



To: Franklin County Board of County Commissioners
From: Pat Toth
Department: Planning & Building
Date: Wednesday, April 5, 2023

AGENDA ITEM NARRATIVE

Approval of Special Use Permit Application #2301-2032 (Tillman Infrastructure) to allow for the construction, operation and maintenance of a 185-foot high telecommunication tower in an A-1 (Agriculture) Zoning District.

BACKGROUND

The applicant is requesting approval of a Special Use Permit for the construction, operation and maintenance of a 185-foot high telecommunication tower in an A-1 (Agriculture) Zoning District. The project site is commonly known 1209 Eisenhower Avenue and is located on the East side of Eisenhower Avenue and on the North side of West 13th Street, on property generally described as the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) and the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section 2, Township 17 South, Range 19 East. This property abuts the city limits to the City of Ottawa on the East and South sides and a small portion on the North side.

The proposed tower structure is 185 feet high with four (4) additional feet in height for the lightning rod and other related apparatus. The tower would be a self-supporting galvanized steel lattice structure. The tower would include four (4) antenna arrays that can accommodate up to four (4) different carriers. AT&T and FirstNet have already contracted with Tillman Infrastructure to locate facilities on the tower, which will provide improved coverage and capacity for the area.

The tower site is approximately 75' x 75' in size and would be enclosed with a six foot (6') high chain link fence with road gate at entrance for signage. A new 12' wide gravel access road from Eisenhower Road to the compound will be added. The power and fiber will run underground from the site to the nearest utility pole to the fenced lease area.

Notice was sent to thirty-one (31) surrounding property owners as well as other County Department and Agencies. The comments that were received by the Planning Department are attached and one (1) person appeared at the public hearing (see draft minutes attached).

The Planning Commission has recommended approval of the Special Use Permit to allow for the construction, operation and maintenance of a 185-foot high telecommunication tower in an A-1 (Agriculture) Zoning District based on the findings and subject to the conditions listed in the Resolution.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve Special Use Permit Application #2301-2032 (Tillman Infrastructure) to allow for the construction, operation and maintenance of a 185-foot high telecommunication tower in an A-1 (Agriculture) Zoning District based on the findings and subject to the nine (9) conditions recommended by the Planning Commission.

SPECIFIC ACTION REQUESTED

An Affirmative motion in support of this item would read as follows: "I make a motion to approve Special Use Permit Application #2301-2032 (Tillman Infrastructure) to allow for the construction, operation and maintenance of a 185-foot high telecommunication tower in an A-1 (Agriculture) Zoning District based on the findings and subject to the nine (9) conditions cited in the attached Resolution".

ATTACHMENTS

Applicant Submittals

Comments Received

Zoning Map

Aerial Photo (4)

Excerpt of Draft Planning Commission Minutes

Resolution



**A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #2301-2032
(TILLMAN INFRASTRUCTURE) TO PERMIT CONSTRUCTION, OPERATION AND
MAINTENANCE OF A 185-FOOT HIGH TELECOMMUNICATION TOWER IN AN A-1
(AGRICULTURE) ZONING DISTRICT**

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on February 21, 2023 that public hearing would be held to consider Special Use Permit application #2301-2032 (Tillman Infrastructure) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on March 16, 2023 hold a public hearing for the consideration of Special Use Permit application #2301-2032 (Tillman Infrastructure) to allow for the construction, operation and maintenance of a 185-foot high telecommunication tower; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 23, Section 23-1 through 23-5 setting out the procedures and basis for review in considering a Special Use Permit including the following criteria:

- a. Whether the use is in compliance with, and would further enhance the implementation of, the adopted Comprehensive Plan;
- b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
- c. Whether the use complies with other adopted standards of the County;
- d. Whether the use fits the character of the neighborhood
- e. Whether the use would be unduly detrimental to surrounding properties and uses;
- f. The suitability of the subject property for the proposed use;
- g. Approval of mitigation measures to minimize impacts to surrounding properties or services; and

WHEREAS, the Planning Commission, after due consideration of the criteria set forth in Article 23, Section 23-5.04 of the County Zoning Regulations, the relative factors of the Supreme Court case of Golden vs. City of Overland Park, together with all written reports and public testimony, the Planning Commission, by majority of its membership did find the following:

1. That the Special Use Permit is consistent with the County Zoning Regulations
2. That the Special Use Permit is in conformance with, and would further enhance, the County Comprehensive Plan
3. That, as conditioned, the Special Use Permit will not overburden the County roads and other public services
4. That, as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community
5. That, as conditioned, the Special Use Permit will not impact property values of the surrounding properties
6. That, as conditioned, the Special Use Permit will comply with all other County Codes and Regulations
7. That the subject property is suitable for the proposed use.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #2301-2032 (Tillman Infrastructure) as follows:

Section 1: Special Use Permit #2301-2032 (Tillman Infrastructure) is granted for the following described property:

A rectangular tract of land in the Northwest 1/4 of the Southwest 1/4 of Section 2, Township 17, Range 19, that is 360 feet north and south by 363 feet east and west and the west line of which fronts on Eisenhower Avenue and the south line of which is 50 feet south of the south side of the residence currently located thereon, Franklin County, Kansas, along with an easement for a water line to the residence over the remaining portion of said Northwest 1/4 of the Southwest 1/4 and over the Southwest 1/4 of the Northwest 1/4 of Section 2, Township 17, Range 19, where such line is currently located; and The Northwest 1/4 of the Southwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 2, Township 17, Range 19, Franklin County, Kansas.

Section 2: The Special Use Permit for the real property described above shall be authorized for the construction, operation and maintenance of a 185-foot high telecommunication tower pursuant to the Franklin County Zoning Regulations and the following conditions:

1. That the tower base be enclosed with a 6'6" high chain link fence with security barbed wire. Access to the enclosed area shall be locked at all times except when being used by company employees.
2. That lighting on the tower shall be in compliance with Federal Aviation Administration lighting standards.
3. That the communication facilities comply with all requirements of the Federal Communication Commission.
4. That a sign be placed on the security fence around the tower base to include a telephone number of a responsible party in the event of an emergency.
5. That the tower base and access easement be kept free of noxious weeds, litter and debris.
6. That the tower and related facilities comply with the County Building Codes and Permits.
7. Two (2) on-site parking spaces shall be provided and maintained on an all-weather surfaced area in accordance with the standards set forth in Article 21 of the County Zoning Regulations.
8. That the tower be located 200 feet from any property line or buildings.
9. That the Special use permit shall be null and void by operation of law if said permit has not been initiated and utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 5th day of April, 2023. This action shall become effective upon publication in the official county newspaper.

Ianne Dickinson
Chairman

Received and recorded this the 5th day of April, 2023.

Janet Paddock
County Clerk