



MEMORANDUM

Date: January 9, 2025

To: Board of Zoning Appeals

From: Jon Baughman, City Planner
Jill Johnson, Planner I

Re: 150' Monopole Cell Tower Conditional Use Permit
Parking Variance
Setback Variance
Separation Variance
300 Pleasant Grove Road (Paddocks Walmart)
Map: 77
Parcel: 72.12

Request: SBA Towers X, Inc., seeks a conditional use permit and three variances before developing an intermediate impact facility (a new cell tower (antenna support structure)) at 300 Pleasant Grove Road (Walmart property) in the Paddocks PUD in District 3.

Analysis: The subject site is at 300 Pleasant Grove Road and is currently developed with a Walmart store on 23.62 acres. The property is zoned CMU-PUD. Staff has reviewed the PUD ordinances related to this development and the proposed tower does not violate any of the provisions within these documents, being a use permitted (intermediate impact facility) conditionally in CMU zoning districts. The applicant proposes a new 150' (159' w/ antennae included) tall cell antenna support tower of a stealth (pine tree) design and associated ground mounted equipment, access and utility easements and fencing. Zoning adjacent to this location is RS-40, low density residential, to the north.

Cell towers are classified as an intermediate impact use, a conditional use in CMU districts requiring a conditional use permit from the Board of Zoning Appeals before being permitted. There are approximately 9 FCC registered cell phone antennas within the city limits of Mt. Juliet. This does not include the small cell antennas that are currently being installed throughout the City.

Plan Details: The tower is proposed for the north side of the property on the north side of the Walmart building. The tower will be located on Walmart property but adjacent to 535 Pleasant Grove Road (m72p72.25) a residentially zoned parcel outside of the PUD boundaries. The scope of work includes the 150' tall stealth pine cell antenna support tower, ground mounted equipment boxes, fencing and a 12' wide gravel drive for access in a 20' wide utility access easement. The pad containing the pole and equipment, behind a chain link fence, is 50'x50' in area. Additionally, a 10' wide utility easement is proposed.

The height of the pole is 150' and the antenna structures are shown to exceed this height by 9'. This is permissible via the code, antennae being permitted to exceed tower height by up to 20'.

Separation distances from other towers are met, the nearest being over 3,000' away (min. required is 750' for a monopole tower such as what is proposed). Setbacks for commercially zoned land and separation from residentially zoned land regulations are not met and variances are requested, described below.

Article XIV, 14-106.4 General Provisions for Conditional Uses:

1. *Burden of proof.* A conditional use permit shall not be considered an entitlement and shall be granted by the Board of Zoning Appeals only after the applicant has demonstrated to the satisfaction of the Board that all required standards are met.
2. *Ordinance compliance.* The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this ordinance, unless circumstances qualify the proposed use for a variance. Any accessory use to a conditional use must receive express approval by the Board of [Zoning] Appeals.
3. *General plan.* A conditional use shall be in accordance with the general plan for the City. The Board of Zoning Appeals shall determine from its review that the location, design and operation of a conditional use is not an impediment to projected growth plans for the City and that adequate public facilities are available to accommodate the proposed use.
4. *Traffic impact.* The proposed use shall not adversely affect the safety and convenience of vehicular or pedestrian circulation and, in the opinion of the City Engineer, shall not decrease traffic flow below level of service D along any portion of public roadway where the property has frontage.
5. *Parking adequacy.* The facility shall provide off-street parking and loading facilities as required by the parking regulations of this ordinance.
6. *Special conditions.* In addition, the Board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Variances: The applicant has requested two variances (three are required from staff's perspective) in conjunction with the above-described conditional use request:

1. 3-104.6.7.vii – Setbacks (lot containing the tower) – All towers shall be set back from all commercially and industrially zoned property lines a distance that is equal to or greater than one and one half times the height of the tower. All towers shall be set back from all residentially zoned property lines a distance that is two times the height of the tower or 200 feet, whichever is greater.
The applicant requests a 30' setback from the property line, rather than the 225' required by the code above.
STAFF DOES NOT SUPPORT
2. 3-104.6.7.vii.A – Separation requirements (residentially zoned land) – Towers shall be separated from all residentially zoned lands by a minimum of 200' or 200% of the height of the proposed tower, whichever is greater.
The applicant requests a separation from the adjacent residentially zoned land of 30' in lieu of the 300' required by the code above.
STAFF DOES NOT SUPPORT
3. 3-104.6.7.xii – Access – A parcel of land upon which a tower is located must provide access to at least one paved vehicular parking space on site.

The applicant requests to install a 12' wide gravel access drive within a 20' wide non-exclusive utility and maintenance easement, without a designated parking space in lieu.
STAFF DOES NOT SUPPORT

14-105.4 Standards for variances. The Board shall not grant a variance, unless it makes findings based upon evidence presented to it as follows:

1. *By reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.*
2. *The variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.*
3. *The variance will not authorize activities in a zone district other than those permitted by this ordinance.*
4. *Financial returns only shall not be considered as a basis for granting a variance.*
5. *The granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and purpose of the zoning district wherein such property is located or of the general provisions of this ordinance.*
6. *The proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.*
7. *The alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.*

Summary: This application is to request a conditional use permit for the construction of a 150' tall stealth cell tower support structure and associated improvements in the Paddocks PUD on the Walmart property. Also requested are three variances.

Staff supports approval of the conditional use permit for an intermediate impact facility at this location but does not support approval of the requested variances for reduced setbacks (30' in lieu of 225'), separation from residentially zoned land (30' in lieu of 300'), and parking, having not met all the standards for variances outlined above. However, the separation and setback variances are requested to avoid the tower being in the Walmart parking area and will facilitate the tower being placed in a less conspicuous area of the site.

Recommendation: Staff recommends approval of the conditional use permit and denial of the three variances described in this report, subject to the conditions of approval below:

1. Chain link fencing shall not be permitted, provide a decorative alternative upon site plan submittal should the conditional use be approved.
2. Provide landscape screening and a landscape plan upon site plan submittal should the conditional use be approved.

3. Specify the colors of the entire structure upon site plan submittal, all requirements of 3-104.6.7.xi shall apply.
4. The drive aisle shall be paved with asphalt or concrete.
5. The parking space shall be paved with asphalt or concrete.
6. Should the conditional use be approved by the Board of Zoning Appeals, a site plan application shall be submitted to the Planning Department for review and approval before construction can begin. All requirements of article 3-104.6.7 shall be reviewed for compliance at this time.
7. Full compliance with setback requirements is required unless a variance is granted.
8. Full compliance with separation requirements is required unless a variance is granted.
9. Full compliance with parking requirements is required unless a variance is granted.