

# **CREEK ROAD CELL TOWER APPEAL**

Community Development Director:  
Peter S. Wegner  
Village of Kronenwetter  
[pwegner@kronenwetter.org](mailto:pwegner@kronenwetter.org)  
715-692-1729

## Creek Road Cell Tower Appeal Documents

### A. Jim Harris Handouts

1. Academic Citations – p. 3
2. Court of Appeals Cedarburg – pp. 4-7
3. Findings Jim Harris – pp. 8-9
4. Survey of Realtors – p. 10

### B. June 19, 2023 PC Meeting

1. Item-Staff-staff report revised PSW 6 19 223 – p. 11
2. Plan Commission Meeting Minutes – pp. 12-13
3. Staff report Cell Tower CUP PH comments report 6 19 2023 – pp. 14-20

### C. May 15, 2023 PC Public Hearing

1. 20230515 - Staff Report to PC – pp. 21-24
2. ITEM-Staff- staff report May 15 2023 – p. 25
3. Plan Commission Meeting Minutes Document – pp. 26-27
4. US-WI-5446 Exhibit Book.4.19.23 – pp. 28-61
5. US-WI-5446 Kronenwetter Final Zoning Drawings\_2023-02-22 – pp. 62-65
6. Wausau Daily herald may 15 2023 meeting – p. 66

### D. Transcribed Minutes

1. 10170031. Transcription of Audio 051523.full – pp. 67-196
2. 10170031. Transcription of Audio 061923.full – pp. 197-325

### E. 2023 Creek Rd Cell Tower Draft Approval Letter

1. Draft Letter – p. 326
2. Attachment – p. 327

### F. Appeal Request Harris 6 26 2023 – p. 328

## Academic Citations; Homeowner and Real Estate Agent Statements

*Realtor Magazine*: 94% of home buyers will not purchase a home near a cell tower due to potential adverse health effects.

*Journal of Real Estate Research*: In some areas with new towers, property values have decreased by up to 20%.

*HUD guide to appraisers*: appraisers must take the presence of nearby cell phone towers into consideration when determining value.

*National Institute of Science, Law and Public Policy*: 79% of survey participants said that under no circumstances would they purchase or rent a home near a cell phone tower.

\* \* \* \* \*

Agent: Cell tower is a risk added on top of all other investment risks.

Agent: Cell towers bring fear of the unknown.

Agent: 90% of home buyers would expect to pay less for a property in close vicinity to cellular antennas.

Agent: If a person is going to invest, why would he buy a property near a tower?

Agent: When a tower is built near an existing residence, there is a significant degradation to the value.

Agent: You can see a buy's dismay over the sight of a cell phone tower.

Quote from homeowner who had a tower built near her home: "A six-foot fence does nothing to hide a 300-foot tower."

Quote from homeowner who had a tower built near her home: Had the tower been here 20 years ago when we built our home, we never would have built here.

Quote from homeowner: Would you want a cell phone tower in your back yard?

Quote from homeowner: Would you want your children [or grandchildren] living so close to a cell phone tower?

No lang. "Compatible w/ adjacent land"

# Court of Appeals Upholds Denial of Cell Tower Permit



Julia K. Potter, Attorney, Boardman & Clark LLP

In a recent case, *Eco-Site, LLC v. Town of Cedarburg*, 2019 WI App 42, the Wisconsin Court of Appeals upheld a municipality's decision to deny a permit to Eco-Site, LLC, a wireless infrastructure provider seeking permission to construct a cell tower on private, rural land. In doing so, the court clarified the scope of the limits placed on municipal regulatory authority by Wis. Stat. § 66.0404, which prohibits a municipality from denying a cell tower permit "based solely on aesthetic concerns."

Eco-Site sought a permit from the Town of Cedarburg to construct a 120-foot metal monopole cell tower, along with a supporting 5,600 square foot structure, on a horse farm located in the Town's A-1 agricultural zoning district (but surrounded by residential uses). Under the Town's ordinances, the permit could not be granted unless certain conditions were met, including that the tower be "[c]ompatible with adjacent land" – i.e., that "[t]he uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation" of the cell tower. After much discussion, the Town Board denied Eco-Site's permit application on a number of grounds, including failure to meet the ordinance's compatibility requirement.

Eco-Site sued the Town, making two primary arguments: (1) that the Town's determination that the tower was incompatible with adjacent land was a misapplication of its own ordinances; and (2) that the Town's decision was based

solely on aesthetic concerns in violation of Wis. Stat. § 66.0404(4)(g). Both arguments failed.

The court held that the Town's conclusion that the proposed tower would be incompatible with neighboring land uses was reasonable, noting that the Town had placed the property and adjacent land in agricultural and residential districts in an effort to keep the area rustic, rural, and populated and that "[t]his intended use and lifestyle are clearly at odds with, and would be thwarted by, the introduction of a 120-foot tall telecommunications tower with its substantial related structure and fencing." In addition, the court concluded that the neighboring homeowners' concerns about the negative effect the cell tower would have on their property values fairly related to the residents' "uses, values and enjoyment" of their property and therefore to the compatibility factor set out in the ordinance.

Eco-Site also argued that that the Town's denial of its permit application on the basis of incompatibility, lost property values, and the effect on the public health, safety, and general welfare amounted to a denial based solely on aesthetics in contravention of Wis. Stat. § 66.0404. Eco-Site pointed to numerous comments during the discussion of each ordinance factor that related to the visual impact of the tower. The court acknowledged that the Town Board made comments regarding aesthetics, but concluded that Wis. Stat. § 66.0404(4)(g) only prohibits a denial of a cell tower siting permit if that denial is based "solely" on aesthetic concerns. Because the Board's decision that the tower did

not meet the ordinance's incompatibility standard was also based on the impact of the tower on the uses and lifestyle for which the neighborhood was zoned and the economic impact on neighboring property values, it was not a denial based "solely" on aesthetic concerns.

This decision is an important one for municipalities looking to exercise their right to regulate the siting of cell towers within municipal limits. Municipalities should carefully consider the standards set out in local ordinances for the granting of cell tower permits to ensure that they incorporate factors that are not purely aesthetic (e.g., effect on property values and impact on the uses and enjoyment of nearby property), and should be sure to carefully document that the basis for denial of a permit includes non-aesthetic factors.

## Licensing and Regulation 402

### About the Author:

Julia K. Potter is an attorney at Boardman & Clark LLP, where her practice focuses on land use, real estate, right-of-way regulation, and general municipal law. She received her law degree, summa cum laude, from the University of Michigan Law School and her B.A. from Brown University. Julia was named an "Up and Coming Lawyer" by the Wisconsin Law Journal in 2018.

Boardman & Clark LLP is a Madison law firm that provides a full range of legal services to Wisconsin municipalities. Contact Julia at JPotter@boardmanclark.com

**COURT OF APPEALS OF WISCONSIN  
PUBLISHED OPINION**

Case No.: 2018AP580

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Complete Title of Case:

**ECO-SITE, LLC F/K/A ECO-SITE, INC., SCOTT R. AKERLUND AND  
PATRICIA A. AKERLUND,**

**PLAINTIFFS-APPELLANTS,**

**v.**

**TOWN OF CEDARBURG,**

**DEFENDANT-RESPONDENT.**

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Opinion Filed:	July 24, 2019
Oral Argument:	July 8, 2019

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JUDGES:	Neubauer, C.J., Reilly, P.J., and Hagedorn, J.
Concurred:	Reilly, P.J.
Dissented:	

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Appellant

ATTORNEYS: On behalf of the plaintiffs-appellants, the cause was submitted on the briefs of *J. Michael Long*, *Lisa M. Lawless*, and *James C. Remington* of *Husch Blackwell LLP*, Milwaukee. There was oral argument by *Lisa M. Lawless* and *J. Michael Long*.

Respondent

ATTORNEYS: On behalf of the defendant-respondent, the cause was submitted on the brief of *Remzy D. Bitar* and *Luke A. Martell* of *Municipal Law & Litigation Group, S.C.*, Waukesha. There was oral argument by *Remzy D. Bitar*.



## Cedarburg Timeline

### November 24, 2015

Eco-Site and the Akerlands, Cedarburg farm owners, submitted an application for a CUP in order to erect a 120-foot metal monopole

### December 4, 2015

Town of Cedarburg notified Eco-Site that the application was incomplete. Two more applications, January 20 and February 22, 2016, were similarly rejected

### April 20, 2016

Eco-Site's application was put on the agenda for the Town and Plan Commission meeting on April 20, 2016.

Due to input from the public at a town planning commission meeting, Eco-Site withdrew its application to search for alternate locations.

### September 28, 2016

Eco-Site resubmitted its application.

### May 3, 2017

After a full discussion of the information and issues, Town Supervisor Gary Wickert moved to deny the application for **failure to meet three of six ordinance requirements and one statutory requirement**. Vote: 4-0

Through its ordinances, the Town has its standards for approval of conditional uses. The ordinance states no conditional use shall be granted unless all six of the ordinance's conditions are met, to include the following three relied upon by the Town:

- (1) **Welfare**. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) **Compatible with adjacent land**. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
- (3) **Not impede surrounding property development and improvement**. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district.

### June 2017

Eco-Site filed a summons and a petition for certiorari or, in the alternative, a complaint for declaratory judgment.

**July 24, 2019**

Opinion filed: Eco-Site v Town of Cedarburg

Court of Appeals of Wisconsin

Case Number: 2018 AP 580

Court found in favor of the Town of Cedarburg

Cedarburg was represented by Municipal Law and Litigation Group, Waukesha, Wisconsin

## FINDINGS

No conditional use shall be recommended by the Village Plan Commission unless such commission shall find:

**(1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.**

~~Yes. The establishment of the conditional use, and subsequent construction of a new tower, will conform to all officially adopted Village codes and will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.~~

No. The building of a 200-foot cell phone tower across the road from residential housing will be detrimental to the comfort and general welfare of not only the residents of the nearby single-family home, but also of the hundreds of participants in one of Marathon County's longest-running and largest community gardens. The tower will dominate the skyline and loom over adjacent property, destroying scenic views and diminishing the close connection that residents and gardeners have with their land. The Plan Commission should consider the current rustic character of the property at 1833 Creek Road and take action to preserve the values that it nurtures. The community garden, as a showcase, enhances the reputation of Kronenwetter, Marathon County, and the Greater Wausau area.

While the planned RF emissions from the tower may not exceed current FCC standards, those standards are based on research on acute exposure only. Fear of long-term exposure to RFR emissions is a fact of life and has resulted in property near communication towers being stigmatized, even scorned, by much of the public.

Perception plays a significant role in shaping market behavior. Even if health concerns are unfounded or lack scientific evidence, when people believe there is a potential health risk associated with a property, it can create fear and anxiety. We fear that may harm community support for our gardens.

**(2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

~~Yes. The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood because the site on which the business will be conducted is a largely wooded, 40-acre parcel of land. The large lot size, natural buffer, and a proposed mobile support facility should not be a deterrent.~~

No. The presence of a communication tower so close to nearby residential housing will significantly reduce the value of that property and severely disrupt the lives of the closest residents. Disclosure that a tower is proposed for the property has already caused a potential buyer to back out of a plan to purchase our existing home at 1833 Creek Road. The possibility of a tower being in a prominent position across the road from our land forced us to cancel our plan to build a retirement home on the property.

Extensive objective academic research conclusively confirms that buyers (across varied income levels in communities across the country) are reluctant to invest in homes that are close to cell phone towers. Multiple studies show that when sales of homes close to towers are do occur, the homes sell at a lower price than comparable properties that are not burdened by the presence of towers.

The applicant's suggestion that a communication tower might increase property values is entirely speculative, and the claim is offered with no supportive evidence. In contrast, a survey focusing



exclusively on the experience of Wisconsin realtors shows that the tower proposed for Creek Road will likely result in a loss of value for our home and property.

Furthermore, the applicant's assertion that trees and other natural elements will mitigate the impact of the tower is false. The fact that the tower sits on the edge of a "40-acre parcel of land" is irrelevant since the tower company isn't placing the tower at the far back of the parcel or in a wooded area, but instead in an open field at the front of the parcel, close to our house.

The new site lacks the trees that would have partially buffered the earlier site. At the site currently proposed, the tower will sit unobscured by trees or foliage of any kind when viewed from the North, West, and East. In the applicant's original application in 2022, much was made of the benefit provided by "natural buffering." The current application, offers little hope of nature even partially obscuring the tower. And as for landscaping, as one survey respondent stated, "A six-foot tall fence does not do much to hide a 200-foot tower."

**(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

~~Yes. By meeting the requirements in § 520-26(C)(2)(a) of the Zoning Ordinance the granting of a conditional use permit will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.~~

No. For over 30 years we have invested money and labor into improving the appearance of the portion of our property that fronts Bank Road, even though that property line is nearly a quarter mile from our home. We have enhanced the property along Bank Road to make that land more enticing to future buyers should we someday choose to subdivide our land.

The land fronting Bank Road now has mature deciduous and evergreen trees and was recently planted with additional native prairie flowers and grasses. Those potential building sites were intentionally planned to connect with walking trails that we have planted throughout the community garden.

These long-term improvements of property distant from our current home are cited as evidence that for many years we have planned for the development and improvement of our rural property; that development will be negated by the placement of a tower.

New 6/19/2023

## Survey of Wisconsin Realtors: Effect of Cell Tower Placement on Value of Surrounding Properties

Our previous research of multiple sources had indicated that placement of a cell phone tower adversely affects the marketability and property values of nearby homes. Among our findings, we found no reports that focused specifically on the housing market in Wisconsin; we therefore conducted a mail-in survey of realtors throughout the state of Wisconsin. The results were submitted anonymously, in order to assure honest responses and to avoid response bias.

The questions we asked and the realtor responses are as follows:

1. Do you agree or disagree with this statement: "A 200-foot cell phone tower built 300 feet from a home will make the property value of the home drop by 5% or more."

**85%** of respondents indicated that they "**strongly agree**" or "**agree**."

2. How far away would a 200-foot tower need to be before it wouldn't make any difference? The question offered five possible answers, ranging from "300 to 500 feet" up to "one mile or more."

**97%** of respondents indicated that a **minimum distance of more than 500 feet** from the property would be required, with **79%** of respondents answering "**1/4 mile**" to "**a mile or more**."

3. "Have you or a colleague ever had a buyer report that they like a certain house, but wouldn't consider buying it because it is too close to a cell tower or similar structure?"

**More than half** of respondents (**59%**) answered "**Yes**."

This is evidence that the concerns about loss of property value are not just hypothetical, but in fact reflect the actual experiences of professional licensed realtors currently working in the central Wisconsin market.

One respondent from Marshfield, WI, chose to include his identity along with the written comment, "I have personally dealt with this issue. 6-8 buyers on the same property planned on submitting offers. Once they searched online about cell towers, they were scared off."

4. When people say they don't want to buy a home close to a cell phone tower, what do you think they are worried about?

**Health and safety: 91%**

**Appearance: 70%**

**Property Value: 67%**

5. Do you agree or disagree: "If two house were exactly the same in every way, but one of them has a 200-foot cell phone tower nearby, the one with the tower will be slower to sell and will probably sell for less money." (Agree or disagree?)

**91%** responded that they "**agree**."



# REPORT TO PC

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**ITEM NAME: Communication  
Tower on Creek Road  
MEETING DATE: June 19,  
2023  
PRESENTING COMMITTEE:  
COMMITTEE CONTACT:  
STAFF CONTACT: William  
Gau Planning Technician  
PREPARED BY: William Gau  
and Peter Wegner**

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**ISSUE:** Discussion and Recommendation: Conditional Use Permit- VB BTS, LLC Mike Bieniek, ACIP, 1810 or 1898 Creek Road Mosinee WI 54455 for a new mobile service support structure and facility on property (Communication Tower).

**ISSUE BACKGROUND/PREVIOUS ACTIONS:** Mike Bieniek is requesting a Conditional Use Permit for a Communication Tower at 1810 or 1898 Creek Road Mosinee, WI 54455. The property is currently zoned AR Agriculture Residential. According to Section 520-26(C)(2)(a) of the Village Zoning Code, a Communication tower is permitted as a conditional use.

August 15, 2022 the Planning Commission reviewed and recommended approval of a Cell Tower on this parcel, approximately 360ft SW of the proposed location. On September 26, 2022 the Village Board approved the Conditional Use Permit.

**RECOMMENDED ACTION:** Staff recommends the Planning Commission approve the conditional use as originally proposed, approve the proposed conditional use with conditions or modifications, or deny approval of the proposed conditional use and include reasons for denial.

If the Planning Commission approves the condition use permit staff recommends adding a condition requiring the owner provide the village with a certificate of insurance prior to issuance and to accept the findings of fact set forth in the staff report.

**ATTACHMENTS (describe briefly):** Bieniek Conditional Use Permit Application, Amended Staff Report, Handouts (Harris) and aerial photos of other Cell Towers in similar settings.



# PLAN COMMISSION MEETING MINUTES

June 19, 2023 at 6:00 PM

Kronenwetter Municipal Center - 1582 Kronenwetter Drive Board Room (Lower Level)

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## 1. CALL MEETING TO ORDER

- A. Pledge of Allegiance  
Those in attendance sited the Pledge of Allegiance.
- B. Roll Call  
EnterTextHere  
PRESENT  
Bruce Sinkula  
Chairperson Chris Voll  
Vice-Chairperson Dan Lesniak  
Rick Grundman  
Tim Shaw  
Tony Stange  
  
ABSENT  
Dick Kavapil

## 2. PUBLIC COMMENT

Please be advised per State Statute Section 19.84(2), information will be received from the public. It is the policy of this Village that Public Comment will take no longer than 15 minutes with a three-minute time period, per person, with time extension per the Chief Presiding Officer's discretion. Be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments.

Keith Walkowski 5310 Willow St Weston Wisconsin (2 Lot CSM)  
Mike Bieniek 10700 W. Higgins, Suite 240 Rosemount Illinois (Tower Applicant)  
Jim Harris 1833 Creek Road Kronenwetter Wisconsin (Tower)  
Marty Harris 1833 Creek Road Kronenwetter Wisconsin (Tower)  
Robert Konkol 1898 Creek Road Kronenwetter Wisconsin (Tower)

## 3. APPROVAL OF MINUTES

- C. Unapproved Minutes May 15, 2023  
Motion made by Sinkula, Seconded by Grundman to approve the Minutes from May 15, 2023.  
Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Shaw, Stange  
Motion passes by Voice Vote 6:0.
- D. Unapproved Minutes May 17, 2023  
Motion made by Sinkula, Seconded by Grundman to approve the Minutes from May 17, 2023.  
Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes by Voice Vote 6:0.

**4. REPORTS AND DISCUSSIONS**

- E. Director Report  
Nothing to Report

**5. OLD BUSINESS**

- F. Motion made by Sinkula, Seconded by Grundman to approve conditional use for Communication Tower at Creek Road with the conditions that they install screen fence of either vinyl, wood, or opaque to be two feet higher than the highest part of any building and to be maintained in proper condition and also a \$20,000 bond for removal of such tower when not in use with the agreeing with findings of staff.

Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Stange

Voting Nay: Shaw

Motion passes by Roll Call Vote 5:1

- G. Article VII. Floodplain Overlay Zoning Districts Chapter 520 (Section 1.0 -10.0)

Motion made by Stange, Seconded by Vice-Chairperson Lesniak to approve the Article VII, Floodplain Overlay Zoning District Chapter 520 as presented and ask staff to send it to the DNR.

Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes Voice Vote 6:0.

**6. NEW BUSINESS**

- H. Motion made by Vice-Chairperson Lesniak, seconded by Grundman to approve the CSM (WALKOWSKI) as presented.

Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes by Roll Call Vote 6:0.

**7. CONSIDERATION OF ITEMS FOR FUTURE AGENDA**

None

**8. NEXT MEETING:**

July 17, 2023 @ 6:00 pm.

**9. ADJOURNMENT**

Motion made by Chairperson Voll, Seconded by Sinkula to adjourn.

Voting Yea: Sinkula, Chairperson Voll, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes Voice Vote 6:0.

1810 or 1898 Creek Road (Bieniek)  
Conditional Use Permit request  
Amended Staff Report for Planning Commission 6/19/2023

Jim Harris:

- 1) The use will be detrimental to the comfort and general welfare. The tower will destroy scenic views and diminish the close connection residences and gardeners have with the land. Must consider the rustic character of the property and the values it nurtures. RF emissions cannot exceed FCC standards. These standards are based on acute exposure only.
- 2) Presence of a communication tower so close to nearby residential housing will significantly reduce the value of that property and severely disrupt the lives of the closest residents. Cell Tower already caused a potential buyer to back out.
- 3) For 30 years we have invested in our property to entice future buyers should we subdivide in the future. The placement of a tower will negate that development.

Threatens Mental Wellness.

Cell Tower will be plopped next to a residential home, 300ft from front porch.

Obscene Tower in rural rust area.

Academic Citations; Homeowner and Real Estate Agent Statements:

*Realtor Magazine:* 94% won't buy near a cell tower

*Journal of Real Estate Research:* In some areas with new towers property value have decreased by up to 20%.

*HUD Guide to Appraisers:* Appraisers must take the presence of nearby cell phone towers into consideration when determining value.

*National Institute of Science, Law and Public Policy:* 79% of survey participants said under no circumstances would they purchase or rent a home near a cell phone tower.

Ten different Agent and homeowner quotes (see hand out).

Mike Bieniek:

Proposed Tower is 575ft from nearest point of residence

Meets all Village of Kronenwetter's Ordinance requirements and State Statutes

Realtors will give you the answer you want

Appearance, health, safety and property values are all items, the Federal Government through the Telecom Act of 1996, say are not appropriate items to consider.

The FCC provides the areas where cell towers can be placed.

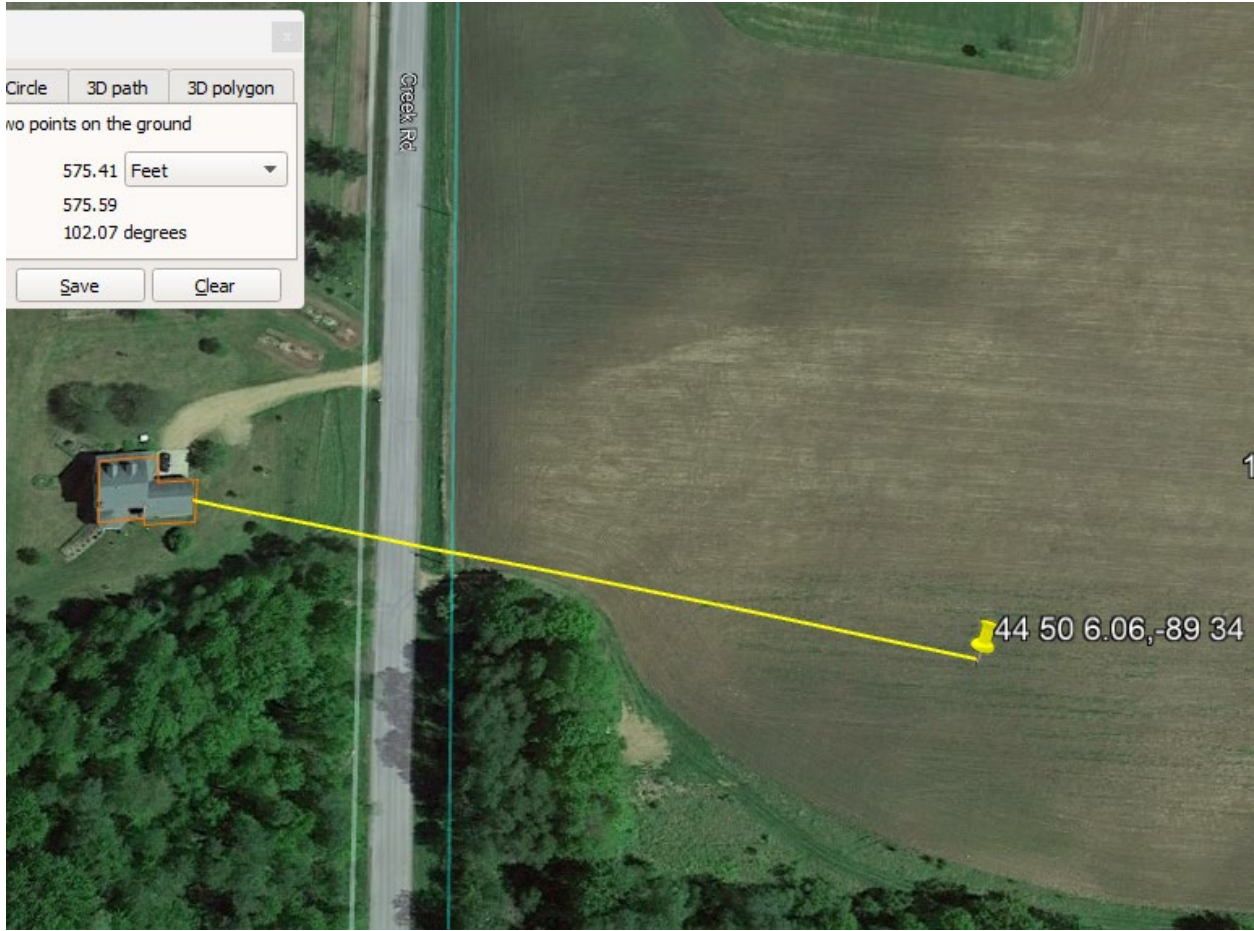
Visual concerns cannot be used to make a decision.

Many people prefer to live next to a tower. It increases their property values. It allows them to work from home.

Alternatives were considered. They looked at two search areas. One area there was no interest and half was wetland. The second area they had three interested parties.

Telecom Act says you cannot discriminate.

**Approximate Distance Proposed Creek Road Cell Tower from the Harris Residence**



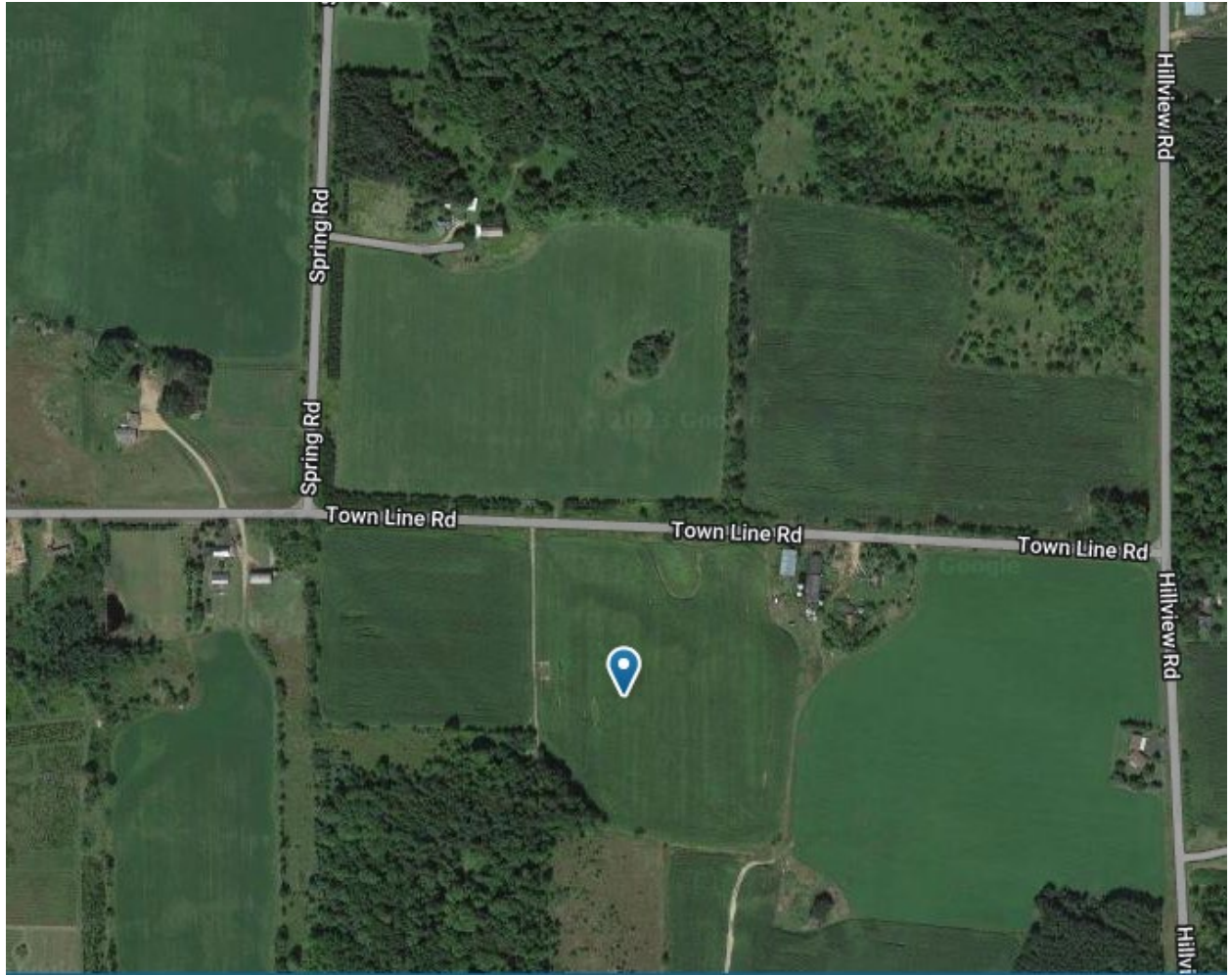
**Approximate Location of 16th Road Cell Tower**

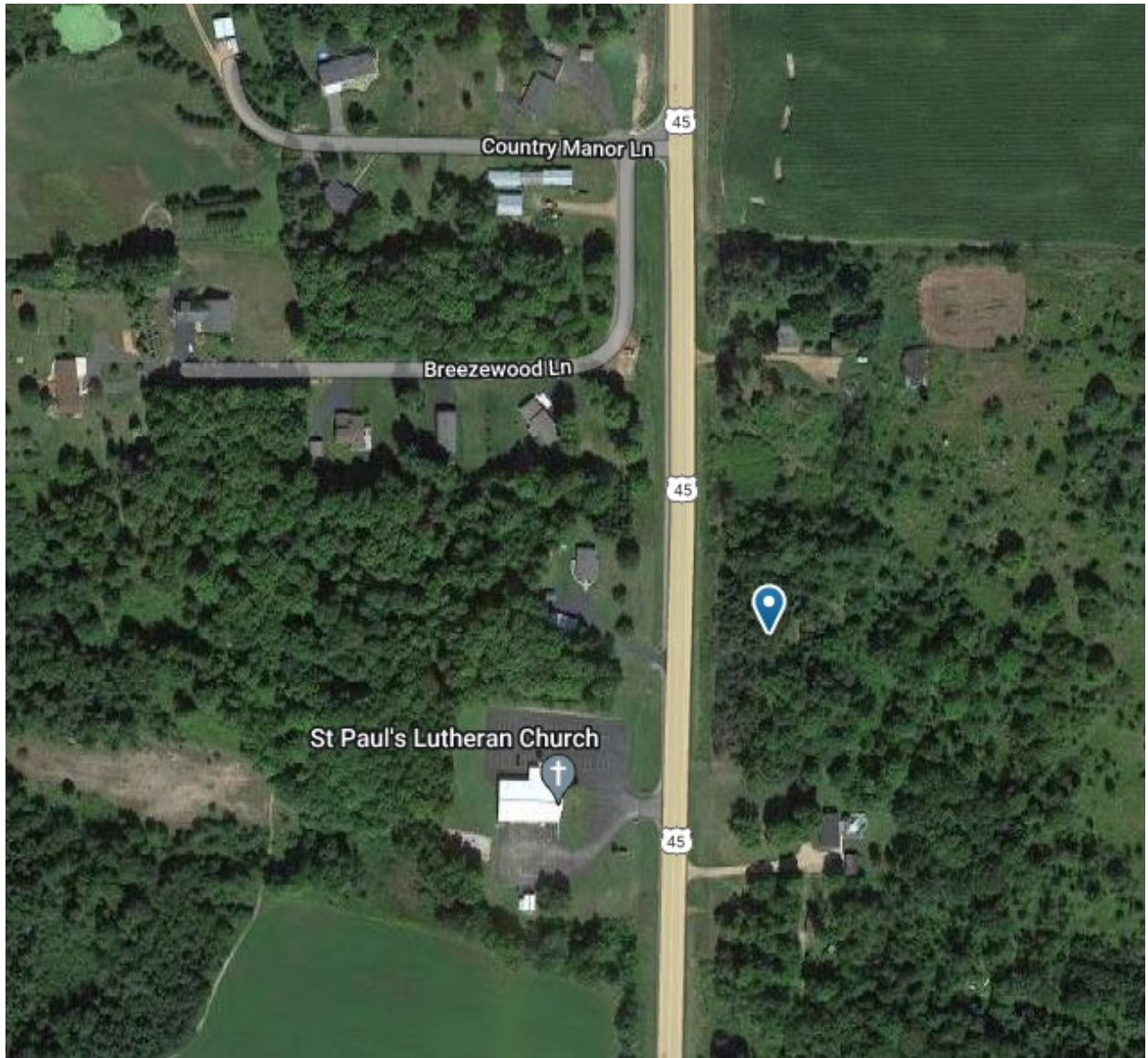


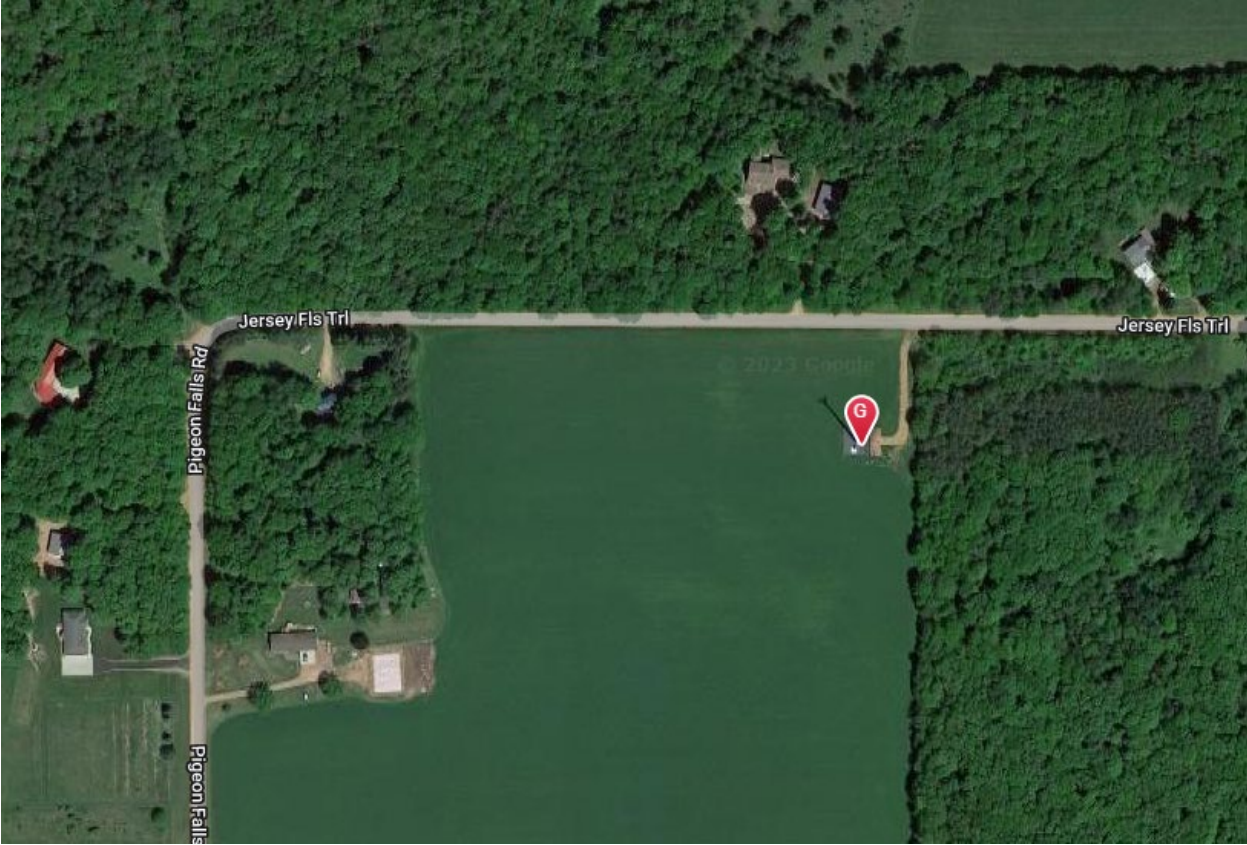


**Other Cell Towers Located in Similar Settings**









**1810 OR 1898 CREEK ROAD (BIENIEK)  
CONDITIONAL USE PERMIT REQUEST**

**STAFF REPORT FOR PLANNING COMMISSION**

**PUBLIC HEARINGS/  
MEETINGS:**

Plan Commission Public Hearing: 6:00 p.m. May 15, 2023  
Village Board Public Meeting: 6:00 p.m. May 22, 2023

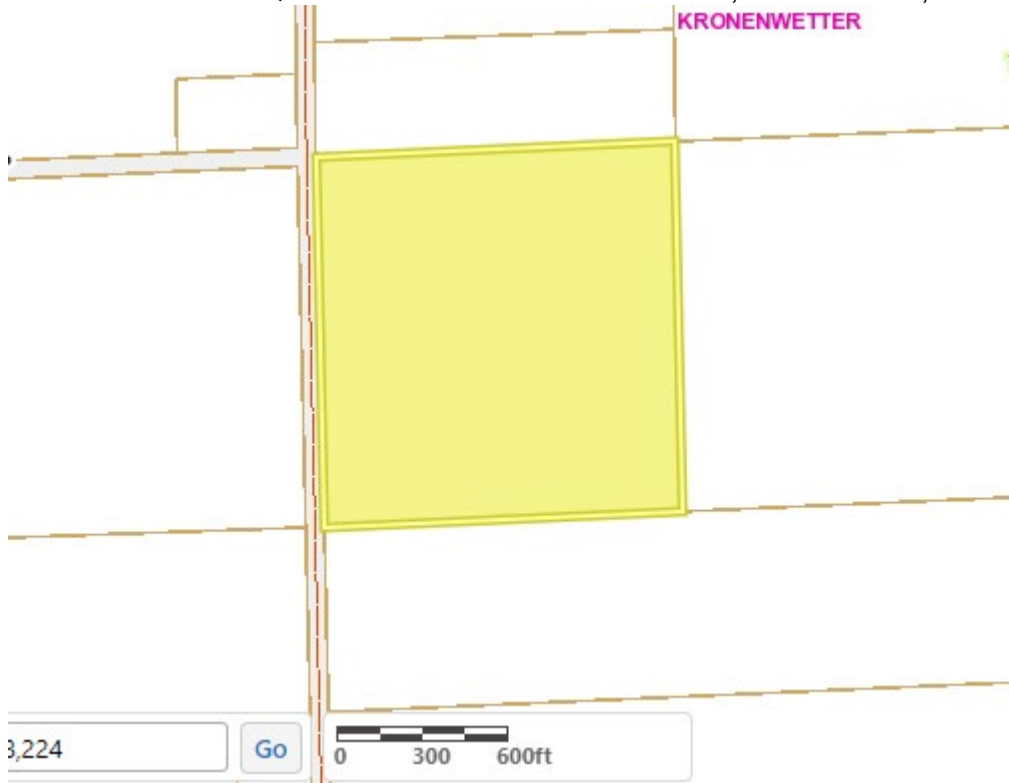
**APPLICANT:**

Mike Bieniek  
1810 or 1898 Creek Road  
Kronenwetter, WI 54455

**PREPARED BY:**

LLC Telecom Service  
1810 or 1898 Creek Road  
Kronenwetter, WI 54455

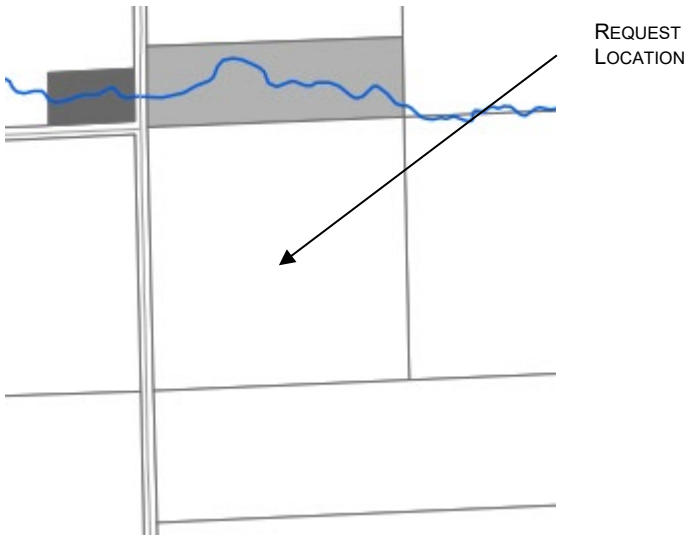
**LOCATION OF REQUEST:** 1810 or 1898 Creek Road, Kronenwetter, WI 54455 (See Map 1)



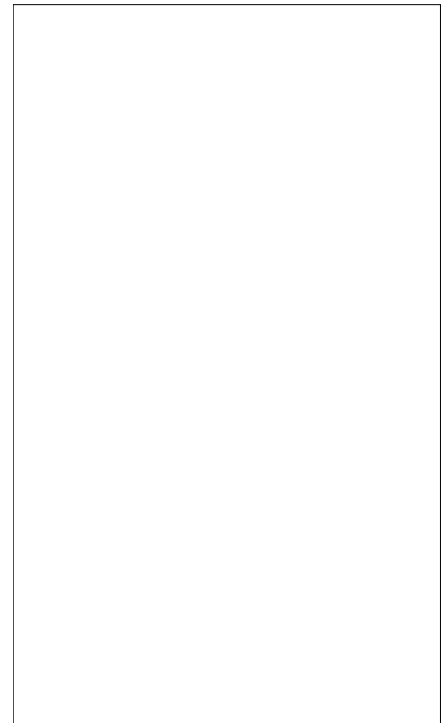
**Map 1: Location Map**  
(Source Data: Village of Kronenwetter)

**ZONING:**

AG-2 – Agriculture Zoning District (See Map 2)



**Map 2: Current Zoning**  
 (Source Data: Village of Kronenwetter)



**COMPREHENSIVE PLAN  
 FUTURE LAND USE:**

Residential (Residential) (See Map 3)



- Governmental / Institutional
- Industrial
- Industrial / Commercial
- Residential
- Water

REQUEST  
 LOCATION

**Map 3: Future Land Use Map**  
 (Source Data: Village of Kronenwetter)

**ACREAGE:** 40 Acres

**DESCRIPTION**

NW ¼ of the SW ¼, Section 09, T27N, R8E

**LEGAL NOTIFICATION:**

A legal advertisement was published in the *Wausau Daily Herald* on Monday, May 1, 2023 and Monday, May 7, 2023. Notice of the project was sent by regular mail over ten days before this Planning commission meeting to adjacent property owners within 500 feet of the subject property.

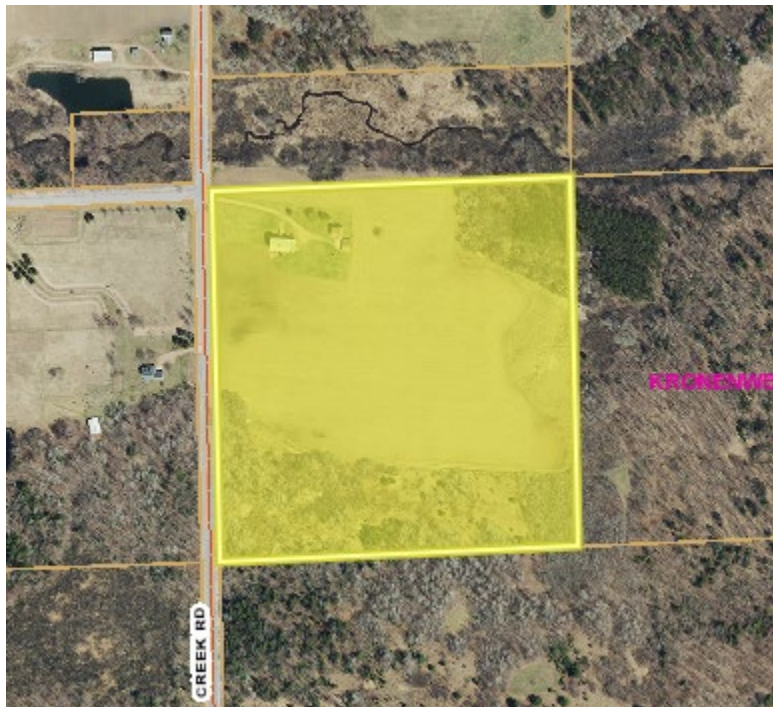
**DEVELOPMENT PATTERN (AND ZONING):**

Subject Property	Residential and Farm (AR)
North	Timber land (RR-5)
South	Timber land (AR)
East	Timber land (AR)
West	Residential and Farm (AR)

**CONDITIONAL USE REQUEST:**

Mike Bieniek is requesting to a Conditional Use Permit for a Communication Tower at Creek Road Mosinee WI 54455 property. The property is currently zoned AG-2 Agriculture District. According to Section 520-26(C)(2)(a) of the Village Zoning Code, a Communication tower is permitted as a conditional use. Vertical Bridge has made application to install a new mobile service support Facility. The proposed new mobile service support facility will consist of a 195'0" tall monopole tower with a 4'-0" lighting rod for a total height of 199'-0" to be located within a 50'-0" x 50'-0" ground area.

*Staff recommends approval of the Conditional Use request.*



**Map 4: Aerial Photo**  
(Source Data: Village of Kronenwetter)

**1810 OR 1898 CREEK ROAD (BIENIEK)**  
CONDITIONAL USE PERMIT REQUEST

**RECOMMENDED MOTION**

Staff recommends to the Planning Commission to approve the Conditional Use Permit that allows Mike Bieniek to construct Communication Tower at 1810 or 1898 Creek Road Mosinee WI 54455 under the condition that the owner provide the village with certificate of such insurance before the issuing of the conditional permit by the Village Board and to accept the findings of fact set forth in the staff report.

**FINDINGS**

*No conditional use shall be recommended by the Village Plan Commission unless such commission shall find:*

**(1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.**

*Yes. The establishment of the conditional use, and subsequent construction of a new tower, will conform to all officially adopted Village codes and will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.*

**(2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

*Yes. The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood because the site on which the business will be conducted is a largely wooded, 40-acre parcel of land. The large lot size, natural buffer, and a proposed mobile support facility should not be a deterrent.*

**(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

*Yes. By meeting the requirements in § 520-26(C)(2)(a) of the Zoning Ordinance the granting of a conditional use permit will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

**(4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**

*Yes. The operation will utilize existing infrastructure. Thus, adequate utilities, access roads, drainage and/or necessary facilities have been provided.*

**(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

*Yes. Do to having little maintenance.*

**(6) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Village Board pursuant to the recommendations of the Village Plan Commission.**

*Yes. The proposed business will conform to the applicable regulations of the AG-2 Zoning District in which it is located.*





# REPORT TO PC

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**ITEM NAME: Communication**

**Tower on Creek Road**

**MEETING DATE: May 15,  
2023**

**PRESENTING COMMITTEE:**

**COMMITTEE CONTACT:**

**STAFF CONTACT: William  
Gau Planning Technician**

**PREPARED BY: William Gau  
Planning Technician**

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**ISSUE:** Discussion and Recommendation: Conditional Use Permit- VB BTS, LLC Mike Bieniek, ACIP, 1898 Creek Road Mosinee WI 54455 for a new mobile service support structure and facility on property (Communication Tower).

**OBJECTIVES:**

**ISSUE BACKGROUND/PREVIOUS ACTIONS:** Mike Bieniek is requesting a Conditional Use Permit for a Communication Tower at 1898 Creek Road Mosinee WI 54455 property. The property is currently zoned AG-2 Agriculture District. According to Section 520-26(C)(2)(a) of the Village Zoning Code, a Communication tower is permitted as a conditional use.

August 15, 2022 the Planning Commission reviewed and recommended approval of a Cell Tower on this parcel, approximately 360ft SW of the proposed location. On September 26, 2022 the Village Board approved the Conditional Use Permit.

**See the attached Staff Report for additional details.**

**RECOMMENDED ACTION:** Recommend the Village Board approve the Conditional Use Permit that allows Mike Bieniek to construct Communication Tower at 1810 or 1898 Creek Road Mosinee WI 54455 as provided in staff report. Under the condition that the owner provide the village with certificate of such insurance before the issuing of the conditional permit by the Village Board.

**ATTACHMENTS (describe briefly):** Bieniek Conditional Use Permit Application and Bieniek Staff Report



# PLAN COMMISSION MEETING MINUTES

May 15, 2023 at 6:00 PM

Kronenwetter Municipal Center - 1582 Kronenwetter Drive Board Room (Lower Level)

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## 1. CALL MEETING TO ORDER

MEETING CALLED TO ORDER at 6:02 pm

A. Announcement of any possible or perceived conflicts of interest  
NONE

B. Roll Call  
PRESENT  
Dick Kavapil  
Vice-Chairperson Dan Lesniak  
Rick Grundman  
Tim Shaw  
Tony Stange  
ABSENT  
Bruce Sinkula  
Chairperson Chris Voll

C. Selection of Vice-Chairperson  
Motion made by Grundman, Seconded by Kavapil to nominate Dan Lesniak as Vice-Chairperson  
Voting Yea: Kavapil, Vice-Chairperson Lesniak, Grundman, Shaw, Stange  
Motion carried 5:0 by roll call vote.

## 2. PUBLIC HEARING

D. Conditional Use Permit Request (Bienek)  
VB BTS, LLC - Mike Bienek, ACIP - Agent, 10700 W. Higgins Road, Suite 240, Rosemont, IL request a conditional use permit for a Communication Tower to be built on the property of 1898 Creek Road, Mosinee, WI, 54455 with an AR Zoning district. Legal description of this property: SEC 09-27-08 NW 1/4, SW 1/4, SECTION 9, T27N, R8E, Parcel 145-2708-0930-998 VILLAGE OF KRONENWETTER, MARATHON COUNTY, WISCONSIN

## 3. PUBLIC COMMENT

Please be advised per State Statute Section 19.84(2), information will be received from the public. It is the policy of this Village that Public Comment will take no longer than 15 minutes with a three-minute time period, per person, with time extension per the Chief Presiding Officer's discretion. Be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments.

**4. APPROVAL OF MINUTES**

E. Previous PC Minutes April 17, 2023

Motion made by Grundman, Seconded by Stange to approve previous PC minutes from April 17, 2023.

Voting Yea: Kavapil, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion carries 5:0 by voice vote.

**5. REPORTS AND DISCUSSIONS**

F. Community Development Director Report

Community Development Director Pete Wegner discussed his May Report.

**6. NEW BUSINESS**

G. Discussion and Action: Conditional Use Permit Request (Bienek)

Motion made by Stange, Seconded by Kavapil to postpone discussion until June Planning Commission Meeting.

Voting Yea: Kavapil, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion Carried 5:0 by voice call vote.

H. Discussion and Action: Floodplain Ordinance Revisions

Motion made by Grundman, Seconded by Stange to recommend moving this ordinance to Public Hearing after review and changes by Village Attorney.

Voting Yea: Kavapil, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes 5:0 by roll call vote.

**7. CONSIDERATION OF ITEMS FOR FUTURE AGENDA**

**8. NEXT MEETING: Wednesday, May 17, 2023 6:00 p.m.**

**9. ADJOURNMENT**

Motion made by Kavapil, seconded by Grundman to adjourn.

Voting Yea: Kavapil, Vice-Chairperson Lesniak, Grundman, Shaw, Stange

Motion passes 5:0 voice call vote.



**APPLICANT: VB BTS II, LLC**



**APPLICATION FOR CONDITIONAL USE PERMIT APPROVAL FOR  
THE PROPOSED MOBILE SERVICE SUPPORT STRUCTURE AT**

**1898 CREEK RD.  
MOSINEE, WI 54455  
PARCEL NO. 145-27080930998**

**VERTICAL BRIDGE SITE ID# – US-WI-5446 KRONENWETTER**

# Table of Contents

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3. Site Data Sheet
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7. Conditional Use Permit Standards
8. Section 520-26 (C)(1-2)(a-n) Telecommunications antenna and tower Standards
9. Carrier Affidavit – Sworn Statement of Need
10. Carrier RF Propagation Maps
11. FAA Determination Letter
12. Site Plan

# Letter of Application

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April 19, 2023

Mr. Peter Wegner  
Community Development Director  
Village of Kronenwetter  
1582 Kronenwetter Drive  
Kronenwetter, WI 54455

RE: Proposed Vertical Bridge Mobile Service Support Structure – US-WI-5446 Kronenwetter  
1898 Creek Rd., Mosinee, WI 54455  
Parcel No. 145-27080930998

Dear Mr. Wegner:

LCC Telecom Services, on behalf of the applicant, VB BTS II, LLC (“Vertical Bridge”), has finalized an agreement with the property owners of the site referenced above to develop and construct a mobile service support structure and facility that will be available to be used by wireless carriers. The proposed shared use facility is designed to house the equipment necessary to provide clear and uninterrupted wireless telecommunications services to the residents and visitors of the Village of Kronenwetter and surrounding areas.


This mobile service support structure is being constructed pursuant to Section 66.0404 of the Wisconsin State Statutes and Section 520-26(C) (Telecommunications towers) of the Village of Kronenwetter Zoning Ordinance. A Conditional Use Permit is required for the siting and construction of any new mobile service support structure and facility. The proposed mobile service support structure will consist of a 195’-0” tall monopole tower with a 4’-0” lightning rod for a total height of 199’-0”, to be located within a 50’-0” x 50’-0” ground area. The proposed tower will be erected, owned, and operated by Vertical Bridge. Vertical Bridge has a commitment with Cellcom, a wireless services providers, for this site. Additionally, the facility will be open for collocation to other wireless providers.

On September 9, 2022, the Village of Kronenwetter approved a Conditional Use Permit for the proposed mobile service support structure which will consist of a 195’-0” tall monopole tower with a 4’-0” lightning rod for a total height of 199’-0”, to be located within a 50’-0” x 50’-0” ground area. Following the zoning approval, Building Permit #22-1026-223 was issued by the Village on November 14, 2022. Following this date, the Department of Natural Resources indicated they would not permit the approved tower in the location submitted as part of the Conditional Use Permit. The Department of Natural Resources delineated the wetlands which essentially will require the tower to be relocated approximately 75’ due north of the originally approved location.

On behalf of the applicant VB BTS II, LLC (“Vertical Bridge”), LCC Telecom Services has submitted all required documentation for the proposed tower, in accordance with Section 66.0404 of the Wisconsin State Statutes, and Sections Section 520-26 (C)(1-2)(a-n) (Telecommunications antennas and towers) and of the Village of Kronenwetter Zoning Ordinance for this application to be deemed complete. Should you have any questions please feel free to contact me. I look forward to working with you during the review

and approval process. Vertical Bridge looks forward to helping provide the Village of Kronenwetter with improved wireless coverage.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Bieniek". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Bieniek".

Michael Bieniek, AICP  
Zoning Director  
LCC Telecom Services  
10700 Higgins Road, Suite 240  
Rosemont, IL 60018  
[mbieniek@lcctelecom.com](mailto:mbieniek@lcctelecom.com)  
Cell – (847) 287-1156  
Fax – (847) 608-1299

cc: Steve Hedges, Project Manager, Vertical Bridge

# Application Materials

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**Required Attachments**

Attach a written statement of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.

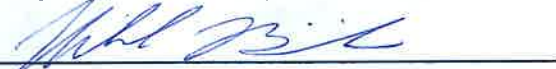
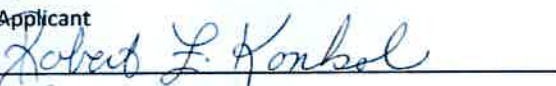

Attach a site plan of the subject property, with any alterations as may be proposed to accommodate the conditional use.

Attach a written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the approval criteria:

- Is the proposed conditional use in harmony with the Comprehensive Plan, this chapter, and any other plan, program, or ordinance adopted by the Village?
- The proposed conditional use does not, in its proposed location and as depicted on the required site plan, result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvement, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this chapter, the Comprehensive Plan, or other plan, program, map or ordinance adopted by the Village?
- Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?
- Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies serving the subject property?
- Dose the potential public benefits of the proposed conditional use outweigh potential adverse impacts of the proposed conditionals use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?

**Applicant Acknowledgement**

To the best of my knowledge, I certify that the information provided on this application and accompanying documents are true and accurate. I also understand that submitting this application authorizes the Zoning Administrator or his/her designee to enter onto the property for the purposed outlined operation.

	4/20/23
Applicant	Date
	4/19/23
Owner	Date
	4/20/23
Prepared By	Date

**FOR OFFICE USE ONLY:**

Application Received \_\_\_\_\_ Check # \_\_\_\_\_

**Plan Commission:**

Meeting Date \_\_\_\_\_ Recommendation: Approved / Denied

Renewal Recommendation: 1 year 2 year 3 year 4 year 5 year

Conditions (see attached)

# Site Data Sheet

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<b>Applicant:</b>	VB BTS II, LLC (“Vertical Bridge”) 750 Park of Commerce Drive Suite 200 Boca Raton, FL 33487
<b>Authorized Agent:</b>	Michael Bieniek, AICP LCC Telecom Services 10700 Higgins Road Suite 240 Rosemont, IL 60018
<b>Tower Owner:</b>	VB BTS II, LLC 750 Park of Commerce Drive Suite 200 Boca Raton, FL 33487
<b>Applicant’s Interest in the Property:</b>	Leasehold
<b>Property Owner:</b>	Robert & Donna Konkol
<b>Address of Property:</b>	1898 Creek Rd. Mosinee, WI 54455
<b>Parcel Number:</b>	145.27080930998
<b>Request:</b>	Application for a Conditional Use Permit and any other approvals or permits necessary to erect a 195’-0” monopole tower with a 4’-0” lightning rod for a total height of 199’-0” to be located within a 50’-0” x 50’-0” ground area.

# Legal Description

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## EXHIBIT A

The following tract of land in Marathon County, State of Wisconsin:  
The Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4), in Section Nine (9), Township Twenty-seven (27) North, Range Eight (8) East, subject to existing roads.

Parcel Id #14527080930998

This being a portion of the property conveyed to Robert Frank Konkol and Donna Mae Konkol, his wife, as Joint Tenants, from John Rudolph and Priscilla Rudolph, his wife, as Joint Tenants, in a Warranty Deed dated May 21, 1971 and recorded October 11, 1971 in Book 125 Page 152 as Instrument No. 631569.

# Narrative Overview

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VB BTS II, LLC (“Vertical Bridge”) seeks approval of a Conditional Use Permit and any other permits or approvals necessary in order to install a new mobile service support structure and facility on property located at 1898 Creek Rd., Mosinee, WI 54455. Vertical Bridge proposes to erect this tower and will be offering it as a shared facility to Cellcom (with whom Vertical Bridge already has a commitment) and any other communication carriers that have a need for a facility in this area. Vertical Bridge thus submits this Application (as that term is defined in Section 66.0404 of the Wisconsin State Statutes) seeking a permit for the siting and construction of a new mobile service support structure and facilities. The proposed site is located in an AR, Agricultural Residential District. Communication towers are an allowable conditional use in Attachment 520-1 to the zoning code, which lists allowable uses in rural districts, including the AR district. The property consists of a house along with a wooded parcel.

The wireless mobile service facility that Vertical Bridge is proposing to install on the property for Cellcom is necessary to provide uninterrupted wireless services to the residents and visitors of the Village of Kronenwetter and surrounding area, including wireless telephone service, voice paging, messaging and wireless internet and broadband data transmission. All registered wireless provider’s technology operates at various radio frequency bands allocated by the FCC as part of their license.

Wireless systems operate on a grid system where overlapping cells mesh together, forming a seamless network. No single site can function as a stand-alone entity as each site is interconnected, forming the network. The technical criteria for establishing cell sites are very exacting as to the location and height. The proposed site at 1898 Creek Rd., Mosinee, WI 54455 is within the geographic area deemed necessary by engineers for the anchor wireless telecommunications provider to provide uninterrupted services.

In accordance with the Village of Kronenwetter Zoning Ordinance Sections 520-26, Vertical Bridge has made application to install a new mobile service support facility. The proposed new mobile service support facility will consist of a 195’-0” tall monopole tower with a 4’-0” lightning rod for a total height of 199’-0” to be located within a 50’-0” x 50’-0” ground area.

On September 9, 2022, the Village of Kronenwetter approved a Conditional Use Permit for the proposed mobile service support structure which will consist of a 195’-0” tall monopole tower with a 4’-0” lightning rod for a total height of 199’-0”, to be located within a 50’-0” x 50’-0” ground area. Following the zoning approval, Building Permit #22-1026-223 was issued by the Village on November 14, 2022. Following this date, the Department of Natural Resources indicated they would not permit the approved tower in the location submitted as part of the Conditional Use Permit. The Department of Natural

Resources delineated the wetlands which essentially will require the tower to be relocated approximately 75' due north of the originally approved location.

After the initial construction, the proposed facility will be unstaffed and will only require service technicians, in a pick-up/van sized vehicle, to visit the site approximately once per month. Access will be provided via an easement with the proposed access entry point being an existing field entrance off of Creek Road. Utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system which is connected to a main switch station. The system alerts personnel to any equipment malfunction or breach of security. Additionally, there is no impact on the Village of Kronenwetter's utilities such as water and sanitation, as they are not used at the site.

In accordance with FCC regulations, the mobile service facility will not interfere with any form of communications, including but not limited to, land-line phones, cable and satellite television and radio broadcasts. Wireless technology has become a vital part of emergency services, aiding local residents and motorists in a variety of situations, thus helping to protect the general public's health, safety and welfare. The proposed wireless telecommunications facility at this site will further enhance goals of providing the most reliable wireless coverage possible in this area.

The proposed mobile service facility will be designed and constructed to meet all applicable governmental and industry safety standards. Specifically, Vertical Bridge will comply with all FCC and FAA rules and regulations regarding construction requirements and technical standards. RF emissions are subject to the exclusive jurisdiction of the FCC. Any height, lighting or marking issues are subject to the exclusive jurisdiction of the FAA.

LCC Telecom Services, on behalf of Vertical Bridge, looks forward to working with the Village of Kronenwetter to bring the benefits of the proposed improved wireless services to the area. The addition of the facility will ensure the best uninterrupted wireless services for the Village of Kronenwetter. This application addresses all standards of the Village of Kronenwetter Zoning Ordinance and satisfies the requirements of Section 520-26.

# Compliance with State Statute

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The 2013 Biennial Budget Act (Act 20) modified the regulatory powers of local governments in regard to applications for mobile service facilities and support structures. The law was enacted to impose consistent statewide standards regarding the regulation of placement of mobile service facilities and support structures. In order to achieve this consistency, the state statute preempts local ordinances to the extent that they are inconsistent with the statute.

The proposed facility is governed by Wis. Stat. § 66.0404 of the Wisconsin Statutes, entitled “Mobile Tower Siting Regulations”. The submittal requirements of this statute have also been codified in the Kronenwetter Zoning Ordinance. The proposed facility meets the requirements of §66.0404.

## Application Requirements- Wis. Stat. § 66.0404(2)(b)(1-6).

§66.0404(2)(b) of the state statute sets out specific requirements and timelines for an application to construct a new mobile service support structure. These requirements are defined by Wis. Stat. § 66.0404(2)(b)(1-6), and identify six categories of information that may be required to constitute a complete application for a substantial modification or a new site. In this case, five of the six categories are required based on the site type as a new mobile service facility and support structure and the other category is not required.

The following information is required under the statute in order for an application to be complete. The statute requirement is listed below in bold, with the compliant document or information identified or outlined below the requirement.

1. The name and business address of, and the contact individual for, the applicant. Wis. Stat. § 66.0404(2)(b)(1).

**The applicant is VB BTS II, LLC. Michael Bieniek, AICP, of LCC Telecom Services is the agent of and contact individual for VB BTS II, LLC. His business address is 10700 W. Higgins Road, Suite 240 Rosemont, IL 60018.**

2. The location of the proposed or affected support structure. Wis. Stat. § 66.0404(2)(b)(2).

**A support structure is defined in Wis. Stat. §66.0404(1)(l) as “a freestanding structure that is designed to support a mobile service facility”. In this case, the proposed support structure is a 195'-0” tall monopole tower with a 4'-0” lightning rod for a total height of 199'-0”.**

**The support structure is proposed to be located at 1898 Creek Rd, Mosinee, WI 54455. The support structure will be located within an equipment compound as defined in Wis. Stat. §66.0404(1)(h). This fenced lease area is part of a larger parent parcel at the above address. The support structure location is depicted on the site plans that have been submitted as part of this application.**

3. The location of the proposed mobile service facility. Wis. Stat. § 66.0404(2)(b)(3).

**A mobile service facility is defined in Wis. Stat. §66.0404(1)(l) as “a set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discreet geographic**

area.” In this case, the equipment consists of base station equipment, along with antennas, transmitters, receivers, power supplies, cabling and associated equipment. All the equipment is necessary to operate the facility.

**The proposed mobile service facility is also to be located at 1898 Creek Rd, Mosinee, WI 54455. The mobile service facility will be located within an equipment compound as defined in Wis. Stat. §66.0404(1)(h). This fenced lease parcel is part of a larger parent parcel at the above address. The location of the mobile service facility is depicted on the site plans that have been submitted as part of this application.**

4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment associated with the proposed modifications. Wis. Stat. § 66.0404(2)(b)(4).

**Wis. Stat. §66.0404(2)(b)(4) applies only to substantial modification applications. Substantial modifications apply only to the modification of existing sites and not to the construction of a new site. Accordingly, this information is not required for this application.**

5. A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure. Wis. Stat. § 66.0404(2)(b)(5).

**The construction plan required for a new mobile service support structure and facility under Wis. Stat. §66.0404(2)(b)(4) has been submitted as part of this application. The construction plan includes all the elements required under the state statute.**

6. An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. Wis. Stat. § 66.0404(2)(b)(6).

**A sworn statement as described above from Cellcom (with whom Vertical Bridge has a commitment) has been attached to this application for the proposed mobile support structure to be located at 1898 Creek Rd, Mosinee, WI 54455.**

# Conditional Use Permit Standards

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For each application for a Conditional Use, the Zoning Administrator shall report to the Plan Commission findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

**The proposed wireless telecommunications facility will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. To the contrary, enhanced wireless telecommunications will be beneficial to the health, safety and welfare of the area. As people are eliminating their landline services and the demand for better service increases, the welfare of the area will be improved through enhanced wireless services.**

- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.

**The uses, values and enjoyment of other property in the neighborhood for purposes already permitted will be in no foreseeable manner substantially impaired or diminished by the establishment of the proposed wireless telecommunications facility. The facility takes up a small footprint, meets the terms of the ordinance and is located in an agricultural field with existing tree coverage to the south that will remain. As more and more people rely on wireless technology, the enhanced coverage will be a benefit to residents in the area and will be compatible with the use of the adjacent land.**

- (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

**The establishment of the proposed wireless telecommunications facility will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The area is a mix of uses along the highway and larger agricultural lots to the east. The site is far removed from any sensitive uses and is naturally screened to the south. In the event of any development, the improved wireless telecommunications in the area will be a significant benefit to all current and future residents as the facility will bring improved telecommunications services to the area.**

- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

**Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided. The only required utilities for a wireless telecommunications facility are power and fiber which are both readily available at this location. No other municipal services will be necessary. The proposed access road is an existing field entrance located off of Creek Road.**



- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

**As stated above, the proposed access road is an existing field entrance located off of Creek Road. The proposed wireless telecommunications facility is unstaffed. After construction is complete, the location will only be visited approximately once per month by a technician in a van sized vehicle. There will be no traffic congestion in the public streets as a result of the installation at this property.**

- (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

**The proposed wireless telecommunications facility is allowable as a conditional use in the AR, Agriculture and Residential District and will conform to all of the applicable requirements of that district.**

- (7) That the proposed use does not violate floodplain regulations governed by the county.

**The proposed wireless telecommunications facility does not violate floodplain regulations governed by the county. There are no floodplains located in this area.**

- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff, approved by the appropriate jurisdictional authority.

**Adequate measures will be taken to prevent and control water pollution, including sedimentation, erosion and runoff, the location of the proposed wireless telecommunications facility is in an agricultural field with existing tree coverage to the south that will remain. The 12' wide access easement and 50' x 50' lease parcel will be graveled so as to provide a semi-impervious surface.**

- (9) That such use will comply with the regulations and conditions specified in this article for such use.

**The proposed use will comply with the appropriate regulations and conditions of the Village of Kronenwetter's Zoning Ordinance and Section 66.0404 of the Wisconsin State Statutes. Compliance with specific standards applicable to wireless communications facilities are outlined below.**

# Section 520-26 (C)(1-2)(a-n) Telecommunications antennas and tower Standards

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(c) *Conditional use permit requirement.* Telecommunications facilities, telecommunications support facilities, and telecommunications towers are permitted as a conditional use in the following districts:

- (1) Agriculture and Residential.
- (2) Agricultural.
- (3) Commercial.
- (4) Industrial.

**The proposed wireless telecommunications facility is located in the AR, Agriculture and Residential District and such facilities are an allowable conditional use in this district.**

(b) *Conditional use – Communications towers.*

Each application for a conditional use permit, site plan approval, and/or building permit under this subsection shall include the following information:

[1]

The name and business address of, and the contact individual for, the applicant.

**The applicant is VB BTS II, LLC. Michael Bieniek, AICP, of LCC Telecom Services is the agent of and contact individual for VB BTS II, LLC. His business address is 10700 W. Higgins Road, Suite 240 Rosemont, IL 60018.**

[2]

The location of the proposed or affected communications tower or other support structure.

**A support structure is defined in Wis. Stat. §66.0404(1)(l) as “a freestanding structure that is designed to support a mobile service facility”. In this case, the proposed support structure is a 195’-0” tall monopole tower with a 4’-0” lightning rod for a total height of 199’-0”.**

**The support structure is proposed to be located at 1898 Creed Rd., Mosinee, WI 54455. The support structure will be located within an equipment compound as defined in Wis. Stat. §66.0404(1)(h). The support structure location is depicted on the site plans that have been submitted as part of this application.**

[3]

The location of the proposed equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment.

**A mobile service facility is defined in Wis. Stat. §66.0404(1)(l) as “a set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discreet geographic area.” In this case, the equipment consists of base station equipment, along with antennas, transmitters, receivers, power supplies, cabling and associated equipment. All the equipment is necessary to operate the facility.**

**The proposed mobile service facility is also to be located at 1898 Creed Rd., Mosinee, WI 54455. The mobile service facility will be located within an equipment compound as defined in Wis. Stat. §66.0404(1)(h). The location of the mobile service facility and all powersupplies, cabling, and associated equipment are depicted on the site plans that have been submitted as part of this application.**

[4]

If the application is for a substantial modification to an existing communications tower or other support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications. For purposes of this Subsection C, "substantial modification" means the modification of a communications tower, including the mounting of an antenna on such a structure, that does any of the following:

[a]

For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.

[b]

For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.

[c]

Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for co-location.

[d]

Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

**Wis. Stat. §66.0404(2)(b)(4) and Section 66-220 (e)(2) apply only to substantial modification applications. Substantial modifications apply only to the modification of existing sites and not to the construction of a new site. Accordingly, this information is not required for this application.**

[5]

If the application is to construct a new communications tower, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

**The construction plan required for a new mobile service support structure and facility under Wis. Stat. §66.0404(2)(b)(4) and Section 66-220 (e)(1)(n) of the Village of Kronenwetter Zoning Ordinance has been submitted as part of this application. The construction plan includes all the elements required under the state statute.**

[6]

If an application is to construct a new communications tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same

mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

**A sworn statement as described above from Cellcom (with whom Vertical Bridge has a commitment) has been attached to this application for the proposed mobile support structure to be located at 1898 Creek Rd., Mosinee, WI 54455.**

[7]

Evidence and information to indicate compliance or intent to obtain compliance with other applicable provisions of this subsection and chapter.

**Please see the answers to all of the criteria listed as evidence of compliance with the provisions of this subsection and chapter.**

(b)

Each communications tower and modification thereto shall be erected and installed in accordance with the State Electrical Code adopted by reference in the National Electrical Code, Federal Communications Commission and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

**The proposed communications tower will be erected in compliance with all local, state and federal requirements.**

(c)

If an application is to construct a new communications tower, the Village may consult with a third party to verify that co-location on an existing communication tower or other support structure within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. All costs and expenses associated with such consultation shall be borne by the applicant, except for travel expenses. Failure to pay such costs and expenses or provide related information to the third-party consultant shall be grounds for denial of the conditional use permit.

**In the event a third party consultant is required, Vertical Bridge agrees to pay all reasonable costs associated with that review.**

(d)

Each communications tower shall be placed or constructed so it can be utilized for the co-location of additional antenna arrays to the extent technologically and economically feasible. The Village shall, unless it is shown to be unreasonable, condition the granting of each conditional use permit upon the applicant placing or constructing the communications tower to accommodate, at a minimum height of 150 feet, the co-location of two additional antenna arrays similar in size and function to that placed on the tower by the applicant. Co-location sites need not be available on the tower as initially placed or constructed, provided that the tower will support the later addition of the required number of co-location sites at the specified minimum height. The holder of each conditional use permit under this Subsection C and the predecessor chapter shall make the co-location sites required hereunder available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the co-location sites and a fair return on investment.

**Co-location will be available on the proposed tower. Vertical Bridge is proposing a 195'-0" monopole tower which is designed to accommodate at least two additional wireless providers. Vertical Bridge**

**is in the industry to provide carriers with space on their towers. Once the tower is erected, Vertical Bridge notifies as many potential co-locators as possible.**

(e)

Each communications tower and associated equipment shall, to the extent determined possible by the Village Board, be installed in a fashion to lessen the visual impacts of such installation.

[Amended 2-23-2021 by Ord. No. 21-04]

**The proposed tower will have minimal visual impact due to the location chosen. The site is in an agricultural field with existing tree coverage to the south that will remain.**

(f)

For communications towers erected after the effective date of this chapter, and in conjunction with the installation of new ground-mounted buildings or equipment totaling 300 square feet or greater, the applicant shall provide a buffer yard meeting the requirements of § 520-79C(4) along all property borders abutting residentially zoned property. Other landscaping requirements of Article XI shall also apply.

**The proposed wireless telecommunications site does not abut residentially zoned property, the entire area is zoned AR District. No landscaping is proposed because as mentioned above existing mature vegetation will serve as a buffer.**

(g)

A new or amended conditional use permit and site plan shall be required for a substantial modification to an existing communications tower. Neither a conditional use permit nor site plan approval shall be required for any modification, including co-location, that is not defined as a "substantial modification," but a building permit shall be required.

**The application is not for a substantial modification, therefore this provision does not apply.**

(h)

Prior to the issuance of a building permit for a communications tower erected after the effective date of this chapter, the applicant shall provide a written agreement stating that if the communications tower, antennas, or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower, antennas, or transmitters upon written request from the Zoning Administrator at no cost to the Village within 60 days of such request. If such listed items are not removed within 60 days of such notification, the Village may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the Village with written notice of the cessation of use. A performance bond or deposit of \$20,000 shall be required to ensure compliance with all applicable requirements for removal of the communications tower and equipment.

**Vertical Bridge will comply with the terms of this section, including removal of the tower at their expense, in the event it is no longer used for a period exceeding 12 months. If required as a condition of approval, Vertical Bridge agrees to provide a removal bond in the amount required by the Village, not to exceed \$20,000.00.**

(i)

The owner of any communications tower shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the communications tower and accessory structures with a single combined limit of not less than \$1,000,000 per occurrence. The

policy shall contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Village with a certificate of such insurance before issuance of a building permit and upon each policy renewal thereafter.

**Vertical Bridge will maintain liability insurance throughout the life of the tower and will provide the Village a copy of such prior to issuance of the building permit.**

(j)

Upon written inquiry from the Village, the recipient of a conditional use permit under this Subsection C shall have the burden of presenting credible evidence establishing the continued compliance with the approved plans and all conditions placed upon the conditional use permit. Failure to establish compliance with the approved plans and all conditions placed upon the conditional use permit shall be grounds for revocation of the permit. If the Village determines that it is necessary to consult with a third party to ascertain compliance with conditions on a conditional use permit, all costs and expenses associated with such consultation shall be borne by the holder of subject conditional use permit, except for travel expenses. Failure to pay such costs and expenses or provide information requested by the Village shall be grounds for revocation of the conditional use permit.

**Vertical Bridge will establish and maintain compliance with the approved plans.**

(k)

Upon written inquiry from the Village, any owner or operator of a communications tower shall provide information on the tower, including but not limited to available sites on the tower for potential co-locators; evidence that such co-location sites are in fact available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates allowing the tower owner to recoup the cost of providing the co-location sites and a fair return on investment; contact information for future co-location inquiries that the Village may receive; and number and placement of antenna arrays and ground-mounted equipment, type of service provided (e.g., 4G LTE, etc.), contact information, and expiration dates of user agreements or leases associated with all current users of the tower.

**In the event a wireless company submits an inquiry to the Village regarding availability on the proposed tower, Vertical Bridge will provide any reasonable pertinent information.**

(l)

In its evaluation of any permit or plan approval for a communications tower, the applicable limitations under §§ 66.0404(4) and 66.0406(2), Wis. Stats., shall apply.

**The support materials submitted as part of the application are in accordance with Section 66.0404 of the Wisconsin State Statutes for a new mobile service support structure.**

(m)

Minimum required off-street parking: one space per each employee vehicle needed for ongoing maintenance.

**The proposed facility will not have any regular employees, after the initial construction, the proposed facility will be unstaffed and will only require service technicians, in a pick-up/van sized vehicle, to visit the site approximately once per month. The facility is designed with a turn-around in front of the gate which serves as the necessary short term parking space for the technician.**

(n)

A minimum setback equal to the total height of the tower shall be required for any communications tower that is adjacent to a parcel that has single-family detached residences as a permitted use. See § 520-17 (Chapter 520 Attachment 1) and § 520-18 (Chapter 520 Attachment 2) for zoning districts that have single-family detached residences as a permitted land use.

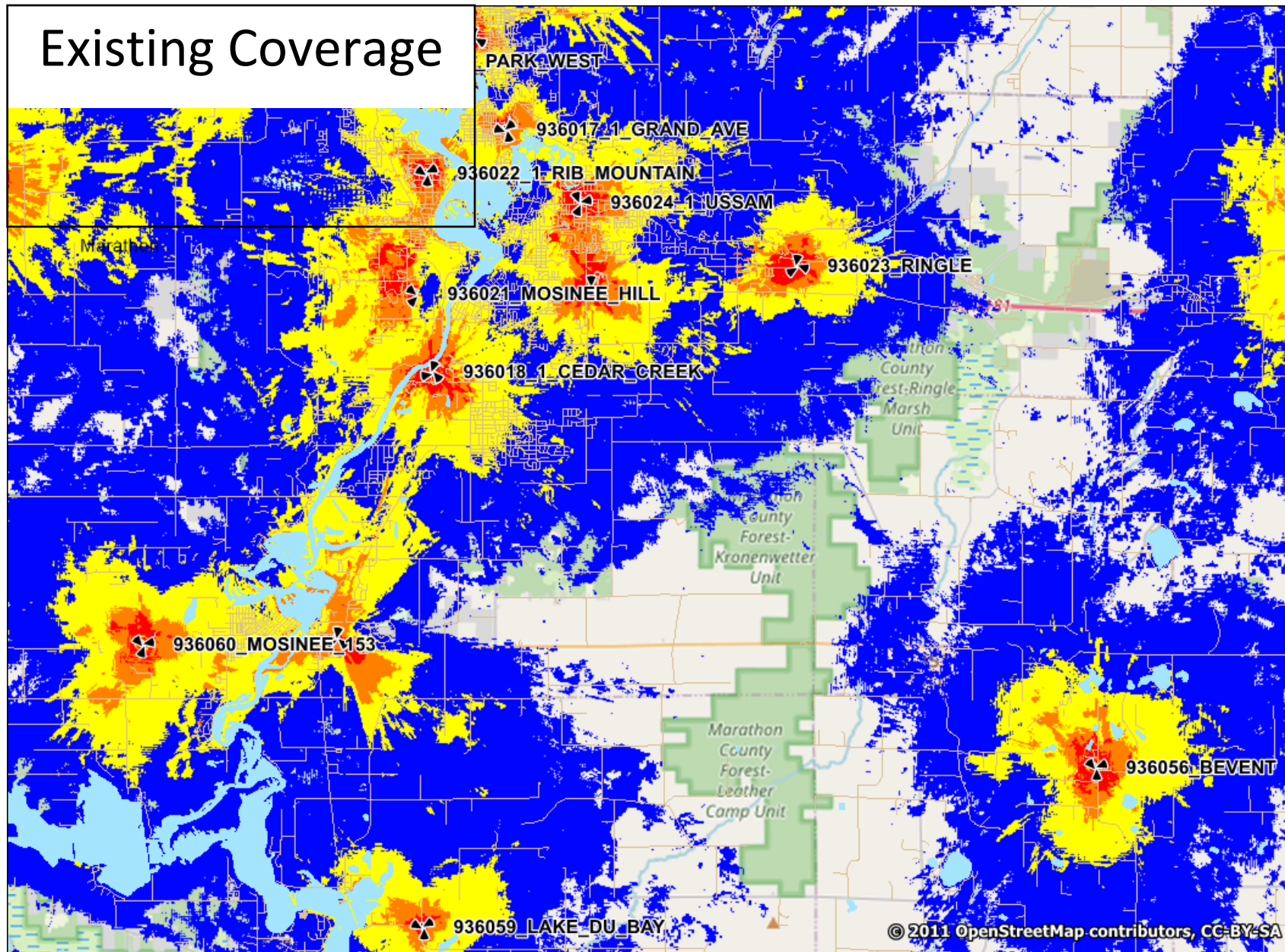
**The proposed tower is approximately 200' from the nearest property lines which is in accordance with Section 66.0404 and this provision.**

# Carrier RF Propagation Maps

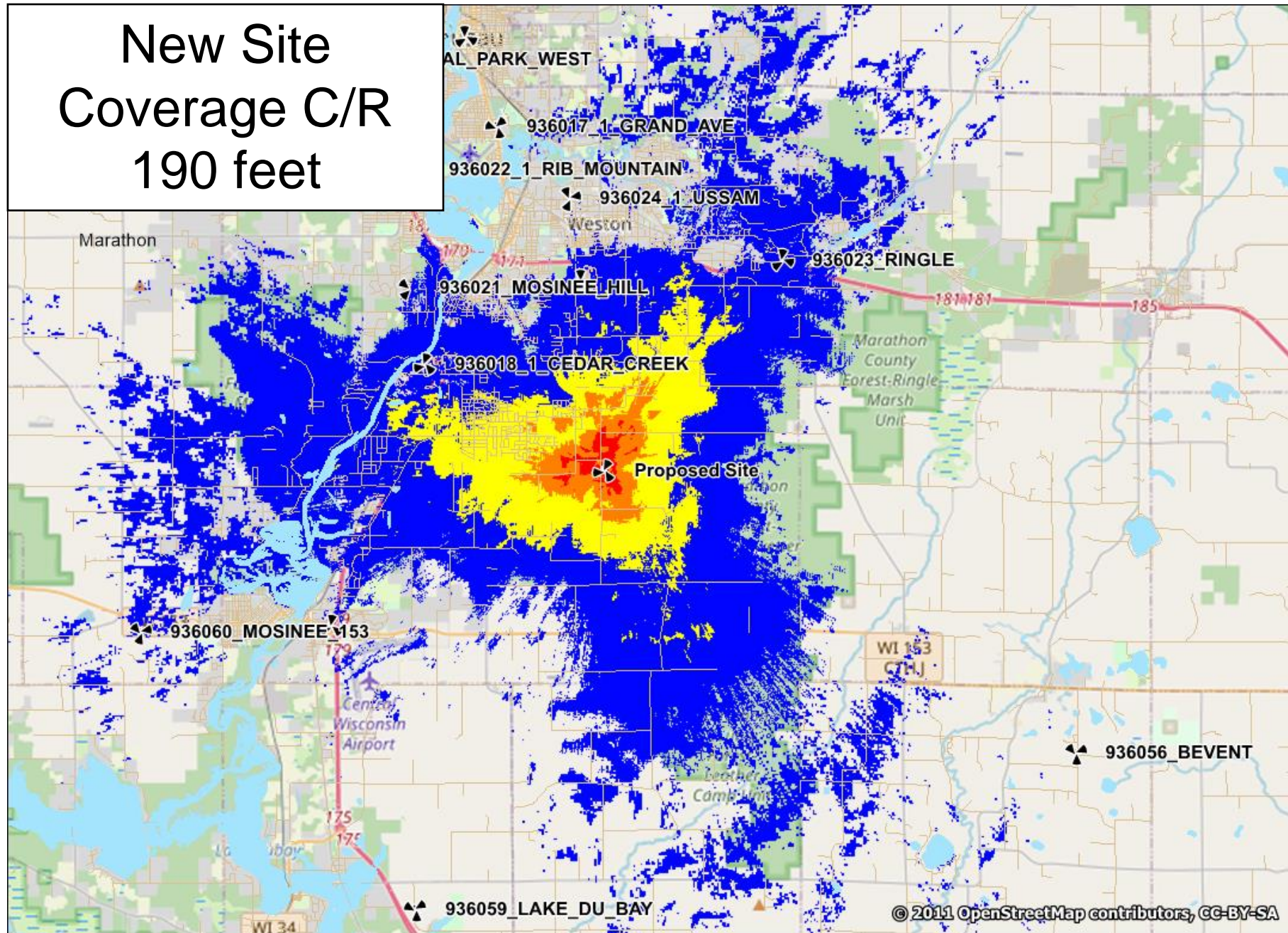
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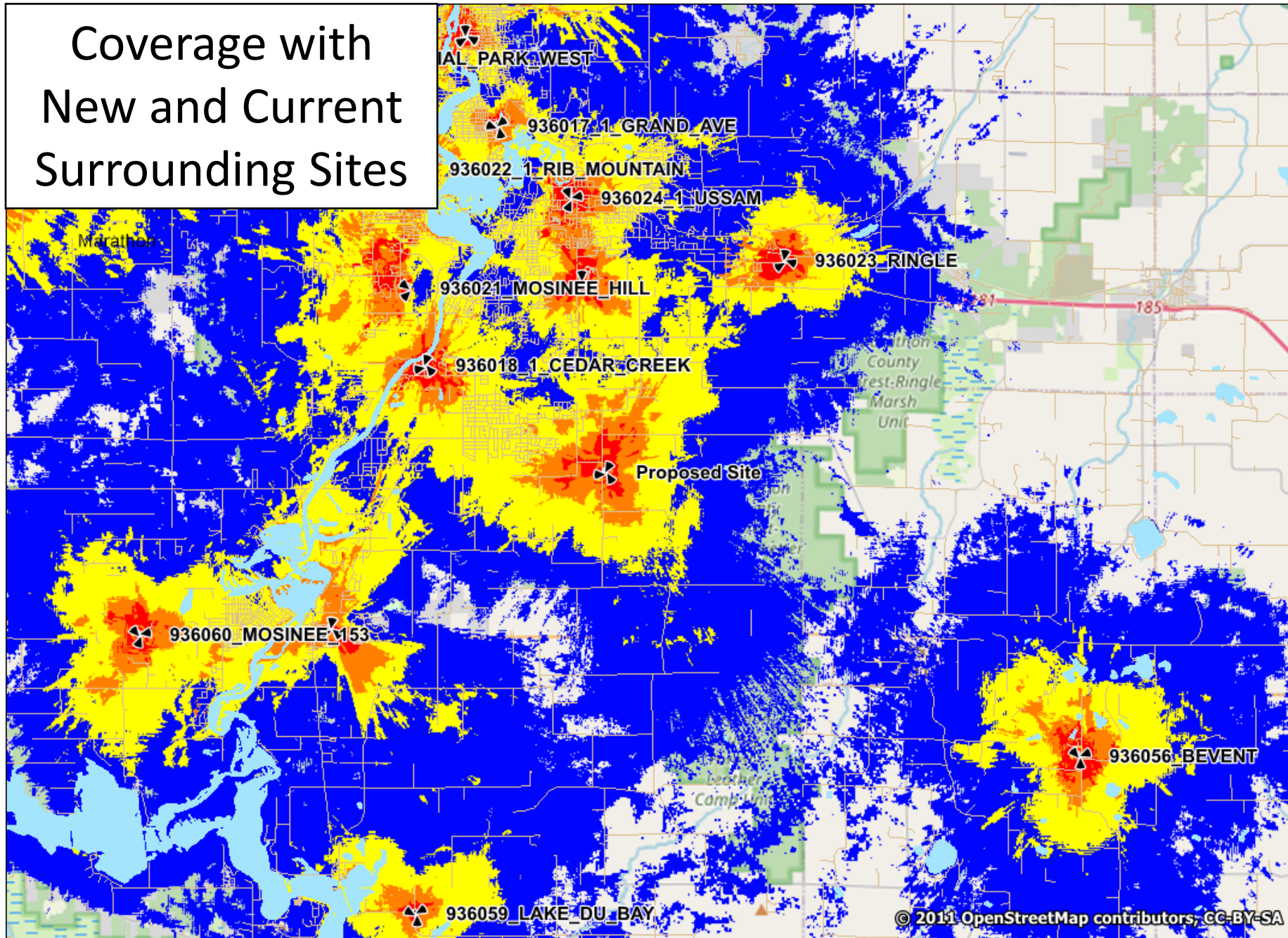
# Existing Coverage



# New Site Coverage C/R 190 feet



# Coverage with New and Current Surrounding Sites



# Carrier Affidavit – Sworn Statement of Need

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**AFFIDAVIT**  
**SWORN STATEMENT OF NEED FOR A NEW MOBILE SERVICE SUPPORT STRUCTURE**  
**IN SUPPORT OF NEW TOWER CONSTRUCTION PURSUANT TO WIS. STAT. §66.0404**

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STATE OF WISCONSIN    )  
  )  
COUNTY OF BROWN     )

The undersigned, Arthur Hall, being first duly sworn on oath, deposes and states as follows:

1. My name is Arthur Hall and I am employed by Nsighttel Wireless, LLC (hereinafter referred as “Cellcom”) as its Director of RF Engineering. My Cellcom job duties include, among other things, responsibility and oversight of Cellcom’s wireless network. This includes responsibility over the placement of the newly proposed mobile service support structure and facilities at address of 1898 Creek Rd, Mosinee, WI 54455 in the Village of Kronenwetter, Marathon County, with a property parcel ID number of 14527080930998, and Lat/Long coordinates of 44.834500, -89.571422 (the “New Tower Location”).

2. This Sworn Statement is made pursuant to Wis. Stat. §66.0404(2)(b)6.


3. I make and submit this Sworn Statement in support of the accompanying application and supplement documents for the request of zoning approval submitted by applicant VB BTS, LLC (“Vertical Bridge”), and pursuant to which Vertical Bridge proposes to develop and construct a 195-foot monopole tower (overall structure height 199’ with lightning rod attachment) and related telecommunications equipment at the New Tower Location described in Section 1 above and depicted on the site plans submitted along with the application.

4. Vertical Bridge is in the business of, among other things, developing, constructing and operating mobile service support structures and facilities (a/k/a telecommunications towers or cell towers) and leasing space on those structures and facilities to wireless carriers such as Cellcom. Relevant to the present application, Cellcom and Vertical Bridge desire that Vertical Bridge develop and build the referenced tower and lease space thereupon to Cellcom as part of improving Cellcom’s wireless telecommunications network in the surrounding area of the New Tower Location.

5. Cellcom is improving and upgrading its network’s wireless coverage and capacity in the area of the New Tower Location to provide needed improvement to signal strength, in-building penetration, and reliable, high-speed wireless data capability. In order to accomplish these objectives, Cellcom and Vertical Bridge are proposing the new mobile support structure tower and related telecommunications site at the New Tower Location described in Section 1 above.

6. The proposed mobile service support structure and facilities at the New Tower Location is a necessary infrastructure addition and will become an integral part of Cellcom's wireless network. The primary functions of the proposed site are to provide enhanced, reliable wireless coverage and additional capacity which will help ensure seamless wireless data capabilities and connectivity to Cellcom's customers in the area. Without this site, the signal strength and data capacity in the area will not be adequate for a reliable network. As consumption of data services surge, the importance of this site also surges. Cellcom has evaluated the existing structure locations in the search ring. There are no existing towers or other tall structures within the search ring that could accommodate Cellcom's equipment to achieve these network improvements, including the same mobile service functionality, coverage, and capacity, so collocation is technically infeasible. Consequently, because collocation on existing structures would not provide the required wireless coverage, signal strength, or data speeds to the coverage objective and intended areas, the proposed new mobile service support structure is necessary to provide the coverage and capacity required for a fully functioning wireless network.

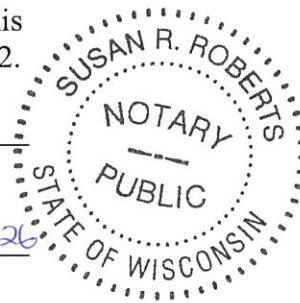
Dated this 29<sup>TH</sup> day of June, 2022.

  
\_\_\_\_\_  
Arthur Hall  
Director of RF Engineering  
Nsighttel Wireless, LLC d/b/a Cellcom

Subscribed and sworn before me this  
29 day of June, 2022.

Susan R. Roberts  
Notary Public, State of Wisconsin

My commission: expires 3/17/26



# FAA Determination Letter

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Mail Processing Center  
Federal Aviation Administration  
Southwest Regional Office  
Obstruction Evaluation Group  
10101 Hillwood Parkway  
Fort Worth, TX 76177

Aeronautical Study No.  
2022-AGL-4544-OE

Issued Date: 04/12/2022

Richard Hickey  
VB BTS, LLC  
750 Park of Commerce Dr.  
Suite 200  
Boca Raton, FL 33487

**\*\* 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: Tower US-WI-5446 Kronenwetter  
Location: Mosinee, WI  
Latitude: 44-50-04.20N NAD 83  
Longitude: 89-34-17.12W  
Heights: 1213 feet site elevation (SE)  
199 feet above ground level (AGL)  
1412 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:

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 in accordance with FAA Advisory circular 70/7460-1 M.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) 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, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, 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 includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

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.

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 (816) 329-2508, or [vee.stewart@faa.gov](mailto:vee.stewart@faa.gov). On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AGL-4544-OE.

**Signature Control No: 512309269-523402265**

( DNE )

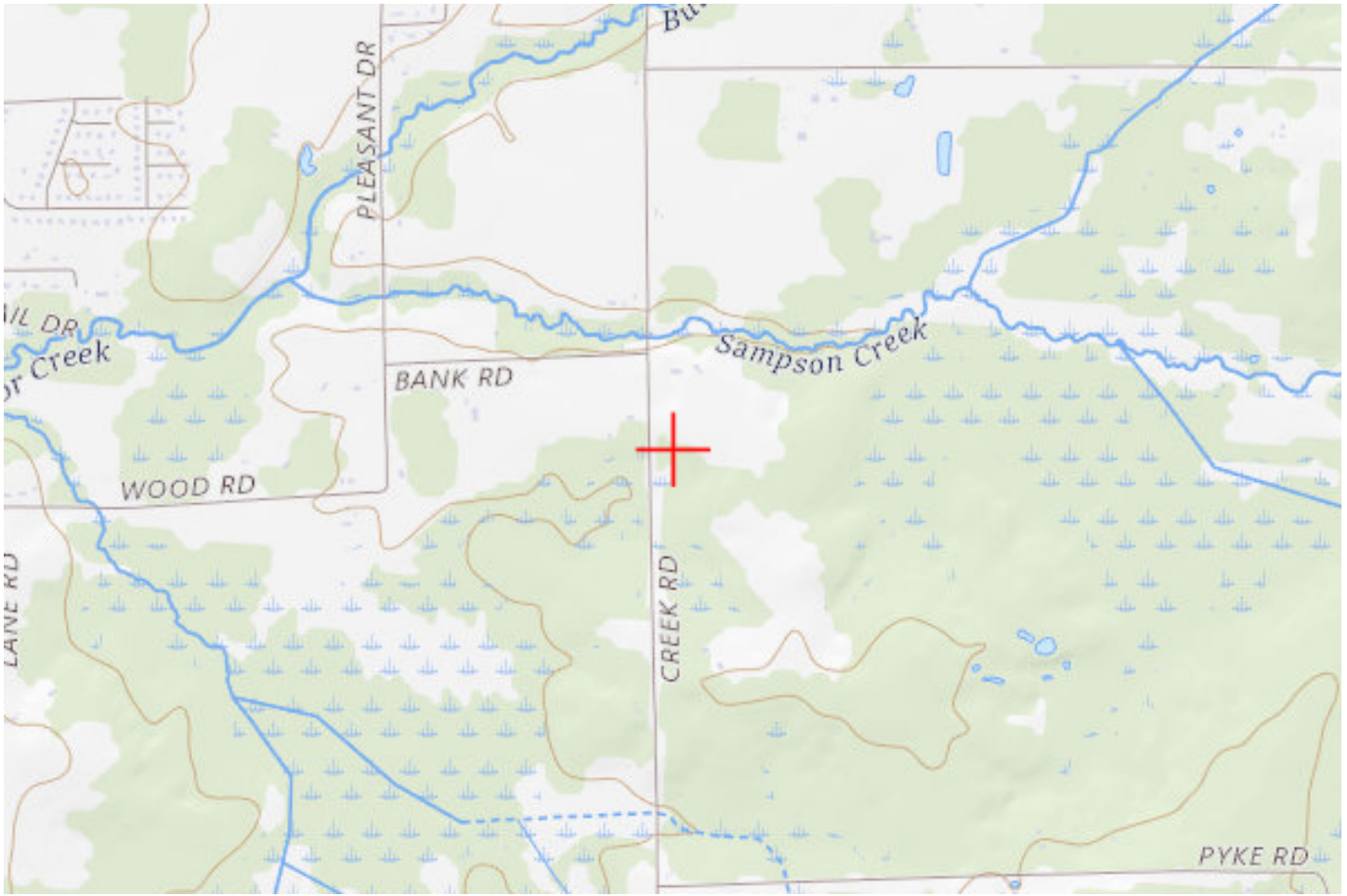
Vee Stewart  
Specialist

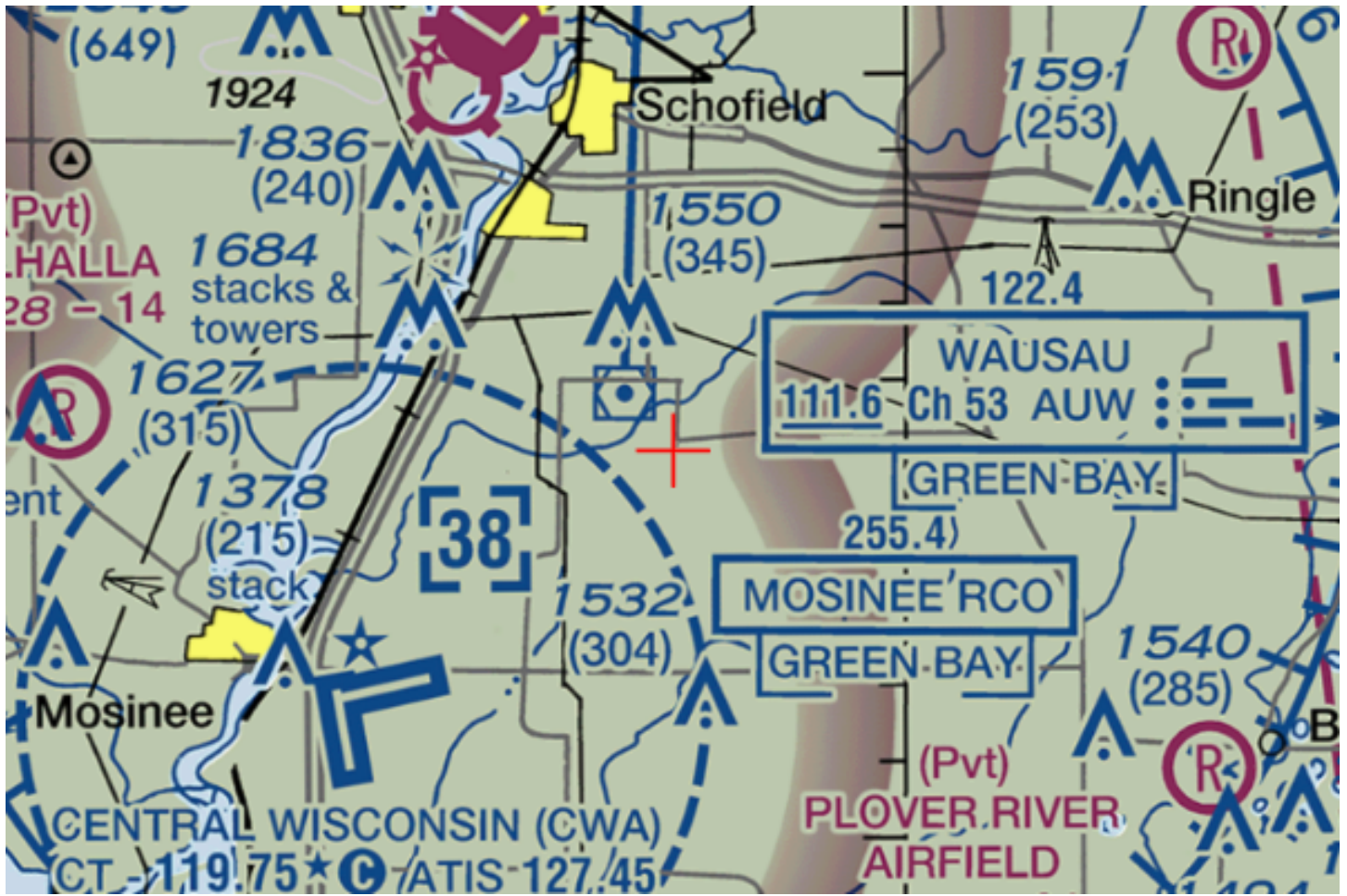
Attachment(s)  
Frequency Data  
Map(s)

cc: FCC

Frequency Data for ASN 2022-AGL-4544-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	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
929	932	MHz	3500	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
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W





# Site Plan

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CREEK ROAD

RIGHT OF WAY

PROPERTY LINE

OHL

OHL

OHL

OHL

PROPOSED 18" DIA., 30' LONG CMP  
CULVERT @ 1% MIN. SLOPE; LENGTH  
INCLUDES APRON ENDWALLS

EXTENTS OF PROPOSED 30' WIDE VB BTS II  
ACCESS AND UTILITY EASEMENT

PROPOSED 12'-0" WIDE  
GRAVEL ACCESS DRIVE

PROPOSED 100' x 100'  
VB BTS II LEASE AREA

PROPOSED 50' x 50'  
FENCED COMPOUND

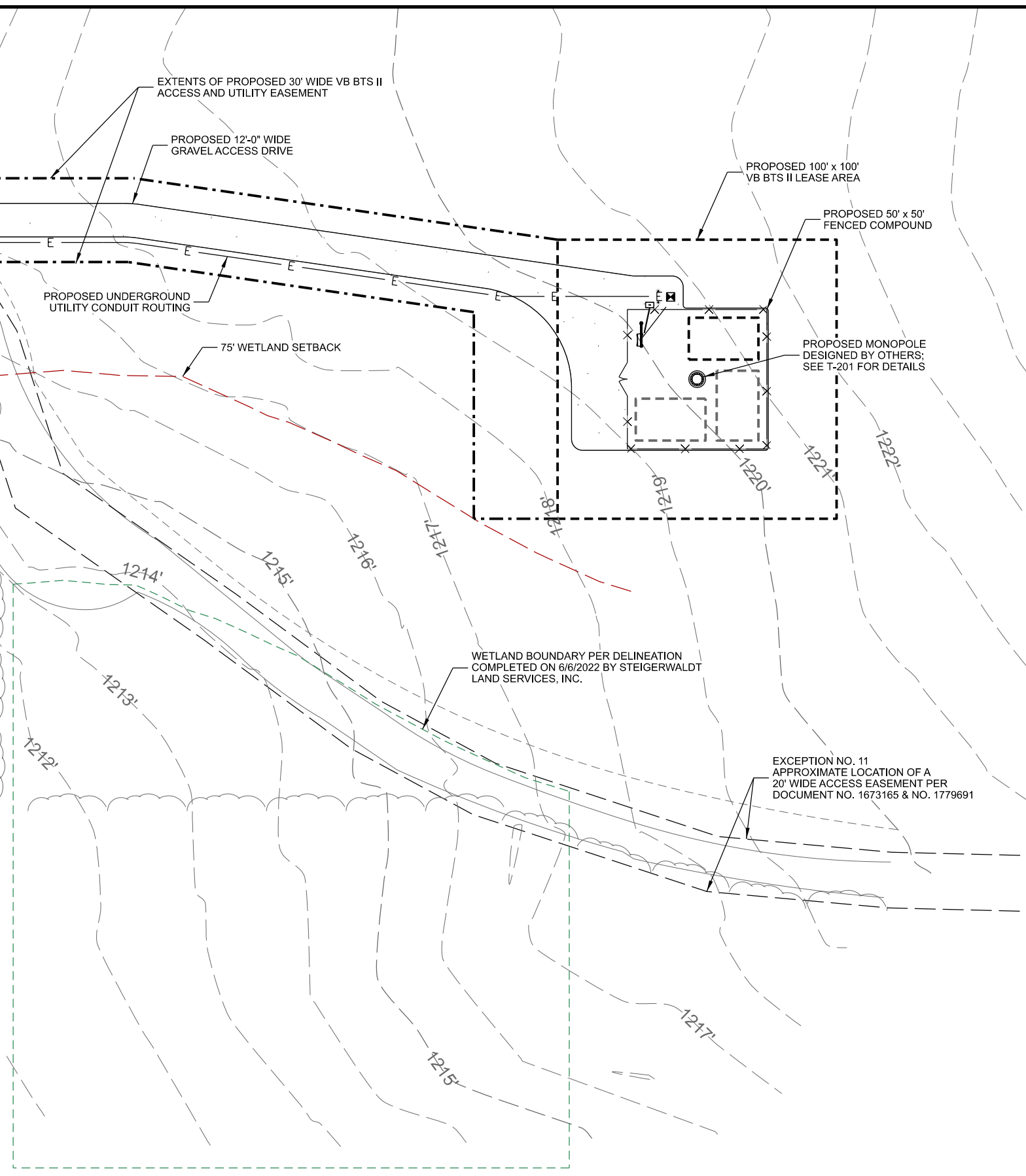
PROPOSED UNDERGROUND  
UTILITY CONDUIT ROUTING

75' WETLAND SETBACK

PROPOSED MONOPOLE  
DESIGNED BY OTHERS;  
SEE T-201 FOR DETAILS

WETLAND BOUNDARY PER DELINEATION  
COMPLETED ON 6/6/2022 BY STEIGERWALD  
LAND SERVICES, INC.

EXCEPTION NO. 11  
APPROXIMATE LOCATION OF A  
20' WIDE ACCESS EASEMENT PER  
DOCUMENT NO. 1673165 & NO. 1779691



APPROX. TOWER LOCATION

A

AERIAL OVERVIEW OF SITE

L:\32000\32089\Design\CAD\2D\Plot\PlotC-101.dgn

CONSULTANT:

**Edge**  
Consulting Engineers, Inc.  
624 WATER STREET  
PRAIRIE DU SAC, WI 53578  
608.644.1449 VOICE  
608.644.1549 FAX  
www.edgeconsult.com

CLIENT:

**verticalbridge**  
VB BTS II, LLC  
750 PARK OF COMMERCE DRIVE  
SUITE 200  
BOCA RATON, FL 33487

**SITE PLAN**  
**US-WI-5446 KRONENWETTER**  
**KRONENWETTER, WISCONSIN**

SHEET TITLE:

SUBMITTAL:

INT.	DATE:	DESCRIPTION:
ADP	3/15/2022	REV. A
ADP	7/15/2022	REV. B
ADP	2/22/2023	REV. C

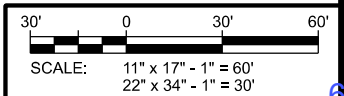
CHECKED BY: KCB

PLOT DATE: 2/22/2023

PROJECT NUMBER: 32089

SET TYPE: PRELIM. DWGS.

SHEET NUMBER: **C-101**





CONSULTANT:  
**Edge**  
 Consulting Engineers, Inc.  
 624 WATER STREET  
 PRAIRIE DU SAC, WI 53578  
 608.644.1449 VOICE  
 608.644.1549 FAX  
 www.edgeconsult.com

CLIENT:  
**verticalbridge**  
 VB BTS II, LLC  
 750 PARK OF COMMERCE DRIVE  
 SUITE 200  
 BOCA RATON, FL 33487

**ENLARGED SITE PLAN**  
 US-WI-5446 KRONENWETTER  
 KRONENWETTER, WISCONSIN

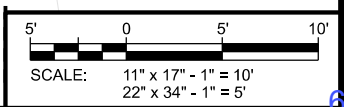
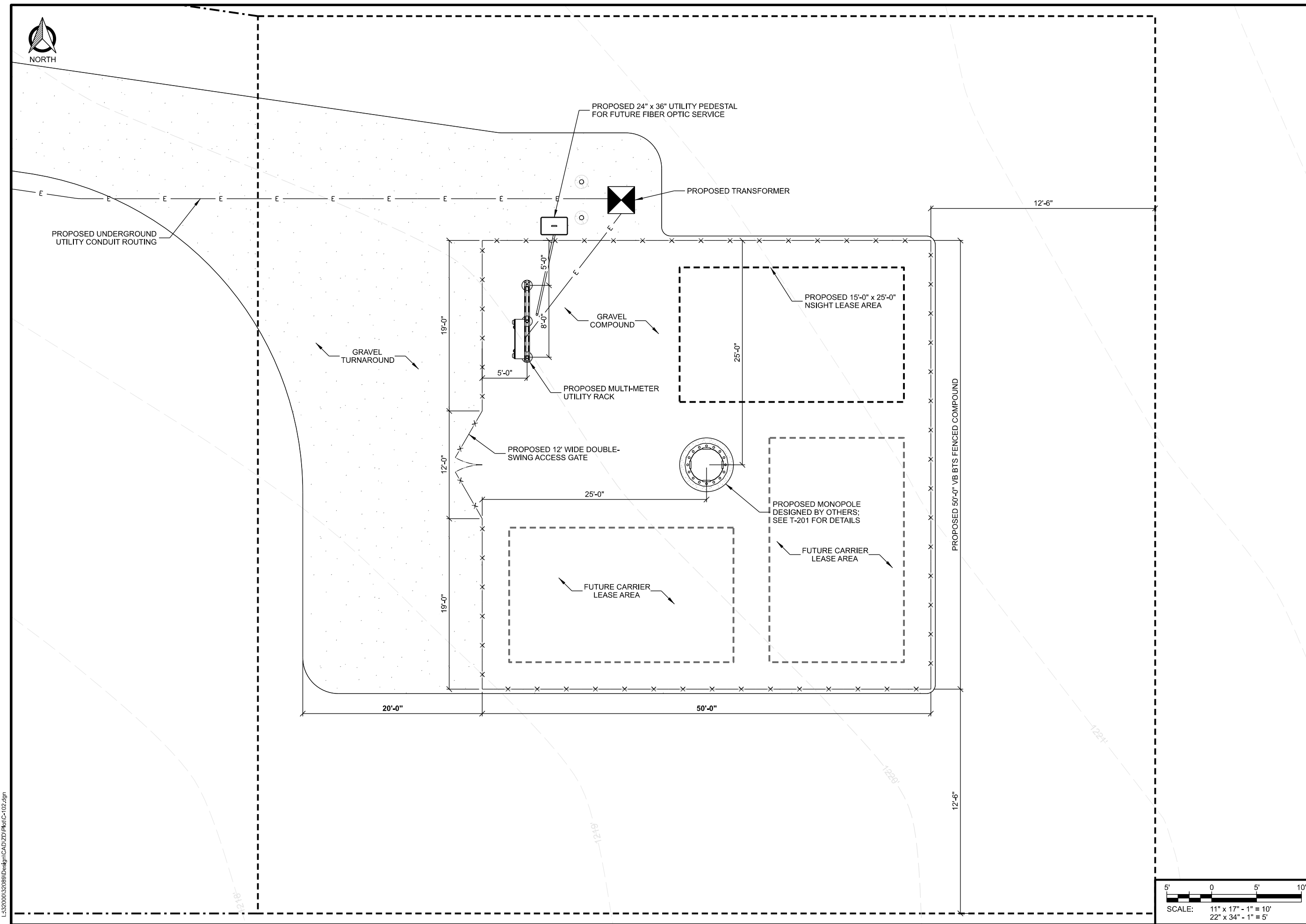
SHEET TITLE:

SUBMITTAL:

INT.	DATE	DESCRIPTION:
ADP	3/15/2022	REV. A
ADP	7/15/2022	REV. B
ADP	2/22/2023	REV. C

CHECKED BY	KCB
PLOT DATE	2/22/2023
PROJECT NUMBER	32089
SET TYPE	PRELIM. DWGS.

SHEET NUMBER  
**C-102**



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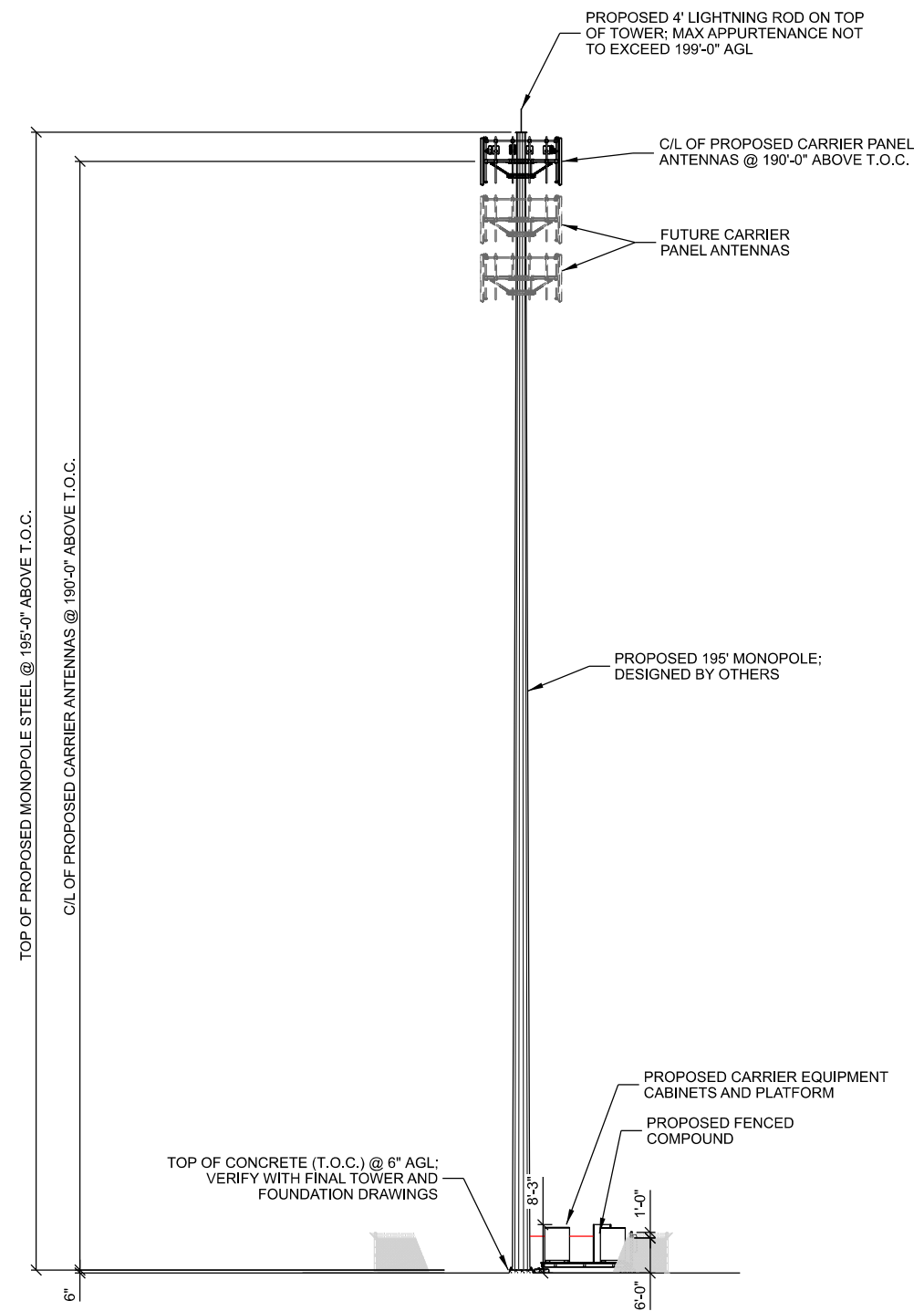


**SITE ELEVATION**  
**US-WI-5446 KRONENWETTER**  
**KRONENWETTER, WISCONSIN**

SHEET TITLE:

SUBMITTAL:		
INT.	DATE:	DESCRIPTION:
ADP	3/15/2022	REV. A
ADP	7/15/2022	REV. B
ADP	2/22/2023	REV. C

CHECKED BY:	KCB
PLOT DATE:	2/22/2023
PROJECT NUMBER:	32089
SET TYPE:	PRELIM. DWGS.



NOTES:  
 1. ANCHOR BOLTS AND NUTS TO BE MARKED WITH INDELIBLE INK, 1/8" LINE.

**A** **SITE ELEVATION**  
 SCALE: 11" x 17" - 1" = 30'-0"  
 22" x 34" - 1" = 15'-0"

**CONFIRMATION**



435 E. Walnut  
Green Bay, WI 54301  
(888)774-7744

KRONENWETTER VILLAGE OF  
1582 KRONENWETTER DR  
KRONENWETTER WI 54455-7268

Account	AD#	Net Amount	Tax Amount	Total Amount	Payment Method	Payment Amount	Amount Due
GWM-KRO255	0005684358	\$55.63	\$0.00	\$55.63	Credit Card	\$0.00	\$55.63

Sales Rep: tmondloch

Order Taker: cscheidern

Order Created 04/27/2023

Product	# Ins	Start Date	End Date
GWM-WDH-Wausau Daily Herald	2	05/01/2023	05/07/2023
GWM-WDHW-Wausau Daily Herald Digital	2	05/01/2023	05/07/2023

\* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

Text of Ad: 04/27/2023

PUBLIC HEARING  
VILLAGE OF KRONENWETTER PLAN  
COMMISSION

NOTICE IS HEREBY GIVEN that a Public Hearing will be held on Monday, May 15 at 6:00 P.M., at the Kronenwetter Municipal Center, 1582 Kronenwetter Drive, Kronenwetter, WI 54455, to hear and consider the following:

**CONDITIONAL USE PERMIT  
REQUEST (BIENIEK)**

VB BTS, LLC - Mike Bieniek, ACIP - Agent, 10700 W. Higgins Road, Suite 240, Rosemont, IL request a conditional use permit for a Communication Tower to be built on the property of 1898 Creek Road, Mosinee WI, 54455 with a AR Zoning district. Legal description of this property: SEC 09-27-08 NW ¼, SW ¼, SECTION 9, T27N, R8E, Parcel 145-2708-0930-998 VILLAGE OF KRONENWETTER, MARATHON COUNTY, WISCONSIN.

Written testimony may be forwarded to the Village of Kronenwetter Plan Commission, William Gau, 1582 Kronenwetter Drive, Kronenwetter, WI 54455 or emailed to wgau@kronenwetter.org before the time of the hearing. All interested persons will be given an opportunity to be heard at the hearing. For questions and more information, please contact the Village prior to the meeting.

William Gau  
Dated this May 1, 2023  
Run: May 01, 07, 2023 WNAXLP

**In the Matter Of:**  
**VILLAGE OF KRONENWETTER**

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**TRANSCRIPTION OF AUDIO**

*May 15, 2023*

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In Re: VILLAGE OF KRONENWETTER

Date: May 15, 2023

Runtime: 2:08:27

1 (Beginning of Audio Recording.)

2 MR. GAU: It is 6:02, call the meeting to  
3 order. Announcement of any possible or perceived  
4 conflicts of interest? I'm not hearing any. We will  
5 go to roll call. President Chris Voll? Bruce  
6 Sinkula? Rick Grundman?

7 COMMISSIONER GRUNDMAN: Here.

8 MR. GAU: Tony Stange?

9 COMMISSIONER STANGE: Here.

10 MR. GAU: Dick Kavapil?

11 COMMISSIONER KAVAPIL: Here.

12 MR. GAU: Dan Lesniak?

13 COMMISSIONER LESNIAK: Here.

14 MR. GAU: Tim Shaw?

15 COMMISSIONER SHAW: Here.

16 MR. GAU: We have a quorum. The next  
17 section -- agenda item is to select a vice chair. And  
18 do I have any nominations?

19 COMMISSIONER GRUNDMAN: I nominate Dan  
20 Lesniak.

21 COMMISSIONER KAVAPIL: Second.

22 MR. GAU: We have one nomination of Dan  
23 Lesniak by Rick Grundman, and seconded by Dick  
24 Kavapil. Is there any other nominations for vice  
25 chairman? Are there any other nominations for vice

1 chairman, or chairperson? Is there any other  
2 nominations for vice chairperson? I'm not hearing  
3 any, so we will move on to a vote. Rick Grundman?

4 COMMISSIONER GRUNDMAN: Yes.

5 MR. GAU: Tony Stange?

6 COMMISSIONER STANGE: Yes.

7 MR. GAU: Dick Kavapil?

8 COMMISSIONER KAVAPIL: Yes.

9 MR. GAU: Dan Lesniak?

10 COMMISSIONER LESNIAK: Yes.

11 MR. GAU: Tim Shaw?

12 COMMISSIONER SHAW: Yes.

13 MR. GAU: That is a unanimous vote, five to  
14 zero. Dan, would you like to take over?

15 VICE CHAIR LESNIAK: I suppose that would be  
16 the proper place for the vice chairperson when the  
17 chairperson is absent.

18 MR. GAU: Yes. I just wanted to make sure  
19 you were ready.

20 VICE CHAIR LESNIAK: All right. I'm ready.  
21 Okay. If everybody is comfortable with me staying  
22 here right now, would that be okay? All right.

23 COMMISSIONER STANGE: I'm okay with it.

24 VICE CHAIR LESNIAK: So, item number two is  
25 public hearing. We have under D, conditional use

1 permit for Bieniek, VBS-- VB BTS, LLC, Mike Bieniek  
2 ACIP Agent at 10700 West Higgins Road, Suite 240,  
3 Rosemont, Illinois requests a conditional use permit  
4 for a communication tower to be built on the property  
5 of 8-- of 1898 Creek Road, Mosinee, Wisconsin, with an  
6 AR zoning district. The legal description of the  
7 property is listed on the agenda in Section 9,  
8 (inaudible) 27 north (inaudible) eight -- east it  
9 should be, yep. The northwest corner, of the  
10 southwest corner of Section 9. All of the rest of  
11 that is written there, and it also lists the parcel ID  
12 on the agenda. So, let's see here. All right, so do  
13 we have anybody listed to speak on the (inaudible) for  
14 the public hearing tonight?

15 MR. GAU: These people, A's, they wanted to  
16 speak together.

17 VICE CHAIR LESNIAK: They would like to  
18 speak together, okay. All right, thank you. All  
19 right, so I will start -- we will start with the first  
20 person on the list, and that is Robert Konkol. If you  
21 would please come to the microphone, list your name  
22 and address, and give us the information you would  
23 like to provide us?

24 ROBERT KONKOL: Robert Konkol, 1898 Creek  
25 Road, Mosinee, Wisconsin. I -- we have been here

1 before, and I have given what I appreciate of the good  
2 points of this application. Kronenwetter wants to go  
3 be a progressive community, and with a cell tower, we  
4 are going to give a lot of coverage to your six, seven  
5 hundred homes that are going to be affected, many more  
6 one. And -- but the fact that there is a good chance  
7 of getting the internet to Kronenwetter, because right  
8 now everything stops on at Pleasant Drive. You have  
9 five miles of Kronenwetter. That's all I have to say.

10 VICE CHAIR LESNIAK: All right. Thank you,  
11 Mr. Konkol. The next person on the list is Mark  
12 Konkol.

13 MARK KONKOL: Good evening, 15514 Southeast  
14 24th Street, Seattle, Washington. I'm the son of  
15 Robert Konkol at 1898 Creek Road. As a person that  
16 frequently visits my parents here, the Planning  
17 Commission has looked at this previously --

18 VICE CHAIR LESNIAK: Mr. Konkol?

19 MARK KONKOL: Yes?

20 VICE CHAIR LESNIAK: Would you be able to  
21 get a little closer to the microphone? I believe we  
22 have --

23 MARK KONKOL: Sure.

24 VICE CHAIR LESNIAK: -- people in the  
25 audience who are having a hard time hearing.



1 MARK KONKOL: Oh, okay.

2 VICE CHAIR LESNIAK: Okay.

3 MARK KONKOL: Okay, is this a little bit  
4 better?

5 COMMISSIONER STANGE: Is it on?

6 COMMISSIONER GRUNDMAN: Tap the mic and see  
7 if it's on?

8 COMMISSIONER KAVAPIL: No.

9 COMMISSIONER GRUNDMAN: Nope.

10 MARK KONKOL: There we go. Okay.

11 COMMISSIONER STANGE: Now it's on.

12 MARK KONKOL: Now we are ready. Okay.

13 (Inaudible) repeat everything here again?

14 VICE CHAIR LESNIAK: If you would, please?

15 MARK KONKOL: Okay.

16 VICE CHAIR LESNIAK: That would be helpful.

17 MARK KONKOL: Okay, I can do that.

18 VICE CHAIR LESNIAK: Thank you.

19 MARK KONKOL: Sure. Mark Konkol, 15514  
20 South East 184th Street, Seattle, Washington. I'm the  
21 son of Robert Konkol at 1898 Creek Road. As somebody  
22 who has come and visited my parents frequently in this  
23 area, it would be a great investment for the Village  
24 to look at -- approve this plan, which had been  
25 previously reviewed and approved. Conditions Mike

1 Bieniek will talk later on that, but I think that's a  
2 good thing that we are working towards improving this.

3 I can tell you right now that, the way I  
4 have to work when I'm here is something that nobody  
5 should have to be really going through for a  
6 communication. So, I have to run a hot spot to  
7 basically have any kind of internet connection from  
8 where we are at, because the other communication  
9 towers in the area just do not provide any kind of  
10 bandwidth that are supportive of continuing to do the  
11 simple things like we do. Like even look an email, or  
12 the websites, communicate with others by like what you  
13 are doing tonight, remote on the phone, or remote to a  
14 screen on here, WebEx, Zoom, all those types of  
15 applications, right? None of those things are  
16 possible in that area where, I'm sure that they're  
17 possible in other areas of the Village.

18 So, I ask you to strongly consider moving  
19 forward with the plan that Vertical Bridge has put  
20 forward. And make sure that we get this done in a  
21 timely manner, so that as previously stated, the  
22 amount of coverage for the Village continues to expand  
23 and improve, and serves as a community as people would  
24 expect. Thank you very much.

25 VICE CHAIR LESNIAK: All right, thank you,

1 Mr. Konkol. Next, -- and the request is that the two  
2 people listed next would be able to speak in tandem  
3 with each other, I believe. That would be both Jim  
4 and --

5 JIM HARRIS: Marty.

6 VICE CHAIR LESNIAK: -- I can't make out the  
7 first name. Marty?

8 MARTY HARRIS: Uh-huh.

9 VICE CHAIR LESNIAK: Okay. Jim and Marty  
10 Harris, if you could come to the microphone, please?

11 MR. GAU: Dan, are you sure it's not the  
12 whole group? Isn't it (inaudible) --

13 JIM HARRIS: It's going to take (inaudible).

14 VICE CHAIR LESNIAK: Oh, okay. It's the  
15 whole group of four that want to speak?

16 MR. GAU: Yes.

17 VICE CHAIR LESNIAK: Okay. All right,  
18 thanks for clarifying. Okay. Jim, Marty, and then we  
19 also have Ann and Nazaya (phonetic). Ann Kiefer and  
20 Nazaya Herr (phonetic) would also like to speak. So,  
21 if the group of four -- the four of you, --

22 JIM HARRIS: Yeah.

23 VICE CHAIR LESNIAK: -- I take it, is what  
24 the request is.

25 JIM HARRIS: Can we -- it's going to take us

1 a minute to set up.

2 VICE CHAIR LESNIAK: Okay.

3 (Overlapping voices.)

4 COMMISSIONER STANGE: Ma'am, do you want to  
5 tap that microphone and just see if it -- perfect,  
6 thank you.

7 (Overlapping voices.)

8 JIM HARRIS: (Inaudible).

9 MARTY HARRIS: (Inaudible).

10 JIM HARRIS: Okay, where did it go  
11 (inaudible). Okay. Okay, (inaudible) perfect.

12 MR. GAU: (Inaudible) do you want to sit  
13 down? (Inaudible) the people here (inaudible).  
14 That's a (inaudible). Okay?

15 MARTY HARRIS: (Inaudible).

16 JIM HARRIS: Yeah.

17 MARTY HARRIS: All right. You should see  
18 our dining room table. Okay.

19 MALE SPEAKER: (Inaudible).

20 MARTY HARRIS: Yeah, (inaudible).

21 JIM HARRIS: This one, and (inaudible).

22 MARTY HARRIS: Oh.

23 JIM HARRIS: Take one, (inaudible) get more.

24 MARTY HARRIS: Yeah.

25 JIM HARRIS: Thank you.

1 MARTY HARRIS: Okay, (inaudible).

2 JIM HARRIS: Okay, my name is Jim Harris,  
3 and I live with my wife Marty Harris at 1833 Creek  
4 Road, Kronenwetter. We have been residents there for  
5 the last 33 years. Thank you for indulging us this  
6 evening. We have more paperwork probably than we  
7 need, but we would like to make sure that you go home  
8 with some essential information.

9 I really hope that all of you commissioners  
10 and trustees are glad to be here. You know, I know  
11 volunteer positions like you fill can be frustrating  
12 and unthankful, but I want to let you know that I  
13 greatly appreciate what you do for our village. I  
14 don't ask lightly whether you're happy to be here,  
15 because I have been reading over the last several  
16 months minutes of past meetings, and I have even gone  
17 back over two to three years and listened to the audio  
18 of board meetings. And so, I don't know everybody by  
19 name, or by face, but I know most of the trustees now  
20 very well by voice. It would be helpful on those  
21 audio portions for people to identify themselves, but  
22 I'm past that now, I can usually tell the trustees.

23 But one of the things that became really  
24 apparent to me as I read the official record, and I  
25 listened to the debate is how frustrating the job of

1 trustees must be in this era of cell phone tower  
2 proliferation. One of the most interesting events was  
3 from two years ago with the Leather Camp -- the  
4 Leather Camp Tower. And what was interesting about  
5 that was how much weariness there was among the  
6 trustees about approving that tower. And I could hear  
7 voices on the recorded tape say things like, I  
8 wouldn't want it in my backyard. I really feel for  
9 you, property owner, I understand how this will change  
10 your life, but our hands are tied, we don't have any  
11 choice. The legislature has taken away all of our  
12 latitude.

13           Now, how could a trustee or a commissioner  
14 take pride in their job of trying to protect their  
15 community if in fact people feel that they have no  
16 power? Well, that's not really true. I'm happy to be  
17 here tonight, and have the opportunity to share with  
18 you. And I hope that you're happy to feel you're not  
19 completely emasculated in this process, you're not  
20 completely feeble. Over the last couple of months,  
21 and I have read the testimony from various  
22 communities, there are communities who would exercise  
23 the limited flexibility that they have. And so, I  
24 hope tonight you know that you can make a difference.  
25 You know, don't send me home tonight saying, well we

1 had no choice, the best we can do is recommend you  
2 write your legislators. I have heard that several  
3 times on tapes and seen it in the minutes. So, thank  
4 you for being here, I hope you will give me a good  
5 listen, and I hope we can pass out some documents that  
6 talk about successful court challenges, or challenges  
7 from cell phone companies that failed in court.

8           One of the sad situations that I have  
9 discovered as I look not just at Kronenwetter, but  
10 also at other communities around the state is how  
11 vulnerable the property owner really is even now. You  
12 know, really, here in Kronenwetter, it only would take  
13 five people in the Village to wreck financial hardship  
14 on a property owner. It would only take five people  
15 in the Village to destroy dreams. Five people who can  
16 change the life of a retired couple. Five people.  
17 Who? One, you need a property owner who looks at the  
18 offer from a cell phone tower company and sees a stack  
19 of \$100 bills, of \$1000 bills, and is swayed by that  
20 money. You know, the property owner who leased the  
21 property for the tower that you call the Leather Camp  
22 Tower, the property owner there is raking in \$500 a  
23 month for 20 years. That was the first person who  
24 needed to be swayed. The other four people of the  
25 five are four trustees. You have a seven person

1 board, it only takes four trustees to join with the  
2 person who wanted the money, and those five people can  
3 wreck a dream, can upset financial security. So, I  
4 come to you tonight with some vulnerability, but I'm  
5 going to give you my best argument. I'm not here  
6 pleading for sympathy, I think my family and I have a  
7 very strong case that would stand up in court.

8           The first thing I need to call to your  
9 attention, however, and we have passed out this  
10 document with the highlight. This was a surprise to  
11 me. I didn't expect to see this in your background  
12 packet this week. In conversations with Dan Mahoney,  
13 I was under the impression that Dan was suggesting  
14 restraint on the part of staff about making a  
15 premature recommendation. You know, when you think  
16 about it, we are here tonight, and you have given me a  
17 chance to share with you some things from my life  
18 experience that would affect your decision. Thank you  
19 for that, but if you really respect that opportunity  
20 that you're giving me, the staff should be willing to  
21 listen to my arguments, listen to my life experience,  
22 and then make a recommendation.

23           So, it was a surprise to me, when I looked  
24 at your packet, and if you were doing any homework  
25 over the weekend, you already saw that there was a



1 staff report to the Planning Commission. Now,  
2 interestingly, when I have asked about this report  
3 among the staff in Kronenwetter, it seems this report  
4 is a bit of an orphan. None of the staff I have  
5 talked about here in Kronenwetter claim authorship of  
6 this. It would appear that this report, the staff  
7 report for the Planning Commission possibly, maybe  
8 probably, was written by Vertical Bridge. It takes a  
9 certain audacity to come into a community, and on your  
10 own volition to write the staff report for the village  
11 where you're asking to have a tower.

12           There are things in this report that I find  
13 kind of alarming. One, in this report, on the second  
14 page, you will see there are a couple of diagrams, and  
15 you see arrows pointing to the requested location.  
16 Well, that is pretty broad. You know, we are here  
17 tonight to talk about a 50-by-50 footprint, and yet  
18 here you have a diagram that shows a 40-acre parcel,  
19 the requested location. Now you may say, well what  
20 difference does that make? You know, in last  
21 September, when the Planning Commission met, and the  
22 Board met and approved this cell phone tower request  
23 for a CUP -- conditional use permit -- it was in a  
24 wetland. And the DNR ultimately denied access to that  
25 wetland. Well, Vertical Bridge hardly missed a beat.

1 They just announced that well, then we will just move  
2 it. And I have felt special vulnerability when I  
3 looked over the minutes and saw that in September this  
4 board had approved not the specific GPS readings for  
5 latitude or longitude, but had approved the location,  
6 a 40-acre parcel.

7           Fortunately, the Kronenwetter staff advised  
8 Vertical Bridge that it would be necessary to fill out  
9 a new application and begin the process over. But  
10 here we are at today's meeting, starting over, and we  
11 have the same document. The same requested location.  
12 There is no place on this document where the latitude  
13 and longitude are nailed down, the only place I have  
14 seen it is on the site diagram listed as  
15 approximately. So, I am a little nervous about what  
16 is approximate location. My neighbor came over to my  
17 house to point out where he expected it to be, and we  
18 used a round bale as a landmark. So, the only thing I  
19 know as of this moment is it's somewhere in the  
20 vicinity of where that round bale was two months ago.  
21 I would like to have more definitive statement on  
22 where this thing is going to be, because every foot  
23 counts.

24           The other thing that I thought had a fair  
25 amount of brass on this report written on behalf of

1 the Kronenwetter staff is the recommendation. Right  
2 here on page three, staff recommends approval of the  
3 conditional use permit. So, not only has Vertical  
4 Bridge written the staff report, now they're modestly  
5 saying that it has virtue and they recommend you  
6 approve it. I just think that that is an exhibit -- a  
7 certain amount of insens-- a lack of sensitivity to  
8 what a public hearing should be, and the opportunity  
9 to gather information.

10 If I bring this immediately up to date, the  
11 more critical edition to this staff report are the  
12 findings. You know, in my mind, the findings in a  
13 staff report should be the result of some research,  
14 some discussion, some serious thought, dialogue among  
15 the staff. But the staff report includes the  
16 findings. And you -- again, if you did your homework,  
17 you have already read that. Well, does it surprise  
18 anybody that the people who wrote the report, and  
19 included the findings, found in every one of the  
20 critical cases the Vertical Bridge finding was in  
21 their favor? Well, my family and I would like to  
22 contest that. Of the six findings that were  
23 requested, we are contesting three of them.

24 MARTY HARRIS: (Inaudible) this one.

25 MALE SPEAKER: Yeah.

1           JIM HARRIS: Interestingly, as these are  
2 being passed out, I will show you another. The  
3 recommended findings that were in the September  
4 application were very clearly cribbed from the  
5 application. If Vertical Bridge didn't write them,  
6 then the Kronenwetter staff member who assembled them  
7 cribbed them from the application. They're almost  
8 word-for-word from the application. This time around,  
9 the application that was received in April has exactly  
10 word-for-word the same findings. I'm holding up  
11 September 2022, and April 2023 side by side. And I  
12 will share this with you, they're identical. In spite  
13 of the fact that the location has been changed, in  
14 spite of the fact that the staff -- that the site is  
15 no longer buffered by vegetation, in spite of the fact  
16 that the site is no longer surrounded by mature trees.  
17 The person who put together the staff recommendation,  
18 the findings for this meeting, didn't even bother to  
19 read the new application. Now, how does that build  
20 trust in a community that the things we bring before a  
21 public hearing have merit and will be respected?

22           I think at this point, what I would like to  
23 do is to address the three areas in which we contest.  
24 The first one, that the establishment, maintenance, or  
25 operation of the conditional use will not be

1 detrimental or to endanger the public health, safety,  
2 morales, comfort, or general welfare. You know,  
3 what's hard about this is their quick claim that oh,  
4 yes, yes, and no problem there. You know, I don't  
5 think people in Kronenwetter really know what goes on  
6 on our property. We have some very precious and real  
7 experiences on our property that will be threatened by  
8 this tower.

9           What I would like to do is to call a friend,  
10 Nazaya Herr, who has been on our property at length.  
11 We have on our property 100 or more families  
12 participating in a community garden. And Nazaya is  
13 our link between families. Some of those families  
14 would have liked to have been here today, but lack the  
15 confidence to come and speak before a group, they lack  
16 the language skills to express their thoughts. Nazaya  
17 has served as our interpreter, and she will speak to  
18 you about the things that people have said to her.  
19 And then, we have a brief video we would like to show  
20 you. Nazaya, would you like to come up?

21           NAZAYA HERR: Sure. Hi. Hi, my name is --

22           VICE CHAIR LESNIAK: And if you would please  
23 -- oh, name and address, please.

24           NAZAYA HERR: Sure.

25           VICE CHAIR LESNIAK: Thank you.

1           NAZAYA HERR: My name is Nazaya Herr, I live  
2 at 924 North 10th Avenue, Mosinee, Wisconsin, 54401.  
3 I am here representing our gardeners, many of which  
4 are Kronenwetter residents including my family. We  
5 use this land to provide food, health, and mental  
6 wellness. This land reminds our gardener of a time in  
7 their life when lives were peaceful, simple, and  
8 fruitful. It allows them to heal from their past  
9 traumas that forced them to relocate to a foreign land  
10 and climate. Last spring, the gardens were featured  
11 on the local news. In addition, it was featured on a  
12 national TV series called Lidia Celebrates America, a  
13 Heartland Holiday Feast in 2018. At this point, I  
14 would like to share a clip of that video.

15           (Overlapping voices.)

16           (Recording playback.)

17           JIM HARRIS: You know, it's interesting,  
18 when you work with refugee people, often social  
19 workers, teachers, professionals who work closely with  
20 the people will say, my gosh, they have so much to  
21 learn. So much to learn. Well, we have something to  
22 learn. If you came through our farm, and walked over  
23 the fields with 107 gardens, hundreds of Hmong people  
24 there all summer long working, I would challenge you  
25 to find a popsicle stick, a gum wrapper, find a

1 crushed pop can. Our gardens are immaculate. It  
2 shows me that the land is revered. And while the  
3 Hmong refugees in our community may have a lot to  
4 learn, they have got a lot to teach. I would feel  
5 very bad seeing the environment that we have created,  
6 the respect for the land, to have that become the site  
7 for an obscene tower, plopped in the middle of a  
8 beautiful, scenic, rustic area.

9           You know, I'm not one of those people who  
10 hates technology, who doesn't want cell phone towers,  
11 but there is lots of open land, lots of alternatives  
12 in this part of our county. You know, I drive up and  
13 down Highway 29, and I look at cell phone towers in  
14 different communities, you don't see one that's parked  
15 across the street from a residential property. I'm  
16 going to end up with a cell phone tower that's going  
17 to be 300 feet from my porch. And I just think it's  
18 obscene to put that in this sort of wholesome, rural  
19 environment that we have built on Creek Road.

20           I want to move on to the next of the three  
21 areas, and that is about diminishing and impairing  
22 property values within the neighborhood. And my wife  
23 Marty is going to speak to that, and then I will be  
24 the person handing out papers this time.

25           MARTY HARRIS: I think I have already handed

1 it out.

2 JIM HARRIS: Okay.

3 MARTY HARRIS: My name is Marty Harris, I  
4 live at 1833 Creek Road in Kronenwetter. I want to  
5 acknowledge some of the things that Jim said only  
6 briefly. We -- and we didn't spend time on the health  
7 risks, I have -- I think you have heard all that  
8 before, the potential health risks of living near a  
9 cell phone tower. And I'd be surprised if many of you  
10 haven't read about them, or at least heard of them.  
11 We fear the potential health -- potential health risks  
12 of having a cell phone tower so close to our home.  
13 And in everything we read, I just get this horrible  
14 lump in my stomach about what we are going to be  
15 exposed to. Even though more studies need to be done,  
16 there are numerous studies that cite the health risks,  
17 and that's our concern. A second concern is we dread  
18 -- as Jim has mentioned -- we dread the visual impact  
19 this will have on our land. But the area that I want  
20 to address is the potential impact that it will have  
21 on our property value.

22 There is a sheet that we have handed you  
23 called Academic Citations. I did give that out,  
24 right? And the homeowner and real estate agent  
25 statements. We have so many articles and studies that



1 we have cited.

2 JIM HARRIS: (Inaudible) do that?

3 MARTY HARRIS: Yeah, (inaudible). I will  
4 just (inaudible). And we just pulled a few out.  
5 There is no much more, but we recognize time limits  
6 tonight, and your patience, and your attention. So,  
7 we tried to zero in on articles or citations that  
8 reflect, and much of the other ones that we read. I  
9 will wait until everybody has a copy. You do? Okay.

10 In Realtor Magazine -- that's the first  
11 listed there -- 95% of home buyers will not purchase a  
12 home near a cell tower due to potential adverse health  
13 effects. And that's where the health comes in, of  
14 course. The Journal of Real Estate Research, in some  
15 areas with new towers, property values have decreased  
16 by up to 20%. And this same figure is repeated in  
17 three other articles that I wrote -- that I read, and  
18 that research is as of 2022. The HUD Guide to  
19 Appraisers, appraisers must take the presence of  
20 nearby cell phone towers into consideration when  
21 determining value.

22 And just as an aside, I found it was really  
23 interesting that the U.S. Department of Agriculture  
24 and HUD long consider cell towers as, I quote, hazards  
25 and nuisances. So, it puts it mildly perhaps, but

1 that's how many view it.

2           The National Institute of Science, Law, and  
3 Public Policy states that 79% of survey participants  
4 said that under no circumstances would they purchase  
5 or rent a home near a cell phone tower. And if I had  
6 been in that survey I would have been in that 79%.

7           The bottom half of that page is citing  
8 comments by a number of realtors, real estate agents,  
9 and homeowners, or potential home buyers. First  
10 quote, cell tower is a risk added on top of all other  
11 investment risks, and any of us who have invested in  
12 property know that there are lot of risks we have to  
13 consider. Cell towers bring the fear of the unknown,  
14 I experienced that over the last months. 90% of home  
15 buyers would expect to pay less for property in close  
16 vicinity to cellular antennas, and some of the  
17 information we have cited to you, as well as some more  
18 I will give you shortly, backs that up. If a person  
19 is going to invest, why would he buy a property near a  
20 tower? Why would they make that choice? When a tower  
21 is built near an existing residence, there is a  
22 significant degradation to the value.

23           And finally, of the realtors' comments, you  
24 can see a buyer's -- that should be buyer's -- dismay  
25 over the site of cell phone tower near the property

1 they're considering. Homeowners have weighed in. One  
2 homeowner who had a tower built near her -- near her  
3 home stated, a six-foot fence does nothing to hide a  
4 300-foot tower. And that would be true of most  
5 natural buffers as well, and we are talking about a  
6 200-foot tower, but same concept. Quote from a  
7 homeowner who had a tower built near her home, had the  
8 tower been here 20 years ago when we built our home,  
9 we never would have built here. Quote from another  
10 homeowner, would you want a cell tower in your  
11 backyard? And we know that as Jim cited, one of the  
12 videos of a board meeting, at least one or more of  
13 those board members said, I wouldn't want that near my  
14 home. And finally, a quote from a homeowner, would  
15 you want your children -- and I added or  
16 grandchildren, because that's a concern of ours --  
17 living so close to a cell phone tower? We would not,  
18 we would be fearful for them?

19           With this in mind, and with the many  
20 articles that we researched that cited realtor's  
21 opinions and experience, we felt that there was not  
22 enough that we could tell you that had been cited in  
23 the state of Wisconsin. And so we conducted our own  
24 survey, we had five questions -- five questions that  
25 we posed to realtors. We offered it to them as an

1 anonymous survey, so they -- we did not ask them to  
2 submit their names or even their locations, although  
3 some voluntarily did that on the survey. And the  
4 results were this. Question number one, suppose a  
5 200-foot tall cell phone tower built 300 feet from a  
6 family's home will make the value of the home drop by  
7 5% or more, please circle one, they had five choices  
8 from strongly agree to strongly disagree. 84% of  
9 respondents either agreed or strongly agreed with that  
10 statement.

11           How far away should a cell tower -- cell  
12 tower be before it wouldn't make any difference,  
13 circle one. And we gave them five options, from 3 to  
14 500 feet, 501 to 1,000 feet, a quarter mile, a half  
15 mile, one mile or more. Their responses fell into  
16 these categories, 97% said 500 feet or more. This  
17 cell tower proposed site is 500 feet or less -- as far  
18 as we can determine by the coordinates -- from our  
19 house. Not just our property, but the home that we  
20 live in, spend time in with family, with friends,  
21 where we sleep. The number of hours that we are  
22 exposed to that cell tower that close to us is  
23 impressive and remarkable to us. Out of those  
24 respondents, 78% said a quarter mile, or one mile, or  
25 more. And more than a third said a half a mile, to a

1 mile or more. So, they're very cognizant of the  
2 distance between a cell phone tower and property.

3           The third question, have you or a colleague  
4 ever had a buyer report that they like a certain  
5 house, but they wouldn't consider buying it because it  
6 is too close to a cell phone tower or similar  
7 structure? 56 percent of respondents said yes. And I  
8 left out a respondent who said to an electric power  
9 line, not to cell tower. But she has had that  
10 experience.

11           I'd like to quote one of the respondents,  
12 who not only added a comment, but added his card so I  
13 -- he identified himself. He's from Marshfield,  
14 Wisconsin, and he stated, I have personally dealt with  
15 this issue. Six to eight buyers on the same property  
16 planned on submitting offers, once they searched  
17 online about cell towers, they were all scared off.  
18 And that tells us that buyers are educating  
19 themselves, they're researching.

20           The fourth question we asked realtors of  
21 potential home buyers of homes close to a cell phone  
22 tower, what are they worried about? We have some  
23 health and safety, appearance, property value, and  
24 other. And they were -- we asked them to circle any  
25 that apply, 95 -- four -- I'm sorry 94% of those

1 respondents cited health and safety, 69% cited  
2 appearance, 66% cited property values. These are  
3 concerns of ours, we share those concerns as  
4 homeowners, and we would feel the same if we were  
5 buying any new property. Our family feels the same.  
6 We have anticipated sharing the property, perhaps  
7 selling our home to our daughter. She was on board,  
8 we were making plans, and then the presence of --  
9 potential presence of a cell tower scared her off, and  
10 it dashed our dreams of handling our property that  
11 way.

12           Our home is on the east side of the proposed  
13 tower site, the application cites tree cover to the  
14 south and to the west. Creek Road, which is our  
15 address and the Konkol's address, and our home are  
16 opposite that area. The area that's wide open in a  
17 field, no longer as the first site was proposed, no  
18 longer is it in a sheltered spot, no longer are there  
19 any natural buffers.

20           So, how much distance is enough? Whether  
21 discussing health concerns, visual impact, or property  
22 values, the owners best defense -- and this is cited  
23 both in health articles and in property value articles  
24 -- their best defense is more distance and natural or  
25 built buffers. And I remind you that, how many of us

1 would think a fence would be enough of a buffer for a  
2 cell to -- cell phone tower rising 200 feet in the  
3 air? Numerous health studies cite 500 meters as a  
4 safe distance to live near a (inaudible) -- a cell  
5 phone tower. National Association of Realtors  
6 suggests negative impacts on property values dissipate  
7 at 1500 feet. And of course the realtors in our  
8 survey cited a quarter mile, half mile, or more, the  
9 majority of those respondents. So, we are talking  
10 about three times the distance, roughly, of that tower  
11 from our house.

12 I think one added comment is that, in some  
13 of the research we did, it's cited -- and I think we  
14 can all relate to is that middle class homeowners,  
15 their major asset is their property, their home. And  
16 that property or home is cited as being diminished 79%  
17 -- do I have that right, Jim? Okay. Also, I want to  
18 make the point that not only do we lose, or any  
19 homeowner in this situation could potentially lose  
20 that portion of their largest asset. It also affects  
21 how we pass on our property to our children. What is  
22 our legacy to them when it's diminished so greatly?

23 I want to add too that we have lived across  
24 from the Konkol's for 33 years, and Bob and Donna have  
25 been our dear friends and neighbors. And we

1 understand their desire. We -- I don't know that Jim  
2 cited this, but we do know that there is cell phone  
3 coverage in our area. Apparently not by Cellcom, but  
4 our friends, our neighbors, family who visit can  
5 access and use their cell towers, and access internet.  
6 So, we feel there is a way around this, whether it be  
7 added distance of the cell tower from any residents,  
8 or whether it be switching to another company. That's  
9 what we did when we shopped for cell phone coverage,  
10 we shopped for a company that served our area, which I  
11 assume most consumers would do. Thank you.

12 JIM HARRIS: Winding down, you have heard me  
13 reference the Leather Camp Tower. This is -- I have  
14 given you folks a map of the Leather Tower and the  
15 Creek Road Tower, because they do share one thing in  
16 common. You know, you could say that there is  
17 evidence that the Harris's are greatly concerned about  
18 their property values, the Harris's are greatly  
19 concerned about the aesthetic, about the rural quality  
20 of life, the Harris's are concerned about health  
21 implications. Well, it's pretty clear to me -- and if  
22 you look at both of these maps -- there are other  
23 parties who are concerned.

24 You know, in the Leather Camp, look at that  
25 tower property, that tower is cheek by jowl to his



1 neighbor. I visited there today just to get an  
2 update, see how it looked in spring, the blue sky, the  
3 sunshine. It was heartbreaking. That cell phone  
4 tower at Leather Camp is right up against that  
5 neighboring property. And as my Grandma Carpenter  
6 would say, anybody who's got the common sense that God  
7 gave a goose knows that that tower has wrecked that  
8 neighboring property's property value. I don't know  
9 how that person who owns that property is going to be  
10 able to ever sell it at a decent price.

11           Across the road are the Bartniks, and  
12 Heather Bartnik was here at the Planning Commission,  
13 and at the Board meeting to plead her case. Their  
14 property is beautiful, it has to be a half million  
15 dollar property. It's groomed immaculately, there's a  
16 pond, orchards, it's a beautiful piece of property.  
17 But that cell phone tower is going to greatly, greatly  
18 diminish the value of their property. When I said  
19 that there are people who agree about what  
20 (inaudible), the landowner agrees. That's why the  
21 Leather Camp landowner demanded that that cell tower  
22 be every inch that he could achieve away from his own.  
23 He parked it insistently right on the edge of his  
24 neighbor's property.

25           Now, look at the Creek Road property. Do

1 you see a similarity? The proposed tower that was in  
2 the wetland, that was approved, was much closer to my  
3 home than the landowners home. The landowner must  
4 have been insistent that he spare his property, spare  
5 his view. I think one of the ordinances that I would  
6 hope would maybe come out of these sort of debates  
7 would be a law that said, any landowner that leases  
8 land for structures like a windmill, or a powerline,  
9 or a cell phone tower must put the -- it must be the  
10 structure as close to his house as he does to his  
11 neighbor. What could be more fair than that? You get  
12 the money, you get the \$500 a month for 20 years, put  
13 the tower close to your land, your property, and spare  
14 your neighbor.

15           The last thing I'm going to say is about our  
16 (inaudible), and that's about future development of  
17 our land. Everything we have said kind of applies to  
18 future development. And I would only add that for 33  
19 years, I have tried to improve my land, especially  
20 along Bank Road, a quarter mile from my house, with  
21 the idea that someday I would be selling residential  
22 lots along that, and that's how I would partially fund  
23 my retirement. So, that idea has really been  
24 challenged.

25           So, I'm going to pause there. You have been

1 very, very kind to give us this opportunity. And I  
2 apologize for our disorganization, but we are not  
3 practiced at this. You have been to a lot more public  
4 hearings that we have, we just did the best we could  
5 to share our ideas.

6 VICE CHAIR LESNIAK: I'm going to give you a  
7 little -- a little personal note on this. You  
8 mentioned disorganization, having been chairperson,  
9 and been involved in many Planning Commission meetings  
10 over the years, you probably have one of the most  
11 organized --

12 MARTY HARRIS: Wow.

13 VICE CHAIR LESNIAK: -- public participation  
14 pieces at a public hearing that I have been at. So, -  
15 -

16 JIM HARRIS: Oh. (Inaudible) --

17 VICE CHAIR LESNIAK: -- my two cents.

18 JIM HARRIS: Thank you.

19 VICE CHAIR LESNIAK: And so, is there  
20 anybody -- anything else from anybody in your group?

21 MARTY HARRIS: Ann, you going to come?

22 ANN KIEFER: I'll (inaudible) short. My  
23 name is Ann Kiefer, 900 South 25th Street in Wausau.  
24 I have been a community gardener out at Marty and  
25 Jim's place for over 25 years. I have no other place

1 to garden, and they allowed me to be out there where  
2 we try to garden organically. It's a beautiful sight,  
3 and I can't imagine the cell tower improving that  
4 place. I have always called it my happy place,  
5 because it was natural, the birds, the animals, the  
6 gardeners out there are friendly. And I just ask --  
7 somebody did mention it earlier, that -- ask yourself  
8 would I want that tower 300 feet, or 500 feet from my  
9 house? And thank you.

10 VICE CHAIR LESNIAK: All right. Thank you  
11 to the collective, if you're (inaudible) -- oh, yep.

12 MARTY HARRIS: With your perm-- with your  
13 permission, I would just like to add another comment.  
14 May I?

15 VICE CHAIR LESNIAK: Uh-huh.

16 MARTY HARRIS: In addition to the gardens,  
17 which we mentioned, our land is also used by the  
18 community for education. And we have had school trips  
19 -- we had pictures that we didn't have time to put  
20 into a PowerPoint, but pictures of school buses  
21 bringing kids to our property. We have had for four  
22 years, going on five perhaps now, the Medical College  
23 of Wisconsin Wausau Campus has brought their students  
24 to our property. And among those students, we had a  
25 group last summer who gardened one and a half garden

1 plots, and donated all of their food. Several hundred  
2 -- well, he said hundreds of pounds of food. So, they  
3 did it with all of their own blood, sweat, and tears,  
4 and he said how much he learned, but how good it felt  
5 to donate food, organic food, to families that needed  
6 it.

7 So, we do believe we have a role in  
8 enhancing -- what's the phrase? Food security. The  
9 nerves are getting to me. So, I just wanted to add  
10 that we do have multiple community uses. Prairie  
11 gardens, that we have given tours to, that Jim  
12 continues to expand, not just on Bank Road but along  
13 Creek Road, which is the east side of this land that's  
14 proposed. So, our trails through the community  
15 gardens will now be not enhanced by the vision of a  
16 cell tower. And now, I really am done. Thank you.

17 VICE CHAIR LESNIAK: All right thank you.  
18 We will next -- go onto the next person on the list,  
19 and that is Mike Bieniek.

20 MIKE BIENIEK: Good evening, ladies and  
21 gentlemen. My name is Mike Bieniek, I'm with a  
22 company called LCC Telecom Services. We represent  
23 Vertical Bridge. I apologize for my voice, I'm  
24 getting over a cold, hopefully soon. What we are  
25 proposing is a 195-foot monopole tower with a four

1 foot lightning rod. This tower will be situated  
2 within a 50 by 50 lease parcel, and it will be  
3 enclosed within a six-foot chain link fence with three  
4 strands of barbed wire to secure the site. The tower  
5 is approximately 370 feet, five inches from the west  
6 property line, which is the front, 780.4 feet from the  
7 north, which is the side, 608.6 inches from the rear,  
8 which is the east, and 537 feet, two inches from the  
9 south property line. The property is a 40-acre  
10 (inaudible) of land, the zoning is agricultural  
11 residential, as was stated earlier. And I want to  
12 announce that this site does meet all the requirements  
13 found in the Village ordinance, as well as the Section  
14 66.0404 of the Wisconsin State statutes for a cell  
15 tower.

16 Back in August of last year, August 15th to  
17 be exact, we went before the Planning Commission, and  
18 were recommended for approval. We went to the Village  
19 Board on August 22nd, and we tabled the -- the request  
20 was tabled, because there were a few questions from  
21 the Village Board. So, we came back on the 26th of  
22 September and received a -- you -- a vote of six to  
23 one for approval of the proposed tower.

24 I can provide -- I have got copies of the  
25 minutes that I can provide as part of the record. And

1 also, I want to point out that at this point in time,  
2 we have two carriers that are looking to go on this  
3 tower. One of them is Cellcom, which was noted, they  
4 were the original applicant. After we filed our  
5 application, T-Mobile reached out to the Village, and  
6 the Village had gotten in touch with Vertical Branch,  
7 and since then -- and this was made known at the  
8 Village Board meeting as well, that T-Mobile is  
9 interested in going on this tower. So, there will  
10 actually be two carriers at the onset of the process.

11 I just wanted to also go over and kind of --  
12 some of the comments that were brought up. We were  
13 accused of writing the staff report, the applicant --  
14 myself. We did not write the staff report. I put  
15 together this document, it's called an exhibit book,  
16 it's all the documentation showing how and why this  
17 tower should be approved at this location. Another  
18 item was that the diagram is broad and shows only the  
19 site. Mr. Harris could have actually seen the site  
20 plan had he asked staff, that is a public record, that  
21 document, once we file the application. We have a  
22 staff -- a site plan that shows the exact location,  
23 how the access and utilities are run, where it sits on  
24 the site exactly, and so forth. So, that is  
25 definitely not something -- we did not just come and

1 say we are putting up a tower on a -- on a 40-acre  
2 parcel. And it was also surveyed, so we have  
3 everything detailed.

4 Approval was based on the 40-acre parcel  
5 like I just said. Staff recommended Vertical Bridge  
6 approval. Again, I did not make that recommendation.  
7 I do have in my exhibit book that we provided findings  
8 of fact based on our going through the Village's  
9 zoning ordinance, as well as Section 66.0404 of the  
10 Wisconsin State statute, both of which govern cell  
11 towers. And so, it also -- he -- Mr. Harris also  
12 said, staff did not read the application, which is the  
13 same as the original application. Essentially, it  
14 really is, other than the fact that we had to move the  
15 site.

16 As was brought out, the initial application  
17 was brought forth to the Village because the DNR had  
18 stated to us that we would need to go forward and get  
19 the zoning and the permitting approved, which we did.  
20 We went back to the DNR, and they told us that they  
21 did not want us to leave the location where it was  
22 delineated originally. They went out, I don't know  
23 exactly when, but we went back out and visited the  
24 site in December, and the DNR had delineated a path of  
25 exactly where the wetlands were. So, we would have to



1 move the site to the north of where those wetlands  
2 were in order to get approval from the DNR. Which is  
3 what we did, we moved approximately 100 feet north of  
4 the existing proposed -- or existing, the proposed  
5 location from the original application. So, we moved  
6 it so it was just outside of that delineation by the  
7 DNR.

8 Another couple of items that were brought up  
9 were property values in the survey of realtors.  
10 Property values, that's kind of a morphyic thing. I  
11 mean, there is nothing that says, okay, this property  
12 is automatically going to lose x or y. Surveying  
13 realtors, of course they're going to give you an  
14 answer that you want. They're telling, you know, Mrs.  
15 Harris that they would prefer if we were a half a mile  
16 or more away. Cell towers don't work that way, you  
17 can't just randomly move them a half a mile. It's a  
18 grid pattern, it's a network, and so basically if you  
19 think about it, we got two towers here, and here, and  
20 here. We can't just say, okay we are going to shift  
21 this one way up here, it has to be where it fits into  
22 the network.

23 So, if you look at the packet -- Mr. Wegner,  
24 could you please show those propagation maps? I want  
25 to -- yeah, there you go. So, basically if you look

1 at the Cellcom provider does propagation maps, and it  
2 shows the existing coverage versus the new coverage,  
3 the proposed coverage. So, essentially, you can see  
4 that -- where it says proposed site, right in the  
5 middle? That gap is all filling in. So, if you shift  
6 that tower a quarter mile, half a mile, or whatever,  
7 you're going to end up with coverage gaps, and you're  
8 going to end -- you're also -- you're going to have  
9 coverage gaps in some areas, and you're also going to  
10 create interference in other areas. Because what  
11 happens is, if you get too close to another cell site  
12 the signal will interfere with one another. So,  
13 that's very important, that we can't just randomly  
14 shift it a half a mile, quarter mile, and cover an  
15 area. It just does not work that way. And this, as I  
16 mentioned, you have two carriers that have deemed this  
17 as an appropriate location. So, it's not just  
18 Cellcom, it's T-Mobile also.

19           Also, another item that was brought up by  
20 Mrs. Harris was -- in -- as part of her survey,  
21 appearance, health and safety, and property values.  
22 Those are all items that the federal government  
23 through the Telecommunications Act of 1996 say is not  
24 appropriate items to consider. So, basically the  
25 health and safety, the FCC does routine studies of

1 cell signals. In fact, the carriers operate at  
2 approximately one 100th of what they are allowed. And  
3 the way it works is, the carriers get their spectrum  
4 through the FCC. They go out, and when they want to  
5 service an area, they have to bid on the spectrum from  
6 the FCC. The FCC sells them specific frequencies.  
7 They can't just randomly say, we are going to blast  
8 the signal, you know, to cover an area. So, they're  
9 limited based on what the FCC provides. And  
10 therefore, the FCC in the Telecommunications Act says,  
11 local municipalities may not consider health and  
12 safety reasons, because they're the authority. You  
13 guys, unless anyone of you are a radio frequency  
14 engineer, are not technically inclined to make those  
15 decisions, therefore they take it into their house and  
16 say we don't want to put you under that microscope, so  
17 we are going to tell you that's not something to  
18 consider. Also, the visual appearance is also another  
19 item that is covered in the Telecommunications Act,  
20 that the local jurisdiction may not rule on.

21           There is no natural buffer, the fence is not  
22 enough, well that is true. The fence is not going to  
23 hide a 200-foot tall tower, nor would the trees. They  
24 would cover more of it, but they would not cover the  
25 entire tower. That tower is still visible. That 200-

1 foot tall tower is going to be over the 60, 70-foot  
2 tall trees that are in the area.

3           Also, Mrs. Harris brought up that there  
4 would be a 79% diminish in -- diminishing of the  
5 property values. That's pure speculation. In fact, I  
6 have been doing cell towers, zoning for them for well  
7 over 20 years, and I have seen studies that say the  
8 opposite is true. It's not going to diminish your  
9 property value, in fact, many people prefer, and  
10 nowadays you need to have the coverage. Because  
11 basically, especially, since COVID happened, people  
12 are working from home, they're not going into an  
13 office that's all wired up and connected. So, if  
14 you're sitting in your home, trying to work, and you  
15 don't have a cell signal or broadband, you're in  
16 trouble. You can't go and stay from -- work from  
17 home, and that's pretty important. The future  
18 development of the land, again, a cell tower would  
19 actually help that, because those people were -- up  
20 along Bank Road, he said the houses that he's looking  
21 to build are approximately half a mile away, they're  
22 still going to have cell coverage, and a half a mile  
23 away is not going to be too close.

24           So, I also want to point out that -- as I  
25 mentioned earlier -- this was approved, this lot has

1 been approved by this community previously. It's --  
2 it was deemed to be an appropriate location for a cell  
3 tower, we are merely shifting it approximately 100  
4 feet to the north, based off of the delineation from  
5 the wetlands for the DNR. We feel as though we meet  
6 all the criteria, based on the state statute, the  
7 Telecommunications Act of 1996, along with the  
8 Village's zoning ordinance. And we have provided all  
9 that information in the exhibit book that we provided,  
10 and therefore we respectfully feel it should be  
11 approved.

12 VICE CHAIR LESNIAK: Thank you, Mr. Bieniek.  
13 All right, and the last person on the list we have  
14 this evening is Nick O'Malley.

15 NICK O'MALLEY: Hello, my name is Nick  
16 O'Malley, I live at 2592 South Webster Avenue, in  
17 Green Bay, Wisconsin. A good deal less than 300 feet  
18 from the cell site. I bought that house after the  
19 cell site was developed, and so I just want to say  
20 that Cellcom supports this application, and we do need  
21 the cell site for coverage and capacity. And so, we  
22 strongly support -- and I support Mike's statements as  
23 well. So, thank you very much.

24 VICE CHAIR LESNIAK: All right. Before we  
25 go ahead and close the public hearing, is there

1 anybody else in the audience wishing to speak on  
2 (inaudible) discussion? Seen none, before we do  
3 close, I want to bring up a couple --

4 MARTY HARRIS: I have a question.

5 VICE CHAIR LESNIAK: -- (inaudible). Oh,  
6 sure.

7 MARTY HARRIS: Are we permitted to --

8 VICE CHAIR LESNIAK: Well, could you come to  
9 the microphone please? Just so --

10 MARTY HARRIS: -- is it okay to follow up?

11 VICE CHAIR LESNIAK: Just -- yep, just so we  
12 have it on the recording.

13 MARTY HARRIS: Okay. We don't have the  
14 background of course that you do, Mike, or the  
15 experience, but I would like to raise several  
16 questions. The -- I know you're required to have a  
17 search ring for cell towers.

18 MIKE BIENIEK: Correct.

19 MARTY HARRIS: And I didn't see any  
20 information on that, how large that search ring was.  
21 I know it included us and other neighbors. So, this  
22 40-acres or this spot on the 40-acres wouldn't have  
23 been the only possible site, we assume?

24 MIKE BIENIEK: If you would like, I can  
25 answer --

1 VICE CHAIR LESNIAK: (Inaudible).

2 MIKE BIENIEK: -- them all at once.

3 VICE CHAIR LESNIAK: I think --

4 MARTY HARRIS: Okay, (inaudible).

5 VICE CHAIR LESNIAK: -- I think getting the  
6 information --

7 MARTY HARRIS: Yeah.

8 VICE CHAIR LESNIAK: -- right there --

9 MIKE BIENIEK: (Inaudible).

10 VICE CHAIR LESNIAK: -- is good.

11 MARTY HARRIS: Okay.

12 VICE CHAIR LESNIAK: Uh-huh.

13 MARTY HARRIS: Also, the maps that show the  
14 area without coverage, this is kind of repeating what  
15 I said before, but that is coverage by one company --  
16 and now Mike cites two companies -- but there is  
17 coverage there. We can vouch for that, and we have  
18 other people who can vouch for that, because we have  
19 coverage without any problems. I also have a  
20 question, it was surprising to us when we learned that  
21 the original site was rejected because of the DNR's  
22 concern about the wetlands. It's very surprising to  
23 us that a cell tower company would not have looked at  
24 the information that you and I can find very easily  
25 online about wetlands, and the parameters of wetlands.

1 So, the fact that it was approved on one site, which  
2 you from the beginning I would have thought they  
3 realized wasn't permissible, okay -- that -- we just  
4 question that. And I just want to mention, the FCC  
5 standards that Mike is citing from 1996, they haven't  
6 been updated since 1996. And in fact, the updating in  
7 '96, according to the readings I have done, were an  
8 update from 1992, and they did not change the  
9 standards for cell towers.

10 And then, maybe Jim has the information with  
11 him, I don't, about the environmental health trust.  
12 In 2021, we do have an article about siting -- and  
13 this is more pertaining to health concerns -- but they  
14 successfully brought a suit against a cell tower  
15 company. And I don't know if you have those details.  
16 And finally, yes, trees would provide more buffer than  
17 a fence, but there are no trees between our house and  
18 the cell tower. I would need to -- and we were able  
19 to view those site plans, but Mike, they didn't have  
20 any distances. So, --

21 MIKE BIENIEK: That's --

22 MARTY HARRIS: -- we had to make estimates,  
23 and we are estimating probably 500 feet-ish from our  
24 house.

25 JIM HARRIS: Mike, you tried to give the



1 impression that both on health concerns and  
2 aesthetics, that those were sort of forbidden topics  
3 by which opposition could be made. The Wisconsin  
4 statute very clearly says that opposition by local  
5 government cannot be based purely on aesthetic  
6 concerns. And I hope you know, as we spoke at length,  
7 our concerns are not purely aesthetic. And when they  
8 say, you cannot base opposition purely on aesthetic,  
9 it would follow that you can cite some aesthetic  
10 concerns.

11 The other thing I would ask, Mike, I  
12 listened to you on tape at the Village Board meeting  
13 when you were asked repeatedly about the size of the  
14 search ring, and whether or not Vertical Bridge had  
15 alternative sites. And your reply was, I'm not here  
16 to talk about alternative sites, I'm here to talk  
17 about this site. And you acknowledged at that time  
18 that there were alternative sites, but you didn't want  
19 to disclose where they were, you didn't want to  
20 discuss those --

21 MIKE BIENIEK: I'll address --

22 JIM HARRIS: -- that night.

23 MIKE BIENIEK: -- that.

24 JIM HARRIS: Okay.

25 MIKE BIENIEK: All right. So, the first

1 questions was the search area. So, I did not provide  
2 a copy of the search area, that's proprietary to  
3 Cellcom. Ultimately, what happens is -- I'll explain  
4 the site acquisition process real -- pretty briefly.  
5 So, what happens is Cellcom hired Vertical Bridge, who  
6 in turn hired us, LCC Telecom Services. We are a  
7 consulting firm. Cellcom issues Vertical Bridge a  
8 search area, and that comes to us. What we do is we  
9 go out, and we take a look at the zoning to see what's  
10 allowed and what's not allowed. We go to the county  
11 GIS, and we pull up all the property owners that fall  
12 within that search area. What we do then is we send  
13 out letters to everyone that we deem as appropriate as  
14 a candidate. In other words we don't send to every  
15 person, if there is a one acre parcel with a house on  
16 it, obviously that's not going to be a host for a cell  
17 tower. So, we send it out to anyone that could  
18 potentially host a cell tower. We then --

19 (Overlapping voices.)

20 MIKE BIENIEK: -- wait to hear back to see  
21 if anyone's interested. If we don't get enough  
22 interest, then we call people, which we did. In this  
23 case, we had two search areas. We had one we started  
24 off with, but -- however, the problem was there was no  
25 interest, and the other half the search area was all

1 wetlands. So, we had to move on. Cellcom reissued a  
2 search ring to us, which included this area, and this  
3 area is more further to the south. This is right at  
4 the edge of the search area. So, basically, -- again,  
5 some exact process happened. We went out and reached  
6 out to all of the people in the area, we had three  
7 candidates that were -- expressed interest. What I  
8 did was, we went out, we drove the search area, we met  
9 with people, we took pictures, we got coordinates.  
10 And what happens at that point is, we then submit  
11 those candidates to Vertical Bridge. Vertical Bridge  
12 vets them, and then sends them to Cellcom. Cellcom's  
13 radio frequency engineers determine which sites are  
14 appropriate, you know, and they pick a primary  
15 candidate. In this case, the Konkol's were that  
16 primary candidate. This is the location that fit best  
17 within their network. So, we are not just going to  
18 randomly go to another parcel.

19 And the reason I said that it's not  
20 (inaudible) open for discussion at the (inaudible) the  
21 Village Board is because this is a zoning matter.  
22 It's not up to the Village to tell us -- to play a  
23 shell game with us and say, okay, well now you need to  
24 check the Smith property, no the Jones property would  
25 probably work better. You guys are not here to do

1 that. The question is, is this an appropriate  
2 location, yes it is for Cellcom, yes it is for  
3 Vertical Bridge, yes it is for T-Mobile. And back in  
4 September of last year, this property was deemed  
5 appropriate by the Village Board. So, I feel like we  
6 met every criteria there.

7 The coverage maps, as I showed, that's  
8 basically shows what is here now. And I understand  
9 that Mrs. Harris says she has coverage, but that  
10 doesn't mean everyone has the same carrier she does.  
11 And another thing that's in the Telecommunications Act  
12 -- I keep going back to it -- is you cannot  
13 discriminate amongst other carriers. So, in other  
14 words if Verizon has coverage in this area, you can't  
15 tell A T and T, T-Mobile, Cellcom, any other local  
16 carriers that you can have coverage just because  
17 Verizon does. So, essentially, T-Mobile and Cellcom  
18 are both saying that they don't have coverage that  
19 they need in this area, and that why they're building  
20 this (inaudible).

21 Why did we go in the wetlands? We went in  
22 the wetlands -- I believe I explained this earlier --  
23 we were told by the DNR to go forward with the zoning  
24 and the permitting before they would make a final  
25 determination. It's not -- yes, it's pretty cut and

1 dry at times, other times it's not. And in this case,  
2 the DNR deemed it wasn't cut and dry until we got  
3 through the approval processes. So, once we did, we  
4 went back to them, and they said, yes, you do need to  
5 move it. They could have turned around and said, no,  
6 you're good, but they didn't. The Telecommunications  
7 Act of 1996 was not updated. Well, I don't know --  
8 I'm not the fed, so I don't know how often they review  
9 it, but it still is the law of the land. It's still  
10 standing.

11 Mr. Harris said it can't be -- the basis  
12 can't be purely on aesthetics, that is true. That is  
13 true. You can't just come out and say it's based on  
14 aesthetics, but I believe all the other reasons that  
15 we gave provides the impetus for an approval. And  
16 then again, size of the search ring and alternate  
17 sites, I already addressed those. So, if you have  
18 other questions, I would be happy to answer those as  
19 well.

20 VICE CHAIR LESNIAK: All right. Thank you  
21 very much.

22 MIKE BIENIEK: Thank you.

23 VICE CHAIR LESNIAK: Okay. So, before I  
24 completely close the public hearing, I want to ask one  
25 question of the staff. And that's to clarify

1 something I'm noticing in the staff report. There is  
2 the public issue -- the public notices were issued,  
3 can you clarify what dates those were issued? Just  
4 because I'm looking at the dates listed, and one date  
5 doesn't exist. There's a Monday, May 1st, and then  
6 there is a Monday, May 7th, (inaudible). I just want  
7 to make sure that we have the dates correct, and if  
8 there is an error we make note of that before any  
9 further deliberations happens later in the meeting.

10 (Overlapping voices.)

11 VICE CHAIR LESNIAK: And the issue is both  
12 dates aren't Mondays.

13 DIRECTOR WEGNER: Well, it was -- it was  
14 published on the first, and then again on the seventh,  
15 I believe.

16 VICE CHAIR LESNIAK: Yep, but they're not  
17 both Mondays. Monday, May 1st was a Monday, May 7th  
18 was a Sunday. And I don't know if I -- I don't read  
19 the Wausau Daily Herald, I don't know if they put  
20 those notices in on Sundays.

21 DIRECTOR WEGNER: Uh-huh.

22 VICE CHAIR LESNIAK: Would that be  
23 information --

24 DIRECTOR WEGNER: Right.

25 VICE CHAIR LESNIAK: -- that could be

1 obtained before we get to that item in our agenda?

2 COMMISSIONER STANGE: Dan, I'm looking at --  
3 as far as the public notice.

4 VICE CHAIR LESNIAK: Yep.

5 COMMISSIONER STANGE: It says start date  
6 5/1, and then end date 5/7.

7 VICE CHAIR LESNIAK: Yep. And I --

8 COMMISSIONER STANGE: So, it would be for  
9 the seven days.

10 VICE CHAIR LESNIAK: But I believe it was  
11 issued twice, with -- is that correct?

12 MR. GAU: Yes, in is issued twice.

13 VICE CHAIR LESNIAK: Right.

14 MR. GAU: And then, --

15 VICE CHAIR LESNIAK: So, the first one would  
16 have been on -- would have been on the first.

17 (Overlapping voices.)

18 VICE CHAIR LESNIAK: Right. Are you  
19 understanding the point I'm getting at?

20 MR. GAU: I believe so.

21 DIRECTOR WEGNER: (Inaudible) we can resolve  
22 that question, this is the Sunday, May 7th edition of  
23 the (Inaudible) public (inaudible).

24 VICE CHAIR LESNIAK: Okay. So, it's a  
25 matter of just the wrong date of the week?

1 (Inaudible).

2 DIRECTOR WEGNER: That's correct.

3 VICE CHAIR LESNIAK: Okay.

4 (Overlapping voices.)

5 VICE CHAIR LESNIAK: So, that question has  
6 been clarified. And all property owners within 500  
7 feet were mailed the notices?

8 MR. GAU: Yes, they were.

9 VICE CHAIR LESNIAK: All right, okay. Good.  
10 And then, I just want to read a note about the role of  
11 the Planning Commission, just so that we are all aware  
12 of it before we close the public hearing. That we  
13 work to -- act to further the health, safety, welfare,  
14 and wise use of resources for the benefit of current  
15 and future residents of the Village, affect -- and  
16 affected neighboring jurisdictions. We adopt and  
17 implement the comprehensive planning, we emphasize  
18 significant (inaudible) citizen involvement.

19 And we have a significant amount of  
20 involvement tonight, and it's important that all  
21 voices are heard in the matter. Regardless of what  
22 the different thoughts and opinions are on things, we  
23 listen to each other. And then once we close the  
24 public hearing on the issue, when we get to the item  
25 later on in the agenda, we will have a discussion as



1 the group here and be looking at what's in the Village  
2 ordinances, and objectively look at that information  
3 when we go ahead and make a decision. All right? So,  
4 the public hearing is closed, and we will be going on.

5 (Inaudible) I got a find page -- thank you  
6 (inaudible). All right, so we are going go on to Item  
7 3, public comment. During this time, information will  
8 be received from the public, it's a policy that we  
9 have three minutes person. Is there anybody wishing  
10 to speak tonight? I don't see anybody on this list,  
11 but is there anybody on that list? No? Okay. Nobody  
12 wishing to speak tonight? Okay. All right. We are  
13 then going to move on to Item 4, and that's approval  
14 of the minutes. We have previous minutes from April  
15 17th.

16 COMMISSIONER GRUNDMAN: I'll make a motion  
17 that we dispense with the reading and approve the  
18 minutes as written.

19 COMMISSIONER STANGE: I'll second.

20 VICE CHAIR LESNIAK: All right.

21 COMMISSIONER STANGE: Tony Second.

22 VICE CHAIR LESNIAK: All right, we have a  
23 motion Rick and a second by Tony to approve the  
24 minutes from April 17th. Is there any discussion?  
25 All in favor of the motion, please say, aye?

1 ALL: Aye.

2 VICE CHAIR LESNIAK: All opposed say no?  
3 motion carries unanimously. Is Tim still on the line?

4 MR. GAU: Tim? Tim?

5 COMMISSIONER SHAW: Yes, sir.

6 MR. GAU: You -- sorry, we were just --

7 COMMISSIONER SHAW: Yes, (inaudible).

8 VICE CHAIR LESNIAK: We just wanted to make  
9 sure you voted one way or the other. So, all right  
10 motion carries.

11 COMMISSIONER SHAW: Dan, can you repeat the  
12 motion again? Because I had a -- had difficulty  
13 hearing you.

14 VICE CHAIR LESNIAK: The motion was to  
15 approve the minutes from the April 17th minute --  
16 meeting.

17 COMMISSIONER SHAW: Oh, no. Yeah, no  
18 problem with that.

19 VICE CHAIR LESNIAK: Yeah. All right,  
20 motion carries five to zero. All right, item number -  
21 - item number five, reports and discussions. We have  
22 the Community Development Director Report.

23 DIRECTOR WEGNER: You were sent one with the  
24 packet, I guess I'll open up. If you have any  
25 questions about anything you see on that list.

1 COMMISSIONER STANGE: It's a lengthy list to  
2 read.

3 DIRECTOR WEGNER: Yeah. Going once? I'm  
4 just kidding.

5 VICE CHAIR LESNIAK: All right.

6 COMMISSIONER GRUNDMAN: I do. Who --

7 VICE CHAIR LESNIAK: Sure.

8 COMMISSIONER GRUNDMAN: -- what was the  
9 North Road correspondence? Were they a concerned  
10 citizen? Is that a zoning issue, or was that just a -  
11 -

12 DIRECTOR WEGNER: What was the date on it?

13 COMMISSIONER GRUNDMAN: 5/8?

14 DIRECTOR WEGNER: Okay.

15 COMMISSIONER GRUNDMAN: It's like halfway  
16 down on the (inaudible).

17 DIRECTOR WEGNER: Oh, (inaudible).

18 COMMISSIONER STANGE: Correspondence with  
19 concerned citizen (inaudible).

20 DIRECTOR WEGNER: Yep. That was regarding a  
21 floodplain concern. They were in the process of  
22 getting their property amended to be out of  
23 floodplain, and they had a question regarding a home  
24 across the road that was actually in the floodplain,  
25 but they already had a letter of map amendment, so

1 they were technically out.

2 COMMISSIONER GRUNDMAN: Okay.

3 VICE CHAIR LESNIAK: All right. Are there  
4 any further questions? All right, we will thank you,  
5 Pete for your report. And then, we will move onto  
6 item number -- I got to go back (inaudible) -- item  
7 number six, new business. Item G, discussion and  
8 action, we have the conditional use permit request,  
9 Bieniek. All right, so on this, there is a lot to  
10 discuss. And we may or may not come up with a  
11 recommenda-- a true recommendation tonight, a final  
12 recommendation based on our discussion and where  
13 things go. It's possible. One of the things I think  
14 that would be handy to do is to look at those findings  
15 of fact that are -- that we are obliged to look at  
16 when we approve or deny a conditional use permit. I  
17 think if we start at that point and go through one by  
18 one, and have a discussion of each point, I think that  
19 may guide the direction that this body takes. So, the  
20 first finding of fact is that the establishment,  
21 maintenance, or operation of the conditional use will  
22 not be detrimental or endanger the public health,  
23 safety, morals, comfort, or general welfare. So, at  
24 this point, I'm going to open -- open it up for the  
25 rest of the commissioners --

1 (Overlapping voices.)

2 VICE CHAIR LESNIAK: -- to give their  
3 thoughts and take on this, based on the information.

4 COMMISSIONER GRUNDMAN: (Inaudible).

5 VICE CHAIR LESNIAK: Dick, it looks like you  
6 have some thoughts in your mind. You're not ready to  
7 quite --

8 COMMISSIONER GRUNDMAN: I'm --

9 VICE CHAIR LESNIAK: -- formulate them yet?

10 COMMISSIONER GRUNDMAN: I'm not quite ready  
11 to formulate it yet. Yeah.

12 COMMISSIONER STANGE: This question is for  
13 the gentleman from LCC, how do you determine tower  
14 height? Is there different heights in them, or is  
15 this a standard height?

16 MIKE BIENIEK: It totally depends on where  
17 you're looking. If you're talking downtown Milwaukee,  
18 like Madison, Green Bay, you're usually at a lower  
19 height.

20 COMMISSIONER STANGE: Uh-huh.

21 MIKE BIENIEK: If you're talking out in the  
22 middle of nowhere, you know, 500 miles from  
23 civilization, the towers get much taller. Because  
24 what happens is, when you're in an urban area, you go  
25 a little lower because you're covering a more dense

1 population.

2 COMMISSIONER STANGE: Uh-huh.

3 MIKE BIENIEK: As Nick had mentioned, the  
4 site is a coverage and capacity. What that means is,  
5 you have coverage, you're trying to just broadcast  
6 over a gray area. So, that's usually in these real  
7 rural areas where they're just trying to broadcast to  
8 a large popul-- an un-dense population, but a large  
9 area.

10 COMMISSIONER STANGE: Sure.

11 MIKE BIENIEK: Whereas, when you're in an  
12 area like this, you're kind of somewhere in between.  
13 So, you're trying to get some coverage, but you also  
14 have some capacity. You have people that are driving  
15 the roads, you have some population that you're trying  
16 to cover. So, that ends up being kind of closer to  
17 the 200-foot level. So, if you're downtown in Green  
18 Bay, you're probably looking like 100-foot, maybe 70-  
19 foot for a tower. So, this is right in between.

20 COMMISSIONER STANGE: Okay. And how many  
21 residents, I guess, do you think that this would help?

22 MIKE BIENIEK: That's impossible to say.  
23 And the reason I say that is, because they work on a  
24 grid pattern, like I said. And what happens is, is  
25 your -- say for example, you're driving down the

1 street, here's a tower, here's tower.

2 COMMISSIONER STANGE: Uh-huh.

3 MIKE BIENIEK: As you go past this tower and  
4 you get closer to this tower, you're signal hands off  
5 to the next tower. Also, it -- another component that  
6 really impacts it is time of day. So, the kids get  
7 out of school, everyone gets off the school bus, the  
8 teacher has given them homework, we have got to -- you  
9 know, these kids nowadays, they don't go to the  
10 library, they Google their stuff and get their  
11 information online. So, there is a lot being taxed on  
12 the tower, whereas 2 o'clock in the morning, no one's  
13 using it, so it covers a greater area. So, it's kind  
14 of a very elastic thing.

15 COMMISSIONER STANGE: All right. And then,  
16 just my last question, I apologize, what is the  
17 closest distance to any home in that area? Was it  
18 500-something feet? Like 570?

19 MIKE BIENIEK: I don't know the width of the  
20 right of way. We are 370 feet back off the edge of  
21 the right of way. So, however wide the right of way  
22 is, that's the distance to the home.

23 COMMISSIONER STANGE: Okay.

24 MIKE BIENIEK: So, we are probably talking,  
25 usually a right of way 66 feet, give or take, so

1 that's 430, and then the home's back another 100 feet,  
2 it's about 530 feet give or take.

3 COMMISSIONER STANGE: Sure, okay.

4 COMMISSIONER GRUNDMAN: One more question  
5 before you sit down. You showed us in your report the  
6 map coverage from Cellcom, have you gotten far enough  
7 to get any kind of map coverage with -- what was the  
8 other one?

9 MIKE BIENIEK: T-Mobile?

10 COMMISSIONER GRUNDMAN: T-Mobile?

11 MIKE BIENIEK: No, we didn't need that. You  
12 have -- technically, by state statute, we don't even  
13 need to provide that.

14 COMMISSIONER GRUNDMAN: Yep.

15 MIKE BIENIEK: T-Mobile Came along after the  
16 fact, and so when you have a (inaudible) in a tower --  
17 so if this tower goes up, T-Mobile comes in a year,  
18 they wouldn't provide propagation maps.

19 COMMISSIONER GRUNDMAN: Okay.

20 MIKE BIENIEK: It's assumed that they're  
21 meeting that coverage.

22 COMMISSIONER GRUNDMAN: Okay.

23 MIKE BIENIEK: Because what happened was,  
24 Vertical Bridge, after the Village contacted them,  
25 they went to -- they provided the coordinates to T-



1 Mobile, and T-Mobile, their radio frequency engineer,  
2 it was either thumbs up or thumbs down as to whether  
3 or not this would work. And they deemed it  
4 appropriate.

5 COMMISSIONER GRUNDMAN: Okay.

6 MIKE BIENIEK: Make sense?

7 COMMISSIONER GRUNDMAN: Yeah.

8 VICE CHAIR LESNIAK: Okay. So, back to the  
9 first finding, that the established (inaudible) or  
10 operation of the conditional (inaudible) will not be  
11 detrimental to, or endanger the public health safety,  
12 morals, comfort, or general welfare.

13 COMMISSIONER KAVAPIL: I would make one  
14 comment, and maybe a question. You know, in the  
15 documents shared, it, you know, talks about perception  
16 playing a significant role. And I don't know that we  
17 can use that as our judgement for this. I don't know  
18 if someone can -- in this room can tell us, is what we  
19 were told here is that these standards are set by the  
20 FCC, and -- by them, and they are the ones that are  
21 making that, it's not our job. Is that a correct  
22 statement for the Village?

23 (Overlapping voices.)

24 VICE CHAIR LESNIAK: And because I think a  
25 lot of us in the room don't have a lot of familiarity

1 with you, if you could identify yourself, that would  
2 be wonderful.

3 LEE TURONIE: Sure. My name is Lee Turonie,  
4 I'm the Village attorney. Really, your immediate  
5 standards are set in the state statute and reflected  
6 in your local ordinances. That statute was defined in  
7 part by what the FCC has. So, I don't really draw  
8 back to the FCC. That's fine it was referenced, but  
9 I'm not worried about paging through an FCC act, I'm  
10 just worried about that statute and what your  
11 ordinances reflect. Now, your ordinances cannot have  
12 -- they're not enforceable to the extent that they  
13 diverge from that statute, just so you're aware. So,  
14 that was a mandate that came down from the state on  
15 the finding of local cell towers.

16 If I can go back to your question, you're  
17 not -- you're not allowed to regulate that a tower be  
18 under 200 feet. So, why is it 199 feet? Because you  
19 can't go any less, okay? So, I mean, the application  
20 was -- to me, when I read it, was written with  
21 knowledge of all of these laws in place, I thought.

22 MIKE BIENIEK: And you answer your question  
23 about the 199 --

24 VICE CHAIR LESNIAK: Microphone please?

25 MIKE BIENIEK: Oh, sorry.

1 VILLAGE ATTORNEY TURONIE: And before I  
2 forget --

3 VICE CHAIR LESNIAK: Well, and if -- before  
4 we go ahead, is it okay with -- are we wanting the  
5 information from you right now?

6 MIKE BIENIEK: Oh.

7 VILLAGE ATTORNEY TURONIE: Yes.

8 MIKE BIENIEK: I apologize, I didn't mean to  
9 jump up. The magic number, 199 feet, is anything over  
10 200 feet or in close proximity to an airport has to be  
11 lit, anything over. So, by going to 195 with a 4-foot  
12 lightning rod, the tower does not need to be lit,  
13 that's the magic of the 199.

14 COMMISSIONER STANGE: Okay. I did see that  
15 in the -- in your packet.

16 MIKE BIENIEK: Okay. I just wanted to  
17 clarify that so that --

18 COMMISSIONER STANGE: Sure.

19 MIKE BIENIEK: Okay, thank you.

20 COMMISSIONER STANGE: And then, also, as  
21 long as you're standing, before you sit down, I'm  
22 sorry.

23 MIKE BIENIEK: Sure.

24 COMMISSIONER STANGE: Cut me off if I'm --

25 VICE CHAIR LESNIAK: If we have questions,

1 we need to get the --

2 COMMISSIONER STANGE: So, is --

3 VICE CHAIR LESNIAK: If that's going to be  
4 (inaudible).

5 COMMISSIONER STANGE: As far as --

6 COMMISSIONER KAVAPIL: Mike, can you  
7 (inaudible) mic close to you please?

8 MIKE BIENIEK: Yeah.

9 COMMISSIONER KAVAPIL: Because I know that  
10 online is not going to hear otherwise.

11 MIKE BIENIEK: Okay.

12 COMMISSIONER STANGE: Perfect. As far as  
13 GPS points, I see the one GPS point in our whole  
14 packet, one GPS point on the -- on the letter, I  
15 believe, from the FAA. That was the only known GPS  
16 point, is that -- just to kind of address Mr. Harris's  
17 concern as well, is that something that you guys  
18 normal do is provide a GPS point? Or is it more --

19 MIKE BIENIEK: Yeah.

20 COMMISSIONER STANGE: -- distance from  
21 property lines?

22 MIKE BIENIEK: No, so what happens --

23 COMMISSIONER STANGE: Okay.

24 MIKE BIENIEK: -- is, when the location is  
25 selected, we do what's called a design visit. We go

1 out and met with the landowner and select the  
2 location. What happens is, the surveyor goes out and  
3 does what's called a 1A survey. They will take that -  
4 - we will -- we will mark that center line of the  
5 tower, they will go out and do a survey of that, those  
6 coordinates. That is used for everything going  
7 forward. The FAA, the FCC, NEBA, SHPO, the drawings  
8 that we provide you. So, that's essentially how we  
9 come up with the -- the coordinates.

10 COMMISSIONER STANGE: Okay. All right. I  
11 think this will be my last question.

12 MIKE BIENIEK: Okay.

13 COMMISSIONER STANGE: Is there a limit on  
14 the number of carriers that can go on your towers?

15 MIKE BIENIEK: Yes and no. So, Vertical  
16 Bridge, as I mentioned, is a tower company. They make  
17 their money off getting carriers on the tower.

18 COMMISSIONER STANGE: Sure.

19 MIKE BIENIEK: So, their building these  
20 towers to have multiple carriers. So, typically, 199  
21 is built for about four to five carriers. And the  
22 reasons that I say that's -- yes, we can get four to  
23 five. The reason I say no, it's not determined, is  
24 because what happens is every carrier has to be  
25 separated by about 10 feet tip to tip. So, as you go

1 down, you know, if you get down to about 100 feet, a  
2 carrier could say no, that's not going to work for me.

3 COMMISSIONER STANGE: Okay.

4 MIKE BIENIEK: Secondly, when another  
5 carrier comes on the tower, they do a structural  
6 analysis. So, it has to also be able to structurally  
7 told the load that's coming onto the tower. So, that  
8 -- typically, they will build it for four to five  
9 carriers.

10 COMMISSIONER STANGE: Thank you.

11 MIKE BIENIEK: Uh-huh.

12 COMMISSIONER STANGE: Very good information  
13 tonight from everybody.

14 VICE CHAIR LESNIAK: Uh-huh, yep. All  
15 right, so back to Item 1, the establishment,  
16 maintenance, or operation of the conditional use will  
17 not be detrimental to or endanger the public health,  
18 safety, morals, comfort, or general welfare. Is there  
19 any thought in terms of yes, we agree that is does, or  
20 no we disagree that it -- that it doesn't?

21 COMMISSIONER KAVAPIL: Mr. Chair, Can I make  
22 a suggestion? Obviously, with the meeting this  
23 evening there is contrasting viewpoints with respect  
24 to these standards.

25 VICE CHAIR LESNIAK: Right.

1 COMMISSIONER KAVAPIL: Right? And both  
2 sides have really put together some solid points from  
3 their own perspective.

4 VICE CHAIR LESNIAK: Uh-huh.

5 COMMISSIONER KAVAPIL: Typically, in these  
6 types of cases, what I like -- I like to recommend to  
7 the Planning Commission is we are under no obligation  
8 to make a decision tonight, but if you choose to move  
9 forward you certainly can. But by waiting a little  
10 bit, you could give staff a time to basically wade  
11 through the comments that are basically made on both  
12 sides, and then come back to you with respect to the  
13 responses to what each side said. And then,  
14 ultimately, I think it may help you a little bit with  
15 --

16 VICE CHAIR LESNIAK: Uh-huh.

17 COMMISSIONER KAVAPIL: -- those particular  
18 conditional use standards, especially the three that  
19 are being contested this evening.

20 VICE CHAIR LESNIAK: Right.

21 COMMISSIONER KAVAPIL: As well as some other  
22 general information with respect to some of the things  
23 that were said. For example, let staff verify  
24 setbacks and what they actually are, and give better  
25 information. That way, the Planning Commission and

1 the staff are really doing their due diligence. And  
2 again, I think when you get in these situations where  
3 you have a more difficult decision here, it's not so  
4 black and white, that staff be given a little bit more  
5 time, and then come back to you after they have had a  
6 chance to basic review information from both sides.

7 So, my suggestion would be, if you're okay  
8 with that, is basically give staff some additional  
9 time to pour through that, and then basically,  
10 potentially revise their report and their suggestions  
11 based on the information that was presented this  
12 evening.

13 VICE CHAIR LESNIAK: The idea that we don't  
14 need to make a final decision tonight is a good -- is  
15 a good idea. And I think it's good that you reminded  
16 us about that.

17 VILLAGE ATTORNEY TURONIE: You have 90 days  
18 from the date of the application, which was about mid-  
19 April, so we are about a month in.

20 VICE CHAIR LESNIAK: Uh-huh.

21 VILLAGE ATTORNEY TURONIE: That's for a  
22 final decision by the Village.

23 VICE CHAIR LESNIAK: Right.

24 VILLAGE ATTORNEY TURONIE: So, your  
25 recommendation needs to go to the Village Board yet,



1 but they meet every two weeks. So, yeah, you have got  
2 time if you want it.

3 VICE CHAIR LESNIAK: All right. So, what  
4 are the thoughts of the Commission on that? Are there  
5 any other point -- if we were to do that, are there  
6 any other points we want to discuss before we end the  
7 discussion tonight?

8 COMMISSIONER GRUNDMAN: I would like to just  
9 briefly read through the findings of fact one more  
10 time before I say I don't have anything else.

11 VICE CHAIR LESNIAK: Okay. Go ahead.

12 COMMISSIONER GRUNDMAN: Just (inaudible).

13 COMMISSIONER STANGE: I guess just very  
14 quickly, rapidly kind of reading through, I pulled up  
15 American Cancer Society, and I pulled up realtors --  
16 Realtors Association -- whatever -- I can remember the  
17 exact words. But I guess I would -- I -- I would feel  
18 better saying let's kind of review this, you know,  
19 like suggested. And wait till the next meeting to  
20 discuss this after we, kind of, I guess maybe get more  
21 edu-- you know, educate ourselves. Sorry, I can't  
22 come up with the right words tonight.

23 VILLAGE ATTORNEY TURONIE: Can I correct  
24 myself? The CUP is decided by this body, not the  
25 Village Board.

1 COMMISSIONER STANGE: Oh.

2 VILLAGE ATTORNEY TURONIE: So, sorry about  
3 that.

4 VICE CHAIR LESNIAK: Uh-huh. So, -- but you  
5 said we have a 90-day window from the date of  
6 application correct?

7 VILLAGE ATTORNEY TURONIE: Correct.

8 VICE CHAIR LESNIAK: So, that would give  
9 time to -- at the June Planning Commission Meeting to  
10 have the information -- updated information for us to  
11 then further discuss that updated information?

12 COMMISSIONER STANGE: Uh-huh.

13 VICE CHAIR LESNIAK: And then, potentially  
14 make a decision at that meeting.

15 COMMISSIONER STANGE: I think it's our  
16 responsibility to do due diligence with the concerns  
17 of the Village and those who want to come into the  
18 Village.

19 VICE CHAIR LESNIAK: Uh-huh. And  
20 ultimately, as we go through that discussion, as was  
21 pointed out by Mr. Turonie, it's important that we are  
22 looking at our state statutes, and that we are looking  
23 at our Village ordinances to tie that discussion and  
24 that objective approval process.

25 VILLAGE ATTORNEY TURONIE: And I just want

1 to mention one thing over all to help guide your  
2 thoughts on this, so that as you look at things, you  
3 know, it's called substantial evidence. So, if you go  
4 one way or the other, either way you're supposed to  
5 come up with substantial evidence, okay?

6 VICE CHAIR LESNIAK: Yep.

7 VILLAGE ATTORNEY TURONIE: And let me just  
8 read that real quick, you know, before you vote or  
9 anything. It means fact and information, other than  
10 merely personal preferences or speculation, directly  
11 pertaining to the requirements and conditions an  
12 applicant must meet to obtain a conditional use  
13 permit, and that reasonable persons would accept in  
14 support of a conclusion. So, that is your overall  
15 standard as you think of what goes one way or the  
16 other.

17 VICE CHAIR LESNIAK: So, the more evidence,  
18 the more that something is supported, the stronger --  
19 the stronger that is. Okay? All right, so what is  
20 the feeling of the Commission? Do we have a motion we  
21 want to make to postpone until the June meeting,  
22 further discussion, or would we -- is there something  
23 else we want to do?

24 COMMISSIONER STANGE: I would like to make a  
25 motion to discuss this at the June meeting.

1 COMMISSIONER GRUNDMAN: I'll second that.

2 VICE CHAIR LESNIAK: Okay. So, we have a  
3 motion by Tony, and a second by Dick to postpone  
4 discussion until the June Planning Commission Meeting.  
5 Is there further discussion?

6 COMMISSIONER SHAW: The motion was to  
7 postpone discussion on the conditional use permit, is  
8 that correct?

9 VICE CHAIR LESNIAK: That would be correct.

10 COMMISSIONER SHAW: And action?

11 VICE CHAIR LESNIAK: Yep. But we are  
12 postponing discussion, that would include action,  
13 potential action, yes.

14 MIKE BIENIEK: Mr. Chairman, I have a point  
15 of order that I would like to ask?

16 VICE CHAIR LESNIAK: Okay. Hold on. So,  
17 does that answer your question, Mr. Shaw?

18 COMMISSIONER SHAW: Yes.

19 VICE CHAIR LESNIAK: Okay.

20 COMMISSIONER SHAW: Thank you.

21 VICE CHAIR LESNIAK: I will -- before we  
22 act, we will take your question.

23 MIKE BIENIEK: Yes, I just wanted to  
24 clarify, because postponing discussion, does that  
25 imply that we cannot provide additional materials

1 during that period?

2 VICE CHAIR LESNIAK: During --

3 MIKE BIENIEK: I mean, (inaudible) --

4 VICE CHAIR LESNIAK: -- what can you do --

5 MIKE BIENIEK: -- continuing --

6 VICE CHAIR LESNIAK: Yep. What you provided  
7 to staff, and what they're doing to investigate to get  
8 the information to us, that's totally -- I mean, what  
9 we are talking here is the Planning Commission having  
10 interaction --

11 MIKE BIENIEK: Okay.

12 VICE CHAIR LESNIAK: -- on this.

13 MIKE BIENIEK: That's what -- I just wanted  
14 to clarify so that we could, you know, --

15 VICE CHAIR LESNIAK: Yep.

16 MIKE BIENIEK: -- provide additional  
17 materials.

18 VICE CHAIR LESNIAK: Yes.

19 MIKE BIENIEK: Okay, thank you.

20 COMMISSIONER GRUNDMAN: My final question  
21 would be, we have cell phone towers in the Village,  
22 don't we?

23 VICE CHAIR LESNIAK: Uh-huh.

24 COMMISSIONER GRUNDMAN: We got one?

25 MR. GAU: One. That's what's on North Row -

1 - or that was what they (inaudible).

2 (Overlapping voices.)

3 COMMISSIONER KAVAPIL: And on the water  
4 tower.

5 MR. GAU: Oh, I thought you were -- yeah,  
6 and the water.

7 VICE CHAIR LESNIAK: Yeah, (inaudible).

8 COMMISSIONER KAVAPIL: And the water tower.

9 MR. GAU: Yeah, the water tower has --

10 COMMISSIONER GRUNDMAN: Yeah.

11 MR. GAU: -- A T and T on it, but then there  
12 is the one that they chose right here. I forget what  
13 road it's on.

14 COMMISSIONER GRUNDMAN: Oh.

15 MR. GAU: (Inaudible).

16 (Overlapping voices.)

17 COMMISSIONER GRUNDMAN: Okay. I guess, was  
18 -- you know, I have been -- I have been a commissioner  
19 for a year and a half-ish, I think, maybe a little  
20 over a year. But have we had problems in the past, or  
21 any issues, or concerns by residents that have been  
22 raised? I realize that one is on the -- on the water  
23 tower, but -- and people don't see them because you  
24 don't see them when you look straight up at them.

25 VICE CHAIR LESNIAK: I think -- I think --

1 COMMISSIONER GRUNDMAN: But --

2 VICE CHAIR LESNIAK: -- I think your  
3 question would probably be best off answered by staff  
4 if we receive a citizen complaints or a citizen issues  
5 on that issue.

6 COMMISSIONER GRUNDMAN: Fair enough.

7 VICE CHAIR LESNIAK: Okay. All right, so we  
8 have a motion, we will -- we will -- we have a motion  
9 to vote on to postpone action. Any further  
10 discussion? All in favor of the motion to postpone  
11 until June, please say aye?

12 ALL: Aye.

13 VICE CHAIR LESNIAK: All opposed say, no?  
14 Motion carries five to zero. We will bring this up  
15 again at the June meeting.

16 COMMISSIONER STANGE: And to clarify, that's  
17 for staff to --

18 VICE CHAIR LESNIAK: Correct.

19 COMMISSIONER STANGE: -- basically do some  
20 more due diligence to provide us more details behind  
21 each of those findings of facts?

22 VICE CHAIR LESNIAK: Right. They will be  
23 working diligently behind the scenes to get us all of  
24 the information --

25 COMMISSIONER STANGE: Okay.

1 VICE CHAIR LESNIAK: -- we might need.

2 VILLAGE ATTORNEY TURONIE: In conjunction  
3 with the Village attorney, yes.

4 VICE CHAIR LESNIAK: Yes. Thank you. All  
5 right, the other item of new business tonight is Item  
6 H, discussion and action, floodplain ordinance  
7 revisions.

8 DIRECTOR WEGNER: All right. This was  
9 reviewed by -- let's get in thing fired up. By this  
10 commission, I believe twice now, once on the 20th of  
11 February, and another time on the 13th of February --  
12 of March. I see -- (inaudible) got my password  
13 (inaudible). I sent revisions -- or these revisions  
14 to the DNR, they came back and said, well jeez, we --  
15 you know, we would like to make comments, but your  
16 changes really should coincide with the model  
17 ordinance. And this happened to me in the past,  
18 actually, and the general consensus is what -- we will  
19 change the ordinance to reflect how the number and the  
20 order of changes. So, I made those changes, and I  
21 wanted you to review it one last time before we go to  
22 public hearing. One thing I would like to do, since I  
23 have got your attention and you're all sitting down,  
24 is show you a -- the red line version.

25 COMMISSIONER STANGE: I love red lines.



1                   DIRECTOR WEGNER: Very quickly. So, the  
2 document that you saw in the packet, this is the same  
3 draft, but I put in red those items that were added  
4 in. And these additions are just to comply with the  
5 state, and (inaudible) with FEMA and with the DNR  
6 guidelines for your floodplain ordinance. And what  
7 you see in red was -- did not exist in our ordinance  
8 prior to -- so these are adders. And you will notice  
9 that like a lot of where they're place, they're --  
10 just what I said, they're adders, they're additional  
11 statements or concerns, or language that goes with  
12 these sections.

13                   If I go to, for example, general standards  
14 with all floodplain districts, they added this  
15 language, (inaudible) all permit applications. It's  
16 boilerplate language that just didn't exist in our  
17 ordinance, or it existed under one bullet point or one  
18 number. I don't know how detailed you want me to get  
19 into this, but just kind of scan through it.

20                   This -- again, under public or private  
21 campgrounds, we didn't have language in there  
22 regarding all (inaudible) recreational vehicles placed  
23 on the site must be one of the following, and then A,  
24 B, and C. And we added this entire section about  
25 standards for the structures in a campground, because

1 it just did not exist in our current ordinance.

2 So, again, all of these that I was showing  
3 you are -- I know you see a lot of red, but it's just  
4 added language that kind of reinforces the ideas  
5 within each section. The only one that is -- to me is  
6 a -- that is a big change that I can't believe hasn't  
7 been in an ordinance is coming up here under the flood  
8 storage.

9 VICE CHAIR LESNIAK: As you're look being  
10 for that, Pete, ultimately what you're saying is that,  
11 A, you know, we needed -- we need the DNR format on  
12 this. That's the way they want to see it, and so we  
13 had to change it, but B, the changes you're seeing are  
14 a direct result of also what the DNR wants to see.  
15 So, if we want the floodplain ordinance approved we  
16 have to be okay with this language?

17 DIRECTOR WEGNER: Yes, (inaudible) they  
18 emphasized the fact that, you know, they could have  
19 probably approved it, but it would not be approved by  
20 FEMA, which is -- after public hearing, (inaudible)  
21 they get a last kick out of it. What's going on?

22 VILLAGE ATTORNEY TURONIE: The DNR is more  
23 restrictive than FEMA.

24 DIRECTOR WEGNER: Oh.

25 VILLAGE ATTORNEY TURONIE: Got it?

1 DIRECTOR WEGNER: So, they're selling that  
2 to me?

3 VILLAGE ATTORNEY TURONIE: They're selling  
4 it to you.

5 DIRECTOR WEGNER: Yeah. Well, they sold it.  
6 Gosh, they just did it again in the last email from  
7 them.

8 VILLAGE ATTORNEY TURONIE: Okay.

9 DIRECTOR WEGNER: Any who, --

10 VILLAGE ATTORNEY TURONIE: I could --

11 DIRECTOR WEGNER: Yeah, that's a true  
12 statement.

13 VILLAGE ATTORNEY TURONIE: You got to be  
14 real, real careful with those guys, okay?

15 DIRECTOR WEGNER: Yeah -- yes, I know. So,  
16 this is an important part, we didn't have in language  
17 in our ordinance regarding flood storage. And just to  
18 summarize, basic-- what's that? Just to summarize,  
19 this allows development within a flood storage  
20 district as long as you're not increasing the levels.  
21 So, if you had a -- somebody that wanted to build on a  
22 property, and they maybe created a channel, so they're  
23 A, more volume per flood storage by any channel using  
24 -- or bringing that (inaudible) upland area. I should  
25 have said that right at the beginning, the DNR

1 (inaudible). Okay.

2           Yeah, I mean, I could go through this more,  
3 but it's just -- there -- it's -- a lot of it's just  
4 boilerplate language that they're saying you have to  
5 have in your ordinance. I don't see anything that's  
6 got (inaudible) at all. It's -- a lot of it I -- you  
7 see in red, I thought well jeez, why wasn't it -- that  
8 in there before? Because it's not like directly  
9 related to a recent statute change in the state  
10 statutes or anything, it was just -- in fact, the two  
11 issues that were state statute changes this group  
12 decided not to go with, because it would have affected  
13 how we regulate non-conforming structures. And we  
14 would have had to have grown -- or joined this CRS,  
15 which would allow us to ever reduce insurance cost,  
16 but the tradeoff was not really worth it. Anybody  
17 falling asleep yet?

18           COMMISSIONER STANGE: No, red lines are  
19 awesome.

20           MR. GAU: It's a lot of red lines.

21           DIRECTOR WEGNER: I feel bad that I'm not  
22 going into more detail, but I'm -- I guess I could,  
23 but it's (inaudible).

24           MR. GAU: Is that (inaudible)?

25           COMMISSIONER STANGE: I think I remember

1 some of this from a couple of meetings ago. We went  
2 through --

3 MR. GAU: Yeah, uh-huh.

4 COMMISSIONER STANGE: -- there were a couple  
5 of options of --

6 DIRECTOR WEGNER: Yep.

7 COMMISSIONER STANGE: -- red line, yeah.

8 DIRECTOR WEGNER: Yep, and those --

9 COMMISSIONER STANGE: I remember.

10 DIRECTOR WEGNER: -- we tossed. That was  
11 red line with the yellow highlighting.

12 COMMISSIONER STANGE: Yeah, there was --  
13 there was some (inaudible).

14 VICE CHAIR LESNIAK: One of the things I  
15 have missed in the past year.

16 COMMISSIONER STANGE: Right?

17 DIRECTOR WEGNER: So, I guess in the  
18 (inaudible) -- what I'm basically asking is I -- if --  
19 for permissions (inaudible) before (inaudible) to the  
20 Village Board, because this, I guess, has been sitting  
21 out there for a long time. And when we adopt this, we  
22 also formally adopt the new floodplain maps, and there  
23 are people waiting for that supposedly.

24 COMMISSIONER STANGE: Uh-huh.

25 DIRECTOR WEGNER: Although we are still --

1 we are still using them -- we are using them right  
2 now, but they're -- they want to see the new maps, and  
3 they want to see the flood storage language,  
4 basically.

5 COMMISSIONER KAVAPIL: So, question, and  
6 only because the Village attorney is here. Is this  
7 something that has or needs to be reviewed by our  
8 Village attorney to potentially have his own set of  
9 red lines that our friendly lawyers are always famous  
10 for?

11 VILLAGE ATTORNEY TURONIE: I have not  
12 actually reviewed this myself. I mean, just general,  
13 there is a DNR model, and they don't want to approve  
14 anything that doesn't look like -- just like their  
15 model. But you have to be careful because -- and I  
16 think it's NR117, Peter, is that right? There is some  
17 additional state authority, versus what FEMA would  
18 enforce itself. And -- but you know, you -- you  
19 summed it to that, but I was just being real careful  
20 that they don't go further than that in their model.  
21 That would be my only concern, because they want  
22 everyone to be as restrictive as possible on these  
23 things.

24 Now, as a village, you have more autonomy  
25 than I would think happens at the county level, which

1 is where you go if you're in the town. Because the  
2 counties are directly advised by DNR, and of course  
3 the answer is always just say no. So, you have more  
4 autonomy on that being a village, because it's your  
5 own board of appeals that would consider say, a  
6 variance. And so, that's what I was just looking for,  
7 the variance standards here. And I mean, they say  
8 things like not granting a variance would have to  
9 result in an exceptional hardship. I mean, a variance  
10 is an exception, you see what I mean?

11 DIRECTOR WEGNER: Yeah.

12 VILLAGE ATTORNEY TURONIE: And so, you might  
13 -- that section in particular is what, if anything, I  
14 would double check for NR117. Does NR117 say only an  
15 exceptional hardship? I don't know off hand, maybe it  
16 does. But as long as you retain that local control of  
17 granting a variance, if it's justified, I think is  
18 important. And then you know, the rest is just  
19 meeting their model. I mean, to get their approval  
20 you pretty much have to meet their model. That is the  
21 way it is.

22 VICE CHAIR LESNIAK: So, with your -- with  
23 your comment, Dick, do you think it would be in the  
24 best interest for the Planning Commission and for the  
25 Village to ask staff to work with the Village attorney

1 just to make sure things in there are what would  
2 match, what he would want to see? Either a buyer two  
3 is coming to the public hearing, which I would assume  
4 would be the next Planning Commission meeting, or B,  
5 do we want to have a June review and then look at a  
6 July public hearing?

7 DIRECTOR WEGNER: Yeah, and you could --

8 COMMISSIONER KAVAPIL: I --

9 DIRECTOR WEGNER: -- either go ahead and do  
10 that, and review it one more time after the attorney  
11 looks at it, or you could make a recommendation for  
12 approval subject to a final review by the Village  
13 attorney. So, if you have done it enough times, and  
14 you're fairly comfortable with it other than just  
15 getting the final legal review, then you could move it  
16 to the Village Board subject to his review.

17 COMMISSIONER KAVAPIL: I like that idea.

18 COMMISSIONER STANGE: Yeah.

19 COMMISSIONER KAVAPIL: Subject to -- yeah,  
20 subject to attorney (inaudible) approval.

21 COMMISSIONER GRUNDMAN: Can I make that  
22 motion?

23 COMMISSIONER STANGE: Second.

24 VICE CHAIR LESNIAK: Okay. Can you clarify  
25 what the motion is, because --



1 COMMISSIONER GRUNDMAN: Yeah.

2 VICE CHAIR LESNIAK: -- I'm looking at what  
3 the recommended action is, and that is committee  
4 approval to forward floodplain ordinance revisions to  
5 a public hearing. Now, does the public hearing happen  
6 at Planning Commission, or does the public hearing  
7 happen at Village Board on this?

8 DIRECTOR WEGNER: Planning Commission.

9 VICE CHAIR LESNIAK: Okay.

10 DIRECTOR WEGNER: And then, --

11 VICE CHAIR LESNIAK: So, --

12 DIRECTOR WEGNER: -- well, wait a minute.

13 VICE CHAIR LESNIAK: -- does this go to  
14 Village Board before anything -- before we have the  
15 public hearing?

16 DIRECTOR WEGNER: I would have to double  
17 check on that. (Inaudible) --

18 VICE CHAIR LESNIAK: These little details  
19 I'm forget after people (inaudible).

20 DIRECTOR WEGNER: Well, they have -- they  
21 have changed from what was --

22 VICE CHAIR LESNIAK: Right.

23 DIRECTOR WEGNER: -- you know, just like in  
24 the cell tower thing, there was different language --

25 VICE CHAIR LESNIAK: Yep.

1 DIRECTOR WEGNER: -- that was --

2 VICE CHAIR LESNIAK: Uh-huh.

3 DIRECTOR WEGNER: So, the question is does  
4 it have to (inaudible) for public hearing? Or --

5 VILLAGE ATTORNEY TURONIE: It's just the  
6 zoning ordinance (inaudible).

7 DIRECTOR WEGNER: Yeah, I'm pretty sure it  
8 goes back, and you guys have the public hearing.

9 VICE CHAIR LESNIAK: We are next? We don't  
10 kick it to the Village (inaudible).

11 DIRECTOR WEGNER: Oh. And then, you can  
12 take it to the public? Well, that just doesn't make  
13 sense though. They take it to the --

14 COMMISSIONER GRUNDMAN: Can --

15 DIRECTOR WEGNER: -- they kick it to the  
16 Village Board after a public hearing, and the Village  
17 Board makes changes after (inaudible) public hearing.

18 VILLAGE ATTORNEY TURONIE: No.

19 DIRECTOR WEGNER: Oh.

20 VICE CHAIR LESNIAK: No, you get one.

21 DIRECTOR WEGNER: So, the Village Board made  
22 substantial changes to what they had a public hearing  
23 on?

24 VILLAGE ATTORNEY TURONIE: We are a  
25 recommendation body.

1 DIRECTOR WEGNER: Uh-huh.

2 VILLAGE ATTORNEY TURONIE: You make your  
3 recommendation, and you know, --

4 VICE CHAIR LESNIAK: There are things  
5 Planning Commission can do without going to the  
6 Village Board for, but --

7 DIRECTOR WEGNER: A lot, actually.

8 VICE CHAIR LESNIAK: -- that's -- there's a  
9 lot, but this isn't one of them, this is a  
10 recommendation.

11 DIRECTOR WEGNER: Uh-huh, yep.

12 VICE CHAIR LESNIAK: Uh-huh.

13 VILLAGE ATTORNEY TURONIE: So, if they vary  
14 from your recommendation, you know, that's their  
15 discretion.

16 VICE CHAIR LESNIAK: Uh-huh.

17 VILLAGE ATTORNEY TURONIE: It's just one  
18 public hearing.

19 DIRECTOR WEGNER: Okay. I don't have my  
20 (inaudible) with me right now, but let's just assume  
21 it comes back to you, public hearing format, so --

22 MALE SPEAKER: Okay, let's have another kick  
23 at the cat here.

24 COMMISSIONER STANGE: Yeah, so --

25 MALE SPEAKER: (Inaudible) and I think

1 there's a -- is there a motion on the table, or  
2 (inaudible)?

3 VICE CHAIR LESNIAK: I just want to make  
4 sure we know what it is, because --

5 MALE SPEAKER: Right.

6 VICE CHAIR LESNIAK: -- because it was  
7 simple.

8 MALE SPEAKER: So, the motion I would  
9 suggest then is a recommendation to move this  
10 ordinance to public hearing after reviewing any final  
11 changes by the Village attorney. And then, you know,  
12 staff can figure out whether that's at the Planning  
13 Commission level or Village Board, there's flexibility  
14 there.

15 COMMISSIONER GRUNDMAN: Uh-huh. I would  
16 amend my motion and make that.

17 VICE CHAIR LESNIAK: Yeah. All right, is  
18 there a second?

19 COMMISSIONER STANGE: I'll second.

20 VICE CHAIR LESNIAK: Second? Okay. We have  
21 a motion by Rick and second by Tony to -- and I am not  
22 going to repeat that well -- do -- to do what was said  
23 in the motion. We used to -- yeah. So, any further  
24 discussion on that motion? All right.

25 COMMISSIONER STANGE: I do have a question

1 on it though.

2 VICE CHAIR LESNIAK: Yes. Go ahead, Tony.

3 COMMISSIONER STANGE: So, does that mean if  
4 it's subject to the attorney's approval can we --

5 VICE CHAIR LESNIAK: Uh-huh.

6 COMMISSIONER STANGE: -- have a public  
7 input, public hearing next meeting, next month?

8 VICE CHAIR LESNIAK: I think -- I think we  
9 can. I mean, I would -- I would suspect.

10 DIRECTOR WEGNER: Yeah.

11 VICE CHAIR LESNIAK: Well, I mean, it  
12 depends on if we can get it done, but yeah. But I  
13 would suspect that if there might be substantial  
14 things, that might be okay, we are not ready for  
15 public hearing yet, we are going to --

16 COMMISSIONER STANGE: Sure.

17 VICE CHAIR LESNIAK: -- bring it back to --  
18 for a --

19 COMMISSIONER STANGE: Okay.

20 VICE CHAIR LESNIAK: -- a more detailed  
21 review.

22 DIRECTOR WEGNER: Or --

23 COMMISSIONER STANGE: Play it by --

24 DIRECTOR WEGNER: Yeah.

25 COMMISSIONER STANGE: -- play it by ear and

1 go --

2 VILLAGE ATTORNEY TURONIE: I'm not expecting  
3 real substantial --

4 VICE CHAIR LESNIAK: Right.

5 VILLAGE ATTORNEY TURONIE: -- things. It's  
6 a template that they try to get everyone to do. I'm  
7 just telling you that I zero in on that variance  
8 procedure because that's supposed to be, you know, up  
9 to you.

10 VICE CHAIR LESNIAK: Uh-huh.

11 VILLAGE ATTORNEY TURONIE: Okay? That's the  
12 ultimate, that local body has that last decision on  
13 that. And they try to scare you if you grant a  
14 variance you will get dropped from the flood program.  
15 No. If you have a pattern of poor development where  
16 you're granting variance left and right for --

17 VICE CHAIR LESNIAK: Uh-huh.

18 VILLAGE ATTORNEY TURONIE: -- no good  
19 reason, you may get, you know, hooked on that. But  
20 you know, granting a legitimate variance doesn't get  
21 you kicked out of the program, just so you're aware.  
22 So, I just want to make sure you had -- that's the  
23 only part I was really worried about.

24 MALE SPEAKER: So, -- and then the other  
25 thing that can happen, because it is public hearing,

1 if changes are made that the attorney recommends, we  
2 can sort out of the public hearing by having a brief  
3 explanation of what those changes were. So, that  
4 Planning Commission, first of all is up to speed, but  
5 the public is hearing it at the same time.

6 VICE CHAIR LESNIAK: Uh-huh.

7 COMMISSIONER STANGE: Okay.

8 DIRECTOR WEGNER: 116 (inaudible) not 117.

9 COMMISSIONER STANGE: Thank you.

10 VILLAGE ATTORNEY TURONIE: Is it 116?

11 DIRECTOR WEGNER: Yeah, (inaudible).

12 VICE CHAIR LESNIAK: All right, any further  
13 discussion? All right, since this is -- since this is  
14 connected with ordinances, it's not a final approval,  
15 but let's go ahead with a roll call vote on this, just  
16 to be sure. All right.

17 MR. GAU: Rick Grundman?

18 COMMISSIONER GRUNDMAN: Yes.

19 MR. GAU: Tony Stange?

20 COMMISSIONER STANGE: Yes.

21 MR. GAU: Dick Kavapil?

22 COMMISSIONER KAVAPIL: Yes.

23 MR. GAU: Dan Lesniak?

24 VICE CHAIR LESNIAK: Yes.

25 MR. GAU: Motion carries.

1 VICE CHAIR LESNIAK: Oh, do we have Tim?

2 MR. GAU: Oh, excuse me. Sorry, Tim. Tim  
3 Shaw?

4 COMMISSIONER SHAW: Yes.

5 MR. GAU: Motion carries five to zero.

6 VICE CHAIR LESNIAK: Thank you, thank you,  
7 thank you. All right, we are -- I got to look on --  
8 over my shoulder here. Number seven, consideration of  
9 items for future agendas. I'm going bring one up, and  
10 this is a -- this -- here is -- here is why I bring it  
11 up. I appreciate the support for vice chairman, I was  
12 not expecting to be running a meeting tonight. And --  
13 but I'm happy to do it. But there may be times within  
14 some short time here with some health issues that have  
15 arisen that I may not be at a meeting. And given the  
16 possibility that if the chair is gone and the vice  
17 chair is gone, I think it would be a good idea to have  
18 a backup vice chair, and that might be something to  
19 discuss at the next meeting. Just to be sure, in case  
20 we are in that situation, because it would be good to  
21 have that lined up ahead of time than scrabbling, it's  
22 like who is going to run the meeting?

23 COMMISSIONER GRUNDMAN: Second vice chair.

24 COMMISSIONER STANGE: Life happens, and we  
25 got to be prepared for it.



1 VICE CHAIR LESNIAK: Yeah.

2 COMMISSIONER STANGE: As a Village.

3 VICE CHAIR LESNIAK: Uh-huh. Anybody else  
4 with anything?

5 COMMISSIONER KAVAPIL: A curiosity question.  
6 I mean, I know we have a meeting in two days, but when  
7 is the June meeting? Is it the 12th?

8 DIRECTOR WEGNER: William?

9 MR. GAU: I'm looking on a calendar.

10 VICE CHAIR LESNIAK: The 19th.

11 DIRECTOR WEGNER: William?

12 MR. GAU: It is -- no, it's June 19th.

13 COMMISSIONER KAVAPIL: Okay. Okay.

14 COMMISSIONER STANGE: Yep.

15 MR. GAU: Juneteenth.

16 COMMISSIONER STANGE: Juneteenth.

17 VICE CHAIR LESNIAK: All right.

18 MR. GAU: Oh yeah, that's a holiday now.

19 COMMISSIONER STANGE: Yeah.

20 VICE CHAIR LESNIAK: Oh.

21 MR. GAU: Yeah, so we are actually not  
22 working then, huh? (Inaudible) uh-huh.

23 VICE CHAIR LESNIAK: Okay, is there --

24 MR. GAU: All right.

25 (Overlapping voices.)

1 VICE CHAIR LESNIAK: -- is there any further  
2 items for further consideration? Future agendas?  
3 Okay. All right, seeing none, we will move on to  
4 (inaudible). Next meeting, as stated, two days from  
5 now. So, some of us will be here then, I don't know  
6 if everybody can make it, but --

7 COMMISSIONER STANGE: I don't think so.

8 VICE CHAIR LESNIAK: -- we have a quorum.

9 COMMISSIONER STANGE: Uh-huh.

10 VICE CHAIR LESNIAK: Willing, we will have a  
11 quorum?

12 DIRECTOR WEGNER: That's what I'm told,  
13 yeah.

14 MR. GAU: Yes.

15 VICE CHAIR LESNIAK: Okay.

16 COMMISSIONER KAVAPIL: I think so.

17 VICE CHAIR LESNIAK: Good. And then, --

18 DIRECTOR WEGNER: Thanks for not asking how  
19 that happened.

20 COMMISSIONER KAVAPIL: I -- well, yeah. I  
21 am curious, but --

22 VICE CHAIR LESNIAK: All right. Then Item 9  
23 is adjournment.

24 COMMISSIONER KAVAPIL: I'll make a motion to  
25 adjourn.

1 COMMISSIONER GRUNDMAN: Second.

2 VICE CHAIR LESNIAK: All right, motion by  
3 Dick, second by Rick to adjourn. All in favor of the  
4 motion to adjourn please say, aye?

5 ALL: Aye.

6 VICE CHAIR LESNIAK: All opposed say, no?  
7 All right, motion carries. It is 8:06 and we are  
8 adjourned.

9 (End of Audio Recording.)

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DATED this 29th day of August 2023.

*Alexandria Brobst*

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ALEXANDRIA BROBST

TRANSCRIPTION OF AUDIO  
VILLAGE OF KRONENWETTER

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**In the Matter Of:**  
**VILLAGE OF KRONENWETTER**

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**TRANSCRIPTION OF AUDIO**

*June 19, 2023*

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Transcription of Audio: 230618\_0501

In Re: VILLAGE OF KRONENWETTER

Date: June 19th, 2023

Runtime: 1:45:09

1 (Beginning of Audio Recording.)

2 CHAIRPERSON VOLL: All right, being 6  
3 o'clock we will call the Planning Commission meeting  
4 to order. We will start with the pledge of  
5 allegiance.

6 ALL: I pledge allegiance to the Flag of the  
7 United States of America, and to the Republic for  
8 which it stands, one Nation under God, indivisible,  
9 with liberty and justice for all.

10 CHAIRPERSON VOLL: All right, Will, go ahead  
11 and all the roll. Or hang on a second, are the  
12 microphones on?

13 MR. GAU: They should be, yeah.

14 CHAIRPERSON VOLL: Yeah, I guess I didn't  
15 hear it. So, go ahead. It is. They're on.

16 MR. GAU: President Chris Voll?

17 CHAIRPERSON VOLL: Here.

18 MR. GAU: Bruce Sinkula?

19 COMMISSIONER SINKULA: Here.

20 MR. GAU: Rick Grundman?

21 COMMISSIONER GRUNDMAN: Here.

22 MR. GAU: Tony Stange?

23 COMMISSIONER STANGE: Here.

24 MR. GAU: Dan Lesniak?

25 VICE CHAIR LESNIAK: Here.

1 MR. GAU: Tim Shaw? Okay. That's roll  
2 call, we have five.

3 CHAIRPERSON VOLL: All right, number two,  
4 public comment. Pete, have we anybody signed up?

5 DIRECTOR WEGNER: There's a couple  
6 (inaudible).

7 CHAIRPERSON VOLL: Thank you.

8 DIRECTOR WEGNER: Yep.

9 CHAIRPERSON VOLL: Please be advised to  
10 provide your name and address when you come to the  
11 microphone, and you will be allotted three minutes.  
12 And we will start with Keith Walkowski.

13 KEITH WALKOWSKI: Are you calling the items  
14 on the agenda or just public comment?

15 CHAIRPERSON VOLL: Just public comment.

16 KEITH WALKOWSKI: Okay. Keith Walkowski,  
17 here for (inaudible). 5310 Willow Street, Weston,  
18 Wisconsin. I also am a Kronenwetter resident on 3857  
19 State (inaudible) 153. I have -- on the agenda is the  
20 two lot CSM we are proposing on Maple Ridge Road. I  
21 guess I'm just here if anybody has any questions about  
22 it. It's a little -- a little different than what we  
23 typically do, because there was some wetland issues  
24 there, so we are trying to provide access via an  
25 easement off of Ripple Road, and -- but we still do



1 have the 100 feet of frontage if they did want to try  
2 to get a wetland crossing. We just tried to make sure  
3 that the parcel would have access if that didn't  
4 materialize. So, I guess I'm here if anybody has any  
5 questions once we get to that point. So, --

6 CHAIRPERSON VOLL: All right, thanks.

7 KEITH WALKOWSKI: Yep.

8 CHAIRPERSON VOLL: All right, next up is  
9 Mike Bieniek?

10 MIKE BIENIEK: Mr. Chairman, I would like to  
11 wait until our item is called.

12 CHAIRPERSON VOLL: Okay.

13 MIKE BIENIEK: Thank you.

14 CHAIRPERSON VOLL: All right, next up is Jim  
15 Harris?

16 JIM HARRIS: Okay. That's okay.

17 VICE CHAIR LESNIAK: That's why I said  
18 (inaudible).

19 JIM HARRIS: Yeah, I am Jim Harris, I live  
20 at 1833 Creek Road down in Kronenwetter. And I was  
21 here last month to talk to the Planning Commission.  
22 You -- if you were here last month, you got the  
23 document with findings, but some of you weren't. And  
24 it wasn't distributed to you prior to this meeting  
25 (inaudible). So, those of you who weren't here, and I

1 see a couple of new faces, I handed that out, but you  
2 haven't had time to look at that beforehand. Maybe  
3 during the course of the meeting you can glance at it,  
4 it should have gone out in the packet. There is a  
5 document that for our responsibility didn't end up in  
6 the packet, and that I also passed out. I'll quickly,  
7 in using the limited time that I have would say that  
8 there are two issues that I'm most concerned with.  
9 One is to emphasize to this group that you're sitting  
10 in judgment of a new application. During the Planning  
11 Commission meeting a month ago, several times, the  
12 representative of the tower company emphasized that he  
13 -- his company had already received approval to build  
14 a tower, and he cited that at least three or four  
15 times. I put citations in the document I handed you  
16 telling you where, and which minutes of the meeting  
17 you could find that indication that -- where he, you  
18 know, expressed the idea that this has already been  
19 determined, it's already sat in judgment.

20           The second thing I would use my limited time  
21 tonight to emphasize is the vagueness over the  
22 location. This new application places to tower in a  
23 certain GPS point, but leading up to last month's  
24 meeting, on the letter of application, the  
25 representative of the company said that it was going

1 to get relocated approximately 75 feet. In the  
2 application itself, he repeated relocated  
3 approximately 75 feet. Then we got into the meeting,  
4 and one, two, three, four times he emphasized that he  
5 had cited in the application the exact location, and  
6 it was -- here's the quote -- we moved approximately  
7 100 feet. And then, later in the meeting, six minutes  
8 later, we are barely moving it approximately 100 feet.  
9 Well, in fact, it's moved much further than that. I  
10 was frustrated at the end of the meeting because  
11 nobody on staff spoke up and said that they knew that  
12 was incorrect. It was left to hang in the air. Tony  
13 almost picked up on it, I was waiting for him to get a  
14 straight answer to a question about GPS points, but  
15 that opportunity passed.

16 So, I'm here tonight to tell you, you're  
17 dealing with a new application. The new location is  
18 not a mere 75 feet, or 100 feet from the old location.  
19 After I complained to staff about the lack of  
20 confrontation on that misinformation, they contacted  
21 the representative of the company, we now have from  
22 him in writing that's it has moved 250 feet.

23 CHAIRPERSON VOLL: All right.

24 JIM HARRIS: The importance of that is not  
25 to quibble over a foot here, a foot there, --

1 CHAIRPERSON VOLL: (Inaudible).

2 JIM HARRIS: -- or even 100 feet of --

3 CHAIRPERSON VOLL: All right.

4 JIM HARRIS: -- space, the important thing  
5 about that difference in move is, it moves it out of  
6 the natural buffer, away from the trees, and it places  
7 the tower right in a direct sightline to our house.

8 CHAIRPERSON VOLL: (Inaudible).

9 JIM HARRIS: Now, in something recently that  
10 the representative said --

11 CHAIRPERSON VOLL: Jim?

12 JIM HARRIS: -- (inaudible) --

13 CHAIRPERSON VOLL: That's your three minutes

14 JIM HARRIS: Okay. Thank you for your  
15 attention.

16 CHAIRPERSON VOLL: Thank you. Can you hear  
17 me, Tim?

18 COMMISSIONER SHAW: I can, very clearly,  
19 yes. Thank you.

20 CHAIRPERSON VOLL: All right.

21 MR. GAU: Just noting Tim Shaw is here at  
22 6:06.

23 CHAIRPERSON VOLL: All right, next up is  
24 Marty Harris.

25 MARTY HARRIS: I'm Marty Harris, 1833 Creek

1 Road in Kronenwetter. And I just want to address a  
2 couple of concerns about our collection of  
3 information. Resources we cited at the last meeting  
4 were documented either verbally or in writing. And if  
5 you were here last time, you have the academic  
6 citations, homeowner and real estate agent statements,  
7 those were all from the research we had done.

8 I know that when Mike Bieniek has addressed  
9 our concerns, he has been rather dismissive that these  
10 were opinions and not countering our opinions with  
11 anything but his opinions it seems. So, I would  
12 welcome if he has any resources or documentation that  
13 disagree with that we have found. We cited -- I  
14 listed the research sources we cited, because we are  
15 not making idle, unsubstantiated claims. The research  
16 referenced by us included realtor's studies and  
17 analysis-- and articles with analyses. They were yes,  
18 many of them by realtors, which Mike has said it's  
19 just their opinion, they will tell you what you want  
20 to hear, but these were documented surveys. Realtor  
21 Magazine, National Association of Realtors, The  
22 Empirical Economics Letters Publication, The National  
23 Institute For Science, The Journal of Real Estate  
24 Finance, Florida State University Law Review, and The  
25 Appraisal Journal of the Appraisal Institute, which

1 is, by the way, the largest global professional  
2 organization for appraisers with 91 chapters. Their  
3 study indicated that homebuyers would pay from 10 to  
4 19% less, to over 20% less for a property if it were  
5 in close proximity to a cell phone base. The opinion  
6 survey results were then confirmed by a market sales  
7 analysis, and the results of the sales analysis showed  
8 prices of properties were reduced by around 21% after  
9 a cell phone base station was built in the nearby  
10 area.

11 James Turner, an attorney and chairman of  
12 the National Institute of Science, Law, and Public  
13 Policy said the results of their surveys suggest there  
14 is now high awareness about problems from cell towers  
15 and antennas. Even buyers who believe there are no  
16 adverse health effects, knowing that other potential  
17 buyers might think the reverse would probably seek a  
18 price discount for property located near a cell phone  
19 tower location. The study that I referred to had  
20 1,000 respondents, and that was the one that was  
21 backed up by the market analysis, negative price  
22 impact of 9.78%, and this is the Real Estate Finance.  
23 And the Economics Journal is much more severe, for  
24 properties within visible range of a tower. This  
25 negative impact vanishes as the distances exceed .72

1 kilometers.

2 CHAIRPERSON VOLL: That's your time, ma'am.

3 MARTY HARRIS: Okay, thank you.

4 CHAIRPERSON VOLL: Thank you. Robert  
5 Konkol?

6 ROBERT KONKOL: Robert Konkol, 1898 Creek  
7 Road, Kronenwetter. I would petition the Board to you  
8 accept this, because of our dead zone for the last 20  
9 years in our area. We have to travel to Cedar Creek  
10 in order to use our cell phones. One of my neighbors  
11 almost lost his -- her job, because she couldn't get  
12 internet facilities. When this tower is built, there  
13 will be -- and another thing, Pleasant Drive, the  
14 internet stops there, that's a half mile away from my  
15 house -- over a half a mile. Let's give eastern  
16 Kronenwetter a chance to be modern, give us the cell  
17 tower and internet service. Thank you.

18 CHAIRPERSON VOLL: All right, that concludes  
19 the public comment. Thanks everyone. Move on to  
20 number three, approval of minutes. Does anybody have  
21 any questions or comments? Additions, corrections?

22 DIRECTOR WEGNER: Can I just add something?

23 CHAIRPERSON VOLL: Sure.

24 DIRECTOR WEGNER: At the last meeting, I was  
25 asked by Dick Kavapil whether or not frontage on a

1 private road would be acceptable, and I was hesitant  
2 when I said that, and after further research, there is  
3 three different places in the ordinance where it  
4 clearly states that all lots shall abut upon a public  
5 street shall have frontage on a public street, or  
6 abutting a dedicated public street. So, I just wanted  
7 to make that correction.

8 CHAIRPERSON VOLL: Is that somewhere in the  
9 minutes, or is that just a comment?

10 DIRECTOR WEGNER: A comment.

11 CHAIRPERSON VOLL: Anybody else have a --  
12 corrections or comments for the agenda-- for the  
13 minutes? Either the last meeting or the May 17th  
14 minutes?

15 COMMISSIONER SINKULA: I'll make a motion to  
16 approve the minutes of the May 15th meeting as  
17 presented.

18 COMMISSIONER GRUNDMAN: I'll second.

19 CHAIRPERSON VOLL: All right, we got a  
20 motion, a second to approve the May 15th meeting  
21 minutes. Any further discussion? Hearing none, all  
22 in favor say, aye?

23 ALL: All.

24 CHAIRPERSON VOLL: All opposed? Motion  
25 carried. All right, what about May 17th?



1 Corrections, comments? If not, I will entertain a  
2 motion --

3 COMMISSIONER STANGE: Do I have to abstain  
4 if I wasn't here?

5 COMMISSIONER GRUNDMAN: Uh-uh.

6 COMMISSIONER STANGE: Because I read the  
7 minutes.

8 COMMISSIONER GRUNDMAN: Yeah, I don't --  
9 (inaudible).

10 DIRECTOR WEGNER: What's your question?

11 COMMISSIONER STANGE: I don't abstain if I  
12 was not present?

13 DIRECTOR WEGNER: Yeah.

14 COMMISSIONER STANGE: If I read the minutes,  
15 correct?

16 CHAIRPERSON VOLL: If you read the minutes,  
17 and you're all right with them, then --

18 COMMISSIONER STANGE: Okay.

19 CHAIRPERSON VOLL: -- you can vote on them -  
20 - on them if you want to.

21 COMMISSIONER SINKULA: I'll make the motion  
22 to approve the May 17th meeting minutes as presented.

23 COMMISSIONER GRUNDMAN: I'll second again.

24 CHAIRPERSON VOLL: All right, we got a  
25 motion by Bruce, seconded by Rick to approve the May

1 17th minutes. Any further discussion? Hearing none,  
2 all in favor say, aye?

3 ALL: Aye.

4 CHAIRPERSON VOLL: All opposed? Motion  
5 carried. All right, next item is the reports from the  
6 director.

7 DIRECTOR WEGNER: Yeah, I guess I'll take  
8 any questions. (Inaudible) again (inaudible) do this  
9 (inaudible).

10 CHAIRPERSON VOLL: Well, anything of note --  
11 real note to mention on here? Because I mean, it -- I  
12 don't know, it's -- some people don't like to ask  
13 questions. So, if you have some important things you  
14 can touch on, feel free.

15 DIRECTOR WEGNER: Everything's important.

16 COMMISSIONER STANGE: What -- I guess, I see  
17 it on here that you researched the detached  
18 accessories structures, because we got a -- something  
19 with that in the past.

20 DIRECTOR WEGNER: Yep.

21 COMMISSIONER STANGE: Can you explain what  
22 you found with the ordinance --

23 DIRECTOR WEGNER: Sure.

24 COMMISSIONER STANGE: -- (inaudible)?

25 DIRECTOR WEGNER: I had a resident that

1 wanted to build a detached pole barn, basically. And  
2 in his particular zoning district, it's permitted as  
3 long as it's a post (inaudible) building, which is  
4 exactly what he wanted. So, it happened that it  
5 worked out for him. If it was a state built garage  
6 type structure, then it would not be permitted without  
7 principal building being constructed first, but in  
8 this particular zoning district, I believe it's R5, he  
9 was able to do it per our ordinance.

10 COMMISSIONER STANGE: Okay, thank you.

11 CHAIRPERSON VOLL: We have some discussions  
12 and some -- I got -- received some calls about the  
13 zoning at the church that was for sale.

14 DIRECTOR WEGNER: Yeah.

15 CHAIRPERSON VOLL: Whatever became of all  
16 that? And the -- then the cemetery issue?

17 DIRECTOR WEGNER: I received a -- I don't  
18 even know (inaudible) --

19 KEITH WALKOWSKI: Do you want me to comment?

20 DIRECTOR WEGNER: Yeah, go ahead.

21 CHAIRPERSON VOLL: If you -- if you got some  
22 information, sure go ahead.

23 DIRECTOR WEGNER: He sure does.

24 KEITH WALKOWSKI: I got all kinds of  
25 information. So, I am waiting to hear back from the

1 church's attorney and from Mike Walters, who is the  
2 realtor, --

3 CHAIRPERSON VOLL: Right.

4 KEITH WALKOWSKI: -- on what zoning their  
5 going to want to propose. So, I have a CSM drawn up,  
6 but I'm waiting to figure out what we are going to  
7 rezone that to.

8 CHAIRPERSON VOLL: Okay.

9 KEITH WALKOWSKI: So, we think we have come  
10 up with an option that should meet all of our  
11 ordinances in order --

12 DIRECTOR WEGNER: (Inaudible).

13 KEITH WALKOWSKI: -- to split that  
14 (inaudible). So, --

15 CHAIRPERSON VOLL: Great.

16 KEITH WALKOWSKI: -- it's still a work in  
17 progress, hopefully you will see (inaudible) something  
18 at the next Planning Commission meeting. So, --

19 CHAIRPERSON VOLL: Okay, because I know I  
20 had gotten a phone call from Mike Walters. I just was  
21 kind of curious where we were with it.

22 DIRECTOR WEGNER: Yeah, --

23 KEITH WALKOWSKI: Yeah.

24 DIRECTOR WEGNER: -- that's another update  
25 (inaudible). Prior to that, I received a map with a

1 potential buyer, he was going to buy the whole thing,  
2 and it kind of would have resolved it, I guess.

3 KEITH WALKOWSKI: That doesn't work, because  
4 the church isn't okay with them owning the cemetery.

5 DIRECTOR WEGNER: Yeah.

6 KEITH WALKOWSKI: So, being that the people  
7 bought a plot for forever, and then now they tried to  
8 lease it back to the church, and it didn't work out.  
9 So, so we got option -- I think like eight or  
10 something at that point.

11 CHAIRPERSON VOLL: All right.

12 KEITH WALKOWSKI: (Inaudible) you will be  
13 seeing something for the July meeting. So, --

14 CHAIRPERSON VOLL: Okay, great. Well,  
15 thanks for the update.

16 KEITH WALKOWSKI: Yep, no problem.

17 CHAIRPERSON VOLL: Appreciate it. Anybody  
18 else have any questions for Pete? How is the bars  
19 rezone coming along?

20 DIRECTOR WEGNER: That's fall is into a nest  
21 of probably three or four others where the direction  
22 is to amend the comprehensive plan and --

23 CHAIRPERSON VOLL: Right.

24 DIRECTOR WEGNER: -- future land use map.  
25 One of the issues is I, like I said, I have got three

1 others that are actually due at the same time, but  
2 they're at different levels in the process. And our  
3 ordinance only allows you to amend it once a year.

4 CHAIRPERSON VOLL: Really?

5 DIRECTOR WEGNER: Really, really.

6 CHAIRPERSON VOLL: Well, that sounds like a  
7 problem.

8 DIRECTOR WEGNER: Yeah, so -- and then, we  
9 have someone that Duane recommended as part of our --  
10 some of these TID projects and properties that are  
11 owned -- sorry, TID districts -- that really should be  
12 amended to be more of a mixed use. So, there is all  
13 this stuff I just need to -- probably should change  
14 ordinance first. (Inaudible) --

15 CHAIRPERSON VOLL: Right, because we don't  
16 want to -- we don't want these people to have to wait,  
17 you know, six, --

18 DIRECTOR WEGNER: Yeah.

19 CHAIRPERSON VOLL: -- eight months while we  
20 get our (inaudible) together of everything we want to  
21 change for the land use (inaudible).

22 DIRECTOR WEGNER: And I received different  
23 interpretations as far as whether it actually has to  
24 be changed, or whether it follows the spirit of the  
25 comprehensive plan. And based on some of the most

1 recent activity around this, just in the state of  
2 Wisconsin, I think the safest bet is to change the  
3 language and require --

4 CHAIRPERSON VOLL: Well, I think --

5 DIRECTOR WEGNER: -- (inaudible) --

6 CHAIRPERSON VOLL: -- I think that will all  
7 become clear too in August when we get some  
8 (inaudible) on that other issue that's going on.

9 DIRECTOR WEGNER: That's correct. That's  
10 pretty much what that case is about.

11 CHAIRPERSON VOLL: Yeah. Yep, exactly.

12 DIRECTOR WEGNER: So, I have been on pins  
13 and needles, and very anxious to get something going.

14 CHAIRPERSON VOLL: All right, so this issue,  
15 is this put these other folks in a time crunch for any  
16 projects that they wanted to complete?

17 DIRECTOR WEGNER: Definitely. I lost one  
18 already. They fortunately had another piece of  
19 property they could build on, but (inaudible).

20 CHAIRPERSON VOLL: Okay. All right, so make  
21 your recommendation to the -- I guess, the Board next  
22 week about sending that ordinance to the ABC for  
23 review on the --

24 DIRECTOR WEGNER: Okay.

25 CHAIRPERSON VOLL: -- annual plan use

1 (inaudible) update. Anything else for Pete? All  
2 right, we will move on. Thanks, Pete. All right,  
3 item number five, the old business. The possible  
4 action communication tower on Creek Road. So, I'm not  
5 sure which one of you guys are leading it off?

6 DIRECTOR WEGNER: Well, where it left last  
7 is they heard both sides of the argument, so to speak.  
8 Staff had a report that we acknowledged there were  
9 some issues with, because we were basically using the  
10 template from the previous cell tower application.  
11 Some changes were made to that. The (inaudible) --

12 CHAIRPERSON VOLL: Now, when you say  
13 previous, you're talking about this particular  
14 location's previous application? Not one from like a  
15 year ago, or two years ago?

16 DIRECTOR WEGNER: A cell tower that was  
17 approved on this property.

18 CHAIRPERSON VOLL: Okay.

19 DIRECTOR WEGNER: And we were asked to kind  
20 of compile, you know, Will went through the minutes  
21 and we were asked to compile Mr. Harris's comments and  
22 Mr. Bieniek's comments. And after talking with Dan  
23 more, it kind of changed, instead of staff saying --  
24 recommending approval, staff was going to recommend  
25 you followed criteria that are given in the ordinance



1 and make a decision based on that. That aside, we  
2 believe it meet all the requirements of the ordinance,  
3 but to answer those specific questions, -- it was just  
4 in front of me a second ago. As far as one through  
5 six of the establishment maintenance, the conditional  
6 use will not be dangerous to the use and enjoyment  
7 that the use and enjoyment that the establishing of  
8 the conditional use so that (inaudible) normal  
9 (inaudible) development. I don't think (inaudible)  
10 read each one of them now, but we believe that it  
11 meets those requirements, but it's up to the committee  
12 itself to make that final decision. And I think the  
13 best thing to do, because I know that Mr. Bieniek has  
14 got a rebuttal to some of the comments that were made  
15 at the last meeting, and so does Mr. Harris. Since it  
16 up to you whether you want to entertain that, let them  
17 speak, and then from there go on with deliberations  
18 and make a decision.

19 CHAIRPERSON VOLL: So, I thought I had heard  
20 somewhere that the wetland issue was still -- needed  
21 to be rectified? That the old tower location, that  
22 the -- that there was never an official no, you can't  
23 build it here from the state?

24 DIRECTOR WEGNER: Yeah, I think there was a  
25 letter sent out before I got ahold of this. It was

1 sent out, I think, in December stating that it -- you  
2 had to -- it would have to be relocated, hence the  
3 reason they came in with another permit showing that  
4 it's going to be 75-- greater than 75 feet from the  
5 wetland. Which is in our ordinance, Because it's a  
6 highly susceptible wetland, and that requires a 75-  
7 foot set back. So, the application you have in front  
8 of you today shows it in a new location outside of the  
9 wetlands, so that is no longer an issue.

10 COMMISSIONER SINKULA: Am I not seeing this  
11 new site plan? Is it (inaudible) drawn up where it's  
12 actually at?

13 VICE CHAIR LESNIAK: That's --

14 COMMISSIONER SINKULA: -- versus just the  
15 picture?

16 VICE CHAIR LESNIAK: I'm thinking that's in  
17 the packet from the meeting last --

18 COMMISSIONER SINKULA: The previous month?

19 VICE CHAIR LESNIAK: -- month? Yeah.

20 COMMISSIONER SINKULA: Okay.

21 DIRECTOR WEGNER: Yeah, some of that was in  
22 (inaudible), so I wasn't sure how much more I could --  
23 evidence I could be entering into this. But if you  
24 look at -- this is the location based on its  
25 coordinates. And then, there is another map here that

1 shows -- where is it? I thought I had one here that  
2 shows the old location. Well, actually right where my  
3 -- roughly right here is where it was previously, and  
4 now he's moving it out at this angle. I think it's  
5 like 270 feet.

6 JIM HARRIS: It's 275.

7 DIRECTOR WEGNER: 275 feet. And then, I  
8 also -- in this memo report, showed other cell towers,  
9 that I believe are kind of in a similar type setting.  
10 And I guess you can agree or disagree with that, but  
11 you can -- we see the blue or the red dots, A or B,  
12 and the residential setting that they're in. Just to  
13 kind of give you an idea of that. And I guess, since  
14 I got your attention, (inaudible) I can read over it,  
15 but this is the report I came up with, just to show,  
16 you know, Jim Harris's concerns. I don't know what  
17 you -- if you guys have read this. And I went over  
18 this with (inaudible) and I make citations that Marty  
19 mention again today. And then, I went through Mark --  
20 or Mike Bieniek's concerns. You know, there was  
21 comments that it was 300 feet, and he provided a map  
22 showing it was 575. I measured it myself based on the  
23 maps I was provided, and I came up with 578 feet. And  
24 it does meet the ordi-- the minimum ordinance  
25 requirement and state statutes. And these, again, are

1 just comments from Mike, and the ones above are the  
2 comments from Jim. I don't know how much in depth you  
3 want me to go? I guess, I'm assuming they're going to  
4 be hitting some of these comments that they --

5 CHAIRPERSON VOLL: Okay. So, yeah, I assume  
6 there is a reason you're here this evening to provide  
7 some direction on something?

8 VILLAGE ATTORNEY TURONIE: Well, plan  
9 ordinances.

10 CHAIRPERSON VOLL: Oh.

11 VILLAGE ATTORNEY TURONIE: No, this as well.  
12 I worked with Pete on this. Just to go over the  
13 statute briefly, what are we doing? Within 90 days of  
14 receipt of a completed application, which it's  
15 complete if it contains enough information. So, there  
16 is for things you need to do. One is reviewing the  
17 application to see if it complies with all applicable  
18 aspects of the building code and zoning ordinances,  
19 subject to limitations in the statute. He had just  
20 said it complies with all aspects of the statutes and  
21 the ordinances. Number two, make a final decision,  
22 approval or disapprove. Number three, notify the  
23 applicant in writing. And number four, if you  
24 disapprove, you would have to have written  
25 notification with quoting substantial evidence as the

1 reasons you're disapproving.

2           Some more information -- I think I have read  
3 this definition last time at the end, but what is  
4 substantial evidence? It is facts and information  
5 other than merely personal preferences or speculation  
6 directly pertaining to the requirements and conditions  
7 an applicant must meet to obtain a conditional use  
8 permit -- which this is -- and that reasonable persons  
9 would accept in support of the conclusion. So, you're  
10 supposed to have substantial evidence either way,  
11 okay? But it's not personal preference it's not  
12 speculation, it's got to be facts and evidence.

13           So, those are your legal standards. I think  
14 the biggest question of that is just does it work with  
15 all aspects of the zoning ordinances? Okay. There is  
16 a lot of things in the statute form that you cannot  
17 regulate, that are barred. We will be mentioning a  
18 couple of those briefly, and this is all the local  
19 authority that was taken away at -- when the statute  
20 was passed. You can't monitor, sample, or test things  
21 like the radio frequency emissions, and so that's not  
22 part of our approval. You can't have a moratorium, so  
23 we can't ignore this and hope it goes away. You can't  
24 disapprove based solely on aesthetic concerns, Okay?  
25 So, there has got to be something besides aesthetic

1 that's involved. Nothing about you signal strength or  
2 adequacy of mobile service is involved in our  
3 approval. We can't consider the suitability of other  
4 locations. Wouldn't they be better somewhere else?  
5 That's not what we can do. We can't have any sort of  
6 setback that's, you know, greater than the height of  
7 the tower. The tower is 199 feet, it's already  
8 further than that from the road, so there is not a  
9 greater setback in play.

10           So, with the -- within those limitations,  
11 you know, what's left? We did -- these are generally  
12 considered commercial type structures, these towers.  
13 We did find in the ordinances there is -- which one  
14 was that? Section 520-77, I reference that, that's  
15 design requirements for commercial type structures.  
16 And it does have a screening provision in there. So,  
17 there is supposed to be so there is supposed to be the  
18 ordinance some element of screening so I think that  
19 would be definitely available as a possible  
20 conditional approval in this conditional use permit  
21 obviously you're not going to screen that 200 foot  
22 tower but there are various things on the ground  
23 there's a small building and other equipment usually  
24 and screening for that would be you know allowed the  
25 ordinance and I think it's probably normal if you look

1 around at different cell towers. If after that 90  
2 days until action is taken, the application is  
3 automatically approved by the way.

4 CHAIRPERSON VOLL: All right, thanks. So,  
5 the one concern I see is first of all the applications  
6 on the packet so I didn't I didn't see it last time  
7 there wasn't at this last meeting and then there's no  
8 recommended action so there's no there's no sheet that  
9 says okay here's you can do this you your you could do  
10 that I think a lot of a lot of the members kind of  
11 rely on that information to kind of help guide them in  
12 the direction they want to move in I know it's not  
13 just here I mean it's all the meetings are like that  
14 now so when you get back to some kind of a process and  
15 allows that header page to give somebody an idea what  
16 they what they are expected to do.

17 DIRECTOR WEGNER: Yeah, that's how it was  
18 done in the past and there was questioned whether  
19 that's the right thing to do I guess.

20 CHAIRPERSON VOLL: Well, not right here  
21 right now be comfortable in making a motion when  
22 there's nothing that help guide them how to kind of  
23 phrase it.

24 DIRECTOR WEGNER: Yeah

25 CHAIRPERSON VOLL: That's all I'm saying.

1           DIRECTOR WEGNER: Well, that's a big thing  
2 though. I guess that what I would say is, you know,  
3 if you're going to grant it, what they have done in  
4 the past is they have -- they have required a  
5 (inaudible) -- like a \$20,000 bond, if it's removed,  
6 to cover their removal cost. And also, staff would  
7 recommend that you would require some type of  
8 screening to lessen the effects of that part of the  
9 structure that's towards the bottom, or on the ground.  
10 The fencing, the building, that kind of thing.

11           CHAIRPERSON VOLL: So, did you guys talk  
12 about that at the last meeting? Screening or  
13 anything?

14           DIRECTOR WEGNER: No, it wasn't brought up  
15 at the last meeting.

16           CHAIRPERSON VOLL: \$20,000 deposit? I know  
17 we have talked about that before.

18           VICE CHAIR LESNIAK: I can address all of  
19 those (inaudible).

20           DIRECTOR WEGNER: So, just to finish, that  
21 \$20,000 asurity, that's the limitation in the  
22 statutes, you can go over that amount. That bond is  
23 what's called decommissioning.

24           CHAIRPERSON VOLL: Right.

25           DIRECTOR WEGNER: So, 20, 30 years from now,



1 who brings the tower down if there is no one to bring  
2 it down? We want to have access to that money to help  
3 pay for bringing it down if that is -- if that's  
4 necessary. So, that's a good condition to have.

5 CHAIRPERSON VOLL: Well, I know we discussed  
6 that before.

7 DIRECTOR WEGNER: The 20,000?

8 CHAIRPERSON VOLL: Uh-huh.

9 DIRECTOR WEGNER: Yeah, that was in the  
10 previous -- I believe it was the -- they call it the  
11 16 (inaudible).

12 VILLAGE ATTORNEY TURONIE: And it was also  
13 in the --

14 (Overlapping voices.)

15 CHAIRPERSON VOLL: It was in this one too.

16 VILLAGE ATTORNEY TURONIE: -- one last year,  
17 I believe.

18 DIRECTOR WEGNER: Yes, that's correct.

19 VILLAGE ATTORNEY TURONIE: (Inaudible).

20 DIRECTOR WEGNER: I mean, I could be more  
21 explicit in what I'm telling you here tonight, if --  
22 just respectfully, I don't want to make anyone's  
23 decision for them.

24 CHAIRPERSON VOLL: Right.

25 VICE CHAIR LESNIAK: It sound like one of

1 the things that was (inaudible) at the beginning of  
2 the -- at the beginning of the discuss was going back  
3 to those six findings of fact, and just -- either  
4 confirming what's there is correct, or making any  
5 changes needed. (Inaudible).

6 CHAIRPERSON VOLL: Well, I'm looking at the  
7 last packet to find it, and I can't even find it in  
8 the last packet.

9 VICE CHAIR LESNIAK: It's on page 10 of the  
10 May 15th packet.

11 CHAIRPERSON VOLL: I'm already past May 10th  
12 -- or sorry, page 10. You want me to read to you the  
13 findings of fact?

14 VICE CHAIR LESNIAK: I think that's probably  
15 --

16 DIRECTOR WEGNER: I already -- I already did  
17 that.

18 CHAIRPERSON VOLL: Well then, --

19 DIRECTOR WEGNER: I mean, --

20 CHAIRPERSON VOLL: -- if it's not the same  
21 one that's in -- from the meeting that everybody just  
22 keeps referencing, then you need to have supplied it  
23 tonight if it's not the same thing. Because everybody  
24 just said it was the same information from a month  
25 ago, now it's not.

1           DIRECTOR WEGNER: The findings of fact are  
2 the same, but I reworded them, so we took off this --  
3 these -- this theme of staff telling you what to do  
4 versus telling you what we found and you make a  
5 decision. That's the difference.

6           CHAIRPERSON VOLL: Okay. Anybody seen that?  
7 Anybody on this board seen those?

8           COMMISSIONER SINKULA: No.

9           COMMISSIONER STANGE: Uh-uh.

10          CHAIRPERSON VOLL: So, how would we have  
11 known that?

12          COMMISSIONER SINKULA: Do we need that? I  
13 mean, I think that the information from our meeting  
14 last time, I don't know that that's changed under the  
15 -- other than somewhere the philosophy of you giving  
16 us a recommendation has changed. But the finding of  
17 fact --

18          DIRECTOR WEGNER: That's the only  
19 difference. And then there was a -- you know, the  
20 caution was staff providing more information that  
21 would have been true than -- or could have been -- at  
22 the public hearing. But this is not a continuation of  
23 the public hearing, so it's like -- yeah, that was the  
24 caution, that was the hesitation of putting that in  
25 there. I was just going to read you it, and if it

1 came up -- but you said, the information is the same,  
2 but I'm not saying, yes. I'm just saying, this is the  
3 language, and those comments and the finding of facts  
4 are the same. It's just that you're not seeing  
5 reference to the staff saying we should do this, or  
6 you should do that. That's the direction I was given.  
7 And that's kind of what I'm used to, (inaudible) the  
8 last 23 years, staff has said does it meet the  
9 conditions, and if it comes out of the criteria the  
10 board, or the committee would go through each one of  
11 them one by one, and have a discussion, and make a  
12 decision whether they felt that it met that criteria.  
13 So, there was less walking you through it so to speak.  
14 Which I understand your concern now, it's nice to  
15 know.

16 CHAIRPERSON VOLL: Because that's -- you  
17 know, we are -- you know, we -- we will make the  
18 ultimate decision, but it would be nice to hear  
19 staff's recommendation as well, or points of view on  
20 some stuff. I'm not saying that you're telling us  
21 what to do, but having some input from staff is what  
22 some people may expect.

23 DIRECTOR WEGNER: Well, I can go through  
24 them?

25 CHAIRPERSON VOLL: Well, what do you guys

1 want to do? I mean, --

2 COMMISSIONER GRUNDMAN: Stay.

3 DIRECTOR WEGNER: Or we can do -- it's --

4 CHAIRPERSON VOLL: You wanted to read  
5 through those, or are you guys all right from what  
6 happened last meeting? I --

7 COMMISSIONER STANGE: How many days are we  
8 at?

9 DIRECTOR WEGNER: (Inaudible).

10 COMMISSIONER STANGE: Are we --

11 CHAIRPERSON VOLL: Probably 60 maybe?

12 DIRECTOR WEGNER: It was a couple -- yeah.

13 VICE CHAIR LESNIAK: It will be the next --  
14 if we were to wait until the next meeting, the  
15 (inaudible) -- the official next meeting, it would be  
16 squeezing it really close to the 90 days.

17 DIRECTOR WEGNER: Maybe I should just read  
18 the findings as they were changed. I feel like  
19 (inaudible) much --

20 CHAIRPERSON VOLL: Sure, go ahead.

21 DIRECTOR WEGNER: -- (inaudible). The --  
22 number one, the establishment -- first of all, I  
23 should say that no conditional use shall be approved  
24 by the Village Planning Commission unless such  
25 commission shall find, number one, that the

1 established (inaudible) or operation of the  
2 conditional use will not be detrimental to or endanger  
3 the public health, safety, morals, comfort or general  
4 welfare. Staff's comment is the establishment of the  
5 conditional use and subsequent construction of a new  
6 tower will conform to all officially adopted village  
7 codes, and will not be detrimental to or endanger the  
8 public health, safety, morals, comfort, or general  
9 welfare. Number two, that the conditional use will  
10 not be dangerous to the use and enjoyment of other  
11 property in the immediate vicinity for the purposes of  
12 --

13 JIM HARRIS: Excuse me, but are you going to  
14 read our rebuttal, or are you just going to read the  
15 staff comments about each of these? We spent an hour  
16 last time at the public meeting talking about each of  
17 these one by one. Are you not going -- you didn't  
18 include it in the packet this week for some reason,  
19 what are you going to do with them tonight?

20 DIRECTOR WEGNER: You're asking me? I was  
21 advised to just -- to read through the staff's  
22 comments on the findings.

23 CHAIRPERSON VOLL: Go ahead, Pete.

24 DIRECTOR WEGNER: The conditional use permit  
25 will not be dangerous to the use and enjoyment of

1 other property in the immediate vicinity for the  
2 purposes already permitted, nor substantially  
3 diminishing the (inaudible) property values within a  
4 neighborhood because the site in which the use will be  
5 conducted is a 40 -- large 40-acre parcel land, that  
6 the establishment of the conditional use permit will  
7 not impede, nor will (inaudible) development in  
8 improvement of the surrounding property for uses  
9 permitted in the district. Meeting the requirements  
10 in Chapter 520-26C2A of the zone ordinance, the  
11 granting of the conditional use permit will not impede  
12 the normal orderly development and improvement for the  
13 surrounding property for uses permitted in its  
14 district.

15 Just as a side note, every zone district in  
16 residential allows cell tower, with the conditional  
17 use permit. The (inaudible) axis roads, drainage,  
18 and/or necessary facilities have been or are being  
19 provided. The operation will utilize the existing  
20 infrastructure, thus adequate utilities, access roads,  
21 drainage, and other necessary facilities have been  
22 provided. The adequate measures have been, or will be  
23 taken to provide ingress and egress. Again, that's  
24 not an issue, because there is very little traffic and  
25 there is an existing road that they will be using

1 there. The conditional use shall in all their  
2 respects conform to the (inaudible) regulations of the  
3 district in which it is located, except as such  
4 regulation may in each instance be modified by the  
5 Village Board, pursuant to the recommendations of the  
6 Village Planning Commission. And again, the proposed  
7 use conforms to the typical regulations of the  
8 agricultural and residential zoning district in which  
9 it is located. So, basically the difference is I'm  
10 not saying -- answering yes, and I'm not directing  
11 anything. It's trying to be unbiased.

12 CHAIRPERSON VOLL: Okay.

13 DIRECTOR WEGNER: Mr. Harris is correct that  
14 these were discussed at great length, and it sounds  
15 like they might be discussed again, but that's the  
16 kind of information you need to hear and make a  
17 decision. And whether it changes your opinion or not,  
18 we will have to see (inaudible) when that come -- time  
19 comes.

20 CHAIRPERSON VOLL: So, what happened with  
21 the big discussion about these last meeting? There  
22 was no --

23 DIRECTOR WEGNER: Mr. Harris supplied a  
24 document where he felt that it didn't meet three of  
25 these conditions, and I can -- I can read that.



1 CHAIRPERSON VOLL: I mean, what was the  
2 outcome? I mean, do you guys -- you most have had a  
3 discussion about all of it.

4 DIRECTOR WEGNER: Not really, the comments -  
5 -

6 VICE CHAIR LESNIAK: He basically gave a --

7 DIRECTOR WEGNER: -- the comments went so  
8 long, and then it got continued.

9 VICE CHAIR LESNIAK: Yep, yeah.

10 CHAIRPERSON VOLL: Okay.

11 VICE CHAIR LESNIAK: Basically, the idea was  
12 to kind of get -- get a little -- get -- (inaudible)  
13 give staff a chance to kind of figure out what all  
14 that information was, --

15 CHAIRPERSON VOLL: Okay.

16 VICE CHAIR LESNIAK: -- and refer to --  
17 postpone action until this meeting.

18 CHAIRPERSON VOLL: And so, what did staff  
19 come up with all of the information that was provided?

20 DIRECTOR WEGNER: What I came up with was  
21 short and sweet. Jim Harris's comments, you know, he  
22 feels that the use will be a detriment to the comfort  
23 and general welfare, the tower will destroy scenic  
24 views and diminish the close connection residents and  
25 gardeners have with the land. He wants to consider

1 the rustic character of the property (inaudible)  
2 nurtures. Regarding the emissions, he feels that it  
3 can't exceed FCC standards, and those standards are  
4 based on acute exposure only, and I guess he has some  
5 concerns regarding the age of those studies. Presence  
6 of communication tower so close to nearby residential  
7 housing will significant reduce the value of the  
8 property and severely destruct the lives of the  
9 closest residents, the cell tower already caused a  
10 potential buyer to back out. For 30 years, we have  
11 invested in our property to entice future buyers,  
12 should we subdivide in the future, the place we will  
13 retire will negate the (inaudible) development. There  
14 he has statements regarding the threat to his mental  
15 health or wellness. The cell tower will be plopped  
16 next to residential home 300 feet from the porch,  
17 obscene tower in a rural, rustic area.

18           And then, again, there was some academic  
19 citations and she -- Marty read some of those.  
20 Homeowner, real estate agent statements, Realtor  
21 Magazine, 94% of the people would buy -- would not buy  
22 near a cell tower. The journal of real estate  
23 research, in some areas with new towers the property  
24 value will have decreased up to 20%. HUD Guide To  
25 Appraisers, appraisers must take presence of nearby

1 cell towers into consideration when determining value.  
2 National Institute of Science, Law, and Public Policy,  
3 79% of the public participants said no circumstances  
4 would be -- under no circumstances would they purchase  
5 or rent a home near a cell phone tower. And then, on  
6 the 10 different agent and homeowner quotes, -- and  
7 that was in that handout that Marty gave you.

8           And Mike Bieniek's comments -- and this is  
9 just again from the reading -- Hose Tower is 575 feet  
10 from the nearest point of residence, it meets all  
11 build and homeowner ordinances and state statutes, but  
12 these Realtors will give you the answer you want.  
13 Appearance, health and safety, and property values are  
14 all items the federal government through the Telecom  
15 Act of 1996 says they're not appropriate items to  
16 consider, the FCC provides areas where a sub tower can  
17 be placed. Visual concerns cannot be used to make  
18 decision. Many people prefer to live next to a tower,  
19 it increases their property value, it allows them to  
20 work from home. Alternatives were considered, they  
21 looked at two search areas. One search area was --  
22 there was no interest by the people in the area and  
23 the other half was a wet last. The second area, they  
24 had three interested parties which brought us here  
25 today, and the Telecom Act says you cannot

1 discriminate. And that's just trying to compress all  
2 their comments. And I know I got rebuttals from both  
3 of them, one was just today, and the other one I got,  
4 I think on the 12th. And I didn't know if that was  
5 appropriate for me to be sending it as part of the  
6 packet, again not knowing what I can -- you know, that  
7 staff can enter as evidence at this point. But I was  
8 pretty sure that they would be speaking on behalf of  
9 themselves.

10 CHAIRPERSON VOLL: All right, thanks. Did  
11 we have any other questions, comments? Go ahead, Lee.

12 VILLAGE ATTORNEY TURONIE: Just real  
13 briefly, the application satisfies all requirements in  
14 the statutes and ordinances. I see two avenues for  
15 conditions, which are the maximum \$20,000 bond, which  
16 (inaudible) \$20,000, and the screening which is part  
17 of the commercial zoning district. It's actually part  
18 of a lot of the different zoning districts, but there  
19 is room for conditions on each of those two items, and  
20 I would recommend both for sure.

21 CHAIRPERSON VOLL: Okay.

22 VILLAGE ATTORNEY TURONIE: That's about it.

23 CHAIRPERSON VOLL: And Mike, you were going  
24 to make a comment on the screening?

25 MIKE BIENIEK: Yeah.

1                   CHAIRPERSON VOLL: Can you use the  
2 microphone, please?

3                   MIKE BIENIEK: Absolutely. Good evening, my  
4 name is Mike Bieniek, I'm with a company called LCC  
5 Telecom Services. We repre-- we are located at 10700  
6 West Higgins Road, Suite 240, Rosemont, Illinois. We  
7 represent Vertical Bridge. And what I was going to  
8 suggest is for screening, the best possible that I  
9 could come up with -- obviously we put up a chain link  
10 fence, that's not going to screen anything. If we put  
11 up a wood fence, they tend to whether a little bit  
12 over time. So, we did -- we had a site up in the town  
13 of Scott, which is northeast of Green Bay, and one of  
14 the things were looking for was like a PVC type fence  
15 and I proposed something like that. I don't know what  
16 the height requirement is, but we would meet that. Or  
17 if need --

18                   CHAIRPERSON VOLL: Okay.

19                   MIKE BIENIEK: -- be, we could even go a  
20 little higher. Typically, what happens is your  
21 equipment -- the ground equipment nowadays is like a -  
22 - it's called outdoor equipment. It basically looks  
23 like a gym locker, they're usually like three by three  
24 by six. So, if -- you know, whatever the ordinance  
25 says we have to do, we will be happy to do that, but

1 if you want it eight foot call to help even more, we  
2 would be willing to do that. I think that's your best  
3 option for screening. We could put in trees, but  
4 unfortunately what tends to happen is they brown out,  
5 and so you're better off having a nice fence that  
6 would screen it. So, that's something I'm offering up  
7 as kind of a help here.

8 CHAIRPERSON VOLL: Okay. Any other  
9 questions anyone?

10 COMMISSIONER SINKULA: As I look at the six  
11 criteria, number two is one that I just consider from  
12 a legal standpoint here where it talks about  
13 substantially diminishing or impair property values  
14 within the neighborhood.

15 CHAIRPERSON VOLL: Well, it's a good thing  
16 we have the attorney, because he can address that for  
17 you.

18 COMMISSIONER SINKULA: So, that's my  
19 request. Yes.

20 VILLAGE ATTORNEY TURONIE: The second one?  
21 I mean, everything you do has an impact, has an  
22 effect. Everything. Everything you don't do has an  
23 effect, right? So how specifically can we quantify  
24 that effect for our purposes today? I mean, I think  
25 that Mr. Harris collated information, there it is.

1 It's probably had an effect before. I mean, will it  
2 have an effect right here? You know, I'm not sure,  
3 probably no one can tell you that for certain. Will  
4 it have so much of an effect that you could deny this  
5 power and what it provides? You know, that's kind of  
6 the global question there. I was at that meeting  
7 before, if you recall, and you know none of the  
8 reasons cited in opposition are strange to hear,  
9 right? They're logical. But are they preferences,  
10 and in some respects speculation, or evidence? Okay,  
11 for example, there is an affidavit provided as part of  
12 the application of this is where we determined to put  
13 the tower. So, has there been anything about signal  
14 strengths, or any sort of evidence that can test that  
15 engineer's affidavit? No, not at all. Okay? So  
16 that's separating the evidence from, you know,  
17 preferences and speculation. The -- it wasn't a  
18 poorly written application. Clearly these developers  
19 are very experienced, and you know, their application  
20 reflected that, and that's why I don't have a lot to  
21 say here.

22 CHAIRPERSON VOLL: Does that help at all?

23 COMMISSIONER STANGE: No. And I -- I don't  
24 know if this needs to be said, but I will feel better  
25 saying it. Kind of explaining this. So, I'm going to

1 explain thing to kind of go onto the other. I have  
2 over 20 years of experience in fire, EMS, emergency  
3 services. And years ago, -- I don't know if any of  
4 you would remember the whole Marathon County radio  
5 switch over thing. That was a post 9-11 emergency  
6 communications like initiative for better  
7 communications, obviously. Because we did have  
8 firefighters dying, not just in New York, but all over  
9 the -- all over the place. Explain that -- explain  
10 this, 80% of 911 calls come in through cell callers.

11 In the emergency services, there is a  
12 continued (phonetic) -- continuity of operations  
13 plan. And I guarantee you that the Village of  
14 Kronenwetter has one here, and that continuity is --  
15 well, now if their radios go down, they have phones to  
16 back up. If say, the county loses power, and somebody  
17 on a near road in the Village of Kronenwetter to this  
18 not cell tower, they don't have good service. So,  
19 calls will get forwarded down to Portage County, and  
20 the Sherriff's Department could actually give you  
21 numbers on calls that do get transferred down there  
22 from the south part of our county. Once those calls  
23 are forwarded to another 911 center, their database  
24 cannot track that caller anymore, because it's a  
25 transferred call they don't have that first -- however



1 the data works. I -- that's my two cents, I would --  
2 I think you guys all know where I'm getting at.  
3 Safety, it's not just our first responders, but it's  
4 also our families, and that's why I wanted to say  
5 something. Thank you, that's all I got.

6 CHAIRPERSON VOLL: Thank you. Any other  
7 comments?

8 COMMISSIONER SHAW: Chris, the last person's  
9 comments were in regards to safety because of not  
10 being able to call 911, is that correct?

11 COMMISSIONER STANGE: As it stands now with  
12 no cell tower there, it is a safety -- kind of a  
13 safety thing for our own residents, and our owns first  
14 responders.

15 COMMISSIONER SHAW: Okay. I mean, there is  
16 an option of a land line, right? If it's -- if they  
17 don't have cell phones. And as long as you bring up  
18 safety, there is quite a bit of compelling evidence  
19 against 5G especially, but EMFs in general that create  
20 a whole host of health problems if you're anywhere  
21 close to that tower, living. So, if you want to talk  
22 about safety, I guess that should be brought into the  
23 picture.

24 COMMISSIONER STANGE: Sure, I haven't -- I  
25 haven't seen any evidence of that in our packets or

1 anything like that --

2 COMMISSIONER SHAW: Oh, there is lots of it.

3 COMMISSIONER STANGE: -- (inaudible).

4 COMMISSIONER SHAW: Just look for it. Joel  
5 McCullough Has a book called EMF-- EMF'd -- E-M-F,  
6 apostrophe, D. It's all very well referenced. You  
7 could look at that and that will give you a -- I sent  
8 out an article to the Board, which was from his as  
9 well, just to give them some perspective on that side  
10 of the equation.

11 COMMISSIONER STANGE: Okay, thank you.

12 CHAIRPERSON VOLL: Anything else? What do  
13 you guys want to do?

14 COMMISSIONER SINKULA: Is this getting  
15 approved by us and going to the Board, or right to the  
16 Board?

17 CHAIRPERSON VOLL: Yep. We would approve it  
18 or disapprove it, and then it would go to the board.

19 COMMISSIONER SINKULA: Okay.

20 CHAIRPERSON VOLL: So, even if we  
21 disapproved it, it would still go to the Board.

22 DIRECTOR WEGNER: I don't think it goes to  
23 the Board. Based on our ordinance, it doesn't go to  
24 the Board.

25 COMMISSIONER SINKULA: Okay.

1 CHAIRPERSON VOLL: Oh, that's right.  
2 Conditional use permits don't, CSM would. Right, is  
3 that what you --

4 DIRECTOR WEGNER: Well, --

5 CHAIRPERSON VOLL: -- believe too?

6 DIRECTOR WEGNER: -- it goes to the Board if  
7 there was an appeal. Your Village Board is actually  
8 your --

9 CHAIRPERSON VOLL: But conditional use  
10 permits don't go to the Board, a CSM would go to the  
11 Board?

12 DIRECTOR WEGNER: A rezone CSM would, but  
13 not just a CSM.

14 CHAIRPERSON VOLL: Does that sound right,  
15 Dan?

16 VICE CHAIR LESNIAK: He's right.

17 CHAIRPERSON VOLL: So, I thought just  
18 conditional use permits didn't need to go, --

19 DIRECTOR WEGNER: Sure.

20 CHAIRPERSON VOLL: -- but CSMs did?

21 VICE CHAIR LESNIAK: General CSMs, if they  
22 don't involve a zoning change, they don't go  
23 (inaudible).

24 DIRECTOR WEGNER: You probably haven't seen  
25 --

1 CHAIRPERSON VOLL: Oh.

2 DIRECTOR WEGNER: -- a CSM without a rezone  
3 in the last (inaudible).

4 CHAIRPERSON VOLL: All right, so that  
5 answers the question, it wouldn't go to the Board  
6 then.

7 COMMISSIONER SINKULA: Okay.

8 CHAIRPERSON VOLL: Were you going to say  
9 something, Tim?

10 COMMISSIONER SHAW: Oh, no.

11 CHAIRPERSON VOLL: Okay.

12 COMMISSIONER SHAW: Sorry.

13 CHAIRPERSON VOLL: That's okay.

14 COMMISSIONER SINKULA: So, then, -- so we  
15 are looking at a recommendation and we are going to  
16 recommend that there is additional screening around  
17 the fence or some type of a fence screening and a  
18 \$20,000 bond for removal of the tower?

19 DIRECTOR WEGNER: Correct.

20 CHAIRPERSON VOLL: Yep. Do you have a  
21 question, Will?

22 MR. GAU: Uh-huh. When you say additional  
23 screening, do you want to explain that in more  
24 details, what type of additional screening you want to  
25 put, or?

1 COMMISSIONER SINKULA: We will put that in  
2 motion if we make that motion.

3 VICE CHAIR LESNIAK: Yeah.

4 MR. GAU: Okay.

5 COMMISSIONER SINKULA: Which is what I'm  
6 trying to figure out.

7 MR. GAU: Oh, sorry. I thought you were --

8 COMMISSIONER SINKULA: (Inaudible).

9 MR. GAU: -- make -- yeah.

10 COMMISSIONER SINKULA: Yeah.

11 CHAIRPERSON VOLL: So, do we have a -- is  
12 there a height requirement for a fence --

13 DIRECTOR WEGNER: I would have to --

14 CHAIRPERSON VOLL: -- for commercial?

15 DIRECTOR WEGNER: -- honest to God, I don't  
16 know, I would have to research that. I know  
17 (inaudible) for commercial versus residence, so there  
18 is two different --

19 COMMISSIONER SINKULA: I guess, my question  
20 would be what's the highest point of any of those  
21 buildings besides the tower?

22 MIKE BIENIEK: Again, let me -- let me look  
23 at the plans to maybe sure I see what -- whether it's  
24 completely on the ground, or elevated platform. No,  
25 they're going to be on the ground, the typical is six

1 foot in height.

2 COMMISSIONER SINKULA: Okay.

3 CHAIRPERSON VOLL: So, I would go ahead  
4 (inaudible).

5 DIRECTOR WEGNER: I mean, you could  
6 condition the maximum allowed per the ordinance, I  
7 guess. Just so we -- the darn thing (inaudible) up  
8 here.

9 VILLAGE ATTORNEY TURONIE: So, just  
10 (inaudible) --

11 CHAIRPERSON VOLL: I guess I would  
12 (inaudible) --

13 VILLAGE ATTORNEY TURONIE: -- it might be  
14 two feet in excess of the highest ground support  
15 structure.

16 CHAIRPERSON VOLL: Okay, that too. That  
17 would be a good --

18 VILLAGE ATTORNEY TURONIE: Because that  
19 would be remained as a condition then over time as  
20 well, if --

21 CHAIRPERSON VOLL: It just became --

22 VILLAGE ATTORNEY TURONIE: -- from the  
23 changes.

24 CHAIRPERSON VOLL: -- that height.

25 VILLAGE ATTORNEY TURONIE: Right.

1 CHAIRPERSON VOLL: Right.

2 COMMISSIONER SINKULA: Do we want to be  
3 specific on the type of material?

4 VICE CHAIR LESNIAK: A non-transparent  
5 material, because you -- a chain link fence would be  
6 excluded from that.

7 COMMISSIONER SINKULA: Yeah. I'm not --  
8 yeah, (inaudible) vinal fencing, wood --

9 VICE CHAIR LESNIAK: Uh-huh.

10 COMMISSIONER SINKULA: -- fencing.

11 CHAIRPERSON VOLL: Yeah, something like  
12 that, I guess.

13 VILLAGE ATTORNEY TURONIE: You want to say  
14 thinking like maintained in good appearance. And  
15 whether they want to paint one every year, or get  
16 something better than that, that's up to them.

17 COMMISSIONER SINKULA: All right, we will  
18 try this on here, I will make a recommendation that we  
19 approve the conditional use, it the conditions that we  
20 install a screening fencing of either vinyl or wood to  
21 be maintained in a proper condition, and also \$20,000  
22 bond for removal of the (inaudible) tower when not in  
23 use.

24 VICE CHAIR LESNIAK: And (inaudible) finding  
25 of fact.

1 COMMISSIONER SINKULA: And with (inaudible)  
2 findings and facts of staff.

3 CHAIRPERSON VOLL: All right comfortable  
4 withing Bruce made a motion, is there a second?

5 COMMISSIONER GRUNDMAN: I'll second it.

6 CHAIRPERSON VOLL: All right, Rick made a  
7 second. Will, you want to read back the motion  
8 please?

9 MR. GAU: I do not have that all written  
10 down correctly, so do you have it written down?

11 DIRECTOR WEGNER: You don't?

12 MR. GAU: No.

13 DIRECTOR WEGNER: I have it -- I had --

14 MR. GAU: (Inaudible).

15 CHAIRPERSON VOLL: Well, I guess you could  
16 consult the tape afterwards.

17 MR. GAU: That's what I was planning on  
18 doing. That's --

19 CHAIRPERSON VOLL: Okay.

20 MR. GAU: That's why I can never get them  
21 all when you say them. But I -- do you want me to  
22 (inaudible) generalize what the --

23 CHAIRPERSON VOLL: Sure.

24 MR. GAU: So, there is a recommendation to  
25 approve the motion, the conditional use under the



1 condition that there is a proper screening, whether  
2 it's wood or vinyl, and that there is a \$20,000 bond  
3 in place in case -- in case the tower is no longer in  
4 use that it is taken down with that \$20,000.

5 COMMISSIONER SINKULA: And can I amend that?  
6 That that fencing would be two feet higher than the  
7 lowest building height.

8 MR. GAU: Two feet (inaudible).

9 COMMISSIONER SINKULA: And (inaudible)  
10 really tight, I'm sorry.

11 MR. GAU: So, was it two feet taller than  
12 the --

13 COMMISSIONER SINKULA: Two feet above any  
14 building height.

15 MR. GAU: Any building height, which we are  
16 told that is six feet tall, so we are looking at an  
17 eight-foot tall fence?

18 DIRECTOR WEGNER: Well, that's a -- as zoned  
19 (inaudible) as of today.

20 MR. GAU: Estimate? Well, okay.

21 VICE CHAIR LESNIAK: Yeah, so it's two feet  
22 higher.

23 MR. GAU: Two feet higher? Okay, --

24 DIRECTOR WEGNER: And it's --

25 MR. GAU: -- so I will stick to that.

1 DIRECTOR WEGNER: -- not to exceed 10 feet,  
2 because that's the max.

3 CHAIRPERSON VOLL: Okay.

4 DIRECTOR WEGNER: For the (inaudible).

5 COMMISSIONER SINKULA: And then, if I may,  
6 on the materials --

7 MR. GAU: (Inaudible).

8 COMMISSIONER SINKULA: -- you want to say  
9 what vinyl or other opaque material.

10 MR. GAU: What? What was that last word?

11 MULTIPLE VOICES: Opaque.

12 CHAIRPERSON VOLL: You know, not see  
13 through.

14 COMMISSIONER SINKULA: In case --

15 MR. GAU: Okay?

16 MULTIPLE VOICES: Opaque.

17 COMMISSIONER SINKULA: O-P-A-Q-U-I-- Q-U-E.  
18 Who says I was (inaudible).

19 COMMISSIONER GRUNDMAN: I second both --  
20 both of those amendments.

21 CHAIRPERSON VOLL: All right. Any other  
22 discussion?

23 VILLAGE ATTORNEY TURONIE: And to clarify,  
24 we are approving, not recommending approval in this  
25 case, correct?

1 DIRECTOR WEGNER: Actually, that would be  
2 approved, because we are not going to go to the Board.

3 CHAIRPERSON VOLL: All right, so --

4 DIRECTOR WEGNER: Yeah.

5 CHAIRPERSON VOLL: -- so you would want to  
6 strike recommend from your original motion?

7 COMMISSIONER SINKULA: Right.

8 CHAIRPERSON VOLL: Do you have that marked  
9 out --

10 COMMISSIONER SINKULA: Yeah.

11 CHAIRPERSON VOLL: -- so you can strike  
12 recommend? Are you guys all happy with all of these  
13 amendments to the motions?

14 COMMISSIONER STANGE: Yeah.

15 CHAIRPERSON VOLL: I'm asking you guys.

16 COMMISSIONER STANGE: Yep.

17 COMMISSIONER GRUNDMAN: I'm fine.

18 COMMISSIONER SINKULA: Yep.

19 CHAIRPERSON VOLL: Okay.

20 COMMISSIONER GRUNDMAN: I'm just thinking it  
21 would be nice if we had a well written motion from our  
22 staff, (inaudible) how much easier this would be.

23 CHAIRPERSON VOLL: Right.

24 COMMISSIONER GRUNDMAN: Whoever that --  
25 whoever needs to hear that.

1 DIRECTOR WEGNER: Yeah, I --

2 COMMISSIONER GRUNDMAN: I -- yeah, whoever  
3 needs to hear that. So, --

4 CHAIRPERSON VOLL: All right, any other  
5 discussions? Hearing none, go ahead and call the role  
6 please, Will?

7 MR. GAU: Chris Voll?

8 CHAIRPERSON VOLL: Yes.

9 MR. GAU: Bruce Sinkula?

10 COMMISSIONER SINKULA: Yes.

11 MR. GAU: Rick Grundman?

12 COMMISSIONER GRUNDMAN: Yes.

13 MR. GAU: Tony Stange?

14 COMMISSIONER STANGE: Yes.

15 MR. GAU: Dan Lesniak?

16 VICE CHAIR LESNIAK: Yes.

17 MR. GAU: Tim Shaw?

18 COMMISSIONER SHAW: No.

19 MR. GAU: Motion passes five to one.

20 CHAIRPERSON VOLL: Yep, all right.

21 DIRECTOR WEGNER: I think --

22 CHAIRPERSON VOLL: Thanks everyone. All  
23 right, we are going to move on to item number 5E,  
24 possible action of article number seven, floodplain  
25 over lay zoning districts Chapter 520.

1                   DIRECTOR WEGNER: Okay, this has been with  
2 the committees on different occasions, and last we  
3 spoke, I showed the community the changes basically  
4 following the model ordinance with the exception of  
5 two areas the committee decided they didn't want to  
6 include in there. Basically options. And then, at  
7 the last meeting, they wanted to have the attorney  
8 look at it, and that's where all hell broke -- no, I'm  
9 just kidding. And he went into -- and he's aware of -  
10 - I'll just read the report.

11                   VILLAGE ATTORNEY TURONIE: Well, that's why  
12 I'm --

13                   DIRECTOR WEGNER: (Inaudible).

14                   VILLAGE ATTORNEY TURONIE: -- that's really  
15 why I'm here today, to take you through it and tell  
16 you what I did.

17                   CHAIRPERSON VOLL: Okay.

18                   VILLAGE ATTORNEY TURONIE: I have -- I have  
19 warned the Commission that the DNR has surprises in  
20 there, more that, you know -- so, here's the dirty  
21 trick that gets played. The develop a model  
22 ordinance, they tell everyone to pass the model  
23 ordinance, right?

24                   CHAIRPERSON VOLL: Right.

25                   VILLAGE ATTORNEY TURONIE: Okay. So, the

1 model ordinance has things that are not in the law.  
2 All kinds of things. I know this, and I warned you  
3 guys, and that's why they asked me to look through it  
4 and tell them all those things. Okay? It took me a  
5 long time, because I found a lot more than I was even  
6 expecting, okay?

7 CHAIRPERSON VOLL: Oh, wow.

8 VILLAGE ATTORNEY TURONIE: And it was pretty  
9 substantial changes. Now, you are required to have an  
10 ordinance that complies with NR116, that is an  
11 administrative code that puts all the rules into force  
12 for what this ordinance has to have, and I think can  
13 have. Okay? So, as long as you have an ordinance  
14 that complies with NR116, you have satisfied the law.  
15 So, what they have done is made all kinds of different  
16 elements in their model more stringent than that  
17 NR116. Which by the way, NR166 has not changed you  
18 since 1986. Okay? And the DNR is coming out with an  
19 updated model every few years, you know, what are they  
20 doing? They're not following the NR code, okay?  
21 They're putting things in there that are more  
22 stringent, and over time, you know, there has been a  
23 history of the DNR losing some regulatory authority on  
24 certain things. This is kind of why, okay? So, this  
25 is probably one of their best avenues. And I have

1 been -- you know, as a municipal attorney, I have been  
2 dealing with a floodplain issue, and the DNR people  
3 turn out in droves to say, you have to follow your own  
4 ordinance, you can't do that, it's not in your  
5 ordinance. And their ordinance, you know, is  
6 departing (phonetic) from the law.

7 Now, -- and I -- partly, this is just  
8 because, you know, we have had some floodplain changes  
9 in the area. For all you know, 10 years from now, it  
10 will go back the other way, okay? So, you want to get  
11 things legal, because then they become prior non-  
12 conforming, et cetera. So, that effects the longevity  
13 that's in there. I'm not saying that what the DNR is  
14 -- edits are necessarily bad policy. I mean,  
15 preventing as much flood damage as possible sure seems  
16 reasonable, but it's not the same as doing what's  
17 legally required, okay?

18 So, statement of purpose, that's the first  
19 thing that had to change. And the problem with this  
20 ordinance, this is a 40-page ordinance, mind you, and  
21 that's partly why it took --

22 CHAIRPERSON VOLL: Right.

23 VILLAGE ATTORNEY TURONIE: -- me a while.  
24 It uses copious cross references internally. And so  
25 when you change a definition in that one spot, it

1 turns out you're changing many things through out an  
2 ordinance, okay? Which is why cross referencing is,  
3 you know, -- it's one of those things to try not to do  
4 when you write ordinances. So, -- and various things  
5 have to comply with the purpose, like if you grant a  
6 variance or something, that's still not to comply with  
7 the purpose of the ordinance as a whole. So, that's  
8 why -- and when I made changes here, I'm putting back  
9 language in NR116. So, I wasn't going through here to  
10 come up with my own creative ideas, I was really just  
11 trying to get this back to the law, okay? Like number  
12 nine entirely, that's not in our code, it's not in the  
13 statutes, and number nine says just discourage all  
14 development in a floodplain. You know, that's a huge  
15 purpose statement that's not really legal. Well,  
16 unless you pass it in our ordinance, then it is.

17 CHAIRPERSON VOLL: Gotcha.

18 VILLAGE ATTORNEY TURONIE: (Inaudible).

19 CHAIRPERSON VOLL: Okay.

20 VILLAGE ATTORNEY TURONIE: General  
21 provisions, areas to be regulated. That's a weird --  
22 they have a weird comment there. Certain flood  
23 districts, those are different types of flood zones.  
24 And then, other areas that we say, what does that  
25 mean? You know what I mean? Pretty open-ended,



1 right? So, I just say, you know, on the official maps  
2 where it's indicated, right? Because that's really --  
3 I mean, that's the whole point. There is a change  
4 because these maps are reviewed and updated every so  
5 often. So, if it's not literally the maps that's  
6 regulated, you know, again, that's just a huge  
7 broadening.

8 Then it's all right for a while. I'm on  
9 page 21 of the PDF of the packet. I think that  
10 removal language was already in there, but the  
11 compliance part.

12 COMMISSIONER GRUNDMAN: Uh-huh.

13 VILLAGE ATTORNEY TURONIE: And I had this  
14 problem, I actually had this happen with the  
15 administrator of these ordinances. There is  
16 structures and there is uses. Those are two different  
17 things, okay? And you don't want to conflate those  
18 things, which they kind of do in their model  
19 ordinance, all right? So, that's a big deal, because  
20 you know, you have got twice as many ways to attack  
21 and prevent everything if you don't, you know, keep  
22 those separate, like they are supposed to be, okay?  
23 And that's partly what I was cleaning up there. No  
24 use, you know, for example, and then it's -- you can  
25 see the problems you can run into. Essentially, it's

1 just say no time, right? And there is regulation, and  
2 then there is just say no to everything. And this is  
3 designed to lean more towards that way, okay? And so,  
4 I just separated out -- and again, I'm just going back  
5 to the actual -- you know, what's actually regulated  
6 in the law. So, it's not me being especially  
7 creative, just thorough. Let's see here. Okay, they  
8 have this in number eight.

9 DIRECTOR WEGNER: Yeah.

10 VILLAGE ATTORNEY TURONIE: That was this  
11 ordinance supersedes all other ordinances that relate  
12 to floodplains, and any more restrictive ordinance  
13 continues in full force and effect. A -- it's  
14 basically, they put in a you can never go backwards,  
15 so that's, in a sense, exactly what I'm doing here.  
16 So, that statement means, even if your maps changed,  
17 that place that's been taken out should still have  
18 these regulations applied. (Inaudible) -- yeah,  
19 exactly. It defeats the whole purpose of updating  
20 your maps.

21 VICE CHAIR LESNIAK: Uh-huh.

22 CHAIRPERSON VOLL: Right.

23 VILLAGE ATTORNEY TURONIE: Right? So, these  
24 are the presents that are hidden in here. So, I just  
25 -- you know, again, I go back to -- you know,

1 obviously the floodplain should control floodplain  
2 regulation over normal zoning ordinances. That's the  
3 whole point. That's what it's really supposed to say,  
4 and that's what it says there, okay?

5 I put in -- I clarify how it's interpreted,  
6 that's kind of a big deal. How do you interpret the  
7 law? Well, it's going to be interpreted by an NR116  
8 standards. Not the DNR standards and their  
9 informational pages is what they're trying to get at  
10 here. No, the standards in effect in NR116, which by  
11 the way, hasn't changed since 1986. Okay? They don't  
12 say that on purpose.

13 This 2.0 general standards applicable in all  
14 floodplain districts, I just deleted that. There's no  
15 basis for that in the NR code at all, so they just  
16 kind of made up some definitions and put them in  
17 there. And the issue is, then they keep cross  
18 referencing this in five, six other provisions in this  
19 40-page ordinance.

20 CHAIRPERSON VOLL: Wow.

21 VILLAGE ATTORNEY TURONIE: They just cross  
22 reference this completely made up definition, okay?  
23 Now, what do we have if we don't have this definition?  
24 We have the common sense of staff, and you know, the  
25 Village body (inaudible), okay? Now, in some places

1 where you don't have any staff or something like that,  
2 you know, you've got less people dealing with this  
3 stuff, but when you actually have staff like we do and  
4 a Planning Commission that meets regularly and  
5 everything, I feel like I can trust your judgment over  
6 a piece of paper, you know, written in ivory tower  
7 somewhere.

8 VICE CHAIR LESNIAK: And I'm looking at some  
9 of this, I would suspect that there are some other  
10 pieces of our ordinances that cover some of this  
11 stuff.

12 VILLAGE ATTORNEY TURONIE: General zoning.

13 VICE CHAIR LESNIAK: And (inaudible) 2.0,  
14 yeah.

15 VILLAGE ATTORNEY TURONIE: Yeah

16 VICE CHAIR LESNIAK: Uh-huh.

17 VILLAGE ATTORNEY TURONIE: Well, that's --

18 DIRECTOR WEGNER: Just the --

19 VILLAGE ATTORNEY TURONIE: -- that's  
20 defining what flood resistant construction is --

21 VICE CHAIR LESNIAK: Uh-huh.

22 VILLAGE ATTORNEY TURONIE: -- and such.

23 Whereas maybe just an engineer can tell me what --

24 VICE CHAIR LESNIAK: Uh-huh.

25 VILLAGE ATTORNEY TURONIE: -- that is,

1 right? I don't want somebody, you know, at the DNR  
2 telling me what it is, and then showing up at the  
3 Village and telling us we can or can't do something  
4 because of the ordinance we passed. Because you know,  
5 that's what -- they put that in there for us.

6 Let's see, permitted uses in 3.2, this is on  
7 page 26 of the packet. Okay. So what they did here  
8 is there is some examples of what you can have in the  
9 floodway built, and general open space type uses,  
10 okay? And the NR code has a non-exhaustive list of  
11 examples that are okay, agriculture, right? You know,  
12 parking lots, the golf course. You know, if the golf  
13 course floods there's not a lot of building damage,  
14 you know, it's those types of things, a gravel  
15 (inaudible). Well, what they did is they turned that  
16 non-exhaustive list of examples to an exhaustive list  
17 of what's allowed. And so, unless you're one of those  
18 things, you can't do it. And that's not the law. I -  
19 - what I did here is I put it back to being law, which  
20 is, here is some examples of applicable things that  
21 you can do, okay? And those are -- that's a major,  
22 major reversal that -- well, you can tell, you know,  
23 how many differences that can make.

24 I'm just looking for a big one. Prohibited  
25 uses 3.4, that's page 29 of the PDF. And again, I

1 mean, they take examples and make them to be the only  
2 things that are allowed, whereas the quote really says  
3 these things are always allow. So, we are just going  
4 back to the original, okay? Or these are disallowed.

5 VICE CHAIR LESNIAK: And these are the  
6 things we really want to be careful of not letting  
7 happen.

8 VILLAGE ATTORNEY TURONIE: Yeah, you want  
9 these to be disallowed. But see how they did this?  
10 This goes back to that 3.2 that they rewrote, and they  
11 say if it's not 3.2 you're not allowed to do it. No,  
12 there's more things out there that could be allowed,  
13 but this -- in three, four, the rest of this is things  
14 that are always prohibited, right? So, I mean, that's  
15 just how they went and changed the language.

16 Accessory structures -- I'm on page 30. And  
17 I just referred to the NR code, and what they were  
18 doing was putting it on this made up provision of 2.0  
19 that I deleted. Now, what's the practical difference?  
20 Two feet. There is a two-foot elevation difference on  
21 whether you can build a detached accessory structure  
22 or not. Two feet of elevation is kind of a lot,  
23 right? So, that's what they changed. You know, that  
24 cuts out a lot of, you know, potential structures, and  
25 you still got to have -- you know, there is still

1 rules. We are not entering some zone where there's no  
2 rules or anything, it's just that, you know, that's  
3 just a very big policy decision that they are trying  
4 not to mention they're making in this model ordinance.  
5 And --

6 DIRECTOR WEGNER: Is that -- that velocity  
7 greater than two feet per second, that's out of NR115?

8 VILLAGE ATTORNEY TURONIE: 116, yeah.

9 DIRECTOR WEGNER: 116?

10 VILLAGE ATTORNEY TURONIE: Yeah. Yeah,  
11 that's how it -- that's what you're actually supposed  
12 to build towards, you know, which is an engineering  
13 standard.

14 DIRECTOR WEGNER: Uh-huh.

15 VILLAGE ATTORNEY TURONIE: Which is fine,  
16 because an engineer can figure out how to satisfy that  
17 standard, versus that Section 2.0 just arbitrarily  
18 defined, you know, things that are going to apply or  
19 not. The same thing with the commercial uses,  
20 manufactured industrial uses. You know, you could do  
21 a type of building called flood proofing that's  
22 essentially flood resistant building. It's not as big  
23 a deal for, you know, just an industrial structure, or  
24 something like that. It matters a lot with houses. A  
25 house that's built to a flood proofed standard is a --

1 probably a lot less attractive of a house, because you  
2 know, no basement, most likely.

3           And there's other things you got to do,  
4 structurally, to make it resistant to flooding. Which  
5 are good, but I'm basically just putting that option  
6 back in here, whereas they are just trying to say no  
7 building, right? So, again, if you have a parking  
8 lot, or a -- you know, a storage yard with just  
9 materials in it, I mean, there is not a ton of  
10 building damage. Or more importantly, health safety  
11 type risks if there's a flood, right?

12           VICE CHAIR LESNIAK: And I -- I'm thinking  
13 about this, and I'm comparing this a little bit to  
14 ordinances we passed after the point when we had a lot  
15 of groundwater flooding, which is a different sort of  
16 -- sort of flooding.

17           VILLAGE ATTORNEY TURONIE: Right.

18           VICE CHAIR LESNIAK: Where, okay, new  
19 structures, the low elevation of that building needs  
20 to be a certain distance up above what was noticed as  
21 the high water level.

22           CHAIRPERSON VOLL: Yep.

23           VICE CHAIR LESNIAK: It's like, my only  
24 concern is making sure that we don't have situations  
25 where, okay, you can do this, you can build this in



1 this -- in this floodplain area, but -- or flood  
2 fringe or whatever -- but it's like, okay, a problem  
3 happens because then there is a flood. I mean, I  
4 understand the intent of this, totally, and then the  
5 intent of the changes. But I also keep that in mind,  
6 where, okay, well the building inspector was signing  
7 off on stuff because it met what the code was. And  
8 then, --

9 COMMISSIONER STANGE: Right.

10 VICE CHAIR LESNIAK: -- all of these people  
11 are having major issues with --

12 CHAIRPERSON VOLL: A lot of (inaudible)  
13 basements.

14 VICE CHAIR LESNIAK: -- water in their  
15 basements.

16 CHAIRPERSON VOLL: Yep.

17 VICE CHAIR LESNIAK: So, it's -- it's a  
18 similar but different thing.

19 VILLAGE ATTORNEY TURONIE: Yeah, you have  
20 got the concept.

21 VICE CHAIR LESNIAK: Uh-huh.

22 VILLAGE ATTORNEY TURONIE: So, anyway, more  
23 of the same. So, you get the point of what I was  
24 looking at, and what --

25 VICE CHAIR LESNIAK: Uh-huh.

1 VILLAGE ATTORNEY TURONIE: -- I tried to put  
2 back. I did not make stuff up, I --

3 VICE CHAIR LESNIAK: Uh-huh.

4 VILLAGE ATTORNEY TURONIE: -- really just  
5 put back, you know, (inaudible) language where I felt  
6 it was being omitted, or severely altered.

7 VICE CHAIR LESNIAK: Uh-huh.

8 VILLAGE ATTORNEY TURONIE: So, the legal  
9 requirement is to have an ordinance that complies with  
10 NR116, full stop. So, if all you're doing is passing  
11 NR116, there's no leg to stand on to oppose that.  
12 Will the DNR need longer time to review it?

13 DIRECTOR WEGNER: Oh, God.

14 VILLAGE ATTORNEY TURONIE: Of course, they  
15 need a long time -- you know, it's like anyone you  
16 talk -- at any state agency (inaudible) different, you  
17 know. I know, okay?

18 DIRECTOR WEGNER: Then you -- just so you  
19 know, they're -- to remind you, they mucked it back to  
20 me because of the fact that I wasn't using the same  
21 outline --

22 VILLAGE ATTORNEY TURONIE: Outline --

23 DIRECTOR WEGNER: -- (inaudible) --

24 VILLAGE ATTORNEY TURONIE: -- yeah.

25 DIRECTOR WEGNER: -- outline --

1 COMMISSIONER STANGE: Format?

2 DIRECTOR WEGNER: Yeah.

3 VILLAGE ATTORNEY TURONIE: Yeah.

4 DIRECTOR WEGNER: Just one quick question,  
5 you have on this B, the non-conforming use -- or use  
6 of non-conforming structure (inaudible). It --

7 VILLAGE ATTORNEY TURONIE: What page?

8 DIRECTOR WEGNER: Page 35. It's specific,  
9 the structure, you're changing it to the future use of  
10 the building. Shouldn't it be structure still?

11 VILLAGE ATTORNEY TURONIE: Which one?

12 DIRECTOR WEGNER: On page 35.

13 VILLAGE ATTORNEY TURONIE: Yep.

14 DIRECTOR WEGNER: It would be the top.

15 VILLAGE ATTORNEY TURONIE: If a non-  
16 conforming use -- or use of a non-conforming structure  
17 is discontinued for 12 months, and is no longer  
18 permitted in any future use of the building, --

19 DIRECTOR WEGNER: Why would it be  
20 structured?

21 VILLAGE ATTORNEY TURONIE: See, what they  
22 had put in there was any future use of the property,  
23 and any structure or building there on --

24 DIRECTOR WEGNER: On property? Jesus.

25 VILLAGE ATTORNEY TURONIE: See they -- see

1 how they -- they made it a use and --

2 COMMISSIONER STANGE: Uh-huh.

3 VILLAGE ATTORNEY TURONIE: -- structure  
4 thing, when it's --

5 CHAIRPERSON VOLL: Yeah

6 VILLAGE ATTORNEY TURONIE: -- really just  
7 about --

8 CHAIRPERSON VOLL: The structure.

9 VILLAGE ATTORNEY TURONIE: -- the building.

10 CHAIRPERSON VOLL: Yeah.

11 VILLAGE ATTORNEY TURONIE: And that's kind  
12 of what I mean, that's a huge expansion for that whole  
13 property lot, apparently would be out (inaudible) --

14 DIRECTOR WEGNER: And then, in --

15 VILLAGE ATTORNEY TURONIE: -- for the  
16 future.

17 DIRECTOR WEGNER: -- (inaudible) get rid of  
18 this 50% rule, what is the alternative, or don't we  
19 need one?

20 VILLAGE ATTORNEY TURONIE: Where?

21 DIRECTOR WEGNER: Where it talks about no  
22 maintenance repair, 50% of the present equalized  
23 assessed value?

24 CHAIRPERSON VOLL: Item D.

25 DIRECTOR WEGNER: D?

1 VILLAGE ATTORNEY TURONIE: I think that's  
2 kind of covered elsewhere.

3 DIRECTOR WEGNER: Okay.

4 VILLAGE ATTORNEY TURONIE: Well, okay. No,  
5 good point. They're talking about a per-event basis.

6 DIRECTOR WEGNER: So, (inaudible) -- you  
7 would have to calculate --

8 VICE CHAIR LESNIAK: Yeah, so they're trying  
9 to --

10 DIRECTOR WEGNER: Make changes (inaudible)  
11 NR115, but obviously not here.

12 VILLAGE ATTORNEY TURONIE: Right. If you  
13 look at G, I mean, that's what's required, right? Or  
14 now, it's E. So, there's still a 50% rule, but it's  
15 50% as the building is worth today.

16 DIRECTOR WEGNER: Yeah, but isn't that --  
17 isn't that (inaudible) damaged versus the old E, and  
18 that's for something that's not damaged?

19 VILLAGE ATTORNEY TURONIE: They're trying to  
20 say if we think repairs would exceed 50% of today's  
21 value from one event, then it's basically an goner.  
22 Whereas, normally you're supposed to -- and it's  
23 charged in here as a duty to keep track over time of  
24 repairs that are made, because you don't want to  
25 exceed 50% of today's value. That's a lifetime type

1 thing, right? But since values generally go up over  
2 time, places -- if they don't need a lot of work,  
3 places can kind of be maintained for a long time. So,  
4 that would be substantially short (inaudible). Okay?  
5 Which you know, being more strict, maybe that's a  
6 welcomed policy. But you know, after I mentioned that  
7 and, you know, you guys had me look at it, I basically  
8 found -- I was not expecting it to be this bad.  
9 Because no one ever looks at this model, everyone just  
10 is like do the model and get out of here.

11 VICE CHAIR LESNIAK: We got what we asked  
12 for.

13 VILLAGE ATTORNEY TURONIE: You got what you  
14 asked for, and it was -- it was -- and I knew there  
15 was stuff in here, but it's way worse than I even  
16 thought, essentially. Those are very substantial  
17 policy differences that they wrote in there, and they  
18 don't tell anyone.

19 CHAIRPERSON VOLL: Yeah.

20 DIRECTOR WEGNER: You know, and I haven't  
21 gone through this -- you know, he's the attorney and  
22 everything, I haven't gone through with a fine comb,  
23 but it's like I went through the same thing with NR115  
24 when you made changes, and then I was put on a project  
25 board to make the model ordinance. And it was a

1 constant battle, they wanted to encompass everything  
2 versus having the model reflect what the actual state  
3 statute said, and the administrative code said.

4 VILLAGE ATTORNEY TURONIE: Yeah, at the  
5 bottom of page 37, flood fringe district. So, there's  
6 a couple of different categories of floodways -- or  
7 flood zones. One, -- the two most basic are floodway  
8 and flood fringe. So, if you're in a floodway, that's  
9 more restrictive for a good reason, that means that  
10 there is a flood -- there is going to be water at your  
11 ankles, okay?

12 Flood fringe means if there's a flood, maybe  
13 there will be water there, and maybe there won't. You  
14 know, we don't know, but it's essentially further  
15 away. So, flood fringe has got more flexibility,  
16 because it shouldn't be as likely to be damaged in a  
17 flood. And what they put in this flood fringe, in  
18 Section 6.3, at the bottom of PDF page 37, no floor  
19 allowed between -- below regional flood elevation.  
20 Okay? You can have a floor that's below that, it's  
21 just got to be flood proofed, so you don't -- you  
22 know, major appliances are high enough. So, that's a  
23 totally different rule than just saying no floor  
24 whatsoever for any rooms. And that's -- and they put  
25 that in there for residential and commercial. And I

1 think -- yeah, you see the provisions, you know, the -  
2 - provided that nobody's endangered by doing that,  
3 provided that, you know, water and sewage systems are  
4 high enough, et cetera, et cetera.

5 DIRECTOR WEGNER: And (inaudible) --

6 VILLAGE ATTORNEY TURONIE: So, again that's  
7 not like no rules, we are not trying to go to a no  
8 rules regime here, but just there is a big difference  
9 in -- between the law and what they put in this.

10 COMMISSIONER SINKULA: So, if the community  
11 would agree with these changes -- because they  
12 basically follow the same theme --

13 VILLAGE ATTORNEY TURONIE: Yeah.

14 COMMISSIONER SINKULA: -- right?

15 (Overlapping voices.)

16 DIRECTOR WEGNER: There will (inaudible) --

17 COMMISSIONER SINKULA: (Inaudible).

18 DIRECTOR WEGNER: -- be a motion advising  
19 me to send to the DNR for approval, and then we see  
20 what happens.

21 VILLAGE ATTORNEY TURONIE: And they will  
22 evaluate, but there is no legal argument to stand on.

23 DIRECTOR WEGNER: When I made the first  
24 batch of changes based on my experience, the first  
25 thing they asked me is if I had an attorney make the



1 changes.

2 VILLAGE ATTORNEY TURONIE: And they will  
3 want this red lined version, but they need to be  
4 showing (inaudible).

5 DIRECTOR WEGNER: Yeah. So, my guess is now  
6 I can say, yes, and it will be interesting to see what  
7 their response is. When I said no attorney involved,  
8 that's when they pushed me.

9 VILLAGE ATTORNEY TURONIE: But I got to tell  
10 you that their legal department's not working on this  
11 stuff either, it's just somebody's desk.

12 VICE CHAIR LESNIAK: So, just out of -- from  
13 curiosity I'm going to ask this question. So, what  
14 would be the difference between having what you're  
15 recommending here versus just saying, our ordinances,  
16 statute, and our blah, blah, blah -- just saying we  
17 are following this and just leaving it at that?

18 VILLAGE ATTORNEY TURONIE: Adopting by  
19 reference and calling --

20 VICE CHAIR LESNIAK: Uh-huh.

21 VILLAGE ATTORNEY TURONIE: -- it good?

22 DIRECTOR WEGNER: That's a really good  
23 question.

24 VICE CHAIR LESNIAK: Because then, let's say  
25 changes --

1 DIRECTOR WEGNER: Yeah.

2 VICE CHAIR LESNIAK: -- do get made af-- you  
3 know, --

4 DIRECTOR WEGNER: Yeah.

5 VICE CHAIR LESNIAK: -- they haven't been  
6 made in almost, you know, what 35 years?

7 DIRECTOR WEGNER: Yeah.

8 VICE CHAIR LESNIAK: It's like -- or 40 --  
9 45 -- 45 -- 35 years, that would be. It's like, okay,  
10 if they do make changes then we don't have to do  
11 anything.

12 VILLAGE ATTORNEY TURONIE: Yeah. I do like  
13 -- I do write some things that way.

14 VICE CHAIR LESNIAK: Uh-huh.

15 VILLAGE ATTORNEY TURONIE: I think it will  
16 be too far for the DNR.

17 VICE CHAIR LESNIAK: Okay.

18 VILLAGE ATTORNEY TURONIE: Just because  
19 there is some public necessity to have it in writing,  
20 and you know, it's almost beyond hope to --

21 VICE CHAIR LESNIAK: Uh-huh.

22 VILLAGE ATTORNEY TURONIE: -- give someone a  
23 NR code reference and say, follow that. So, that's  
24 the issue --

25 VICE CHAIR LESNIAK: Okay.

1 VILLAGE ATTORNEY TURONIE: -- I would say.  
2 And I mean -- you know, the NR code is not even 40  
3 pages long, --

4 VICE CHAIR LESNIAK: Uh-huh.

5 VILLAGE ATTORNEY TURONIE: -- so there is --  
6 you know how sometimes there is some more information  
7 that's not necessarily bad or shouldn't be clarified?

8 DIRECTOR WEGNER: I think -- it's like 12  
9 pages, I think, isn't it?

10 VILLAGE ATTORNEY TURONIE: Yeah.

11 VICE CHAIR LESNIAK: So, we are putting  
12 something (inaudible).

13 VILLAGE ATTORNEY TURONIE: There is way more  
14 information in this, right?

15 VICE CHAIR LESNIAK: Uh-huh, yeah.

16 VILLAGE ATTORNEY TURONIE: And I mean, --  
17 but I just looked for those severe policy changes,  
18 because those were quite the departures, and just put  
19 them back.

20 VICE CHAIR LESNIAK: Uh-huh.

21 CHAIRPERSON VOLL: Right.

22 VILLAGE ATTORNEY TURONIE: So, --

23 CHAIRPERSON VOLL: Okay.

24 VILLAGE ATTORNEY TURONIE: -- I mean, I  
25 don't know, it's not like I'm taking creative license

1 at all. So, I don't know. I mean, there are -- how -  
2 - there's policy choices, it's not a bad thing to  
3 minimize flood damage as much as possible. That's not  
4 a bad thing, but you should do it knowingly, okay?  
5 And these are the differences that have been made.

6 DIRECTOR WEGNER: So, --

7 CHAIRPERSON VOLL: Any other questions or  
8 comments?

9 COMMISSIONER SINKULA: We got what we asked  
10 for, thank you.

11 DIRECTOR WEGNER: You're welcome.

12 COMMISSIONER STANGE: Yeah, thank you.

13 CHAIRPERSON VOLL: Yeah, thank you very  
14 much. So, the motion would be to approve the  
15 floodplains in District Chapter 520 as presented,  
16 right? Or as --

17 DIRECTOR WEGNER: Yep, and then I will send  
18 it to the DNR for their blessing, and then I'm sure it  
19 will be kicked back.

20 VILLAGE ATTORNEY TURONIE: I (inaudible) --  
21 another example, sorry. Section 7-3 on the Board of  
22 Appeals.

23 DIRECTOR WEGNER: Oh, yeah. Yeah, that one  
24 I (inaudible).

25 VILLAGE ATTORNEY TURONIE: They were -- they

1 wanted to have boundary disputes of where the  
2 floodplain is and isn't settled by the Board of  
3 Appeals.

4 DIRECTOR WEGNER: How?

5 VILLAGE ATTORNEY TURONIE: That's --

6 CHAIRPERSON VOLL: But how can you even do  
7 that?

8 VILLAGE ATTORNEY TURONIE: You can't.

9 VICE CHAIR LESNIAK: You (inaudible) --

10 VILLAGE ATTORNEY TURONIE: That's a zoning  
11 amendment at best, --

12 VICE CHAIR LESNIAK: Uh-huh.

13 VILLAGE ATTORNEY TURONIE: -- which is not  
14 what the Board of Appeals does.

15 DIRECTOR WEGNER: Yeah.

16 VILLAGE ATTORNEY TURONIE: So, that's kind  
17 of what I mean, they're not -- there is somebody there  
18 making these changes, and I can tell that this is a  
19 document that has been changed again, and again, and  
20 again, and again.

21 CHAIRPERSON VOLL: Uh-huh.

22 VILLAGE ATTORNEY TURONIE: Because that's  
23 partly why it doesn't read very well.

24 DIRECTOR WEGNER: Even in the conditions,  
25 the one through four, I have never seen that last one.

1 VILLAGE ATTORNEY TURONIE: Which one?

2 DIRECTOR WEGNER: Flood (inaudible) variance  
3 number three. You know, it's either little  
4 enforcement, hardship, or contrary to public interest,  
5 and they added four, consistent with the purpose of  
6 1.1 or 1.3.

7 VILLAGE ATTORNEY TURONIE: And that's why I  
8 had to change the purpose statement.

9 DIRECTOR WEGNER: Yeah.

10 VILLAGE ATTORNEY TURONIE: Because they  
11 through in stuff that doesn't exist.

12 CHAIRPERSON VOLL: Uh-huh.

13 VILLAGE ATTORNEY TURONIE: And then, they're  
14 supposed to deny it based on that purpose that they  
15 just made up. Okay? So, that's how all those cross  
16 references tied together like that. But yeah, you  
17 don't do boundary disputes -- zoning boundary disputes  
18 at the Board of Appeals. You know, so that's just  
19 wrong.

20 DIRECTOR WEGNER: So, do you think you --  
21 they could strike three, maybe four?

22 VILLAGE ATTORNEY TURONIE: Honestly, I don't  
23 think there is a legal argument against anything I  
24 did. If the whole goal was just to go back to what  
25 should actually be the measuring stick. Which is --

1 CHAIRPERSON VOLL: Right.

2 VILLAGE ATTORNEY TURONIE: -- the goal. So,

3 --

4 VICE CHAIR LESNIAK: So, at what point then,  
5 with all of these changes does the public hearing  
6 happen?

7 VILLAGE ATTORNEY TURONIE: When you're --

8 DIRECTOR WEGNER: (Inaudible).

9 VILLAGE ATTORNEY TURONIE: -- putting it  
10 forward.

11 DIRECTOR WEGNER: Yeah, and if we got a --  
12 if you're motion today, or tonight, is to approve  
13 everything you see, I would send that just like it is,  
14 basically, to the DNR.

15 VILLAGE ATTORNEY TURONIE: Yeah.

16 DIRECTOR WEGNER: And if they were to give  
17 approval on that, then I would send it to public  
18 hearing.

19 VICE CHAIR LESNIAK: Okay, once you give --  
20 once you get word back from the DNR?

21 DIRECTOR WEGNER: Yeah.

22 VICE CHAIR LESNIAK: That would be the  
23 point?

24 VILLAGE ATTORNEY TURONIE: Yeah, because we  
25 don't want to --

1                   DIRECTOR WEGNER: We want to get rid of all  
2 the questions and disputes prior to going to public  
3 hearing.

4                   CHAIRPERSON VOLL: Yeah, (inaudible).

5                   VILLAGE ATTORNEY TURONIE: And we want to --  
6 we want to know this is as close as possible to what  
7 we think the final language is --

8                   VICE CHAIR LESNIAK: Uh-huh.

9                   VILLAGE ATTORNEY TURONIE: -- pretty much  
10 going to be.

11                   VICE CHAIR LESNIAK: Okay, yeah.

12                   CHAIRPERSON VOLL: Okay. Anything else?

13                   COMMISSIONER STANGE: I'll make a motion, I  
14 guess. Is that what we're supposed to do?

15                   CHAIRPERSON VOLL: Sure.

16                   COMMISSIONER STANGE: I'll make a motion to  
17 have Pete send this down to the DNR as presented. Is  
18 that enough?

19                   VICE CHAIR LESNIAK: Second.

20                   CHAIRPERSON VOLL: Okay, a motion by Tony,  
21 second by Dan to approve the floodplain study --  
22 sorry, overlay zoning districts -- as presented and  
23 recommend staff forward to the DNR.

24                   DIRECTOR WEGNER: All righty.

25                   CHAIRPERSON VOLL: Any further discussion?



1 Hearing none, all in favor say, aye?

2 ALL: Aye.

3 CHAIRPERSON VOLL: All opposed? Motion  
4 carried. All right, moving on to item number six, new  
5 business. Possible action of CSM Walkowski.

6 DIRECTOR WEGNER: Maybe we should just table  
7 this one?

8 (Overlapping voices.)

9 DIRECTOR WEGNER: No, --

10 KEITH WALKOWSKI: I would like to spend time  
11 with my kids tonight.

12 DIRECTOR WEGNER: Yeah. This was the result  
13 of a previous CSM and rezone that we had where he had  
14 like 36 acres -- 37 acres, and they split it. And  
15 now, they're coming into split that one 12.3 parcel --  
16 I'm sorry, 17.256 acre parcel into two lots. So,  
17 today, you see before you a proposal for a CSM to  
18 split Lot 1 into a five acre parcel, calling it Lot 3,  
19 and a 12.3 acre parcel, calling it Lot 4. Both have  
20 road frontage on Maple Ridge, the 12.3 acre parcel  
21 will also have an easement from be (inaudible) Road  
22 for access. Staff's concerns are that the dryland  
23 access to Lot 4. And I'll just skip ahead and show  
24 you the survey itself, it's not a rezone, this is just  
25 a CSM. This access -- their road frontage, they meet

1 the frontage requirement, but it is going through a  
2 wetland. And then, there are --

3 KEITH WALKOWSKI: There is a detail of that  
4 (inaudible).

5 DIRECTOR WEGNER: Oh, gosh.

6 KEITH WALKOWSKI: I'm trying to clarify it  
7 for you.

8 DIRECTOR WEGNER: Yeah, let me see here.  
9 So, you see that this easement also abuts wetland.  
10 And this is just wetland that's shown on the wetland -  
11 - not even the inventory, the Bertha County maps. And  
12 he does have a swath here that's like 30 (inaudible) -  
13 - 32 feet, it looks like.

14 KEITH WALKOWSKI: Yeah.

15 DIRECTOR WEGNER: Where he could have  
16 access. This would have to be delineated. The only  
17 things, you know, staff would say is make them  
18 reconfigure the other lot, or just put a condition on  
19 here that if they cross that road, -- oh, Jesus Christ  
20 -- any road that would go through here would have to  
21 get DNR approval from either Phil, or to show that it  
22 was delineated out of wetland. Because again, this is  
23 just a rough idea of where the wetland is. I'm pretty  
24 sure -- you know, I was by there, it meets a lot of  
25 the requirements for a wetland. Up here, I didn't go

1 across the gentleman's property, but I believe there  
2 is a big enough gap there. This is probably more  
3 questionable than this is right here, would you agree?

4 KEITH WALKOWSKI: I agree.

5 DIRECTOR WEGNER: Yeah.

6 VICE CHAIR LESNIAK: Can you repeat that,  
7 Pete?

8 DIRECTOR WEGNER: The --

9 KEITH WALKOWSKI: So, --

10 DIRECTOR WEGNER: -- (inaudible) --

11 KEITH WALKOWSKI: -- so basically, the top  
12 part, the wetlands --

13 VICE CHAIR LESNIAK: Uh-huh.

14 KEITH WALKOWSKI: -- are of a lesser --

15 VICE CHAIR LESNIAK: Lesser concern?

16 KEITH WALKOWSKI: -- probability than on the  
17 bottom side. The bottom side, --

18 VICE CHAIR LESNIAK: Got it.

19 KEITH WALKOWSKI: -- I mean, it's -- There  
20 is no doubt in my mind that that part is wetlands.

21 VICE CHAIR LESNIAK: Uh-huh.

22 DIRECTOR WEGNER: Okay. And I have talked  
23 to some of my surveyor friends up north, and they say  
24 this is, you know, leaving it as it is, you're kind of  
25 kicking the issue down the road. The only difference

1 is is there is this gap here, and this wetland is not  
2 as defined as this one, so that would gain them access  
3 and it still meets the front road frontage  
4 requirement. I also talked to the previous community  
5 development director, and he said the same. He just  
6 recommended a conditional approval that you guys get  
7 DNR approval to grant access from the road.

8 COMMISSIONER SINKULA: Didn't you say that  
9 those wetlands are not on the county maps, but you  
10 found them?

11 KEITH WALKOWSKI: No, I --

12 DIRECTOR WEGNER: No, they're on it.

13 KEITH WALKOWSKI: -- have them as the county  
14 maps have them. This is what's shown on (inaudible).

15 COMMISSIONER SINKULA: Okay, so they are  
16 confirmed with county? Okay.

17 KEITH WALKOWSKI: (Inaudible) yeah.

18 COMMISSIONER SINKULA: But they --

19 KEITH WALKOWSKI: Just those --

20 COMMISSIONER SINKULA: Those are --

21 KEITH WALKOWSKI: -- (inaudible) --

22 COMMISSIONER SINKULA: Those are --

23 KEITH WALKOWSKI: -- had a note on the map  
24 saying that.

25 DIRECTOR WEGNER: Yep.

1 VICE CHAIR LESNIAK: And there is no chance  
2 of anything being wetland within that zone of that  
3 easement across the top of that lot?

4 KEITH WALKOWSKI: That's a field right now.

5 VICE CHAIR LESNIAK: Okay.

6 DIRECTOR WEGNER: Yeah, see --

7 VICE CHAIR LESNIAK: All right.

8 DIRECTOR WEGNER: -- here is the (inaudible)  
9 and here is the line. Yeah, this is --

10 VICE CHAIR LESNIAK: Okay, that's --

11 DIRECTOR WEGNER: -- (inaudible).

12 VICE CHAIR LESNIAK: -- (inaudible) wetland  
13 swings back? So, (inaudible) --

14 DIRECTOR WEGNER: Yeah, yeah.

15 VICE CHAIR LESNIAK: -- got it.

16 DIRECTOR WEGNER: (Inaudible) yeah.

17 VICE CHAIR LESNIAK: Got it. And Then the  
18 other question that comes into my mind looking at this  
19 configuration, there isn't an opportunity for a Lot 3  
20 to just be shifted to the east side of that Lot 4,  
21 instead of the -- and then that would be --

22 DIRECTOR WEGNER: I did --

23 VICE CHAIR LESNIAK: -- (inaudible) --

24 DIRECTOR WEGNER: -- look at that --

25 VICE CHAIR LESNIAK: -- all the way down.

1                   DIRECTOR WEGNER: You're saying to flop this  
2 over here?

3                   VICE CHAIR LESNIAK: Yep.

4                   DIRECTOR WEGNER: Uh-huh. But then you're  
5 going to run into some -- it's really tight to meet  
6 that 150-foot (inaudible) --

7                   VICE CHAIR LESNIAK: For the -- Lot 3?

8                   DIRECTOR WEGNER: -- separation.  
9 (Inaudible).

10                  VICE CHAIR LESNIAK: Oh, that. Okay, got  
11 it.

12                  DIRECTOR WEGNER: Yeah, I did a rough --  
13 it's really close.

14                  VICE CHAIR LESNIAK: Okay.

15                  DIRECTOR WEGNER: And I -- and mainly  
16 because I believed that this wetland here comes out  
17 further. I know right now, --

18                  VICE CHAIR LESNIAK: Uh-huh.

19                  DIRECTOR WEGNER: -- the owner has got a  
20 permit for put a (inaudible) here. And he is just  
21 kind of on the edge of -- this kind of extends  
22 further. There is a lot of wetland species vegetation  
23 in there.

24                  CHAIRPERSON VOLL: Uh-huh.

25                  DIRECTOR WEGNER: I actually but that in my

1 report, but then I threw it out there and I'm like, oh  
2 jeez, I don't think it really is an option to flip it.  
3 Plus, I have been a pain in the butt for Keith for a  
4 couple of months now, so I figured give him something.

5 KEITH WALKOWSKI: Oh boy. Well, I want to  
6 save that for the (inaudible).

7 DIRECTOR WEGNER: Yeah, yeah.

8 VILLAGE ATTORNEY TURONIE: So, again, what I  
9 saw is I had -- I had one comment to Pete. Does this  
10 technically meetings requirements in order to be made?  
11 Yeah, it does. Is it the spirit of what you're trying  
12 to do? Not exactly. This is just going to be hard to  
13 develop that, and it's -- is it a good pattern of  
14 development is your other concern. The only ordinance  
15 --

16 KEITH WALKOWSKI: Well, how else to I  
17 develop that?

18 VILLAGE ATTORNEY TURONIE: Well, yeah, I  
19 mean maybe --

20 VICE CHAIR LESNIAK: Uh-huh.

21 VILLAGE ATTORNEY TURONIE: -- maybe you  
22 don't. There is an ordinance, you know, land  
23 suitability, if you have ever heard that phrase. It's  
24 one of the things -- that's the only thing that  
25 applies to this. If you would be inclined to deny it

1 is, you know, there is some judgement called whether  
2 the land isn't even suitable for what is being  
3 proposed. You know, the bad example would be, you  
4 know, like we were just talking about, floodplains.  
5 You know, having something that will violate that.  
6 You know, is that something you may not even approve  
7 then because it's not even possible. You know, that's  
8 -- this isn't that far, but just -- you can -- I mean,  
9 just look at it, it's obviously less than any  
10 (inaudible).

11 VICE CHAIR LESNIAK: These lots are  
12 currently -- are (inaudible) -- this area, like, are  
13 parent lots here on this. These currently are  
14 (inaudible), correct? .

15 KEITH WALKOWSKI: Uh-huh.

16 DIRECTOR WEGNER: Uh-huh.

17 VICE CHAIR LESNIAK: So, then that doesn't  
18 change by splitting it into two separate lots?

19 DIRECTOR WEGNER: No.

20 VICE CHAIR LESNIAK: And when we say  
21 development, on our five, we're not talking about half  
22 acre lot houses?

23 KEITH WALKOWSKI: No, there is adequate for  
24 each lot to build a house. I mean, --

25 VICE CHAIR LESNIAK: Uh-huh.



1 KEITH WALKOWSKI: -- there is probably four  
2 acres --

3 VICE CHAIR LESNIAK: Right.

4 KEITH WALKOWSKI: -- of dry land, and --

5 VICE CHAIR LESNIAK: Uh-huh.

6 KEITH WALKOWSKI: -- you know, nine acres of  
7 dry land on that four.

8 VICE CHAIR LESNIAK: Yep.

9 KEITH WALKOWSKI: So, and we cannot split  
10 this any further at this point. You know, --

11 VICE CHAIR LESNIAK: Uh-huh.

12 KEITH WALKOWSKI: -- like there is -- I  
13 tried to run the little cul-de-sac road in there, that  
14 didn't pencil out, like --

15 VICE CHAIR LESNIAK: Uh-huh.

16 KEITH WALKOWSKI: -- it just doesn't work.  
17 This is -- I have already told them, like, this is as  
18 much as we could possibly do, you know? So,  
19 originally, they wanted to make more lots in there,  
20 but I just can't make it happen, you know?

21 DIRECTOR WEGNER: So, your options are you  
22 can approve it as proposed, all right? They're -- I  
23 think you probably have a basis tonight based on  
24 Section 460-7 under the land suitability --

25 KEITH WALKOWSKI: But if the land is

1 suitable for a house, how can you deny it based on  
2 that?

3 DIRECTOR WEGNER: Just that the (inaudible)  
4 access to it, I guess.

5 VILLAGE ATTORNEY TURONIE: It -- I mean,  
6 it's not the strongest case for denial, I just -- you  
7 know, I was just telling you what I could even find  
8 that would apply to the situation, that's all I can  
9 tell you. I mean, you know, is the possible to  
10 develop that? Yeah. Will the driveway cost twice as  
11 much to build? Certainly.

12 KEITH WALKOWSKI: But that's their --

13 VILLAGE ATTORNEY TURONIE: That's --

14 KEITH WALKOWSKI: -- they know that going  
15 ahead of time.

16 VILLAGE ATTORNEY TURONIE: I know,  
17 (inaudible).

18 VICE CHAIR LESNIAK: Yep.

19 VILLAGE ATTORNEY TURONIE: Can a person make  
20 that decision? They do all the time.

21 VICE CHAIR LESNIAK: I'm going to make a  
22 motion to approve this CSM as presented.

23 COMMISSIONER GRUNDMAN: Second.

24 CHAIRPERSON VOLL: Got a motion by Dan, and  
25 a second by Rick to approve the CSM as presented. Any

1 further discussion? Hearing none, call the roll,  
2 please?

3 MR. GAU: Tim Shaw?

4 COMMISSIONER SHAW: Yes.

5 MR. GAU: Dan Lesniak?

6 VICE CHAIR LESNIAK: Yes.

7 MR. GAU: Tony Stange?

8 COMMISSIONER STANGE: Yes.

9 MR. GAU: Rick Grundman?

10 COMMISSIONER GRUNDMAN: Yes.

11 MR. GAU: Bruce Sinkula?

12 COMMISSIONER SINKULA: Yes.

13 MR. GAU: Chris Voll?

14 CHAIRPERSON VOLL: Yes.

15 MR. GAU: Motion passes six to zero.

16 CHAIRPERSON VOLL: All right, moving on.

17 Item number seven, does anybody have any items for  
18 future agendas?

19 VICE CHAIR LESNIAK: I think following some  
20 of the discussion we had tonight, I think it would be  
21 hopeful -- it would be helpful for us as a -- as a  
22 commission to have a discussion with the staff about  
23 what in-- what types of information we want to see in  
24 our packets and what information we do not want to see  
25 in our packets.

1 DIRECTOR WEGNER: Yeah, (inaudible).

2 VICE CHAIR LESNIAK: So, I would like to see  
3 -- so that way it's clear to them what we want --

4 DIRECTOR WEGNER: So, we would hear from you  
5 -- I -- because I have just been struggling. I mean,  
6 God, --

7 VICE CHAIR LESNIAK: Uh-huh.

8 DIRECTOR WEGNER: -- I have been through  
9 Duane, and I don't disrespect anybody, but they all  
10 have their --

11 CHAIRPERSON VOLL: Different opinions on it.

12 DIRECTOR WEGNER: Yeah, so it was Duane,  
13 Dan, and I got this damn attorney, and --

14 VILLAGE ATTORNEY TURONIE: I didn't  
15 (inaudible) on this.

16 DIRECTOR WEGNER: Yeah, I have even talked  
17 to (inaudible). But Randy (inaudible), and they all  
18 have -- especially with this rezone thing, and even in  
19 this CUP, it's just like --

20 VILLAGE ATTORNEY TURONIE: Here -- and he  
21 was kind of mentioning it, but here it is in different  
22 words that point to that. And I have seen this in  
23 different communities, I think Marathon County does  
24 this terribly, where the staff come in and basically  
25 give you a big, biased, you know, flashy red line of

1 what to do, and then you're just there to be like  
2 (inaudible).

3 CHAIRPERSON VOLL: Well, and we have gotten  
4 some of that in the past, I think that's --

5 VILLAGE ATTORNEY TURONIE: Yeah, we don't  
6 want to --

7 CHAIRPERSON VOLL: -- I think Pete's right  
8 (inaudible).

9 VILLAGE ATTORNEY TURONIE: -- be that, yeah,  
10 okay? And it's not just appearances. I mean, that  
11 conditional use permit, that's a quasi-judicial --

12 VICE CHAIR LESNIAK: Uh-huh.

13 VILLAGE ATTORNEY TURONIE: Proceeding.

14 VICE CHAIR LESNIAK: Yes.

15 VILLAGE ATTORNEY TURONIE: So, if you come  
16 into it, and it's like baked -- already baked, and you  
17 know, you're just there to say, oh yeah, on the  
18 record, --

19 CHAIRPERSON VOLL: Right.

20 VILLAGE ATTORNEY TURONIE: -- you know,  
21 that's not really fair, that's not really legal even I  
22 would argue. And so, that's why it's got to be -- but  
23 there has got to be direction and guidance.

24 VICE CHAIR LESNIAK: Uh-huh.

25 VILLAGE ATTORNEY TURONIE: Right? And so,

1 that's where you got to figure that out. But that's -  
2 - the overall theme of it, I think -- I think is, you  
3 know, it's correct that you can't -- you can't come in  
4 here, you know, acting like it's already done all the  
5 time, or --

6 VICE CHAIR LESNIAK: Uh-huh.

7 CHAIRPERSON VOLL: Right.

8 VILLAGE ATTORNEY TURONIE: -- that you guys  
9 aren't the people that make the decisions like someone  
10 else does, that you know, -- you just don't want to  
11 even -- so that's (inaudible) reason.

12 CHAIRPERSON VOLL: Okay. Anything else for  
13 future agendas? All right, if not, we will move on  
14 then to item number eight, the next meeting. That's  
15 going to be the next third Monday of the month. Next  
16 month. Item number nine, I'll make a motion to  
17 adjourn, is there a second?

18 COMMISSIONER SINKULA: (Inaudible) second.

19 CHAIRPERSON VOLL: Okay, Bruce made a  
20 second. All in favor say, aye?

21 ALL: Aye.

22 CHAIRPERSON VOLL: All right, all opposed?  
23 Motion carried. All right, Tim, we are adjourned,  
24 thanks for calling in.

25 COMMISSIONER SHAW: Thank you, guys. Have a

1 good night.

2 CHAIRPERSON VOLL: Thanks, you too.

3 (End of Audio Recording.)

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I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED this 31st day of August 2023.

*Alexandria Brobst*

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ALEXANDRIA BROBST



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19:6,16,	17,23	10,22,23,	72:15	<b>York</b>
19 20:24	80:4,15,	25 87:1	<b>wow</b>	43:8
21:21	24 81:2,	88:2,12	57:7	<hr/>
22:7	9,20	89:16,22	62:20	<b>Z</b>
26:17,24	82:8,11,	<b>wetlands</b>	<b>write</b>	<hr/>
27:1,14,	16,21	21:9	59:4	<b>zone</b>
20,25	83:1,24	86:12,20	77:13	10:8
28:7,9,	84:6,9,12	87:9	<b>writing</b>	34:10,15
18,20	85:5,8,15	<b>whatsoever</b>	6:22 8:4	66:1 88:2
29:16,19	86:5,8,	74:24	23:23	<b>zoned</b>
30:1,18	10,22	<b>Willow</b>	77:19	52:18
31:23	87:12,25	3:17	<b>written</b>	<b>zones</b>
32:3,9,	88:6,8,	<b>Wisconsin</b>	23:24	59:23
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33:20,24	22,24	<b>withing</b>	51:9,10	<b>zoning</b>
35:13,23	89:1,4,8,	51:4	54:21	14:2,8,13
36:4,7,20	12,15,19,	<b>wood</b>	63:6	15:4
45:22	25 90:7	40:11	<b>wrong</b>	23:18
46:4,6,	91:16,19	50:8,20	81:19	24:15
12,19,24	92:21	52:2	<b>wrote</b>	35:8
47:2,19	93:3	<b>word</b>	73:17	39:17,18
48:13,15	95:1,4,8,	53:10	<hr/>	46:22
49:5	12,16	82:20	<b>Y</b>	55:25
51:11,13	<b>weird</b>	<b>words</b>	<hr/>	62:2
52:18,24	59:21,22	95:22	<b>yard</b>	63:12
53:1,4	<b>welcomed</b>	<b>work</b>	67:8	80:10
54:1,4	73:6	15:16	<b>year</b>	81:17
55:1,21	<b>welfare</b>	16:3,8	17:3	83:22
56:1,13	33:4,9	24:14	19:15	
61:9	36:23	38:20	28:16	
63:18	<b>wellness</b>	73:2	50:15	
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69:13,18,	<b>West</b>	<b>worked</b>	<b>years</b>	
23,25	40:6	14:5	10:9	
70:2,4,8,	<b>Weston</b>	23:12	19:15	
12,14,19,	3:17	<b>working</b>	27:25	
24 71:14,	<b>wet</b>	76:10	31:8	
17,21,25	38:23			
72:3,6,				
10,16				
73:20				
75:5,16,				



October 25, 2023

Mike Bieniek  
LLC Telecom Services  
10700 W. Higgins Rd., Ste. 240  
Rosemont, IL 60018

Re: Conditional Use Permit VB BTS II, LLC Mobile Service Support Structure – US-WI-5446 Kronenwetter  
1989 Creek Rd., Mosinee, WI 54455. Parcel NO. 145-27080930998

Dear Mr. Bieniek,

On June 19, 2023, the Plan Commission approved the conditional use permit for the placement of a communications Tower on the parcel described above with the following conditions made upon approval of the conditional use permit.

1. The applicant must install a screen fence of either vinyl, wood, or other opaque material to be at least two feet higher than the highest part of any support structure buildings at the site, and such screen fence to be maintained in proper condition.
2. A \$20,000 bond for decommissioning removal of such tower when not in use.
3. The applicant must establish an address for this property.
4. The applicant must enter into an agreement with the Village that satisfies the requirements contained within § 520-26(C) (2) (h) and (i), a copy of those provisions is enclosed.

The Plan Commission's approval has now passed an appeal review by the Village Board. If you have any questions, please feel free to contact me at 715-692-1729.

Respectfully,

Peter S. Wegner  
Village of Kronenwetter  
Community Development/Planning and Zoning Director  
pwegner@kronenwetter.org

Enclosure

**§ 520-26 Industrial land use types.**

C. Communications tower.

(2) Performance standards:

(h) Prior to the issuance of a building permit for a communications tower erected after the effective date of this chapter, the applicant shall provide a written agreement stating that if the communications tower, antennas, or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower, antennas, or transmitters upon written request from the Zoning Administrator at no cost to the Village within 60 days of such request. If such listed items are not removed within 60 days of such notification, the Village may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the Village with written notice of the cessation of use. A performance bond or deposit of \$20,000 shall be required to ensure compliance with all applicable requirements for removal of the communications tower and equipment.

(i) The owner of any communications tower shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the communications tower and accessory structures with a single combined limit of not less than \$1,000,000 per occurrence. The policy shall contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Village with a certificate of such insurance before issuance of a building permit and upon each policy renewal thereafter.

June 26, 2023

Dear Pete Wegner,

At the conclusion of the June 19, 2023, Plan Commission meeting members and staff briefly discussed the permissibility of appeal. I wanted to review that discussion but the audio recording of the meeting has not yet been posted on the village website. Do you know when that recording will be posted?

In the absence of the recording, I have reviewed the village ordinances and believe that the following rules apply:

## 520-121 Conditional Use Permits

### F. Appeal to Village Board.

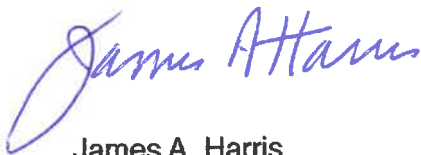
An appeal of a decision under Subsection E may be taken to the Village Board by any person, firm or corporation or any officer, department, board, commission or agency of the Village who is aggrieved by the decision. Such appeal shall be made in writing to the Zoning Administrator within 10 days after the date of the Commission's decision. In the case of an appeal:

Consistent with this ordinance, and acting within the appropriate timeline, I am appealing to the 2023, Kronenwetter Village Board the June 19, 2023, decision of the Plan Commission relative to the proposed cell phone tower on Creek Road.

I believe there were procedural errors made prior to the meeting and that the commissioners failed to give proper consideration to my wife and my concern over the impact of the proposed tower on the value of our property.

Please let me know when I may present my appeal directly to the Village Board.

Sincerely,



James A. Harris

RECEIVED

JUN 26 2023

