



Report to Planning & Zoning Commission

Clay County, Missouri

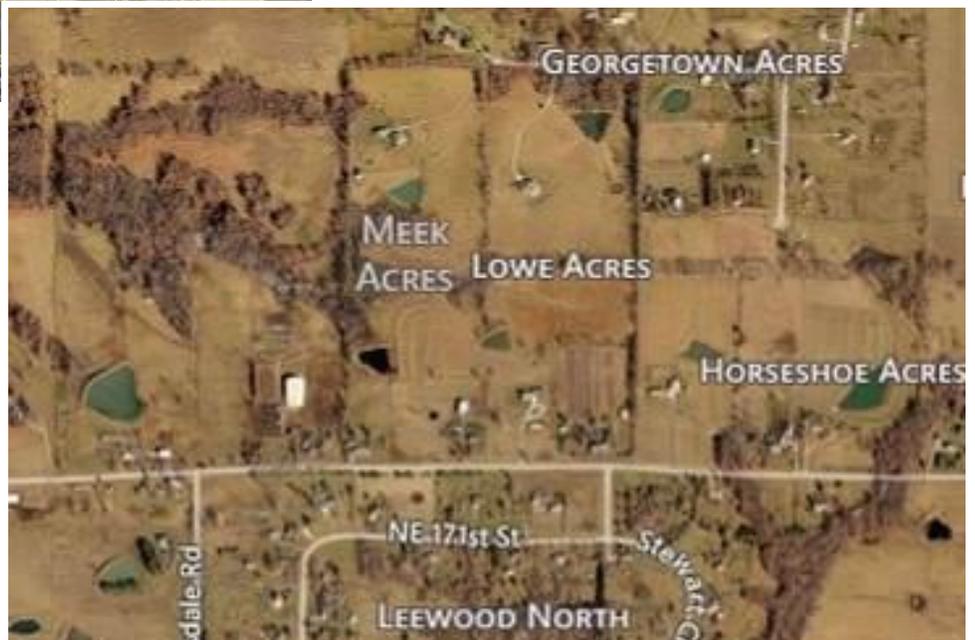
General Information

- Site Location:** approximately 20284 NE 172nd Street
Section 13 | Township 53 | Range 31
- Site Size:** 15.62± acres
- Existing Landuse & Zoning:** Agricultural District (AG)
- Zoning/Platting History:** Replat of Lots 1 & 2B of Meek Acres, recorded 09/26/1994.
- Surrounding Landuse & Zoning:**
- North – Agricultural (AG) zoned land, Georgetown Acres (R-1)
 - East – Agricultural (AG) zoned land, Horseshoe Acres (AG), Dagley Acres (R-1)
 - South – Leewood North (R-1), Richland Heights (R-1)
 - West – Agricultural (AG) zoned land, Bar-B-Hills (R-1)

Current Conditions:



Courtesy Clay County Assessor, GIS/Mapping



Courtesy Microsoft® Bing™



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Assessment

Mike Douchant with Dolan Realty Advisors LLC, an agent for AT&T Wireless on behalf of the property owners David E. & Betty A. Kitchen is requesting approval of a **Conditional Use Permit (CUP)** to erect a Commercial Telecommunications Facility specifically for wireless mobile and data services at approximately 20284 NE 172nd Street. The property is Lot 1A of Replat of Lots 1 & 2B of Meek Acres subdivision approximately 15.62+acres in size and zoned Agricultural District (AG).

This request is to locate a 155-foot tall monopole style commercial communications tower (“cell tower”) in order to provide mobile phone and data service to the surrounding area.

2008 Comprehensive Plan Considerations

The Comprehensive Plan (“Plan”) indicates that the subject property is located in the **RURAL LOW-DENSITY TIER**.

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1st) table shows the land use tiers and corresponding guidelines, and the second (2nd) explains the exceptions to the 20-acre minimum lot size policy directed by the Plan.

	Natural Resources Tier[†] (Yellow)	Rural Low-Density Tier[†] (Green)	Urban Services Tier[†] (Salmon)
Intent	Support continued agricultural uses in areas beyond near- and long-term urban service extensions.	To accommodate low density rural uses in areas located beyond anticipated city annexation areas.	To promote urban development compatible with the long range growth plans of adjoining cities.
Primary Uses	Agricultural-related uses, natural resources	Agricultural crop lands, livestock grazing, woodlands, grasslands, rural residences	Urban density residential and non-residential
Residential Uses	Rural Density: 1 dwelling unit per 20+ acres.	Rural Density; Rural Residential Density; low-density rural residential development: 1-dwelling unit per 20+ acres, or 1-farmstead dwelling on 5+ acres; Suburban Density: moderate-density development on municipal-level services: up to 4-units per acre.	Suburban Density: moderate-density development on municipal-level services: up to 4-units per acre. Urban Density: development on municipal-level services: greater than 4-units per acre. 20-acre minimum for agricultural and rural residential uses until such time as urban development occurs.
Non-Residential Uses	Farm service related, recreation	Farm service related, recreation	Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.
Minimum Sanitary Sewer Provisions	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	Municipal Wastewater Treatment Plant connection for Suburban Density or greater. ⁽³⁾
Zoning Districts	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots).	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).	Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots). AG, Agricultural zoning is appropriate until full range of urban services available.

⁽³⁾ On-site septic allowed for agricultural uses only.

[†] The **Planning Tier Map** notes a special designation of areas within one mile of each city: “1-Mile Urban Coordination Sub-Tier” where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non binding city recommendation for Clay County to consider in their deliberations.



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Table 4.3 – Option B for Land Use Tier Implementation: Transition Policy Procedures			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier (Green)	Urban Services Tier (Salmon)
Intent	Exceptions from 20-acre minimum lotsize in Ag-districts		phasing in of new regulations
Density Exceptions for Legal Lots of Record as of the date of Revision of the Land Development Code	Subdivision of land to 5+acre lots, provided that 90% of the subdivided parcel is preserved, such as in an agriculture deed restriction.	Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved.	Subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed.
Other Exceptions	Farmstead** dwellings allowed on 5+acre parcels.		City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.

* The Natural Resources Tier includes an "Urban Services Transition Sub-Tier" area along M-92 and C-Highways that extends where urban development is influenced by the urban highway; yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

** A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

Character of the General Neighborhood

Georgetown Acres (R-1) is to the north. Horseshoe Acres (AG) and Dagley Acres (R-1) are to the East. Leewood North and Richland Heights (R-1) are to the south, and Bar-B-Hills is to the west. Agricultural (AG) zoned land to the east and south of the property. [See Attachment B]

Federal Aviation Administration (FAA) Considerations

Block Air Private Air Strip located in Clinton County is approximately 5.87 miles to the northwest of the proposed tower location, and the runway for Midwest National Air Center (MNAC) is approximately 4.74 miles to the southeast. The applicant does not need to pursue FAA notification of construction or alternation (Form 7460), as the subject request falls outside of the required notification area from any FAA airport/heliport.

Figure 1 to the right illustrates the following:

- Subject tower location – red star
- FAA 7460 Notification Areas – orange-colored rings
 - Smaller to upper northwest – Block Air in Clinton County
 - Larger to east – Midwest National Air Center (MNAC)

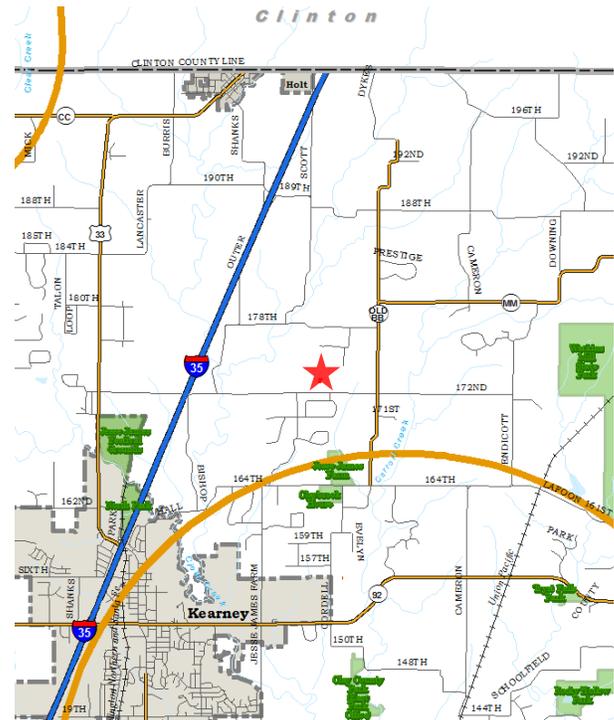


Figure 1: FAA Notification Areas

Code Considerations

The Conditional Use Permit (CUP) application was properly noticed in the Kearney Courier on February 13, 2014. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter sent February 14, 2014.



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The subject request for a Commercial Telecommunications Facility is handled under multiple portions of the 2011 Clay County Land Development Code ("LDC"). The use table inside Section 151-6.1 includes a "Telecommunications Facility (Commercial)" designation requiring approval of a Conditional Use Permit ("CUP") in the Agricultural ("AG"), Residential Rural (R-1), Residential Ranchette (R-5), Residential Urban (R-U), Commercial Services (C-3), Limited Industrial (I-1) and General Industrial (I-2) zoning districts. As such, the subject request must meet all of the approval criteria for a CUP in Section 151-3.10 (A) (13) detailed below:

- A) The proposed use complies with the intent of the Comprehensive Plan and general provisions of the Land Development Code, modified for the specific use request.
- B) The proposed use in its proposed location will not have a substantial adverse impact on the public health, safety or general welfare.
- C) The proposed use will not cause substantial injury to the value of other property in the vicinity.
- D) Adequate access routes will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets.
- E) Adequate public safety, transportation and utility facilities/services will be available to service the subject property while maintaining adequate levels of service for existing development, and
- F) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (i.e., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Under Section 151-6.2 (G), the LDC provides specific use standards for commercial antennas/towers which apply to this request are summarized below:

1) Federal Requirements

STAFF RESPONSE: The applicant does not need to pursue FAA notification of construction or alternation (Form 7460), as the subject request falls outside of the required notification area from any FAA airport/heliport.

2) Abandoned Towers – The LDC requires abandoned towers be removed at the owner's expense, and a bond or letter of credit be maintained for this purpose in the County Clerk's Office. The amount shall be equal to a demolition bid of the tower structure, updated every 5 years.

3) Inspection – The tower shall be inspected every 24 months by a registered structural engineer. A copy of the inspection report shall be provided to the County.

4) Accessory Equipment Storage – mobile equipment or equipment not used in direct support of a tower facility shall not be stored or parked on the site.

STAFF RESPONSE: *No accessory equipment/storage is requested in relation to this application.*

5) Fences – Towers shall be enclosed by security fencing not less than 6 feet in height with anti-climbing device, and have a locked gate. Security signs shall be posted on the fence.

STAFF RESPONSE: *supplied drawings show 6-foot tall chain-link fence around full perimeter of facility site. Monopole design is inherently anti-climbing.*



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- 6) Design and Construction – The LDC requires a building permit be issued for construction of a tower, and plans and specifications be submitted from a registered professional engineer.
- 7) Lighting – If lighting is required, the County Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

STAFF RESPONSE: *No additional lighting is required in relationship to this request.*

- 8) Landscaping – The tower compound shall be landscaped with a buffer of plant materials that effectively screens the compound from adjacent property.

STAFF RESPONSE: *Landscaping is to be installed completely around the tower compound. See attached site plan.*

- 9) Co-locations – The LDC requires tower installations above 120 feet in height provide a minimum capacity for three (3) total users that includes AT&T.

STAFF RESPONSE: *The proposed tower/antenna has the ability to provide space for 3 total users, if desired.*

- 10) Separation from Existing Towers – A monopole tower such as this subject request must be at least 1,500 feet from any existing tower.

STAFF RESPONSE: *A proposed new monopole facility such as the subject request must be at least 1,500 feet from any existing tall structures. The proposed facility is approximately 5,350 feet (~ 1.01 miles) northwest of the existing Parks James Farm Tower.*

- 11) Height and setback – No tower shall exceed 300 total feet above ground level, and must be setback a minimum distance equal to 100% of the height of the tower from all adjoining property lines.

STAFF RESPONSE: *This tower is 155 feet in height and is proposed to be approximately 155 feet from the east, and over that amount in all other directions, thereby meeting the requirement.*

Section 151-5.5 of the LDC sets additional height hazard limitations for tall structures within the Airport Overlay Zoning District (“A-O”). The subject request falls approximately within the 1,300 feet above mean sea level (AMSL) max height level. The submittal as submitted reaches close to 1,070 (155’ structure height + 915’ ground elevation), thereby meeting or exceeding the additional standards inside A-O.

Outside Agency Review

The Clay County Highway Department noted: “The road will not sustain any increase in traffic”.

The Clay County Health Department has given preliminary and final approval. Clay County Public Water Supply District #3 has not responded as of this writing. The Smithville Fire Protection District serves this property.

Findings

No opposition has been received as of the date of this staff report.



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Recommendations

Staff recommends the request for the **Conditional Use Permit** to erect a 155-foot tall monopole Commercial Telecommunications Facility be **approved with following conditions** as shown on Exhibit A:

Exhibit A

1. The CUP shall be based on a time frame of fifteen (15) years.
2. Tower design shall be reviewed at the time a building permit is issued, and at minimum shall include the following elements:
 - a. Maximum height for this communications tower shall be 155 feet.
 - b. The monopole tower shall be set back a minimum distance of 155 feet from all adjoining property lines.
 - c. Construction plans and specification drawings be submitted from a registered professional engineer in the State of Missouri.
3. One (1) co-location shall be granted at no charge to the Clay County Sheriff Department and/or any other authorized public safety responder servicing the tower's coverage area.
4. Every twenty-four (24) months the tower must be inspected by a structural engineer registered in the State of Missouri who is regularly involved in maintenance, inspection and erection of communications towers.
5. If the tower is damaged or destroyed, the property owners will have 120 days to repair or dismantle the facility.
6. No hazardous materials may be stored on the property.
7. In case of amateur radio use (often referred to as "HAM radio"), applicant/owners must submit evidence of Federal Communications Commission (FCC) licenses and permits.
8. Once approved, this CUP is non-transferable; therefore, if ownership changes a new CUP must be filed with the Clay County Planning and Zoning Department office.



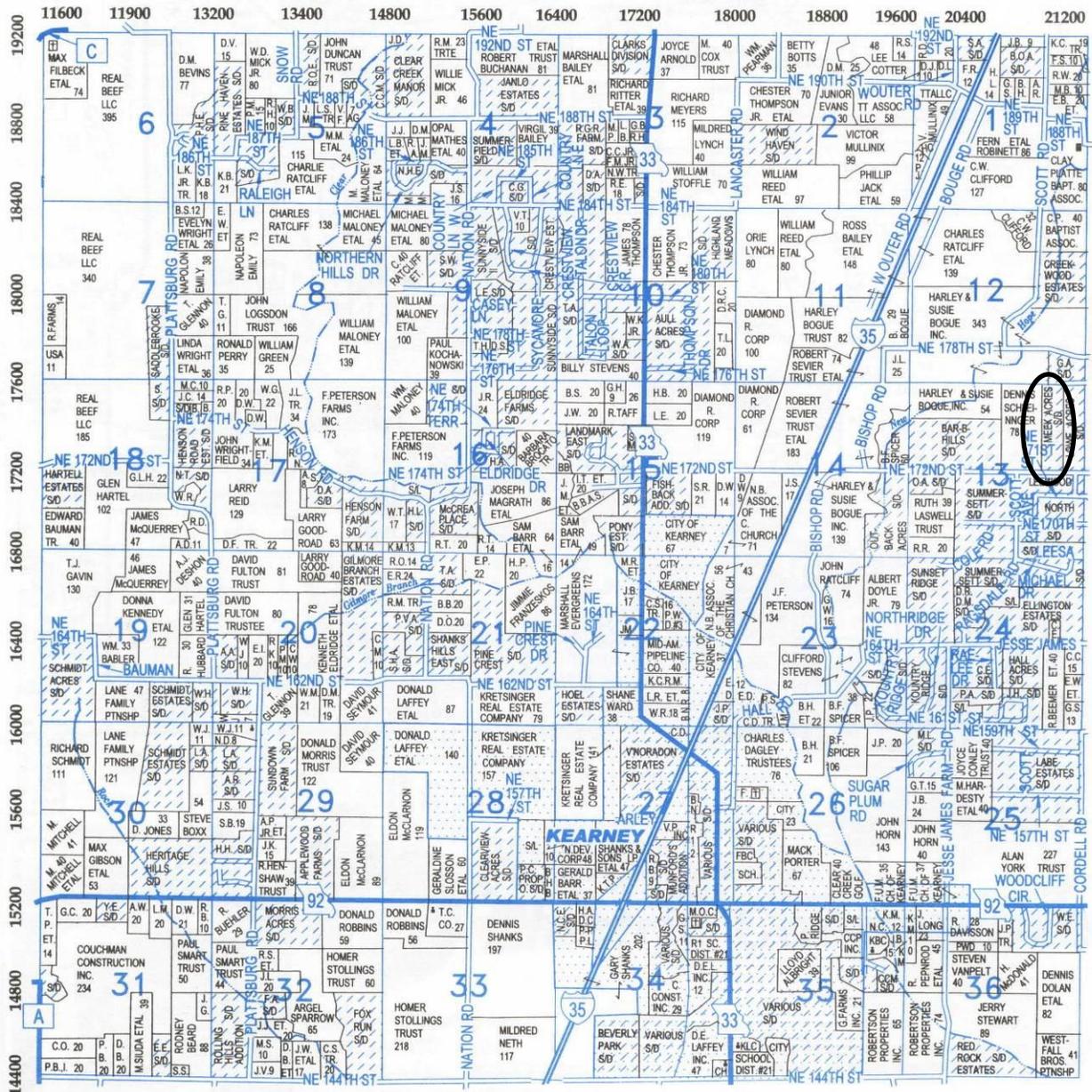
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Attachments

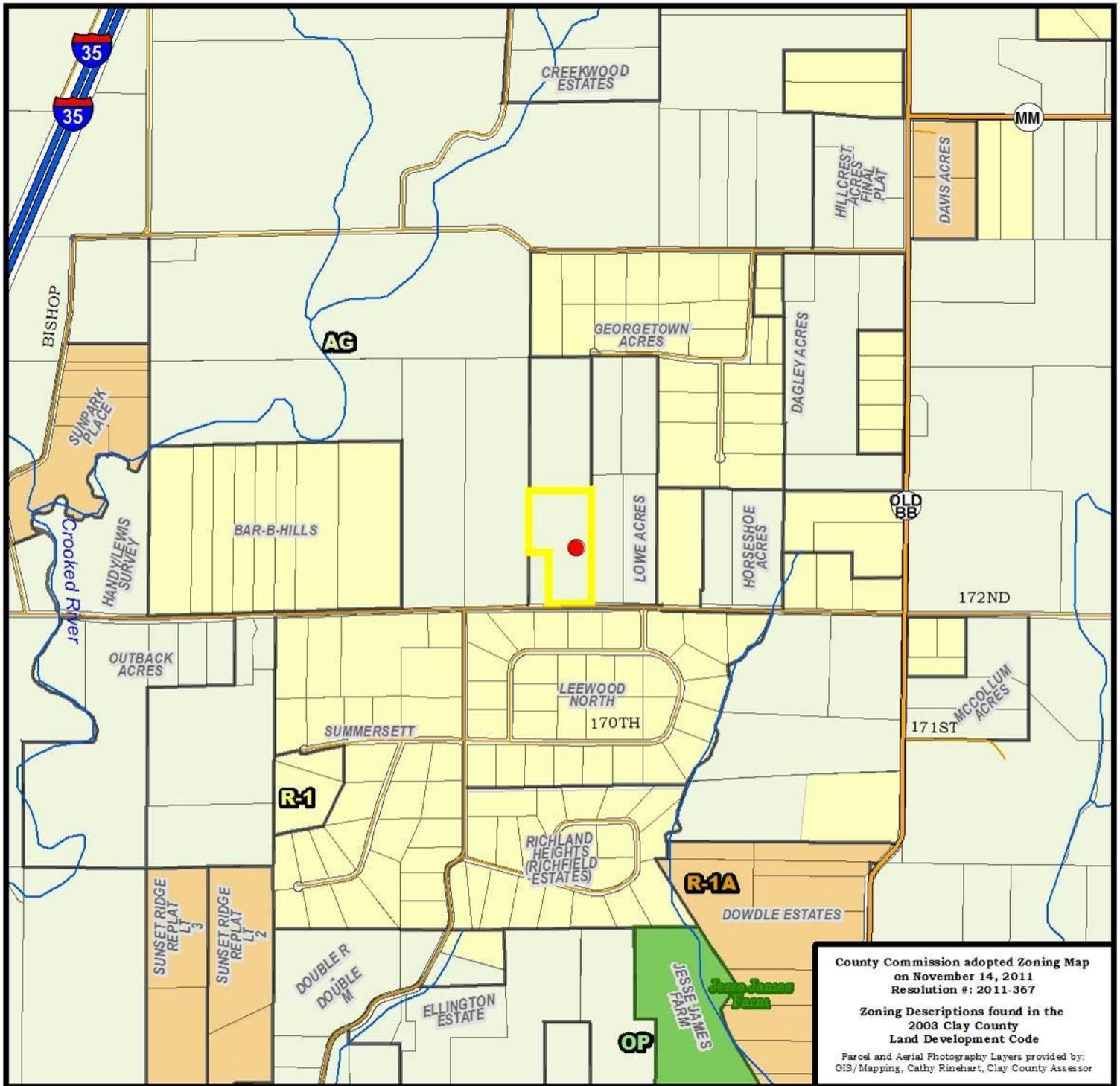
March 14-114 CUP – Kitchen / AT&T – Commercial Telecommunications Facility

TOWNSHIP 53N • RANGE 31W



March 14-114CUP - Kitchen / AT&T

Attachment B - Existing Conditions Map



County Commission adopted Zoning Map on November 14, 2011 Resolution #: 2011-367

Zoning Descriptions found in the 2003 Clay County Land Development Code

Parcel and Aerial Photography Layers provided by: GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project_Files\Vacinity_Map - 8 x 11 P.mxd) 02/25/2014 - 05:41:18 PM

Planning & Zoning Department

LEGEND

- Location
- Property Line
- ~ Streams (EPA)
- = Railroads
- = Interstates
- = State Highways
- = Local Roads
- = Highway Ramps
- Subdivisions
- 2013 City Limits
- Parks
- County Boundaries

Overlay Districts

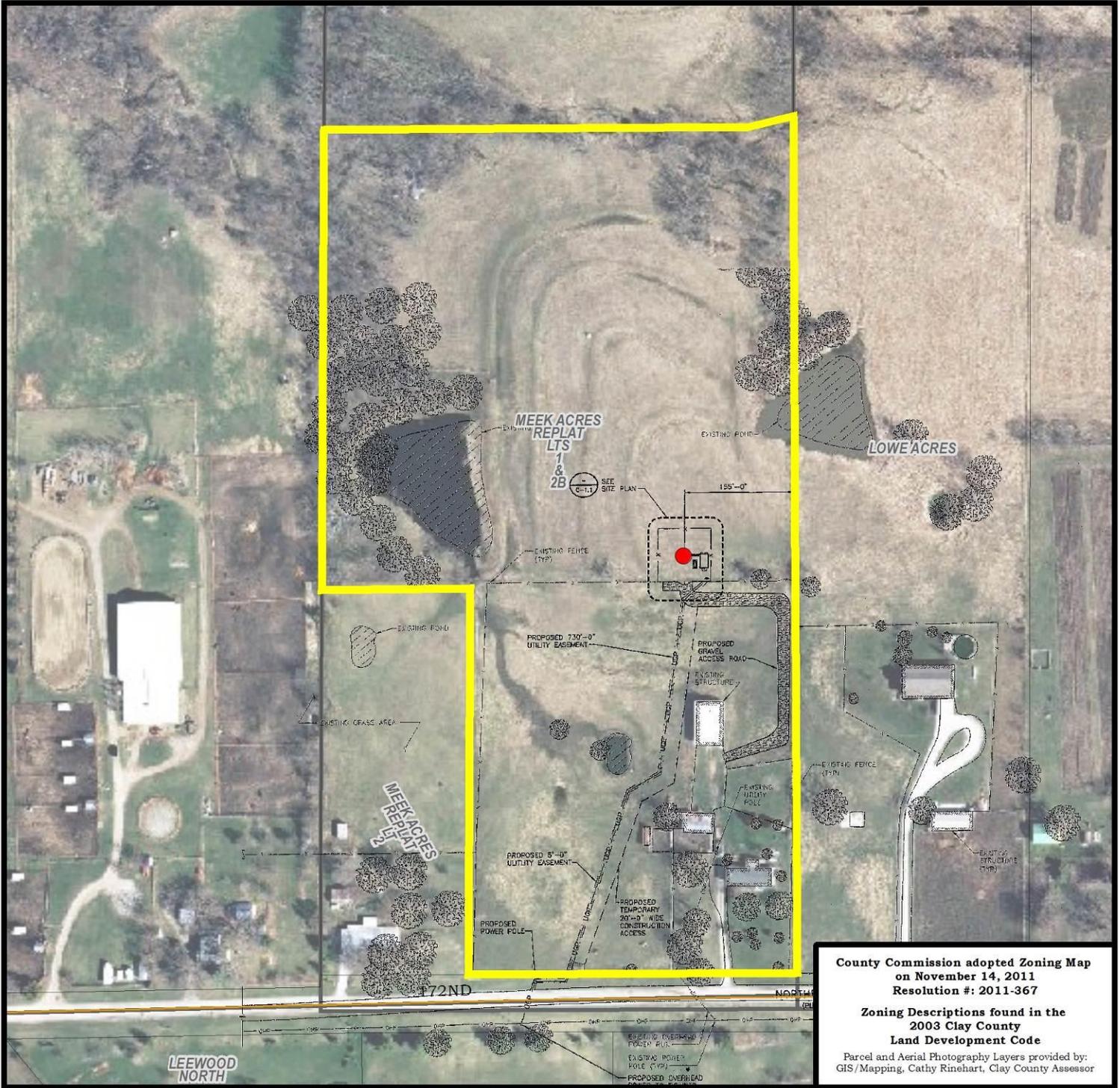
- CD (Conservation District)
- PUD (Planned Unit Development)

Zoning Districts

- AG
- R-1
- R-1A/R-5
- R-1B/RU
- R-3
- C-1
- C-2
- C-3
- I-1
- I-2
- OP

March 14-114CUP – Kitchen / AT&T

Attachment C - Site Plan Map



County Commission adopted Zoning Map on November 14, 2011
 Resolution #: 2011-367

Zoning Descriptions found in the 2003 Clay County Land Development Code

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1 inch = 200 feet
 1 inch = 0.04 miles

LEGEND

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