Docket Numbers: 21/10272  Applicant/Appellant: SBA Towers X, LLC
21/10273 Represented by Patrick O’Donnell
21/10274 8051 Congress Avenue
Boca Raton, FL 33487

Property Owner: Bud L. Harris
6181 NE 27th Avenue
Altoona, IA 50009

Representative: Alexander Novak, GSS Inc.
1054 Texan Trace, Suite 300
Grapevine, TX 76051

Appeal:
The applicant/appellant requests a Conditional Use Permit to construct a communication tower, as well as two (2) variances to: 1) Allow the communication to be constructed at a height of 310-feet in lieu of the maximum 180-feet; and 2) to allow a gravel access road to the tower in lieu of the required paved and curbed access road. The communication tower is proposed to be constructed on the property that is located in the “MU” Mixed Use District, and being addressed as 6181 NE 27th Avenue, Altoona. The property is legally described as a portion of the East-half of the Southwest Quarter of the Southeast Quarter of Section 26, Clay Township.

Background:
The applicant/appellant currently leases the ground and owns a 300-foot guy-wired tower located at 2230 NE 64th Street, less than ½ mile southwest of the subject property. The applicant has stated that the lease for this existing communication tower is expiring, and if a renewal agreement cannot be agreed upon with the property owner, the existing tower would be decommissioned and demolished with the proposed tower being the replacement.

The applicant/appellant is proposing to construct a 300-foot tower with a 10-foot lightening rod, therefore the overall tower height will be 310-feet. In order to achieve the 310-foot height for the tower, the appellant has requested a 130-foot height variance to exceed the 180-foot maximum height for a communication tower in the “MU” Mixed Use District. The applicant has also asked for a variance to waive the requirement of paved and curbed access road to the communication tower, therefore allowing the access road to be gravel.

The subject property is located in Section 26, Clay Township, and will be situated approximately 1,200 feet East of the US HWY 65 Bypass; 1,600 Feet Southeast of the corporate limits of the City of Des Moines; 1,450 feet North of the corporate limits of the City of Pleasant Hill; and 0.75 miles West of the corporate limits of the City of Altoona. The subject property is zoned “MU” Mixed Use District, as are surrounding properties to the east, west, and south. Nearby property located North of the subject property are zoned “MDR” Medium Density Residential District. See Attachment A at the end of this report for a vicinity map of the subject property and surrounding area.
**Property History**
The original communication tower in the vicinity, which is located at 2230 NE 64th Street, was first approved as a Special Use Permit with Docket 72/838 in May of 1972 with a height of 200 feet. In September of 1977 with Docket # 77/1081, a Special Use Permit was approved to extend the height of the tower from 200 feet to 300 feet.

**Summary of Requests:**
The applicant/appellant has submitted the following requests for consideration of the Board of Adjustment:

- Docket 21/10272 A Conditional Use Permit to allow a communication tower on property which is zoned “MU” Mixed Use District.
- Docket 21/10273: A variance to Article 15: Construction Standard, to waive the requirement for paving and curbing for drive aisles for non-residential development in the “MU” Mixed Use District.
- Docket 21/10274: A 130-foot variance to Article 4: Use Regulations, Division 4: Use Categories and Standards, Section 4: Commercial Uses, (L) Communication Towers (1) Height, to construct a 310-foot communication tower in lieu of the established 180-foot height maximum.

**Public Testimony**
Staff mailed eight (8) notices to surrounding property owners within the required 500-foot notification boundary, including the Conditional Use Permit and Variance Appeals requested as well as the date, time and information for attending the public hearing. To-date staff has received four (4) responses in opposition of the request. Staff has received no petitions from surrounding property owners in support of the request.

Staff also notified the City of Altoona, City of Des Moines, and City of Pleasant Hill of the requests. The City of Pleasant Hill stated they have no comments on the request. At the time of this report, Staff received no formal responses from the City of Altoona and City of Des Moines.

**Natural Resources / Environmental**
The subject property is located approximately one-half (1/2) mile East of Little Fourmile Creek, but will not be affected by the construction. The property does contain wetland soils. The topography of the site features steady slopes throughout and a range of approximately 38 feet of elevation from the high point in the Southeast corner to the low point near the Northeast corner. The proposed communication tower would be located near the high-point of the property.

**Roads / Utilities**
The subject property is located on the South side of NE 27th Avenue, and is located East of US HWY 65 Bypass, but has no frontage onto the US HWY 65 right-of-way. The site currently has three (3) access points onto NE 27th Avenue, with a fourth (4th) being proposed for the communication tower. There are overhead electric lines that run on the North side of NE 27th Avenue.
Findings

Conditional Use Permit (21/10272)

Analysis
The Board of Adjustment in reviewing an application for a Conditional Use permit shall consider the proposal in terms of the following:

1. **Existing zoning and land use in the vicinity of the uses.**
   The subject property is zoned “MU” Mixed Use, as are surrounding properties to the East, West, and South. There are clusters of residential properties in the vicinity, but the area is predominantly used agriculturally. The property is located within two (2) miles of the Cities of Altoona, Pleasant Hill, and Des Moines.

2. **Planned and proposed public and private development, which may be adversely affected by the proposed use.**
   There are currently no major public or private developments planned in the area.

3. **Whether and to what extent the proposed use, at the particular location for which it is suggested, is necessary or desirable to provide a development which is in the interest of the public convenience or which will contribute to the general welfare of the area or Polk County.**
   The applicant has stated that the ground lease under an existing communication tower in the area is expiring, and the proposed tower is necessary to meet the needs of multiple wireless communication carriers that are located on the existing tower. The applicant has stated there are no other suitable communication towers in the area, so collocating existing services onto those towers would not be an option.

4. **Whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety and welfare in general.**
   If approved, the applicants will need to comply with all landscaping, bufferyard, and site development requirements not granted relief by variances. The applicant is also proposing a self-supported tower to replace a guy-wire supported tower, so the proposed tower will have a smaller footprint than the communication tower it would replace.
Findings

The application shall be denied if the Board of Adjustment finds any of the following:

a. The application and record fail to establish compliance with the standard made applicable to the proposed development by the provision of this Ordinance. Communication Towers are permitted within the “MU” Mixed Use District upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment, subject to any conditions of approval.

b. The proposed use, developed in the proposed manner, and at the proposed location, would be inconsistent with the standards pursuant to the provisions of this Ordinance. The proposed use will be required to comply with the County’s minimum site development standards for non-residential development in the “MU” Mixed Use District, unless any variances are approved by the Board of Adjustment.

c. The adverse impacts on the overall public health, safety and welfare are not balanced by the public or private benefits of the proposal. The Board of Adjustment shall include in this balance, any proposals of the applicant and any conditions that it might impose on the development, pursuant to the provisions of this Ordinance, to ameliorate problems associated with the development. Communication Towers are necessary for cellular service providers to install infrastructure, which supports communication networks. The proposed tower will be located greater than 1,000 feet away from any residence not located on the subject property, which will alleviate public health or safety concerns. The applicant has also submitted an appeal for two (2) variances associated with the site development for this proposal and the height of the communication tower that the Board of Adjustment can consider in regards to the improving the aesthetics of the site.

In addition, no application for a Conditional Use Permit shall be approved unless the Board of Adjustment specifically finds the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

A. The proposed use is not in harmony with the general purpose, goals, objectives, and standards of the following:

1. Polk County Comprehensive Plan: The proposal is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan. The 2030 Polk County Comprehensive Plan designates the subject property as being “Mixed Use”.

2. Polk County Zoning Ordinance: The Ordinance allows the use pending approval of this Conditional Use Permit by the Board of Adjustment and compliance with applicable use and site plan standards.

3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County: None.
B. The proposed location of the use is not consistent with policies or provisions of the following:

1. Comprehensive Plan: The proposed location is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.

2. Polk County Zoning Ordinance: The subject property is zoned “MU” Mixed Use District and Communication Towers are permitted upon approval of a Conditional Use Permit by the Polk County Board of Adjustment and compliance with applicable use standards.

3. Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County: Consistent.

C. The proposed use at the proposed location results in a substantial or undue adverse effect on any of the following either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County or other governmental agency having jurisdiction to guide growth and development:

1. Adjacent property: Several adjacent property owners have expressed opposition to the proposed communication tower, in part due to the aesthetics of the site. The applicant has made an appeal for a variance to increase the height of the communication tower to 310-feet from the ordinance defined maximum height of 180-feet, as well as a variance to allow a gravel access driveway in lieu of the required paved and curbed access and parking area. If the Board of Adjustment does not find adequate reasons to grant the requested variances, the communication tower would need to comply with all height requirements of the “MU” Mixed Use District. The applicant has not requested any variances from landscaping or bufferyard requirements.

2. Character of the neighborhood: The neighborhood is generally agricultural in nature, but does have multiple residential properties. There is an existing communication tower which will be removed if the proposed communication tower is approved, therefore, there will not be a greater impact on the neighborhood.

3. Traffic conditions: The communication tower will generate little to no traffic, therefore there will be no change in traffic conditions.

4. Parking: Parking will occur within the leased tower area.

5. Public improvements: There are no known public improvements that will be impacted by the proposed use of the property.

6. Public sites or rights-of-way: The applicant will be required to obtain a right-of-way
improvement permit for the proposed access point onto NE 27th Avenue.

7. Other matters affecting the public health, safety, and general welfare: None.

D. The proposed use in the proposed area is not adequately served by or imposes an undue burden on any of the following.

1. Public improvements: Adequate for proposed use.
2. Public facilities: Adequate for proposed use.
4. Public services: Adequate for proposed use.

Recommendation
Staff recommends approval of the Conditional Use Permit for the proposed communication tower on property the legally described as a portion of the East-half of the Southwest Quarter of the Southeast Quarter of Section 26, Clay Township. Below are the conditions of approval:

1. The approval shall require the removal of the existing communication tower which is located at 2230 NE 64th Street, being located within ½ mile of the proposed tower site. The applicant shall submit a signed agreement to remove the existing tower within one (1) year of the newly approved tower with the construction permit.
2. The tower shall have a maximum height of 180-feet, unless the variance case associated with Docket #21/10274 is approved and establishes a new height.
3. The applicant shall submit a signed detailed site plan drawing from an Iowa Licensed Engineer of the subject property and proposed tower project and the Iowa licensed engineer shall certify that the proposed communication tower design and construction meets minimum safety requirements of the Zoning Ordinance.
4. The applicant shall meet Polk County Air Quality Division construction and operation permit requirements for the generator planned within the lease area.
5. The applicant shall keep any dirt, mud and debris from accumulating on adjacent roads during and after construction of the drive, lease area and tower.
6. Building and electrical permits shall also be obtained after the site plan drawing is approved.
7. The applicant shall submit evidence of meeting FCC and FAA requirements.
8. The applicant shall submit a copy of the actual signed lease agreement between the property owner and the carrier(s). The lease agreement shall include verbiage including the tower removal at the end of the lease agreement or when the tower is no longer used.

Variance Appeal #1 (21/10273):

Request: A variance to Article 15: Construction Standard, to waive the requirement for paving and curbing for drive aisles for non-residential development in the “MU” Mixed Use District.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.

1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on
the property?
Yes. The subject property is zoned “MU” Mixed Use District, but is generally agricultural and rural in nature, and is consistent with agriculturally zoned areas of Polk County. Because the site will generate fewer than forty-nine (49) vehicles a day, paving and curbing could be administratively waived in agricultural districts.

2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)
Yes. As other properties are agricultural and residential in nature, paving and curbing of driveways would not be required. The proposed drive aisle would serve a communication tower which is considered a conditional use in the “MU” Mixed Use District, and would apply to the tower if Docket #21/10272 is approved.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. The drive aisle will generate very little traffic and allowing gravel in lieu of the required paving and curbing will have very little impact on adjacent properties.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The property is zoned “MU” Mixed Use District which does not administratively allow a waiver from paving and curbing requirements that agricultural or open space districts would allow. The property is generally agricultural in nature, and gravel driveways would not be out of character.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?
Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered affirmative, staff recommends Approval of the proposed variance subject following conditions:
1. The variance shall not apply to the apron area adjacent to the roadway surface of NE 27th Avenue, which shall still be constructed to the standards of the Polk County Entrance and Driveway Ordinance.
2. The applicant shall obtain a Polk County Entrance Permit prior to doing any work in the right-of-way.

Variance Appeal #2 (21/10274):

Request: A 130-foot variance to Article 4: Use Regulations, Division 4: Use Categories and Standards, Section 4: Commercial Uses, (L) Communication Towers (1) Height, to construct a 310-foot communication tower in lieu of the established 180-foot height maximum. The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.
1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

   **No.** The communication tower is proposed to be constructed near the highest point of elevation on the subject property, and the topography is approximately twenty (20) feet higher than the location of the communication tower it will replace. The applicant has demonstrated no exceptional or extraordinary circumstances or special conditions that would require a variance to be issued for the proposed communication tower.

2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

   **No.** If the proposed variance were to be denied, a communication tower with a maximum height of 180-feet would still be considered a conditional use in the “MU” Mixed Use District.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

   **No.** The increased height will make the tower more visible to adjacent properties, and will be visible from a greater distance. Without reasonable justification for the necessity of the increased height, there is no known benefit to the public interest which would justify the approval of the height variance.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

   **No.** The proposed communication tower will replace an existing communication tower in the vicinity of a similar height that was approved with a Special Use Permit September of 1977. In 1977, there was no maximum height requirements for communication towers. The current zoning ordinance establishes a maximum height of 180-feet for communication towers in the “MU” District, and the applicant has indicated no special circumstance on the property that would warrant the approval of a height variance.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

   **Yes.** The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. The increased height of the communication tower will have little impact on natural resource protection, stormwater, or erosion control.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1, 2, 3, and 4 were not affirmed, staff recommends **Denial** of the proposed variance.
VESTED IN:
Bud L. Harris a.k.a. Vern L. Harris and Renee L. Harris, husband and wife as joint tenants
Instrument #029357
APN: 17000326-000-000

Proposed 20' Wide Non-Exclusive Access & Utility Easement
10,000 Square Feet
0.230 Acres

Proposed Exclusive SBA Lease Area
10,000 Square Feet
0.230 Acres
STYMIELOCK INSTALLATION.

1. Drill 3/8" holes in the gate leaf using the gate dimensions provided.
2. Line the carriage bolts into the sleeves on the back of Part "A" and push the bolts through the holes drilled in the gate leaf. Put the nut and the locking bar on and tightened and cut the excess bolt off. Do the same with Part "A".
3. Lock the number of sleeves needed for the number of locks and slide the locking bar into place through both Part "A" and Part "B". Now install the locks.
4. Trim any excess out of the center bar in the gate leaf. You may need to mount the STYMIELOCK vertically if using the same dimensions given on the gate leaf. Additional information can also be used on sliding gates with multiple locks.
SYMBOLS LEGEND

GROUND ROOD WITH ACCESS
GROUND ROOD
EXOTHERMIC CONNECTION
MECHANICAL CONNECTION
GROUND BAR
GROUND WIRE

SITE GROUNDING PLAN
SCALE: 1/8" = 1'-0"

BALLOON REFERENCE NOTES:

1. SI/4" #4 COPPER CLAD GROUND ROOD BURIED 42" BELOW GRADE (MIN.)
2. GROUND ROOD ACCESS WELL 48" DIAMETER, 2 EACH PER COMPUND
3. AD SIZED, TiNDED, BARE COPPER WIRE GROUND ROOD (CONTINUOUS STRANDS PREFERRED, GROUND ROOD SHOULD BE INSTALLED 1' OUTSIDE THE FENCE LINE, THE GROUND ROOD MOUNTS SHOULD BE INSTALLED A MINIMUM TWO FEET OFF OF ANY STRUCTURE)
4. Hinging copper grounding bar, 2 top, 1 base, and top of tower, mount direct to tower, do not isolate.
5. AD SIZED, TiNDED, BARE COPPER WIRE GROUND LEAD TO FENCE CORNER POST
6. AD SIZED, TiNDED, BARE COPPER WIRE GROUND LEAD TO TELEPHONE COLI-PAX
7. AD SIZED, TiNDED, BARE COPPER WIRE GROUND LEAD TO UTILTY H-FRAME SUPPORT POST
8. ENCLOSED ENTRANCE GROUND TO DEDICATED GROUND ROOD
9. #0 INSULATED, STRANDED COPPER GROUND LEAD ROUTED IN CONDUCT TO SBA LOAD CENTER
10. #6 INSULATED, STRANDED COPPER BOND STRAP FROM GATE FRAME TO GATE POST, (2# PER GATE)
11. #2 SOLID, TiNDED, BARE COPPER GROUND LEAD FROM GROUND BAY AT SELF SUPPORT TOWER BASE TO GROUND RING, ROUTE IN 3/4" FLEX CONDUIT AND WEATHERPROOF TERMINALS (2 TYPICAL)
12. #2 SOLID, TiNDED, BARE COPPER GROUND LEAD FROM SELF SUPPORT TOWER BASE TO GROUND RING (2 TYPICAL, 18" SEPARATION)
13. TOWER LIGHT CONTROLLER (GROUND PER MANUFACTURES RECOMMENDATIONS) (UP REQUIRED)
14. #2 SOLID, TiNDED, BARE COPPER WIRE FROM TRANSIENT VOLTAGE SURGE SUPPRESSOR TO GROUND RING 4" BEHIND AT UTILITY H-FRAME

ENLARGED GROUNDING PLAN @ TOWER BASE (TYP.)
ENLARGED GROUNDING PLAN @ UTILITY H-FRAME
1. SERVICE BOND IS TO BE MADE BY DEVICES (STRAPS, SCREWS, ETC.) SUPPLIED BY EQUIPMENT MANUFACTURER. IF NO SUCH DEVICE IS SUPPLIED, BOND IS TO BE MADE IN ACCORDANCE WITH NEC ARTICLE 250.
2. CONDUCTOR OVERCURRENT PROTECTION DEVICES ARE SELECTED IN ACCORDANCE WITH NEC ARTICLE 240.
3. CONDUCTOR SEIZING IS SELECTED FROM NEC ARTICLE 310-16.
4. ALL BUSS THAT HOLD MORE THAN ONE WIRE SHALL BE Labeled FOR MULTI-BRANCH CONNECTIONS.
5. ALL CONDUCTORS SHALL BE INSULATED THAN WIRE.
PERMITS

1. CONTRACTOR SHALL SECURE ALL NECESSARY PERMITS FOR THIS WORK CONFORMING TO ALL APPLICABLE GOVERNMENTAL AGENCIES. (NOT SUPPLIED BY OWNER)

2. ANY PERMITS REQUIRED MUST BE OBTAINED BY THE CONTRACTOR. THE CONTRACTOR IS RESPONSIBLE FOR ASSURING THAT ALL PERMITS ARE SECURED PRIOR TO THE BEGINNING OF CONSTRUCTION.

3. CONTRACTOR RESPONSIBLE FOR CLOSING AND PLUMBING ALL PERMITS ASSOCIATED WITH SITE.
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT NO. 01-20092798-01T - DATED 08.10.2020
SCHEDULE B - II:

Numbers correspond with survey-related Schedule B exception items contained in the above referenced Title Commitment.

ITEM 1. THROUGH 8. ARE STANDARD EXCEPTIONS.

PARENT PARCEL DESCRIPTION (AS PROVIDED)
SITUATE IN POLK COUNTY, STATE OF IOWA:

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 79, RANGE 23, WEST OF THE 5TH P.M., IOWA, SUBJECT TO LEGALLY ESTABLISHED HIGHWAYS.

Tax ID: 1700328-000-000

BEING THE SAME PROPERTY CONVEYED TO BUD L. HARRIS A/P/A VERN L. HARRIS AND RENEE L. HARRIS, HUSBAND AND WIFE AS JOINT TENANTS WITH FULL RIGHTS OF SURVIVORSHIP, GRANTED, FROM VELMA W. HARRIS, SINGE, GRANTOR, BY DEED RECORDED 10/30/1998, AS INSTRUMENT 029357 OF THE POLK COUNTY RECORDS.

PROPOSED EXCLUSIVE SBA LEASE AREA (AS SURVEYED)

Situated in the County of Polk, and State of Iowa. Known as being a part of the East Half of the Southwest Quarter of the Southeast Quarter, Section 26, Township 79 North, Range 23 West, of the 5th P.M., Iowa, and being a 10,000 square foot Proposed Exclusive SBA Lease Area over and upon a parcel of land now or formerly conveyed to Bud L. Harris, a.k.a. Vern L. Harris and Renee L. Harris, husband and wife as joint tenants as recorded in Instrument #29357 of Polk County Records and being more particularly described as follows:

Commencing at a 1/2" iron rod found (NWC #1421) at the Northeast corner of the Southeast Quarter of the Southeast Quarter of said Section 26;

Thence along the northerly line of said Southwest Quarter, North 89'58"00' East a distance of 1,285.54 feet;

Thence North 89'58"00' East a distance of 200.00 feet;

Thence South 02'33"52' West a distance of 332.30 feet;

Thence South 02'33"52' West a distance of 737.84 feet to the Point of Beginning;

Thence South 00'07"46' East a distance of 100.00 feet;

Thence South 89'58"41' West a distance of 100.00 feet;

Thence North 00'07"46' East a distance of 100.00 feet;

Thence North 89'58"41' East a distance of 100.00 feet to the Point of Beginning.

The Proposed Exclusive SBA Lease Area contains 0.230 acres, or 10,000 square feet, of land.

PROPOSED 20' WIDE NON-EXCLUSIVE ACCESS & UTILITY EASEMENT (AS SURVEYED)

Situated in the County of Polk, and State of Iowa. Known as being a part of the East Half of the Southwest Quarter of the Southeast Quarter, Section 26, Township 79 North, Range 23 West, and being a 23,011 square foot Proposed 20' Wide Non-Exclusive Access & Utility Easement over and upon a parcel of land now or formerly conveyed to Bud L. Harris, a.k.a. Vern L. Harris and Renee L. Harris, husband and wife as joint tenants as recorded in Instrument #29357 of Polk County Records and being more particularly described as follows:

Commencing at a 1/2" iron rod found (NWC #1421) at the Northeast corner of the Southeast Quarter of the Southeast Quarter of said Section 26;

Thence along the northerly line of said Southwest Quarter, North 89'58"00' East a distance of 1,285.54 feet to the Point of Beginning;

Thence North 89'58"00' East a distance of 200.00 feet;

Thence South 02'33"52' West a distance of 332.30 feet;

Thence South 02'33"52' West a distance of 737.84 feet;

Thence North 00'07"46' East a distance of 100.00 feet;

Thence North 89'58"41' West a distance of 100.00 feet;

Thence North 00'07"46' East a distance of 100.00 feet;

Thence North 89'58"41' East a distance of 100.00 feet to the Point of Beginning.

The Proposed 20' Wide Non-Exclusive Access & Utility Easement contains 0.528 acres, or 23,011 square feet, of land.

BASS OF BEARINGS

The basis for all bearings shown herein is the State of Iowa Grid, South Zone, NAD 83 (2011).

FLOOD ZONE

By sealed map location and graphic plotting only, the subject property appears to be entirely in Zone X-Unshaded (Areas determined to be outside the 0.2% annual chance floodplain,) according to the Flood Insurance Rate Map for the County of Polk. Community Panel No. 1913502307, Effective Date February 1, 2019.

ENCROACHMENTS

At the time of survey there were no visible encroachments onto or beyond the subject property.

CERTIFICATION

I, Gregory L. Ross, RLS, an Iowa State Registered Professional Land Surveyor, License No. 13286, hereby certify to SBA Towers X, LLC, a Delaware Limited Liability company and Old Republic National Title Insurance Company the following:

Latitude and Longitude values for the center of the above-referenced tower are accurate to within +/-15 feet horizontally.

HORIZONTAL DATUM: NAD83

LATITUDE: NORTH 41° 36' 56.28"

LONGITUDE: WEST 93° 29' 20.56"

This surveyor has received and reviewed that certain Title Commitment No. 01-20092798-01T issued by Old Republic National Title Insurance Company with an effective date of August 10, 2020 which proposes to insure the lands described under its Schedule A.

The surveyor has reviewed and determined that the lands described under said Schedule A of the Title Commitment contain or include the lands as depicted on this survey.

The surveyor has reviewed and determined that the items of record as identified under Schedule B-II of said Title Commitment do encumber the lands as described on this survey, but that said items will not interfere with the location of the insured lands, including the Proposed Exclusive Lease Area, and any and all access and utility easement areas.

Gregory L. Ross, RLS

Iowa Professional Land Surveyor No. 13286

Date of Survey: 10.30.2020

License renewal date: December 31, 2020
VESTED IN:
Bud L. Harris a.k.a. Vern L. Harris, and Renee L. Harris,
husband and wife as joint tenants
Instrument #026357
APN: 17000326-000-000

Section Line

1/4 Section Line

1/2, SE/4, SE/4
SE - T79N - R26W

2/4, SE/4, SE/4
SE - T79N - R26W

P.O.B. - Proposed Exclusive
SBA Lease Area

10,000 Square Feet
0.230 Acres

Proposed 20' Wide Non-Exclusive
Access & Utility Easement

10,000 Square Feet
0.230 Acres
January 29, 2021

Mr. Bret VandeLune
Polk County Planning & Development Services Manager
5885 NE 14 Street
Des Moines, IA 50313

RE: Application for Conditional Use Permit – SBA Towers X, LLC

Please see the attached Application for a Conditional Use Permit for SBA’s proposed facility on Parcel 170.00326.000.000, owned by Bud and Renee Harris.

Project Description

SBA Towers X, LLC (SBA) is proposing to construct a 300’ self-support tower on the above-referenced parcel. The subject property is zoned MU – Mixed Use and its current use is agricultural/rural residential. The surrounding neighborhood is similar in character to the subject property.

The function of this site for SBA is to relocate the existing tower located at 2230 NE 64th Street. The existing tower is a 300’ guyed tower and the proposed new tower will be a 300’ self-support, with a significantly smaller footprint and no guy wires. The ground lease on the existing tower is expiring and if it cannot be renewed, the tower will need to be removed. A replacement tower of similar size is required since there are multiple carriers on the existing tower and SBA is required to provide the carriers a suitable alternative. No existing structures meet the needs of carriers. Therefore, colocation is not an option in this case.

We feel that this proposal complies with the purpose of the Polk County Zoning Ordinance as stated in Division 8, Section 2 – General Standards. Our proposed location represents a site that is (1) leasable, (2) buildable (3) meets the clients’ RF needs and (4) has a willing property owner and (5) meets all the requirements of the local zoning code.

The proposed tower is 300’ tall, with a 10’ lightning rod, for an overall height of 310’. The tower can be engineered to have a fall zone of 50%, or 150’ in any direction. We are happy to provide a certified letter from an engineer if needed.

We look forward to working with you. If you have any questions regarding our application, please feel free to call Alexander Novak at 682-351-3335 or email him at ANovak@gssmidwest.com.

Sincerely,

Jessica Ross
Project Manager II, Relocations
January 29, 2021

Mr. Brian McDonough  
Polk County Planning & Development Services Manager  
5885 NE 14 Street  
Des Moines, IA 50313

RE: Variance Appeal Application – SBA Towers X, LLC

Please see the attached Variance Appeal Application for SBA’s proposed facility on Parcel 170.00326.000.000, owned by Bud and Renee Harris.

Project Description

SBA Towers X, LLC (SBA) is proposing to construct a 300’ self-support tower on the above-referenced parcel. The subject property is zoned MU – Mixed Use and its current use is agricultural/rural residential. The surrounding neighborhood is similar in character to the subject property.

The function of this site for SBA is to relocate the existing tower located at 2230 NE 64th Street. The existing tower is a 300’ guyed tower and the proposed new tower will be a 300’ self-support, with a significantly smaller footprint and no guy wires. The ground lease on the existing tower is expiring and if it cannot be renewed, the tower will need to be removed. A replacement tower of similar size is required since there are multiple carriers on the existing tower and SBA is required to provide the carriers a suitable alternative. No existing structures meet the needs of carriers. Therefore, colocation is not an option in this case.

We are seeking a variance from the requirement that the access drive be paved and curbed. The total length of the access drive and turnaround area for the tower is in excess of 1,000 feet and the proposed tower will generate and extremely low amount of traffic. It is not typical for tower access drives to be paved. We hope you will find our request reasonable.

We look forward to working with you. If you have any questions regarding our application, please feel free to call Alexander Novak at 682-351-3335 or email him at ANovak@gssmidwest.com.

Sincerely,

Jessica Ross  
Project Manager II, Relocations
April 20, 2021

Via Federal Express
Mr. Brian McDonough
Polk County Planning & Development Services Manager
5885 NE 14 Street
Des Moines, IA 50313

Re: Variance Appeal Application – SBA Towers X, LLC

Dear Brian:

Our office represents SBA Towers X, LLC (SBA) with respect to the enclosed Variance Appeal Application ("Height Variance Application") for a proposed facility on Parcel 170.00326.000.000 owned by Bud and Renee Harris ("Property"). This application is being made in conjunction with a Conditional Use Permit Application previously submitted by SBA on February 3, 2021 ("CUP Application") and a Variance Appeal Application dated February 11, 2021 ("Variance Application"). The Height Variance Application, CUP Application and Variance Application are pursuant to SBA’s proposed 300’ self-support tower and associated facility on the Property. As you are aware, SBA was recently informed by your office that a height variance is required for the Board of Adjustment to further consider SBA’s CUP Application and Variance Application. While SBA reserves the right to assert that no such height variance is needed under the current zoning district, it is submitting the enclosed Height Variance Application in deference to staff’s request.

The site is necessary as SBA must relocate an existing 300’ guyed tower and the equipment for multiple communications carriers from an adjacent property known as 2230 NE 64th Street. The existing 300’ tower site utilizes a much larger footprint (due to the use of guy wires) than the 300’ self-support tower that SBA is now proposing. The ground lease for the existing tower is expiring soon and the ground owner is unwilling to renew, thus prompting the upcoming need to remove the 300’ guyed tower from service. SBA must install a replacement tower of similar height in order to provide multiple carriers a suitable alternative so they continue to provide service to customers. SBA has reviewed the area and determined that no existing structures meet the needs of the carriers. Therefore, colocation is not an option in this case.

SBA was surprised to learn of staff’s recent interpretation necessitating the need for the height variance. SBA selected the subject Property in large part not only because it meets the carriers’ RF needs, but also is in close proximity of and the same zoning classification as the existing 300’ guyed tower. Nevertheless, SBA feels that the proposal complies with the purpose of the Polk County Zoning Ordinance as stated in both Division 8, Section 2 and Article 19, Division 2, Section 1 – General Standards. The proposed tower is 300’ tall with a 10’ lighting rod for an overall height of 310’. The tower can be engineered to have a fall
zone of 50%, or 150' in any direction. SBA can furnish a letter from a certified engineer if you believe it is necessary.

If you have any questions regarding the enclosed application, CUP Application or Variance Application, please do not hesitate to contact me at the number listed above or feel free to call Alexander Novak at 682-351-3335. We look forward to working with you.

Sincerely,

[Signature]

Mark A. Biesiada

Enclosure

cc: Mr. Ari Rosenthal
    Ms. Jessica Ross
    Mr. Alex Novak