

The Mayor and Board of Aldermen of the City of Hernando met in regular session at City Hall on Tuesday, November 4, 2014, at 6:00 P.M. with Mayor Chip Johnson presiding. Aldermen present were: Sonny Bryant, Andrew Miller, Gary Higdon, Alderman McLendon, Cathy Brooks, and Jeff Hobbs. Also present for the meeting were: City Clerk Katie Harbin, City Attorney Kenny Stockton, City Engineer Joe Frank Lauderdale, Police Chief Mike Riley, Fire Chief Hubert Jones, Planning Director Jared Darby, Jerry Skipper, John Wade, Anita Savage, Darrell Eldred, Brad Cook, Bruce T Naillieux, Rita Naillieux, C Shane Presley, Bill Bailey, Henry Bailey, Robert Long, Chip Hatcher.

INVOCATION

Alderman Miller gave the invocation.

APPROVAL OF AGENDA

Agenda
City of Hernando
Mayor and Board of Alderman
Regular Meeting

November 4, 2014

6:00pm

- 1) Call the meeting to order
- 2) Invocation
- 3) Approve Agenda
- 4) Approve Docket of Claims No.'s 105779 – 105970 less 105794, 105796, 105797, 105798
- 5) Approve Docket of Claims No.'s (Lauderdale) 105796 and 105797
- 6) Approve Docket of Claims No.'s (Miller) 105794 and 105798
- 7) Approve Minutes from Regular Meeting on October 21, 2014
- 8) Approve Minutes from Special Meeting on October 28, 2014
- 9) Consent Agenda
 - A) Authorize Katie Harbin, Carla Scallorn, and Julie Harris to attend the Clerks Winter Conference in Jackson, MS on December 17-19, 2014, also authorize to pay registration and travel expenses.
 - B) Authorize Jared Darby to attend Alabama – Mississippi State APA Conference in Tupelo, MS on November 12 – 14, 2014, also authorize to pay registration and travel expenses.
 - C) Authorization the City of Hernando to declare Friday November 28, 2014 in further observance of the Thanksgiving holiday, Wednesday December 24, 2014 in further observance of Christmas, and Friday January 2, 2015 in further observance of New Year's day a holiday in accordance with the Governor's Proclamation dated October 23, 2014

- 10) Application for **Preliminary and Final Plat Approval** for Eldred Subdivision, submitted by **Darrell Eldred**. The subdivision is comprised of one lot totaling 7.05 acres located on the north side of Pleasant Hill Road just east of the Interstate 55 in Section 30, Township 2, Range 7. The property is currently zoned "A-R," Agricultural Residential
- 11) Authorize staff to call Robertson Place Subdivision construction bond, \$175,000
- 12) Appeal from the Planning Commission's decision to deny application for a **Conditional Use Permit**, submitted by **Belinda Bodie with Neel-Schaffer**, requesting to be allowed to construct a telecommunications tower at the rear of the First Presbyterian Church of Hernando. More specifically, 1455 McIngvale Road. Subject property consists of 9.52 acres and is zoned A, Agricultural. Subject property is located on the south side of Byhalia Road and west of McIngvale Road; in Section 7, Township 3, Range 7
- 13) Authorize the City of Hernando's Chief Local Public Agency (LPA) official, Mayor Johnson, to activate signalization project at Nesbit Road and Highway 51 for the amount of \$300,000. The project is federally funded through the Memphis, Metropolitan Planning Organization (MPO). No local match is required.
- 14) Authorize to move part time Dispatcher Kalon Hailey to full time.
- 15) Authorize to declare SWAT bus as surplus to be sold at an auction (VIN 1GBKH31K3T3309603)
- 16) Authorize to declare Narcotics vehicle, 1999 Jeep (VIN1J4GW58S6XC738744) surplus and dispose of
- 17) Authorize to declare Narcotics vehicle, 1993 Buick (VIN1G4AG55N4P6486221) surplus and dispose of
- 18) Adjourn

Motion was duly made by Alderman Higdon, and seconded by Alderwoman Brooks, to approve the agenda. A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, and Alderman Hobbs.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

APPROVE DOCKET OF CLAIMS NO.'S 105779 – 105970 LESS 105794, 105796, 105797 AND 105798

The Board of Aldermen were presented with a docket of claims No. 105779 - 105970 less 105794, 105796, 105797, and 105798 in the amount of \$351,203.69 for approval.

Motion was duly made by Alderman Bryant, and seconded by Alderman McLendon to approve the docket of claims for payment as presented. A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, and Alderman Hobbs.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

APPROVE DOCKET OF CLAIMS NO. 105796 AND 105797 (LAUDERDALE)

Alderman Lauderdale was not present.

The Board of Aldermen were presented with a docket of claims No. 105796 and 105797 in the amount of \$408,148.21 for approval.

Motion was duly made by Alderman Miller, and seconded by Alderman Higdon to approve the docket of claims for payment as presented. A vote was taken with the following results:

Those voting "Aye": Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, and Alderman Bryant.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

APPROVE DOCKET OF CLAIMS NO. 105794 AND 105798 (MILLER)

Alderman Miller recused himself and left the room.

The Board of Aldermen were presented with a docket of claims No. 105794 and 105798 in the amount of \$68,784.21 for approval.

Motion was duly made by Alderman Hobbs, and seconded by Alderwoman Brooks to approve the docket of claims for payment as presented. A vote was taken with the following results:

Those voting "Aye": Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, Alderman Bryant, Alderman Miller, and Alderman Higdon.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

APPROVE MINUTES FROM THE REGULAR BOARD MEETING ON OCTOBER 21, 2014

Motion was duly made by Alderman Higdon and seconded by Alderman Hobbs to approve the Minutes from the regular Board Meeting on October 21, 2014 as presented. A vote was taken with the following results:

Those voting "Aye": Alderwoman Brooks, Alderman Hobbs, Alderman Bryant, Alderman Miller, Alderman Higdon, and Alderman McLendon.

Those voting "Nay": None.

Alderman Lauderdale abstained from voting.

ORDERED AND DONE this the 4th day of November, 2014

APPROVE MINUTES FROM THE SPECIAL BOARD MEETING ON OCTOBER 28, 2014

Motion was duly made by Alderman Bryant and seconded by Alderman Miller to approve the minutes from the Special Board meeting on October 28, 2014. A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, and Alderwoman Brooks.

Those voting "Nay": None.

Alderman Hobbs, Alderman Higdon, and Alderman McLendon abstained from voting.

This motion died due to lack of a quorum.

Motion was duly made by Alderman Bryant, and seconded by Alderman Miller to table approving the Minutes from the Special Board Meeting on October 28, 2014 until the next Board meeting. A vote was taken with the following results:

Those voting "Aye": Alderman Hobbs, Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, and Alderwoman Brooks.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

CONSENT AGENDA

- A) Authorize Katie Harbin, Carla Scallorn, and Julie Harris to attend the Clerks Winter Conference in Jackson, MS on December 17-19, 2014, also authorize to pay registration and travel expenses.
- B) Authorize Jared Darby to attend Alabama – Mississippi State APA Conference in Tupelo, MS on November 12 – 14, 2014, also authorize to pay registration and travel expenses.
- C) Authorization the City of Hernando to declare Friday November 28, 2014 in further observance of the Thanksgiving holiday, Wednesday December 24, 2014 in further observance of Christmas, and Friday January 2, 2015 in further observance of New Year's day a holiday in accordance with the Governor's Proclamation dated October 23, 2014

Motion was duly made by Alderman Miller, and seconded by Alderman Hobbs to approve the consent agenda. A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, and Alderman Hobbs.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

**APPLICATION FOR PRELIMINARY AND FINAL PLAT APPROVAL FOR ELDRED
SUBDIVISION, SUBMITTED BY DARRELL ELDRED. THE SUBDIVISION IS
COMPRISED OF ONE LOT TOTALING 7.05 ACRES LOCATED ON THE NORTH
SIDE OF PLEASANT HILL ROAD JUST EAST OF THE INTERSTATE 55 IN
SECTION 30, TOWNSHIP 2, RANGE 7. THE PROPERTY IS CURRENTLY ZONED
"A-R", AGRICULTURAL RESIDENTIAL**

Jared Darby Presented the application.

MAYOR AND BOARD OF ALDERMEN
4, 2014
FILE: PL-1058

DATE: November

CAPTION: Preliminary/Final Subdivision; Eldred Subdivision; Darrell Eldred

INTRODUCTION:

Darrell Eldred, the owner of the subject property, is requesting a preliminary and final plat approval for a subdivision along the north side of Pleasant Hill Road and west of McIngvale Road North. Eldred Subdivision will consist of one lot.

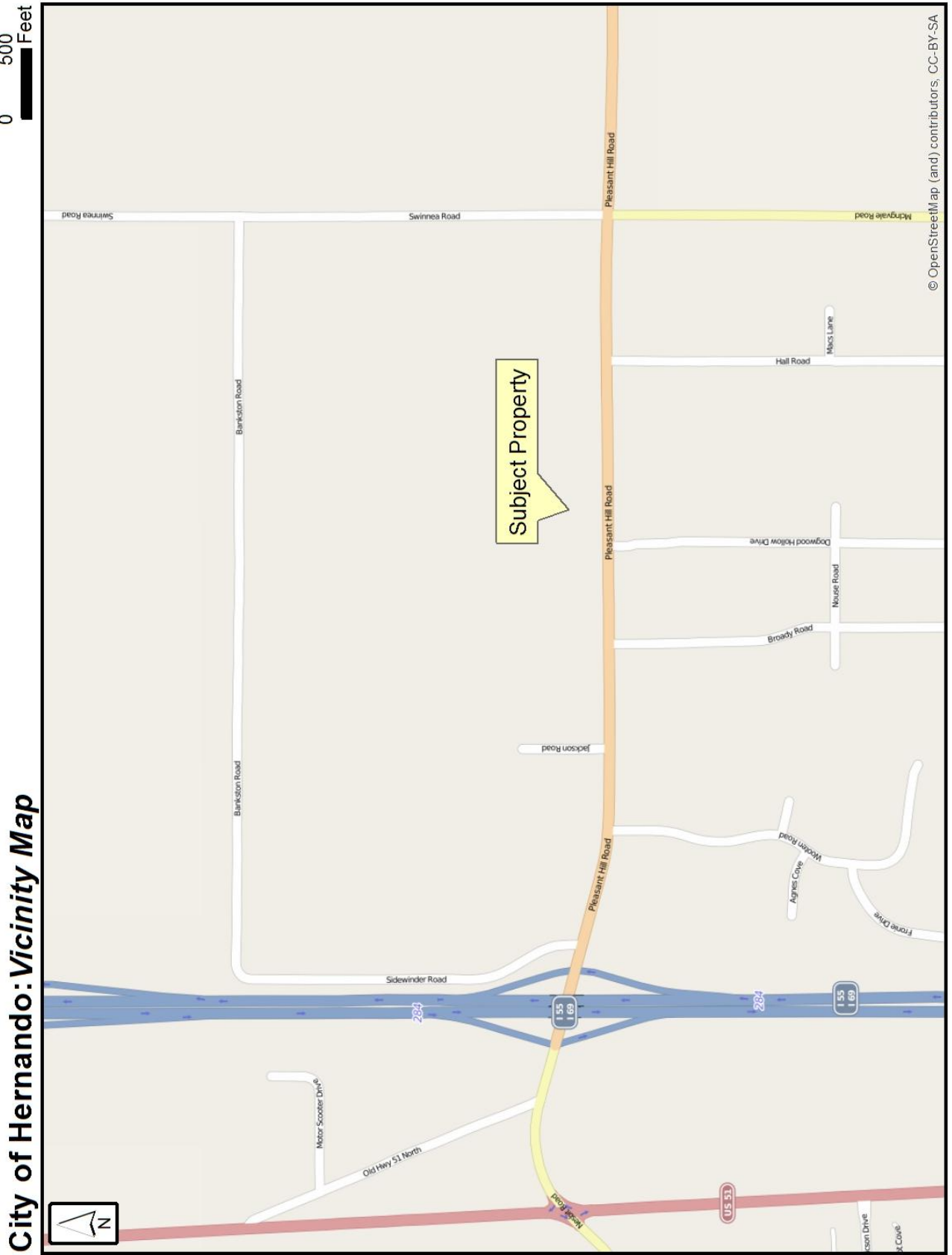
DESCRIPTION:

Lot 1 will be comprised of 7.05 acres. The lot is located in an Agricultural-Residential, "A-R" zoning district. The lot is shaped in an irregular flag shaped pattern with the stem portion of the lot attached to Pleasant Hill Road for access. Total width of the lot to the north equals 625.94 ft., which represents the largest continuous portion of the lot. The depth of the lot totals 808.37 ft. Total frontage for the lot is 100 ft. The lot has a small barn, a garage/apartment, and a pond currently within the proposed subdivision boundaries. There is no sanitary sewer available, but an existing septic system is on site. The County Health Department will need to review the sewage system for approval before the plat is filed at the DeSoto Chancery Court Clerk's Office. The remaining utilities are present and are ready to serve the lot.

PLANNING COMMISSION COMMENTS:

The Commission has found that the geometry of the proposed plat meets the City of Hernando's Subdivision Regulations, and the lot is within keeping of the character of the neighborhood. Therefore, the Commission recommended to approve the subdivision to the Mayor and Board of Aldermen with the following conditions of approval:

- A) Improvements to be the responsibility of the developer and not the responsibility of the City of Hernando.
- B) Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
- C) Streetlight plans to be submitted to the City Engineer for approval.
- D) All utilities and services (electric, telephone, cable, etc.) to be installed underground. The water service lines shall be installed with tracing wire at the top.
- E) Water and sewer service to be approved by the Health Department.
- F) Final approval by the Board of Aldermen and recording of the plat.
- G) No relocated buildings shall be allowed.
- H) Relationship of the subdivision to the section, township, and range shall be illustrated upon the plat.
- I) The lines of all proposed streets their widths shall be illustrated.
- J) The lines of all adjoining properties shall be illustrated.
- K) A title block with the following information shall be located at the bottom right hand corner of the plat: name of the subdivision, graphic scale of the plat, date, name of the owner, and current zoning.
- L) Sketch map (Vicinity map) shall illustrate relationship to site area including township, range, section, and parts of sections.
- M) Proper utility easements shall be illustrated.



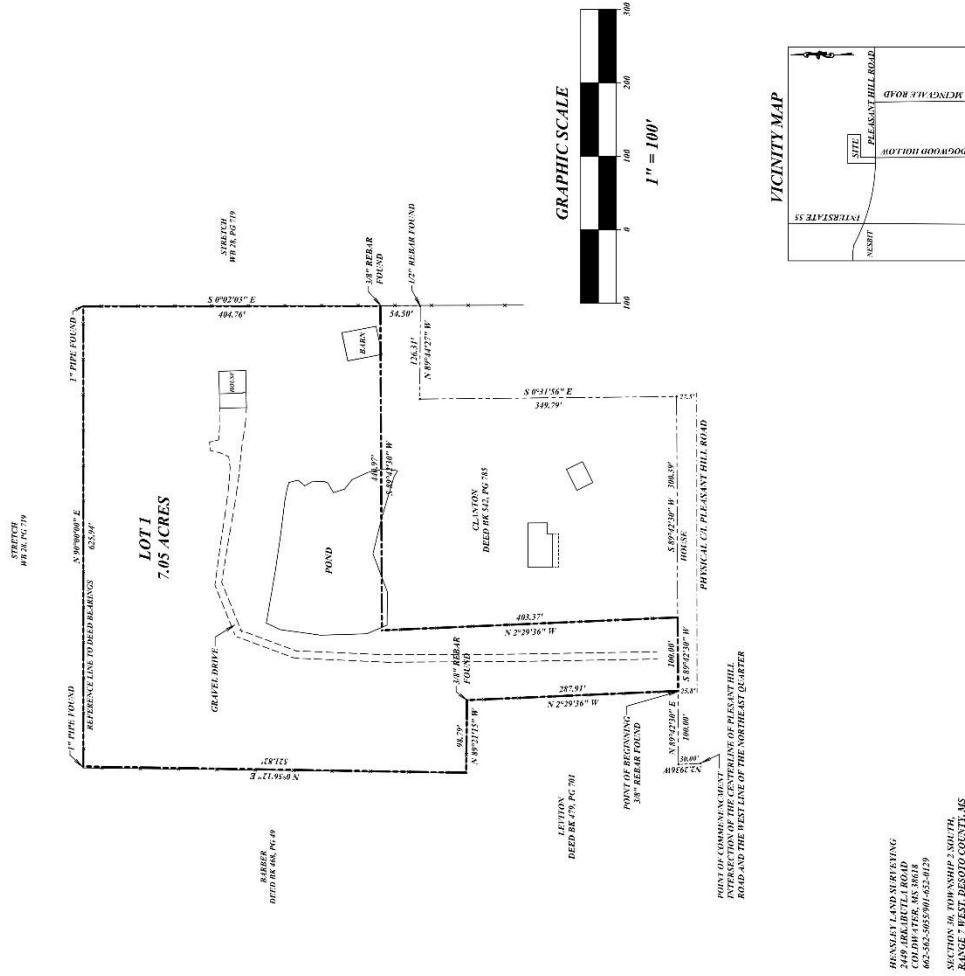
City of Hernando: Aerial Map

0 200 Feet



Source: Esri, DigitalGlobe, GeoEye, Earthstar (USA), USGS, Aero, GEBCO, CNR, IGN, DP, and the GIS User Community

**ELDRED ONE LOT SUBDIVISION
BEING PART OF THE NORTHEAST QUARTER OF
SECTION 30, TOWNSHIP 2 SOUTH, RANGE 7 WEST,
DESOTO COUNTY, MISSISSIPPI**



OWNER'S CERTIFICATE
I, the owner of the property hereby adopt this subdivision and dedicate the same as a public use to the City of Hernando County, Mississippi, for the public use to be known as the subdivision shown on this plat. I HEREBY CERTIFY THAT I AM THE OWNER IN FEE SIMPLE, AND THAT NO PART THEREOF BEING PAID FOR, THIS THE _____ DAY OF _____, 2014.

OWNER

NOTARY'S CERTIFICATE
PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED AUTHORITY IN AND FOR HIS COUNTY AND STATE, ON THIS THE _____ DAY OF _____, 2014, WHO ACKNOWLEDGED THAT HE SIGNED AND DELIVERED THE FOREGOING PLAT FOR THE PURPOSE THEREIN MENTIONED.

NOTARY

NOT COMMISSION EXPIRES _____

CERTIFICATE OF SURVEY
THIS IS TO CERTIFY THAT I HAVE RUN THIS PLAT FROM A SURVEY BY ME IN FEE SIMPLE, AND FROM RECORDS OF RECORD AND THAT THE PLAT REPRESENTS THE INFORMATION AND THAT IT IS TRUE AND CORRECT.

MICHAEL J. HENSLEY, PLS

CITY OF HERNANDO CERTIFICATE
APPROVED BY THE CITY OF HERNANDO COUNTY, MISSISSIPPI, PLANNING COMMISSION ON THIS THE _____ DAY OF _____, 2014.

CHAIRPERSON

SECRETARY

APPROVED BY THE HERNANDO COUNTY BOARD OF ALDERMEN ON THIS THE _____ DAY OF _____, 2014.

MAYOR

CITY CLERK

CITY CLERK'S CERTIFICATE
CITY OF HERNANDO, DESOTO COUNTY, MISSISSIPPI
I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT SHOWS THEREON WAS FILED FOR RECORD BY _____ ON _____, 2014, AND WAS FILED IN PLAT BOOK NUMBER _____ ON PAGE _____.

CITY CLERK

CHAIRMAN'S CERTIFICATE
DESOTO COUNTY, MISSISSIPPI
I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT SHOWS THEREON WAS FILED FOR RECORD BY _____ ON _____, 2014, AND WAS FILED IN PLAT BOOK NUMBER _____ ON PAGE _____.

CHAIRMAN

Motion was duly made by Alderman Higdon, and seconded by Alderman Hobbs to approve the application for preliminary and final plat approval for Eldred Subdivision, submitted by Darrell Eldred. The subdivision is comprised of one lot totaling 7.05 acres located on the north side of Pleasant Hill Road just east of the Interstate 55 in section 30, Township 2, Range 7. The property is currently zoned "A-R", Agricultural Residential. A vote was taken with the following results:

Those voting "Aye": Alderwoman Brooks, Alderman Hobbs, Alderman Lauderdale, Alderman Bryant, Alderman Miller, Alderman Higdon, and Alderman McLendon.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

**AUTHORIZE STAFF TO CALL ROBERTSON PLACE SUBDIVISION
CONSTRUCTION BOND, \$183,750**

MEMORANDUM

TO: MAYOR AND BOARD OF ALDERMEN
FROM: JARED DARBY, PLANNING DIRECTOR
SUBJECT: ROBERTSON PLACE
DATE: 11/24/2014
CC: KATIE SUBIA, CITY CLERK

Robertson Place Subdivision's infrastructure bond is set to expire on November 19th, 2014. The bond total is \$175,000. The City Engineer has reviewed the subdivision and has recommended that the bond amount be increased to \$183,750. In the event that the developer, Butch Davis, or the bond holder, Bank Plus, does not wish to renew the bond for the requested amount staff requests the authority from the Mayor and Board of Aldermen to call the bond before November 19th, 2014 expiration date.

Motion was duly made by Alderman Miller, and seconded by Alderman Higdon to authorize the staff to call the Robertson Place Subdivision construction bond of \$183,750.00 if not renewed. A vote was taken with the following results:

Those voting "Aye": Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, Alderman Bryant, Alderman Miller, and Alderman Higdon.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

APPOINT SPECIAL MAYOR PRO TEM

Motion was duly made by Alderman Hobbs, and seconded by Alderman Bryant to appoint Alderman Higdon to act as Special Mayor Pro Tem. A vote was taken with the following results:

Those voting "Aye": Alderman Higdon, Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, Alderman Bryant, and Alderman Miller.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

**APPEAL FROM THE PLANNING COMMISSION'S DECISION TO DENY
APPLICATION FOR A CONDITIONAL USE PERMIT, SUBMITTED BY BELINDA
BODIE WITH NEEL-SCHAFFER, REQUESTING TO BE ALLOWED TO
CONSTRUCT A TELECOMMUNICATIONS TOWER AT THE REAR OF THE FIRST
PRESBYTERIAN CHURCH OF HERNANDO. MORE SPECIFICALLY, 1455
MCINGVALE ROAD. SUBJECT PROPERTY OF 9.52 ACRES AND IS ZONED A,**

AGRICULTURAL. SUBJECT PROPERTY IS LOCATED ON THE SOUTH SIDE OF BYHALIA ROAD AND WEST OF MCINGVALE ROAD; IN SECTION 7, TOWNSHIP 3, RANGE 7

Mayor Johnson and Alderwoman Brooks recused themselves and left the room.

Jared Darby presented the appeal on the Planning Commission's decision to deny the application for a conditional use permit, submitted by Belinda Bodie with Neel-Schaffer, requesting to be allowed to construct a telecommunications tower at the rear of the First Presbyterian Church of Hernando.

**MAYOR AND BOARD OF ALDERMEN
FILE: PL-1065**

DATE: November 4, 2014

CAPTION: Conditional Use Permit Appeal, C Spire 160' Telecommunication Tower, Cellular South Real Estate, Inc.

INTRODUCTION:

Belinda Bodie with Neel-Schaffer is representing the applicant Cellular South Real Estate, Inc. who in turn is wishing to establish a lease with the First Presbyterian Church of Hernando for a new 160 ft. telecommunications tower. The property is zoned "A," Agricultural and totals 9.53 acres. The subject property is located south of Byhalia Road and west of McIngvale in Section 7, Township 3, and Range 7.

DESCRIPTION:

Cellular South Real Estate, Inc. is proposing to locate a new telecommunications tower to the rear of First Presbyterian Church of Hernando. The total lease space is comprised of a 60' x 60' square tucked away near existing trees. The lease area will be screened by a treated 8 ft. wood fence. The facility will be accessed by roughly 400 ft. limestone access drive. An additional easement is illustrated upon the site plan to allow for utilities to access the facility. The telecommunications tower itself will stand 160 ft. in height with an additional 10 ft. lightning rod atop of the pole. The width of the pole at the base was not given. The Board will note that the pole is not a stealth pole meaning the receiving and transmission antennas are mounted on the exterior of the pole. The materials and color of the telecommunications tower was not specified in the submitted drawings. In addition, the equipment and equipment sheltering structure lacked material detail.

CONSIDERATIONS:

1. Will the proposed use substantially increase traffic hazards or congestion?

Applicant: The applicant states that traffic would be limited to one trip per month by a technician in a standard truck or sports utility vehicle. Therefore, no increase in traffic hazards are expected.

Planning Commission: The Commission agreed with the applicant's statements.

2. Will the proposed use substantially increase fire hazards?

Applicant: The applicant states that the facility will meet all codes and not increase fire hazards.

Planning Commission: The Commission agreed with the applicant's statements.

3. Will the proposed use adversely affect the character of the neighborhood?

Applicant: The applicant states that that the proposed facility is a monopole design with low profile antennas with no support wires.

Planning Commission: The Commission found that a construction of a telecommunications tower would adversely affect the character of the surrounding residential neighborhoods.

4. Will the proposed use adversely affect the general welfare of the City?

Applicant: The applicant states that proposed facility will actually benefit the general welfare of the City by providing more reliable wireless coverage to the citizens of Hernando.

Planning Commission: The Commission found that the City would be adversely affected given the proximity of the tower to multiple residential subdivisions, the height of the tower, and the proximity of the proposed tower to the McIngvale growth corridor.

5. Will the proposed use overtax public utilities or community facilities?

Applicant: The applicant states that the proposed site will not overtax the existing public utilities nor will it impact community facilities.

Planning Commission: The Commission agreed with the applicant's statements.

6. Will the proposed use be in conflict with the General Development Plan?

Applicant: Per the City of Hernando regulations, monopole communication facilities are permitted in any district upon approval of a conditional use permit.

Planning Commission: The Commission found that the City's Future Land Use Map labels the subject property area as Activity – Institutional District. The purpose of this category is to provide for public and private schools, places of worship, government and civic facilities, community centers, libraries, museums, cemeteries, some cultural facilities, and similar community-oriented uses providing a public or semi-public service. Outdoor recreational activities area generally not included in this category.

The Commission found that the requested conditional use permit does not conform to the General Development Plan's land uses for Activity – Institutional District. A utility station or telecommunication tower is not specifically listed or under any broad type of land use category type.

APPLICANT COMMENTS:

Below is additional comments provided by the applicant's engineer:

After an exhaustive process that lasted over a year, C SPIRE's RF Design Department has concluded that all the proposed alternative candidates for tower site I-55 Hernando will not be able to provide satisfactory solution to the coverage/capacity issues of CSire's network in Hernando area between Hwy 304 and Dilworth Lane. The existing flagpole tower at the intersection of Byhalia Rd. and I-55 is located 0.39 miles west of the proposed location and it will limit CSpire's equipment to 100 ft. centerline. This limitation will severely curtail our ability to provide adequate coverage to our customers in the area. Furthermore there is no other tower structure in the same vicinity as the proposed tower capable of accommodating C Spire's equipment. In the final analysis the only location that provides the optimum results is the proposed one near the First Presbyterian Church.

- Nikolaos Kritzilis, RF Engineer, C Spire Wireless

STAFF COMMENTS:

A copy of the City of Hernando's Telecommunication Tower Ordinance is included with this report. After reviewing the ordinance, staff has provided the following analysis to the Planning Commission:

Staff has found that the required application materials were submitted and accounted for at the time of payment. Staff acknowledges that monopole telecommunication towers may be located in all zoning districts except for residential districts excluding multi-family districts if the Planning Commission should make findings through the conditional use permit criteria that a telecommunications tower is warranted. The proposed site is located in an "A," Agricultural Zoning District and; therefore, the tower does not require Alternative Mounting Structures or a Stealth Monopole.

Under the telecommunication tower standards, staff has found that the applicant has not received Federal Aviation Administration approval, but has submitted an application with the current status labeled as "Work in Progress." Engineered drawings were submitted for staff review, but there was no mention of the EIA 222 standards, which are the Electronic Industry Alliance standards for structural integrity. Staff does note that the construction plans do provide notes that co-location can be provided for. All other standards such as fencing, setbacks, signage, lighting, and noise are within keeping of the telecommunication ordinance.

Other ordinance considerations outside of the telecommunication ordinance should be considered as well. The Design Regulations require that all access for vehicles shall be paved with asphalt or concrete and not limestone. This includes any areas within the lease area that will be accessed by vehicles. As mentioned in the description there is a separate easement from the access easement for utility connections. Although not specifically listed as overhead power lines staff has made assumption that is what is being installed based upon the power pole being set next to the tower site. Subdivision and design ordinances state that new construction shall have all utilities installed underground.

Note: The applicants explained to the Commission that all zoning criteria including the telecommunication ordinance will be satisfied upon approval of the tower. Also, staff has since received the Federal Aviation Administration's (FAA) approval.

In regards to the monopole design, the antennas are located on the exterior of the pole. If the pole was located on residentially zoned property the antennas would be required to be located on the interior of the monopole. In this particular case, the site is surrounded by residential neighborhoods and residentially zoned property. The Board has the authority

through the Conditions of Approval process to require the antennas to be hidden if the Board finds that a monopole communication tower is warranted through the conditional use criteria above. A zoning map is attached for your review.

One final thought on the analysis of the telecommunications tower. Staff has included several maps for the Board to review that was provided by the applicant in regards to coverage, tower location, and signal strength. The Board should focus on the two maps labeled as "Hernando I55 at 100 ft. RC" and "Hernando I55 at 160 ft. RC." These particular maps address signal strength and tower heights for the proposed location of the tower. The Board will note that a 160 ft. tower provides for good coverage in signal, but when compared to the 100 ft. tower the coverage areas are still reasonable. The Board may wish to consider an alternate height to lessen the impact of the tower.

The Planning Commission considered public comments, applicant's statements, and staff's report before a motion was made to deny the conditional use permit. Commissioner Jernigan made the motion to deny the permit and was seconded by Commissioner Williams. The motion passed unanimously. Commissioner Fernandez and Commissioner Wills was absent from the proceedings. Commissioner Carter recused himself from hearing the application. Besides the applicant only one other person was present that was in favor of the application, Ms. Kay Dawson of 1162 Martin Circle S. Please note that staff has since received written notification through e-mail of one other supporter of the tower by the name of Kevin Tully. Mr. Tully did not provide his address. Mr. Bruce Naillieux of 1396 McIngvale Road and Mr. Corey Patrick of 1310 Bending Oak were opposed to the tower.

The applicant exercised their right to appeal the decision of the Planning Commission by submitting written notification within ten calendar days of the Planning Commission meeting to the City Clerk, Katie Harbin as well as to the Office of Planning. The appeal letter is included in the staff report. The appeal was placed on the November 4th, 2014 Mayor and Board of Aldermen agenda. According to the City of Hernando's Zoning Ordinance the Mayor and Board of Aldermen have the following options when an appeal is brought before them: The Board may affirm, reverse, or modify the Planning Commission's decision as may be proper. In addition, the Board may move to remand the application back to the Planning Commission for further review.

As a courtesy staff provides several motions for the Planning Commission to consider. As always the Planning Commission is free to modify the recommended motions to their predilection. Staff has provided the same motions for the Mayor and Board of Aldermen to consider, which like the Planning Commission the Board is free to modify the motions.

- A) Grant the conditional use permit finding that the construction of the 160 ft. telecommunications tower would not pose a fire hazard, increase traffic, not be taxing to public utilities and infrastructure, and is in keeping with the character of the neighborhood and the General Development Plan with the following conditions of approval:
 - 1. The telecommunications tower shall meet all Zoning and Design Regulation Standards for the City of Hernando.

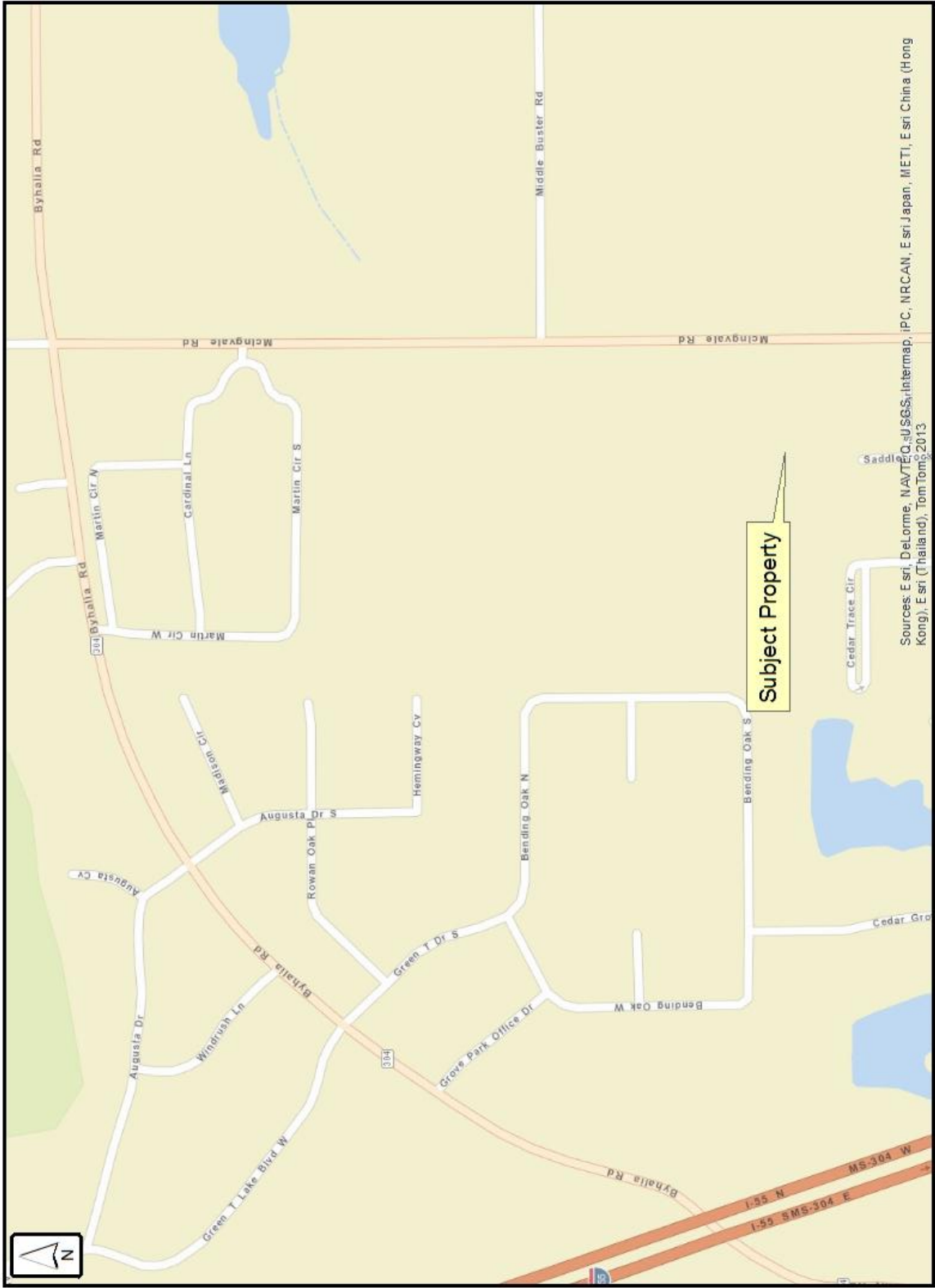
- B) Grant the conditional use permit finding that the construction of the 160 ft. telecommunications tower would not pose a fire hazard, increase traffic, not be taxing to public utilities and infrastructure, and is in keeping with the character of the neighborhood and the General Development Plan with the following conditions of approval:

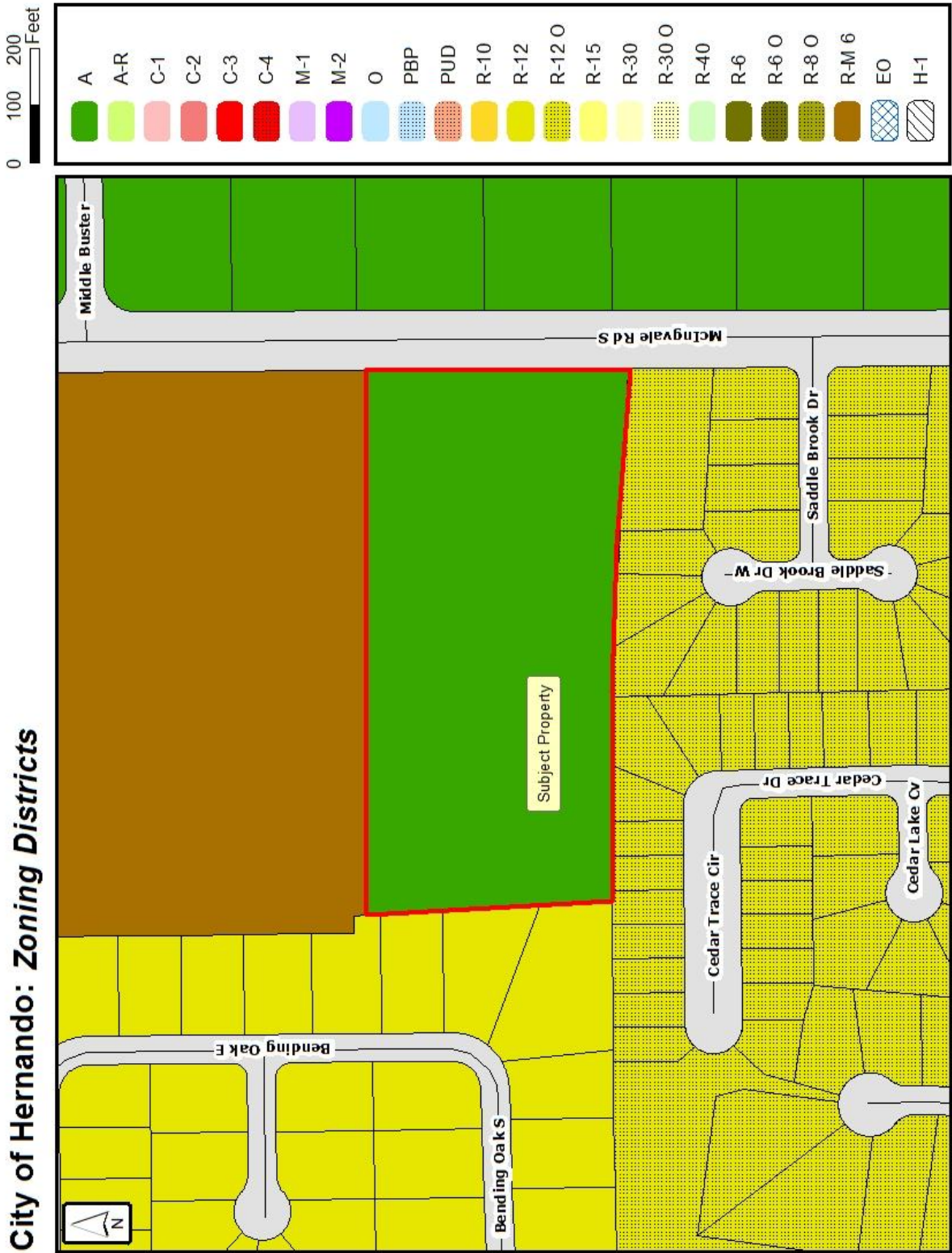
1. The telecommunications tower shall meet all Zoning and Design Regulation Standards for the City of Hernando.
 2. Antennas shall be hidden in accordance with the definition of a Stealth monopole as defined in the City of Hernando's Telecommunication Ordinance.
- C) Grant the conditional use permit finding that the construction of the 160 ft. telecommunications tower would not pose a fire hazard, increase traffic, not be taxing to public utilities and infrastructure, and is in keeping with the character of the neighborhood and the General Development Plan with the following conditions of approval:
1. The telecommunications tower shall meet all Zoning and Design Regulation Standards for the City of Hernando.
 2. Antennas shall be hidden in accordance with the definition of a Stealth monopole as defined in the City of Hernando's Telecommunication Ordinance.
 3. The telecommunication tower shall be reduced in height to _____ ft.
- D) Deny the conditional use permit finding that the requested use is in conflict with the General Development Plan and/or character of the neighborhood. The requested use is overtaxing for public utilities and infrastructure. The requested use increases fire hazards.

Please note that the applicant did not request a time period for the conditional use permit in their application. The applicant verbally requested 40 years at the Planning Commission meeting. When making a motion the Board should also include a time period if the Board finds favor with the appeal.

City of Hernando: Vicinity Map

0 500 Feet







City of Hernando: Aerial Map

**ORDINANCE OF THE CITY OF HERNANDO, MISSISSIPPI
THE HERNANDO ZONING ORDINANCE
AMENDING ARTICLE XII. ACCESSORY BUILDINGS AND USES**

**BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMAN OF THE CITY OF HERNANDO,
STATE OF MISSISSIPPI:**

THE PURPOSE OF THIS ORDINANCE AMENDMENT IS TO ADD THE FOLLOWING SECTION TO THE EXISTING ORDINANCE ARTICLE XII ENTITLED ACCESSARY BUILDINGS AND USES.

Section D.

1. Wireless Telecommunications Facilities

The purpose of this Section is to establish guidelines regulating the location of telecommunication towers and antennae with the objective of minimizing their number, protecting and promoting public safety, and mitigating adverse visual impacts on the community while promoting the provision of telecommunications service to the public.

The regulations contained in this ordinance have been developed under the following general guidelines as provided in the Federal Telecommunications Act of 1996:

- a. Cities have local authority over “placement, construction and modification” of cellular telephone facilities and other personal wireless telecommunication service facilities.
- b. Regulations “shall no unreasonably discriminate” among providers of functionally equivalent services.
- c. Regulations shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
- d. Denial shall be in writing and supported by substantial evidence.
- e. Cities may not “regulate the placement, construction and modification of personal wireless service facilities on the basis of environmental or radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission’s regulations concerning such emissions.”

Notwithstanding any other provision of this ordinance, telecommunications towers and antennae, when permitted by federal law and the laws of the State of Mississippi, shall be regulated and governed by the following use regulations and requirements.

2. General Provisions

A. Applications

1. No telecommunications tower or structure may locate within the corporate limits of the City without first filing an Application with the Office of Planning for a Conditional Use, in accordance with Article XIV.
2. The Application shall contain the following:
 - a) Name and Address of the applicant, provider, property owner and tower owner;
 - b) A description of the proposed tower and drawing or rendering depicting the tower design;
 - c) All design specifications approved and certified by a structural engineer;
 - d) Legal Description of the property upon which the tower is to be located;

- e) Names and addresses of all property owners within 500 feet to the property;
 - f) Site plan;
 - g) Map of Area to be served by the tower and comparison map showing other overlapping similar telecommunication coverage for said area; and
 - h) Such other information as required by the Planning Commission to evaluate the application.
2. Prior to granting the Application for a Conditional Use Permit, the Applicant shall demonstrate to the City that there are no viable alternatives to the placement of the tower, that the tower is compatible with the surrounding land uses or will not have a material impact on surrounding land uses, that the tower will not have a negative impact on the environment or City infrastructure and such other reasonable requirements as determined by the City.

3. Conditional Use Permits

Monopole telecommunication towers may be located in all zoning districts only by the issuance of a conditional use permit pursuant to the provisions of Article XIV. No telecommunications tower may be located in a residential district (except multi-family districts) except on Alternative Mounting Structures or as a Stealth monopole in accordance with Section 9 of this Article and only upon the issuance of a Conditional Use Permit

4. Technical Assistance

When a rezoning or Conditional Use Permit is required to comply with the provisions of this section, and when the technical information provided by the applicant is beyond the technical capacity of City of Hernando personnel to review, the applicant, in addition to the usual application fee, shall reimburse the City for the actual cost to the City for the services of a technical expert to review the application and/or information supplement, up to a maximum of \$5,000.00 dollars.

5. Pre-application Meetings

Prior to leasing or purchasing facilities or property, the telecommunications service provider is encouraged to meet with the Hernando Office of Planning to review the Conditional Use Permit process required or other requirements of the City of Hernando, and to review the merits of potential locations.

6. Master Antenna Plan

To facilitate co-location and coordination of telecommunication sites, the city shall, within 90 days following the effective date hereof, notify the providers of telecommunications services, as that term is defined by federal law, of the enactment of this ordinance. Said providers shall, within 30 days of the date of such notice, provide the City with their respective master antenna plans. Said plans shall include detailed maps, showing the locations and characteristics of all telecommunications towers and antennae serving any portion of the City and indicating coverage areas for current and, to the extent possible, future telecommunications towers and antennae. Providers shall also provide the City with any updates to the above documents within 120 days of their creation.

7. Telecommunications Tower Standards

- A. Applicable Federal and State Standards - All telecommunications towers and antennae shall be erected and operated in compliance with current Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules and regulations and other applicable federal, state, and local standards.
- B. Structural Standards - Telecommunications tower structures must conform to the most current revision of EIA 222 standards and all applicable City and State Ordinances and regulations regarding construction standards. Guyed telecommunications towers shall be designed and located such that if the structure should fall it will avoid habitual structures and public streets.
- C. Co-location - Towers shall be designed and built to accommodate a minimum of three cellular or PCS providers, if over 85 feet in height. The owner of the tower must certify to the City that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis. Co-Location of providers on an existing approved tower shall not require further approval from the City, except for building code requirements.
- D. Fencing - Security fencing shall be installed by the owner or operator of any freestanding tower and shall be erected around the base of the communications tower and all accessory structures. All anchor points of the guy wires of a guyed tower shall also be fenced. Fencing and all structures must be approved through the City's Site and Design Standards.
- E. Setbacks - All Telecommunication towers as well as guys and guy anchors shall be located within the buildable area of the lot and not within the front, rear, or side yard building setbacks. Telecommunication towers in excess of 300 feet in height shall be set back a minimum of 2600 feet from the right-of-way of all controlled access federal and state roadways designated as highways to provide unobstructed flight paths for helicopters.
- F. Signage - No signage, lettering, symbols, images or trademarks shall be placed on or affixed to any part of a telecommunications tower, antenna, antenna array, equipment building, or security fencing other than as required by FCC regulations or other applicable law.
- G. Lighting - Except as other permitted in this ordinance, no signals, lights or illumination of any kind shall be permitted on or directed toward any tower unless required by the FCC, the FAA or other appropriate public authority.
- H. Noise - The intensity level of sound from the wireless transmission facility including temporary generators used during extended power outages, measured at the property line of abutting property zoned residential, shall not at any time exceed fifty (50) decibels. In instances where the Planning Commission and/or Site and Design Review Committee determines that a new wireless transmission facility site may create objectionable noise or a nuisance to any adjacent property, buffers or other physical features shall be required to mitigate the noise.
- I. Abandonment - Wireless Communication Towers shall be demolished and removed within ninety (90) days after abandonment. Determination of the date of abandonment shall be made by the City of Hernando building inspector or his designee who shall have the right to request documentation from the owner/operator regarding the issue of usage. Upon the determination of abandonment, the owner/operator of the antenna support structure shall remove

same within 90 days of receipt of notice from the City of Hernando notifying the owner/operator of such abandonment. In order to ensure the demolition and removal of the tower, the applicant shall post and keep in place a renewable letter of credit or other security with adequate surety and in a form acceptable to the City to be sufficient to pay for the costs of demolition and removal.

- J. Replacement - An existing approved tower may be replaced provided that the height of the tower does not exceed its height prior to replacements. A non-conforming tower may not be replaced without the issuance of a Conditional Use Permit for replacement of same after Application for same. Prior to approval of the Application, the applicant shall demonstrate to the City that a substantial hardship will occur to the owner of the tower and general public if replacement is not allowed.

8. Tower Location Standards

- A. Residential Zoning - Except as otherwise provided in this ordinance (on alternative mounting structures or stealth freestanding towers), telecommunications towers are not permitted in any residential zoning district. Provided, however, that nothing containing in this Article shall preclude an approved tower constructed for a multi-family occupied use of more than 10 individual apartments, from being located on the property upon which such multifamily use is situated, provided that the tower must be permitted in accordance with the terms of this Article and must only serve the multifamily use.
- B. All Towers Require a Conditional Use Permit - Except as otherwise provided in this ordinance, monopole telecommunication towers may be located in all zoning districts upon issuance of a Conditional Use Permit.
- C. Tower Spacing - Any new telecommunications tower in excess of 85 feet in height must be located a minimum of 1,620 feet from any existing tower in excess of 85 feet in height.
- D. Alternative Mounting Structures
 - a) Alternative Mounting Structures 85 feet or less in height are permitted in the non-residential districts of the City of Hernando.
 - b) Alternative Mounting Structures in excess of 85 feet in height are permitted in the non-residential districts of the City of Hernando with a Conditional Use Permit.
 - c) All Alternative Mounting Structures located in the residential zoning districts shall require a Conditional Use Permit.
 - d) Alternative Mounting Structures must be similar in color, scale and character to adjoining buildings or structures or blend with the landscaping and other surrounding immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment.

9. Permits

The permit fee for an application to construct a cell tower pursuant to the terms of this Article shall be as established in Schedule A of the Standard Building Code adopted by the City from time to time.

10. Non-Conforming Towers

All non-conforming towers located within the City may remain and may be utilized for co-location. However, no non-conforming tower may be increased in height. If a non-conforming tower is abandoned pursuant to the provisions of Section 8 of this Article, it shall be removed in accordance with said Section.

11. DEFINITIONS IN REGARD TO SECTION XII OF THE HERNANDO ZONING ORDINANCE

ALTERNATIVE MOUNTING STRUCTURE A clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, water tower, existing telecommunications tower, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennae.

ANTENNA A structure or device used to collect or radiate electromagnetic waves, including directional antennae, such as panels, wireless cable and satellite dishes, and omni-directional antennae, such as whips, but not including satellite earth stations.

ANTENNA ARRAY An arrangement of antennae and their supporting structures.

ANTENNA. PANEL An antenna which receives and/or transmits signals in a directional pattern.

ANTENNA. STEALTH A telecommunications antenna that is effectively camouflaged or concealed from view.

ANTENNA. TELECOMMUNICATIONS An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennae less than 50 feet in height and whip antenna less than 4 inches in diameter and less than 10 feet in height.

CO-LOCATION A single telecommunications tower and/or site used by more than one telecommunications service provider.

CUP A conditional use permit.

EIA-222 Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antennae Support Structures".

IDENTIFICATION PYLON A permanent ground mounted sign consisting solely of a single monolithic structure used to identify a development.

STRUCTURE An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, poles, water towers, cranes, smokestacks, earth formations and overhead transmission lines.

TELECOMMUNICATIONS The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS SERVICE The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TOWER, ELECTRIC TRANSMISSION A self-supporting structure in excess of 50 feet in height designed to support high voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

TOWER, GUYED Any telecommunications tower supported in whole or in part by cables anchored to the ground.

TOWER, HEIGHT The distance measured from grade to the highest point of any and all components of the structure, including antennae, hazard lighting, and other appurtenances, if any.

TOWER, MONOPOLE A self-supporting telecommunications tower which consists of a single vertical pole fixed into the ground and/or attached to a foundation.

TOWER, SELF-SUPPORTING LATTICE A telecommunications tower which consists of an open network of metal braces forming a tower which is usually triangular or square in cross-section.

TOWER, TELECOMMUNICATIONS A self-supporting or guyed structure more than twenty feet in height, built primarily to support one or more telecommunications antennae.

That these definitions may be applicable to any other section of the Hernando Zoning Ordinance.

12. **That in the event any part of this ordinance may be found to be invalid or unconstitutional by any court of competent jurisdiction then in such event the remaining ordinance provisions shall remain valid and enforceable. Any finding of any such invalidity or unconstitutional of any provision of this ordinance shall not render the whole ordinance void or invalid.**
13. **The effective date of this ordinance amending Article XII entitled Accessory Buildings and uses shall become effective one month after its passage.**

SO ADOPTED, on this the 21st day of April, 2009.

MAYOR

Attested by:

City Clerk
(Seal)

HERNANDO I-55 MS-1473 PROPOSED 160' WIRELESS TRANSMISSION FACILITY (MONOPOLE) HERNANDO, MS "ZONING DRAWINGS"

APPLICANT:
TELEPAK, INC. d/b/a/ CELLULAR SOUTH
1022 HIGHLAND COLONY PKWY., SUITE 210
RIDGELAND, MS 39157
CONTACT: TOMMY FORD
TEL: (601) 974-7175
FAX: (601) 974-7107

PROJECT DATA:
ZONING: R-12 (RESIDENTIAL)
TAX PARCEL NUMBER: 3072577000000101

CIVIL AND ELECTRICAL ENGINEER:
NEEL-SCHAFFER, INC.
1022 HIGHLAND COLONY PKWY., STE. 202
RIDGELAND, MS 39157
CONTACT: ROSEMARY ALDRIDGE
TEL: (601) 898-3358
FAX: (601) 898-8485

GEOGRAPHIC COORDINATES:
LATITUDE: 34° 50' 21.26"
LONGITUDE: -89° 58' 28.63"
OWNER:
FIRST PRESBYTERIAN CHURCH
1455 MCINVALE RD.
HERNANDO, MS 38632
TEL: (662) 429-6646
E-MAIL: fpc@firstpc.com

SITE NAME:
HERNANDO I-55
SITE NUMBER:
MS-1473
SITE ADDRESS:
1455 MCINVALE RD.
HERNANDO, MS 38632
POWER COMPANY:
ENERGY
CUSTOMER SERVICE REP.
TEL: (601) 398-3749

TELEPHONE COMPANY:
AT&T
CONTACT: CUSTOMER SERVICE REP.
TEL: (666) 620-6000

ADA COMPLIANCE:
FACILITY IS UNMANNED AND
NOT FOR HUMAN HABITATION.

PROJECT DESCRIPTION:
WITHOUT FORCE AND EFFECT ON REQUIREMENTS OF PROJECT DOCUMENTS, THE
DESCRIPTION OF THE PROJECT CAN BE DESCRIBED AS FOLLOWS:

1. ERECTION OF A COMMUNICATIONS FACILITY WITH AN ARRAY.
2. PROPOSED UTILITY RACKS AND GROUND BASED BITS UNITS.
3. CONCRETE PAD AND BITS UNITS INSTALLED IN PROPOSED LEASE AREA.
4. RADIO FREQUENCY SIGNAL FROM ANTENNAS SHALL NOT INTERFERE WITH ANY EXISTING TELECOMMUNICATIONS SITES.

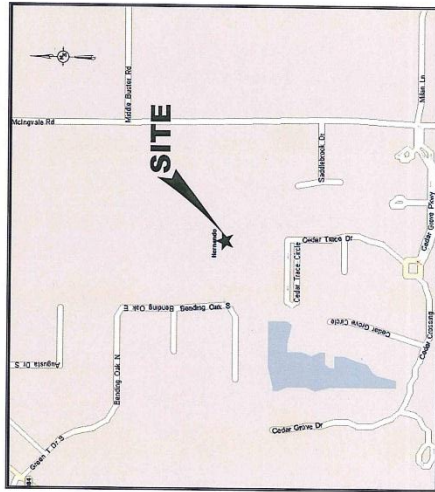
UTILITY NOTES:

1. ALL UTILITY RELATED WORK SHALL BE PERFORMED IN ACCORDANCE WITH APPLICABLE UTILITY REQUIREMENTS.
2. NOTIFY MISSISSIPPI LINE LOCATION CENTER AT (800) 227-6477 TO LOCATE UNDERGROUND UTILITIES.
3. CONTRACTOR SHALL PROVIDE TRENCHING AND CONDUITS AS SHOWN ON DETAIL 3 ON SHEET SC-2 OR AS REQUIRED BY LOCAL UTILITY.
4. COORDINATE TELCO/POWER LINE LOCATION WITH UTILITY.
5. CONTRACTOR SHALL CONTACT UTILITIES A MINIMUM OF 72 HRS PRIOR TO THE START OF CONSTRUCTION.
6. FINAL TERMINATIONS AT EACH END OF CABLES BETWEEN EXISTING UTILITIES AND POWER AND TELCO CABINET WILL BE PERFORMED BY UTILITIES.

SITE DIRECTIONS:
FROM RIDGELAND, MISSISSIPPI TAKE I-55 NORTH. TRAVEL 173.8 MI. AT EXIT 288, TURN RIGHT ONTO E. COMMERCE ST. TRAVEL 0.2 MI. TURN LEFT ONTO MCINVALE RD. TRAVEL 1.1 MI. ARRIVE AT SITE ON THE LEFT.

DRAWING INDEX:

- T-1 TITLE SHEET
- T-2 GENERAL NOTES
- C-1 SITE PLAN
- C-1-1 PROPERTY OWNERS
- C-1-2 PROPERTY MAP
- C-2-1 GRADING PLAN
- C-2-2 GRADING PLAN
- C-3 COMPOUND PLAN
- SC-1 CIVIL DETAILS, COMPOUND & ACCESS RD.
- SC-2 CIVIL DETAILS, SLAB SECTION
- SC-3 CIVIL DETAILS, ICE BRIDGE
- SC-4 CIVIL DETAILS, FACILITY ELEVATION AND DETAILS
- SC-5 CIVIL DETAILS, FENCE



VICINITY MAP
SCALE: N.T.S.

PREPARED BY
NEEL-SCHAFFER
Solutions you can build upon
REGISTERED PROFESSIONAL ENGINEER
19789
1022 HIGHLAND COLONY PKWY.,
RIDGELAND, MS 39157
PH: (601) 898-3358
FAX: (601) 898-8485



DWG. I.D.	REV. DATE	COMMENTS:

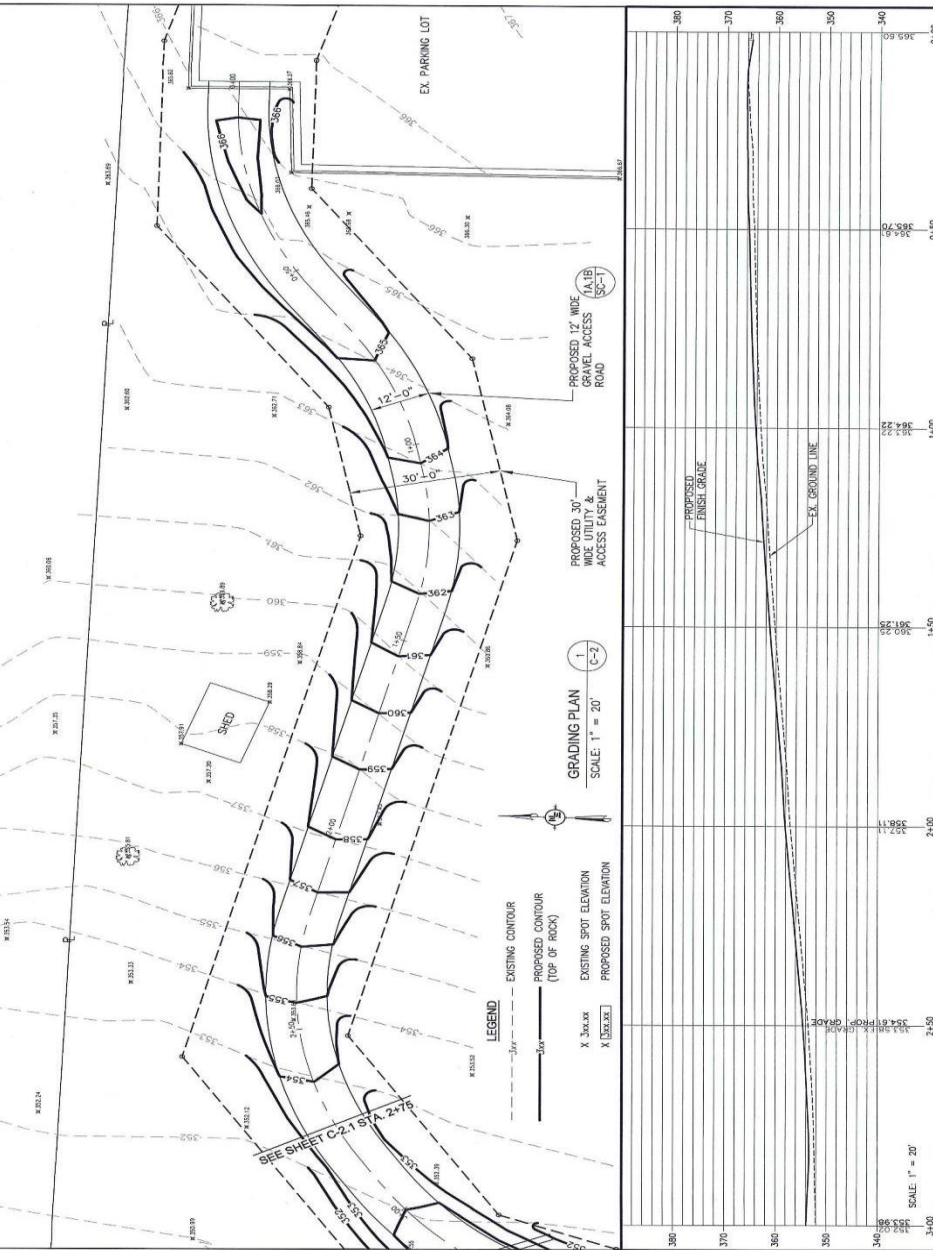
m:\11426-Centex South 2013 (S:\0911)\11426.019-1-55 hernando\2057-1.dwg Thu, 26 Jun 2014

GRADING NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REMOVING AND PROPERLY DISPOSING OF ALL UNSUITABLE MATERIALS FROM SITE.
2. CRUSHED AGGREGATE PLACED WITHIN COMPOUND SHALL, AT A MINIMUM, MEET FACILITY OWNERS SPECIFICATIONS.
3. SITE CONTRACTOR SHALL PROVIDE SUBGRADE FOR CONSTRUCTION PER THE GEOTECHNICAL REPORT.
4. REFER TO GEOTECHNICAL REPORT FOR REQUIREMENTS ON COMPACTION AND PLACEMENT OF FILL.
5. ALL CELLULAR SOUTH LEASED AREAS, ACCESS AND CITY EASEMENT ARE TO BE CLEARED AND GRUBBED.
6. FINISHED GRADE (TOP OF ROCK) TO BE 4" ABOVE FINAL SUBGRADE. FINAL SUBGRADE (FILL) TO BE 4" ABOVE EXISTING ROUGH GRADE. ANY SUITABLE MATERIAL ON SITE (INSIDE LEASE AREA) MAY BE USED FOR FILL. REFER TO GEOTECHNICAL REPORT FOR NOTIFICATION OF SUITABLE MATERIAL.
7. ALL PROCTOR TESTING AND DENSITY TESTING SHALL BE PAID FOR BY THE CONTRACTOR AND SHALL BE PERFORMED BY AN INDEPENDENT TESTING AGENCY IF REQUIRED.
8. INSTALL CULVERT (IF REQUIRED), GRADE EXISTING DRAINAGE DITCH UPSTREAM AND DOWNSTREAM AS NEEDED FOR POSITIVE DRAINAGE IN AND OUT OF PROPOSED CULVERT. GRADE OVER CULVERT AS REQUIRED.
9. UPON COMPLETION OF THE FILLS, COMPACTION, FINAL GRADING, AND THE PLACEMENT OF THE FINAL FENCE POST, THE FOLLOWING ITEMS SHALL BE PERFORMED BY THE CONTRACTOR:
 - A. THE CONTRACTOR SHALL FINISH AND INSTALL GROUND STABILIZATION FABRIC OVER THE ENTIRE FINISHED SUBGRADE, INCLUDING THE 2'-0" APRON OUTSIDE THE FENCE LINE. ALL JOINTS IN FABRIC SHALL BE OVERLAPPED 2'-0".
 - B. THE CONTRACTOR SHALL FINISH AND PLACE:
 - 1.) COMPOUND AREA 4'-2" AROUND 2'-0" #57 LIMESTONE (ROLLED AND COMPACTED).
 - 2.) ACCESS RD. & TURN AROUND AREA 6'-0" #610 LIMESTONE (ROLLED AND COMPACTED)
 - 3.) ANCHOR AREA 4'-0" #57 LIMESTONE (ROLLED AND COMPACTED)
 - C. THE CONTRACTOR SHALL REPAIR ALL DAMAGE TO LEASE AREA PROPERTY AND SURROUNDING PROPERTY DUE TO CONSTRUCTION. CONTRACTOR SHALL RETURN ALL DAMAGED PROPERTY BACK TO ORIGINAL CONDITION AS SOON AS POSSIBLE.

SITE CONDITION NOTES

1. THE CONTRACTOR IS TO VERIFY THAT ALL EXISTING TOPOGRAPHY AND HORIZONTAL GEOMETRY IS AS INDICATED ON THESE DRAWINGS. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UNDERGROUND AND OVERHEAD UTILITIES AND SERVICES. IMMEDIATELY NOTIFY THE CONSTRUCTION MANAGER OF ANY DISCREPANCIES OR INTERFERENCES WHICH AFFECT THE WORK OF THIS CONTRACT.
2. ALL WORK SHALL BE IN ACCORDANCE WITH GOVERNING AUTHORITIES, CODES, AND REGULATIONS.
3. THE CONTRACTOR IS COMPLETELY RESPONSIBLE FOR CONTAMINATION OF SEDIMENT AND CONTROL OF EROSION ON SITE. ANY DAMAGE TO ADJACENT OR DOWNSTREAM PROPERTIES WILL BE CORRECTED BY THE CONTRACTOR AT NO EXPENSE TO OWNER.
4. THE CONTRACTOR IS TO MAINTAIN ADEQUATE DRAINAGE AT ALL TIMES. DO NOT ALLOW WATER TO STAND OR POND. ANY DAMAGE TO STRUCTURES OR WORK ON THE SITE, CAUSED BY INADEQUATE MAINTENANCE OF DRAINAGE PROVISIONS WILL BE THE RESPONSIBILITY OF THE CONTRACTOR AND ANY COST ASSOCIATED WITH REPAIRS FOR SUCH DAMAGE WILL BE AT THE CONTRACTOR'S EXPENSE.
5. ALL WASTE MATERIAL SHALL BE PROPERLY DISPOSED OF OFF-SITE OR AS DIRECTED BY THE CONSTRUCTION MANAGER AND IN ACCORDANCE WITH JURISDICTIONAL AUTHORITIES.
6. COORDINATES AND BEARINGS SHOWN ARE BASED ON STATE PLANE COORDINATE SYSTEM (NAD-83). ELEVATIONS SHOWN ARE BASED ON NAVD-88.
7. SURVEY INFORMATION SHOWN COMPLIES WITH TAX ORDER 8260190 ACCURACY TOLERANCES.
8. CONTRACTOR SHALL MAINTAIN 20' HORIZONTAL CLEARANCE FROM CENTERLINE OF EXISTING POWER LINES AS REQUESTED BY THE POWER COMPANY.
9. SEED WITH SEASONAL AND PERMANENT GRASS SEED AND MULCH ALL DISTURBED AREAS NOT COVERED BY OTHER MATERIALS AS REQUIRED TO RESTORE DAMAGED PROPERTY BACK TO ORIGINAL CONDITION.
10. THE CONTRACTOR SHALL BE RESPONSIBLE TO CORRECT ALL DAMAGE TO THE SITE SUBSEQUENT TO THE INSTALLATION OF ALL UTILITIES.
11. TREES DAMAGED OR REMOVED OUTSIDE LEASE AREA OR ACCESS EASEMENT SHALL BE REPLACED AT THE EXPENSE OF THE CONTRACTOR.



GENERAL NOTES

WORKING NUMBER: T-2
DRAWING NUMBER:

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Solutions you can build upon

HERNANDO L55
1455 MCINVALE RD.
HERNANDO, MS 38632
MS-1473

KEEPAK, INC.
4140 CELLARSOUTH
1018 MCINVALE COUNTY PKWY.
HERNANDO, MS 38637
TEL: 601-374-7175
FAX: 601-374-7107

cellarsouth

REGISTERED PROFESSIONAL ENGINEER
STATE OF MISSISSIPPI
NO. 18789
EXPIRES 12/31/15

DATE: 05/14/14
SCALE: 1" = 20'

GRADING PLAN

WORKING NUMBER: C-2.0
DRAWING NUMBER:

NEEL-SCHAFFER
Solutions you can build upon

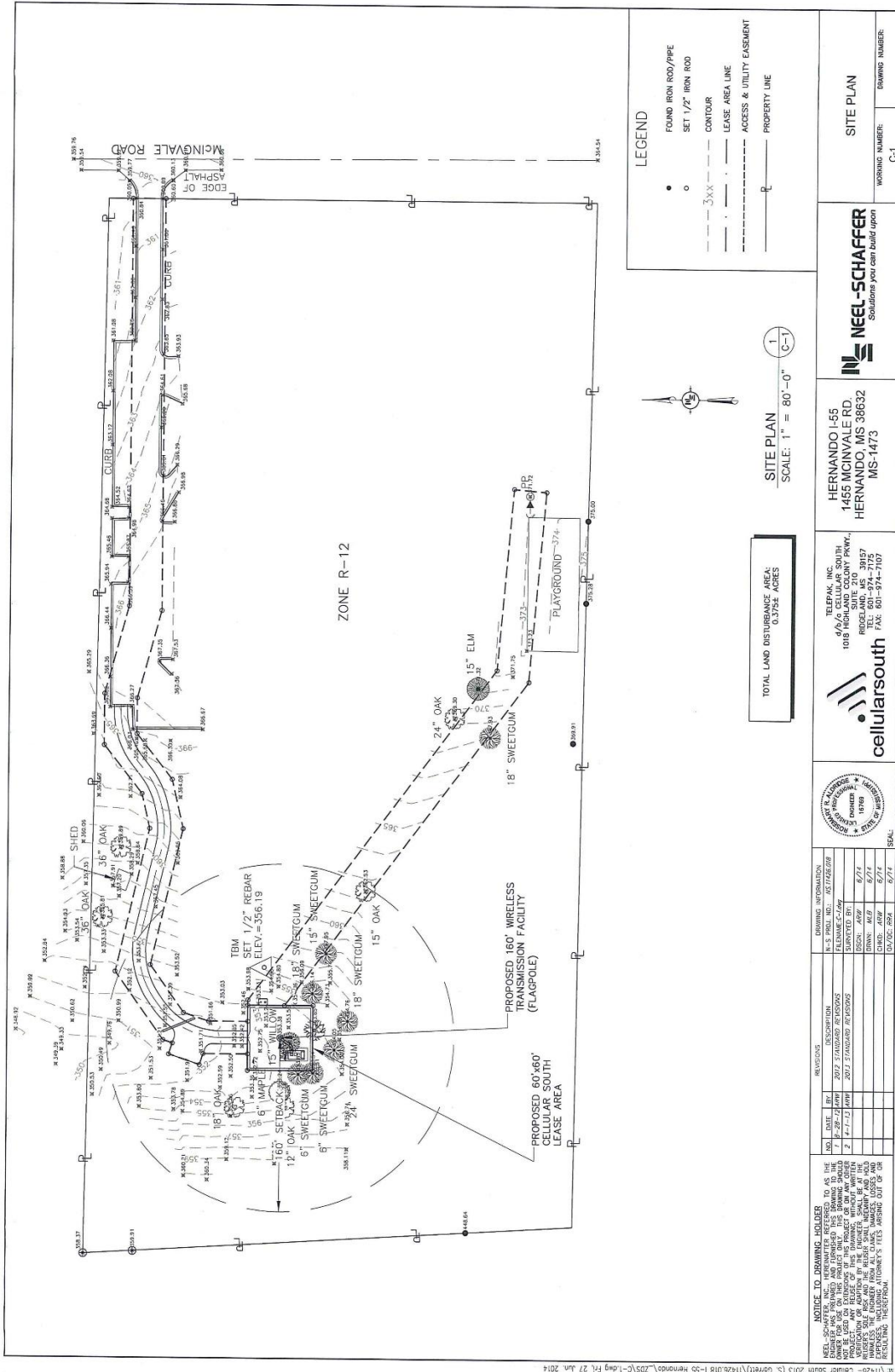
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1455 MCINVALE RD.
HERNANDO, MS 38632
MS-1473

KEEPAK, INC.
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cellarsouth

REGISTERED PROFESSIONAL ENGINEER
STATE OF MISSISSIPPI
NO. 18789
EXPIRES 12/31/15

DATE: 05/14/14
SCALE: 1" = 20'



LEGEND

- FOUND IRON ROD/PIPE
- SET 1/2" IRON ROD
- CONTOUR
- - - LEASE AREA LINE
- - - ACCESS & UTILITY EASEMENT
- PROPERTY LINE

SITE PLAN
SCALE: 1" = 80'-0" C-1

TOTAL LAND DISTURBANCE AREA:
0.375± ACRES



SITE PLAN
DRAWING NUMBER:
C-1

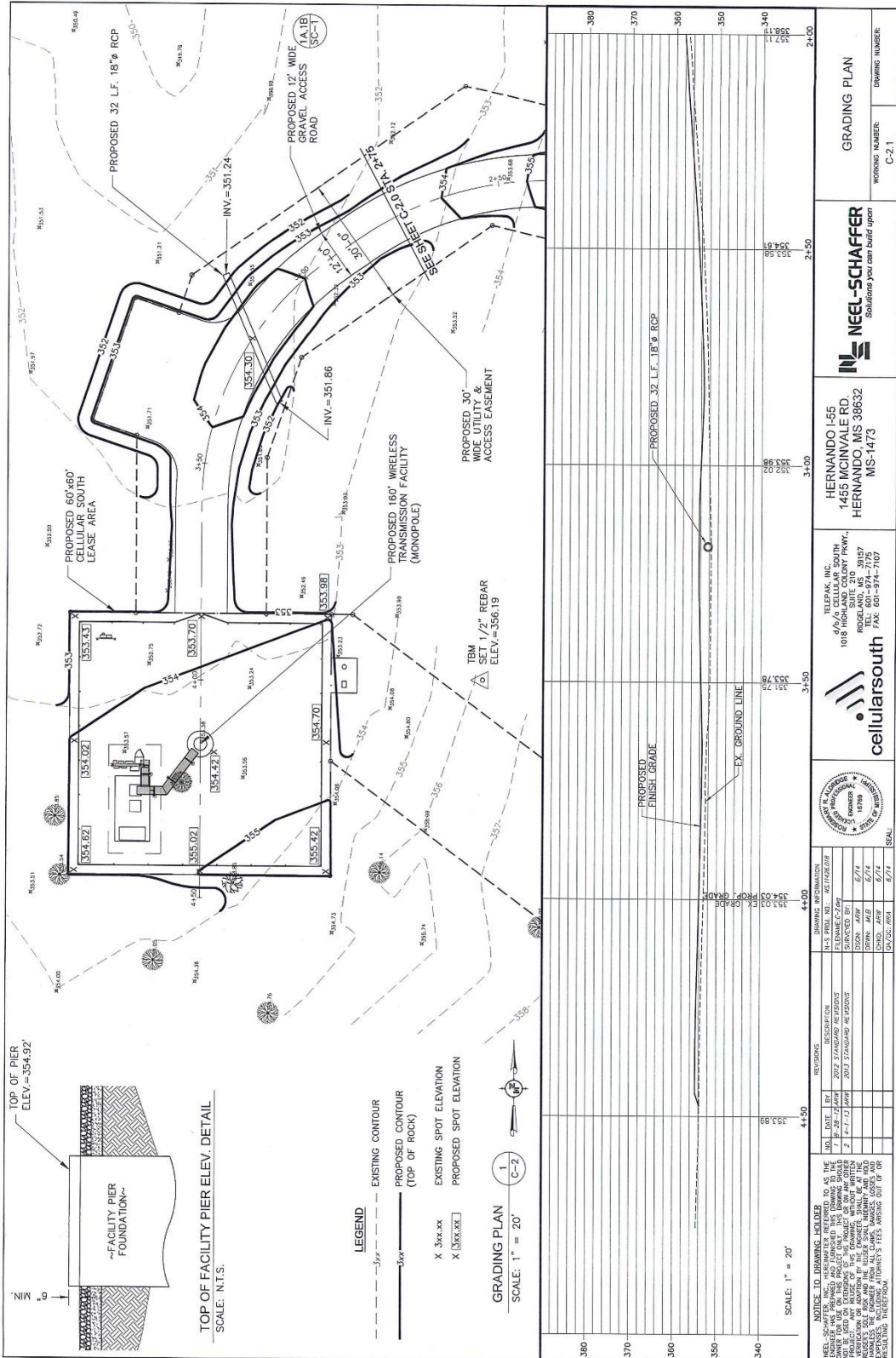


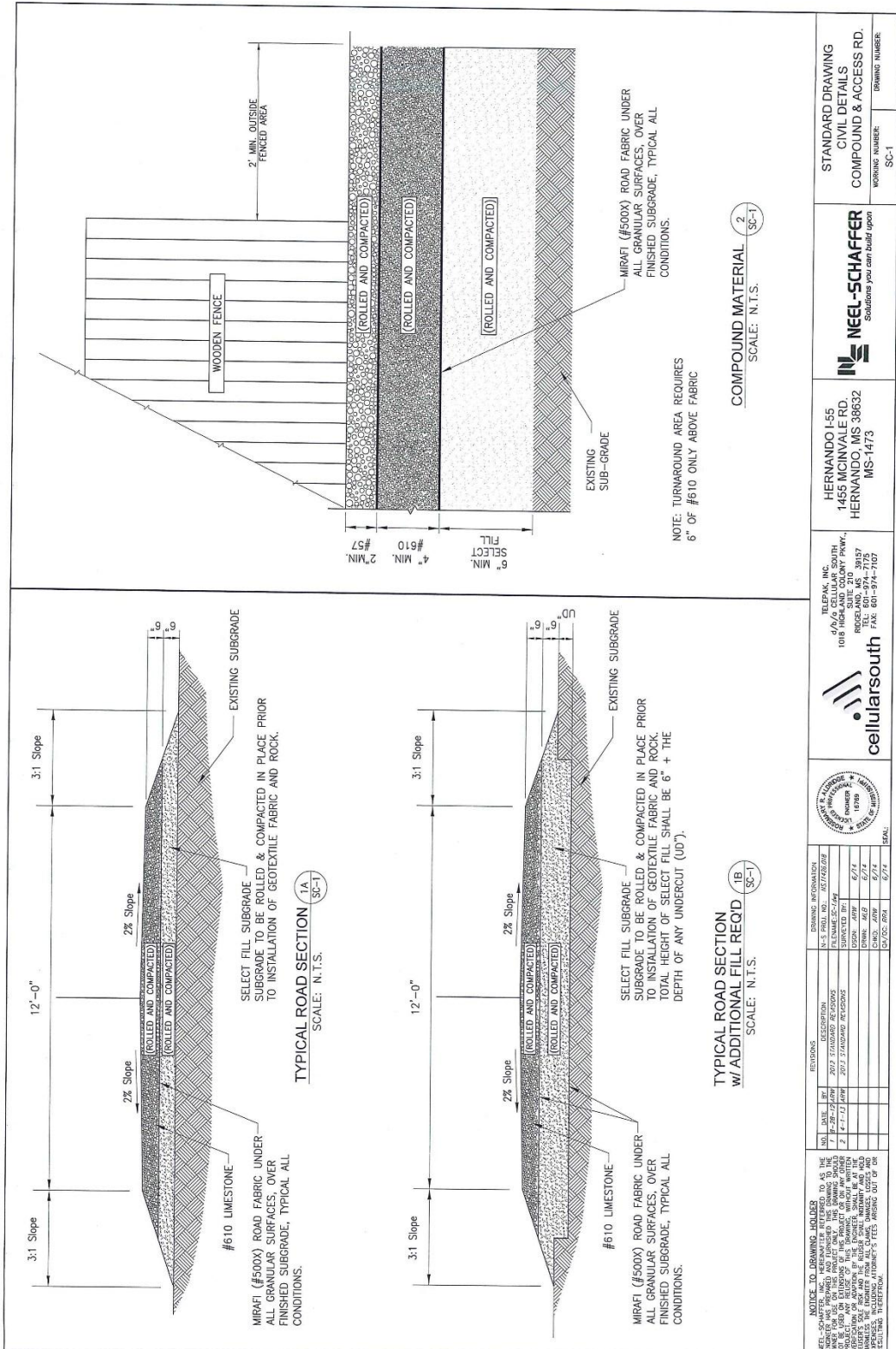
HERNANDO I-55
1455 MCINVALE RD.
HERNANDO, MS 38632
MS-1473



DRAWING INFORMATION	
U.S. PROJECT NO.	1517426208
FILE NAME	CELLSOUTH
DATE	6/11
DESIGN	AWP
CHECK	AWP
DATE	6/11
DATE	6/11
DATE	6/11

NOTICE TO DRAWING HOLDER
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STANDARD DRAWING
CIVIL DETAILS
COMPOUND & ACCESS RD.
WORKING NUMBER: SC-1
DRAWING NUMBER: SC-1

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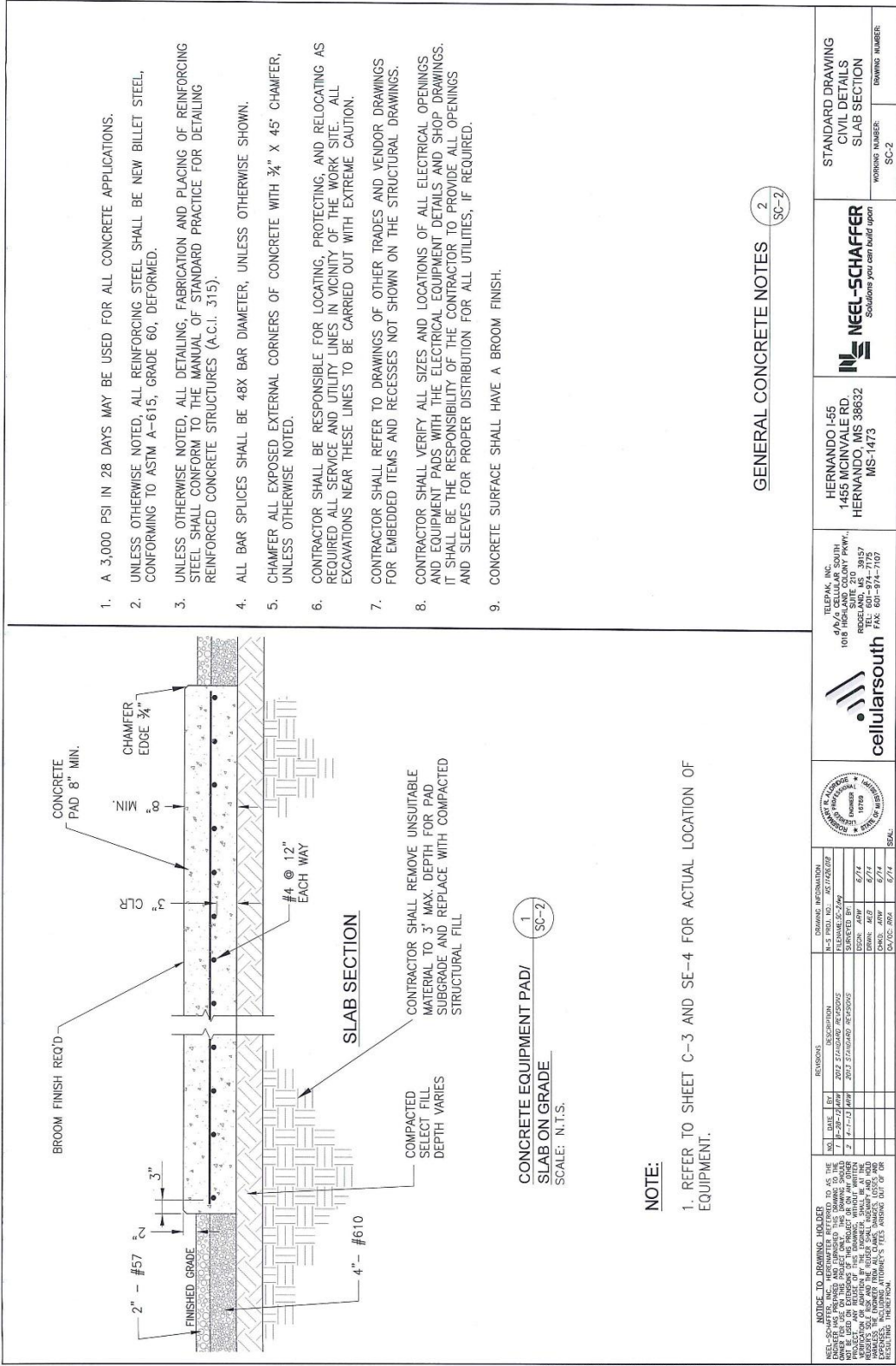
HERNANDO L55
1455 MCIVALE RD.
HERNANDO, MS 38632
MS-1473

cellularsouth
TELEPAK, INC.
1015 W. CALICO CIRCLE SOUTH
REGGEE, MISSISSIPPI 38657
TEL: 601-974-7157
FAX: 601-974-7107



DRAWING INFORMATION	
N.T.S. SHEET NO.	10/17/2014/02
DATE	10/17/2014
PROJECT	2013 TURNAROUND REVISIONS
DATE	10/17/2014
SCALE	AS SHOWN
DATE	6/7/14
DATE	6/7/14
DATE	6/7/14
DATE	6/7/14

NOTICE TO DRAWING HOLDER
THIS DRAWING IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER. THE ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AND DOES NOT INCLUDE ANY OTHER WORKS OR SERVICES PROVIDED BY THE ENGINEER OR HIS EMPLOYEES OR AGENTS.



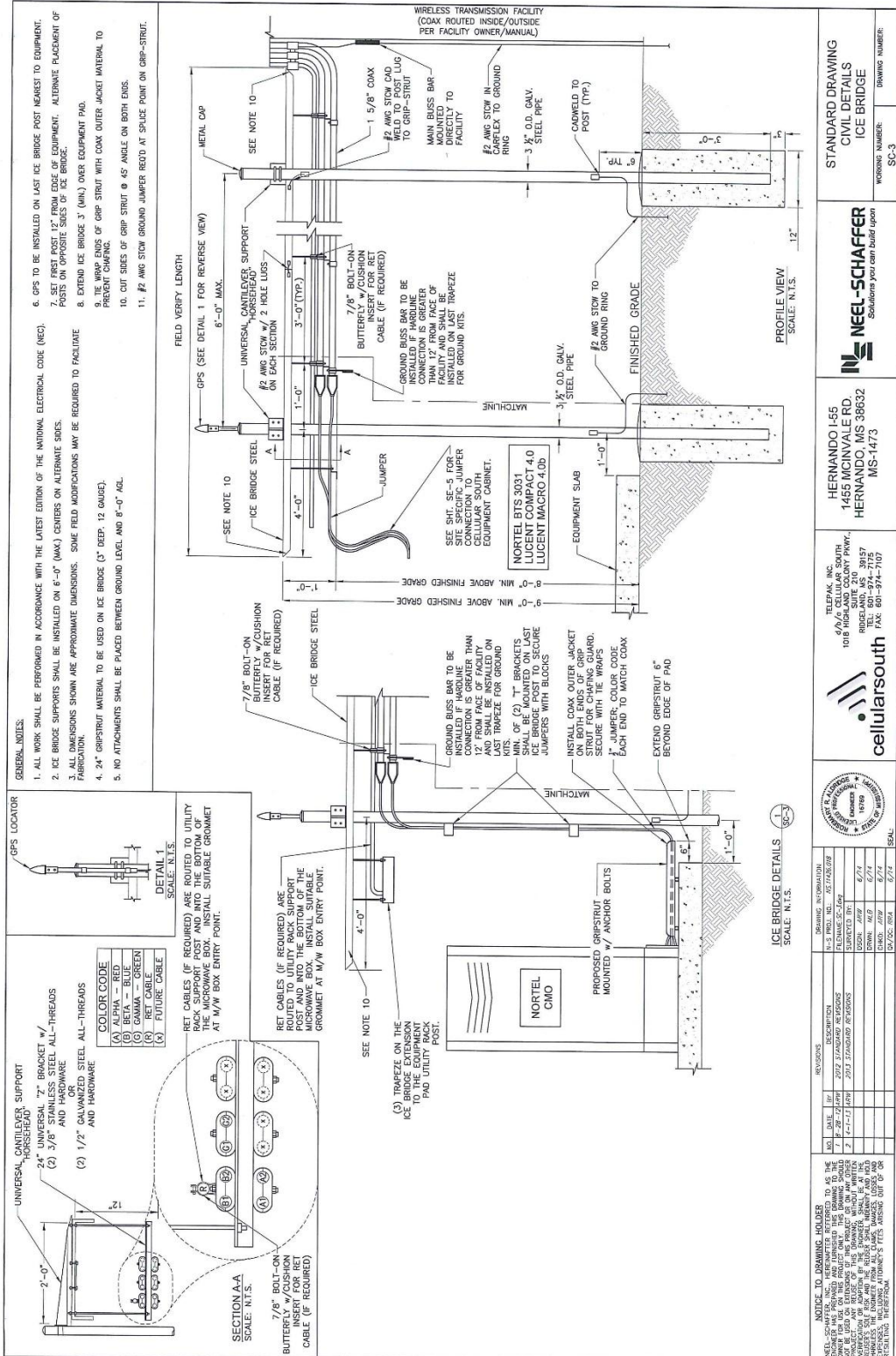
1. A 3,000 PSI IN 28 DAYS MAY BE USED FOR ALL CONCRETE APPLICATIONS.
2. UNLESS OTHERWISE NOTED, ALL REINFORCING STEEL SHALL BE NEW BILLET STEEL, CONFORMING TO ASTM A-615, GRADE 60, DEFORMED.
3. UNLESS OTHERWISE NOTED, ALL DETAILING, FABRICATION AND PLACING OF REINFORCING STEEL SHALL CONFORM TO THE MANUAL OF STANDARD PRACTICE FOR DETAILING REINFORCED CONCRETE STRUCTURES (A.C.I. 315).
4. ALL BAR SPLICES SHALL BE 48X BAR DIAMETER, UNLESS OTHERWISE SHOWN.
5. CHAMFER ALL EXPOSED EXTERNAL CORNERS OF CONCRETE WITH 3/4" X 45° CHAMFER, UNLESS OTHERWISE NOTED.
6. CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING, PROTECTING, AND RELOCATING AS REQUIRED ALL SERVICE AND UTILITY LINES IN VICINITY OF THE WORK SITE. ALL EXCAVATIONS NEAR THESE LINES TO BE CARRIED OUT WITH EXTREME CAUTION.
7. CONTRACTOR SHALL REFER TO DRAWINGS OF OTHER TRADES AND VENDOR DRAWINGS FOR EMBEDDED ITEMS AND RECESSES NOT SHOWN ON THE STRUCTURAL DRAWINGS.
8. CONTRACTOR SHALL VERIFY ALL SIZES AND LOCATIONS OF ALL ELECTRICAL OPENINGS AND EQUIPMENT PADS WITH THE ELECTRICAL EQUIPMENT DETAILS AND SHOP DRAWINGS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALL OPENINGS AND SLEEVES FOR PROPER DISTRIBUTION FOR ALL UTILITIES, IF REQUIRED.
9. CONCRETE SURFACE SHALL HAVE A BROOM FINISH.

CONCRETE EQUIPMENT PAD/
SLAB ON GRADE
SCALE: N.T.S.

NOTE:
1. REFER TO SHEET C-3 AND SE-4 FOR ACTUAL LOCATION OF EQUIPMENT.

GENERAL CONCRETE NOTES 2
SC-2

 TELEPAK, INC. 476/A CELLULAR SOUTH 1016 HIGHWAY 200 SUITE 210 ROCKLAND, MS 39157 PHONE: 601-874-7197 FAX: 601-874-7197	 HERNANDO I-55 1485 MCINVALE RD. HERNANDO, MS 38632 MS-1473	STANDARD DRAWING CIVIL DETAILS SLAB SECTION	WORKING NUMBER SC-2	DRAWING NUMBER SC-2																																
REVISION INFORMATION <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>7/27/12</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>2</td> <td>7/27/12</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>3</td> <td>8/27</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>4</td> <td>8/27</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>5</td> <td>8/27</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>6</td> <td>8/27</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> <tr> <td>7</td> <td>8/27</td> <td>MMB</td> <td>2012 EXHIBIT RESPONSE</td> </tr> </tbody> </table>					NO.	DATE	BY	REVISION	1	7/27/12	MMB	2012 EXHIBIT RESPONSE	2	7/27/12	MMB	2012 EXHIBIT RESPONSE	3	8/27	MMB	2012 EXHIBIT RESPONSE	4	8/27	MMB	2012 EXHIBIT RESPONSE	5	8/27	MMB	2012 EXHIBIT RESPONSE	6	8/27	MMB	2012 EXHIBIT RESPONSE	7	8/27	MMB	2012 EXHIBIT RESPONSE
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7	8/27	MMB	2012 EXHIBIT RESPONSE																																	



WOOD FENCE DETAIL (1)
SCALE: N.T.S.

WOOD GATE FRAME DETAIL (2)
SCALE: N.T.S.

WOOD GATE DETAIL (3)
SCALE: N.T.S.

SILT FENCE DETAIL (5)
SCALE: N.T.S.

WOOD FENCE GENERAL NOTES

1. ALL HARDWARE FOR THE WOOD FENCE SHALL BE OF A HOT DIP GALVANIZED FINISH.
2. WOOD SLATS SHALL BE 1" x 6" x 8'-0" HIGH.
3. GATE FITTINGS SHALL BE PRESSED STEEL OR MALLEABLE CASTING (ASTM A153).
4. ALL POSTS SHALL HAVE WEATHER CAPS INSTALLED.
5. POSTS SHALL BE SET IN 3000 PSI CONCRETE. BOTTOM OF CONCRETE SHALL BE 2" MIN. FROM BOTTOM OF POST.

POST SIZE

- LINE POST = 3" Ø O.D.
- CORNER POST = 4" Ø O.D.
- GATE POST = 4" Ø O.D.

NOTICE TO DRAWING HOLDER

THIS DRAWING WAS PREPARED AND ISSUED BY THE ENGINEER FOR THE PROJECT OR FOR THE OWNER. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION AND THE INFORMATION WITH ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS DRAWING.

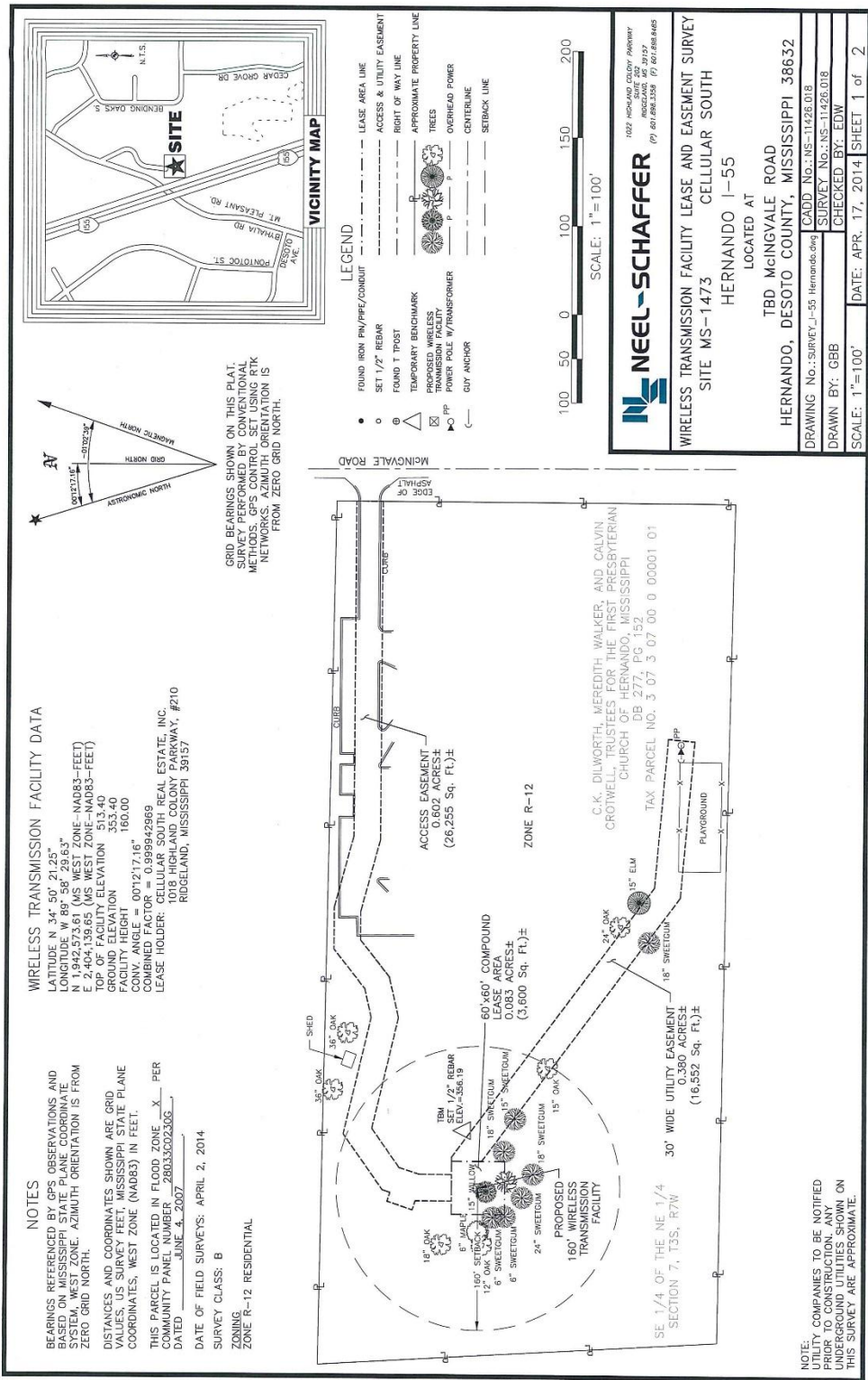
NO.	DATE	BY	REVISIONS
1	11-17-12	WJ	ISSUED FOR PERMIT
2	11-17-12	WJ	REVISED PER COMMENTS
3	11-17-12	WJ	REVISED PER COMMENTS
4	11-17-12	WJ	REVISED PER COMMENTS
5	11-17-12	WJ	REVISED PER COMMENTS

DRAWING INFORMATION	
PROJECT NO.	1018 HIGHWAY COLONY PARK
DATE	11/17/12
DESIGNED BY	WJ
DRAWN BY	WJ
CHECKED BY	WJ
SCALE	AS SHOWN

cellularsouth
1018 HIGHWAY COLONY PARK
ROSELAND, MS 38868
TEL: 601-974-7125
FAX: 601-974-7125

NEEL-SCHAFFER
Solutions you can build upon

STANDARD DRAWINGS
CIVIL DETAILS
FENCE
WORKING NUMBER: SC-5
DRAWING NUMBER: SC-5

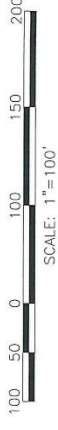


WIRELESS TRANSMISSION FACILITY DATA
 LATITUDE N 34° 50' 21.25"
 LONGITUDE W 89° 59' 23.63"
 N 1,942,573.61 (MS WEST ZONE-NAD83- FEET)
 E 2,404,139.65 (MS WEST ZONE-NAD83- FEET)
 TOP OF FACILITY ELEVATION 513.40
 FACILITY ELEVATION 353.40
 FACILITY HEIGHT 160.00
 CONV. ANGLE = 0012'17.16"
 COMBINED FACTOR = 0.9999942969
 LEASE HOLDER: CELLULAR SOUTH REAL ESTATE, INC.
 1018 HIGHLAND COLONY PARKWAY, #210
 RIDGELAND, MISSISSIPPI 39157

NOTES
 BEARINGS REFERENCED BY GPS OBSERVATIONS AND BASED ON MISSISSIPPI STATE PLANE COORDINATE SYSTEM, WEST ZONE. AZIMUTH ORIENTATION IS FROM ZERO GRID NORTH.
 DISTANCES AND COORDINATES SHOWN ARE GRID COORDINATES, WEST ZONE (NAD83) IN FEET.
 THIS PARCEL IS LOCATED IN FLOOD ZONE X PER COMMUNITY PANEL NUMBER 20033022602 DATED JUNE 4, 2007
 DATE OF FIELD SURVEYS: APRIL 2, 2014
 SURVEY CLASS: B
 ZONING: ZONE R-12 RESIDENTIAL

GRID BEARINGS SHOWN ON THIS PLAT. ARE BASED ON THE MISSISSIPPI STATE PLANE COORDINATE SYSTEM, WEST ZONE. AZIMUTH ORIENTATION IS FROM ZERO GRID NORTH.

- LEGEND**
- FOUND IRON PIPE/PIPE/CONDUIT
 - SET 1/2" REBAR
 - ⊕ FOUND T POST
 - △ TEMPORARY BENCHMARK
 - TRANSMISSION FACILITY
 - ⊠ POWER POLE W/TRANSFORMER
 - ⊙ GUY ANCHOR
 - LEASE AREA LINE
 - ACCESS & UTILITY EASEMENT
 - RIGHT OF WAY LINE
 - APPROXIMATE PROPERTY LINE
 - TREES
 - OVERHEAD POWER
 - CENTERLINE
 - SETBACK LINE

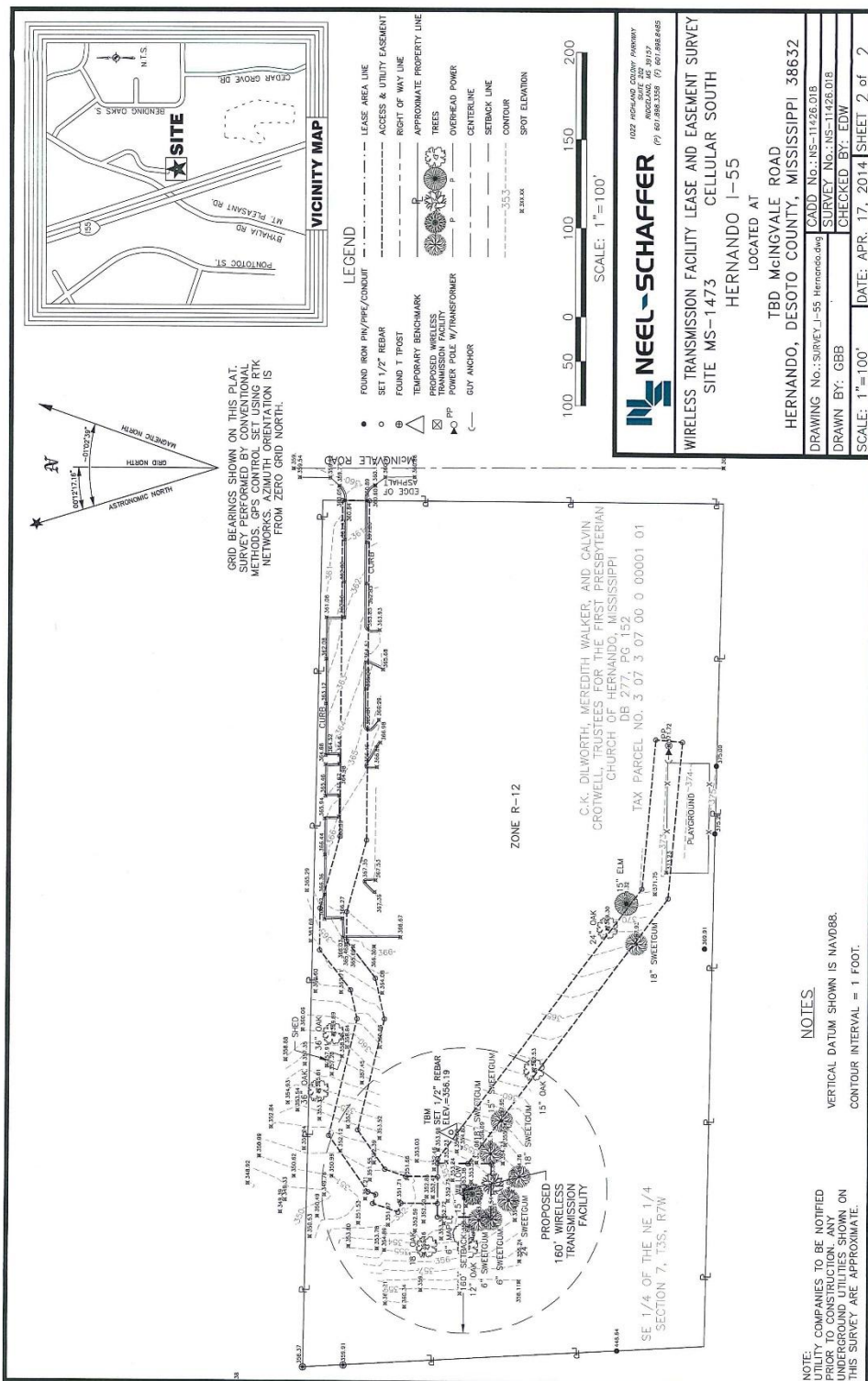


NEEL-SCHAFFER
 1022 HIGHLAND COLONY PARKWAY
 STATE 392
 HERNANDO, MS 39326
 (P) 601.698.3358 (F) 601.698.8485

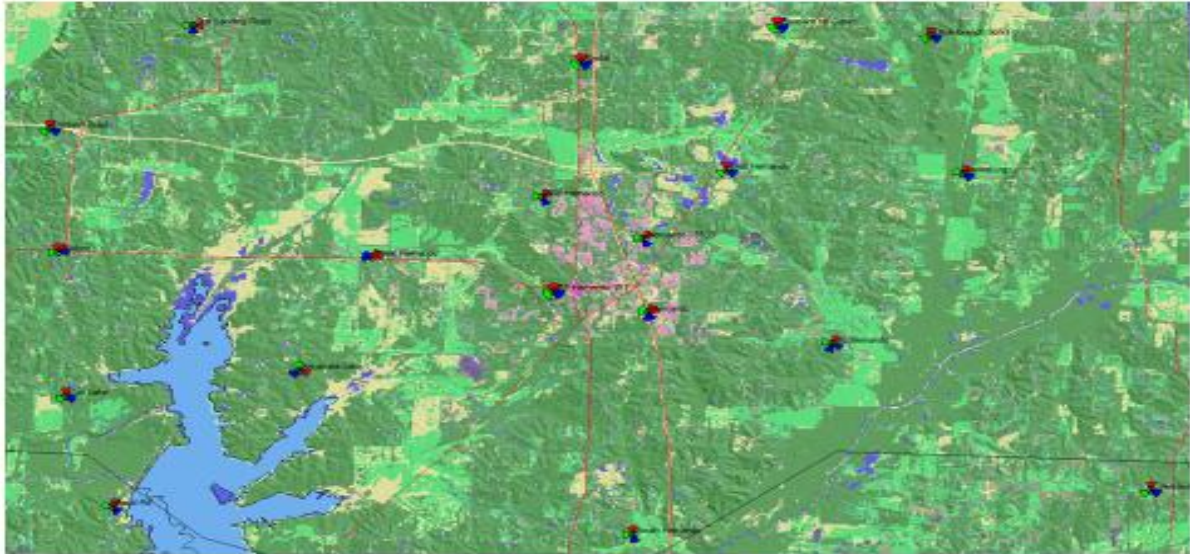
WIRELESS TRANSMISSION FACILITY LEASE AND EASEMENT SURVEY
 SITE MS-1473
 CELLULAR SOUTH
 HERNANDO I-55
 LOCATED AT
 TBD McINGVALE ROAD
 HERNANDO, DESOTO COUNTY, MISSISSIPPI 38632

DRAWING No.: SURVEY-J-55
 CADD No.: NS-11426-018
 SURVEY No.: NS-11426-018
 DRAWN BY: GBB
 CHECKED BY: EDW
 DATE: APR. 17, 2014
 SHEET 1 of 2

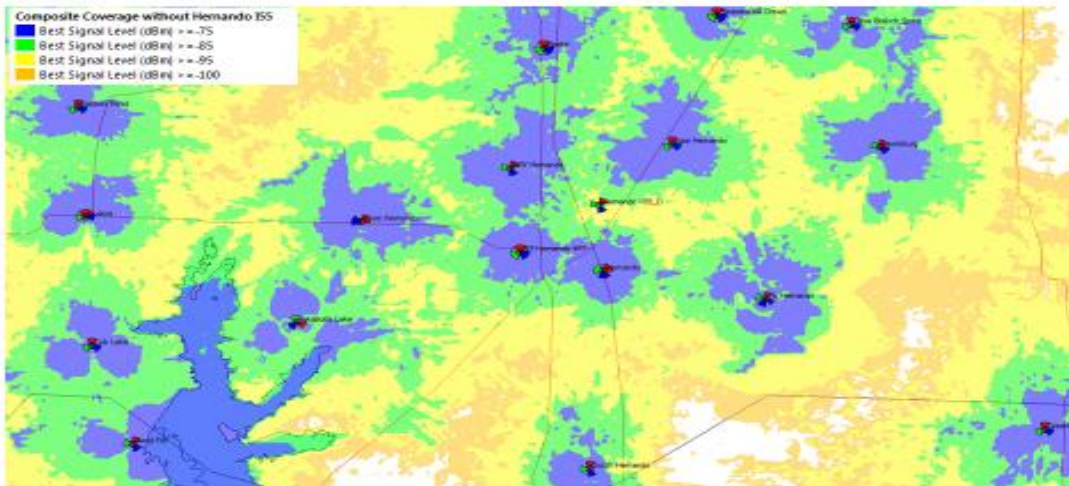
NOTE:
 NOTIFY COMPANIES TO BE NOTIFIED PRIOR TO CONSTRUCTION. ANY UNDERGROUND UTILITIES SHOWN ON THIS SURVEY ARE APPROXIMATE.

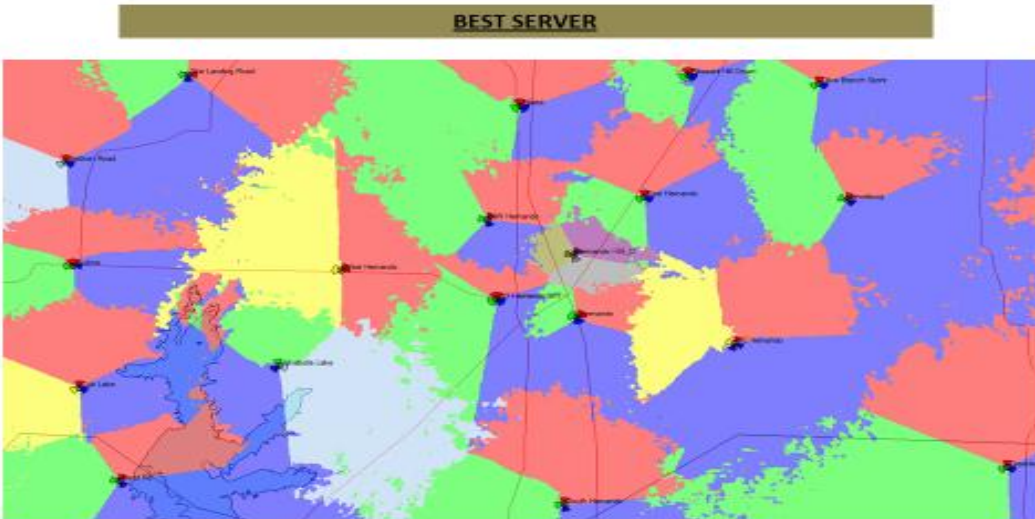
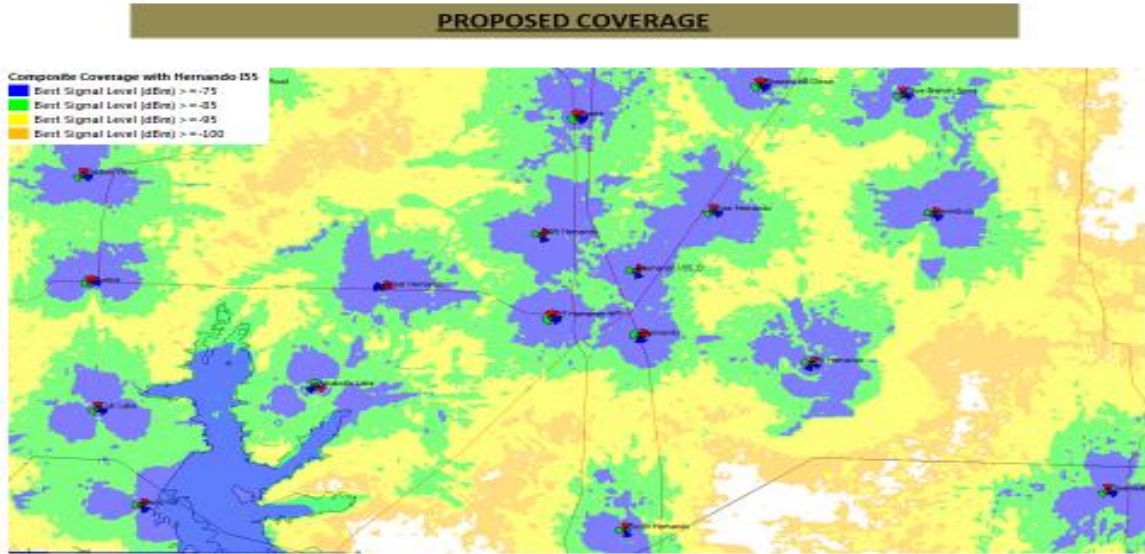


Existing Network Sites Plus Proposed Hernando I-55 Site

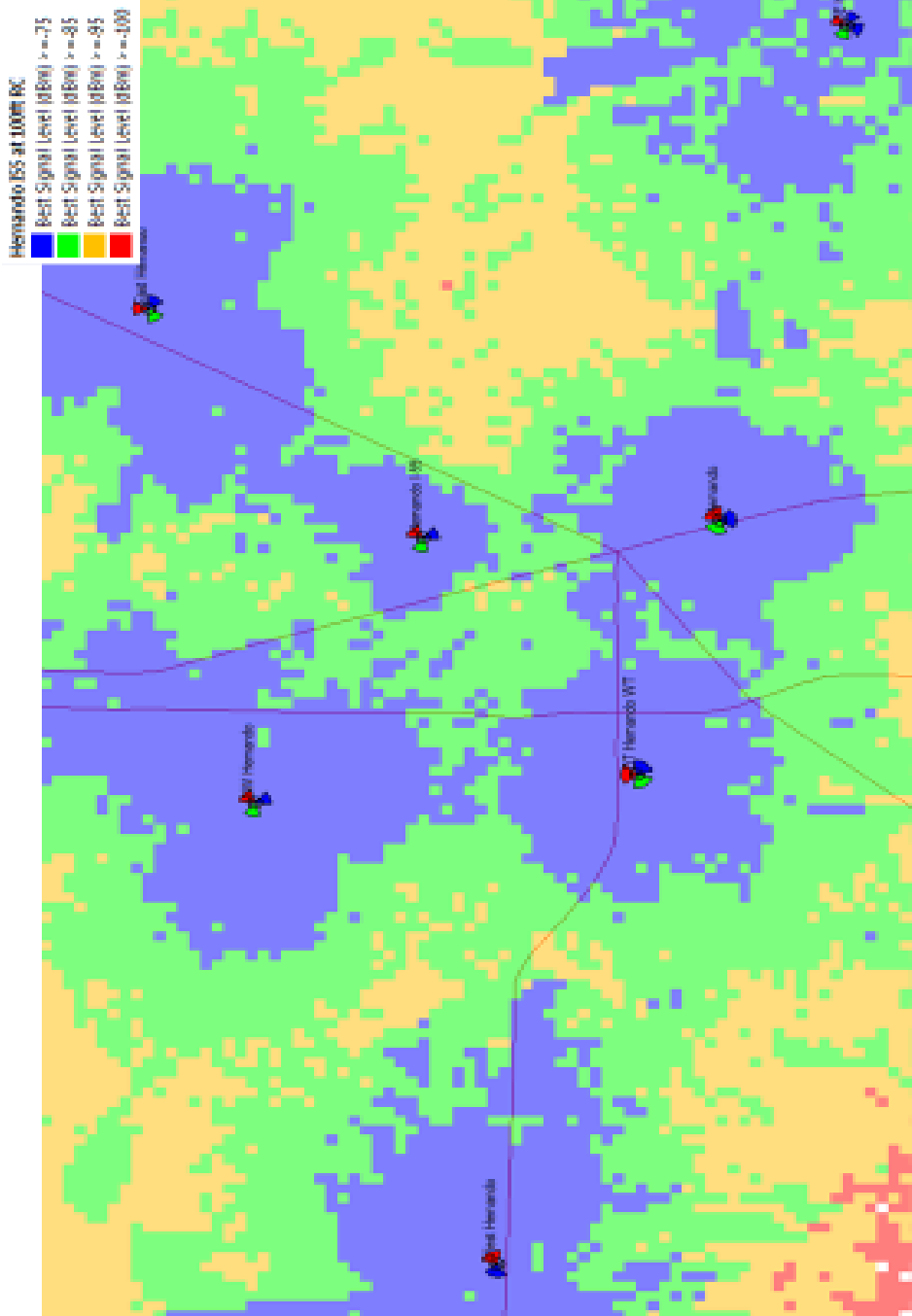


EXISTING COVERAGE

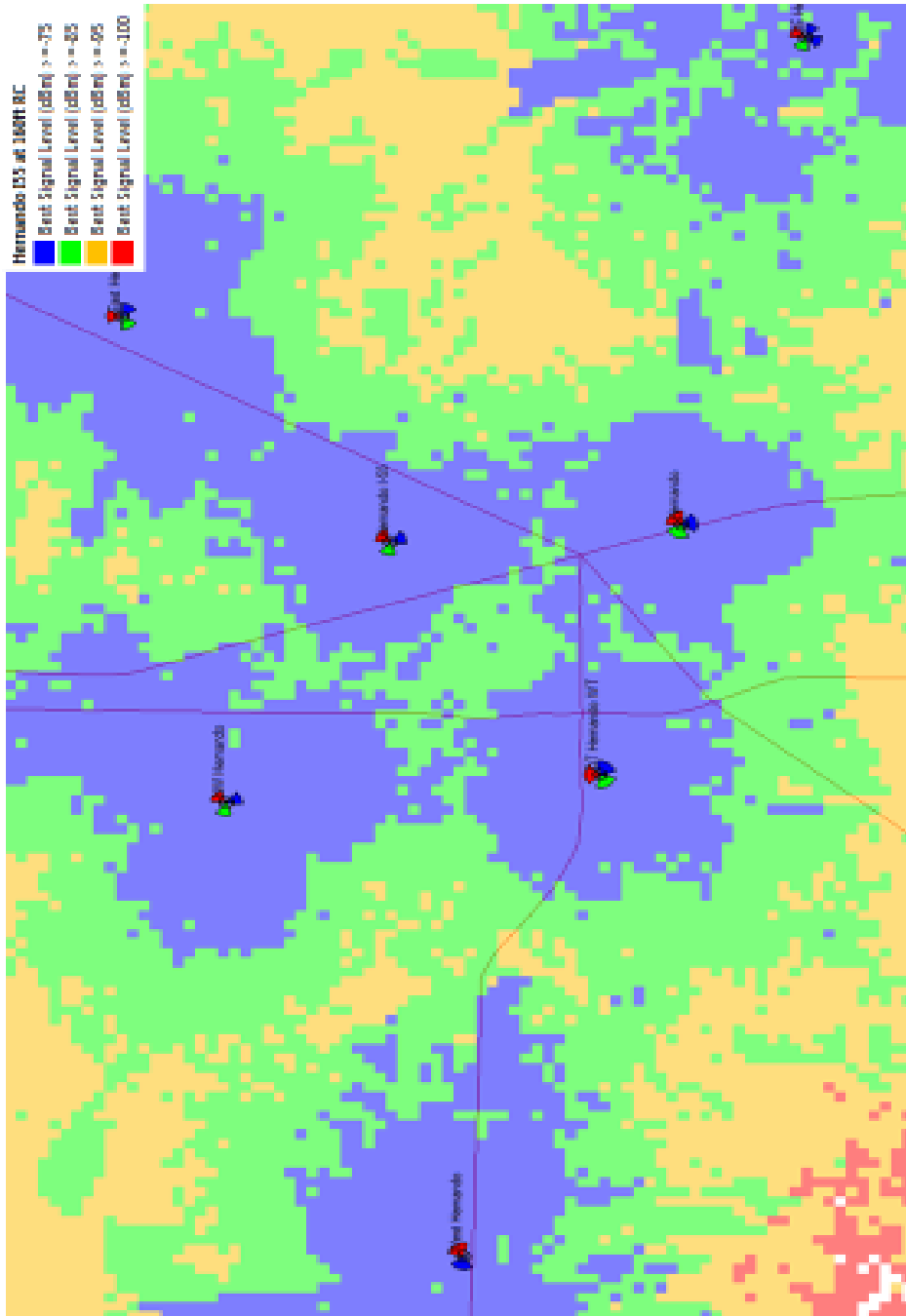




100 ft. Map



160 ft. Map





Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 2601 Meacham Boulevard
 Fort Worth, TX 76193

Aeronautical Study No.
 2014-ASO-6510-OE

Issued Date: 07/07/2014

RF Department
 Cellular South
 1018 Highland Colony Parkway
 Ridgeland, MS 39157

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Hernando I-55
Location:	Hernando, MS
Latitude:	34-50-21.25N NAD 83
Longitude:	89-58-29.63W
Heights:	353 feet site elevation (SE) 180 feet above ground level (AGL) 533 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
 Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

This determination expires on 01/07/2016 unless:

- the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- extended, revised, or terminated by the issuing office.
- the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 321-7752. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2014-ASO-6510-OE.

Signature Control No: 220384067-222880827

(DNE)

Alice Yett
Technician

Attachment(s)
Frequency Data

cc: FCC

Frequency Data for ASN 2014-ASO-6510-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
698	806	MHz	1000	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W

PLANNING COMMISSION MINUTES:**Conditional Use Permit-**

Application is submitted by Belinda Bodie with Neel Schaffer, requesting to be allowed to construct a telecommunications tower at the rear of the First Presbyterian Church of Hernando. More specifically, 1455 McIngvale Road. Subject property consists of 9.52 acres and is zoned A, Agricultural. Subject property is located on the south side of Byhalia Road and west of McIngvale Road; in Section 7, Township 3, Range 7.

Commissioner Carter recused himself from this application.

Mr. Darby presented the staff report. Mr. Darby then introduced Ms. Belinda Bodie as being present to represent the application

Commissioner Wolfe asked what the circumference of the coverage was for this tower. Ms. Bodie stated that it was a 2 mile circumference and then explained that there were more users which create less coverage area. Commissioner Wolfe asked why they were considering putting a new tower up instead of co-locating on an existing tower. Mr. Jerry Skipper, C-Spire Wireless representative, came forward and stated that they looked into co-locating, but that would drop the antennae to 100 feet and would not allow for enough coverage. Commissioner Wolfe stated that the coverage map on C-Spire wireless does not match the coverage list presented with the application. He then presented the website coverage map. Mr. Skipper stated that the engineering map that was presented with the application is the correct map.

Commissioner Wolfe then asked if lowering the tower would work. Mr. Skipper stated that the lowest they could lower the tower is 150 feet to allow the appropriate amount of coverage. Commissioner Wolfe then asked if this would be a monopole tower. Mr. Skipper stated that they could build a canister, but it would be a larger tower.

Mr. Darby asked if this would have reduced profile antennae's. Mr. Skipper stated that it would be 3 feet at the base and 18 inches at the top.

Commissioner Wolfe asked what the length of the lease is with the church. Mr. Skipper stated that it was 40 years. Mr. Darby asked, if approved, would they request a 40 year time limit on the conditional use. Ms. Bodie answered yes.

Commissioner Cobb asked if there was anyone present to speak for or against the application.

Mr. Bruce Naillieux, 1396 McIngvale Rd, stated that he was in opposition of the tower. He stated that the city water tower is 100 feet and this is almost double that height. He agreed that the city needs cell towers, but not ones this tall.

Mr. Corey Patrick, 1310 Bending Oak, stated that he has lived in Hernando all of his life. He purchased his home because all of the utilities are underground and this tower will be an eyesore. There are other vacant towers in the area. This proposed tower is 70 feet taller than Mississippi's tallest trees and it would be located in the center of four neighborhoods.

Ms. Kay Dawson, 1162 Martin Circle S, said that this is a very wooded area and the base of the tower would not be visible. Only the top antennas would be seen. This tower would also give much needed coverage to the area.

Commissioner Jernigan made a motion to deny the application due to it being in conflict with the General Development Plan and character of the neighborhood. Commissioner Williams seconded the motion. The motion passed unanimously.



ATTORNEYS AT LAW

JOHN E. WADE, JR.

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Suite 100
190 East Capitol Street
Jackson, Mississippi 39201
Telephone: 601.948.3101Post Office Drawer 119
Jackson, Mississippi 39205

Facsimile: 601.960.6902

September 12, 2014

Katie Harbin, City Clerk
City of Hernando
475 W. Commerce St.
Hernando, MS 38632**NOTICE OF APPEAL**

Dear Ms. Harbin:

Cellular South Real Estate, Inc. ("C Spire") appeals the September 9, 2014 decision of the Hernando Planning Commission to deny C Spire's Application for a Conditional Use Permit for the construction of a telecommunications site on property zoned "A" Agricultural and owned by First Presbyterian Church of Hernando, 1455 McIngvale Road.

At the hearing before the Planning Commission, C Spire presented propagation maps and other evidence which clearly established that C Spire has weak signal coverage in Hernando between Highway 304 and Dilworth Lane and that these coverage problems worsen when the existing network becomes overloaded and customers experience dropped calls. This limitation severely curtails C Spire's ability to provide adequate coverage to its customers in this area. C Spire established that the proposed site would provide much needed in-call and in-building wireless service coverage in that area and would address coverage issue complaints.

There was also evidence presented that there are no towers, suitable tall structures or other sites in this area which are capable of accommodating C Spire's equipment and which would solve C Spire's coverage deficiencies. C Spire's application is for a monopole design with low profile antennae and no support wires. At the hearing, C Spire offered to utilize a monopole stealth design if the City preferred. At the hearing, two individuals spoke against the proposed conditional use permit on purely aesthetic grounds. One resident spoke in favor of the proposed conditional use permit because the telecommunications site would be hidden by trees and better cell service is needed in the area.

The Planning Commission denied the application based upon their belief that due to aesthetic concerns, the site would adversely affect the character of the neighborhood. The denial was also based on their belief that the proposed use would be in conflict with the City's General Development Plan because telecommunications sites are not listed as a proposed future land use in this district which the Plan identifies as Activity-Institutional.

Katie Harbin, City Clerk
September 12, 2014
Page 2

C Spire appeals the Planning Commission's decision on multiple grounds. The Federal Telecommunications Act of 1996 imposes specific limitations on the traditional authority of local governments to regulate the location and construction of telecommunications sites. The failure to approve the Application is a violation of the Federal Telecommunications Act because: (1) such denial is not supported by substantial evidence as required by 47 U.S.C. § 332(c)(7)(B)(iii) and (2) such denial effectively prohibits the provision of personal wireless services in violation of 47 U.S.C. § 332(c)(7)(B)(i)(II).

The Federal Telecommunications Act of 1996 provides in part that "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 the written record." 47 U.S.C. § 332(c)(7)(B)(iii). In this case, there was clearly a lack of substantial evidence which would support a denial of the Application.

47 U.S.C. § 332(c)(7)(B)(i) provides as follows:

The regulation of the placement, construction and modification of personal wireless service facilities by any State or local government or instrumentality thereof -- . . . (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

For a denial of an application to amount to an effective prohibition under the Telecommunications Act, there must be (a) a showing of a significant gap in service coverage and (b) some inquiry into the feasibility of alternative facilities or site locations. At the hearing, C Spire presented uncontroverted proof of a significant gap in service coverage and the lack of any alternative locations.

Courts throughout the country have consistently held that "in the context of the Telecommunications Act, the substantial evidence standard limits the types of reasons that a zoning authority may use to justify its decision. First, 'generalized concerns' about aesthetics or property values do not constitute substantial evidence." See *United States Cellular Corp. v. City of Wichita Falls, TX*, 364 F.3d 250, 256 (5th Cir. 2004).

Moreover, one of the primary reasons the Planning Commission denied C Spire's Application for Conditional Use Permit was their belief that the requested use does not conform to the Hernando General Development Plan's proposed future land use for this Activity-Institutional District because telecommunications sites are not listed as a proposed future land use in that District. However, none of the Districts identified in Hernando's General Development Plan, including Industrial, include telecommunications sites as a proposed future land use. Accordingly, it is a violation of the Federal Telecommunications Act to deny C Spire's Application on these grounds.

John Wade, Attorney representing CSpire, passed out pictures created to show how the tower would look from different angles. He opposes the decision from the Planning Commission.

Alderman Higdon- stated that the residents due west of the location have had flooding issues. Will this cause any more flooding to them?

John Wade, answered No, he doesn't think it will.

Bill Yost, stated that it would not. The location slopes away from the homes by it.

Alderman Higdon, asked how long is the lease was for?

Bill Yost, stated that it is a 40 year lease.

Alderman Higdon, asked if the church knew about the lease and the no building?

Chip Hatcher, Pastor at First Presbyterian Church of Hernando, stated that they were aware of those facts.

Jerry Skipper, CSpire, stated that they can to the stealth design at 150 feet and the flush mounted design can come down to 140 feet.

Alderman Higdon stated that citizen concerns were the design, the height and the flooding from the dirt work.

Alderman McLendon asked how much coverage will this new tower provide?

John Wade answered about a ½ mile of coverage.

Alderman McLendon asked if different companies shared towers?

John Wade answered yes.

Alderman McLendon asked who would own this new tower if constructed?

Jerry Skipper answered that CSpire would own it.

Bruce Naillieux, 1396 McIngvale, lives across the street from the Church. He showed a picture of the church from his neighbor's yard. He stated that he was against the tower being put up. He stated that they are a residential area.

Anita Savage, 984 Saddlebrook, stated that she was against the tower. She asked how close other towers to residents were. She stated that she thought it was a safety issue for residents around a tower.

Jerry Skipper – It is not a safety issue.

Shane Presley, 1440 McIngvale Rd, stated that he lives across from the church and that there was no precedent in this area for a 160 foot tower. Mr. Presley also stated that this was a residential area, not agricultural. They have options for cellular services and that it would not help property values, or the aesthetics of the community. He stated that he did not think a tower is necessary.

Kenny Stockton stated that there are federal regulations, but in the regulations it states that the City will still have local zoning authority.

Alderman McLendon asked is there is any legality of one getting approved at a later date.

Kenny Stockton answered that you will have to address each on their own.

Chip Hatcher stated that they are there to bring people together and they don't want to divide the people of Hernando. We are not trying to do this to get anything; we just trust the process of the Mayor and Board of Aldermen.

Alderman McLendon asked how tall the one is at Byhalia

Jerry Skipper answered that is was about 120 feet, but the ground it is on is elevated.

Motion was duly made by Alderman Miller, and seconded by Alderman Hobbs to remand this appeal back to the Planning Commission to consider the following: a stealth pole design at 150 feet or a canister design monopole with reduced profile antennas at one at 140 feet, the color, and the elevations. A vote was taken with the following results:

Those voting "Aye": Alderman Hobbs, Alderman Bryant, Alderman Miller, and Alderman McLendon.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

AUTHORIZE THE CITY OF HERNANDO'S CHIEF LOCAL PUBLIC AGENCY (LPA) OFFICIAL, MAYOR JOHNSON, TO ACTIVATE SIGNALIZATION PROJECT AT NESBIT ROAD AND HIGHWAY 51 FOR AMOUNT OF \$300,000. THE PROJECT IS FEDERALLY FUNDED THROUGH THE MEMPHIS, METROPOLITAN PLANNING ORGANIZATION (MPO). NO LOCAL MATCH IS REQUIRED.

Jared Darby presented the information to the Board.

Motion was duly made by Alderman Hobbs, and seconded by Alderman Higdon to authorize the City of Hernando's Chief Local Public Agency (LPA) official, Mayor Johnson, to activate Signalization Project at Nesbit Rd and Highway 51 for the amount of \$300,000.00. A vote was taken with the following results:

Those voting "Aye": Alderman Hobbs, Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, and Alderwoman Brooks.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014

AUTHORIZE TO MOVE PART TIME DISPATCHER KALON HAILEY TO FULL TIME

Motion was duly made by Alderman Higdon, seconded by Alderman Hobbs to authorize to move part time Dispatcher Kalon Hailey to full time based on the Personnel Committee's recommendation, following the Police Chief's recommendation. A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, and Alderman Hobbs.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

AUTHORIZE TO DECLARE SWAT BUS AS SURPLUS TO BE SOLD AT AN AUCTION (VIN 1GBKH31K3T3309603)

Motion was duly made by Alderman Hobbs, seconded by Alderman McLendon to authorize to declare swat bus as surplus to be sold at an auction (VIN 1GBKH31K3T3309603). A vote was taken with the following results:

Those voting "Aye": Alderman Bryant, Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, and Alderman Hobbs.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

**AUTHORIZE TO DECLARE NARCOTICS VEHICLE, 1999 JEEP (VIN
1J4GW58S6XC738744)**

Motion was duly made by Alderman Miller, seconded by Alderman Hobbs to authorize to declare Narcotics vehicle, 1999 Jeep (VIN 1J4GW58S6XC738744). A vote was taken with the following results:

Those voting "Aye": Alderman Miller, Alderman Higdon, Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, and Alderman Bryant.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

**AUTHORIZE TO DECLARE NARCOTICS VEHICLE, 1993 BUICK (VIN
1G4AG55N4P6486221)**

Motion was duly made by Alderman Higdon, seconded by Alderman McLendon to authorize declare Narcotics vehicle, 1993 Buick (VIN 1G4AG55N4P6486221). A vote was taken with the following results:

Those voting "Aye": Alderman Higdon, Alderman McLendon, Alderwoman Brooks, Alderman Hobbs, Alderman Bryant, and Alderman Miller.

Those voting "Nay": None.

ORDERED AND DONE this the 4th day of November, 2014.

ADJOURN

There being no further business at this time a motion was duly made by Alderman Bryant, seconded by Alderman Higdon to adjourn.

Motion passed with a unanimous vote of "Aye".

MAYOR CHIP JOHNSON

ATTEST:

KATIE HARBIN, CITY CLERK