

CITY OF GLADSTONE, MISSOURI
CITY COUNCIL MEETING

NOVEMBER 12, 2007

7:30 P.M.

TRANSCRIPT OF PROCEEDINGS

In Re: Public Hearing - Number 1304
Request for a Special Use Permit.
T-Mobile Central, LLC.

Held at the City Hall, 7010 North Holmes,
in Gladstone, Missouri.

A P P E A R A N C E S:

Mr. Les Smith, Mayor
Mr. Mark Revenaugh, Mayor Pro Tem
Mr. Wayne Beer, Council Member
Ms. Carol Rudi, Council Member
Ms. Carol Suter, Council Member

Mr. Kirk Davis, City Manager
Mr. Scott Wingerson, Assistant City Manager
Mr. David Ramsay, City Counselor
Ms. Cathy Swenson, City Clerk
Mr. James Leacock, Public Stenographer

1 MAYOR SMITH: Item 9 is a Public Hearing
2 for consideration of a Special Use Permit, subject
3 to certain conditions of T-Mobile Central, LLC, to
4 operate a communications tower facility on
5 property located at 2711 N.E. Brooktree Lane.

6 Applicant: T-Mobile Central, LLC. Owner: Curry
7 Investment Company. File Number 1304. The public
8 hearing will be conducted as Mr. Wingerson will
9 give a presentation. We will then hear from the
10 applicant and then ask for public input.

11 MR. WINGERSON: Mayor Smith and members
12 of the Council, thank you very much. I will try
13 my best to go slow and step by step through this
14 process in the hopes for an efficient public
15 hearing. Unfortunately, with that efficiency
16 comes a little bit more time on my part. Thank
17 you for your consideration.

18 I first want to summarize the request
19 very, very briefly. Step through the materials
20 that are contained in your packet, and then we
21 will get into just a little bit of the detail of
22 the staff's recommendation.

23 Basically the applicant is requesting
24 consideration of a special use permit to allow the
25 construction, operation and maintenance of a

1 wireless telecommunication facility, in other
2 words a cell tower, consisting of a 150 foot tall
3 three-carrier monopole, single pole, with
4 flush-mounted antennas. We will talk more about
5 the antenna array in just a second. The tower
6 would be contained within a 45 feet by 45 feet
7 tenant ground-based equipment compound, surrounded
8 by a six-foot wood privacy fence and a five-foot
9 wide landscaping buffer. That's the summary of
10 the request.

11 Just to step through your packet
12 materials. The first item in your packet is the
13 draft ordinance for your consideration at the
14 conclusion of the public hearing. That draft
15 ordinance does include all of the recommendations
16 of staff and the Planning Commission.

17 The second document is a staff agenda
18 review summary. It just serves to highlight some
19 of the key issues for your consideration and
20 discussion of the public hearing. The third is
21 the staff report. The fourth is the original
22 report that was presented to the Planning
23 Commission for their discussion. That particular
24 exhibit does not contain the additions that the
25 Planning Commission recommended. Deed to the

1 property, legal description.

2 And what I want to draw your attention
3 to are the photos near the back of your packet.
4 The first one looks like an aerial photograph.
5 For the audience's convenience, these exhibits are
6 shown on the screens above. Thank you Mr. Helmer
7 for preparing that.

8 The first aerial photo shows a couple of
9 things. Number one, it shows the existing
10 conditions photographically. North is to the top
11 of the page. Antioch Road to the left side of the
12 page. North Chestnut on the right side of the
13 page. And you will see a couple of things. The
14 most notable thing would be the CVS Pharmacy
15 building at the corner of Brooktree Lane and
16 Antioch Road. Directly to the east of that store
17 is a dance studio. The subject parcel is directly
18 to the south or towards the bottom of the page
19 with a red arrow.

20 What that parcel is, is actually a part
21 of the shops at Kendallwood. It is an extra piece
22 that goes with the strip center that contains
23 Applebee's and a dry cleaner and the tech shop and
24 the tanning salon. This parcel is left out kind
25 of by the nature of topography. The shops at

1 Kendallwood sit perhaps at this elevation, while
2 the Dance Studio and the subject parcel sit at
3 about this elevation, separated by a pretty steep
4 grade and a short retaining wall in the entire
5 shops at Kendallwood building.

6 Directly to the east of the subject site
7 is the Midcontinent Library. Okay. Access to the
8 site is from Brooktree Lane through the Dance
9 Studio parking lot, in which all the necessary
10 construction and long-term ingress/egress
11 easements have been negotiated to the back parcel
12 where the tower is proposed to be constructed.

13 The second exhibit is a photograph
14 simulation. It looks a little bit like this.
15 This is looking southeasterly. You can see the
16 proposed monopole and the flush mounted array in
17 the distance kind of from this perspective behind
18 the CVS Pharmacy building.

19 The next exhibit is taken from 2700
20 Brooktree Lane, a professional office building
21 south of the site, so this is looking -- or north
22 of the site. This is looking south and westerly.
23 You can see the Midcontinent Library kind of in
24 the foreground.

25 As in all of the public hearings

1 concerning cell towers, there is a burden on the
2 applicant to show the need for a facility of this
3 type. The first is a propagation study exhibit.
4 It shows the existing T-Mobile coverage as of July
5 27th, 2007. You can see at the intersection of
6 Antioch Road and Brooktree Lane, there is
7 significant areas of white. To the west green,
8 which is service in traveling vehicles generally
9 in that vicinity, both the east and west and
10 south.

11 The second propagation study is with the
12 Curry site 150 foot tower, T-Mobile being the
13 carrier at the top of that tower. You can see
14 that same intersection changes to red and yellow,
15 which is in-building coverage, either commercial
16 or residential.

17 The final one. We always need to have a
18 comparison of what the options are. It is
19 proposed coverage with a Tommy site at 130 feet.
20 This tower originally began as a discussion for
21 130 foot monopole in the Tommy's Restaurant
22 parking lot. The site is a few hundred feet to
23 the south, at 130 feet. So we have a comparison
24 of the service levels, and they are comparable
25 between the two options.

1 We also wanted to provide the Council
2 with two additional exhibits, one is -- you may
3 hear this term, a stealth tower design, where the
4 antenna array is actually contained within the
5 pole. Is that the way to say that? The second
6 one is a platform style antenna array, which is a
7 triangular shaped thing that spreads those
8 antennas out further and provides better coverage
9 for the applicant.

10 That steps through your packet and you
11 have a brief summary. Just to go through the
12 staff report and then go to the Planning
13 Commission recommendation. In any discussion of
14 these matters, we have to reference the 1996
15 Telecommunication Act. There is a lot of
16 information in the staff report about that. I
17 just want to highlight two provisions.

18 Section 704 of that Act specifically
19 preserves the Council's authority to regulate the
20 siting, modification and removal of such towers
21 within your jurisdiction. So you do have the
22 jurisdiction to make these decisions, whether you
23 support this particular application or not, I
24 think it is important that you know that the
25 Federal Government gives you the ability to do

1 that.

2 However, that same section limits your
3 authority a little bit, and preempts local zoning
4 of personal wireless facilities based on the
5 environmental effects of radio frequency
6 emissions. Any kind of health concerns or
7 interference concerns are the jurisdiction of the
8 Federal Government, not the local city council.

9 The current location is predominantly
10 surrounded by commercial property. It is in fact
11 zoned CP-3, which is the highest commercial zoning
12 classification. The site itself is very flat,
13 surrounded by moderate hilly terrain.

14 Based on T-Mobile testimony in their
15 application packet, as well as at the Planning
16 Commission, the site meets the standard
17 engineering requirements and expectations of the
18 applicant. The site also poses little problem for
19 ingress and egress and contains a substantial
20 amount of room for tower construction.

21 Although the proposed site for this
22 tower can be seen from Brooktree Lane and Antioch
23 Road, the tower is less obtrusive compared to a
24 location abutting area residential homes near this
25 site, as well as the Tommy's site.

1 Staff recommended to the Planning
2 Commission that the request be approved with a
3 series of conditions. One is that the term of the
4 special use is proposed for 20 years. That is a
5 very long time for a Special Use Permit, however
6 for your consideration it may be appropriate due
7 to capital cost of constructing these monopoles
8 and the ability to return their investment.

9 The Planning Commission asks that we
10 edit two conditions and add a series of additional
11 conditions. The first edited condition is Number
12 6 in your draft ordinance, which is a proposed six
13 foot tall wooden privacy fence. Wooden is the
14 word inserted by the Planning Commission to
15 clarify the type of materials to be used there.

16 The second condition for editing is
17 Condition Number 7, in which the Planning
18 Commission was slightly concerned about the size
19 of the ground compound and the ability to
20 landscape around the outside of the wood privacy
21 fence. The applicant has agreed to reduce the
22 size of the compound from 50-by-50 to 45-by-45,
23 which provides a five foot vegetative buffer
24 between the privacy fence and the remainder of the
25 parking lot for the Dance Studio and Curry

1 property.

2 The Planning Commission added four
3 additional conditions, starting with Condition
4 Number 17, requiring that the applicant submit a
5 detailed lighting plan for consideration prior to
6 permit approval. This is different than you might
7 think. Originally the applicant suggested a very
8 low level of lighting, basically just security
9 lighting for their equipment. The adjoining
10 property owner, who I believe is a dentist, has
11 had some graffiti or minor vandalism types of
12 issues and has requested much more lighting, to
13 provide security not only to the T-Mobile
14 facility, but to the backside of his facility
15 also.

16 Condition Number 18. "The applicant
17 shall not add to the tower any microwave dishes or
18 similar type structures." A request from the
19 Planning Commission.

20 Condition Number 19. There are
21 professional office buildings in this area,
22 several of which contain very specialized, and I
23 am guessing very expensive electronic medical
24 equipment. The dentist is one example. There is
25 an eye doctor in the area, and a couple other

1 medical uses, Woodbine being a predominant one
2 there. We want to make sure that there is no
3 interference between this proposed tower and the
4 operation of any of that equipment. It would be
5 very difficult, if not impossible for that
6 physically to occur, but if it does occur, we want
7 to make sure that T-Mobile is responsible for
8 correcting that concern. That's what Condition
9 Number 19 deals with.

10 And finally, Condition Number 20. The
11 applicant has requested the ability to install a
12 diesel generator. And that provision deals with
13 the hours of operation during the day, Monday
14 through Friday, for normal testing and maintenance
15 of that. That's pretty much it, except to tell
16 you that the Planning Commission voted 8 to 0 in
17 favor of this request. That's their
18 recommendation to the City Council.

19 MAYOR SMITH: Any questions of Mr.
20 Wingerson? Councilman Rudi.

21 COUNCILMAN RUDI: Two questions. I want
22 to be sure I heard this right. You said this pole
23 would be able to carry three carriers in addition
24 to T-Mobile or including T-Mobile?

25 MR. WINGERSON: Three total. One being

1 T-Mobile. Two additional.

2 COUNCILMAN RUDI: My second question is
3 whether or not you think we should add an
4 additional condition that states that should
5 something happen and this company no longer be in
6 business, that they return the site to previous
7 and existing -- previously existing condition.

8 MR. WINGERSON: Yes, ma'am. We can
9 certainly add that. I may ask the property owner
10 and the T-Mobile rep to explain if their lease
11 covers that issue. I don't know the answer.
12 Certainly I can --

13 COUNCILMAN RUDI: I know it was
14 mentioned in the minutes that they said that they
15 would be responsible for that, but I want to be
16 sure that as a City that we require that, should
17 something happen. Then my final question is, the
18 20 years. Is that what we have used on other
19 towers? Do you know that?

20 MR. WINGERSON: Yes. We have used it
21 several other places. One, the Power & Light
22 substation near 72nd and Euclid was 20 years. And
23 our city leases are a period of time, and then
24 successive options that generally end up equalling
25 about 10 years.

1 COUNCILMAN RUDI: Thank you.

2 MAYOR SMITH: Any other questions? Mr.
3 Wingerson, I just want to clarify Councilman
4 Rudi's clarification. Condition Number 8 says,
5 "It will be suitable for a maximum of four antenna
6 arrays." I don't care, but which one might it be?

7 MR. WINGERSON: We will ask -- if it is
8 okay with you, we will ask the T-Mobile people to
9 confirm that. I think the intent was to say no
10 more than four, although it is capable for three.
11 We will also confirm that.

12 MAYOR SMITH: This might be a silly
13 question, but in that area we also have an
14 emergency siren. Are those operated on radio
15 frequencies or are they hard wired?

16 MR. WINGERSON: I think they are hard
17 wired.

18 MAYOR SMITH: Okay. Very good. Thank
19 you. Is there a representative from the applicant
20 who would like to make a presentation to the
21 Council, please. Step forward and give us your
22 name and address for our record.

23 MR. LOUK: Good evening. My name is
24 Jess Louk. I am with Selective Site Consultants.
25 Our address is 8500 West 110th Street, Suite 300,

1 66210. Joining me tonight -- I am here on behalf
2 of the applicant, T-Mobile. Joining me tonight
3 from T-Mobile are Garth Adcock, the gentleman now
4 standing. Garth is the real estate and zoning
5 manager for T-Mobile in the Little Rock/Kansas
6 City markets.

7 Seated to his right is Vincent
8 Christofano, a Northland native, and he is the
9 radio frequency engineer in charge of this site.
10 And seated to Garth's left is Ed Mickells. He is
11 with Selective Site Consultants. Right here, the
12 man in the black jacket. He is with Selective
13 Site Consultants. He actually performed the site
14 acquisition work in this area once the search area
15 was released to our engineering firm.

16 Let's start at the top with the
17 questions of Council. I have a very brief
18 presentation. Staff did an excellent job
19 summarizing the latest components of this, and
20 some of the historical items in this application.
21 So my presentation will be very brief.

22 Very quickly, Councilman Rudi. The
23 monopole is designed to hold four stops. So you
24 will have four sections on the monopole where you
25 can locate four antenna sets. It is T-Mobile's

1 intent to take the top two and lease the next two
2 down to two wireless carriers. It says on the
3 application that it is a four carrier monopole,
4 but in fact it will house three carriers at the
5 end of the day.

6 The ball started rolling on this
7 application back on January 19th, 2006 for
8 T-Mobile and Selective Site Consultants. On that
9 date Vincent Christofano's group, the radio
10 frequency engineering team, issued a search ring
11 to us, which basically is just a circle on a map.
12 It identifies a need for T-Mobile from the radio
13 frequency department. Basically they don't have
14 adequate coverage or they have no coverage.

15 When they issue us a search ring, the
16 first thing that we do, we move into the search
17 ring and we seek any and all existing vertical
18 real estate. When I say existing vertical real
19 estate, I mean things like existing towers,
20 existing buildings, existing grain elevators. Any
21 structure that is tall enough and meets the radio
22 frequency design height. We are mandated by
23 Garth, the real estate group inside T-Mobile, to
24 bring those vertical structures back to the radio
25 frequency group to consider. Because what we

1 don't want to do is come before councils like
2 yourself without having investigated all the
3 co-location opportunities that are out there.

4 As many of you know, in this area there
5 are no co-locatable structures available to us.
6 So that's where we are at. We then move forward
7 with any and all raw land candidates that we
8 thought would suit the needs of the radio
9 frequency team.

10 I have been in business about eight
11 years in wireless development, and in that time
12 period I have seen a lot of things change. One
13 thing that hasn't, is you need four things to do a
14 cell site. You have to have leaseable ground,
15 constructible ground, zonable ground, and a site
16 that meets the radio frequency team's needs.

17 We approached 10 candidates over a
18 period of about 15, 14 months, and of those 10
19 properties we looked at, we have one that meets
20 all four of those requirements. That is the one
21 before you this evening. The overall point
22 emphasis here to this body tonight, is that we
23 have gone out, we have done our due diligence, we
24 have tried to find the best candidate to bring
25 before you. This is a CP-3 property. We have

1 Planning Commission approval. We think this is a
2 good example of an applicant reaching out, working
3 with the City, working with staff, and finding the
4 property with the highest and best use.

5 With that, I will close this very brief
6 presentation, open up our team to any questions
7 that you might have. We have several subject
8 matter experts in the building from the wireless
9 community. So if you have any questions, please
10 fire away.

11 MAYOR SMITH: First of all, I would like
12 to say that you did reach out and work with the
13 community. I think you had an alternative site
14 that wasn't looking so good.

15 MR. LOUK: We did.

16 MAYOR SMITH: And you were able to work
17 something out. I commend you for that. I also
18 commend you for the style of pole that you are
19 looking to construct. Any questions of Mr. Louk
20 or any of the others? Councilman Rudi?

21 COUNCILMAN RUDI: The condition that I
22 mentioned is to restoring the property to its
23 existing condition. Is that something that is
24 part of your lease, or do we --

25 MR. LOUK: It is. There is a leasing

1 provision in the document that says when the lease
2 expires, T-Mobile is obligated to restore the
3 property to its former condition, normal wear and
4 tear excepted. If we want to make that a
5 provision of the special use permit, T-Mobile
6 would be open to it, as long as we keep that legal
7 caveat at the end, it is going to be 20, 25 years
8 that pass. We will do our best to restore it to
9 its previous condition, normal wear and tear
10 excepted. Everything above three feet of grade.
11 So that is an important caveat, that anything
12 three feet below grade they will not be removing
13 the foundation.

14 COUNCILMAN RUDI: Mr. Wingerson, do you
15 think that that is adequate for what we need?

16 MR. WINGERSON: We're working on it. I
17 will try to present some language to you.

18 COUNCILMAN RUDI: Thank you.

19 MR. LOUK: The bottom line is,
20 Councilman Rudi, we are open to that concept.

21 COUNCILMAN BEER: I guess the only part
22 of that that I still had a little bit of question
23 I guess, is that if there should be any reason
24 that the lease is terminated, for whatever reason,
25 prior to 20 years, are we still restorable? Is

1 the property restorable by your lease?

2 MR. LOUK: Yes. We are obligated from a
3 leasehold perspective to keep it a commercially
4 reasonable upkeep. Commercially reasonable
5 manner. Excuse me, the cat has my tongue. And
6 through the S.U.P. So we will be a good neighbor,
7 we will keep it lit, we will keep everything
8 around it grown and healthy.

9 COUNCILMAN BEER: Regarding the
10 lighting. The only residential that is anywhere
11 near the effect of the lighting is pretty much
12 protected, as I recall, by commercial barriers.
13 Commercial structure barriers. Has there been any
14 other -- has there been any contact to staff with
15 regards to lighting issues from the community?

16 MR. LOUK: No, sir.

17 MAYOR SMITH: The fact of the matter is,
18 it is just pretty dark back there on a regular
19 basis. This is probably a good thing. I think
20 there are. I know that the folks over there are
21 probably eager to see it there rather than the
22 Tommy's location.

23 COUNCILMAN BEER: I think there is no
24 question of that.

25 MAYOR SMITH: Any other questions? Very

1 good. Thank you.

2 MR. LOUK: Thank you for your time. One
3 final note, I would respectfully request that you
4 move to approve this application. Thank you.

5 MAYOR SMITH: Thank you. Is there
6 anyone in the audience who would like to speak in
7 favor of this application? Please come forward
8 and give us your name and address for the record,
9 sir.

10 MR. HALL: Thank you. My name is Pete
11 Hall. 5621 North Clinton Place. Mayor and City
12 Council. Happy Veterans Day, by the way, or day
13 thereafter it is celebrated. Never mind.

14 COUNCILMAN BEER: Same for you, Pete.

15 MR. HALL: I will wear several hats here
16 before you. One being a representative for Curry,
17 the land owner. I will be able to answer any
18 questions you may have about the property.

19 Number two, being very active in the
20 economic development community, I can tell you
21 that the wireless industry is going great guns,
22 and more and more things are driven by wireless
23 communication. It is extremely important to keep
24 up with that, and this helps that.

25 I live in the area, and I am also a

1 T-Mobile customer, and I cannot make phone calls
2 from my house. This will alleviate that problem.
3 So I am very, very grateful for that opportunity.

4 We have -- I have talked with all the
5 property owners in the area to make certain that
6 no one had too much heartburn or any heartburn
7 about this. With the exception of the dentist,
8 who is concerned about his equipment. He found
9 that everybody was okay with it, because it was
10 very unobtrusive where it was located. It is
11 shaded or blocked with trees and buildings from
12 about every direction.

13 To mention about the lighting. Every
14 single property owner, including us, the library,
15 the Dance Studio, the dentist, all are
16 enthusiastic about having extra lighting. It is a
17 dark area. Unfortunately with some of the young
18 people the tagging is becoming an issue. That has
19 happened a couple of times. This, we believe,
20 will help a lot. So again, I would encourage you
21 to allow the special use permit. Are there any
22 questions for me pertaining to the property owner?

23 MAYOR SMITH: I don't hear any.

24 MR. HALL: Thank you.

25 MAYOR SMITH: Anyone else like to speak

1 in favor of this application? Is there anyone in
2 the audience that would like to speak in
3 opposition to this application? Hearing none. Do
4 you wish to close, Mr. Wingerson?

5 MR. WINGERSON: Mayor Smith. Thank you.
6 Just following up on Councilman Rudi's question.
7 Potential Condition Number 21. A new condition to
8 the ordinance in your packet could read, "Should
9 the tower be abandoned and not operational for the
10 intended use for a period of six months, then the
11 facility shall be removed to ground level and
12 restored to its former condition, normal wear and
13 tear excepted." I didn't read that very well, but
14 I could read that more clearly now.

15 MAYOR SMITH: We got it. Just for the
16 record, I got a thumbs up from Mr. Louk in the
17 back of the room. Very good. Anyone else -- yes,
18 sir, Mr. Hall.

19 MR. HALL: I would ask that anything
20 that affected the lease directly, that the Council
21 might do, that they would allow us to review that
22 first. There are provisions in the lease to
23 restore that property, and that is covered. Any
24 time that you do anything that will change that, I
25 would like to at least have the opportunity, not

1 to overrule anything you have, but to look at the
2 lease to see if it needs to be changed as well.

3 MAYOR SMITH: Anyone else? Hearing
4 none, we will close the public hearing.

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I, JAMES A. LEACOCK, Certified Court Reporter,
do hereby certify that I appeared at the time and place
hereinbefore set forth; I took down in shorthand the
entire proceedings had at said time and place, and the
foregoing 23 pages constitute a true, correct and
complete transcript of my said shorthand notes.

Certified to this 13th day of November, 2007.

James A. Leacock, CCR.
Certified Court Reporter No. 662 (G)
Notary Public, State of Missouri