



BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO
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TOM GROSSMANN
PAT ARNOLD SOUTH
DAVID G. YOUNG

BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO

MINUTES: Regular Session – November 17, 2015

The Board met in regular session pursuant to adjournment of the November 12, 2015, meeting.

David G. Young – present

Pat Arnold South – present

Tom Grossmann – present

Tina Osborne, Clerk – present

- 15-1860 A resolution was adopted to authorize the Posting of the “Screening Supervisor” position, within the Department of Job and Family Services, Children Services Division, in accordance with the Warren County Personnel Policy Manual, Section 2.02(a). Vote: Unanimous
- 15-1861 A resolution was adopted to Appoint David G. Young to the Ohio-Kentucky-Indiana Regional Council of Governments Board of Trustees and Martin Russell as Alternate. Vote: Unanimous
- 15-1862 A resolution was adopted to authorize the President of the Board to sign the 2016 Pharmacy Benefits Renewal Checklist with OptumRx. Vote: Unanimous
- 15-1863 A resolution was adopted to authorize the President and/or Vice President of this Board to enter into a Five Year Software Maintenance Agreement on behalf of Warren County Juvenile Court with Sadler-NeCamp Financial Services, Inc. d.b.a. PROWARE. Vote: Unanimous
- 15-1864 A resolution was adopted to affirm “Then and Now” requests pursuant to Ohio Revised Code 5705.41 (D) (1). Vote: Unanimous

- 15-1865 A resolution was adopted to approve Bond Reduction for Stoneridge Development, Ltd. for completion of improvements in Countrybrook North, Section 10, situated in Clearcreek Township. Vote: Unanimous
- 15-1866 A resolution was adopted to approve Bond Reduction for Stoneridge Development, Ltd. for completion of improvements in Countrybrook North, Section 11, situated in Clearcreek Township. Vote: Unanimous
- 15-1867 A resolution was adopted to approve a Street and Appurtenances Bond Release for Turning Leaf, LLC for completion of improvements in Turning Leaf, Section 5 situated in Hamilton Township. Vote: Unanimous
- 15-1868 A resolution was adopted to approve a Sidewalk Bond Release for Turning Leaf, LLC for completion of improvements in Turning Leaf, Section 5, situated in Hamilton Township. Vote: Unanimous
- 15-1869 A resolution was adopted to approve Beechtree Lane in Turning Leaf, Section 5 for public maintenance by Hamilton Township. Vote: Unanimous
- 15-1870 A resolution was adopted to approve a Street and Appurtenances Bond Release for Turning Leaf, LLC for completion of improvements in Turning Leaf, Section 6, situated in Hamilton Township. Vote: Unanimous
- 15-1871 A resolution was adopted to approve a Sidewalk Bond Release for Turning Leaf, LLC for completion of improvements in Turning Leaf, Section 6, situated in Hamilton Township. Vote: Unanimous
- 15-1872 A resolution was adopted to approve Woodbine Court in Turning Leaf, Section 6 for public maintenance by Hamilton Township. Vote: Unanimous
- 15-1873 A resolution was adopted to enter into Street and Appurtenances (including Sidewalks) Security Agreement with VWC Holding, Ltd for installation of certain improvements in the Villages of Winding Creek, the Meadows at winding Creek, Section Two, situated in Clearcreek Township. Vote: Unanimous
- 15-1874 A resolution was adopted to enter into a Subdivision Public Improvement Performance and Maintenance Security Agreement with VWC Holdings, Ltd for installation of certain improvements in the Villages of Winding Creek, the Meadows at Winding Creek, Section Two, situated in Clearcreek Township. Vote: Unanimous
- 15-1875 A resolution was adopted to approve the following Record Plats. Vote: Unanimous

- 15-1876 A resolution was adopted to accept an Amended Certificate and approve Supplemental Adjustment into Sheriff's Office DARE Fund #267. Vote: Unanimous
- 15-1877 A resolution was adopted to approve a Supplemental Appropriation into Fund #485 Miami Valley Gaming TIF. Vote: Unanimous
- 15-1878 A resolution was adopted to approve Appropriation Adjustments within Board of Elections Fund #101-1300. Vote: Unanimous
- 15-1879 A resolution was adopted to approve Appropriation Adjustment from Sheriff's Office Fund #101-2210 into #101-2200. Vote: Unanimous
- 15-1880 A resolution was adopted to approve Appropriation Adjustments within Common Pleas Court Fund #101-1220. Vote: Unanimous
- 15-1881 A resolution was adopted to approve Appropriation Adjustment within Adult Probation Fund #101-1223. Vote: Unanimous
- 15-1882 A resolution was adopted to approve an Appropriation Adjustment within Grants Administration Fund #265. Vote: Unanimous
- 15-1883 A resolution was adopted to approve Appropriation Adjustments within Children Services Fund #273. Vote: Unanimous
- 15-1884 A resolution was adopted to approve Appropriation Adjustment within the Sewer Revenue Fund #580. Vote: Unanimous
- 15-1885 A resolution was adopted to approve Appropriation Adjustment within Child Support Enforcement Agency Fund #263. Vote: Unanimous
- 15-1886 A resolution was adopted to authorize payment of Bills. Vote: Unanimous
- 15-1887 A resolution was adopted to approve, with conditions, the Site Plan Review Application of Stephen R. Ruzicka, property owner, and Nathan O. Meyer, developer for New Par dba Verizon Wireless. Vote: Unanimous
- 15-1888 A resolution was adopted to approve Modification of Map Amendments to the Official Warren County Zoning Map pursuant to Ohio Revised Code Section 303.12. Vote: Unanimous
- 15-1889 A resolution was adopted to Nominate Joel Smiddy, Deerfield Township Park and Recreation Director to the Natural Resources Assistance Council of the Green Space Conservation Program. Vote: Unanimous

- 15-1890 A resolution was adopted to approve Appropriation Adjustment from Commissioners General Fund #101-1110 into Facilities Management Fund #101-1600. Vote: Unanimous
- 15-1891 A resolution was adopted to approve Appropriation Adjustments from Commissioners Fund #101-1112 into Mason Municipal Court Fund #101-1273

DISCUSSIONS

On motion, upon unanimous call of the roll, the Board accepted and approved the consent agenda.

ADMINISTRATIVE HEARING SITE PLAN REVIEW APPLICATION OF NATHAN MEYER, AGENT FOR STEPHEN RUZICKA TO LOCATE A 130' TELECOMMUNICATIONS TOWER AT 226 KIRBY ROAD IN TURTLECREEK TOWNSHIP

The administrative hearing to consider the site plan review application of Nathan Meyer, Agent for Stephen Ruzicka was convened this 17th day of November 2015, in the Commissioners' Meeting Room.

Commissioner Young opening the hearing and confirmed the following with Tina Osborne, Clerk of Commissioners:

1. the Site was posted with signage stating the Site would be subject to a public process and where to get additional information on October 14, 2015
2. Written notice of this hearing was sent to the Applicant on October 27, 2015, and all owners of property within 500 feet from the parcel lines of the Site subject of this hearing on October 26, 2015
3. Written notice was received from the applicant on August 5, 2014, stating their intent to erect a telecommunications tower at the site and a certified letter was sent to the applicant the same day stating their requirement to comply with Warren County Zoning regulations.

Commissioner Young administered the oath to Mike Yetter, Zoning Supervisor, who presented the attached PowerPoint showing the following:

- the Applicant;
- the Township, Property location and Parcel number of the Site;
- the Size of the Site;
- the Site's current Zoning designated on the official Zoning Map;
- the existing Land Uses;
- the future Land Use Map designation of the Site;
- what is being requested by the Applicant;
- what are the Issues for consideration;
- each document that has been filed by the Applicant; and,
- Applicant has complied with the Application requirements in Article I, Section 1.303.3 and Section 1.303.5.
- The recommendation to approve the site plan review application subject to the following conditions:
 1. Compliance with the Access Permit that has been issued by Warren County Engineer for a driveway.
 2. Less than 1 acre of land to be disturbed and the developer follows EPA guidelines for sediment and erosion control during construction as shown on the plan and as determined by Warren County Soil and Water Conservation District.
 3. Applicant shall provide asphalt for the first 50' feet of driveway (measured from the edge of pavement) and a dust free gravel surface for the driveway and parking area.
 4. Applicant shall obtain all building, zoning and electrical permits before construction begins.
 5. Applicant shall mark the driveway with a green address number sign that depicts the address issued for the site.
 6. Applicant shall continue the screening consistent with Section 3.205.11 (I) on the south and west boundary of the leased area.
 7. No development will be permitted within the 130' fall radius of the tower.
 8. In the event the tower is deemed abandoned by the Zoning Inspector, it shall be the responsibility of the applicant to bear the expense of removal within sixty (60) days.
 9. The site shall be developed in compliance with the standards of Section 3.205.11.
 10. The applicant shall provide two (2) co-location opportunities for other carriers.

Commissioner Young then administered the oath to all those present desiring to give testimony in today's hearing.

Nathan Meyer, Agent, stated that the proposed tower is short in comparison of the industry standard and is only 30' higher than the adjacent trees. He stated that a higher tower isn't required as this tower will be filling a small coverage gap but mostly it is needed to meet the capacity gap. He then stated that he has gone to great lengths to meet the zoning requirements and even relocated the proposed site in order to conceal the tower as much as possible from the adjacent homes. He then showed the schematics of the tower.

Commissioner Young questioned if they went through the process of trying to locate this tower somewhere else.

Mr. Meyer stated that this is the closest open area to provide coverage where it is needed.

There was discussion relative to why existing towers cannot be raised to provide the coverage gap and also the ability to move the tower further away from the existing homeowners since the same property owner owns the land.

Mr. Meyer stated that the proposed site is the best they can do to conceal with the current trees.

Nick Stevens, Verizon Wireless, stated that moving the tower further north will create more interference with the surrounding towers and not improve the coverage area. He then stated that if the capacity issue is not addressed; telephone calls will not go through, including emergency calls.

There was discussion relative to the existing property values being affected by the construction of this tower.

Mr. Meyer stated there are three things that impact a property in a negative way:

1. Noise- the noise emitted from a tower is the equivalent to a home A/C unit
2. Vibration-there is none from a tower
3. Odor- there is no odor from a tower

Mr. Meyer stated that the first thing a homeowner does when purchasing a property is pull out their cell phone and see if they have coverage. He then stated that studies have shown no negative impact from cell towers.

Sherry Mills, 351 Summerfield Lane, Lebanon, stated that they purchased her property because of the country feel and stated her concerns including:

1. Health issues related to the wildlife in her pond from RF waves.
2. She purchased the property to get away from cell phones and towers

Mrs. Mills stated she is totally opposed to the current residential location of the tower and requested the Board to deny the site plan review application.

Peter Kube, 167 Summerfield Lane, stated his opposition to the proposed location and stated that other providers can provide the service. He stated his concern relative to this request should not be about Verizon's needs but rather the needs of the residents. He then requested the Board to deny the application.

Ann Horsley, 201 Kirby Road, stated her desire to keep the area rural. She stated she has sufficient service through Verizon Wireless and suggested they find other ways to meet their service needs. She stated her opposition to the tower.

Rebecca Case, 2910 West Ave., stated that 911 coverage is just fine in the area. She stated she is very concerned with health issues and stated does not want the eyesore in her area.

Gloria Gray, 2829 West Ave., stated the following concerns:

1. Decrease in property values
2. The effect the tower will have on wildlife
3. Safety concerns relative to high winds in the area and the tower attracting lightening

Amy Moore, 496 Summer Field, stated her opposition to the tower relative to safety concerns and aesthetics.

Mr. Meyer answered the residents questions relative to safety concerns. He then stated that health concerns are not an allowable reason under the law to deny the location of a cell tower. He then stated that the FCC license requires RF emissions within a safe level.

There was discussion relative to safety concerns and RF emissions as it pertains to wildlife.

There was much discussion relative to the location of the proposed tower as it relates to the existing trees and proposed screening.

Commissioner South questioned if they could co-locate on an existing tower.

Mr. Meyer stated they have reviewed the coverage area and co-location does not cover the gap they need filled.

Mr. Meyer then reviewed all of the documents the Board should rely upon in their decision and stated that the "Statement of Compliance" shows that the application has met the criteria for approval.

There were various discussions relative to the service within the area.

Mr. Meyer stated this proposed tower should help the majority of problems in the area with data coverage.

There was then discussion relative to the need for the tower.

Mr. Meyer stated that Verizon Wireless would not be spending \$300,000 if the tower was not needed.

Upon further discussion, the public hearing was closed.

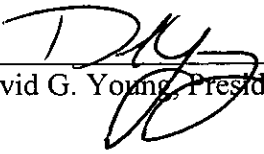
There was discussion with Bruce McGary, Assistant Prosecutor, relative to what the law says regarding the location of cellular towers and the criteria that can be utilized when determining approval or denial.

Mr. McGary reviewed the law relative to towers and stated that the Board can regulate but they cannot directly prohibit the tower. He then stated that the Board must rely only upon the evidence presented. He reminded them that they cannot accept letters or emails submitted as evidence. He stated they must only consider sworn testimony presented during the hearing.

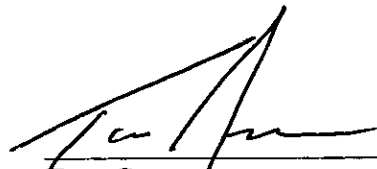
Upon further discussion, the Board resolved (Resolution #15-1887) to approve the site plan review application subject to ten (10) conditions as follows:

1. Compliance with the Access Permit that has been issued by Warren County Engineer for a driveway.
 2. Less than 1 acre of land to be disturbed and the developer follows EPA guidelines for sediment and erosion control during construction as shown on the plan and as determined by Warren County Soil and Water Conservation District.
 3. Applicant shall provide asphalt for the first 50' feet of driveway (measured from the edge of pavement) and a dust free gravel surface for the driveway and parking area.
 4. Applicant shall obtain all building, zoning and electrical permits before construction begins.
 5. Applicant shall mark the driveway with a green address number sign that depicts the address issued for the site.
 6. Applicant shall continue the screening consistent with Section 3.205.11 (I) on the south and west boundary of the leased area.
 7. No development will be permitted within the 130' fall radius of the tower.
 8. In the event the tower is deemed abandoned by the Zoning Inspector, it shall be the responsibility of the applicant to bear the expense of removal within sixty (60) days.
 9. The site shall be developed in compliance with the standards of Section 3.205.11.
 10. The applicant shall provide two (2) co-location opportunities for other carriers.
-

Upon motion the meeting was adjourned.



David G. Young, President




Tom Grossmann



Pat Arnold South

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on November 17, 2015, in compliance with Section 121.22 O.R.C.



Tina Osborne, Clerk
Board of County Commissioners
Warren County, Ohio

Case No.	105-2015 SP	
<u>Applicant/Owner</u> <u>Agent</u>	(Owner) Stephen R. Ruzicka Nathan O. Meyer (PBM Wireless Services)	
Township	Turtlecreek	
Property Location	Address	226 Kirby Road Lebanon, Ohio 45036
	PIN	08-02-201-013-0
Property Size	9.694 acres 89.05 feet of road frontage	
Future Land Use Map (FLUM) Designation	Agricultural-Vacant-Rural Residential	
Current Zoning District	“R1 ” Single-Family Residential (2-acre density)	
Existing Land Use	Residential/Agricultural	
Site Plan Requested	Construct a new 130’ telecommunication tower	
Issue for consideration	Compliance with Sections 1.303 (Site Plan Review) and 3.205.11 (Telecommunication Towers)	

Site Plan Review
105-2015

Stephen R. Ruzicka
Nathan O. Meyer
PMB Wireless Services

226 Kirby Road
Lebanon, Oh. 45036

9.694 ac.

Turtlecreek Twsp.

08-02-201-013-0

Sec. 1.303
Site Plan Review
3.205.11
Telecommunication Towers

Aerial Map



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105-2015

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Sec. 1.303

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Telecommunication Towers

Vicinity Map





105-2015

Zoning Map

Flood Map 105-2015



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105-2015**

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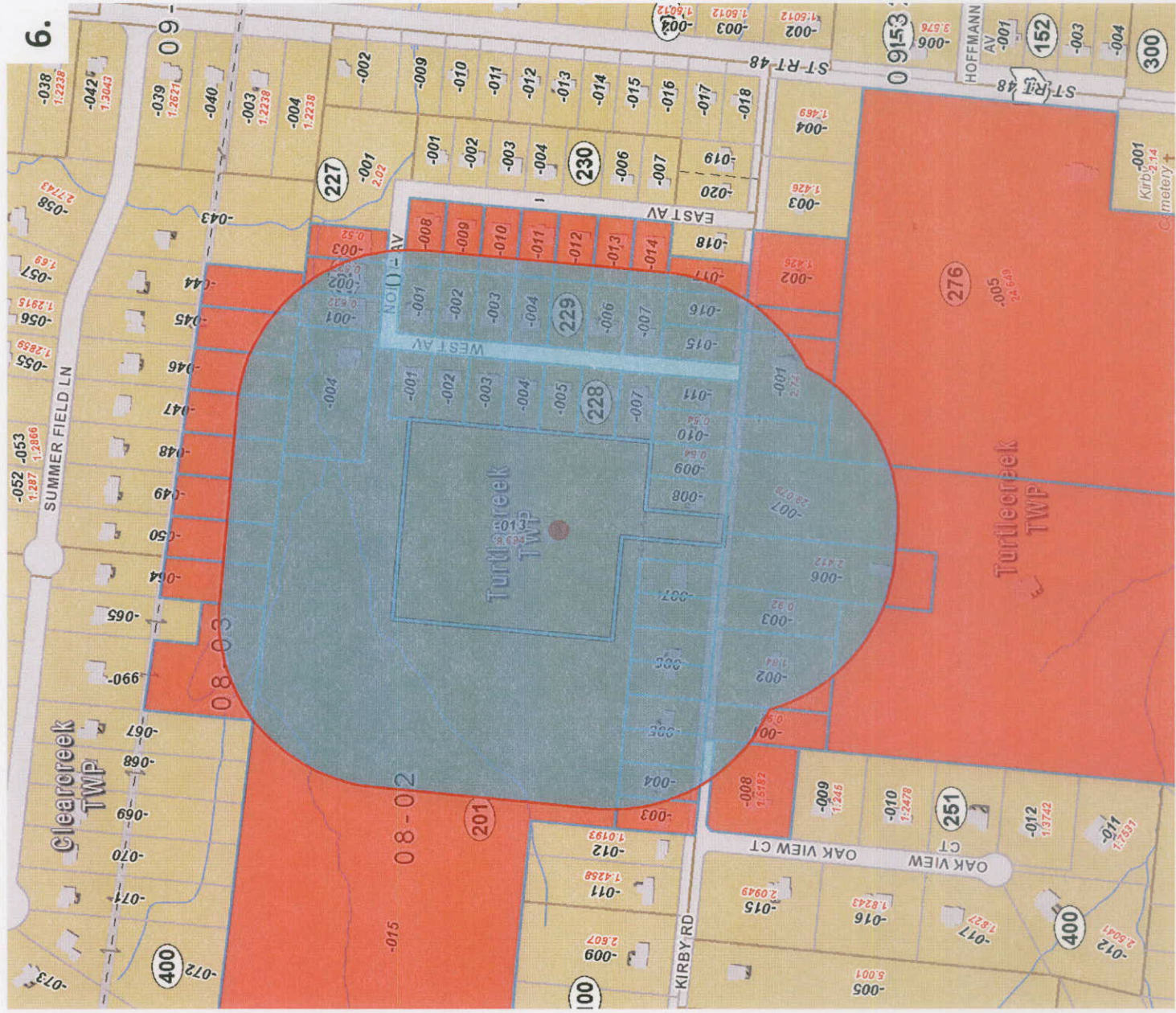
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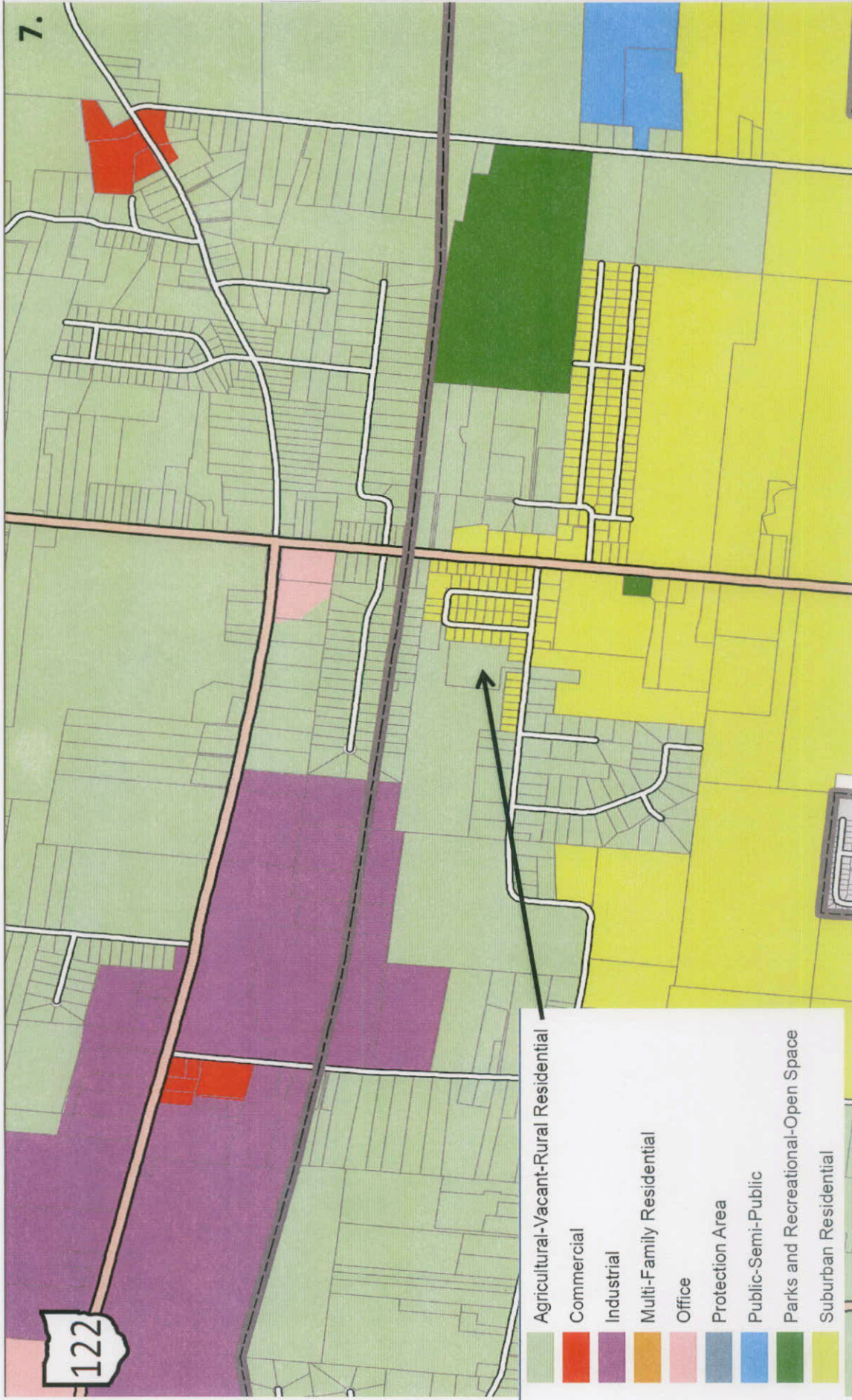
Sec. 1.303

**Site Plan Review
3.205.11**

Telecommunication Towers

Surrounding Owners





Comprehensive Plan-Land Use Element

SUMMARY OF APPLICATION:

The proposed Telecommunications Towers is 130' feet in height and is proposed to fill gaps in the service area.

ANALYSIS OF ZONING:

North	“R1” Rural Residential	<u>Single Family Residential</u> (<u>2-acre density</u>)
West	“R1” Rural Residential	<u>Single Family Residential</u> (<u>2-acre density</u>)
South	“R1” Rural Residential	<u>Single Family Residential</u> (<u>2-acre density</u>)
East	“R1” Rural Residential	<u>Single Family Residential</u> (<u>2-acre density</u>) 11.

REVIEWING DEPARTMENTS :

Site Plans were circulated to the Warren County Engineer, Warren County Soil & Water Conservation, Warren County Regional Planning Commission, Turtlecreek Township Trustees and Fire Department, Warren County Combined Health District, Warren County Building Department, Warren County Sheriff, and Bruce McGary.

ZONING INSPECTORS REVIEW

OF W. C. CODE STANDARDS :

1. Compliance with the Warren County Rural Zoning Code Standards for Site Plan Review Section 1.303 have been met.
2. The Telecommunications Towers use meets the standards of Section 3.205.11 except for the following:

Continue

(E) Site Access and Circulation: Section

3.205.11(E) requires a dust free surface constructed of asphalt, concrete or dust free gravel and installation of the green address number sign.

(F) Setbacks:

(1) A 130' tower setback easement has been placed on parcel 08-02-201-013-0 and 08-02-201-015-0 both owned by the applicant.

Continue

(I) Buffer Screening: Section 3.205.11(I)

Considering the heavy screening to the north and east of the site additional landscaping will be required to the south and west of the tower.

(K) Abandonment: The tower owner and any successor or assign shall be required to remove the tower and all related equipment within sixty (60) days after verification by the Zoning Inspector that the use has permanently ceased or is abandoned. Verification requires certified mail notice to the property owner.

Staff Recommended Conditions

1. that the applicant submits an Access Permit application to the Warren County Engineer and Turtlecreek Township Fire Chief for a change in use and the Access Easement is required on the existing driveway.
2. that less than one (1) acre of land will be disturbed and the developer follows EPA guidelines for sediment and erosion control during construction as shown on the plan or as determined by Warren County Soil and Water Conservation District if more than one acre is disturbed.
3. that the applicant shall provide asphalt for the first fifty feet (50') of driveway (measured from the edge of pavement) and a dust free gravel surface for the driveway and parking area.
4. that the applicant shall obtain all building, zoning and electrical permits before construction begins.

5. that the applicant shall mark the driveway with a green address number sign that depicts the address issued for the site.
6. that the applicant shall provide screening consistent with Section 3.205.11(l) on the south and west boundary of the leased area.
7. that there will be no development within the one hundred thirty feet (130') fall radius of the tower.
8. that if the tower is deemed abandon it becomes the responsibility of the applicant to bare the expense to remove.
9. that the site shall be developed in compliance with the standards of Section 3.205.11 Telecommunications Towers.
10. that the applicant provides two (2) co-location opportunities for other carriers.

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Sec. 1.303
Site Plan Review
3.205.11

Telecommunication Towers

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Sec. 1.303

Site Plan Review
3.205.11

Telecommunication Towers

Vicinity Map



Flood Map

105-2015



105-2015

Zoning Map



**Site Plan Review
105-2015**

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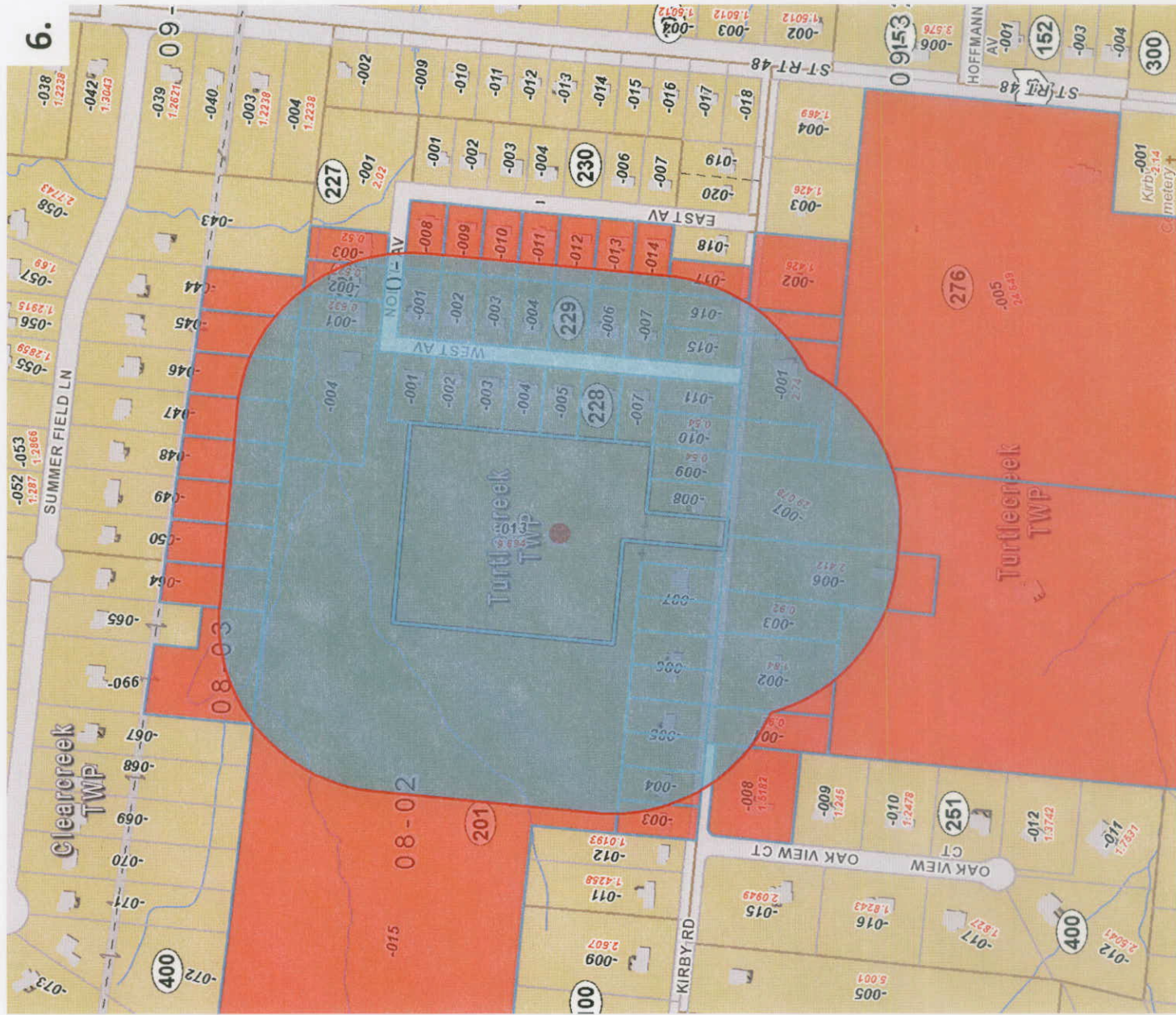
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Sec. 1.303

**Site Plan Review
3.205.11**

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