

**STATEMENT IN SUPPORT
OF APPLICATION FOR
SPECIAL USE PERMIT RENEWAL**

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APPLICANT: Telecom Towers LLC
SITE ADDRESS: 2140 Lowenstein Drive, Lee's Summit, MO
ZONING DISTRICT: AG (Agricultural)

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This statement in support of an application for a Special Use Permit renewal for two wireless communications towers (the "Tower Facility") located at 2140 Lowenstein Drive (the "Subject Property") in the City of Lee's Summit is respectfully submitted by Telecom Towers LLC ("American Tower") to the City of Lee's Summit Planning Commission (the "Commission").

I. SITE BACKGROUND

American Tower (the "Applicant") is seeking approval of a Special Use Permit renewal for a term of twenty (20) years as detailed below to allow for the continued use of two wireless communication tower facilities located at the address identified above (the "Tower Facility"). The Tower Facility was originally permitted by a Special Use Permit (Ordinance No. 2783) issued by City of Lee's Summit City Council on May 6, 1986 for a term of twenty (20) years. On February 18, 1992 the City Council approved a rezoning of the property to allow for a second tower to be constructed, a 200 foot (200') tower (Ordinance No. 3616). March 3, 1992 the City Council approved a Special Use Permit for the two hundred foot (200') tower, setting the expiration date for both permits as May 6, 2006 (Ordinance No. 3620.) Ordinance No. 6291 set the expiration date for the permit on May 6, 2016.

American Tower only recently became aware of the May 6, 2016 expiration date and now respectfully requests renewal of the Special Use Permit to allow for continued use of the Tower Facility for a twenty (20) year period.

II. DESCRIPTION OF FACILITY

American Tower, owns the tract of land approximately 7.44 acres in size, located at 2140 Lowenstein Drive in the City of Lee's Summit. This property contains two wireless communications towers, a self-support tower that is one hundred and ninety feet

(190') and a guyed tower that is four hundred and seventy nine feet (479'). The guyed tower has three guywire anchors supporting the tower, within the property lines.

The Tower Facility is reached via a paved and gravel road off of Lowenstein Drive and with a twelve foot (12') gate towards the entrance. American Tower has a separate access easement for the pathway to the towers. Each tower has a compound that is surrounded by a six foot (6') tall chain link fence, topped with barbed wire for security, as well as a twelve foot (12') access gate for the specific base of the tower. The fenced-in compound area includes equipment shelters utilized by the various carriers with antennas on the towers.

The Carriers on the guyed tower:

- US Department of Justice
- Spoke Holdings
- Jade Alarm Co.
- Pixius Communications
- Mobilefone
- Sprint
- Clearwire Corporate

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The Carriers on the self-support tower

- Verizon Wireless
- AT&T
- T-Mobile

See enclosed Site Drawings.

See enclosed Site Photographs.

III. BENEFITS OF THE TOWER FACILITY

The continued use and operation of the Tower Facility at this location is in keeping with the intent and purpose of the City of Lee's Summit Unified Development Ordinance (the "Ordinance"), and will continue to benefit the community. The Tower Facility allows wireless providers within the City to provide necessary wireless coverage. With the shared use of the Tower Facility by several wireless carriers, this Tower Facility reduces the need for additional towers within the City limits, thus directly satisfying the 'Goals' identified in the Telecommunications Towers/Antennas section of the Ordinance (§10.600[B]). The availability of wireless communications service enhances community safety, and is increasingly relied upon by public safety officials, as well as the general public in times of crisis, natural disaster, bad storms or other similar circumstances. Wireless communications service also provides residents and local businesses with needed wireless services. The Tower Facility, by providing these services to the City,

promotes the health, safety, convenience and general welfare of the residents of Lee's Summit.

The Tower Facility enhances the coverage of wireless carriers, supports the Department of Justice and allows for other wireless services such as alarm companies to offer coverage within Lee's Summit. It also serves a public convenience by increasing community safety in times of public crisis and natural disaster. With reliable wireless coverage Lee's Summit residents can use their wireless devices to report emergencies to first responders immediately in locations without access to a landline like highways, parks, and other public places. In addition to traditional 911 services, residents will have access to Enhanced 911 ("E-911") allowing public safety officials to have increased location accuracy in emergency circumstances. This is something vital to public safety as more people "cut the cord" and no longer have wireless services. E-911 allows emergency personnel to locate a caller using global positioning systems ("GPS").

IV. COMPLIANCE WITH SPECIAL USE PERMIT STANDARDS

The continued use and operation of the Tower Facility is in compliance with the general criteria for approval of a Special Use Permit, as set forth in §10.050(B) of the Lee's Summit Unified Development Ordinance. Compliance with these criteria for approval is set forth below, with the Applicant's commentary following **in bold**:

1. Character of the neighborhood. The two towers have been a part of the neighborhood since the guyed tower was built in 1986 and the self-support tower was added to the location in 1992, and have had no negative impact on the area. **The property containing the towers runs along highway US 470, providing essential services for those traveling along that roadway. The underlying property is zoned Agricultural, while the adjacent properties are zoned Planned Community Commercial and Single Family Residential. The adjacent residentially zoned property is approximately 29.56 acres and has one single family house located within the property boundaries. Since the Tower Facility is surrounded by a buffer of trees, it is effectively screened from nearby properties.**
2. Compatibility with adjacent property uses and zoning. **The Tower Facility is setback and screened from the neighboring planned commercial and residential uses.**
3. Suitability of the property for which the special use is being requested. **Both towers have existed on the property for almost thirty (30) years, and the presence of a buffer of trees makes the Subject Property suitable for the continued presence of the Tower Facility. As well as, being in close proximity to two major roadways.**
4. Extent to which the proposed use will negatively impact the aesthetics of the property and adjoining properties. **The renewal of the permit will not have any negative impact on the aesthetics of the property or adjoining**

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properties as there are no changes proposed as part of this renewal application.

5. Extent to which the proposed use will injure the appropriate use of, or detrimentally affect neighboring property. **The proposed use will not injure the appropriate use of, or detrimentally affect, any neighboring properties, as the Tower Facility has been in this location since 1987, with the second tower added in 1992. Additionally, there are no proposed changes to the current use of the Tower Facility.**
6. Impact on the street system to handle traffic and/or parking. **The Tower Facility does not have regular employees and is only visited intermittently by maintenance technicians to ensure that the wireless communications equipment is in good and safe working order and by contractors in the event that a wireless services provider modifies its installation. There is no additional foot traffic as a result of the use of the Tower Facility. There is sufficient parking on site to accommodate all visiting vehicles.**
7. Impact of additional storm water runoff to the existing system or to the water shed area if no storm sewer is available. **The Tower Facility has existed for almost thirty (30) years and is adequately served by storm water systems and no modifications to are requested as a part of this renewal application.**
8. Impact of noise pollution or other environmental harm. **The Tower Facility does not generate objectionable noise, vibration, smoke, dust, odors, heat, glare, or produce any other environmental harm.**
9. Potential negative impact on neighborhood property values. **The Tower Facility has existed in this location for almost thirty (30) years and is an established part of the neighborhood. Its presence has no negative impact on neighborhood property values.**
10. Extent to which there is need of the proposed use in the community. **The Tower Facility serves the needs of the community by allowing for the provision of wireless communications services, including access to emergency services, including E911.**
11. Economic impact upon the community. **The Tower Facility has a positive economic impact on the community by providing wireless communications service for local residents and essential coverage to those traveling along US 470 and State Highway 50. Additionally local businesses provide security and other services to community members through their installations on the towers.**
12. Extent to which public facilities and services are available and adequate to satisfy the demand generated by the proposed use. **The Tower Facility does not place any additional burden on municipal services, such as water, sewer, police, or fire protection, as it is unmanned.**
13. Comparison of the benefit gained to the public health, safety and welfare of the community if approved versus the hardship imposed upon the landowner

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if the requested application is denied. **The Tower Facility allows for wireless service providers to install antennas on the tower and provide wireless services to the residents of Lee's Summit. The availability of such services provides a significant benefit to the public health, safety, and welfare of the community. Additionally, the Department of Justice has equipment at the Tower Facility. If the Tower Facility is not allowed to continue to operate at this location, the community at large would suffer a hardship by the absence of such wireless coverage. In order to allow for the provision of similar levels of wireless coverage, similar towers would need to be constructed within the City.**

14. **Conformance to the UDO and current city policies and ordinances. The Tower Facility is in compliance with the Lee's Summit Unified Development Ordinance and current city policies and ordinances and will remain in compliance with the City's policies and ordinances.**
15. **Recommendation of professional staff. The Applicant defers to city staff for their input and recommendation on this application.**
16. **Consistency with permitted uses in the area in which the special use is sought. The Tower Facility has existed in this location for the nearly thirty (30) years, and has not negatively impacted the neighboring properties in that time period. No changes are proposed with this renewal application, the approval of this renewal would not negatively impact the aesthetics of the property or adjoining properties.**

In addition to the general criteria for approval of a Special Use Permit set forth above, the Tower Facility is also in compliance with the specific standards for Telecommunications Towers set forth in Article 10 of the Unified Development Ordinance, namely:

§10.600(F)(3): Special use permit. A telecommunications tower shall be subject to a special use permit, in accordance with the following considerations:

- a. **Setbacks. No new tower shall be constructed without setbacks from all property lines a distance equal to the height of the tower as measured from the base of the structure to its highest point or as otherwise authorized by the Governing Body in approval of the special use permit. Accessory structures shall be governed by the setbacks for that particular zoning district. No new tower is proposed with this renewal application. However, both the self-support tower and guyed tower require a modification from the setback requirements, as neither of the existing towers are setback from the property line a distance equal to the height of the tower. The Applicant respectfully requests a continuation of modification from this requirement to allow for the continued use of these towers, in prior renewals the staff has recommend approval of this request.**

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- b. Guy Anchors. Guy anchor foundations shall be setback a minimum of ten (10) feet from all property lines. **The guy anchor foundations are setback a minimum of ten (10) feet from all property lines.**
- c. Separation Distances. The following are the required separation distances from other towers and residential:
 - 1. A telecommunications tower over ninety (90) feet in height shall be separated from any other telecommunications tower over ninety (90) feet in height by a distance of at least one (1) mile. **In 1992 the Commission approved the addition of a second tower over ninety feet (90') at this location. The Applicant respectfully requests a continuation of this modification. In prior renewals, the staff has recommended the Commission approve this modification.**
 - 2. A telecommunications tower shall be located a distance of four (4) times the tower height from any existing single-family or two-family dwelling that is not on the same lot with the tower, any property zoned for single-family or two-family residential use, and any property where the future use indicated by the Comprehensive Plan is low density residential use. **The existing guyed tower does not meet the four (4) times the tower height from residentially zoned property setback, however the Applicant respectfully requests a modification from this requirement to allow the tower to continue to serve the community, in prior renewals the staff has recommend the Commission approve this modification.**
 - 3. This requirement may be waived if it is found to effectively prevent the provision of wireless telecommunications services within the City. **For the reasons stated above, the Applicant respectfully requests a waiver from, the setback requirement, a separation distance of one (1) mile from another telecommunications tower over ninety feet (90') in height requirement, and a setback of four (4) times the height of the Tower Facility from a residential property requirement. The Tower Facility has existed in this location for almost thirty (30) years with no adverse impact on the existing residential use of adjacent properties. There are no additional changes to the Tower Facility with this application. Finally, in the September 8, 2006 Department of Planning and Development staff recommended the approval of the setback and separation modifications.**
- d. Lighting. A telecommunications tower or other antenna structure shall not be artificially lighted unless such lighting is required by the FAA or other applicable authority. If lighting is required, the Governing Body may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Security lighting around the base of a communications tower or other antenna structure may be installed if the lighting complies with Article 7 and no light is directed toward adjacent

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properties or rights-of-way. **The Tower Facility is in compliance with FAA regulations.**

- e. Signage. Signs located at the telecommunications tower shall be limited to ownership, contact information, the FCC antenna registration number and any other warning signs required by the FCC. Commercial advertising is strictly prohibited. **Signage at the Tower Facility does not include commercial advertising; and is limited to ownership, contact information, the FCC antenna registration number, and other warning signs required by the FCC.**
- f. Landscaping. A telecommunications tower facility shall be landscaped in accordance with Article 14 to provide a buffer of plant materials that effectively screen the view of the telecommunications tower base and accessory structures from adjacent property. This may be waived by the Governing Body where natural growth and land forms provide an equivalent buffer. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be reduced or waived by the Governing Body. **The Tower Facility is surrounded by a group of trees and natural vegetation which screens it from surrounding properties. As the natural growth screens the Tower Facility, the Applicant respectfully requests a waiver from the landscaping requirements of Article 14.**
- g. Parking Areas & Drives. Parking areas and drives associated with the telecommunications tower shall be paved in accordance with this Chapter and the Design and Construction Manual or as otherwise authorized by the Governing Body in the approval of a special use permit after making a determination that additional impervious coverage is not in the best interest of adjacent property owners. **The access drive to the Tower Facility is partially paved and graveled, and is sufficient for use by all technicians which visit the site. Parking for multiple vehicles is available adjacent to the existing compound area.**
- h. Security Fencing. A telecommunications tower shall be enclosed by fencing not less than six (6) feet in height and equipped with an appropriate anti-climbing device. The type of fence shall be in accordance with Article 14 or as otherwise authorized by the Governing Body in the approval of the special use permit. **The Tower Facility is in compliance with this condition.**
- i. Demonstrated Need. An applicant for a special use permit for a telecommunications tower shall provide technical data sufficient to show that a tower of the requested height is necessary in the requested location to maintain the integrity of the entire planned communication system. The applicant also shall show why a system composed of antenna structures lower in height, located on existing structures, or otherwise less visually obtrusive should not be required. **The Tower Facility currently supports**

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installations several major wireless carriers, as well as the Department of Justice and other wireless services providers and could support additional collocations. Each carrier requires a specific height location for its equipment to function with the most effectiveness. By granting this renewal application, the Commission would allow for the uninterrupted provision of wireless services without the need for an additional tower in the City.

j. Visual Impact. To limit the visual impact of a telecommunications tower, to the extent feasible, the tower shall be:

1. Located away from key public viewpoints. **While the Tower Facility is located nearby US 470, there are no nearby public view points impacted by the Tower Facility's location. Additionally, the trees appropriately screen the compound on the portions of the property closer to neighboring properties and the tower itself does not obstruct any scenic or public viewpoints.**
2. Located down-slope from the top of ridge lines, so that from key public viewpoints, a smaller portion of the height of the tower is viewed against the sky. **The Tower Facility is not located near any ridge lines or key public viewpoints, and will not adversely affect views from any such points.**
3. Placed within forested areas with antennas just above the treeline. **The Tower Facility is in a forested area and is surrounded by mature vegetation. The tower height is the required height for carriers' antennas to be located above the treeline and provide seamless wireless coverage and allows for future collocations on this tower.**
4. Located or be of such a height not to necessitate FAA coloring and lighting. **The towers are in compliance of FAA requirements.**
5. Located in industrial areas. **The Tower Facility is located in an agricultural area. The Tower Facility existed at this location for almost thirty (30) years and is not a detriment to the community; by contrast, it is a proven benefit by providing wireless communications services to Lee's Summit residents.**
6. Of the minimum height necessary for operation of the telecommunication system, considering the visual trade-off of a greater number of towers at lower heights. **As mentioned above, the Tower Facility currently supports installations by several wireless carries. Each carrier places their respective equipment at different heights on the tower to allow for sufficient coverage of their specific radio frequency needs. Any reduction in height for either tower would result in a lack of accommodations for existing carriers and potentially no options for future collocations for carries looking to provide wireless services within the City and may result in additional towers being constructed. By permitting**

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the continued use of the Tower Facility, the Commission would allow for the uninterrupted provision of wireless services by the carriers without the need for an additional tower in the City.

7. Located outside historic districts designated by the Governing Body and located unobtrusively so as not to be visible from historic structures. **The Tower Facility is not located in or visible from historic districts or structures.**
- k. View of accessory equipment. Mobile or immobile equipment not used in direct support of a wireless telecommunications facility shall not be stored or parked on the site of the facility, unless repairs to the facility are being made. **The only permanent accessory equipment located at the Tower Facility is the necessary equipment for the operation of the Tower Facility and the individual installations by each wireless carrier located at the site. No mobile or immobile equipment not used in direct support of the Tower Facility is stored or parked on the site.**
- l. Design. The following standards shall apply:
 1. A telecommunications tower shall, subject of any applicable standards of the FAA, be painted a neutral color approved by the Governing Body, so as to reduce visual obtrusiveness. **The towers are painted a neutral gray color in order to reduce visual obtrusiveness.**
 2. At a telecommunications tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment. **All ground equipment within the Tower Facility is screened from neighboring properties using the existing trees and landscaping around the tower.**
- m. If an antenna is installed on an antenna structure other than a telecommunications tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the antenna structure so as to make the antenna and related equipment as visually unobtrusive as possible. **The renewal application does not include an antenna installed on an antenna structure other than a telecommunications tower.**
4. Tower design will be evaluated on a case by case basis utilizing the following design preferences:
 - i. Monopoles are highly encouraged. **The Tower Facility contains is a guyed tower and a self-support tower and has been in existence for almost thirty (30) years with no negative impact on the neighboring properties.**
 - ii. Stealth technology shall be incorporated into the placement of antenna utilizing architectural elements or structures whenever feasible. Such antenna placement is appropriate around

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window frames, doorways, along guttering, incorporated into penthouses, cupolas, steeples, etc. **The Tower Facility contains is a guyed tower and a self-support tower and has been in existence for almost thirty (30) years with no negative impact on the neighboring properties. However, the Tower Facility allows for shared use by wireless carriers, thereby reducing the need for additional towers in the community.**

- iii. Towers are to be architecturally compatible to the surrounding development(s). **The Tower Facility is painted a neutral gray color and is screened from neighboring properties by a buffer of existing vegetation, and trees.**

V. CONCLUSION

The FCC (“Federal Communications Commission”) has concluded in its Report and Order adopting 47 C.F.R. §1.40001 that “non-conforming structures should be available for modification under Section 6409(a), as long as the modification itself does not ‘substantially change’ the physical dimensions of the supporting structures as defined here.” (*In Re: Acceleration of Broadband Deployment by Improving Wireless Facilities siting Policies, Etc.*, FCC 14-153 (FCC October 17, 2014), ¶201. “Legal, non-conforming status refers to a structure that was approved at the time of construction but is not presently in conformance due to subsequent changes to the governing zoning ordinance,” (Footnote 494). The intent of the FCC’s Report and Order is clear and supersedes any regulations that may disqualify the Tower Facility for an eligible facilities request for a non-conforming structure. The Special Use Permit renewal application does not propose any changes to the Tower Facility, which is in conformity with the Section 6409 regulation.

The continued use and operation of the Tower Facility provides a benefit to the City of Lee’s Summit and its residents by allowing for the provision of wireless services and access to emergency services. The Tower Facility will continue to serve the needs of wireless providers and allow for future providers to expand their coverage without having a negative impact on the surrounding neighborhood. Having reviewed the specific impacts and made the specific findings provided and detailed above, as well as to satisfy the mandate of the Federal Government to facilitate competition in the wireless communications industry as set forth in the Telecommunications Act of 1996, the Applicant hereby respectfully requests that the Commission determine that the Tower Facility is appropriate for the granting of a Special Use Permit renewal for a period of twenty (20) years.

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