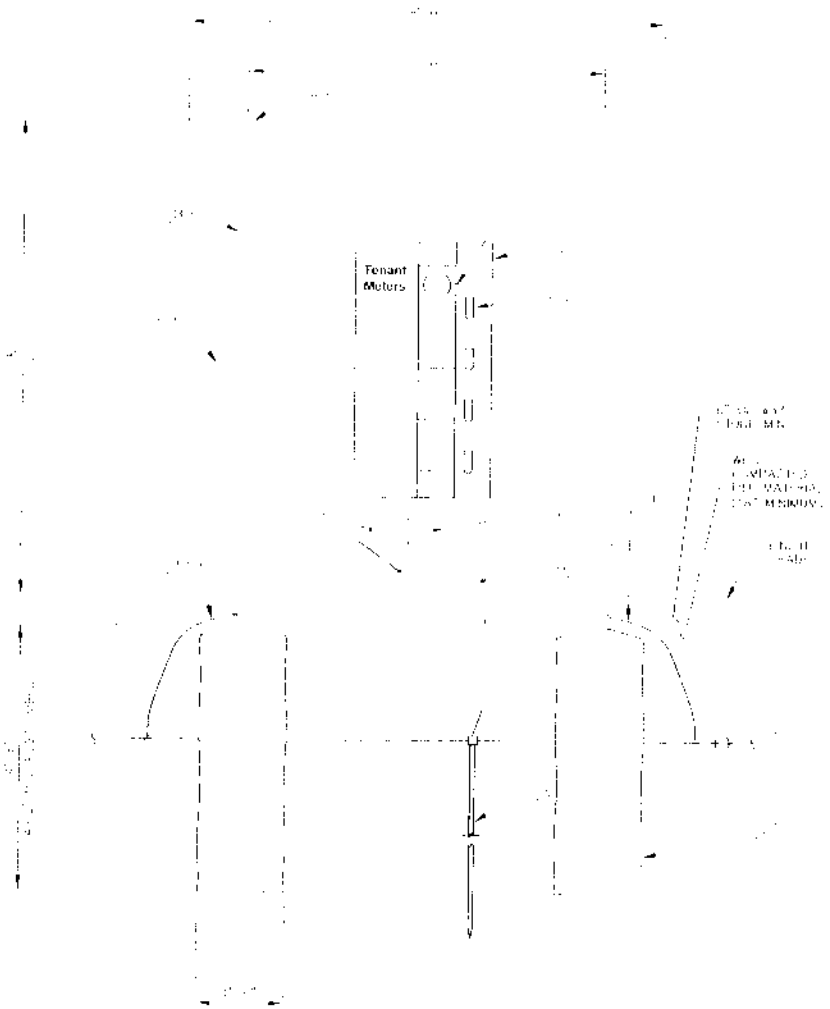
OVERALL UTILITY ROUTING PLAN

SHEET NUMBER:

E3

0363

[illegible]



1 / E4 METER RACK DETAILS - FRONT

NOT TO SCALE

NOTE: FOR CLARITY PURPOSES, THE FRONT ELEVATION OF THE "H" FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE FRONT SIDE. SEE SHEET E4.1 FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE REAR SIDE OF THE "H" FRAME.

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) [illegible]

(B) [illegible]

(C) [illegible]

(D) [illegible]

(E) [illegible]

(F) [illegible]

(G) [illegible]

(H) [illegible]

KEY NOTES - ELECTRICAL EQUIPMENT

(1) [illegible]

(2) [illegible]

(3) [illegible]

verizon

PROJECT INFORMATION:

SITE NAME
FALKOUR MKT 174 MCR
SITE No. 695446
FUZE PROJECT # 16603819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	ISSUE	BY
7			
6			
5			
4			
3			
2			
1			
0	05/28/21	CONSTRUCTION	CCH
A	04/26/21	PRELIMINARY	CCH

DESIGNER

[illegible]
No. 37013
PROFESSIONAL
ENGINEER
CORBIN C. HARDY
7/24/21

SHA PROJECT NUMBER

[illegible]

DRAWN BY: [illegible] CHECKED BY: [illegible]

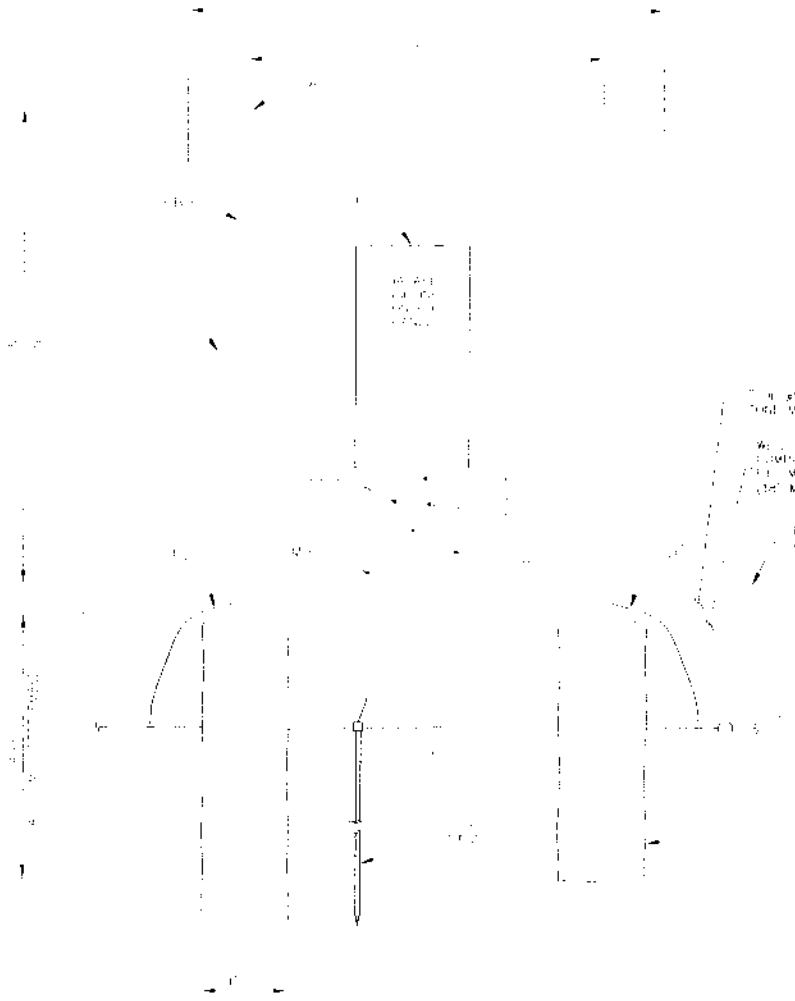
SHEET TITLE

METER RACK DETAILS - FRONT

SHEET NUMBER

E4

0364



KEY NOTES - CONDUIT, CONDUCTORS, & MISC

KEY NOTES - ELECTRICAL EQUIPMENT

1 E4.1 METER RACK DETAILS - REAR

NOTE: FOR CLARITY PURPOSES, THE REAR ELEVATION OF THE METER FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE REAR SIDE. SEE SHEET E4.1 FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE FRONT SIDE OF THE METER FRAME.

NOT TO SCALE

verizon

SITE NAME:
FALKOUR MKT 1/4 MCR
SITE No.: 685446
FUZE PROJECT #: 16000819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

REV	DATE	DESCRIPTION	BY
2	05/27/21	CONSTRUCTION	CH
1	04/26/21	PRELIMINARY	CH

DESIGNED

KERBAM LICENSE No. 37813 PROFESSIONAL ENGINEER CORBIN G. HARDY 5/24/21

SITE PROJECT NUMBER:

DRAWN BY	CHECKED BY
IDW	BMS

METER RACK DETAILS - REAR

SHEET NUMBER:

E4.1

0365

PANEL SCHEDULE - VERIZON INTEGRATED LOAD CENTER

Voltage: 240/120 Volts
Phase, Wires: Single Phase, 3 Wire
Mounting Type: Surface
Enclosure Type: NEMA 3R

MCB Size: 200 Amps
AIC Rating: 10 kA Symmetrical
Bus Rating: 200 Amps
Neutral Rating: 100%

Load Served	Load (kVA) A	Load (kVA) B	Circuit Bkr Size	Ckt Nbr	Phase A	Phase B	Ckt Nbr	Circuit Bkr Size	Load (kVA) A	Load (kVA) B	Load Served
				1			2				
				3			4				
				5			6				
				7			8				
				9			10				
				11			12				
				13			14				
				15			16				
				17			18				
				19			20				
				21			22				
				23			24				
				25			26				
				27			28				
				29			30				
				31			32				
				33			34				
				35			36				
				37			38				
				39			40				
				41			42				
Sub-Total (kVA)											Sub-Total (kVA)
									A	B	
											Total Connected (kVA)

LOAD SUMMARY

Load Description	Connected Load (kVA) A	Connected Load (kVA) B	Demand Factor	Demand Load (kVA) A	Demand Load (kVA) B

Total Power per Phase		kVA
Total Demand Current per Phase		Amps
Total Demand Power		kVA
*Generator Load		kVA

*Load = [illegible]

**Load = [illegible]

1 / E6 PANEL SCHEDULE
NOT TO SCALE

0396

verizon

PROJECT INFORMATION

SITE NAME:
FALKOUR MKT 174 MCR
SITE No.: 695446
FUZE PROJECT #: 16608819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PREPARED BY:

Kimley»Horn

NO.	DATE	ISSUED FOR	INT
6			
5			
4			
3			
2			
1			
0	07/18/22	CLIENT REVIEW	CC
A	04/25/21	PRELIMINARY	CC

LICENSED

ALABAMA LICENSED No. 37013 PROFESSIONAL ENGINEER CORBIN C. HARDY

KHA PROJECT NUMBER:
018066276

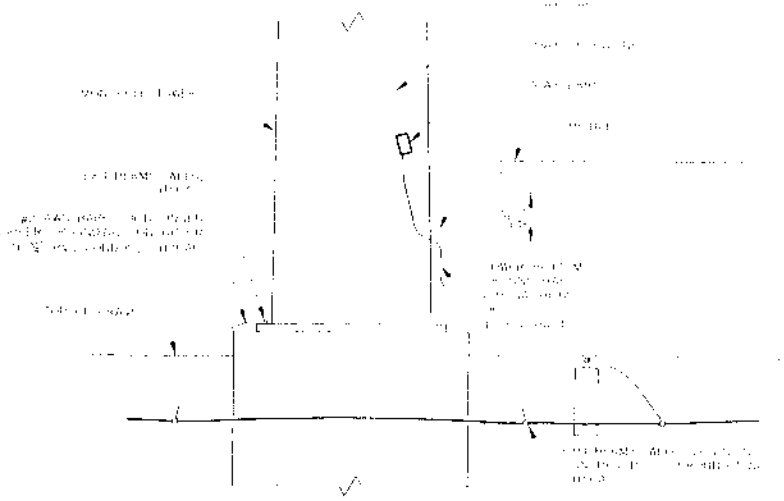
DESIGNED: DDM | DRAWN: DRV | CHECKED: CCH

SHEET TITLE:
PANEL SCHEDULE

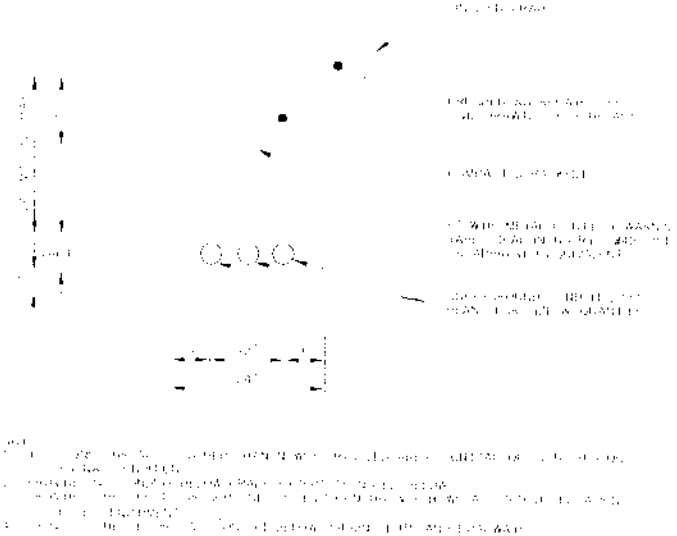
SHEET NUMBER:
E6

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0367



1 / E7 DRIP LOOP DETAIL
NOT TO SCALE



2 / E7 TYPICAL TRENCH DETAIL
NOT TO SCALE

verizon

SITE NAME:
FAIKOUR_MKT_174_MOR
SITE No.: 695446
FUZE PROJECT #: 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
NORTH, SC 29864
AIKEN COUNTY

Kimley»Horn

NO.	DATE	DESCRIPTION
7		
6		
5		
4		
3		
2	05/18/21	CONSTRUCTION SET
1	04/09/21	PERMITTING

ALABAMA LICENSED PROFESSIONAL ENGINEER
No. 37013
CORBIN C. HARDY
5/24/21

KHA PROJECT NUMBER
015097 74

DRAWN BY: CHECKED BY:
KDM RRL

SHEET TITLE
ELECTRICAL DETAILS

SHEET NUMBER
E7

GROUNDING NOTES

0368

verizon

SITE NAME:
TALKOUR MKT 174 MCN
SITE No: 695446
FUZE PROJECT # 16600815
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

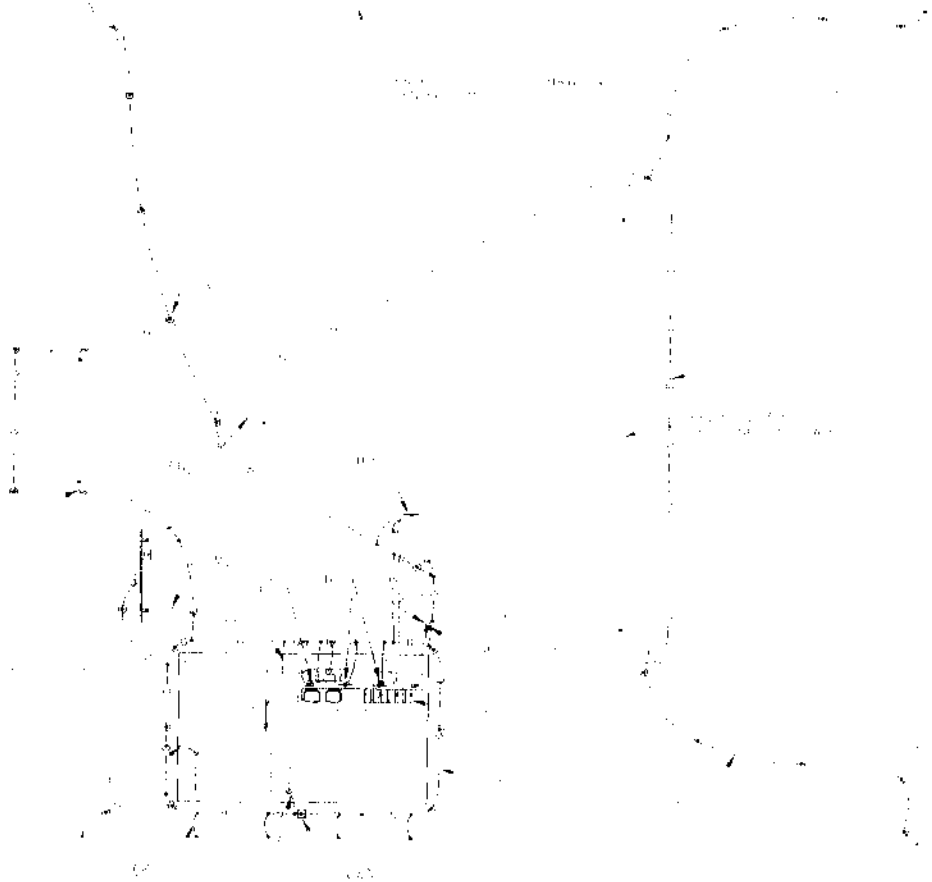
REV.	DATE	DESCRIPTION	BY
1	04/29/21	PRELIMINARY	SDL

No. 37013
PROFESSIONAL
ENGINEER
CORBIN C. HARDY
5/24/21

SHEET TITLE:
GROUNDING NOTES

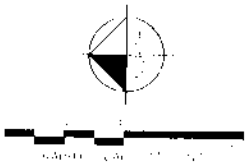
SHEET NUMBER:
E8

0369



1 / E9 GROUNDING PLAN

SCALE: 1" = 10'



KEY NOTES - GROUNDING EQUIPMENT

LEGEND:

verizon

SITE NAME:
FAIKOUR MKT 174 MCR
SITE No. 695446
FUZE PROJECT # 16600819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29364
AIKEN COUNTY

Kimley»Horn

REV	DATE	DESCRIPTION	BY
A	05/25/21	100% SUBMITTAL	
B	06/22/21	REVISION PER CLIENT	

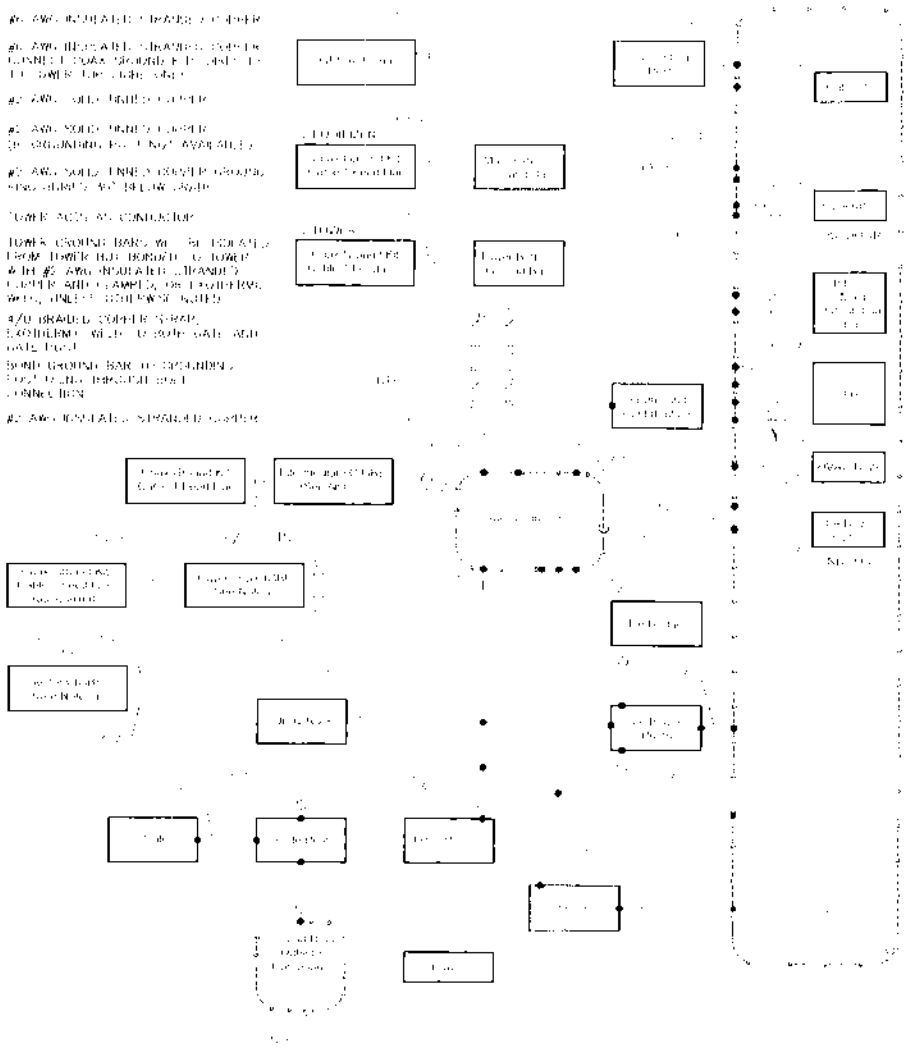
ALABAMA LICENSED No. 37015 PROFESSIONAL ENGINEER CORBIN C. HARDY 5/24/21

GROUNDING PLAN

E9

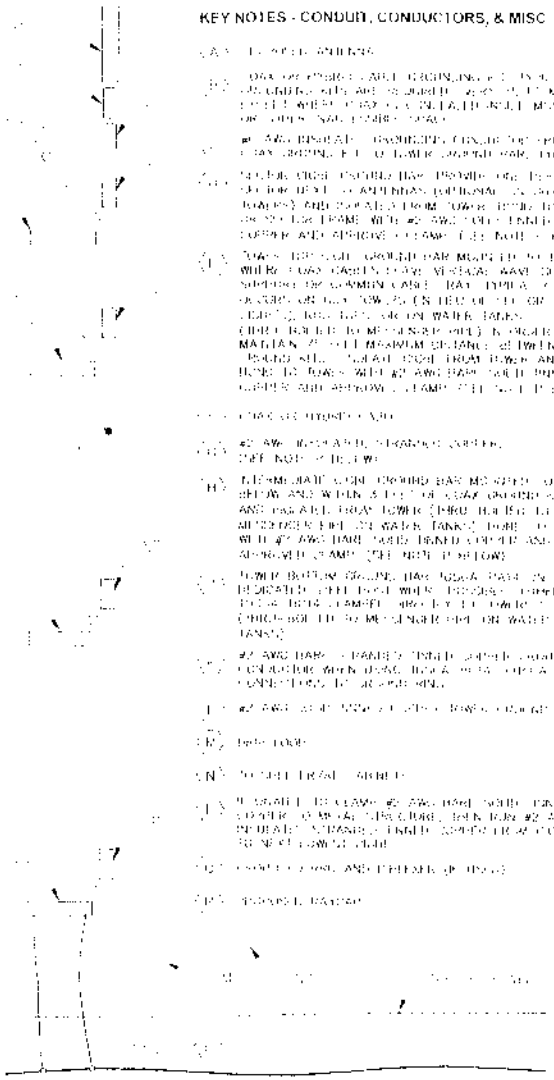
0370

KEY NOTES - ELECTRICAL EQUIPMENT



(1 / E10) GROUNDING SINGLE LINE DIAGRAM
NOT TO SCALE

KEY NOTES - CONDUIT, CONDUCTORS, & MISC



(2 / E10) COAX-TOWER GROUNDING SCHEMATIC
NOT TO SCALE

verizon

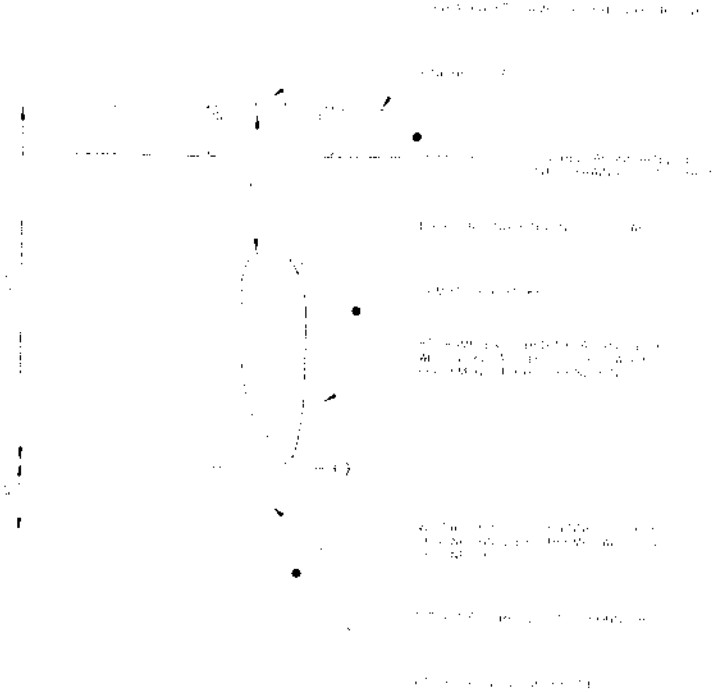
SITE NAME
FALKOUR MKT 174 MCN
SITE No. 695446
FUZE PROJECT # 16600519
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

Kimley»Horn

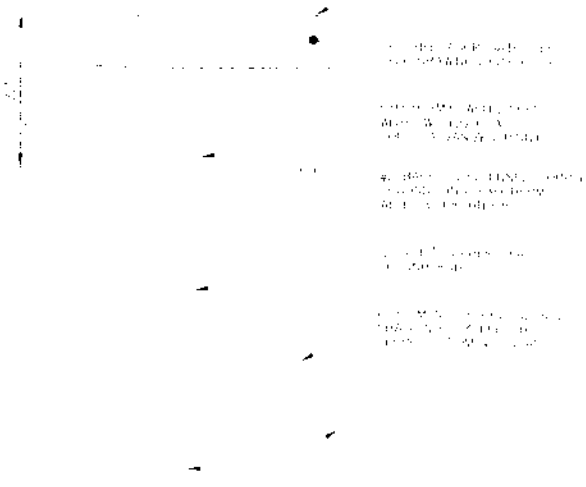
No. 37013
PROFESSIONAL
ENGINEER
CORBIN C. HARDY
12/21

GROUNDING SINGLE LINE DIAGRAM

E10



1 E11 GROUND ROD TEST WELL DETAIL
NOT TO SCALE



2 E11 GROUND ROD INSTALLATION DETAIL
NOT TO SCALE

verizon

SITE NAME
LALKOUR MKT 174 MCR
SITE No.: 695446
FUZE PROJECT # 16650819
OLD NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

Kimley»Horn

A	04/26/21	ISSUED FOR CONSTRUCTION

ALABAMA LICENSED PROFESSIONAL ENGINEER
No. 37013
PROFESSIONAL ENGINEER
CORBIN C. HARDY
3/24/21

GROUNDING DETAILS

E11

0371



1 / E12 BAR NONE GROUNDED BEAM CLAMP (TDSGA-BC14)
NOT TO SCALE



2 / E12 BAR NONE POST MOUNTED (TDSGA-PA14)
NOT TO SCALE



3 / E12 ANTENNA GROUND WIRE INSTALLATION DETAIL
NOT TO SCALE



4 / E12 BAR NONE INSULATED (TDSGA-WB17)
NOT TO SCALE

0372

verizon

PROJECT INFORMATION

SITE NAME
FAIRFOUR MKT 174, MCR
SITE No.: 695446
FUZE PROJECT #: 16000619
1180 NINETY-SIX INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY

Kimley»Horn

REV	DATE	DESCRIPTION	BY
A	06/24/25	PRELIMINARY	

ALABAMA LICENSED No. 37013 PROFESSIONAL ENGINEER CORBIN G. HARDY

VZW PROJECT NUMBER

DRAWN BY | CHECKED BY

DATE

GROUNDING DETAILS

SHEET NUMBER

E12

560 157
VOL 550 PAGE 183

DECLARATION OF PROTECTIVE COVENANTS

THIS DECLARATION OF PROTECTIVE COVENANTS, made as of the 17th day of January, 1989, by C. G. CAYE, MASON H. McKNIGHT, III, JOHN T. GIBBS, III, DR. GARY A. WAUGH, CARL H. HARGROVE, JR., R. D. BROWN and EDGAR L. PERRY (hereinafter collectively referred to as "Declarant") for CULLUM FARMS SUBDIVISION, PHASE ONE (hereinafter referred to as the "Subdivision") pursuant to Plat recorded in Plat Book 22, Page 119, Records of Aiken County, South Carolina (hereinafter referred to as the "Plat"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the Subdivision, the Subdivision being a subdivision of all of that real property described in Exhibit "A" attached hereto.

WHEREAS, it is to the interest, benefit and advantage of Declarant and each and every person who shall hereafter purchase any lot in the Subdivision (hereinafter collectively referred to in the singular as a "Lot" and in the plural as "Lots") that certain protective covenants governing and regulating the use and occupancy of the Subdivision be established, set forth and declared to be covenants running with the land.

NOW, THEREFORE, for and in consideration of the premises and of the premises and of the benefits to be derived by

FILED April 27 2023
Robert L. Kinlaw III
C.C.C.P. & G.S.
Charla Griffin Blaupe
Deputy Clerk

"Exhibit 13"

Declarant and each and every subsequent owner of any of the Lots, Declarant does hereby set up, establish, promulgate and declare the following protective covenants to apply to all of the Lots and to all persons owning the Lots, or any of them, hereafter. These protective covenants shall be binding on all persons claiming under and through the Declarant until January 17, 2009, at which time such covenants may be extended or terminated in whole or in part as hereinafter provided.

1. The Lots shall be exclusively for residental purposes and no main dwelling structures shall be built thereon except detached single family residences containing a minimum of 1800 square feet of heated area. This restriction shall expressly permit Guest Houses designed in substantial similarity to the main dwelling, however, there are not to be included in the above minimum area. The Lots may be used for all recreational purposes compatible with detached single family residential use and any recreational facilities or structures related to such use may be constructed including but not limited to swimming pools, tennis courts, ponds, swimming and boat docks, handball courts, basketball courts, barns, greenhouses, fences, pastures, and similar facilities. This restriction shall not prohibit or restrict the cutting of timber from the Lots, the growing of crops on the Lots or the operation of a horse farm or cattle farm on the Lots. In all other respects, the use of the Lots for commercial, manufacturing, or other non-residential purposes shall be prohibited. No structure or fencing may be

built without the prior approval of the Architectural Control Committee, whose decisions may be based solely on aesthetic considerations.

2. It shall be the responsibility of each owner to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on any Lot in which the owner has an interest.

3. No structure may be placed within 150 feet of the front Lot line or within 50 feet of the rear or side Lot line without the prior approval of the Architectural Control Committee.

4. No house trailer, mobile home or modular home shall be permitted on any Lot at any time except for construction purposes during the construction of a house on that particular Lot, except that a camper, travel trailer, or recreational vehicle will be permitted as long as said vehicles are not displayed in an unsightly manner, do not hinder traffic or spoil the aesthetic beauty of said property. No satellite dish can be installed or maintained where visible from any road.

5. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which creates an annoyance or nuisance to the owners and residents of other areas of the Subdivision. Any fences fronting the primary road system shall be constructed of wood, stone, brick or a combination of these unless other materials approved by Architectural Control Committee.

EXHIBIT "B"

ALL those lots, tracts or parcels of land, situate, lying and being in the County of Aiken, State of South Carolina, being composed of Lot 23 containing 0.0098 Acre and Lot 24 containing 0.0098 Acre as shown on a plat prepared for Cullum Partnership by Graham, Thorstad & Associates, Inc. dated October 10, 1988, revised June 19, 1989, and June 28, 1989. Reference is made to said plat for a more complete and accurate description of the exact metes, bounds and location of said property.

RECORDED 12-4-89 @ 1045
Peggy J. Whitmore

TO:
Arthur N Rich

VOL874 PAGE 148

12.00

AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS

THIS AMENDMENT, made as of the 20th day of June, 1997, by **CULLUM PROPERTIES, INC.**, a South Carolina corporation ("Cullum") and **JOHN A. MIANO** and **VIRGLE F. MIANO** ("Miano").

IT IS RECITED:

A. On January 17, 1989, C. G. Caye and others, predecessors in title to Cullum, executed a Declaration of Protective Covenants for Cullum Farms Subdivision, Phase One (the "Covenants") and recorded the same in Misc. Book 560, at Page 157, in the Office of the RMC for Aiken County, South Carolina.

B. On October 11, 1991, Cullum executed an Amendment to Declaration of Protective Covenants imposing the Covenants on Phase Two of said Cullum Farms Subdivision and recorded in the same in Misc. Book 631, at Page 194, in the said Office of the RMC for Aiken County, South Carolina.

C. Cullum and Miano desire to impose the Covenants on Phase Three of said Cullum Farms Subdivision which phase is shown on a plat prepared by H. Lawson Graham and Associates, Inc. dated January 25, 1996, revised May 28, 1996, a copy of which is recorded in Plat Book 35, at Pages 172-174, and revised by a plat dated January 7, 1997, a copy of which is recorded in Plat Book 36, at Page 104, in the said Office of the RMC for Aiken County, South Carolina.

D. Cullum desires to impose the Covenants on Phase Four of said Cullum Farms Subdivision which phase is shown on a plat prepared by H. Lawson Graham and Associates, Inc. dated January 25, 1996, revised May 28, 1996, a copy of which is recorded in Plat

Book 35, at Pages 175-176, in the said Office of the RMC for Aiken County, South Carolina.

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by Cullum and Miano and each and every subsequent owner of any lot or parcel of land in Phase Three and Phase Four of Cullum Farms Subdivision, Cullum and Miano do hereby impose the Covenants upon the said Phase Three and Phase Four and the owners of all of the lots located therein.

IN WITNESS WHEREOF, Cullum has caused this Amendment to be executed by its duly authorized officers and its corporate seal to be affixed hereto and Miano have hereunto set their hands and seals as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

Witness

Witness

CULLUM PROPERTIES, INC.

By: _____
JOHN G. BROWN, as its Attorney-in-Fact pursuant to a Power of Attorney dated March 4, 1992, and recorded in Book 644, at Pages 164-165 RMC Office of Aiken County, South Carolina

(CORPORATE SEAL)

VOL874 PAGE 150

STATE OF GEORGIA)
)
COUNTY OF RICHMOND) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named JOHN G. BROWN, as attorney-in-fact for CULLUM PROPERTIES, INC., sign, seal and as his act and deed deliver the within written Amendment to Declaration of Protective Covenants for the uses and purposes therein mentioned and that s/he with the other witness whose signature appears above witnessed the execution thereof.

Sworn to before me this 20th
day of June 1997.

Notary Public, Richmond County,
State of Georgia
My Commission Expires: 2-6-01

(NOTARY SEAL)

Witness

VOL 874 PAGE 151

Signed, sealed and delivered
in the presence of:

Witness

Witness

JOHN A. MIANO (SEAL)

VIRGLE F. MIANO (SEAL)

STATE OF SC)
)
COUNTY OF Aiken)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named **JOHN A. MIANO and VIRGLE F. MIANO** sign, seal and as their act and deed deliver the within written Amendment to Declaration of Protective Covenants for the uses and purposes therein mentioned and that s/he with the other witness whose signature appears above witnessed the execution thereof.

Sworn to before me this 23rd
day of June, 1997.

Notary Public, Aiken County,
State of SC
My Commission Expires: 3-16-03

(NOTARY SEAL)

Witness

RETURNED TO:
B. Rich

VOL 644 PAGE 164 VOL 874 PAGE 152

10.00

LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That CULLUM PROPERTIES, INC., a South Carolina corporation, being desirous of arranging for the transaction of certain of its business through an attorney-in-fact, has appointed, named and constituted, and by these presents does name, constitute and appoint JOHN G. BROWN, a resident of Richmond County, Georgia, as its true and lawful attorney-in-fact, and does authorize said attorney-in-fact, for it and its name, place and stead:

(a) To enter into contracts of sale and to sell and convey by deed with or without warranty, residential lots in Phases I and II of Cullum Farms Subdivision and in all future phases thereof which may be developed within the boundaries of that tract of land acquired by CULLUM PROPERTIES, INC. by deed dated March 15, 1990, and recorded in Deed Book 1160, at Page 109, RMC Office for Aiken County, South Carolina, for cash or upon such terms as said attorney-in-fact may deem advisable, and to execute appropriate deeds, conveyances or other instruments including contracts of sale;

(b) To sign, endorse, receive or deposit checks or other obligations or instruments.

This power of attorney shall remain effective until the same is revoked by written instrument recorded in the RMC Office for Aiken County, South Carolina.

1

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IN WITNESS WHEREOF, the undersigned has caused these presents to be executed by its duly authorized officers and its corporate seal to be affixed this 4th day of March, 1992.

Signed, sealed and delivered in the presence of:

Margaret S. Rossi

Maxine T. Bellamy

CULLUM PROPERTIES, INC.

By: _____ as its President

ATTEST:

By: _____ as its Secretary

STATE OF GEORGIA)
)
COUNTY OF RICHMOND)

PROBATE

Personally appeared before me the undersigned witness and made oath that s/he saw the within named CULLUM PROPERTIES, INC., by and through its duly authorized corporate officers, sign, seal and as its act and deed, deliver the within written Power of Attorney for the uses and purposes therein mentioned and that s/he with the other witness whose signature appears above witnessed the execution thereof.

Sworn to before me this 4th day of March, 1992.

Maxine T. Bellamy
Notary Public, Richmond County, State of Georgia

Witness: Margaret S Rossi

My Commission Expires: Notary Public, Richmond County, Georgia My Commission Expires August 8, 1995

RECORDED 6-24-92 at 1000 hrs
Judith V. Warner
R.M.C. AIKEN COUNTY

RECORDED 3-16-92 at 1415 hrs.
Peggy J. Williams
R.M.C. AIKEN COUNTY

Return to: Jack Brown
102 Marcardon Street

TOTAL P.03

6.00

VOL 874 PAGE 154

Attention: Debbie Wells

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN) RELEASE

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned hereby releases the following described property from the lien of that certain mortgage given by ADIZ DEVELOPMENT LLC to FIRST UNION NATIONAL BANK dated November 27, 1996, recorded December 18, 1996, in REM Book 1928 at page 253, Aiken records of Aiken County, South Carolina.

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being within Sandston, in the Southern part of the City of Aiken, County of Aiken, State of South Carolina, containing 0.07 acre, more or less, as shown and designated as LOT NUMBER 4 of Christopher Downs as shown on a plat of Christopher Downs dated August 22, 1996, last revised February 12, 1997, prepared by Southern Partners, Inc. and recorded in Plat Book 36, at page 163, records of Aiken County, South Carolina. Reference being made to both plats as often as may be necessary for a complete and accurate description of the property.

In all other respects, said Mortgage shall remain in full force and effect.

Done at Jacksonville, Florida, this 3rd day of June, 1997.

Witnesses:

Deborah S Wells
(Signature of Witness #1)

MARGARET TRANTHAM
(Signature of Notary-Witness #2)

FIRST UNION NATIONAL BANK

By: Sheri Castleberry
(Signature of Bank Officer)
Sheri Castleberry

Its: Assistant Vice President
(Title of Bank Officer)

STATE OF FLORIDA)
)
COUNTY OF Duval)
(Please Fill In)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named First Union National Bank by Sheri Castleberry, AVP, its authorized officer, sign, seal and as its act and deed deliver the within Release and that s/he with the other subscribing witness thereto witnessed the execution thereof.

Sworn to before me this
6/4/97 day of _____ 1997.

Deborah S Wells
(Signature of Witness #1)

(LS)
Notary Public for Florida
My Commission Expires: _____

Margaret Trantham
MY COMMISSION # CC 503475 EXPIRES
November 8, 1999

Loan Of: Chostner
Return to: Rudnick & Rudnick
P.O. Box 544
Aiken, SC 29802

Prepared
RECORDED 6-24-97 at 10:00 hrs.
R.M.C. AIKEN COUNTY

VOL 874 PAGE 155 202-01-3500-40 3142

STATE OF SOUTH CAROLINA)

COUNTY OF Aiken)

EXTENSION AGREEMENT

James Brian Keith
Deborah D. Keith
(MORTGAGOR)

TO

THE Wachovia BANK OF
(North Augusta BRANCH) North
Augusta, SOUTH CAROLINA
(MORTGAGEE)

NOTE:
Dated 05-12-1994
Amount $ 39,000.00 Rate 7.325
Due Date 05-18-97
Secured by Mortgage of even date
Recorded (Date)
Book 1693 Page 84

WHEREAS, this agreement made and entered into this 18th day of May, 1997, by and between James Brian Keith and Deborah D. Keith of Aiken County, South Carolina, hereinafter referred to as Mortgagor, and THE Wachovia BANK, Hereinafter referred to as Mortgagee.

WITNESSETH:

WHEREAS, the above identified promissory note was duly executed by the Mortgagor on the date indicated, in the amount and rate as specified, and having the maturity as referred to herein above, and

WHEREAS, on even date the Mortgagor made and executed a mortgage on real property, which mortgage is referred to herein above, and constitutes a valid first lien against said premises, and

WHEREAS, the balance now due on said note and mortgage amounts to $ 35,384.67 and it is mutually agreeable to extend the maturity of said note and mortgage as set forth below.

NOW, THEREFORE, it is agreed by and between the Mortgagor and the Mortgagee that said note, and mortgage securing same, shall be due and payable on the 18th day of May, 2000; that interest thereon shall be paid in accordance with the terms of said note and mortgage; that the lien of the mortgage shall be continued in full force and effect and that, except as herein modified, by mutual consent of the parties hereto, all of the terms and conditions of the note and mortgage shall be and remain in full force and effect.

IN WITNESS WHEREOF, the said Mortgagor has signed and sealed these presents and the Mortgagee has caused these presents to be executed by its duly authorized officer this day and year herein referred to above.

WITNESSES:

Allen L Winslow
As to Mortgagor
Helen McKnight

Allen L Winslow
Melvin McKnight
As to Mortgagee
Allen L Winslow
Melvin McKnight

X James Brian Keith
Mortgagor
X Deborah D Keith
Mortgagor

THE Wachovia BANK (SEAL)
(North Augusta BRANCH)
By Patricia A Hyde
Asst Vice President

65-006 (Rev. 12-93)

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THE STATE OF SOUTH CAROLINA)
Aiken COUNTY)

PROBATE

PERSONALLY appeared before me Melissa M Padgett
and made oath that she saw the within named Patricia A. Ingle
sign, seal, as her act and deed, deliver the within Written Deed,
that she with _____ witnessed the
execution thereof.

SWORN to before me this 18th
day of May A.D., 1990.

Melissa M Padgett

Ellen L Winslow (Seal)
Notary Public of South Carolina
My commission Expires My Commission Expires March 17, 2003

VOL 874 PAGE 157

THE STATE OF SOUTH CAROLINA)
Aiken COUNTY)

PROBATE

PERSONALLY appeared before me Melissa M Padgett and made oath that she saw the within named Deborah D. Keith sign, seal, as her act and deed, deliver the within Written Deed, that She with _____ witnessed the execution thereof.

SWORN to before me this 18th day of May A.D., 1997.

Melissa M Padgett

Ellen L Winston (Seal)

Notary Public of South Carolina

My commission Expires My Commission Expires March 17, 2003

VOL 874 PAGE 158

THE STATE OF SOUTH CAROLINA)
Aiken COUNTY)

PROBATE

PERSONALLY appeared before me Melissa M Padgett
and made oath that she saw the within named James Brian Keith
sign, seal, as his act and deed, deliver the within Written Deed,
that she with _____ witnessed the
execution thereof.

SWORN to before me this 18th
day of May A.D., 1997.

Melissa M Padgett

Ellen L Weston (Seal)
Notary Public of South Carolina
My commission Expires My Commission Expires March 17, 2003

RETURNED TO:
Wachovia
PO Box 2703
Winston-Salem, N.C. 27199-2551

Refused
RECORDED 6-24-97 at 10:15 hrs.
Judith D. Harmer
D.M.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS

5SC/183
5GC/157

WHEREAS, by instrument dated January 17, 1989, and recorded in Misc. Book 560 at page 157, records of Aiken County, South Carolina, C. G. CAYE, MASON H. McKNIGHT, III, JOHN T. GIBBS, III, DR. GARY A. WAUGH, CARL H. HARGROVE, JR., R. D. BROWN and EDGAR L. PERRY for Cullum Farms Subdivision, Phase One, placed certain covenants and conditions regarding Cullum Farms Subdivision.

WHEREAS, paragraph 3 of that document states that there shall be a fifty (50) foot building setback line on all side and rear lot lines in Cullum Farms Subdivision, Phase One.

WHEREAS, in order to construct a residence on Lot 15, Phase One, the residence must be closer to the side line than the Fifty (50) foot setback line due to the slope of the property.

WHEREAS, the Architectural Control Committee established and composed of C. G. Caye, Mason H. McKnight, III and John T. Gibbs, III, reserved in the referred to instrument, the control over the design, size and location of the dwellings and other structures in Cullum Farms Subdivision.

NOW, THEREPORE, the Architectural Control Committee declares that the owner of Lot 15, Phase One, Cullum Farms Subdivision shall be allowed to construct a residence closer to the side line than the fifty (50) foot setback line as set forth

in the above referred to Declaration of Protective Covenants. The committed approves a twenty-five (25) foot setback line.

DONE this 10 day of January, 1991, at Aiken, South Carolina.

IN THE PRESENCE OF:

Marjorie T. Bellamy

ARCHITECTURAL CONTROL COMMITTEE

BY: C. G. Caye

BY: Mason H. McKnight, III

BY: John T. Gibbs, III

STATE OF GEORGIA)
)
COUNTY OF RICHMOND)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Architectural Control Committee by C. G. Caye, Mason H. McKnight,III and John T. Gibbs, sign, seal and as their act and deed deliver the within Amendment to Declaration of Protective Covenants, and that (s)he with the other subscribing witness witnessed the execution thereof.

SWORN to before me this
10th day of January, 1991.

Marjorie T. Bellamy (L.S.)
Notary Public for Georgia
My Commission expires:

Notary Public, Richmond County, Georgia
My Commission Expires Aug. 9, 1991

VOL 613 PAGE 24

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

AFFIDAVIT

WHEREAS, there is a fence encroachment on Lot 15, Cullum Farms, Phase One, by the adjoining lot owner; and

WHEREAS, the owner of the adjoining lot has given Cullum Properties, Inc. permission to move the fence to the property line and the purchaser of Lot 15 desires said fence to be moved.

IT IS AGREED that Cullum Properties, Inc., at their expense, shall move all encroachments of the existing fence off Lot 15 by February 7, 1991.

DATED this 10 day of January, 1991.

IN THE PRESENCE OF:

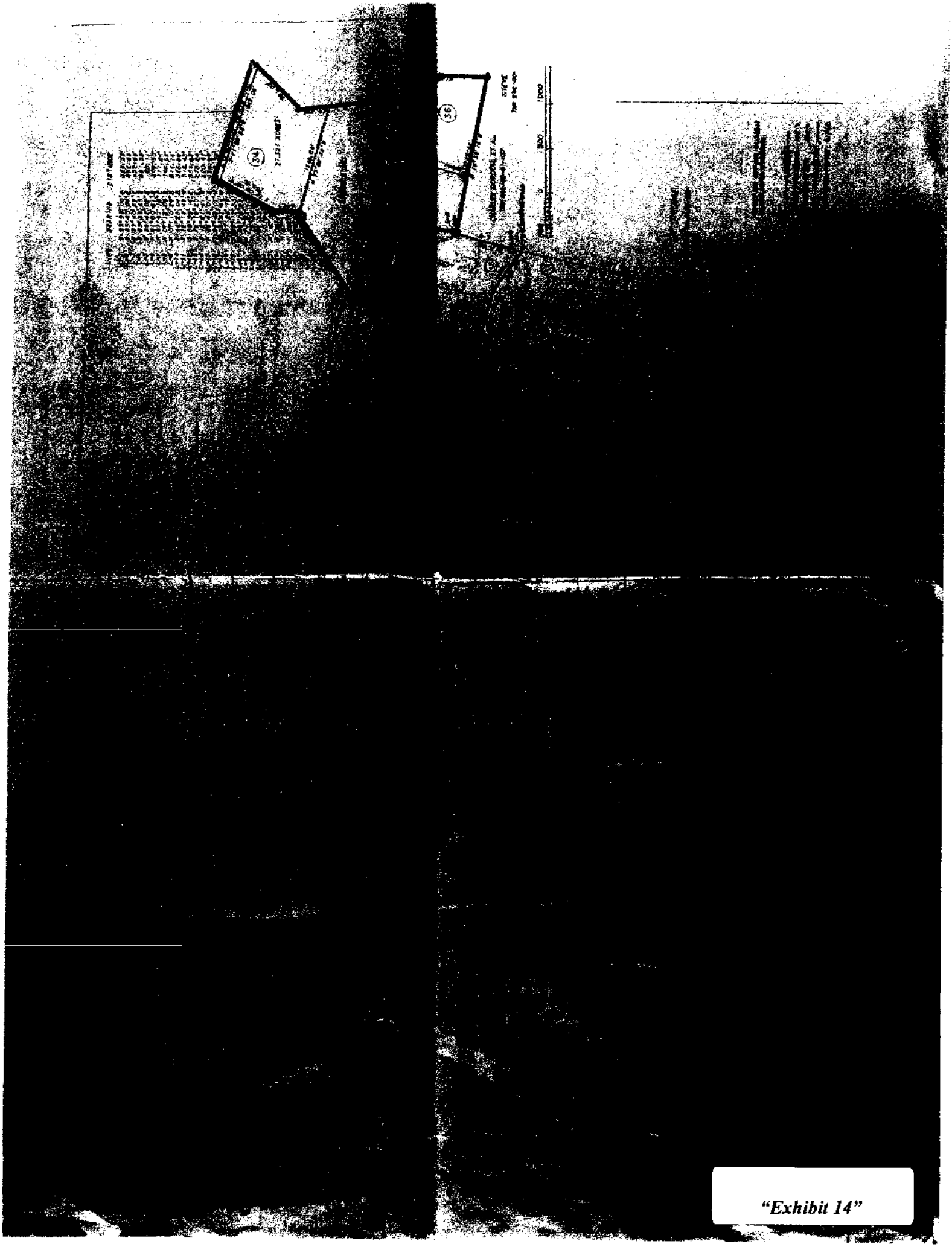
Blayne T. Williams

CULLUM PROPERTIES, INC.

BY: _____
Its: Pres.

PROVIDED 5-22-91 at 0940hrs.
Peggy J. Whitman
R.M.C. FOR AIKEN COUNTY

RETURNED TO: Farmer M5054



"Exhibit 14"

FILED April 27 20 23
C.C.C.P. & G.S.
Deputy Clerk

qPublic.net™ Aiken County, SC



"Exhibit 15"

EXHIBIT A

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS
COUNTY OF AIKEN) FOR
BLUFFWOOD EAST

The property described herein is specifically made subject to the following Restrictive Covenants.

1. Grantor intends that this property and other nearby property owned by the Grantor, shall be known as Bluffwood East.

2. No mobile homes are allowed. Modular homes or custom-built residential dwellings are permitted. All construction shall be of a high quality, both as to workmanship and materials, and shall be in keeping with suitability of such improvements to the environment and surroundings, so as to enhance the value of subject property and the surrounding property

3. Barns and related out-buildings are permitted. Such barns or out-buildings may be used for the storage of farm equipment, recreational vehicles, boats, automobiles and related items.

4 In addition to barns and out-buildings as described hereinabove, owners may construct one (1) residential home, one (1) residential guest house, and one (1) residential apartment only.

5. The property is subject to the covenants of Bluffwood East and lot lines may not be re-subdivided or rearranged in any manner so as to created any additional tracts.

6. No commercial activity shall be conducted on subject property specifically including, but not limited to, chicken houses, hog farms, or bait farms. The boarding and training of horses is permitted. It will be the responsibility of each owner to contain the animals on their property, and to prevent them from becoming a nuisance to their neighbors.

7. Fencing along road frontage is permitted, but must be limited to black three or four boards with or without black woven wire. Interior fencing other than road frontage is permitted at the discretion of owner.

8 No unsightly items may be kept on the property which are visible from the roadway. Any rubbish, trash, or garbage shall be kept in sanitary containers screened from public view. It shall be the responsible of each owner to prevent any unclean, unsightly or unkept conditions of buildings or grounds which substantially subtract from the natural harmony and aesthetic of Bluffwood East. Horse trailers, campers, motor homes, vans, travel trailers, panel or service trucks, boats and boat trailers are permitted, so long as such

vehicles are not displayed in an unsightly manner, such as to spoil the aesthetic beauty of Bluffwood East. Such items must be storage or parked in the rear yard in order that they are not visible from any public street or roadway.

9. A fifteen (15') foot wide Non-Exclusive Easement shall be reserved along the rear of each tract of land, said non-exclusive easement being located within the boundary line of each tract as set forth on the property. Said easement may be used by the owner and other property owners in Bluffwood East as an equestrian/pedestrian easement for the use and enjoyment of all owners. No bicycles, mountain bikes, motor bikes, ATV's or any other vehicles shall be allowed on the easements or trails. Provided however, that horse drawn carts or carriages are specifically permitted. Maintenance vehicles are allowed on the easement solely for the purpose of maintaining the easement. The owner of the property within which that portion of the non-exclusive easement is contained shall be responsible for maintaining the condition of the easement for the benefit of the owner and other property owners in Bluffwood East. In the event that any owner does not properly maintain the portion of the easement within their property, then other property owners within Bluffwood East may enter said property within the easement area for the purpose of maintaining the easement to keep it clean and usable by other property owners in Bluffwood East.

Gerald L. Waters
Owner/Developer

Date:

October 7, 2004

PRELIMINARY PLAT
BLUFFWOOD EAST

Staff Report
Telecommunication Tower Application

To: Aiken County Planning Commission
From: Rhonda C Connelly
Planner I

Date: September 30, 2022
Public Hearing: October 20, 2022

PROPERTY OWNER: Gerald L Waters, Trustee Of the Gerald L Waters Living Trust

APPLICANT: Pyramid Network Services for Verizon Wireless

LOCATION: Old 96 Indian Trail Wagener, SC 29164

PRESENT ZONING: RUD

TAX PARCEL NUMBER: 262-00-01-002

MAXIMUM HEIGHT ALLOWED BY LMR: Rural (RUD, RUC) that is more than one (1) mile from existing RC zoning district allows for: monopole, self supporting lattice, or guyed towers with a height not to exceed three hundred fifty (350) feet. Variances from the height limitations exceeding an additional ten (10%) percent of the height allowed in the zoning district or type of wireless telecommunications facility shall not be granted or approved.

PROPOSAL: After unsuccessfully attempting to find a tower to co-locate on within a one mile radius, the applicant has applied for a new telecommunication facility on the proposed parcel.

SURROUNDING ZONING & LAND USES:

North: Road (RUD)

East: Agricultural/Vacant (RUD)

South: Residential/Agricultural/Vacant (RUD)

West: Agricultural/Vacant (RUD)

ANALYSIS: Pyramid Network Solutions for Verizon Wireless submitted an application for a three hundred five (305) foot self-supporting lattice telecommunication facility on September 21, 2022. The proposed tower is to be placed on tax parcel number 262-00-01-002 off of Old 96 Indian Trail, Wagener. The proposed tower will be setback from Old 96 Indian Trail 440.2 feet and from the rear property line (south) 1,656.11 feet. The tower will also be setback from the property lines 405.10 feet (west) and 782.10 feet (east). The property is 97.12 acres and contains no structures.

PLANNING COMMISSION REVIEW: According to Chapter 24, Article 3, Section 5.7(1) of the Aiken County Code of Ordinances, the Planning Commission shall review applications for new telecommunication towers based on four criteria. The criteria and staff comments related to each are provided below. Disapproval from the Planning Commission must be based on substantial evidence in the record and the reasons stated on the record.

a. *"Conflict with safety and safety-related codes and requirements."*
The site has met and/or exceeded County adopted IBC and ANSI codes.

b. "Conflict with a designated historical site."

The site does not conflict with any designated historical site listed with the State Historic Preservation Office.

c. "The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers."

Staff is not aware of any unacceptable risk or reasonable probability of such that the placement and location of the wireless telecommunication facility would create to residents, the public, employees, and agents of the County, or employees of the service provider or other service providers.

d. "Conflicts with the provisions of this section 24-3.5."

A list of deficient items is attached and was forwarded to the applicant by email on 9/28/2022.

The telecommunication tower regulations are intended to protect the County's health, safety, public welfare, environmental features, and nature and character of the community.

Deficient Items List for Old 96 Indian Trail

- The Functional Performance Standards and Guaranty need to be completed and submitted.
- Sec. 24-3.5.5 (8, k) "The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure." *The center line height has already been shown, that part of this section does not need to be completed.*
- Sec. 24-3.5.5 (8, l) A bufferyard plan will need to be submitted.
- Sec. 24-3.5.5 (11) "The applicant shall provide certification from a professional civil or structural engineer licensed in the state that the telecommunications facility is designed and will be constructed to meet all county, state, and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) guidelines." The applicant has indicated this item will be submitted prior to permitting.
- Sec. 24-3.5.13 (2) "There shall be no development or construction of habitable (residential) buildings within the fall zone or setback area set forth in the immediately preceding section 24-3.5.13.1 The applicant shall provide written proof that the owner of property on which a tower is proposed to be erected has been notified of this limiting provision regarding habitable (residential) buildings. Such proof of notification of this limiting provision shall be in the form of a written and properly executed agreement between the applicant and the owner of the property, or in other form which is approved by the planning and development director." Letter from the property owner will need to be submitted.
- Engineer shown on CDs is licensed by the State of Alabama, per ordinance, engineers must be licensed by the State of South Carolina.

Deficient items list sent to applicant by email 9/28/2022.

PROPOSED USE(S) OF TOWER/ANTENNA (I.E. NEW, CO-LOCATE INCREASING HEIGHT OF TOWER, ETC.):
New 305' self-supporting tower for Verizon Wireless

APPLICANT NAME: Lannie Greene for Verizon Wireless PHONE #: 678-780-9221

ADDRESS OF APPLICANT: 2421 St. Martin Way, Monroe, GA 30656 lgreene@pyramidns.com

TOWER OWNER NAME: Verizon Wireless c/o Matt Hartley PHONE #: 678-277-3612

ADDRESS OF TOWER OWNER: 10300 Old Alabama Road Connector, Alpharetta, GA 30022

ADDRESS/LOCATION OF DEVELOPMENT: Old 96 Indian Trl, Wagener, SC 29164

TAX PARCEL NUMBER OF DEVELOPMENT: 262-00-01-002

Note: Review and approval of this site plan may require at least 30 working days. Failure to provide any of the previously noted information may delay approval of the site plan.

I hereby submit the following for review and approval: (check all which are applicable)

- ☐ Seven site plans
- ☐ Functional Performance Standards
- ☐ Functional Performance Standards Compliance Guaranty
- ☐ Notice of Intent (NOI) Form
- ☐ Development Permit Review Fee ($10,000.00)

SIGNATURE: Lannie Greene DATE: 09-19-22

NAME (Printed): Lannie Greene TITLE: Representative for Verizon Wireless

ADDRESS: 2421 St. Martin Way, Monroe, GA 30656

PHONE #: 678-780-9221

RF Propagation Maps for FALKOUR

0400

Abdul Al-Dandan

Radio Frequency Engineer

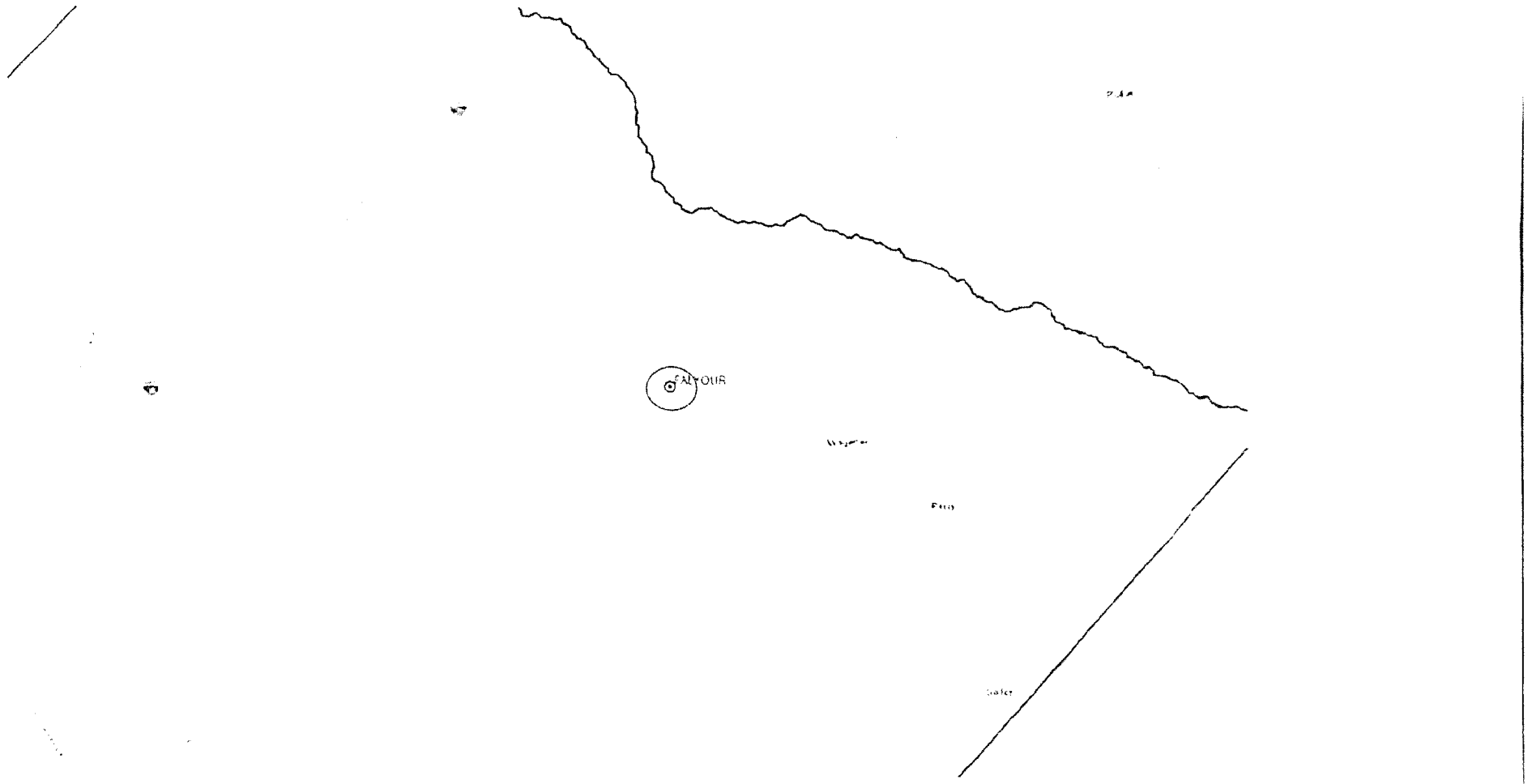
Verizon Wireless

verizon✓



verizon

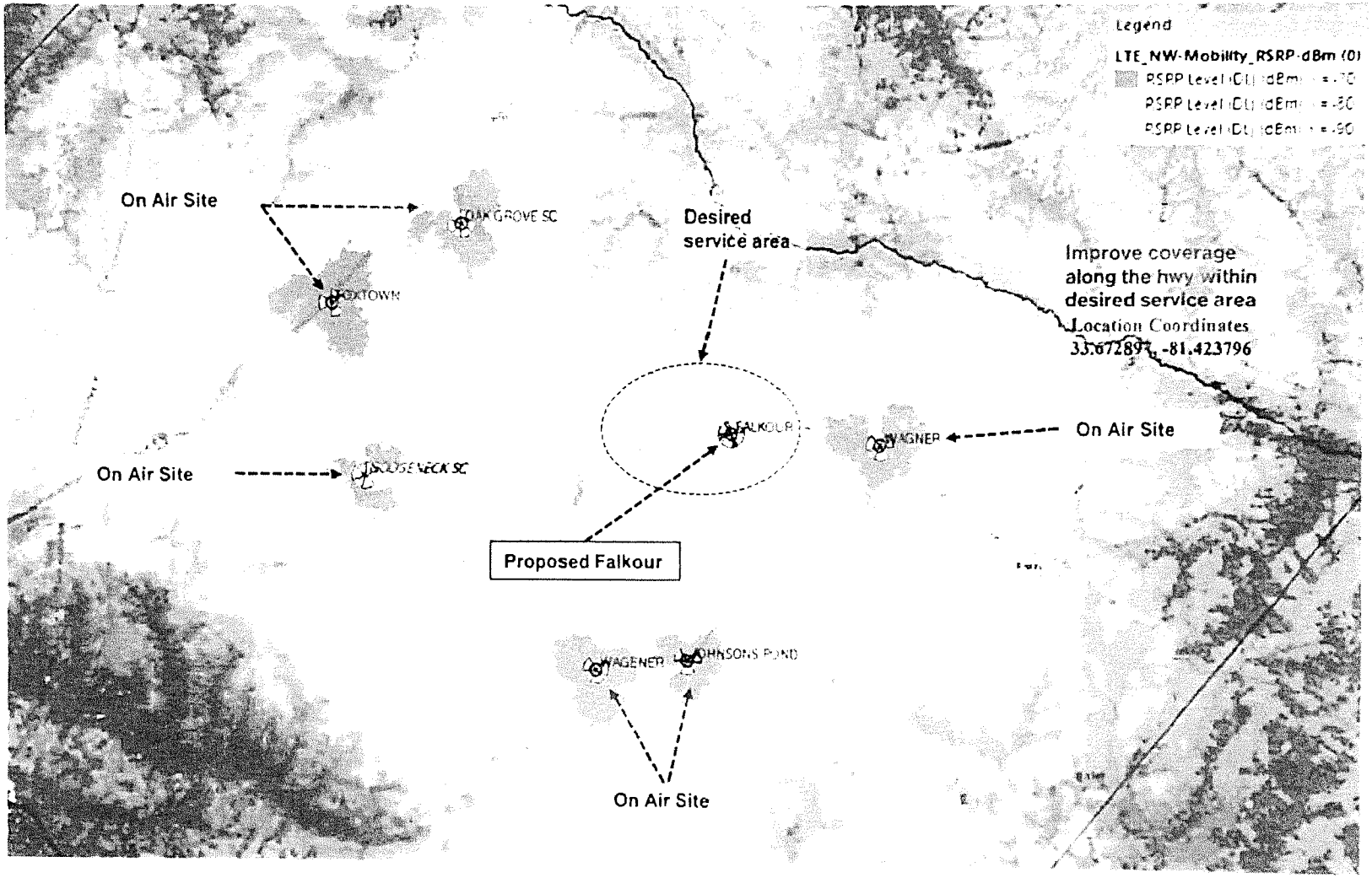
Search Ring



verizon

0402

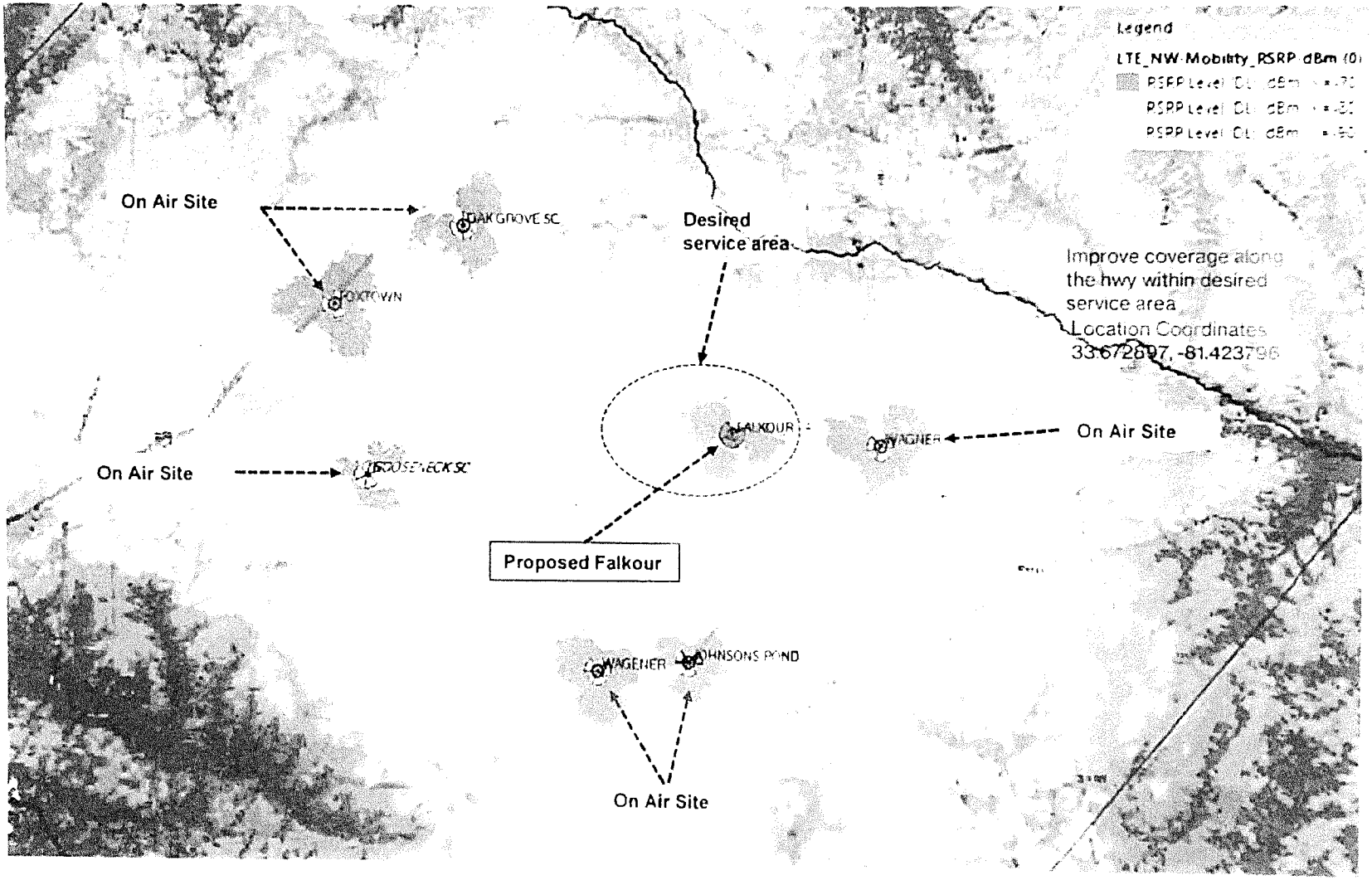
Existing LTE coverage



verizon

0403

Proposed LTE coverage with Falkour



verizon

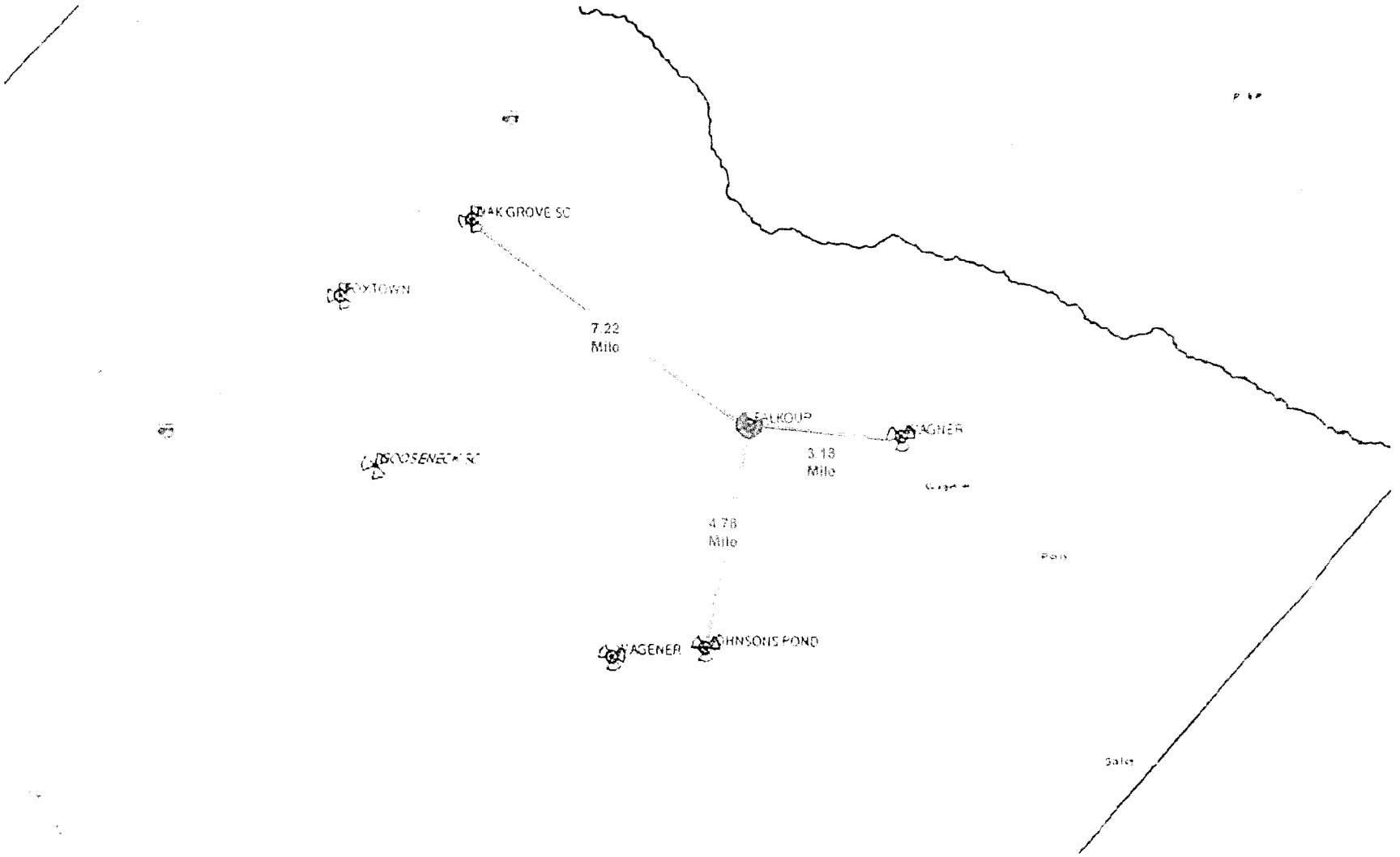
0404

Inventory Of Existing **Verizon** on-Air

Site Name	Latitude	Longitude	Structure Type	Street Address	City	State	County	Zip Code
Oak Grove	33.739431	-81.520289	240 Ft. Self Support Lattice Tower	Old 96 Indian Trail	Monetta	SC	Aiken	29006
FoxTown	33.717911	-81.569894	199 Ft. Guyed Tower	2211 Wire Road	Aiken	SC	Aiken	29805
Gooseneck	33.66613333	-81.560999	190 Ft. Monopole	312 Wilderness Road	Aiken	SC	Aiken	29805
Wagener	33.604592	-81.478506	260 Ft. Self Support Lattice Tower	360 Four Oaks Road	Wagener	SC	Aiken	29164
Johnsons Pond	33.605833	-81.444222	179 Ft. Self Support Lattice Tower	5665 Wagener Road	Salley	SC	Aiken	29137
Wagner	33.667028	-81.369203	300 Ft. Guyed structure	209 Randy Wayne Lane	Wagener	SC	Aiken	29164

0405

Distance of proposed FALKOUR site
to the existing VZW on-air sites



0406

verizon

Summary

The site is located in Wagener, Aiken Co. The objective is to provide coverage along Highway 19 and Highway Six Indian Trail and surrounding area of Wagener.

We are adding more spectrum of 850 for the low band and AWS/PCS for the high band. We are modifying our existing radios with a new dual band radios and new RET capable antennas with 4TX/RX (Transmit/Receive diversity) to improve user experience by allocating more resources.

The antennas at each site (eNodeB and UE) have to be uncorrelated to provide independent paths as a baseline for up to four different data channels at the same time.

Therefore; in order to improve customer experience in the rural area and reach maximum potential customers, our design tower height set at 295' feet. It's a coverage problem area and the nearest site is about 3.18 miles East. The new site will help us to address customer issue and complains, therefore; any reduction on the antenna height will jeopardize our main coverage objectives.

This particular candidate was chosen, because it was within the intended specific search ring and based in all engineering survey and calculation, and based on VZW engineering requirements for coverage

0407

verizon

Thank you.

0408

verizon✓

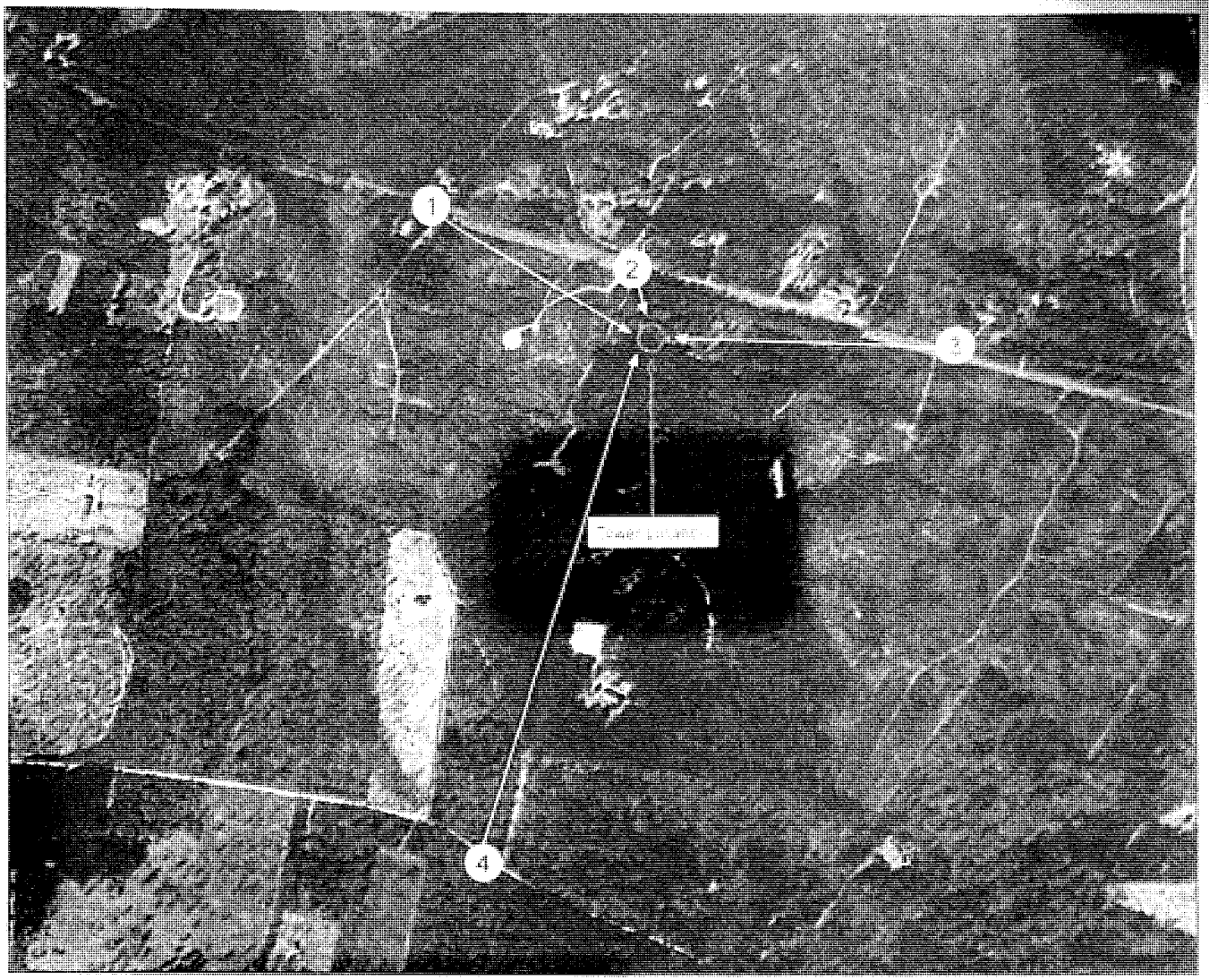


Photo sim location	Distance to proposed tower
Location #1	1,670'
Location #2	640'
Location #3	1,800'
Location #4	3,220'

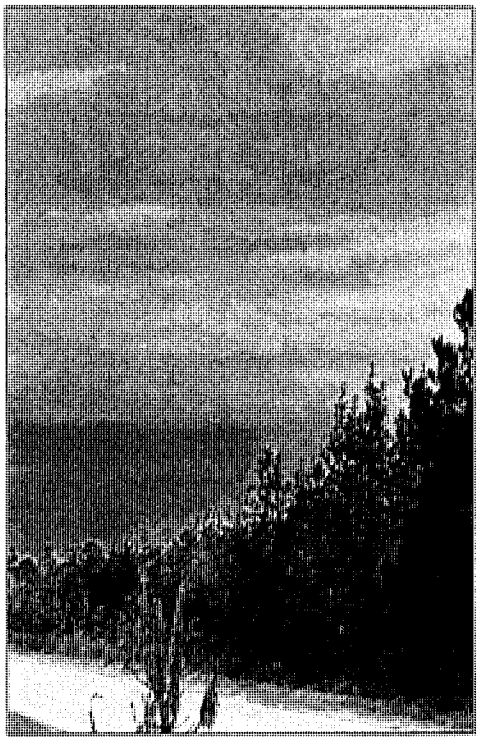
Location Map

Kimley »Horn

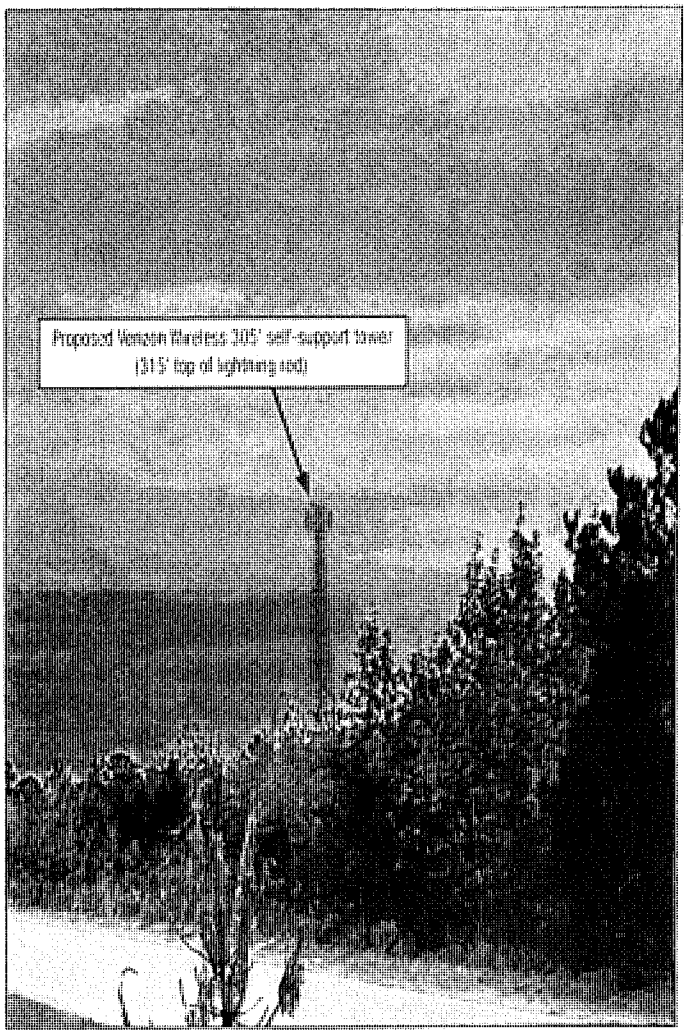
Verizon Wireless - Falkour_mkt 174 mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0410



Existing



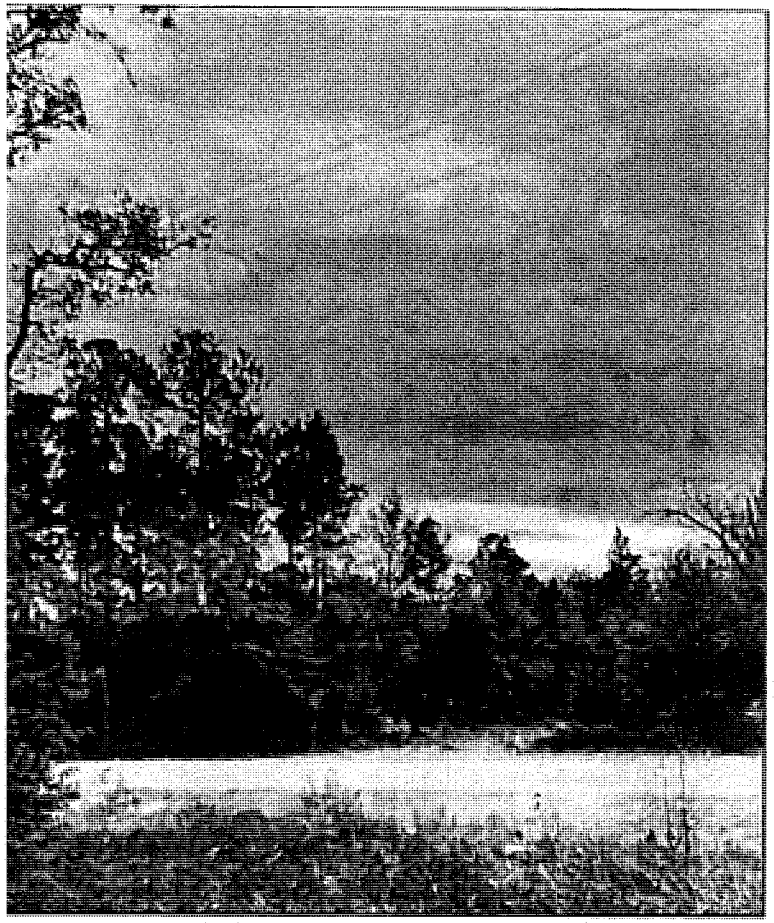
Proposed

Location #1 - View looking east southeast from Old Ninety-Six Indian Trail Road

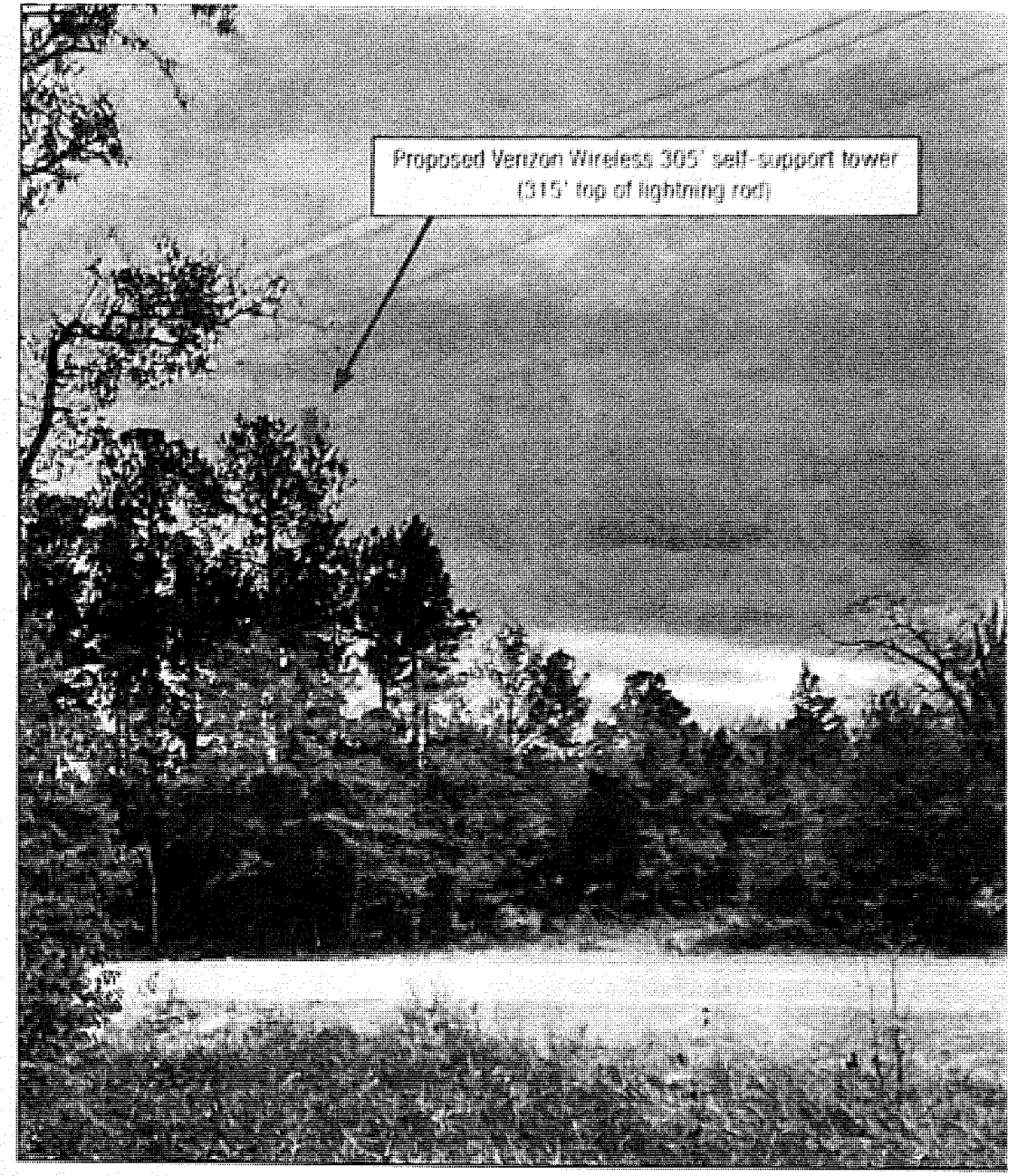
Kimley»Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

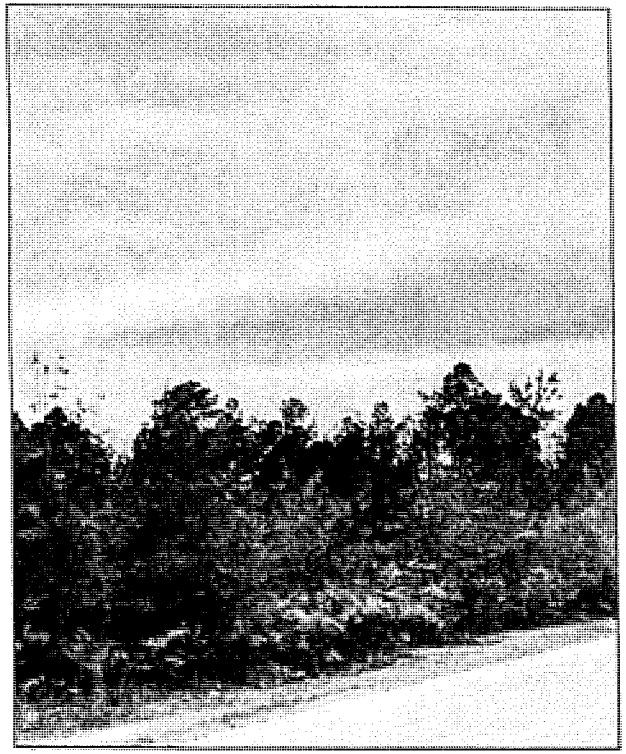
verizon



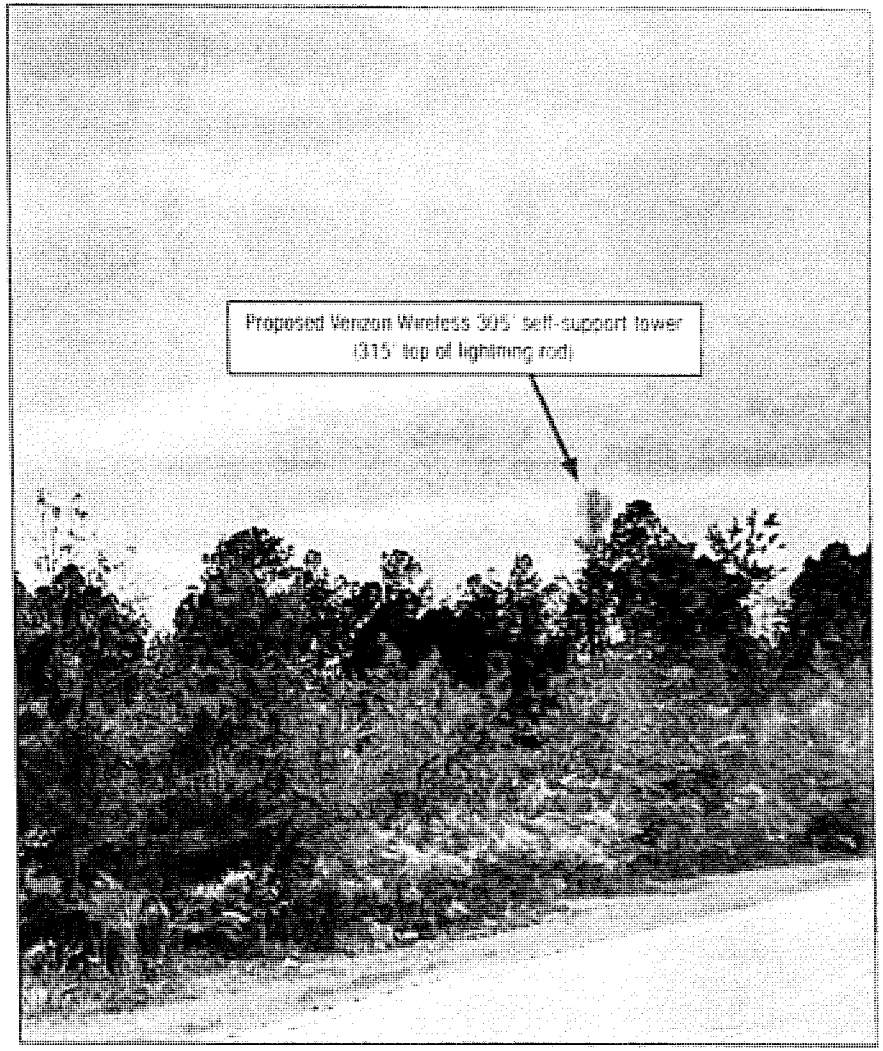
Existing



Proposed



Existing



Proposed

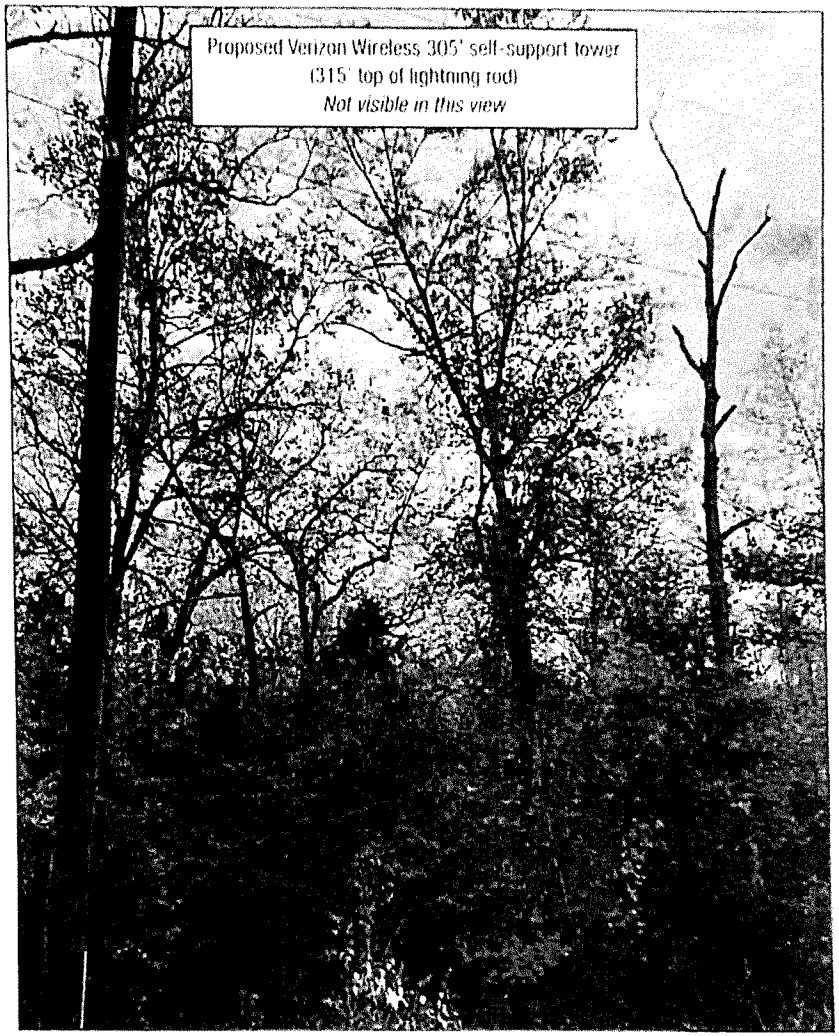
Location #3 - View looking west from Old Ninety-Six Indian Trail Road

Kimley »Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0413



Existing

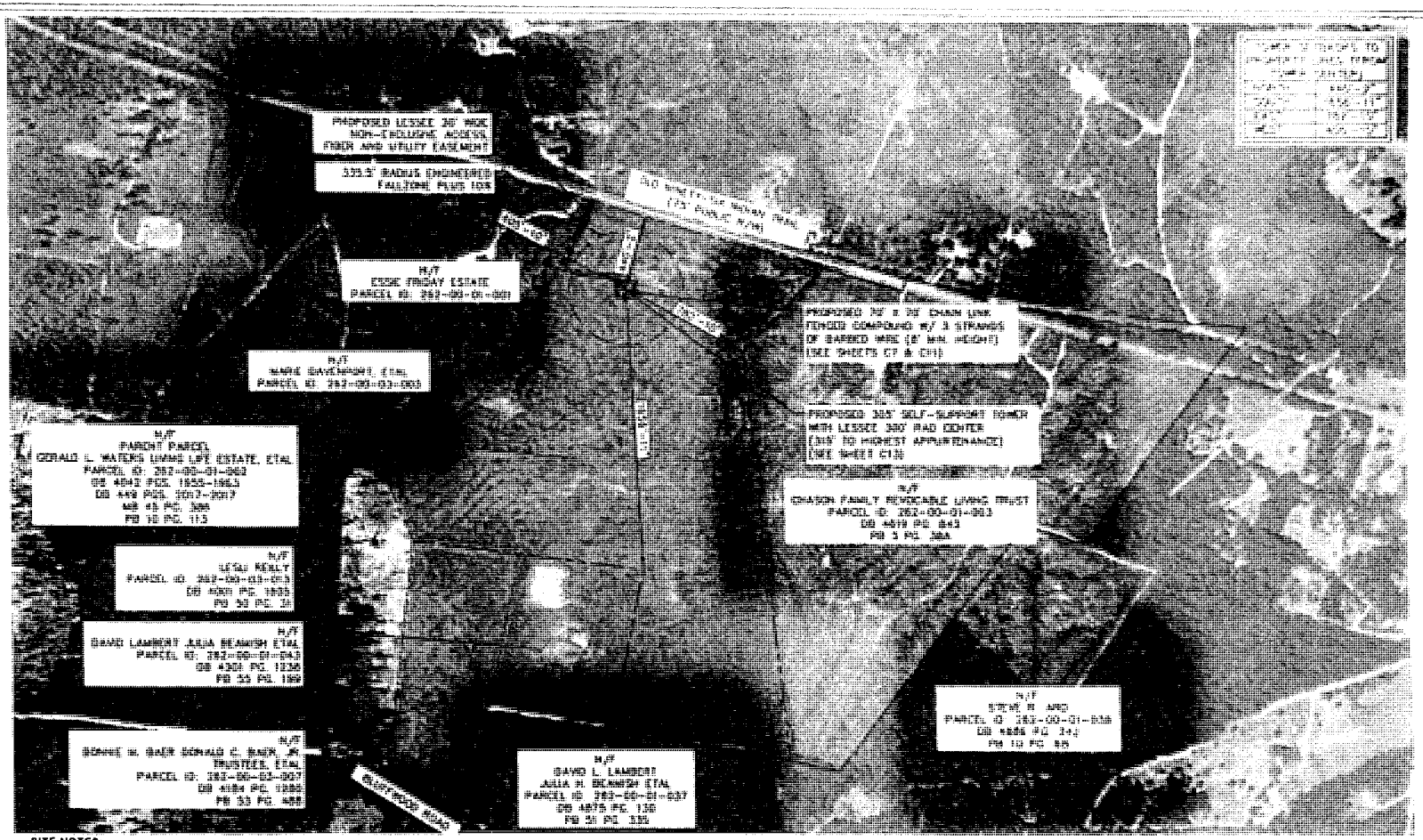
Location #4 - View looking north northeast from Bluffwood Road

Kimley»Horn

Verizon Wireless - Falkour_mkt_174_mcr
Old Ninety-Six Indian Trail Road
Wagener, SC 29164
Aiken County

verizon

0414



SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' x 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. – SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
3. ALL BUFFERYARD AREAS NOT DEVOTED TO PLANTS SHALL BE SEEDED WITH LAWN GRASS OR SUITABLE GROUND COVER.
4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0 OVERALL PARCEL PLAN

SCALE 1" = 600'

NORTH

0 300 600 1200

GRAPHIC SCALE: 1" = 600'

verizon

PROJECT INFORMATION

SITE NAME
FALKOUR_MKT_174_MICH
SITE No. 895446
FUZE PROJECT # 19000919
OLD HARDY-BY INDIAN TRAIL ROAD
WAGENER, SC 29164
AIKEN COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-410-1200
WWW.KIMLEY-HORN.COM
SC LICENSE COA-00156

REV	DATE	ISSUED FOR:	BY
7			
6			
5			
4			
3			
2			
1	08/09/21	CONSTRUCTION	DRC
0	05/18/21	CONSTRUCTION	DRC
A	04/28/21	PRELIMINARY	DRC

LICENSER:

ALABAMA LICENSED No. 31912 PROFESSIONAL ENGINEER DAVID R. COUSINS

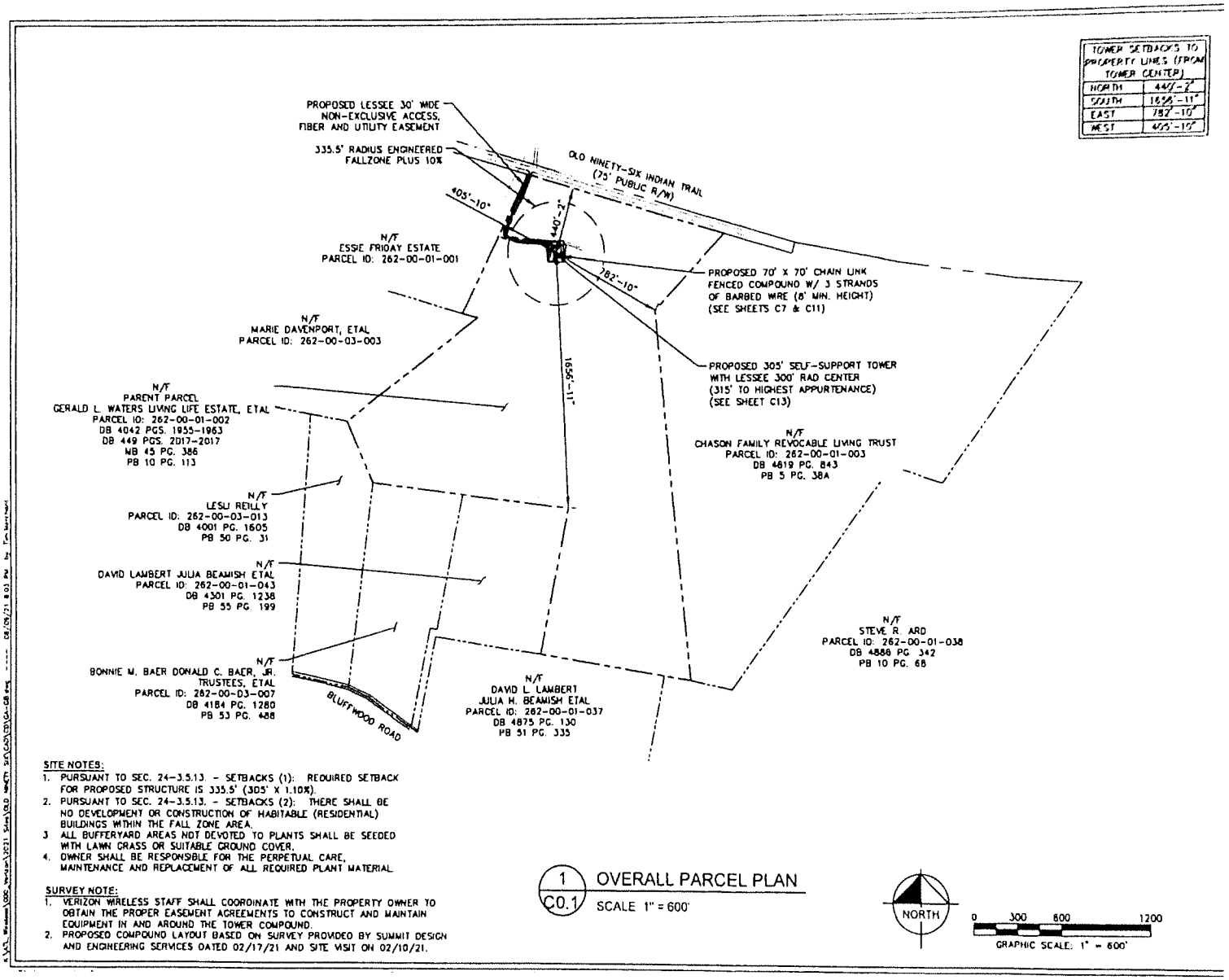
AHA PROJECT NUMBER:
013508274

DRAWN BY: TDM | CHECKED BY: TRH

SHEET TITLE:
OVERALL PARCEL PLAN

SHEET NUMBER:
C0

0415



SITE NOTES:

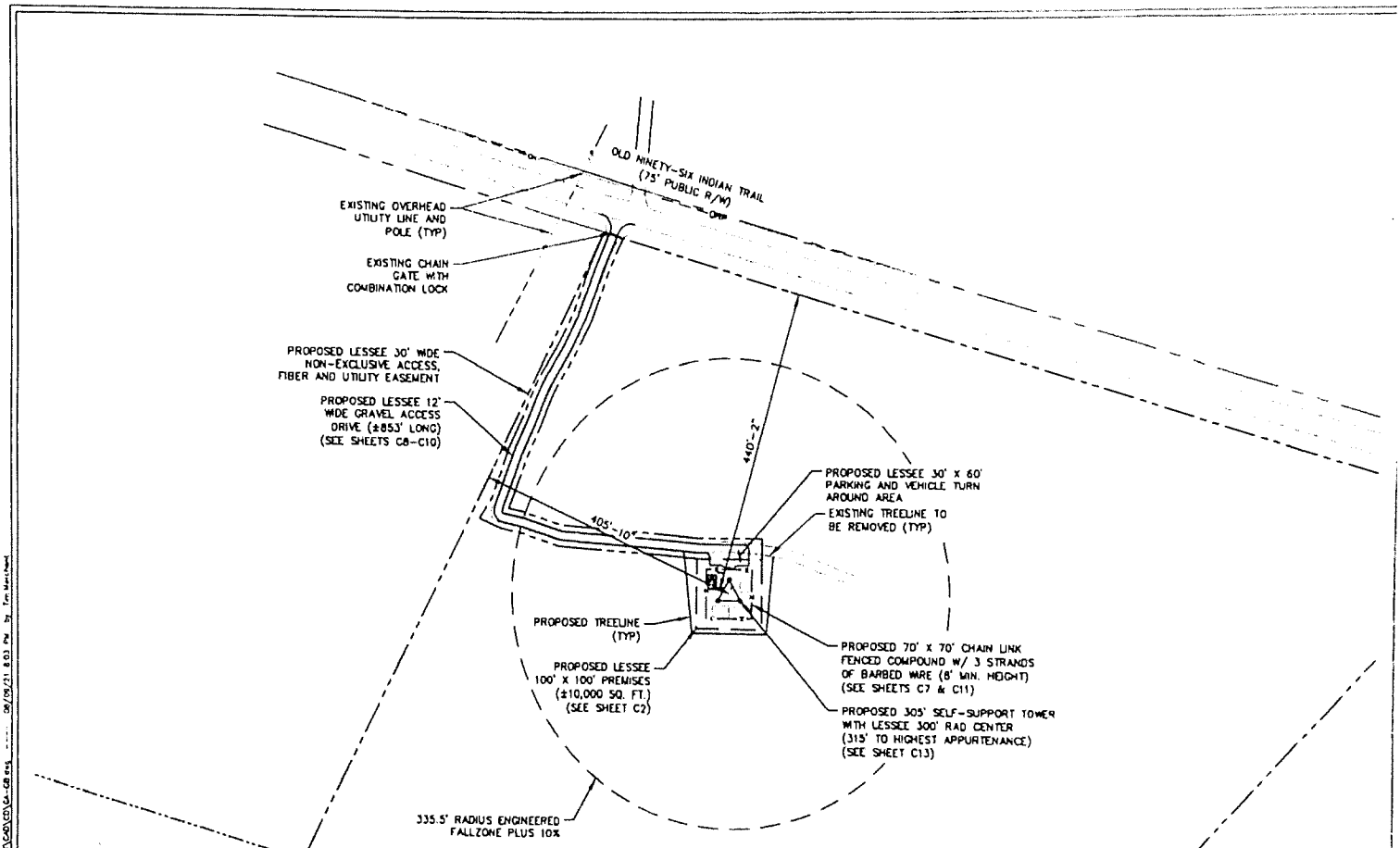
1. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 335.5' (305' X 1.10%).
2. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (2): THERE SHALL BE NO DEVELOPMENT OR CONSTRUCTION OF HABITABLE (RESIDENTIAL) BUILDINGS WITHIN THE FALL ZONE AREA.
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4. OWNER SHALL BE RESPONSIBLE FOR THE PERPETUAL CARE, MAINTENANCE AND REPLACEMENT OF ALL REQUIRED PLANT MATERIAL.

SURVEY NOTE:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C0.1 OVERALL PARCEL PLAN

SCALE 1" = 600'



SITE NOTES:

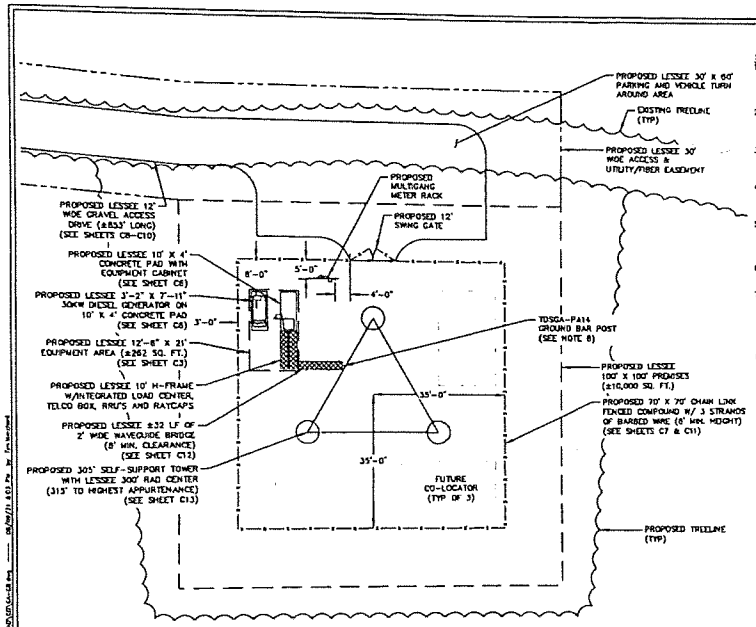
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SURVEY NOTE:

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2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING SERVICES DATED 02/17/21 AND SITE VISIT ON 02/10/21.

1 / C1 OVERALL SITE PLAN

SCALE 1" = 150'



1 / C2 SITE PLAN
SCALE: 1" = 20'

SITE PLAN NOTES:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SMART DESIGN AND ENGINEERING SERVICES DATED 07/17/21 AND SITE VISIT ON 02/10/21.
3. CONTRACTOR TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER THAT THE EQUIPMENT SHOWN HAS BEEN ORDERED/SCHEDULED FOR DELIVERY TO THIS SITE.
4. THE BASIS OF EQUIPMENT DESIGN INCLUDES ONE (1) RF CABINET, ONE (1) FUTURE BATTERY CABINET, AND ONE (1) FUTURE EXPANSION CABINET.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING AND MODIFYING SCOPE OF WORK TO ACCOMMODATE ANY CHANGES IN THE EXACT EQUIPMENT PROCURED BY VERIZON WIRELESS. COORDINATE ANY CHANGES WITH VERIZON WIRELESS CONSTRUCTION MANAGER.
6. ROUTE COAX/FIBER UP TOWER PER STRUCTURAL ANALYSIS BY TOWER OWNER.
7. TOWER DIMENSIONS SHOWN ON THIS PLAN ARE FOR TOWER CENTER LOCATION. CONTRACTOR TO OBTAIN COPY OF TOWER ERECTION DRAWINGS FROM VERIZON CONSTRUCTION MANAGER PRIOR TO DRILLING TOWER FOUNDATIONS. CAISSONS AND TOWER SHOWN ON THIS PLAN ARE ILLUSTRATIVE. SEE DESIGN DRAWING BY OTHERS. DO NOT SCALE.
8. INSTALL 3/4" O.D. GALVANIZED STEEL POST FOR TOSCA-PA14 GROUND BAR. POST TO EXTEND 78" ABOVE GRADE AND SHALL BE EMBEDDED IN A 12"ø CONCRETE FOOTING A MINIMUM OF 36". FOOTING SHALL EXTEND A MINIMUM OF 42" BELOW GRADE.

SITE NOTES:

1. PURSUANT TO SEC. 24-3.5.13. - SETBACKS (1): REQUIRED SETBACK FOR PROPOSED STRUCTURE IS 333.5' (305' X 1.10%).
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NORTH

0 10 20 40
GRAPHIC SCALE: 1" = 20'

verizon

PROJECT INFORMATION:
SITE NAME
FALKOUR_MCT_174_MCR
SITE No: 859448
FUZE PROJECT # 19020813
OLD MARTZ-GAY ROAD PINE ROAD
BAGDAD, SC 29934
MACON COUNTY

PLANS PREPARED BY:
Kimley»Horn

REV	DATE	ISSUED FOR	BY
7			
6			
5			
4			
3			
2			
1	08/18/21	CONSTRUCTION	DRC
0	05/19/21	CONSTRUCTION	DRC
A	04/26/21	PRELIMINARY	DRC

ALABAMA LICENSED PROFESSIONAL ENGINEER DAVID R. COLEMAN

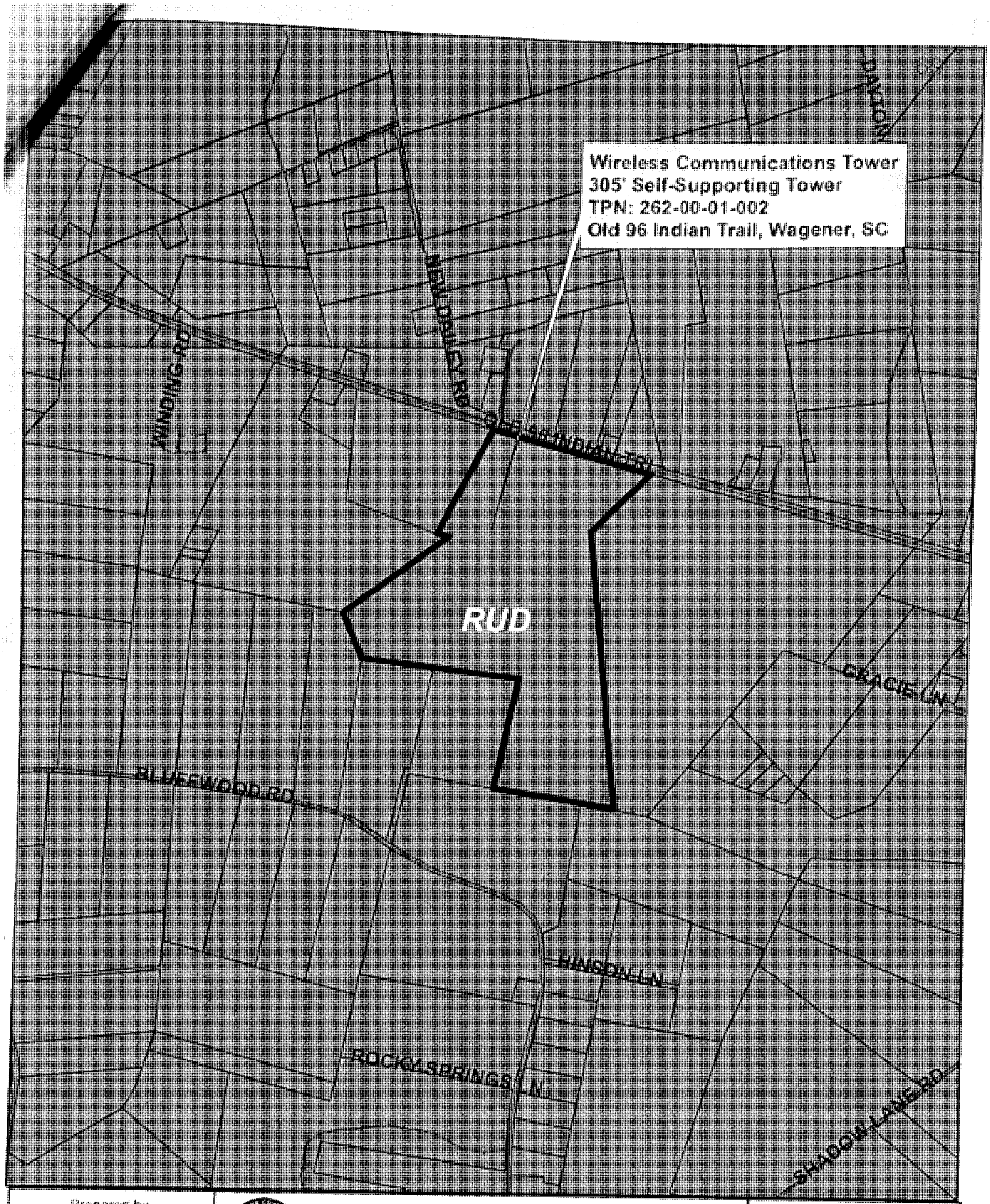
FUZE PROJECT NUMBER:
DI.1369771

DRAWN BY: DCH CHECKED BY: TBH

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
C2


Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002
Old 96 Indian Trail, Wagener, SC



Prepared by
Aiken County Government
10/04/2022 SLC
Scale: 1 inch = 1,000 feet

Wireless Communications Tower
305' Self-Supporting Tower
TPN: 262-00-01-002

N

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STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
SECOND CIRCUIT
IN THE COURT OF COMMON PLEAS
C.A. NO. 2023-CP-02-00412

David L. Lambert, et al,

Plaintiff,

vs.

Aiken County Planning Commission, et al,

Defendants.

H E A R I N G
BEFORE THE HONORABLE CLIFTON B. NEWMAN

DATE: OCTOBER 16, 2023

LOCATION: South Carolina Circuit Court 2

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EXHIBITS

(NONE MARKED)

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: This is an appeal of the Planning Commission and the filing party is Mr. Lambert. Mr. McCants.

MR. McCANTS: Again, Good Morning, Your Honor.

THE COURT: Good Morning.

MR. McCANTS: I actually represent David Lambert and Julia Beamish, Your Honor. They are husband and wife and they have filed this appeal. We'll talk about this with a decision of the Aiken County Planning Department with regard to an approval of an application by Verizon Wireless to construct a wireless communication tower on the piece of property, which is directly adjacent to them here in Aiken County. Just to give you an idea of the type of property, I know you are familiar with this Judge, with Aiken and other parts of the state. This is what we call an equestrian development. It is land that has been developed particular for folks who enjoy, equestrian activities and choose to live in the country on large lots and -- and which they enjoy riding trails and easements and what not. This particular parcel of land the Planning Department allowed or made a decision, again I will talk about that in a second, this land was owned by a gentleman named Gerald Waters, who actually developed the property where my clients reside.

It's called Bluffwood East. It was planned and developed in many years past, put together in particular for those who like equestrian activities. You've got an extensive record in front of you that's been filed by county Attorney Brad Farrar, here and you will see that the number of individuals who live in that area vote -- spoken vocal opposition to this application for this tower. My clients, in particular, retained me to represent their interest, and I think in particular because they again live on the parcel, which is directly next to where this tower is planned to be constructed. After two or three meetings before the Planning Department, the Planning Department which is comprised of volunteer citizens here in Aiken County attempt to make decisions with regards to land use planning. The Planning Commission itself, voted to approve the application, a verbal decision on record, which is included in the record for you. And subsequent to that I waited because I needed, I thought, Your Honor, some type of decision in writing from the Planning Commission itself.

That's what they did, because I'm going to show you also the part of the County Ordinance, which delineates the factors that the Planning Commission is supposed to use, either approving or disapproving the construction of these towers. It's a whole section of the Aiken county

ordinances deals with wireless communication towers. For obvious reasons, there's safety issues, esthetic issues, any number of factors that should be considered. May I approach, Your Honor?

THE COURT: Yes, Sir.

MR. McCANTS: I will hand to you -- and give a copy to the Law Clerk too -- this is in the record Your Honor, What I am going to give to you, is a letter and as you can tell from the letterhead this letter is from the Aiken County Planning and Development Department. And as you read the letter, it simply is informing Mr. Lannie Green that Pyramid Network Services, which is the entity Judge, that acts on behalf of Verizon to look throughout the country places to construct wireless towers and they are acting on behalf of Verizon. In fact represented Verizon's interest at the Aiken County Planning Commission. But in any event as you can tell it simply says, Mr. Green, the application has been approved with contingencies by a majority of the Aiken County Planning Commission signed by, Ms. Rhonda Connelly, a planner too.

Now, Your Honor, I contend in this case that is not the decision of the Planning Commission. That is a letter to Pyramid that is Verizon indicating that the application has been approved. I don't know what the Planning Commission respectfully did with regard to addressing the

criteria in the ordinance for approval of this application for a tower.

Now, if I can, I approach again and I've given these to Ms. Wrenn, who is here in behalf of Pyramid, and I know you have had these before for the county. If I may hand this up too Your Honor, what I'm giving you there is my extraction from the Aiken county ordinance dealing with wireless communication towers. And I pulled it out of the ordinance because the ordinance itself is very extensive. I'm sure Your Honor will look at the entire ordinance if he deems that is appropriate in this case. I thought it was very important to pull out for you section 24-3-.5.2 which talks about the overall policy and desired goals and permits for these facilities or towers. And as you can tell, and I've highlighted from underlying, Your Honor, what Aiken County and its Council has required the Planning Commission to do when deciding whether or not to approve or disapprove construction of these towers. And they're all very commonsensical type matters that need to be addressed. You got to take the County's health safety, public welfare and I know features and nature and character the community pointed as -- I pointed out to Your Honor.

This is an equestrian community and my clients who invested a lot of money in this community stand the

proposition of facing extremely high over 300 foot wireless communication tower, blinking light on top of it in their back yard or next door to them. And if you look at number five it says: "the Planning Commission is suppose to regulate the location of the facilities in such a manner as to minimize the adverse esthetic and visual impact on land, property, buildings and other facilities located in the area of the facilities."

Judge, I can't tell what the Planning Commission did in this case, because I don't have a decision from them other than a vote at a meeting. I think the written decision is required in this case. I think it's required not only to be signed by the chairman of the Planning Commission or its members. But I think also that it needs to address these particulars that county council has said needs to be addressed. Now, I find support for that proposition in our state code, Your Honor, that deals with local Planning Commissions.

And that's title 6, chapter 29 310 and all those sub titles and chapters in there. But if you look at the -- the basically the enabling point of that statute it talks about the commission shall adopt rules organizational procedure and it shall keep a record of resolutions, findings, and determinations. I think you can believe from that -- that should be in writing. The rest of this

title and chapter deals with appeals and things like that. And from my stand point on behalf of my clients, I clearly think the intent of the legislature given the fact that certain counties impose these requirements on the construction towers. That the Court know what the Planning Commission did and you simply don't have that in front of you.

Now as further support my position, Ms. Wrenn, who has written a very thorough brief for you of this case and by the way, Your Honor, I'm happy to do that for you too.

But in writing the brief, I like to know what the Planning Commission did and why they did it. It was kind of hard for me to brief that. But you'll see she addresses all of the various issues and matters that were raised before the Planning Commission and in particular whether or not the properties involved here are subject to restrictive covenants which is a key part of this, Your Honor. That is the statue talks in particular if property is governed by restrictive covenants. Then the Commission has to address that and they address that in this case. I don't agree as to how they address it because I can't tell how they address it but that's not in any written decision. But my point is with Verizon's position in this case, they are attempting to construct a decision of the Planning Commission for you. In other words, reaching

into the record and saying, well this is what the Planning Commission did. But, Your Honor, they haven't done that in this particular case. And it's pretty much as simple as that. I think certainly the statute and regulations the ordinance requires - requiring a written decision, something signed saying this is what we did and this is how we dit it. More importantly, Your Honor, just basic fairness to my clients command that this Court require the Planning Commission to do that. So in essence, Judge, what I'm asking you to do in this case if not reverse the decision of the Planning commission and start over at least remand it to the Planning commission. And ask them for your benefit -- this Court's benefit to set forth findings of fact and inclusions of the law. Your Honor, that is my argument in this case and I will be pleased to answer any questions you may have.

THE COURT: All right. Thank you. Yes, sir.

MR. FARRAR: Thank you, Your Honor, I am Brad Farrar, for Aiken County Planning Commission. I would agree with a lot of the history that Mr. McCann's related to, principally being the voluminous record that we have of this case, Your Honor. And just in that regard, this matter actually was heard over three separate meetings, which is highly unusual. Usually it's one meeting being October of 2022. In the agenda and the record on appeal

we have the agenda from that meeting, which includes staff recommendations, staff input. That's really the core of what the Planning Commission is looking at. As Mr. McCants mentioned, this is a volunteer citizens board for lache rules of evidence. They meet as needed at most once a month. They consider the matter to come before them and they rely on the staff estimates to come before them in the agenda. We have the agenda, we have the meeting minutes, we have the transcript. We got the October 2022 meeting. The matter was continued until the November 2022 meeting, where we also have the record, the agenda, the minutes and a transcript. The matter finally was continued, they skipped over December. I had overseas military duty at time. We came back in January for the third and final installment of this case or hearing of this case. Once again, agenda, minute meetings and transcripts, so there are three agendas, three minute meetings, and three transcripts, forming 9 of the 15 exhibits in this case.

Your Honor, what 629-360 talks about in subsection B as: (Reading Law) "the commission shall adopt rules of organizational procedure," which they have. "Shall keep a record of its resolutions, findings, and determinations." It doesn't say, shall issue a written order of it's decisions and it doesn't mention or anywhere does it say a

record. This letter that's exhibit one to the record is a written notice of the decision. A notice of the decision goes to the applicant. It doesn't go to folks who are testifying or anybody who -- it actually goes to the applicant. So this is available, it is a matter of public record and it is on file at the -- Planning Commission does not have an office, per se, that's the Planning Department for the county.

So that's the Secretary, Mr. Duke, his in the court room here today. The Richmond County Planning director also the Assistant County Administrator keeps custody of all of those, they are public records. Your Honor, I would just go a little further to talk about given the volunteer nature (indiscernible) of the staffing for this couple of cases. Actually one case that has two important findings on this -- final decisions and orders. This is a case note to Section 629-800 which talks about the Board Zoning Appeals, which is a different entity, but similar, volunteer citizens when we're dealing with zoning matters. And what the decision stands for the case of *Vulcan Materials* verses *Greenville County Board* is South Carolina Court of Appeals case from 2000 generally: (Reading Law) "the format of a final administrative decision," which is what this is, "is in material as long as the substance of the decision is sufficiently detailed so as to allow the

reviewing court to determine if the decision is supported by the facts of the case." It's not, not for the benefit of the parties, but reviewing court, Your Honor, hears this on whether there's an error of law. You know determines whether or not it's sufficient -- its, and Mr. McCants's begins his argument by saying there's a voluminous record before you. Transcript of the hearing which we went above the minutes, you know, you're required to have minutes. We have the tapes of meetings for the very situation like this. If we actually need somebody to have verbatim transcript. Transcript of the hearing before the board could be treated by review, court supports it's final decision. Even if you found a written order was necessary, which state law does not require that. It just requires a record of their findings to be notified to the applicant. The transcript could be treated by reviewing towards the board's final decision. It is a writing, it contains finding the facts, conclusions, laws, data separately. So Your Honor, we think there is a voluminous record before, Your Honor, for this particular matter. The criteria just going to the substance of -- of what appeared for the before the Planning Commission. And just also, Your Honor, just in terms of standard review, out of a number of cases, they all stand for the same thing. On appeal you apply the

same standard review as the Circuit Court below the findings of fact by a board in this case this is another Board of Zoning appeals case: (Citing Case Law), "shall be treated in the same manner as findings of fact by a Jury and the Court may not take additional evidence." And I don't believe there was any request for that. The appeal, essentially, at this point sounds like looking for a remand to the board, which would be, you know, I guess a fourth month that we would devote to this case. As the record has been sufficiently established. Your Honor, that my client's Planning Commission to sustain its findings. Your Honor, just -- just in terms of the criteria that the board considered. The Planning Commission considered and this is in the agenda packet and they essentially adopt that those findings which assesses. (Reading Law) Chapter 24, Article 3, section 5.71 of the Aiken County Code of Ordinances: "the Planning Commission shall review applications for new telecommunications towers based on four criteria. Criteria and staff comments related to each are contained in the staff report this approval from Planning Commission must be based on substantial evidence in the record and the recent state on the record." So in other words, if you meet the criteria there's gotta be something -- something that is lacking to deny a telecommunications request. And Your

Honor, this largely stems from federal Telecommunications Act in 1996 a lot of this is preempting the Federal level because of the Telecom Act. -- criteria on conflict---

THE COURT: Hold one second please

MR. FARRAR: --- Yes, sir -- Yes, sir.

THE COURT: What page of the administrative record contain the findings or decision.

MR. FARRAR: So Your Honor, yes, so that would be, so if you go into the staff record estimations.

MS. WRENN: It is exhibit one the record on appeals, Your Honor. I don't think that everything is -- has a page number in the record on appeal. It does have exhibit one on the bottom of it. I can hand this up to you, if you want for on the record of appeal.

THE COURT: Okay.

MR. McCANTS: What is that? (Indiscernible)

MS. WRENN: This is the letter that he's referencing.

THE COURT: The same letter

MS. WRENN: It's the same letter that Mr. McCants handed up that's just from the record on appeal; the copy from the record on appeal.

THE COURT: Okay.

MR. FARRAR: Your Honor, so the criteria -- so in Exhibit two, which uses a copy of the agenda packet from the October 20, 2022 meeting. So it's exhibit two and

it's the page says staff report telecommunications tower applications. It's got page number 45, it's not like page 45 on the record of appeal, it's just their appears to be a page 45 at the top and it lists the criteria.

The first one is (READING FROM DOCUMENT): "Is there a conflict with safety and safety related codes and requirements of the staff report is the site has met and were exceeded the county adopted IBC, International Business Code, and the NSI codes," which the other regulatory codes regarding safety. So they meet those.

Number two of four is: "Is there a conflict with a designated historical site." Staff report is the site does not conflict with any designated historical site listed in the State Historical Preservation Office.

Number three: "Is the placement and location of wireless telecommunications facilities, which would create an unacceptable risk or unreasonable probability of such to residents, the public, employees, agents of the county, or employees of the service provider or other service providers." so this is number three. Staff is not aware of any unacceptable risk a reasonable probability that such placement and location of the facility would create to the residents, public, or other service providers any safety risk. And of course, obviously with cell tower, first thing you're looking at is the fall zone you need to

make sure if the tower falls over and God forbid it doesn't land on something. So that -- you don't have that issue. You don't have -- there's not a lot of times these 5G and I am speaking out of my expertise here, to the extent I have any in any area. But I think with the 5G cases sometimes we hear that there's -- there's radiation that sort of thing none of that came up in this case unless left on appeal.

The final criterion on the four conflicts with the provisions of this section, a list of efficient items is attached. So actually, when this -- when this matter was approved staff noted there were a number of things that Verizon needed to fix; all manageable it's just they have a punch list essentially before they got the final permit. And so this was one that the staff felt like there was no basis to deny the underlying application.

The Planning Commission saw it the same way. Your Honor, we -- this case in addition to having the three hearings. The plan of the appellants filed for the right of pre-litigation mediation, which is under the statute of unique to title six. You can go Your Honor, familiar with this prior to coming to this proceeding try to work things out. You know, I initially opposed that because they were not the applicant and I didn't think they necessarily had the right to do that, but Verizon and the

appellant agreed to the mediation. They asked if I will consent to that and I said that's fine. We'll be happy to waive that claim for kicking out the pre-litigation mediation. We went to mediation, I kind of, was off in a different room, because we're the tribunal. We don't really have anything we can offer at mediation, because it's a decision of the Planning Commission. So Verizon appeared remotely, the two of them -- spent immediately played an impasse, but I don't think there was any allegations there was not a good faith effort to try to work it out. But point being, Your Honor, is -- is three separate hearings are -- are considerations by the Planning Commission.

Pre-litigation, mediation, and now we're talking about sending it back to get essentially what the record already reflects, Your Honor, don't believe that's necessary. But with that Your Honor, that's the Planning Commission's decision.

THE COURT: Yes, Sir.

MS. WRENN: Good Morning, Your Honor.

THE COURT: Good Morning.

MS. WRENN: My name is Catherine Wren and I represent Verizon Wireless, in short this really is a merit less appeal. The Aiken County Planning Commission approved Verizon's application for the cell tower after very

thoughtful consideration and building what really is a very large record on appeal. And their approval is well justified and well supported by all the evidence that is on the record of appeal. And just by way of background, this is a cell tower that is very much needed in Aiken County. Verizon sought approval for it from the Planning Commission because the area in question in the county has poor wireless service. There's a coverage gap. I think we have all been in a wireless coverage gap before and it's really frustrating when you can't get service. So the goal is ---

THE COURT: Ms. Wrenn is this in Wagener over in that section?

MS. WRENN: --- Yes, Sir it is. And so the goal of this cell tower is to correct this problem of the coverage gap in Wagener and to improve the coverage service for customers in Aiken County and those traveling through it.

And Verizon did look at other properties to try to put this tower on to solve the problem. And due to the location of where the other towers are and where it needs to connect to and the zoning regulations. This was the property that's going to solve the problem and also meet the zoning requirements. And it's important to note that this is property that is rural, it's not in someone's subdivision, it's not anyone's backyard. It's a wooden

piece of property that's over 100 acres in size. The property faces Old Indian Trail Road. And the very back end of that property is where it butts to David Lambert and Julia Beamish's property. And the record of appeal which again is 300 pages long, has several maps in it which Verizon provided to the Commission. And I've attached two of those to Verizon's demo as Exhibit D. So I'm happy to hand a copy of that if you guys don't have a copy.

THE COURT: Well...

MS. WRENN: That would save you from digging through the record of appeals.

THE COURT: Well, if you have a copy we can dig through this.

MS. WRENN: Sure.

(Indesernible)

THE COURT: Thank you.

MS. WRENN: Okay. So the very last exhibit -- exhibit D, has two of those maps that I was referring to that Verizon gave the Commission. And those maps are helpful in showing the proposed location of the cell tower and in comparison to where the appellants property line is. And the map -- the second one is probably the best the map shows the cell tower location which is a dotted circle on the map.

THE COURT: All right.

MS. WRENN: And they show that where the proposed cell tower is going to go is just as far away from the appellants' property line as you can get, while still be on the Old Indian Trail property. And in fact I'm not sure how appellant can even see the cell tower from their property, given that this entire property is wooded. It has very tall trees all around it. So it's not like the cell towers is going to be out in an open field with no other trees around.

But regardless, appellants don't want the cell tower to be on Indian Trail Road property. And they argue a number of things for the Commission including that Bluffwood East's restrictive covenants that apply to their lenders and restrict commercial activity would prohibit the cell tower on the Indian Trail Road property next door.

THE COURT: Repeat that please.

MS. WRENN: So at the Commission hearings, there were three of them. They argued that there were some restrictive covenants that apply to the Bluffwood East subdivision, which is where their property is, would apply to the Indian Trail Road property next door. And prohibit any commercial activity which they said would include a cell tower.

THE COURT: And the Indian Trail property is not subject to the restrictive covenants.

MS. WRENN: That is correct, Your Honor. And that is what the Commission thoroughly decided at this three different hearings they had. They also argued that the cell tower just wouldn't go with the equestrian nature of their separate subdivision. So the Commission throughly evaluated that at three different hearings; Two in 2022 and one in January of 2023. And their meeting minutes and transcripts of those meetings were all in the record of appeal.

Those all show that the Commission listened to the argument. They gave the appellants multiple opportunities to come forward with more evidence and they analyzed all the evidence, which included the applicable deeds, the appellant's deeds, the deed for the Indian Road property and the restrictive covenants. Again, those are all in the record of appeal. And at those meetings, the Commission determines the covenants for the subdivision do not apply to Indian Trail Road property and that Verizon has satisfied all the applicable ordinances and requirements for the cell tower.

THE COURT: What is you're understanding as to what they're complaining about now.

MS. WRENN: Based on my understanding today, what Mr.

McCants said, they're complaining about a lack of a written decision that outlines everything that's already in the transcript and the meeting minutes. And possibly that the cell tower which is by the way it's 1/3 of mile away from their property would interfere with the equestrian nature of their community. And if they are still arguing about the covenant or not, I am happy to address that.

MR. McCANTS: Would it help you if I interject?

THE COURT: Fine.

MR. McCANTS: I can't tell. I don't know what the Planning Commission did. I surely think the restrictive covenants are still a viable issue in this case as we take the position this borders -- is actually in the Bluffwood East's development. But you can't tell because you don't have decisions from the Planning Commission.

MS. WRENN: Your Honor, this is the record on appeal. This shows everything that the Commission did and what they considered during all of these meetings. They thoroughly considered a restrictive covenant issue, discussed it and evidence shows the restrictive covenant are not in the Indian Trail Road property deed. And this is important because Indian Trail Road property and appellant property was all once owned by one man, Gerald Waters. He created the Bluffwood East subdivision. He

created these covenants that they're talking about. When he sold property to the appellants, he specifically attached restrictive covenants prohibiting commercial activity to appellants' deed. And the deed actually says there in clear language, this property is going to be subject to the restrictive covenants of Bluffwood East. Years later, he transferred the Indian Trail Road property to a trust. When he did that, he did not attach the Bluffwood East restrictive covenant. And again, all of this is shown in the deeds, which also are attached to Verizon's memo as Exhibit A, B and C. And so it is very clear that Mr. Waters knew how the -- the restrictive covenant on property. He did just that with the appellants' property. Years later he was transferring the Indian Trail Road property, he chose not to do that.

In fact, that deed has no reference to restrictive covenants at all. It does not attach to Bluffwood East covenant at all. So based on that, the Commission determined, again, all this is reflected in the meeting minutes and the transcripts. The Commission determined that there was no evidence that the restrictive covenants apply to Indian Trail Road property or that any kind of commercial activity was prohibited on this property. It also throughly considered the equestrian argument that Mr. McCants raised. There is an ordinance that says that

there are some desired goals for wireless telecommunications facilities, including that the location of cell towers should be placed in a manner to minimize adverse esthetic and visual impacts on the land, property, buildings and other facilities located in the area.

Importantly at all these three hearings, the Commission had the appellants proved no evidence of any of that to the Commission. So if you look through this entire record of appeal, there's no evidence that having the cell tower is going to be bad for the esthetics for visual impact to their land. Which again, it is a 1/3 of a mile away. And that's reflected on those maps that I showed you. Instead, what the Commission had in front of it and worked in the evidence are the facts that the Indian Trail Road property is over 100 acres. It's densely wooded and rural and the cell tower will be located on the end opposite from appellant's property. Because the property is heavily wooded the cell tower, again, it's not going to be out in the open and in the field and it will have minimal ecstatic impact on the appellant's land. So based on these facts it certainly was well within the discretion of the Commission to find that the cell towers location will meet these goals. And again, this sends an appeased discretion standard that the

Court applied for the Planning Commission decisions. So the Court has not overturned the Commission's decision simply because it disagrees. It has to find that the Commission acts arbitrarily, or an obvious abuse of discretion such as a limited decision was an error of law or lacks evidence to please the Court. And to that end, there is a mountain of evidence and a record the Commission developed that supports that Verizon's application should be granted. Again, Verizon does not seeking to put this cell tower up to be malicious to anyone. There's a need in the community to solve this coverage gap and it has satisfy all the applicable requirements in Aiken county rules and in South Carolina law.

THE COURT: So when Verizon puts the towers up how much land do they acquire or do they lease it or get a right away?

MS. WRENN: They're gonna lease it from the Water's trust, Your Honor.

THE COURT: And the approximately how many acres do they lease?

MS. WRENN: I don't even think it's an acre, actually.

THE COURT: It's just enough to...

MS. WRENN: It's just enough ---

THE COURT: For the tower...

MS. WRENN: --- For the fall zone, Your Honor.

THE COURT: The fall zone...

MS. WRENN: They would put the tower up and they have a fence around it and then there's a fall zone. So obviously you wouldn't want to someone to build a structure within that fall zone area.

THE COURT: Okay. Thank you.

MS. WRENN: Thank you.

THE COURT: Mr. McCants

MR. McCANTS: Yes and I'll try to be brief but I do want to cover a few of the points.

THE COURT: Yes, Sir.

MR. McCANTS: I've listened to Ms. Wrenn ---

THE COURT: Tell you what let us give us about five minutes to get a quick break in. It's 11:30 we've been here about an hour -- hour and a half. So we take five minutes. Then come back to you.

MR. McCANTS: --- Thank you.

THE COURT: All right. Mr. McCants you can begin.

MR. McCANTS: The first comment I want to make is -- is very much in general of the abstract and the assist. I tried to listen intently to arguments of the council. And the position that this the only place in the world that Verizon Wireless Communications could place a tower to

solve the gap in coverage. I -- I don't believe that and plus, Your Honor, Verizon's desire to expand coverage for the purpose of their commercial base is not against them lead -- to ride herd over the laws of this state and ordinances of this county, period. So that -- the other thing I heard peppered throughout the arguments was the Commission found this, the Commission found that, the Commission determined this, the Commission determined that; show me when the Commission did that and then I probably would have to drop this appeal.

It's certainly not in what everybody is holding out to you this letter exhibit one to the record as the decision of the Aiken County Planning Commission. This is a letter signed by the Planning Department simply notified them their application has been approved. And while on that subject, I'm not sure who Mr. Farrar was really reference to this on various notes and researchers materials under taken by the Planning Department to present a package to the Planning Commission. What they considered, what they looked at, what I heard no reference what so ever, Judge, to 24-3.5.2 and that is what I read to you earlier in my main argument and handed up to summary of what the Planning Commission is required to look at before they approve the application for a tower. Mr. Farrar talked about the Board of Zoning Appeals and

how the court has looked at -- I am sure you have been around the state with local Planning Departments and zoning boards and zoning appeals. And he did talk about how they need to be in writing so you as you review in Court to look at what a group of volunteers citizens did.

I'm not by any amount of criticizing these nice people who take their time to sit on these boards. But they're there to uphold the integrity of land use planning in Aiken County as they are in all the other 45 counties of this particular state. I don't want to get too -- too much in the weeds on this restrictive covenant issue, Judge, and before I make a comment. I want to say again, you don't know what the Planning Commission did when they heard that evidence and what decision they reached. But one of the issues in this case, this is in the record, the restrictive covenants which were withdrawn by Mr. Gerald Waters, who owns this property and has leased this a portion that property to Verizon to put this huge tower up. He wrote these covenants and this is what he said, Your Honor, he says the grantor and that's Gerald Waters intends that this property and he's talking about individual lots in Bluffwood East, the grantor intends that this property and other nearby property owned by the grantor shall be known as Bluffwood East. So that's -- that's the material issue of fact or law, which was before

the Planning Commission and they need to address and Judge respectively they just didn't do it. I can't beat on that anymore because again I think it's pretty straightforward and simple. And to think that over the course of three hearings with numerous residents of Bluffwood East appearing and vocalizing their opposition; to say that they didn't express their opposition based upon the equestrian nature and the esthetic nature of this property what not just defies the truth.

In fact many people spoke in opposition it just so happens my two client are the ones leading the charge to ask you again to reverse this decision or send it back with a new hearing. Or at least ask the Planning Commission to explain to you what they did. And that is my argument and thank you, Your Honor.

THE COURT: All right and response.

MR. FARRAR: Your Honor, again, Brad Farrar for the Planning Commission.

THE COURT: I am going to jot down your name. I am not following what you say what your name is.

MR. FARRAR: Oh it's Farrar -- F-a-r-r-a-r, it's kind of like Farra Faucet but with an r on the end.

THE COURT: Okay. Farrar

MR. FARRAR: I date myself with the 1970s reference there.

THE COURT: I go back that to that time. I know what you are talking about.

MR. FARRAR: Yes, Sir. So yeah, so just in terms of Mr. McCants mentioned the record and on the voluminous number of people. And there were quite a few folks who spoke at all of these hearings and certainly the first one.

Fundamental requirements of the due process and the opportunity to be heard, which they were at numerous meetings, and in a meaningful time and meaningful manner. There's numerous South Carolina cases, but the one I'm citing is *South Carolina National Bank* versus *Central Carolina Livestock* on 289 S.C.309 and that's a -- that's actually citing in the 1965 case, it is a pretty old proposition. Your Honor, just briefly on the restricted covenants we got a procedural issue that issues before Your Honor, that's nowhere in the notice of -- of appeal. The notice of appeal the appellant said that there's no written decision and okay they made that point even though there is a exhibit one is the written notice of decision.

THE COURT: If we can go back to number one again, the written notice of decision, it's where?

MR. McCANTS: That's exhibit -- I gave you a copy of that document with my...

THE COURT: Oh, you mean the letter.

MR. McCANTS: That's right, that's what everybody agrees is quote "a decision".

MS. WRENN: Well, I do want to interject. Everyone's talking about a written decision. But in reality, the regulation only required not a written decision outlining everything that was decided or determined but that there be notice to the applicant of approval within 10 calendar days of Planning Commission's decision. There is not statute, regulation ordinance that says this volunteer board has to have a written order like Your Honor, would come up with. That's imposing quite a high standard and extensive standard on a volunteer committee.

THE COURT: (Reading Law) On this 629-11-50 subsection B, it says: "a record of all actions on land development plan and subdivision plats with the grounds of approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition the developer must be notified of the action taken." How does that apply to this scenario, if it does?

MR. FARRAR: Your Honor, that would be for a subdivision plat which this is not, that would be land development plan. This is a cell tower location that's not subject to that. I do think Mr. McCants is correct and sited 629-3-60, about what it says in terms of

memorializing the decision. And it says just simply Subsection B to 629-3-60,(Reading Law): "the Commission shall adopt a rules procedure," which we talked about they did and says: "And shall keep a record of it's number one it's resolutions." Well I've -- I've been representing the Planning Commissions for 30 years and I've never seen a resolution in my Planning Commission that's something county council does. So that's -- so if -- if this is the case, then -- then in how the Planning Commission the state (Indiscernible) resolutions a second one is findings, and the third one is determinations.

Well the determination is pretty much when they put their hands up and close that's the outcome. And the findings they -- they adopt the staff recommendations. That's what's in there, they -- they it's kind of like when Your Honor says you're done with the hearing and says submit your proposed orders. We're going to suggest findings of fact and resolutions, that Your Honor, can then adopt and so if we didn't do that you know -- you know who knows we would need 10 law clerks for all the orders you have to come up with you know on your own.

So -- so preparing these and getting them to the tribunal or the fact finder is -- is something that's done at the staff level and again, Your Honor going back ---

THE COURT: Just for my clarity. The -- are there

minutes taken -- taken of the meetings and minutes that show what was approved and not approved?

MR. FARRAR: --- Yes, sir. So -- so exhibit three are the minutes from the October meeting. Exhibit six are the minutes from the November meeting.

THE COURT: All right. Let us find these things. My brain is not moving too fast. I'm trying to keep up with all of this.

MR. FARRAR: Yes, Sir.

THE COURT: And she's doing the finding for me.

MR. FARRAR: Three different sets of minutes and three different sets of transcripts. So -- so that's -- that's...

THE COURT: Exhibit C?

MR. FARRAR: Exhibit three is the October 2022 Planning Commission...

THE COURT: Did you hand that too me?

MS. WRENN: I did not he's referring to the exhibits in the record of appeal that he filed.

THE COURT: Exhibits on the record of appeal. You got it? Record on appeal -- record on appeal, I see that.

MS. WRENN: It is about 300 pages so it takes a little digging through.

THE COURT: We are looking for exhibit number 3?

MR. FARRAR: So -- so, yes sir. If you look at

exhibit three, is the minutes and I can hand this up but I need to read one part from it not that I am not happy to hand it up. This Mr. Kemmerick (phonetic), who's one of the Planning Commission members. This is -- so if you go fortunately it's not too many pages but exhibit 3 and you skip over the case that evening, complete messenger should have, but the case that evening is the last one is number 7.

Actually said the second last one number 7 wireless telecommunications tower and the applicants actually appear in the network solutions. But -- but that -- that discussion and the minutes included the following: Mr. Kemmerick who is a Planning Commission member asked Mr. Duke, who's the Plan Director do the plans presented tonight meet county requirements? Mr. Duke stated the plans do meet the requirements. He continued, Mr. Duke stated; Mr. Hildebrand, an engineer, will need to tell the Commission it's what the applicant is requesting different from any set of plans proposed. And then because of the desire to run down this restrictive covenants' issue and other issues they decided to table the matter at the October meeting to come back.

That's just an example, I can hand this up, Your Honor, exhibit 3. But that's the sort of thing, with a Planning Commission they do they asked the Plan Director

and took his input. Do they meet the requirements and he said that they do.

THE COURT: Okay. Number 7 -- so what you just told me is Mr. Kemmerick asked Mr. Duke -- Duke do the plans presented tonight meet the county requirements. Is that what you just read?

MR. FARRAR: Yes, Sir.

THE COURT: Mr. Duke stated the plans do meet requirements. He continued stating, Mr. Hildebrand will need to tell the Commission -- will need to tell the Commission as to what the applicant is requesting different from the set of plans presented, suggest the Commission table the item and say that this is a public meeting at this time. So it was tabled at that meeting?

MR. FARRAR: Yes, Sir. That's the October meeting to come back for November and then ultimately January.

THE COURT: All right, which one do you want me to look at next? Where they vote is fine.

MR. FARRAR: The January meeting yes, Your Honor, the minutes of that particular meeting are set forth as Exhibit 9 to the record on appeal. So it's under old business it's title G -- old business wireless telecommunication tower. You see all the different speakers. They asked me a question. Mr. McCants spoke Randy green, the applicant representative spoke. There

was another attorney named Nick Steinhouse, who is representing Verizon at that time, in conjunction with Ms. Wrenn, addressed the Commission stating regarding restricted covenant issue. And then the chairwomen Ms. Vance ended the discussion and asked for the motion. The motion was approved with a vote of three to one. You had a motion properly seconded three to one vote and that was the matter and so doing. Your Honor, the -- the, when people make a motion, they make a motion to approve, deny usually those types of things. And they don't typically say based upon I find as follows.

They don't list all the things they just heard witnesses testified too. That's based on you sometimes you see orders to say based on the pleadings, the arguments, the counsel etc. I find that's kind of what they do; based on what all they heard at the is hearing, all they had in different agenda packets and the discussion they had among themselves.

They made a decision in the case. And so anybody who wants to appeal that obviously can come up and raise whatever issue they want to. But the issue needs to be criteria based. You know, the tower not meet something regarding safety, you know historical value. The four criteria that I went through. And none of that has been alleged. It's just being we didn't get you know enough of

the decision to even know what to appeal. And Your Honor, that's -- this is -- this is more than ample record for a typical Planning Commission meeting.

THE COURT: All right. Anything further.

MR. McCANTS: May I?

THE COURT: Yes, sir.

MR. McCANTS: I don't mean to belabor, Your Honor, the fact that you yourself having to search for the decision. By way of the transcript, even the transcript of the hearing where the motion to prove the application is tabled. Is a clear indication that this Court is not sure what this Planning Commission did. Now ---

THE COURT: I don't know that's -- the fact that I have to search to find from these many pages that were filed here, to catch up with what he was sighting to me. I'm seeking verification of what counsels stating and they pointed out to me and directed me to where to find these three or four lines within the how many pages 200 and something?

MS. WRENN: Over 300, Your Honor.

THE COURT: Over 300 pages I you know which I hadn't seen before sitting down here.

MR. McCANTS: --- I understand -- I understand.

THE COURT: All right.

MR. McCANTS: The fact that they can't -- can't point

to a decision, I was there and remember distinctly the vote on this matter, that should be the tale end, Judge, the transcripts which are in the record.

And interestingly, I believe this meeting and all the meetings were recorded, visually videotapes or what have you and a written transcript want reflect this.

But I remember distinctly watching the members of the Planning Commission struggle with this vote and the struggle is indicative of the fact that in their minds that -- that they weren't sure how to proceed here. That's the reason we need a written decision outlining what they did. The matter detail how extensive and I'm not sure yet, Your Honor. But -- but something to tell us that they consider the county's requirements, the criteria and Judge, I'm over here telling you this. If I have to appeal this case further. I know because I've been here. I'm likely to have Chief Justice look at me and say Mr. McCants you are complaining about A, B, and C in this case.

How do we know the Aiken County Planning Commission did A, B or C or didn't do A. This is a matter of fairness and due processes as Mr. Farrar brings up. It's only fair to my clients that they know what this Commission did not the Planning Department. Not a conversation with Mr. Kemmerick, he is lawyer for example.

He practices here in town, I think he is a DSS lawyer. But you shouldn't have to extrapolate from those transcripts the points of like to support a decision. You should require the Planning Commission to tell you what they did. I appreciate your patience and you listening to us.

THE COURT: Yes, sir. Y'all have so much going on here in Aiken County. I mean Aiken County can almost be state in of itself. I mean it's a...

MR. McCANTS: Yes, sir.

MS. WRENN: That's why we need wireless coverage, Your Honor.

THE COURT: Well I'll tell you, driving I 20 going toward Columbia there is a dead zone that frustrates me and I'm on the phone and all of a sudden there's no coverage. So it's over in that area not very far.

MS. WRENN: The I 20 to Wagener.

THE COURT: There you go.

MR. McCANTS: But it always comes back, Your Honor.

MS. WRENN: Your Honor, I'm sorry, one more thing. I know that Mr. Farrar talked about it but in Exhibit two of the record on appeal. You do have the staff report, which does outline the criteria for considering the cell phone tower and it goes through an analyzes each one. And that is in Exhibit two, Your Honor.

THE COURT: I am trying to find something from the January 20 minutes that Mr. Farrar -- I'm trying to read the portion of those minutes that he said show the approval. Can you read that or point me to that a little better?

MS. WRENN: Sure, I have a copy of the page will that be helpful?

THE COURT: Yes.

MS. WRENN: I can hand you that and it's just one page and I just wrote on the top and it came from January minutes -- minutes highlighted.

THE COURT: Okay. January minutes old business and where am I to read now? What is the site?

MS. WRENN: I believe it's in the pink highlighting down below.

THE COURT: Restrictive covenants of Bluffwood estates were established.

MS. WRENN: One more below that, where it talks about they called for the vote based on the...

THE COURT: Chairman Vance ended the discussion and asked for a motion

MS. WRENN: Yes, sir.

THE COURT: Vice-Chairwomen Stewart made a motion to recommend approval based on the information. No second to the motion, there is a discussion with the Commission

Vice-Chairwoman Stewart made a motion to recommend approval based on information received. Mr. Adams seconded the motion, motion was approved with three to one vote -- one vote with Mr. Harris voting in opposition.

And let's see the old business the Wireless Telecommunications tower. Thank you. Now you we're saying something different.

MS. WRENN: Oh, I was just gonna point out the criteria that is required by the regulations we consider with regard to cell phone tower. The Commission's valuation of this criteria are in exhibit number two on the record of appeal that's staff reports.

THE COURT: Okay. Exhibit number two record of appeal.

MS. WRENN: I'll hand this up too, it's hard when they're not page numbers for everything.

THE COURT: All right. Thank you.

MS. WRENN: And toward the bottom of that first page you will see where they go through each criteria and find they do not apply.

THE COURT: According to Chapter 24, Article 3, that part of it, shall review applications for new telecommunication towers based on four criteria. The criteria -- criteria staff comments related to each or provided below disapproval must be based on substantial

evidence in the record and the reason stated on the record conflict with safety and safety related code requirements. Staff is not aware of any unacceptable risk or reasonable probability that such placement would create to residence etc. So anything else on this case, Mr. McCants.

MR. McCANTS: Yes, sir. I realize you were reading a lot to yourself but I didn't detect what you were reading or facial expressions that you saw any indication that -- that contains the criteria with respect to the placement of towers and it's affects the esthetic aspects of a community. Maybe I missed it and I have looked over that document you have in your hand and again that if I remember correctly what you're telling is that Ms. Wrenn said that was a Planning Department document, Your Honor.

THE COURT: Aiken County Planning Commission.

MR. McCANTS: Well, I guess I didn't hear any discussion in that or see you make reference to anything in 24-3-2 3.5.2 which talks about minimizing the adverse esthetic and visual impact. If that makes sense, if you follow where I'm coming from. Thank you, Judge.

MS. WRENN: I would just note, that is not a criteria. That's a policy and it's not required to be in writing. And it's very clear if you read through the transcripts that was considered.

THE COURT: Okay. We'll take this under advisement

and be in touch.

CERTIFICATE OF TRANSCRIBER

I. Theresa Shirley, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings in the trial of the captioned case, relative to appeal, in Aiken County, South Carolina Circuit Court 2 on the 16th day of October, 2023.

That I am not related to nor the employee of any of the parties hereto. nor related to or employed by any attorney or counsel employed by the parties hereto. nor interested in the outcome of this action.

_____

July 21, 2024

Theresa Shirley
Transcriber

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
SECOND CIRCUIT
IN THE COURT OF COMMON PLEAS
C.A. NO. 2023-CP-02-00412

David L. Lambert, et al

Plaintiff,

vs.

Aiken County Planning Commission, et al,

Defendants.

H E A R I N G
BEFORE THE HONORABLE CLIFTON B. NEWMAN

DATE: FEBRUARY 5, 2024
LOCATION: South Carolina Circuit Court 2

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EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P-R-O-C-E-E-D-I-N-G-S

THE COURT: Hey, Mr. McCants.

MR. McCANTS: Thanks Your Honor and again, Good Morning.

THE COURT: Good Morning.

MR. McCANTS: As you know I have presented to the court a motion asking you to alter and amend your order in this case which was filed on December 28, 2003. I want go back through all the facts of the case because we are here on the confines of the motion. But the thrust of my motion Your Honor, is to respectfully ask you to review your order and perhaps clarify some items with respect to what your ruling was in this case. As you know, the thrust of my client's position in this case is that the Aiken County Planning Commission was duty bound to provide a record of findings and determination with respect to the issue that was before the Planning Commission which brought this particular appeal. And Judge respectively as I review your order, it appears to me that you recognize the mandate of section 6-29-360 of our state code which deals with local Planning Commissions and their obligations and responsibilities as to dealing with matters of this type.

THE COURT: Tell me that mandate again.

MR. McCANTS: Section 6-29-360 of course of our code.

THE COURT: What is that -- tell me the mandate.

MR. McCANTS: Sure, it says the Commission shall adopt rules of organization procedure and shall keep a record of its resolutions, findings and determinations, which must be a public record. Now, I've interpreted that section to require that the planning commission do something more than they did in this particular case. With regard to formulating it's decision. As your know the planning commission in this case, basically voted with respect to the application that Verizon had presented for construction of the cell tower. And granted the vote is preserved, I believe in a video type manner or something. It may be a written indication that the vote was taken a particular fashion -- in a particular fashion. But Judge it does not contain findings and determinations with respect to the application that Verizon presented. You commented in your order to the effect that again, that you recognize this particular code section. But then conclude that -- that statute imposes a modest obligation upon local Planning Commissions with respect to their obligation to provide some guidance to parties as to why it decided a particular case or an application resolved a particular application in a particular manner. I'm looking hard in this case for some record of finding and determinations by the Planning Commission. What your

order says is that staff members of the Planning Department in Aiken County indicated what their conclusions were and what not and what they found in a particular case. And I see no indication from the record and it is voluminous in this particular manner that the Planning Commission the board that sits and these are of course citizens who volunteer or appointed for these particular positions. But that group actually reached down and into the staff reports and of course they are employees of the county, and adopted, ratified anything that the staff did.

In another words, again I don't see a record of the Planning Commissions Department it seems like anybody reviewing this manner like you, would have to go in and connect dots to see what the staff did in formulating their thoughts and opinions for the Planning Commission to use. But again there is no indication that the Commission sitting as a body adopted those. And of course this was a split vote on this particular case, Judge.

It was an important matter of course to my clients and other local folks in the community as to where the cell tower was proposed. It was important to them. And they would like to see something from the planning commission itself which says we decided this manner in a particular way. Now, another point and -- and Judge let

me ask -- the reason I think this is important. We've all seen these the best they can be (Indiscernible)...

MR. McCANTS: May I hand this up to you, Judge?

THE COURT: Yes, sir.

MR. McCANTS: Judge, I am giving you a copy of the Aiken County Ordinance. I do not want to interrupt you while you're reading it.

But I take the position that this particular part of the ordinance deals with cell towers imposes upon the Planning Commission a duty to make certain findings and determinations. And the key ones are down in paragraph 5 -- paragraph 5, which talks about that the Planning Commission should look, and regulate the location of cell towers in such a manner as to minimize adverse aesthetic and visual impacts on the land, property, and buildings and other matters within the area of the tower itself. I just respectively don't see any indication that the Planning Commission undertook to do that in this case; the body that sits to make this decision. Certainly, if am missing it and I don't think I am because I've looked at the record pretty closely. That -- that these findings and determinations, positive or negative just weren't made. Now I don't want to interrupt you while you're reading that ordinance while I go on to my other point, if I may.

THE COURT: Yes, sir. I see it.

MR. McCANTS: Judge, in addition to that on page 4 of your order you wrote in the second paragraph on page 4. "The appellants argument proves too much." Now, I'm just frankly not sure what you are saying in that -- that sentence, Judge. And I think I've got to ask you to clarify it to some degree. Because my clients read it and Judge when they see that the Judge wrote: "The appellants argument proves too much." They say well sounds like we prevailed in this particular case. In that regard, if you want to ask Ms. Wrenn, who wrote the order for you, in this case to perhaps expound and clarify on that.

THE COURT: She probably wished I had signed her order. Give me a moment. (Judge is reading order)

MR. McCANTS: Certainly, Your Honor.

THE COURT: Okay. Yes, sir.

MR. McCANTS: Thank you, Judge. Again, in that regard, just not sure where the Court's heading. Respectively ask that the Court issue another order perhaps explaining on that or expounding on that. That's my position in that regard. Let me cover at least one more item for the record.

THE COURT: Yes, sir.

MR. McCANTS: Ms. Wrenn has asserted that the issue of whether or not there are restrictive covenants and restrictions upon the site where the cell tower is

proposed to be constructed, whether or not there's certain restrictions and covenants apply to that piece of dirt so to speak.

I believe that I did present that by way of my notice of appeal. I remember certainly arguing that point before you in Aiken because I handed it to you from the record some deeds that contain these restrictive covenants and what not. We of course take the position they do apply to this land.

I appreciate Your Honor, that you have found otherwise in this particular case.

Here's -- here's the dilemma, that I face without knowing what the planning commission did specifically. And again, I take the position that they were required to do that not only in the state statute but out of simple fairness and courtesy to the litigants in the parties. State statute does require, I don't know what they did, so that's why I made a very general exception in my notice of appeal. It's number four, that the verbal decision of the Planning Commission is not supported by the evidence and other information presented to it. That I hate to call that kind of a catch all provision. But I've included that to try and throw my arms around all the issues in this case. But again, the problem when I try to point specifically to an exception on error that the Planning

Commission did; I am without the benefit of specific findings and determinations with regarding from which I can seek further review. That's our basic position in the cases I've outlined.

And I'm happy to answer any questions that you may have.

THE COURT: All right. Ms. Wrenn.

MS. WRENN: Good morning, Your Honor.

THE COURT: Good Morning.

MS. WRENN: Again, my name is Catherine Wrenn and I represent Verizon Wireless. It's our position there is no need for the Court to alter or amend this order. The order is eight pages long and it sufficiently addresses any rules on each of the issues that appellant's motion raises.

For instance, while appellant's motion claims that the order did not address the Commission's failure to publish a written decision, setting forth all of its factual findings and conclusions, and whether the matter should have been remanded to the Commission to publish a written decision. That is incorrect in fact the order devotes an entire section to analyzing that very issue, finding that South Carolina law imposes no such obligation on the Commission to publish a written decision. Rather the Court found in the order that South Carolina code

section 6-29-360B only imposes a modest obligation on the Commission to maintain a record of the Commission's resolutions findings and determinations. The court found that the statute does not specify what form the record must be in or in any way require the Commission to explain its factual findings and conclusions. And if the legislature had wanted to require a written decision, it certainly knew how to do that as evidenced by other statutes which do actually impose written formality requirements on other entities.

I am not sure how much more clearly the Court's order could have ruled on that issue of whether the Commission was required to publish a written decision. Moreover, to the extent that appellants motion is premised on the orders alleged failure to address whether this should have been remanded back to the Commission, or a written decision. That's foreclosed by the order is finding that the Commission was never required to publish a written decision in an instance like this. Appellants have also moved the Court to alter or amend the order, because the order they claim does not address the effect of certain language and these restrictive covenants that we talked about at length at the last hearing. Again, that's incorrect. First the order found that appellants had forfeited any argument about the restrictive covenants

because they did not provide any arguments or any kind of support for their position at the last hearing.

But the order went on to say, even if that issue has been preserved, still under South Carolina law, these restrictive covenants do not apply because there's no clear express language in the covenants or any unmistakable implication that they would apply to the cell tower property in question. So the order necessarily forecloses any kind of an argument by appellate set these restrictive covenants would apply here. There's really no need to alter or amend this extensive order to make that any more clear.

Now, as I noted at the last hearing, Your Honor, we're here over a cell tower that is much needed, there's already been a lot of delay in getting that constructed. And the cell tower is going to go in an area that's rural and it has very poor wireless service as it is the goal of the tower is to remedy that problem. And to make sure that customers driving through the area or living in the area have good cell coverage. The order here is well supported by evidence in the record. The record on appeal is very extensive, and it conforms with South Carolina law. It also sufficiently addresses and rules on each of the issues that are addressed in the motion to alter amendment. So Verizon submits there's no need to further

delay this entire process. And we request that the court deny the motion to alter or amend.

THE COURT: What do you make -- how do you read that sentence that Mr. McCants says needs to be clarified: "The appellants argument proves too much."

MS. WRENN: It's my understanding, Your Honor, when someone says something proves too much that it doesn't have sound logic behind it. So I read that sentence in accordance with the rest of your order which is very clear that the argument failed; and didn't have logic or evidence supporting it.

THE COURT: Well obviously it's followed by saying the act mandates only those records...

MS. WRENN: The context shows in my opinion, Your Honor, that you meant neither argument proves unable to win the day. It does not succeed and then you give all of the support for that.

THE COURT: It's not your order, it is the court's order.

MS. WRENN: That is correct.

THE COURT: Mr. McCants, thank you, this is your order.

MS. WRENN: I did submit a proposed order but Your Honor did not adopt it in full.

THE COURT: So with respect to that particular

sentence. This appellants arguments -- argument proves too much. How would you restructure that sentence to clarify?

MS. WRENN: Your Honor, if you did want to clarify it, which again, I don't think you need to do but if you did, I would say: "appellant argument fails." It fails and it does not comport with South Carolina law.

MR. FARRAR: Your Honor, I hate to interrupt her in the middle of her argument but being a classicist here. I think that probably came from Hamlet thou do protest too much. I think if you put a footnote in there and say attribute to William Shakespeare or just say thou protest too much and that's all that probably meant.

THE COURT: It was my order but those were not my words. I haven't read Hamlet or Shakespeare. So but if I did it was so long ago, but it made it into the order.

MS. WRENN: I mean, Your Honor, I think that the context of the entire order very clearly explains what that sentence means.

THE COURT: Response, Mr. McCants.

MR. McCANTS: Your Honor, I read some Shakespeare years ago. I didn't understand it, then at least a lot of it. I'm still a bit confused about that sentence even today and hearing other counselors in this case, explain it. That's fine. That is your order. And I didn't mean

to suggest that it was Ms. Wrenn's order she prepared one for you but you signed it so it is your order. But, I'm listening to you and it appears to me that you would have wanted to expound on it -- would feel the need to expound on it to some degree. I'll leave that up to you by way of a footnote or otherwise. It just amazes me ---

THE COURT: I basically write fewer words, I mean I don't usually do a lot of (Indiscernible) and come to the conclusion. After review of everything and issue the the order -- order was issued with assistance of my then law clerk who worked work with me for about three months because I didn't have a law clerk. She previously clerked on the DC Circuit Court of Appeals.

The Court which currently has under consideration the question of whether the President of the United States can be criminally indited or whether presidential immunity. Imagine when you get that opinion out of them will be -- who knows what that will be.

I have spent several months really kind of tapering down language in working with her in drafting an order. Now, it is my order. But I can't say that everything and I can say everything and I can't say in the order is my words, but I can understand how others might not understand it given a literal -- literal reading -- reading of the words -- prior words: "appellants argument

proves to much" and I agree with Ms. Wrenn what it is really saying the argument fails because the act does not require all that you contend that is mandated by the statute. And that is the big (Indiscernible) at the entire hearing. This Commission how much it what it must do and all the requirements must be met personate to the statute of ordinances. And I know that you are very adept -- adept dealing with all of these land issues in Aiken County. You -- You, I think from every major land case in Aiken County from Bradford trees to other cut downs other things you've been involved. I certainly respect your -- your knowledge of all of this as well as the entire matter including the thrust of what you and your clients desire. But the essence of my conclusion was that they satisfied the requirements of the statute and ordinance and making the determination that they made. And that it might have been argued that because these boards and commissions are made up of lay people their in effect they are common sense Judges based on their own understanding of what there are required to do and be given some consideration.

But, there's a very thorough record here to be reviewed by others who can take it and may well agree with your perspective, Mr. McCants, as required to what is required. You may help them draft the ordinance. I don't

know.

MR. McCANTS: No, sir. I did not and I will tell the court that. And without interrupting you Judge.

THE COURT: I am just use to talking.

MR. McCANTS: If I may.

THE COURT: Kind of going back to my initial argument and discussion without regard to the sentence: "the appellants proved too much." Again, the Court in my mind recognizes what I think is a mandate under state statute, and that the county ordinance, says here's what you need to find. The one I gave you is what you need to tell us. But then the Court says, all right, the state statute doesn't do everything. Mr. Lambert and Ms. Beamish want it to do it only imposes to use your words in the order, a modest obligation to tell the court what it did.

I'm searching for that modest obligation. I'm certainly looking for something from the Planning Commission. The Commission itself, respectively, we have very good folks who work for Aiken County and the Planning Department and other areas of Administration, the county and they -- they are not the Planning Commission that made the decision in this case, but by recognizing again in your own words, that there is a modest obligation imposed. I'm trying to make sure if I'm asking you to alter to amend this order, which I am doing. That -- that modest

obligation is in your order and it's not. You -- you rely on again this voluminous record that was compiled by staff employees to say that's enough. I'm just trying to make sure if I have to pursue this matter further, that nobody looks down at me and says well Mr. McCants you didn't ask Judge Newman to clarify what he clearly found was a modest obligation imposed upon the Planning Commission. Which I don't think anybody can disagree, there is no document no fancy piece of paper with a seal on it or otherwise from the Planning Commission saying this is what we did. Just a verbal vote. Let me emphasize again, Judge I appreciate Ms. Wrenn's comments about the need for this cell tower. But at the same time it has to follow the law and that's why we have these mandates. And my -- my clients who will be living next door, to this the cell tower if it's ever constructed; believe that the Planning Commission had a duty and an obligation to tell them why they thought it was okay to put it there. Thank you, Judge.

THE COURT: Thank you. Yes, Sir.

MR. FARRAR: Your Honor, Brad Farrah, for Aiken County Planning Commission. Mr. McCants says we have multiple lawyers from the other table stand up and you're saying hey, wait a second just one lawyer here. I've got distinct clients, the Planning Commission, and we hope that this underlying issue is worked out but I'm very

concerned going forward for my Commission about the specificity that the court is going to be looking for from the Planning Commission, which I would distinguish from the Board of Zoning Appeals, which is a related but distinct entity. And if you look at the statutes talking about the Board of Zoning Appeals. It uses the phrase in 629-840 of findings of fact for the Board of Zoning Appeals. It does not do that with in the statute with the Planning Commission. It just talks about three things resolutions, which I have been 30 years representing the Planning Commission and they have never adopted a resolution. I don't know why that's in there.

In terms of findings, not findings of fact, findings is the result and determinations is the result. And so if -- if we had to have an order, like it's issued beyond say a form 4 order, which is essentially you know, to give the decision, the specificity we find the following. I would be concerned about every case that I've ever heard for the Planning Commission get appealed, because they just don't do that, that's not the nature of what they do. And the ordinance that Mr. McCann's passed up which is an Aiken county code 23 -- 24-3-5-2 talks about it -- it the expressed purpose of the section dealing with cell towers it's not findings this is kind of a big picture aspirational. The findings the cell tower has to -- the

Planning Commission has to make. These would be cell towers is absolutely in the record, and that's in the October 2022 first of three months, we took up this matter. And in that one it page 45 of that particular agenda, this is the staff teeing up the case for the court. So the staff presents the property location, the zoning, and tax map parcel, all the specifics of the five W's that are engaged for this particular case. And then they do an analysis then they say here's what the Planning Commission has reviewed according to Chapter 24 - Article Three - section 5.71. This is the specific criteria, the Aiken county code of ordinances the Planning Commission shall review. Now if you look at this ordinance that was passed up the county hereby adopts overall policy, for the express purpose of achieving certain goals. That's like the legislative history, the purpose, the big picture thing. Here's where the rubber meets the road in terms of what has to be found.

The County -- the Commission shall review applications and make terminations with respect to and it is 4 things. It's A through D:

Letter A - The conflict with safety and safety related codes and requirements. What's the big thing of a cell tower? Well, you don't want the cell tower falling over on somebody hurting them. So it has to be a certain

setback distance from any structure, so you're looking at safety. And they determined that the site has met -- exceeded the county adopted code. Now this is the staff determination which the Planning Commission adopted but it is in the record.

Letter B - Conflict with a designated historical site. It's in the middle of a field. Nobody's come forward saying it's a battlefield, it's a burial ground anything like that. Nope -- no historical site it's a big old field with a cell tower that is about to go up.

The placement and location, number -- item C: Location of the wireless facilities which would create an unacceptable risk. So this -- this is a dovetail with the first one. Reasonable probabilities such residents, public employees, of the service providers, so this is -- this is if you get that argument. Well, you know if it is going to be a 5G tower, and somebody you know 20 years from now is going to be born with ten fingers or something on one hand because of self radiation, none of that is in play, there's none of that unacceptable risks. And then conflicts with another provision of a section is also spelled out in terms of 24-3-5 which the basic criteria. So if you say, you know, if I have to appeal this case further, once my brief gonna look like well, it's gonna look like A through D of the code. You just have to say

guess what? They found that there is no conflict with safety and there is a safety concern. That's an appellate ground. You would say it's -- it's the Planning Commission found no historical site, what fact there is, and I -- we get these all the time. You know, when we get condemnation cases, if you -- Your Honor knows if you want to blow up a condemnation case, the first thing you do is say Native American burial ground. Here's an environmental concern, weapons whatever is the standard play through all those things in the mix. You just say it's a historical problem and you go down there and find there's nothing like that. And finally you look at whether or not there's an unacceptable health risk other than having the cell tower fall on your head. And there's nothing like that. So it met all the criteria. In terms of just the specificity you know -- you know I've cited cases in the last argument. This is the -- this is the case of *Clear Channel Outdoor* versus *City of Myrtle Beach* case, let's see -- let me make sure. Yes, *Clear Channel Outdoor* versus *City of Myrtle Beach*, *South Carolina Supreme Court* case from 2007 appeal from Horry County. Standard of review and this is actually reviewing a board of zoning appeals, which has that higher findings of fact standard, findings of fact by the Board of Appeals must be treated in the same manner as findings of fact by jury and

the Court. And I take additional evidence, I take essentially you're looking for abuse and discretion. And so when you have that and I can tell you the way every case ends it -- it at the Planning Commission is somebody -- the chair says: "I need a motion", and they kind of look around. And somebody says: "I make a motion to approve, second, "and they -- they that's their determinate and that's their form 4. Well, the express kind of lengthier exploded parts version of that is the record. And they look at that and say this is the staff presentation and we either adopt it, we qualify it, or we disagree with. So that's -- that's all before you. And so just going forward if -- if this is going to kind of rewrite some things as far as how the Planning Commission cases are heard if Your Honor determines we need to start checking out.

THE COURT: Yes, Sir.

MR. FARRAR: Yes, sir. So that's essentially it but in terms of the presentation, I felt like the briefs submitted by Ms. Wrenn was -- was covered all the points and I didn't want to belabor the court with additional filings. But that's -- that's our case and we just ask that you keep the same original order that you filed, Sir.

THE COURT: All right. Well, I agree with you. I've reviewed extensively all this prior to issuing the order

and I reviewed the submission asking for reconsideration.

I -- I think since the motion is to modify or clarify, thank you, the words needs -- needs a few little clarification about the phraseology; the arguments proved too much.

I am denying the motion to modify the order except to the extent to clarify that particular sentence.

Now I have Ms. Wrenn's (Indiscernible)...

MR. McCANTS: Thank you, Your Honor.

MS. WRENN: Thank you, Your Honor.

THE COURT: Thank you.

CERTIFICATE OF TRANSCRIBER

I, Theresa Shirley, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings in the trial of the captioned case, relative to appeal, in Aiken County, South Carolina Circuit Court 2 on the 5th day of February, 2024.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

_____

July 18, 2024

Theresa Shirley

Transcriber

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Clifton B. Newman, Circuit Judge

Case No. 2023-CP-02-00412

David L. Lambert and Julia H. Beamish,

Appellants,

v.

Aiken County Planning Commission,
Aiken County Government, and
Pyramid Network Solutions for
Verizon Wireless,

Respondents.

NOTICE OF APPEAL

David L. Lambert and Julia H. Beamish appeal the orders of the Honorable Clifton B. Newman, dated December 27, 2023, and March 19, 2024. Appellant received written notice of entry of these orders on December 28, 2023 and March 21, 2024, respectively.

Dated: April 19, 2024

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PROOF OF SERVICE

I certify I have served the Appellant's Notice of Appeal on counsel for the Respondents, Catherine Wrenn, Esquire on April 19, 2024, by electronic mail via the email address on record with AIS, at cwrenn@bakerdonelson.com, and Bradley T. Farrar, Esquire, by electronic mail via the email address on record with AIS, at bfarrar@aikencountysc.gov.

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Dated: February 18, 2025

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