



MARILYN EDWARDS  
County Judge

280 North College, Suite 500  
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS  
County Courthouse

**SPECIAL MEETING OF THE  
WASHINGTON COUNTY QUORUM COURT**

Monday, June 24, 2013  
6:00 p.m.  
Washington County Quorum Court Room

**A G E N D A**

1. **CALL TO ORDER.** **JUDGE EDWARDS**
2. **PRAYER AND PLEDGE.**
3. **ROLL CALL.**
4. **ADOPTION OF AGENDA.**
5. **CONDITIONAL USE PERMIT APPEAL HEARING:**  
**East Prairie Grove Tower Site CUP Conditional Use Permit Request**  
Location: Section 23, Township 15, Range 31 West  
Owner: Storm-Agri Enterprise INC.  
Applicant: Smith Communications, LLC; Dave Reynolds  
Location Address: 11183 Storms RD, Prairie Grove, AR 72753  
131.52 acres  
Proposed Land Use: Cell Tower  
Coordinates: Longitude- 94° 14' 21.14" W Latitude-35°58'8.15"N  
**Project #: 2013-021 Planner: Sarah Geurtz, e-mail at [sgeurtz@co.washington.ar.us](mailto:sgeurtz@co.washington.ar.us)**
  - Staff Remarks and Updates.
  - Presentation by the Applicant in Support of the Project. *(45-minute limit)*
  - Presentation by Appellant Against the Project. *(45-minute limit)*
6. **AN ORDINANCE RATIFYING CONDITIONAL USE PERMITS GRANTED BY  
THE PLANNING AND ZONING BOARD.** This ordinance is on third reading. **(6.1) JOE PATTERSON**
  - Motion by a Member of the Quorum Court.
  - Deliberation of the Quorum Court.
  - Public Comment.  
*(20-minute limit: 10 minutes for & 10 minutes against; 3-minute limit per speaker)*
  - Vote on Ordinance.
7. **ADJOURNMENT.**

/kb

**ORDINANCE NO. 2013-\_\_\_\_\_**

**BE IT ORDAINED BY THE QUORUM COURT  
OF THE COUNTY OF WASHINGTON,  
STATE OF ARKANSAS, AN ORDINANCE  
TO BE ENTITLED:**

**AN ORDINANCE RATIFYING CONDITIONAL  
USE PERMITS GRANTED BY THE  
PLANNING AND ZONING BOARD.**

**WHEREAS**, the Planning and Zoning Board granted a  
Conditional Use Permit on March 7 for Prairie Grove Tower Site; and,

**WHEREAS**, an appeal has been filed concerning such; and,

**WHEREAS**, based upon the actions of the Planning and  
Zoning Board and the facts before the Court.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM  
COURT OF WASHINGTON COUNTY, ARKANSAS:**

**ARTICLE 1.** That the Conditional Use Permit for Prairie  
Grove Tower Site granted by the Planning and Zoning Board is hereby ratified.

\_\_\_\_\_  
MARILYN EDWARDS, County Judge

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BECKY LEWALLEN, County Clerk

Sponsor: \_\_\_\_\_ Joe Patterson

Date of Passage: \_\_\_\_\_

Votes For: \_\_\_\_\_ Votes Against: \_\_\_\_\_

Abstention: \_\_\_\_\_ Absent: \_\_\_\_\_

## East Prairie Grove Tower Site CUP

**The Planning Board/Zoning Board of Adjustments approved East Prairie Grove Tower Site Conditional Use Permit (with conditions) on March, 7, 2013.**

**This CUP is currently under appeal.**

**East Prairie Grove Tower Site CUP** is requesting a CUP to allow the construction of an approximately 300 foot tall, guy-wired, lattice-type wireless communications tower facility (with the addition of lights and a lightening rod, the overall height could increase to approximately 320 feet). The tower would be approximately 3' wide. The parcel acreage is 131.52 acres on which the applicant is leasing a 30' wide access and utility easement, a 75'x75' area on which the tower would be located, and guy wire easements. The access and utility easement would connect the tower site to Storms Road.

The land owner is Storms Agri-Enterprises, LLC; the applicant is Dave Reynolds of Smith communications, LLC. The property is located east of Prairie Grove.

No existing residential structures are located within the signed-consent distance from the buffer. The applicant, Dave Reynolds, has stated that there are no towers within a 1-mile radius on which collocation could occur.

The tower would be visible from many surrounding properties due to the openness and flatness of this area of the County. However, this tower would be a lattice-type tower only 3' in width; of the available tower types, Staff feels that this type would have the least visual impact. The applicant has stated that FAA regulations require, at the top of the tower, a white pulsing light during day hours and a low intensity red pulsing light during night hours. "Sight marker lights" would be required at 150' elevation on the tower. However, Mr. Reynolds reported that all lights would be shielded from the ground and shine upwards and not downwards.

The applicant submitted voice coverage maps showing the need for better cellular coverage in this area of the County. The Washington County 911 Director, John Luther, is in support of additional cellular infrastructure in rural Washington County because it would enhance access to emergency services.

**The primary issue with this project has been multiple neighbor complaints concerning safety of cellular radiation, appearance of the tower, concern of adjacent land value devaluation, fire safety, floodplain proximity, and a report of a suspected Native American Indian burial ground.**

**Radiation: Safety due to cellular radiation cannot legally be considered, per Federal law PUBLIC LAW 104-104—FEB. 8, 1996, TELECOMMUNICATIONS ACT OF 1996.**

**Staff feels that this type of tower would be preferable to shorter self-supporting or monopole towers, especially since shorter towers would likely require multiple shorter towers in order to provide the same coverage as a taller, guyed tower.**

**Land Value:** The applicant provided a statement from an Appraiser that states that it had not been her experience that cell towers negatively affected property values of adjacent properties.

**Fire Safety:** The Washington County Fire Marshal has looked at this project for fire safety and conditions have been placed upon this project to ensure that emergency service would be able to reach this tower in case of emergency.

**Floodplain:** The tower site is not located within the adjacent floodplain per FEMA FIRM map 05143C0355. Staff has a condition requiring secondary fuel containment systems for generators since this site is located near a floodplain.

**Native American Burial Ground:** an adjacent neighbor reported that he thought there was a Native American burial ground located somewhere to the south of the tower site. Mr. Reynolds provided a letter from Larry Jenkins of Peregrine Environmental (the company who produced the NEPA report), in which Mr. Jenkins reiterates the study conducted by Flat Earth Archeology and the responses from multiple Native American Tribes that found/reported no adverse impact on sites of Native American significance in this area.

**The Planning Board/ Zoning Board of Adjustments approved (4- in favor, 1- recusal, 0- against, 2- not present) the project with the below listed conditions. Since that time Planning staff has added several new conditions that are recommended for ratification. These new conditions are denoted below in bold print.**

Planning Conditions:

1. A copy of the Federal Communications Commission (FCC) approval letter must be submitted to Staff prior to tower operation.
2. Must be an approximately 300 foot tall guyed wireless communications tower facility that, with the addition of lights and a lightning rod, could increase the overall height to approximately 320 feet.
3. Compound must be generally sized as presented (75'x75').
4. This CUP will apply only to the lease area and related easement as presented and not to the entire 131.52 acres.
5. Proper Circuit Clerk-filed easement documents shall be recorded for the proposed access and utility easement.
6. The NEPA report shall be updated to reflect the actual height of the tower as presented to Staff (300 to 320 feet).
7. Any future liquid petroleum generators shall utilize a **secondary** fuel containment system as defined by Title 40 CFR 112 to prevent fuel leakages.
8. **The proposed site minimum elevation should be at elevation 1176.1 feet and the ground outside the site graded to drain away from and around the site.**

9. The adjacent drainage swale shall be rerouted and designed as per the June 3<sup>rd</sup> Professional Engineer's letter from Satterfield Land Surveyors.
10. No stormwater permit is required by Washington County, at this time. Must comply with all ADEQ rules and regulations. Please note that if construction disturbs more than one acre, a Notice of Coverage and Stormwater Pollution Prevention Plan must be posted at the site prior to commencing construction. [http://www.adeg.state.ar.us/water/branch\\_permits/general\\_permits/stormwater/construction/construction.htm](http://www.adeg.state.ar.us/water/branch_permits/general_permits/stormwater/construction/construction.htm). If construction disturbs more than five acres, a stormwater permit and applicable fees must be submitted to ADEQ.

Water/Plumbing/Fire Conditions:

1. An access drive constructed 26 feet in width from Storms Road to the tower is required for emergency vehicle access; it shall have 13 feet 6 inches of unobstructed vertical clearance.
2. All entrance drives and parking areas must support 75,000lbs in all weather conditions.
3. The proposed gate off Storms Road **shall be 26 feet in width and** can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
4. The existing gate on Storms Road shall be 26 feet in width and can be kept locked with a normal padlock. However, if emergency access is needed, emergency personnel will cut off the padlock to gain access.
5. The cattle guard on Storms Road must be shown to be able to support 75,000 lbs in all weather conditions, or it must be removed and filled in and shown to be able to support 75,000 lbs in all weather conditions.
6. **An turnaround area for emergency vehicles shall be added to the survey and approved by the Washington County Fire Marshal and must be able to support 75,000 lbs in all weather conditions. The NEPA report must be updated to reflect this turnaround space or a letter from the company who created the NEPA report shall be submitted to Staff stating that the NEPA report does not need to be updated. If Staff feels that any utilities might be affected by the addition of the turnaround, approval must be granted by those utility companies.**

Roads/Sight Visibility/Ingress-Egress/Parking Conditions:

1. Any work to be completed in the County Road Right-of-Way requires a permit from the Road Department prior to beginning work. Any tile that may be needed must be sized by the Road Department. The Road Department may be reached at (479) 444-1610.

Utility Conditions:

1. Ozarks Electric: Any relocation of an existing line or extension of a line to feed this property will be at the owner's/applicant's expense.
2. Any utility work in the County Road ROW must be approved and permitted by the Road Department. Call 444-1610 for details.

Signage/Lighting/Screening Conditions:

1. Signage cannot be placed in the County Right-of-Way.
2. The light at the top of the tower shall be as described by the applicant – a pulsing (non-strobing) light (white during the day and red during the night) producing approximately the equivalent of a 100 watt light bulb.
3. No additional lighting, on the ground, is approved with this CUP

Standard Conditions:

1. Any further splitting or land development not considered with this approval must be reviewed by the Washington County Planning Board/Zoning Board of Adjustments.
2. This CUP must be ratified by the Quorum Court.
3. Must adhere to all Washington County Communication Tower Ordinance Standards.
4. Must proceed through Washington County Communication Tower Administrative Approval process.
5. It is the applicant's responsibility to contact the Planning Office when inspections are needed.
6. If all Administrative Tower requirements cannot be met, this tower will have to undergo full Tower Review by the Planning Board; utilities and other agencies would then review this project.
7. All conditions shall be adhered to and completed in the appropriate time period set out by ordinance.
  - This project requires additional review; the applicant must submit for Administrative Tower Review within 12 months of this CUP project's ratification.