

# **STATEMENT IN SUPPORT OF APPLICATION FOR SPECIAL COMMUNICATION FACILITY APPROVAL**

**APPLICANT:** American Tower Asset Sub II, LLC

**SITE ADDRESS:** 111 SW Hook Rd, Lee's Summit, MO 64082

**ZONING DISTRICT:** Agricultural/M-150 Corridor Development Overlay District

This statement in support of an application for a renewed Special Use Permit for a Wireless Communication Facility is respectfully submitted by American Tower Asset Sub II, LLC ("American Tower") to the Lee's Summit Planning Commission (the "Commission") and City Council (the "Council").

## **I. SITE BACKGROUND**

American Tower is seeking approval of the Wireless Communication Facility detailed herein to permit an existing 300 foot guyed tower (the "Tower") at 111 SW Hook Rd, Lee's Summit, MO 64082. The Tower was originally constructed pursuant to a Special Use Permit with a term running until 2009. The Tower was acquired in 2005 by American Tower, which renewed the Special Use Permit in 2010 for a term that expires in May 2019. The Tower has been in operation since this original approval and has been serving the surrounding community's wireless cellular needs for the past twenty years.

American Tower is aware that the existing Special Use Permit for the Tower is due to expire and in need of renewal to permit the Tower's continued use under the City's Unified Development Ordinance (the "Ordinance"). As American Tower takes compliance very seriously and endeavors to continue providing wireless telecommunication services to residents of Lee's Summit, we are seeking to obtain renewal of the Special Use Permit required by Lee's Summit to keep this Tower in full compliance.

## **II. DESCRIPTION OF FACILITY**

As the wireless communication Tower is already physically existing at this location, all equipment mentioned herein is "existing." American Tower leases a 90 foot by 60 foot area (the "Leased Area") on the subject property, within which there is a telecommunication compound. The compound is surrounded by a 6 foot tall chain link fence, which allows access to the site through a 12 foot wide gate on the northwestern side.

The facility consists of a 300 foot guyed Tower, which hosts major wireless service carrier AT&T at multiple height levels between 170 and 300 feet.

The Tower is located in a spot that minimizes its visual intrusiveness to the surrounding community. Positioned as the lone structure on an estimated 3.48 acre Agriculturally zoned parcel, the 300 foot Tower is currently surrounded by rural land as well as select commercially zoned properties. The Tower facility is screened all around by trees existing on the property. Its location on the subject property places the Tower over two miles from the nearest 90 foot-plus tower in the area as well as sufficiently out of reach from any current or future residential zones. Based on the City's comprehensive plan, the neighborhood is planned for future commercial use rather than residential use. The Tower will not pose a danger to these surrounding properties nor will it be visually intrusive to them.

### **III. BENEFITS OF THE PROPOSED FACILITY**

The continued existence of the wireless communication facility at this location is in harmony with the intent and purpose of the City's Ordinance and will continue to be a benefit, not a detriment, to the public. The Tower serves to fill a need of the community in a minimally intrusive manner. It decreases the need for additional new wireless facilities in the community and will increase wireless coverage. The availability of wireless communication service enhances community safety and is increasingly relied upon by civil defense and other safety officers as well as the general public in times of crisis, natural disaster, bad storms or similar circumstances. Wireless communication service also provides a convenience to residents and is an attractive feature and service to businesses. The proposed facility, by providing these services to the City, will promote the health, safety, convenience and general welfare of the inhabitants of Lee's Summit.

The direct and indirect financial benefits of reliable wireless service to the City are indicative of the nature of its use by the public and private sector. A wireless communication facility promotes the general welfare and encourages business investment by providing a desirable and convenient service to current businesses. American Tower's facility also further benefits the public interest because wireless communication capabilities remain highly attractive to prospective residents and businesses. Finally, the City will continue to benefit from tax revenue generated by the facility.

### **IV. COMPLIANCE WITH CRITERIA FOR SPECIAL EXCEPTION**

The Tower requires a renewed Special Use Permit in accordance with Sec. 6.1200 of the Ordinance. Under Sec. 6.650, in taking action on an application for a Special Use Permit, the Commission and Council may give consideration to a variety of criteria. Compliance with these criteria for approval is set forth below, with the Applicant's commentary **in bold**:

1. Character of the neighborhood:

**The Tower facility is entirely compatible with the character of the neighborhood. The surrounding neighborhood is currently comprised of undeveloped rural land with select commercially zoned properties. The Tower fits in appropriately in this area, blending in aesthetically and offering wireless service in a nonintrusive manner to surrounding properties. Based on the City's Comprehensive Land Use Plan, the subject neighborhood is scheduled to continue developing commercially over time. This Tower will be paramount to providing continued necessary wireless service to existing and future commercial businesses in the neighborhood, and will serve as an attractive resource for businesses considering locating there in the future.**

**2. Compatibility with adjacent property uses and zoning:**

**The Tower facility is fully compatible with adjacent property uses and zoning. The property directly to the west is an Agriculturally zoned electric transformer station. The property directly south is a Planned Commercial Services property which serves as an animal clinic facility. To the north is undeveloped property zoned Planned Community Commercial. The properties across Highway 291 to the east are similarly zoned Planned Community Commercial and Planned Commercial Services. The Tower compliments these surrounding uses by providing wireless service in a safe and nonintrusive way, and will continue to do so as the neighborhood grows potentially more commercial.**

**3. Suitability of the property for which the special use is being requested:**

**The subject property remains suitable for the operation of the Tower. The Tower has been operating on this property for nearly twenty years, having become a reliable source for wireless service to the surrounding neighborhood. Being the sole facility on the 3.48 acre parent parcel, the Tower facility is screened all around by tree life existing on the property. Its location on the subject property places the Tower over two miles from the nearest 90 foot-plus tower in the area as well as sufficiently out of reach from any current or future residential zones according to the City's Comprehensive Land Use Plan.**

**4. Extent to which the proposed use will negatively impact the aesthetics of the property and adjoining properties:**

**The Tower does not negatively impact the aesthetics of the property or surrounding properties. The surrounding area is characterized by undeveloped rural land along with some commercially developed land to the south and across the highway to the east. The Tower's equipment compound is screened by existing tree life on the property to minimize any potentially negative visual effects of the equipment. The Tower fits in well in this neighborhood and is not an aesthetic liability among current or future surrounding uses.**

**5. Extent to which the proposed use will injure the appropriate use of, or detrimentally affect, neighboring property:**

**The Tower will not injure the appropriate use of or negatively affect neighboring property. It is structurally compliant with all local, state, and federal regulations as certified by a**

**Missouri licensed engineer and is regularly maintained by qualified technicians to assure that it does not pose any safety risk to neighboring properties. The Tower will continue to provide the community with effective wireless service in a manner that does not interfere with surrounding property uses nor pose a danger to adjacent properties.**

6. Impact on the street system to handle traffic and/or parking:

**The Tower will not cause additional foot traffic in the neighborhood. American Tower nor its customer carriers will have any permanent employees at the wireless service facility, so there will be no discernible impact on traffic. The only traffic to the facility will be for routine service to ensure that the wireless communications equipment remains in good working order.**

7. Impact of additional storm water runoff to the existing system or to the water shed area if no storm sewer is available:

**The continued existence of the Tower will not alter the existing storm water runoff system or watershed area.**

8. Impact of noise pollution or other environmental harm:

**The Tower does not generate objectionable noise, vibration, smoke, dust, odors, heat, glare or other effects that might injure adjacent properties. The Tower is regularly maintained by qualified technicians to assure that the equipment operates at optimal condition so that no threat of explosion, fire or other danger to life or property occurs.**

9. Potential negative impact on neighborhood property values:

**The Tower does not negatively impact neighborhood property values. Rather, it bolsters values by providing convenient and attractive wireless service to residents and businesses.**

10. Extent to which there is a need of the proposed use in the community:

**This Tower is necessary for the continued provision of wireless service to the surrounding community. As the only Tower in the immediate neighborhood, it has been a primary source of wireless service in the community for nearly twenty years. Indeed, it is the only tower over 90 feet high within the surrounding two miles of its siting. The Tower both transmits wireless service to users and serves as a communication center for the local AT&T wireless service network via its multiple dish panels. Continued wireless service is hugely beneficial for personal and business purposes to the individuals and commercial entities in neighborhood and therefore to the community overall.**

11. Economic impact on the community:

**The Tower positively impacts the community's economic welfare. It encourages business investment in the community by providing a desirable and convenient service to existing**

businesses. American Tower's facility also further benefits the public interest because wireless communication capabilities remain highly attractive to prospective residents and businesses. Finally, the City will continue to benefit from tax revenue generated by the facility.

12. Extent to which public facilities and services are available and adequate to satisfy the demand generated by the proposed use:

**The Tower does not threaten the City through demand generated for which public facilities and services are required. Unlike a new business or residence, American Towers' use is passive. There will be no additional burden on municipal services, such as sewers, police, or fire protection. The proposed facility requires no water or sewer services, and will not generate objectionable noise, vibration, smoke, dust, odors, heat, glare or other effects. No additional foot traffic will occur in the neighborhood. American Tower and AT&T will not have any permanent employees or customers at the wireless service facility, thus there will be no discernible impact on traffic. This is a use that may be continued without increasing demands upon municipal services.**

13. Comparison of the benefit gained to the public health, safety and welfare of the community if approved versus the hardship imposed upon landowner if the requested application is denied:

**The Tower serves to fill a need of the community in a minimally intrusive manner. It decreases the need for additional new wireless facilities in the community and increases wireless coverage. The availability of wireless communication service enhances community safety and is increasingly relied upon by civil defense and other safety officers as well as the general public in times of crisis, natural disaster, bad storms or similar circumstances. Wireless communication service also provides a convenience to residents and is an attractive feature and service to businesses. The Tower facility, by providing these services to the City, will promote the health, safety, convenience and general welfare of the inhabitants of Lee's Summit.**

14. Conformance to the UDO, and current policies and ordinances:

**The Tower is in substantial compliance with the Uniform Development Ordinance and current policies. The Tower is allowed by Special Use permit in its current location under Sec. 6.020 of the Ordinance. It is certified by a Missouri licensed engineer to be structurally compliant and in conformance with all applicable construction standards set forth by City code, state and federal law as required by Sec. 6.1200(F)(2). It was personally inspected as recently as May 2018 by a Missouri licensed American Tower engineer and deemed fully compliant with ANSI-TIA/EIA-222 regulations. The Tower is compliant with Sec. 6.1200(F)(3)(c) separation requirements, as it is over two miles away from any other telecommunication tower over 90 feet tall and well over one and one-half times its height distance from any existing residential use. The Tower is currently legally nonconforming with regard to setback regulations, being setback from property lines a distance less than its 300 foot height. However, in the extremely unlikely event of failure, the Tower is designed to collapse within a radius of 150 feet, substantially mitigating setback shortages. The Tower's**

**guy anchors are compliant with the applicable 10 foot setback requirement, and its accessory equipment is compliant with underlying Agricultural district setback regulations. The Tower facility is also in conformance with security fencing, design, lighting and landscaping requirements for telecommunication facilities set out under Sec. 6.1200.**

15. Consistency with permitted uses in the area in which the special use is sought:

**The Tower facility is consistent with permitted uses in the area in which the special use is sought. The subject property is surrounded by undeveloped agricultural land and commercial development. There is an animal clinic facility to the south, an electric transformer station to the west, and a group of commercial businesses across the highway to the east. The Tower provides effective wireless service to these commercial facilities in a non-visually intrusive manner that does not conflict with the character of the neighborhood.**

#### **IV. DURATIONAL TERM**

American Tower is seeking an unlimited durational term for this Special Use Permit pursuant to Senate Bill No. 650 enacted by the Missouri General Assembly in 2014. Missouri Senate Bill No. 650 prohibits permitting authorities from placing expiration dates on telecommunication tower permits. Specifically, under Sec. 67.5094 (14), “in order to ensure uniformity across the state of Missouri with respect to the consideration of every application, an authority shall not limit the duration of the approval of an application.” S.B. 650, 2014 General Assembly, Second Reg Sess. (MO. 2014). Based on this Missouri state law, this Special Use Permit is respectfully being requested without a set term or expiration date.

#### **V. CONCLUSION**

This Tower has been a constant in the neighborhood for over twenty years, with the surrounding community growing up with it and relying on its presence for wireless service. Its longstanding existence on the property and its consistent service reliability speak to its belonging in community. The proposed Tower, if renewed, will continue to have a great benefit to the community in the form of top-quality wireless service and enhanced access to emergency services.

For the foregoing reasons, 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, codified at 47 U.S.C. §332(c)(7)(B), the Applicant respectfully requests that Special Use Approval be granted in order to allow the continued operation of the proposed wireless communications facility.