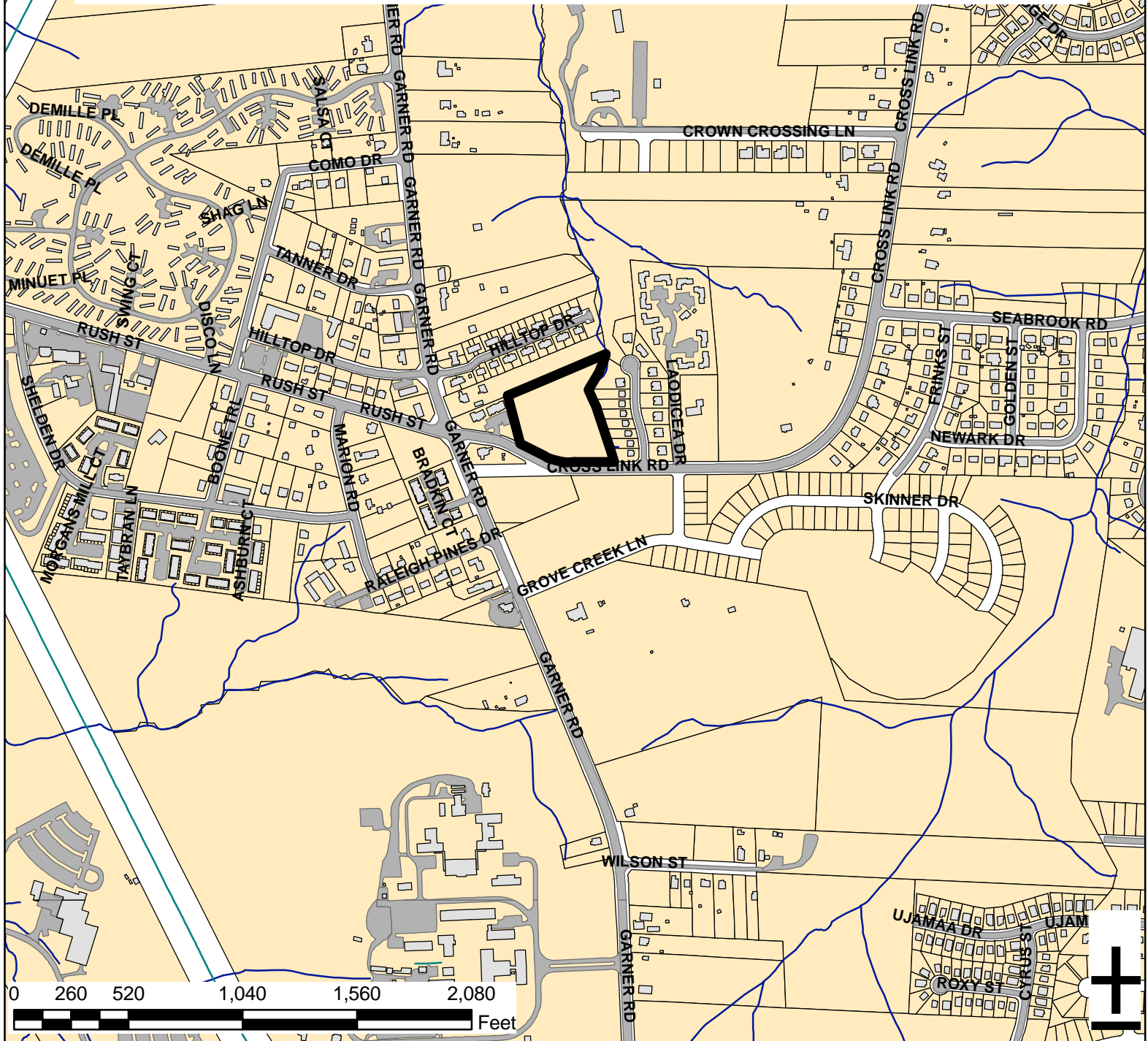


# CROSS LINK ROAD TELECOMMUNICATION TOWER FACILITY SU-3-2010



Zoning: **R-10**  
CAC: **South**  
Drainage  
Basin: **Rochester Branch**  
Acreage: **3.80**

Proposed Height: **Not to exceed 180'**  
Planner: **Eric Hodge**  
Phone: **(919) 516-2639**  
Applicant Contact: **Excell Communications, Inc.**  
Phone: **(919) 771-1961**

September 23, 2010

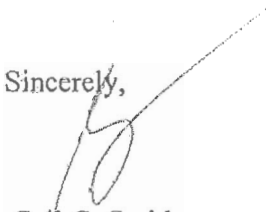
Mr. Scott Smith  
Excell Telecommunications, Inc.  
223 US Highway 70 East  
Suite 120  
Garner, NC 27529

RE: SU-3-10 – Telecommunications Tower – Cross Link Road

Dear Mr. Smith:

Enclosed is a corrected copy of the approval for SU-3-10 – Telecommunications Tower. This corrected permit uses the correct company name and does not limit the permit to one year. I regret the original permit had incorrect information and trust that it has caused you no inconvenience. Thank you for catching the errors.

Sincerely,



Gail G. Smith  
City Clerk

Cc: Planning  
Inspections

Mentor Masonic Lodge #55  
American Towers, Inc.  
400 Regency Forest Drive  
Cary, NC 27518

NORTH CAROLINA

WAKE COUNTY

BEFORE THE RALEIGH CITY COUNCIL  
SU-3-10

IN RE:       Telecommunication Tower

On August 3, 2010, the Raleigh City Council held a hearing to receive evidence in the matter of American Towers, Inc., a request to be issued a special use permit. As a result of that hearing and the testimony and other evidence received there the City Council makes the following findings of fact and conclusions of law.

#### FINDINGS OF FACT

1. All parties necessary to the determination of this request were properly notified and were or had the opportunity to be represented at the hearing.
2. Raleigh City Code §10-2145 requires the following conditions be satisfied before an special use permit may be issued.
  - a. Radio or television or similar reception of adjoining properties will not be disturbed or diminished
  - b. The height of the tower does not exceed five hundred ten (510) feet.
  - c. The lightning of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lightning system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same may be amended.
  - d. The minimum yard setback from the outside dimensions of the tower, not from guy anchors, are as follows:
    1. One hundred (100) percent of the tower height, but no less than fifty (50) feet, from the property line of either any lot which is developed at an average residential density or less than fifteen (15) dwelling units per acre or vacant lot located in residential zoning district.
    - e. The base of the tower and each guy anchor are surrounded by a fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight (8) feet in height. Except for fence and wall entrances, all fences and walls shall be screened with plant material so that no more than two-thirds (2/3) of the surface of the fence or wall is visible, within three (3) years after erection of the structure, from a public street or from any adjoining lot which contains a dwelling, congregate care or congregate living structure, or is zoned a residential district.

f. The area adjoining street rights-of way shall contain a minimum street protective yard of twenty (20) feet wide as measured perpendicular to the public street rights-of-way. This street protective yard shall comply with the requirements of §10-2082.5. No street yard shall be required along street frontage located a distance from the tower or more than twice the height of the tower.

g. The output power from the tower shall not exceed federally approved levels for exposure to electronic magnetic force (EMF).

h. If determined by the City that the proposed tower is situated in a location which will benefit the City's telecommunication systems, then, the tower shall be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.

i. If the proposed tower is located on property that is zoned a residential district at the time of the special use hearing, the tower shall be either less than seventy-five (75) feet in height or located no closer than one thousand and five hundred (1,500') feet (determined by straight line and not street distance) to a tower greater than seventy-five (75) feet in height which was constructed after the effective date of this ordinance. N/A

j. If the tower is located within a Historic Overlay District or Metro Park Protection Overlay District, the tower does not exceed the maximum building height allowed within the underlying zoning district. N/A

k. No tower shall be approved unless evidence is presented that at least one telecommunications user will occupy the tower. If the tower is between one hundred (100) feet and one Hundred fifty (150) feet in height, the tower shall be engineered and constructed to accommodate a minimum of two telecommunication users. If the tower equals or exceeds one hundred fifty (150) feet in height but is less than one hundred eighty (180) feet in height, the tower shall be engineered and constructed to accommodate a minimum of three telecommunication users. If the tower equals or exceeds one hundred eighty (180) feet in height, but is less than 200 feet in height, the tower shall be engineered and constructed to accommodate a minimum of four telecommunication users. IF the tower equals or exceeds tow hundred (200) feet in height, the tower shall be engineered and constructed to accommodate a minimum of five telecommunication users.

l. Unless enclosed by a closed fence at least eight (8) feet in height, the exterior appearance of all buildings, located in a residential district look like a residential dwelling, including without limitation, pitched roof(s) and frame or brick veneer construction. For each potential telecommunication user to occupy the tower there shall be a minimum of six hundred (600) square feet reserved on the plans for

associated building(s) and equipment, unless the applicant provides evidence that less space is necessary.

m. That the applicant has provided evidence that the proposed tower meets FAA requirements, and is in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.

n. Associated buildings located in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance of periodic monitoring of equipment and instruments.

o. The use will not be injurious to property or improvements in the affected area.

p. Unless otherwise specified by this permit, that within six (6) months of approvals of this special use permit, a grading permit, building permit, or zoning permit is obtained, and within one year of approval of this special use permit the tower is installed and operational, or the special use permit shall be void.

#### CONCLUSIONS OF LAW

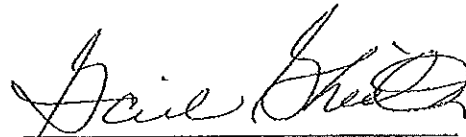
1. The requirements of the Raleigh City Code 10-2145 have been met and the applicant American Towers, Inc. is entitled to a special use permit, subject to conditions in paragraph 2

2. Pursuant to the provisions of G.S. 160A of the North Carolina General Statutes, the City Council is empowered to place conditions upon a special use permit. The following Special Use Condition is imposed:

No microwave dishes shall be placed on the tower unless mandated by a federal law or regulative prompting local regulation.

3. The request made in SU-3-10 is hereby approved.

This the 23 day of September, 2010.



Gail G. Smith  
City Clerk

going to private property off the right-of-way so that we do not have to get State approval or encroachment agreements or whatever, he is simply wanting staff to study that possibility and determine if it is an option to have the bus shelters off the right-of-way and funded through third party agreements.

Mr. Crowder pointed out he is very supportive of coming up with a way or opportunities to fund the bus shelters. He stated however his concern is that we are getting into a slippery slope with our sign ordinance. He stated we have an excellent sign ordinance and he feels we could possibly be moving down the wrong road. He is afraid it will open up opportunities for others to come in with ways to advertise and he just does not want us to get into that slippery slope. Mr. Gaylord pointed out we are not talking about advertising it is just study the issue and see if there is a way to accelerate implementation of our bus shelter program. Mr. Crowder questioned if Mr. Gaylord would limit his motion to look at opportunities for private funding for bus shelters and not get into advertising. Mr. Gaylord stated he did not want to get into limiting factors he just would like us to study all the opportunities. Mr. Stephenson stated we could ask staff to weigh in on the slippery slope aspect that is whether funding these on private property through third party agreements would erode our sign ordinance. Mr. Gaylord stated he would expect that to be a part of any report on this issue. Ms. McFarlane pointed out she thought the Council had asked for a break out of shelters on state roads versus shelters on city roads. She would like to see a breakout with Mr. Gaylord pointing out we are talking about looking at options of putting the shelters on private property so it would not particularly matter whether it was city or state right-of-way. Mr. Gaylord moved that the staff be asked to study bus shelter opportunities on private or public property utilizing 3<sup>rd</sup> party agreements per the pervious Comprehensive Planning Committee recommendation. His motion was seconded by Mr. Stephenson.

Ms. Baldwin questioned how much staff time this would take with City Manager Allen pointing out it is hard to answer that at this point. He stated may be we could do some surveys of best practices in other cities, the City Attorney's Office, Planning and Zoning would be involved and there may be a way to do this, look at what has been done in other cities if they were successful, etc., without taking a lot of time. Mr. West seconded Mr. Gaylord's motion. Mr. Odom spoke in support of the idea pointing out it could provide an opportunity for small businesses to advertise on their private property. He feels it may be a good thing. The motion as stated was put to a vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

SU-2-10  
~~SU-2-10~~ **EXCELL COMMUNICATIONS TELECOMMUNICATIONS TOWER - APPROVED**

During the August 3, 2010, Council meeting, an evidentiary hearing was held to consider a request from Excell Communications, Inc., to construct a 180-foot high telecommunications tower on property owned by the Mentor Masonic Lodge #55, 609 Crosslink Road, on property zoned Residential-10. Following the hearing the Council voted to approve the Special Use Permit and directed that the item be placed on this agenda to consider findings of fact and conclusions of law which will be provided by City Attorney McCormick. It would be appropriate to consider approval on a final vote.

The findings and conclusions were as follows:

NORTH CAROLINA

BEFORE THE RALEIGH CITY COUNCIL

WAKE COUNTY

SU-3-10

**IN RE: Telecommunication Tower Excell Communications, Inc.**

On August 3, 2010, the Raleigh City Council held a hearing to receive evidence in the matter of Telecommunication Tower Excell Communications, Inc., a request to be issued a special use permit. As a result of that hearing and the testimony and other evidence received there the City Council makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. All parties necessary to the determination of this request were properly notified and were or had the opportunity to be represented at the hearing.

2. Raleigh City Code §10-2145 requires the following conditions be satisfied before a special use permit may be issued.

**a. Radio or television or similar reception of adjoining properties will not be disturbed or diminished**

**b. The height of the tower does not exceed five hundred ten (510) feet.**

**c. The lightning of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lightning system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same may be amended.**

**d. The minimum yard setback from the outside dimensions of the tower, not from guy anchors, are as follows:**

1. One hundred (100) percent of the tower height, but no less than fifty (50) feet, from the property line of either any lot which is developed at an average residential density or less than fifteen (15) dwelling units per acre or vacant lot located in residential zoning district.

**e. The base of the tower and each guy anchor are surrounded by a fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight (8) feet in height. Except for fence and wall entrances, all fences and walls shall be screened with plant material so that no more than two-thirds (2/3) of the surface of the fence or wall is visible, within three (3) years after erection of the structure,**

from a public street or from any adjoining lot which contains a dwelling, congregate care or congregate living structure, or is zoned a residential district.

f. The area adjoining street rights-of way shall contain a minimum street protective yard of twenty (20) feet wide as measured perpendicular to the public street rights-of-way. This street protective yard shall comply with the requirements of §10-2082.5. No street yard shall be required along street frontage located a distance from the tower or more than twice the height of the tower.

g. The output power from the tower shall not exceed federally approved levels for exposure to electronic magnetic force (EMF).

h. If determined by the City that the proposed tower is situated in a location which will benefit the City's telecommunication systems, then, the tower shall be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.

i. If the proposed tower is located on property that is zoned a residential district at the time of the special use hearing, the tower shall be either less than seventy-five (75) feet in height or located no closer than one thousand and five hundred (1,500') feet (determined by straight line and not street distance) to a tower greater than seventy-five (75) feet in height which was constructed after the effective date of this ordinance. N/A

j. If the tower is located within a Historic Overlay District or Metro Park Protection Overlay District, the tower does not exceed the maximum building height allowed within the underlying zoning district. N/A

k. No tower shall be approved unless evidence is presented that at least one telecommunications user will occupy the tower. If the tower is between one hundred (100) feet and one Hundred fifty (150) feet in height, the tower shall be engineered and constructed to accommodate a minimum of two telecommunication users. If the tower equals or exceeds one hundred fifty (150) feet in height but is less than one hundred eighty (180) feet in height, the tower shall be engineered and constructed to accommodate a minimum of three telecommunication users. If the tower equals or exceeds one hundred eighty (180) feet in height, but is less than 200 feet in height, the tower shall be engineered and constructed to accommodate a minimum of four telecommunication users. IF the tower equals or exceeds tow hundred (200) feet in height, the tower shall be engineered and constructed to accommodate a minimum of five telecommunication users.

l. Unless enclosed by a closed fence at least eight (8) feet in height, the exterior appearance of all buildings, located in a residential district look like a residential dwelling, including without limitation, pitched roof(s) and frame or brick veneer construction. For each potential telecommunication user to occupy the tower there shall be a minimum of six hundred (600) square feet reserved on the plans for associated building(s) and equipment, unless the applicant provides evidence that less space is necessary.



m. That the applicant has provided evidence that the proposed tower meets FAA requirements, and is in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.

n. Associated buildings located in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance of periodic monitoring of equipment and instruments.

o. The use will not be injurious to property or improvements in the affected area.

p. Unless otherwise specified by this permit, that within six (6) months of approvals of this special use permit, a grading permit, building permit, or zoning permit is obtained, and within one year of approval of this special use permit the tower is installed and operational, or the special use permit shall be void.

#### **CONCLUSIONS OF LAW**

1. The requirements of the Raleigh City Code 10-2145 have been met and the applicant Telecommunication Tower Excell Communication, Inc. is entitled to a special use permit for one year. Subject to conditions in paragraph 2

2. Pursuant to the provisions of G.S. 160A of the North Carolina General Statutes, the City Council is empowered to place conditions upon a special use permit. The following Special Use Condition is imposed:

No microwave dishes shall be placed on the tower unless mandated by a federal law or regulative prompting local regulation.

3. The request made in SU-3-10 is hereby approved.

Mr. Odom moved approval. His motion was seconded by Ms. Baldwin and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

#### **SOUTHEAST HIGH SPEED RAIL PROJECT – VARIOUS ACTIONS TAKEN**

On August 31, 2010, the City Council held a public hearing to consider comments from the public to help formulate the City's recommendation for the corridor to be utilized in the Raleigh area for the Southeast High Speed Rail Project. It was directed that the item be placed on this agenda for further consideration.

Mayor Meeker pointed out the Council had a hearing last week and there are a number of people in the audience today relative to this issue. He stated this is an issue that is controlled by