

710 EAST SAN AUGUSTINE

DEER PARK, TEXAS 77536

Minutes

of

A PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, HELD AT CITY HALL, 710 EAST SAN AUGUSTINE STREET, JANUARY 7, 2019 AT 6:15 P.M. ON THE REQUEST FROM AQUA SOLUTIONS AND AT&T FOR A SPECIFIC USE PERMIT TO CONSTRUCT A ONE HUNDRED AND EIGHTY (180) FOOT, SELF-SUPPORT TELECOMMUNICATIONS TOWER, TO BE LOCATED AT 6911 ½ HIGHWAY 225, WITH THE FOLLOWING MEMBERS PRESENT:

DON TIPPIT	CHAIRMAN
RAY BALUSEK	COMMISSIONER
DOUG COX	COMMISSIONER
STAN GARRETT	COMMISSIONER
DANIELLE WENDEBURG	COMMISSIONER

OTHER CITY OFFICIALS PRESENT WERE:

SHANNON BENNETT	CITY SECRETARY
LARRY BROTHERTON	BUILDING OFFICIAL

1. NOTICE OF PUBLIC HEARING - The public hearing was opened by the City Secretary reading the Notice of Public Hearing. (Exhibit A)
2. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK IN FAVOR OF THE REQUEST - Chairman Tippit opened the hearing for those persons desiring to speak in favor of the request. No one spoke.
3. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK AGAINST THE REQUEST - Chairman Tippit opened the hearing for those persons desiring to speak against the request.
 - a. W. Bebb Francis, of The Francis Law Firm, the attorney for American Towers LLC and SBA Communications Corporation. These are two of three of the largest telecommunications developers and owners of infrastructure in the country. First, I would like to thank Larry Brotherton, the City Manager and I simultaneously used the word "clone". We would like to clone him, he has been so responsive to answering any questions. We are here tonight to respectfully request a denial of this application for three primary reasons. One reason is, it doesn't meet the intended Zoning Ordinance, secondly, it does not meet the requirements to grant the Specific Use Permit. We feel like after you hear the presentation and walk through the request, it doesn't meet the requirements of granting the Specific Use Permit. Additionally, there is confusion of who the applicant is and who is the owner? AT&T is a tenant on a tower, not the tower owner. Tillman Infrastructure are designated on the plans as the owner. The question is

who is the applicant and who is to receive the Specific Use Permit if it is granted? Most importantly, this project as you will see, is not intended to benefit the community. What the intent is, which is echoed in the letter from AT&T, is purely to fulfill a business plan. In 2017, Tillman and AT&T made a big public relations splash that they were entering into an agreement to go around the country and build towers as close as physically possible of existing towers solely for the purpose of taking AT&T antennas off of existing towers, many of which were built for AT&T years ago and moving them onto the new tower without regard to the community.”

Mr. Francis presented information of the locations for American Towers LLC and SBA Communications Corporation. (Exhibit B1-B8)

4. RECESS/RECONVENE - Chairman Tippit recessed the 6:15 p.m. preliminary public hearing to open the 6:20 p.m. preliminary public hearing and reconvened at 6:20 p.m.

Mr. Francis continued the discussion of the plans submitted to Building Official Larry Brotherton. “If you notice, Tillman Infrastructure is the one listed on the plans as the vertical steel tower owner. Again, AT&T and Tillman Infrastructure recognizes the location of the SBA Tower and the location of the proposed Tillman Infrastructure tower, 200 feet away is all the difference. Now, the American Tower LLC is the one currently located a quarter mile away from the AT&T Tower. It is a 190 foot monopole. AT&T currently has and is operating its’ antennas and equipment on the American Tower LLC. Interestingly, as of 6 days ago, AT&T asked American Towers LLC to continue to reserve space on their tower for AT&T’s continued use. We wanted to provide you with a structural analysis of American Tower just to show that this is not a question of structural instability. This is a sealed report that shows that it has adequate structural ability to support and to continue to support the AT&T antennas. The SBA Tower, is located 200 feet away from the site of the proposed AT&T Tower. It is 175 foot tower. During the last 11 years, AT&T has not contacted SBA Towers to inquire about collocating the AT&T antennas on the SBA Corporation tower that would eliminate the need for a third tower because it is not a part of their business plan with Tillman Infrastructure. The SBA letter from Mr. Roush, the Director of Site Marketing for the Texas area for SBA Communications Corporation (refer to Exhibit B1-B8) states that he is the one responsible to interact with carriers such as AT&T, when a carrier has interest in locating onto a SBA Tower. Mr. Roush also states in the letter that he, in the 11 years being in his position and to the best of his knowledge, has never been contacted by AT&T to locate on the SBA Tower. We wanted to provide both American Tower LLC’s and SBA Corporation’s radio frequency maps to show the difference, if any, between the current coverage AT&T is producing now at this moment from the American Tower LLC tower, and how it would be different from the coverage if you all permit the tower to be relocated a quarter mile away. The American Tower LLC Engineering team analyzed the radio frequency information, included in the Exhibit packet is the resume of the engineer. (refer to Exhibit B1-B8) As you expect, a quarter of a mile away, there is very little difference. Mainly, just an adjustment to the northeast. Additionally, I just got it while I was driving in, SBA conducted their own analysis with an engineering firm. The sealed engineer’s letter concluded, based on coverage comparison, the existing and proposed site provides comparable coverage service levels to the portion of Deer Park surrounding the site due

to their close proximity, a quarter mile, and similar antenna mounting elevations. For wireless operators with antennas mounting on the existing site of the American Towers LLC, the installation of additional antennas on the proposed site, the Tillman Infrastructure site, would be considered to be “overbilled” or “impractical of giving “coverage overlap”. You can even go to the AT&T service maps that we pulled on Friday (refer to Exhibit B1-B8). These maps tell the community of the great voice and data wireless coverage at the American Tower LLC site. Again, it is not a question of filling a gap in service, or a question that a tower is not stable enough to continue to hold AT&T. It is a question of fulfilling their business plan of building towers as physically close as possible to existing towers with the purpose of moving their antennas onto the new tower. I wanted to show you examples of how this program is negatively affecting a Community such as yours. (refer to Exhibit B1-B8)

5. RECESS/RECONVENE - Chairman Tippit recessed the 6:15 p.m. preliminary public hearing to open the 6:28 p.m. regular Board of Adjustment meeting and reconvened at 6:28 p.m.

Mr. Francis continued the discussion of the Tillman Infrastructure towers and the locations in different counties. “They usually pick counties in Texas because counties, generally, don’t have zoning. They go to counties that have shadow towers or they go to cities that do not have detailed wireless ordinances with tower separation requirements. Larry Brotherton and I were talking about looking at your ordinance to see what would be a proper tower separation requirement to prevent this type of overbill. I mentioned that we believe that this application does not meet the intent of your ordinance. You all have a great zoning ordinance which lays out what the zoning regulations and districts, established by this ordinance, are designed to do. The one regulation that jumps out is “to prevent the overcrowding of land”. Mr. Bedford is the landlord of the SBA Tower LLC and the landlord of the AT&T tower. On his property, the Aqua Solutions property, if it is approved, will have two 170 foot towers, 200 feet apart. Also as you may know, there are requirements for the granting of a Specific Use Permit. The one requirement that jumps out to me is “such other measures as will secure and protect public health, safety, morals and general welfare”. Ladies and Gentlemen, this application has nothing to do with the welfare of your community. It doesn’t improve wireless connectivity, there is no gap in service. All it does, as we are surprised by the statement of AT&T, that this is a pure economic play for them. It doesn’t say “we need to resolve a gap” it doesn’t say we have to resolve gap. They come out and say this is an economic deal, yet as of 6 days ago, they have asked American Towers LLC if they can keep the antennas on their tower.

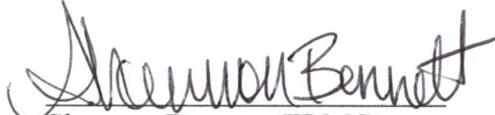
6. RECESS/RECONVENE - Chairman Tippit recessed the 6:15 p.m. preliminary public hearing to open the 6:30 p.m. regular Planning and Zoning meeting and reconvened at 6:30 p.m.

Mr. Francis continued the discussion of receiving the City of Deer Park’s Strategic Plan. “Your Staff was so kind to send me the CD of your Strategic Plan. I went through it in detail and I congratulate you. I was telling your City Manager, that you all put a lot of time and effort and money in this plan and I understand you will be modifying it as you move forward. A couple of things jumped out at me, carrying forward the idea of “is this a betterment for the community?” Your mission statement said “the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of

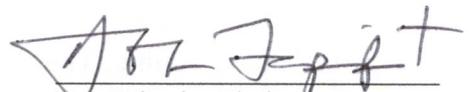
life consistent with our history, culture and unique character,” nothing that they have presented has anything to do with the betterment of your community. Again, nothing they have presented shows that there is any type of emphasis on this project adding to the quality of life. We are respectfully requesting a denial of this application for a Specific Use Permit. We do not believe it meets the requirements of the Zoning Ordinance and believe it is strictly an economic business plan that is looking for an opportunity regardless of the impact of the community. If the recommendation is approved, SBA Towers would request that, because of the close proximity of the AT&T antennas would be to the antennas of the SBA Tower, there could possibly be a passive intermodulation interference. In the event that this Specific Use Permit recommendation to grant it is passed to City Council, SBA Towers asks that a passive intermodulation mitigation plan be required. Again, we respectfully ask that this application be denied.”

7. HEARING CLOSED – Chairman Tippit closed the public hearing at 6:40 p.m.

ATTEST:


Shannon Bennett, TRMC
City Secretary

APPROVED:

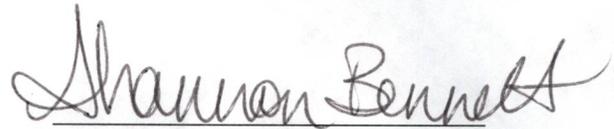

Don Tippit, Chairman
Planning & Zoning Commission

.

.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning and Zoning Commission of the City of Deer Park, Texas will hold a public hearing at City Hall, 710 East San Augustine Street, Deer Park, Texas at 6:15 p.m. on the 7th day of January, 2019 at which time and place they will hear all persons desiring to be heard on or in connection with any matter or question relating to the request of AT&T for a Specific Use Permit to construct a cell tower on Aqua Solutions property located at 6911 ½ Highway 225.



Shannon Bennett, TRMC
City Secretary

Dated this 18th of December 2018

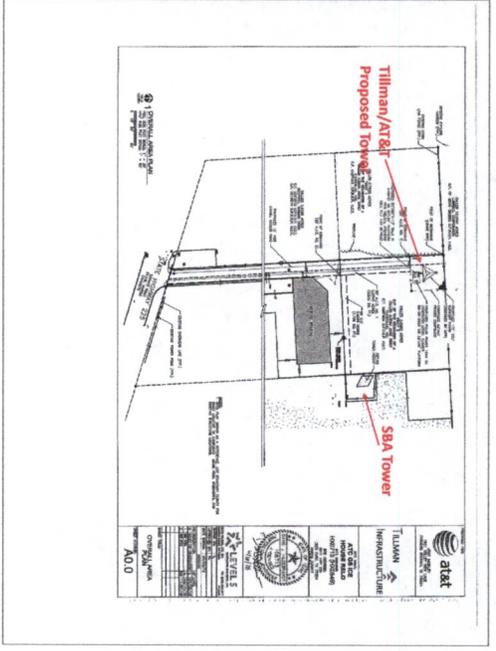
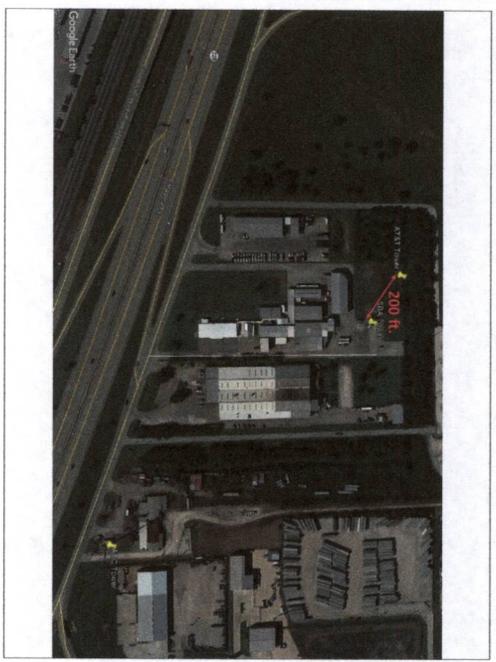
.

.

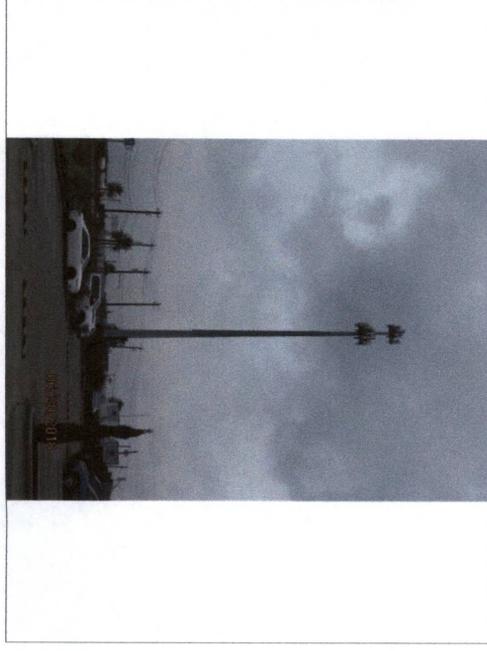
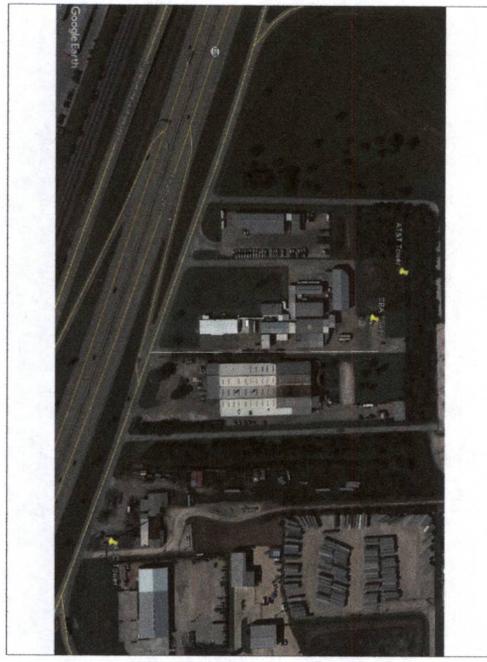
.

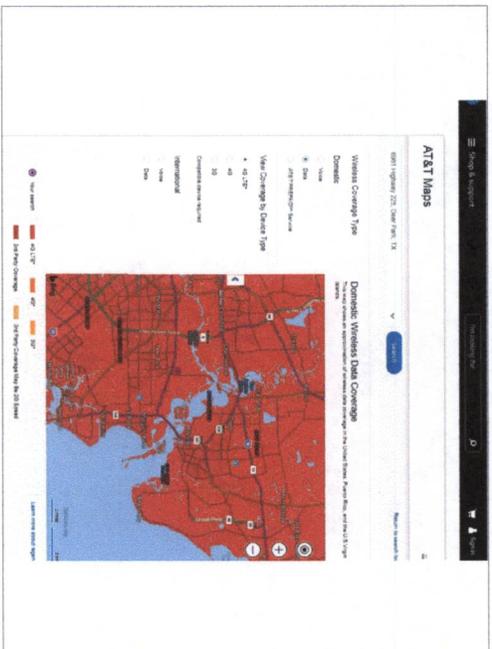
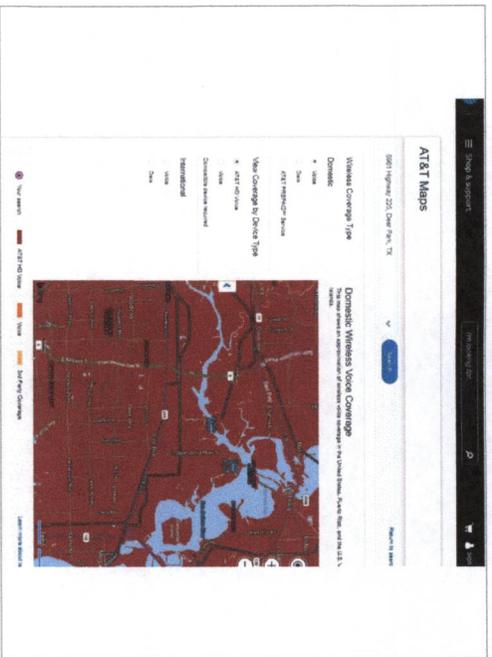
.

PH 19-005
 American Towers LLC
 SBA Communications Corporation
 Request For Denial
 of
 AT&T's Application for
 Specific Use Permit

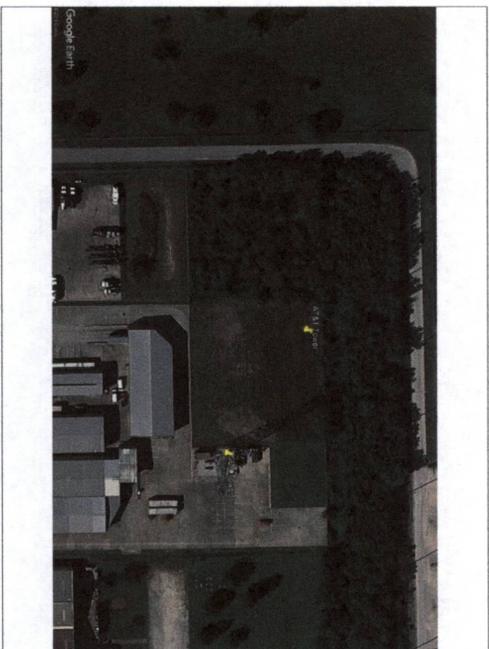
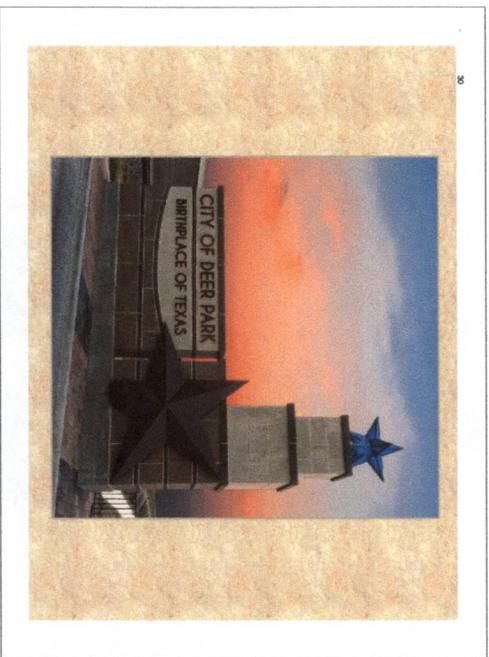


American Towers LLC
 Deer Park Tower



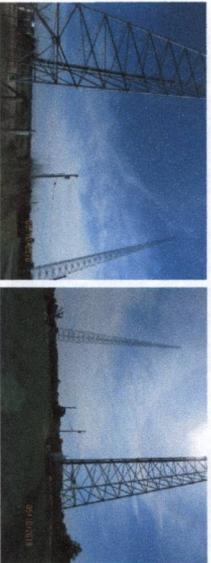


**How Shadow Towers Negatively
Impact Local Communities**

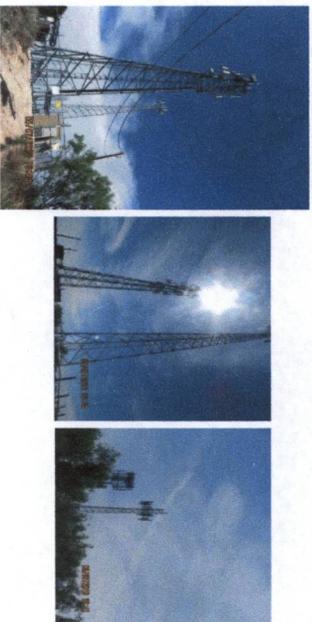


**Decatur County, IA
Uniti Towers, LLC/AT&T Built New Tower
Near Existing ATC Tower**

Wood County, TX
Tillman/AT&T Built New Tower
0.06 Miles From Existing ATC Tower



Tom Green County, TX
Tillman/AT&T Built New Tower
0.02 Miles From Existing ATC Tower



Atascosa County, TX
Tillman/AT&T Built New Tower
0.09 Miles From Existing ATC Tower



Lenoir County, NC
Tillman/AT&T Built New Tower
0.25 Miles From Existing ATC Tower



Orange Township, OH
Tillman/AT&T Built New Tower
0.06 Miles From Existing ATC Tower

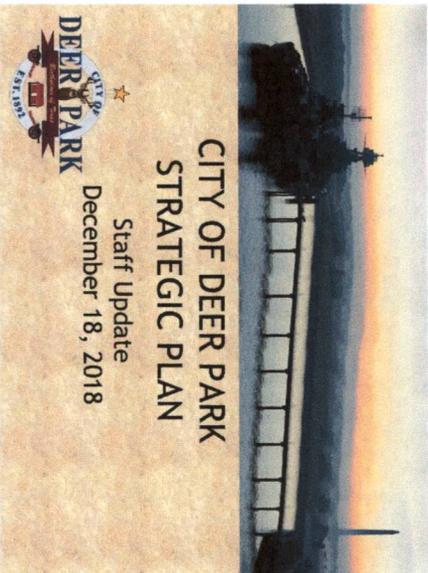


City of Deer Park Zoning Ordinance

- 1.01. - Purpose
- 1.01.1. **Zoning Ordinance Intent.** The purpose and intent of the ordinance is to change existing zoning ordinances, codes, and regulations to meet the needs of the City of Deer Park and to provide a framework for the City of Deer Park to provide health, safety, morals, and the general welfare of the City of Deer Park. The ordinance shall be designed to do the following:
- Lessen competition in the streets.
 - To secure safety from fire, panic and other danger.
 - To provide adequate light and air.
 - **To prevent the overcrowding of land.**
 - To avoid undue concentration of population, and
 - To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- They have been made with reasonable consideration, among other things, for the character of the land and for its present and prospective uses, and for the general health, safety, morals, and the general welfare of the community of the City of Deer Park, Texas. The comprehensive basic purposes set forth in this article include the specific purposes provided herein for the individual zoning districts and use groups.

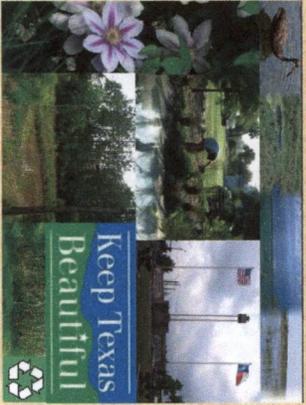
- 1.04. - Specific Use Permit (SUP)
- 1.04.6. **City Council Consideration.** In granting or denying an application for a specific use permit, the City Council shall consider the following factors, among others:
- The location, design, and of pedestrian safety, the area immediately surrounding the site.
 - Safety from fire, hazard, and nuisances from fire control.
 - Proportion of adjacent property from flood or water damage.
 - Noise producing elements, and glare of vehicular and stationary signs and effects of such signs on established character of the neighborhood.
 - Location, lighting and type of signs, and relation of signs to traffic control and adverse effect on adjacent properties.
 - Street size and adjacency of pavement width for traffic assembly requested by the applicant, the proposed use, and to the immediate neighborhood.
 - Adequacy of parking, as determined by requirements of the ordinance for off-street parking facilities in the use district in which the site is located, location of signs and lighting, and the effect of such signs and lighting on the safety and protection of public health by stations on all parking areas to control glare.
 - Such other measures as will secure and protect public health, safety, morals, and general welfare.
- The compliance with the overall zoning use plan of the city of the proposed use.

City of Deer Park Strategic Plan



- ## Vision and Mission Statements
- **Vision Statement** - Deer Park is a vibrant, sustainable community; a safe place to work, play, and live, offering growth and opportunity to all residents and businesses.
 - **Mission Statement** - The Mission of the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of life consistent with our history, culture, and unique character.

Area of Emphasis -
Quality of Life/Image



American Towers LLC
SBA Communications Corporation
Respectfully Request Denial
of
AT&T's Application for
Specific Use Permit

710 EAST SAN AUGUSTINE

DEER PARK, TEXAS 77536

Minutes

of

A PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, HELD AT CITY HALL, 710 EAST SAN AUGUSTINE STREET, JANUARY 7, 2019 AT 6:20 P.M. ON THE REQUEST FROM DR. ALBERT & MARCELIA ANDERSON FOR A SPECIFIC USE PERMIT TO OPERATE A CHURCH FACILITY AT 4526 GLENWOOD AVENUE, WITH THE FOLLOWING MEMBERS PRESENT:

DON TIPPIT	CHAIRMAN
RAY BALUSEK	COMMISSIONER
DOUGLAS COX	COMMISSIONER
STAN GARRETT	COMMISSIONER
DANIELLE WENDEBURG	COMMISSIONER

OTHER CITY OFFICIALS PRESENT WERE:

SHANNON BENNETT	CITY SECRETARY
LARRY BROTHERTON	BUILDING OFFICIAL

1. NOTICE OF PUBLIC HEARING - The public hearing was opened by the City Secretary reading the Notice of Public Hearing. (Exhibit A)
2. RECESS/RECONVENED – Chairman Tippit recessed the preliminary public hearing at 6:20 p.m. to continue with the 6:15 p.m. preliminary public hearing and reconvened at 6:40 p.m.
3. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK IN FAVOR OF THE REQUEST - Chairman Tippit opened the hearing for those persons desiring to speak in favor of the request.
 - a. Marcellia Anderson of Breath of Life, 4526 Glenwood Avenue, commented, “Thank you all for having us here today. Thank you Larry Brotherton for your assistance in making sure we had all our paperwork in and on time. Breath of Life International Ministries is a church that came into existence over ten years ago. Up until now, we have been in Friendswood Texas. As our ministry has grown, so has the need for more community outreach and our desire to impact the community. We began looking for land to build on or building and land, whatever combination could fit our particular needs. Last year we became aware that the property at 4526 Glenwood Avenue was available and for sale. This was the location of the Glenwood Baptist Church under Dr. Paul McWhorter. We took the steps to acquire the building once we toured the facility and saw the parcel of land and building would meet our needs. This was done on Tuesday October 30, 2018. We are requesting a Specific Use Permit before this Commission to operate as a church.

We have our weekly services that are bible studies as well as worship service. We would also like to have community outreach programs for those that are in need and have meetings to provide awareness to the community about wellness and health. We are excited about the opportunity to be in Deer Park. So far, everyone that we have come into contact with has been so welcoming to us. We would love for you to consider passing this to City Council with your recommendation that we acquire the Specific Use Permit.”

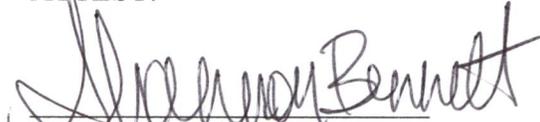
Commissioner Wendeburg commented, “I just want to say “Congratulations” on the purchase of the building. It is going to be a nice church.”

Commissioner Balusek asked, “Is the congregation you have still in Friendswood at this time?”

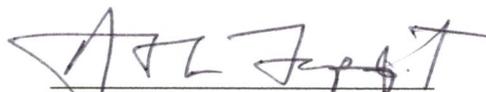
Mrs. Anderson responded, “We have been meeting at school and retail locations. What we have done to keep our hands on everyone who is part of the congregation is bring them over just to have some contact with them. We have moved our things into the building, but have not unpacked to occupy the building until we finish this process.”

4. HEARING OPENED FOR THOSE PERSONS DESIRING TO SPEAK AGAINST THE REQUEST – Chairman Tippit opened the hearing for those persons desiring to speak against the request. No one spoke.
4. HEARING CLOSED – Chairman Tippit closed the public hearing at 6:45 p.m.

ATTEST:

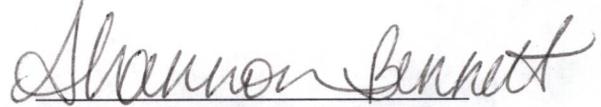

Shannon Bennett, TRMC
City Secretary

APPROVED:


Don Tippit, Chairman
Planning & Zoning Commission

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning and Zoning Commission of the City of Deer Park, Texas will hold a public hearing at City Hall, 710 East San Augustine Street, Deer Park, Texas at 6:20 p.m. on the 7th day of January, 2019 at which time and place they will hear all persons desiring to be heard on or in connection with any matter or question relating to the request of Breath of Life International Ministries for a Specific Use Permit to operate at church located at 4526 Glenwood Avenue.



Shannon Bennett, TRMC
City Secretary

Dated this 18th of December 2018

ARTICLE OF INCORPORATION

These articles of incorporation are filed with the Secretary of State of the State of New York, in accordance with the provisions of the laws of the State of New York, relating to the incorporation of corporations, and the laws of the State of New York, relating to the filing of articles of incorporation, and the laws of the State of New York, relating to the filing of articles of incorporation, and the laws of the State of New York, relating to the filing of articles of incorporation.

Witness my hand and seal of office, this 1st day of January, 1900.

Secretary of State