# ATTACHMENT 5 – Director's e-mail regarding nearest tower

## Babs Logan

**From:** Chandra Nicholson [cnicholson@gautier-ms.gov]
**Sent:** Tuesday, November 19, 2013 3:09 PM
**To:** 'David Wooten'; 'Larry Dailey'; blogan@gautier-ms.gov
**Cc:** 'Belinda Bodie'; zduke@gautier-ms.gov; 'Charlie McVea'; 'David Wooten'; 'Greg Spanier'; 'James Torrey (E-mail)'; 'Jimmy Green'; 'Marilyn Minor'; Samantha Abell
**Subject:** RE: Cellular South-E Gautier site

**Categories:** Red Category

Commissioners,

The tower at Singing River Health Systems is for internal communications only. >From reading the entire Article XIV, I do not believe the intent of the code is to group internally used communications devices with commercial for profit Telecommunication Facilities. We will work on tightening that language up and requesting a text amendment to make the Article easier to follow. In this particular case due to the fact that the tower is being used for a hospital system, the tower at Singing River Health Systems is exempt from Article XIV by section 14.2.1F.

This should clear up the tower separation issue with this case.

Thanks, Chandra

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**From:** David Wooten [mailto:djwooten@bellsouth.net]
**Sent:** Tuesday, November 19, 2013 11:24 AM
**To:** 'Larry Dailey'; blogan@gautier-ms.gov
**Cc:** 'Belinda Bodie'; cnicholson@gautier-ms.gov; zduke@gautier-ms.gov; 'Charlie McVea'; 'David Wooten'; 'Greg Spanier'; 'James Torrey (E-mail)'; 'Jimmy Green'; 'Marilyn Minor'
**Subject:** RE: Cellular South-E Gautier site

I agree with Mr Dailey on the interpretation of the code

**From:** Larry Dailey [mailto:larrydailey@cableone.net]
**Sent:** Tuesday, November 19, 2013 10:54 AM
**To:** blogan@gautier-ms.gov
**Cc:** Belinda Bodie; cnicholson@gautier-ms.gov; zduke@gautier-ms.gov; Charlie McVea; David Wooten; David Wooten (E-mail); Greg Spanier; James Torrey (E-mail); Jimmy Green; Marilyn Minor
**Subject:** Re: Cellular South-E Gautier site

**Babs,**
**One condition for the approval is the 20 buffer on front and two sides, per UDO 11.6.7.D. My understanding is that this buffer will require the the fence be moved in 20 ft. from north property line to allow for the buffer, thus moving tower 20 ft to the south. Please confirm that this interpretation is correct and if so, that distance separation is satisfied.**

**Also, my interpretation of 14.6.A.1 is that there must be 1/4 mile separation between monopole, lattice or guyed Telecommunication Towers. There are no exceptions given for communication within or between users. I understand that all towers fall within this restriction. If staff takes a different stand, please refer me to the correct section of the UDO.**

**Thanks,**

# ATTACHMENT 5 – Director's e-mail regarding nearest tower

**Larry**

On Tue, Nov 19, 2013 at 8:04 AM, Babs Logan <blogan@gautier-ms.gov> wrote:

Thanks, Belinda. I am forwarding this to our attorney to make sure this is sufficient for our records. I don't foresee any problems with it.

**Charlie** – Please let me know if this is sufficient. Thanks.

Have a great day!

**Babs Logan**

Planning Technician

City of Gautier, MS

3330 Highway 90

Gautier, MS 39553

(O) 228-497-8026

e-mail: blogan@gautier-ms.gov

web-site: www.gautier-ms.gov

**From:** Belinda Bodie [mailto:belinda.bodie@neel-schaffer.com]
**Sent:** Monday, November 18, 2013 1:49 PM

ATTACHMENT 6

**Gautier Planning Commission**

**Regular Meeting Agenda**

**November 7, 2013**

**GPC #13-22-CU**

**VII. NEW BUSINESS**

B. QUASI-JUDICIAL

2. REQUEST FOR A CONDITIONAL USE-MAJOR PERMIT FOR A WIRELESS TELECOMMUNICATIONS TOWER IN A TCMU DISTRICT, JO BETH TERRACE (CELLULAR SOUTH REAL ESTATE INC.) (GPC CASE #13-22-CU)

## QUASI-JUDICIAL PROCEDURES

1. Announcement of Matter. Read the matter title to be considered.

2. Swear the Witnesses. All witnesses, parties, citizen participants and City Staff who plan to speak at the hearing shall collectively be sworn at the beginning of the hearing by the City Attorney

3. Ex Parte Disclosure. All members must disclose on the record any ex parte communications, to include any physical inspections of the subject property. The disclosure should include with whom any communication has taken place, a summary of the substance of the communication, and the date of the site visit, if any. If anyone has received written communications, the writing must be presented, read into record or a copy provided to all participants, and made a part of the official record.

4. Applicant Presentation.

5. Questions directed to Applicant. The applicant should answer any questions by the public, the Planning Commission, or others.

6. Staff Presentation. This includes presentation of the staff report into the official record.

7. Objections from Applicant. Confirm whether there are objections from the applicant regarding the staff report or development order.

8. Questions directed to Staff. The staff answers any questions by the public, the Planning Commission, or others.

9. Public Comments. Members of the public should be allowed to make comments regarding the application.

10. Applicant rebuttal/final comments

11. Staff rebuttal/final comments

12. Call for final questions.

13. Close public portion of the hearing.

14. Motion & Deliberation. Planning Commission makes a motion, and debates and deliberates regarding the application and development order.

15. Vote.

16. Close the quasi-judicial proceeding.

# CITY OF GAUTIER
# STAFF REPORT

**To:** Chairman and Members, Planning Commission

**From:** Babs Logan, Planning Technician

**Through:** Chandra Nicholson, Planning & Economic Development Director

**Date:** October 31, 2013

**Subject:** Conditional Use-Major Permit for a Telecommunications Tower in a TCMU Zoning District at Lot 28, Shamrock Court Subdivision, Jo Beth Terrace (GPC Case No. 13-22-CU)

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**REQUEST:**

The Economic Development/Planning Department has received a request from Cellular South Real Estate Inc. for a Conditional Use-Major Permit that would allow a telecommunications tower in a TCMU Town Center Mixed Use zoning district at Lot 28, Shamrock Court Subdivision, PID #87113024.000. The application fee of $250 was paid on September 12, 2013. All public notice requirements have been met.

**BACKGROUND:**

The request property is zoned TCMU Town Center Mixed Use.

1. Location: Lot 28, Shamrock Court Subdivision, PID #87113024.000 (See Exhibit A)
   Principal Arterial: Highway 90

2. General features of the proposed project:
   Gross Lot Acreage: approximately 0.31 acres

3. Current Zoning: TCMU Town Center Mixed Use

4. Current Surrounding Zoning (See Exhibit B): TCMU Town Center Mixed Use

5. Current Surrounding Existing Land Use (See Exhibit C): Vacant to the east and west; Commercial-Retail to the north; Very low to low density residential to the south

6. Comprehensive Plan Future Land Use Designation (See Exhibit D): Town Center

**DISCUSSION:**

The following addresses the review criteria for a Major Conditional Use outlined in Section 4.17.5 of the UDO.

1. Is the proposed use listed in the list of possible Conditional Uses in the particular Zoning District?

   *Applicant: Yes, Under Section 3.19.13-Wireless Communication Facilities are allowed via issuance of a Major Conditional Use permit.*

   *Staff Finding: Yes. A wireless telecommunications tower is listed as a Conditional Use-Major in a TCMU zoning district.*

2. Describe how the project is compatible with the character of development in the vicinity relative to (a) density, bulk and intensity of structures, (b) parking, and (c) other uses. Please attach parking plan, site plan, architectural rendering or other plans.

   *Applicant Response: The site does not require any additional parking other than for one service vehicle and is allowable in density, bulk and intensity for this type of facility under the Gautier Unified Development Code Section 14-Wireless Communication Facilities.*

   *Staff Finding: The proposed site and surrounding area has been rezoned to TCMU which does not allow single-family homes. The area around the proposed site has a few homes but most of the lots are vacant. The character of future development in the vicinity will not continue to be residential.*

3. Will your project negatively affect neighboring property values or pose a real or perceived threat to citizens? Explain.

   *Applicant Response: No, the facility is an unmanned and will be visited once a month by a technician. There has been no evidence to show that these facilities negatively affect property values. Cellular South Real Estate Inc. will pay property taxes on their improvements.*

   *Staff Finding: Unknown.*

4. Will your project adversely affect vehicular or pedestrian traffic in the vicinity? Explain.

   *Applicant Response: No, once construction is complete, the site will be visited once a month by a technician in a standard pickup or SUV. There will be no increase in traffic due to the installation of this facility nor will it impact pedestrian traffic in the vicinity.*

*Staff Finding: There is no evidence that the proposed tower will have any adverse affect on vehicular or pedestrian traffic.*

5. Can the proposed use be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools?

   *Applicant Response: Yes, the site will be designed not to increase existing drainage in the area, can be served by existing police and fire protection. The proposed facility will not require any water or sanitary sewer; nor will it have an impact on the local school.*

   *Staff Finding: The proposed use can be accommodated by existing public services. It will not require water, sanitary sewer nor have any impact on schools.*

6. Is the proposed use in harmony with the Comprehensive Plan? Explain how.

   *Applicant Response: Yes, the property on the future land use map still shows the property to be zoned TC (Town Center) and the property is currently zoned TC (Town Center).*

   *Staff Response: The Comprehensive Plan does not address wireless telecommunication towers.*

7. Does the proposed use pose a hazardous, detrimental, or disturbing affect, either real or perceived, to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances? Explain.

   *Applicant Response: The site does not pose any hazardous, detrimental or disturbing affect. The site does not produce any noise, glare, smoke, dust, odor, fumes, water pollution or vibration. The site will be in compliance with all FCC regulations and will not have any electrical interference.*

   *Staff Finding: Unknown.*

8. Does the use conform to all district regulations for the applicable district in which it is located, or have other provisions been provided for? Explain.

   *Applicant Response: Yes, Cellular South Real Estate Inc., is proposing a 120 ft. monopole structure which is in conformance with the regulations for this property.*

*Staff Finding: The proposed use will meet all Unified Development Ordinance regulations regarding wireless telecommunication towers in the district in which it will be located.*

**DETERMINATION OF APPLICABLE LAW:**

1. The UDO defines conditional uses as specific uses which are enumerated in each zoning district and which because of their nature are not allowed by right but may be allowed after the required review process. The City may specify certain conditions as necessary to make the use compatible with other uses in the same district. Conditional uses are issued for uses of land and uses designated "Conditional Uses-Major" are transferable from one (1) owner of land to another.

   The UDO further defines Conditional Uses-Major as uses that are not allowed by right but require a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Economic Development Director agreeing to the current terms and conditions before a business license may be issued.

2. Conditional Uses-Major require a public hearing before the Planning Commission and approval by the City Council (Section 4.14 of the UDO).

**RECOMMENDATION:**

Staff finds that the proposed use may be compatible and harmonious with the Town Center Mixed Use District and recommends approval.

**CONCLUSION:**

The Planning Commission may:

1. Recommend that City Council approve the Conditional Use-Major;
2. Recommend that City Council approve the Conditional Use-Major with changes; or
3. Recommend that City Council deny the Conditional Use-Major.

**ATTACHMENTS:**

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B – Existing Zoning Map

4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map
6. City's Exhibit E – Draft Conditional Use-Major Development Order

ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
GAUTIER, MISSISSIPPI

# CONDITIONAL USE HEARING APPLICATION

Hearing Number

| TYPE OF REQUEST: | | FEE: |
|---|---|---|
| Conditional Use – Major | ✓ | $250.00 |
| Conditional Use - Minor | | $250.00 |

**Minor Conditional Use** – These uses are not allowed by right. The Economic Development/Planning Director may approve or deny a Minor Conditional Use upon review or he/she may choose to forward the request to the Planning Commission and City Council.

**Major Conditional Use** – These uses are not allowed by right, and require a recommendation by the Planning Commission and approval of the City Council.

Name of Applicant: Cellular South Real Estate Inc. by NEEL-Schaffer Inc.

Name of Business:

Address: 1018 Highland Colony Pkwy 202 Ridgeland, MS 39157 Mailing Address (if different):

Email Address: belinda.bodie@neel-schaffer.com

Phone: 601-898-3358 Cell Phone: 769-798-6946

Reason for request, location and intended use of Property: for the Construction of a 120' Monopole Wireless telecommunications facility + ancillary ground equipment at Pass 89113024.000 Town Center

ATTACHMENTS REQUIRED AS APPLICABLE:

✓ 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
✓ 2. Legal descriptions and street address.
✓ 3. A detailed project narrative that also addresses the questions on the "Criteria for Approval" page of this application.
NA ✓ 4. Copy of protective covenants or deed restrictions, if any.
✓ 5. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources.
___ 6. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.
✓ 7. Owner's Consent form, if anyone other than 100% sole owner makes application (see attached).

Signature of Applicant: Belinda Bodie

Date of Application: 8/16/13

Date Received 8/16/13 Verify as Complete [illegible]

Fee Amount Received [illegible]

Initials of Employee Receiving Application [illegible]