

COUNTY OF ORANGE  
STATE OF FLORIDA

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In the Matter of the Application of:

**Rick Baldocchi, AVCON INC.**

Application for a PD Substantial Change and  
Waiver from Orange County Code  
Section 38-1427(d)(2)(c)

**MEMORANDUM  
IN OPPOSITION**

Premises: 4.69 Acre Parcel  
South of Lake Underhill Road  
West of Rouse Road

Parcel ID: 28-22-31-0000-00-031

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**MEMORANDUM IN OPPOSITION**

Respectfully Submitted,

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Willis Weatherford	11254 Cypress Trail Dr. Orlando, FL 32825
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Ryan Coombs	212 Cape Sable Dr. Orlando, FL 32825
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Melissa Juttelstad	213 Cape Sable Dr. Orlando, FL 32825
Shaun Adams	231 Cape Sable Dr. Orlando, FL 32825
Prem Adams	231 Cape Sable Dr. Orlando, FL 32825
Julia Peach	218 Cape Sable Dr. Orlando, FL 32825
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## Table of Contents

Preliminary Statement .....	1
<b>POINT I</b> <i>AVCON's Application Should be Denied Because AVCON Has Failed To Establish any Actual Need for it's proposed Tower.</i> .....	2
<b>POINT II</b> <i>AVCON's Application Should be Denied, Because the Proposed Tower Would Inflict Upon the Residential Neighborhood the Precise Adverse Impacts Which the Relevant Provisions of the Orange County Code Were Specifically Intended to Prevent</i> .....	4
(i)      The Proposed Installation Will Inflict a Dramatic and Wholly Unnecessary Adverse Impact Upon <u>the Aesthetics and Character of The Area</u> .....	5
(ii)     The Proposed Installation Will Inflict a Substantial and Wholly Unnecessary Loss in the Values of the <u>Adjacent and Nearby Residential Properties</u> .....	7
<b>POINT III</b> The Proposed Installation Would Create a Public Danger in That <u>it Would Fail to Provide Any Meaningful Fall Zone or Safe Zone</u> .....	11
<b>POINT IV</b> <i>AVCON's Application Should be Denied Because § 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 Would Allow AVCON to Increase the Size of the Proposed Cell Tower Without Prior Zoning Approval</i> .....	15
<b>POINT V</b> To Comply With the Telecommunications Act of 1996 (TCA), <i>AVCON's</i> Application Should Be Denied in a Written Decision Which <u>Cites the Evidence Provided Herewith</u> .....	16
(i) <u>The Written Decision Requirement</u> .....	16
(ii) <u>The Substantial Evidence Requirement</u> .....	16
Conclusion .....	16

## **Preliminary Statement**

This memorandum is being submitted by, and on behalf of, multiple homeowners whose homes are situated in close proximity to the tower installation proposed for construction at a Parcel of real property (ID: 28-22-31-0000-00-031), which is situated South of Lake Underhill Road and West of Rouse Road.

The applicant, AVCON Inc., by Rick Baldocchi, (hereinafter “AVCON”), has filed an application seeking both a substantial change, and a waiver from Orange County Code Section 38-1427(d)(2)(c), to install a roughly one hundred forty (140) foot cell tower in close proximity to roughly two hundred thirty-nine (239) homes, in a residential area where no existing structure currently stands taller than two (2) stories in height.

As the evidence submitted herewith makes indisputable, the current application should be denied because: (a) the applicant has not claimed, much less established that the proposed tower is actually necessary for either the applicant (AVCON), or anyone else, to provide personal wireless services within the County.(b) the granting of the application would violate the Orange County Code, and (c) the installation of a fourteen (14) story tower in such close proximity to a residential neighborhood would inflict upon the surrounding homes and community the precise adverse impacts which the relevant provisions of the Orange County Code were specifically enacted to prevent.

As such, the residential homeowners, on whose behalf this Memorandum is submitted, respectfully submit that the application should be denied, and they seek to ensure that it is denied in a manner which does not violate with the Telecommunications Act of 1996.

## POINT I

### AVCON's Application Should be Denied Because AVCON Has Failed To Establish any Actual Need for it's Proposed Tower

AVCON's application to build its proposed fourteen (14) story tower should be denied, because AVCON has not established that there is any actual "need" for such tower.

As such, and given the adverse impacts which AVCON's proposed cell tower would inflict upon the nearby homes and residential community (as detailed herein below), granting AVCON's application would not only violate the County Code, it would be entirely inconsistent with smart planning or development.

There are essentially two types of cell tower applications currently being filed across the United States.

The first type is those where a wireless carrier seeks approval to build a cell tower because the wireless *carrier* such as *Verizon*, *AT&T* or *T-Mobile*, is suffering from a "significant gap" in their wireless personal services coverage. The existence of such a gap is the basis for a "need" to build a new tower to "close the gap" and thereby prevent the carrier's customers from suffering dropped calls.

The second type of application involves cases within which a site *developer* seeks to build a cell tower which is not actually necessary, because it is not needed to remedy any gap in any specific carrier's personal wireless coverage.

Site developers build such towers with the intent thereafter rent space on their tower to the carriers, and the carriers will then lease space on the tower in anticipation of "*future*" wireless capacity needs, and they will pay the developer as much as \$3,500.00 per month for renting space on the developer's tower.

Where jurisdictions employ smart planning, they seek to minimize the adverse impact of cell towers by: (a) limiting approvals of cell tower application to those applications involving cell towers which are *actually presently needed*, and (b) *only* granting approval for towers which are *strategically placed*, meaning that towers are strategically located, so that they can minimize the actual number of cell towers which will be needed to be built to provide complete wireless coverage for the entire jurisdiction.

AVCON's application does not meet either of these smart planning goals because: (a) AVCON has not established that its proposed fourteen (14) story tower is actually necessary to remedy any alleged gap in any specific carrier's personal wireless coverage, and (b) AVCON's application does not even remotely suggest that the installation of such tower might be strategically placed to reduce the number of towers which will ultimately be needed in the County.

At most, AVCON at some point suggested or intimated that *Verizon* would, or might be, interested in leasing space on the proposed tower for its personal wireless services.

Contrary to any suggestion posited by AVCON otherwise, *Verizon's* own coverage maps affirmatively indicate that Verizon does not suffer from ANY gaps in its personal wireless services in the specific area where AVCON seeks to build its tower.

Annexed hereto as Exhibit "A" are *Verizon's* actual current wireless coverage maps for the specific area where AVCON seeks to build its proposed 14 story tower.

These official coverage maps were printed out from *Verizonwireless.com*, are current as of 10/15/2018, and show that Verizon has no gaps in its personal wireless services anywhere near Parcel ID: 28-22-31-0000-00-031, that being the specific site which is the subject of AVCON's application.

Since the applicant has failed to show any actual need for its proposed tower, it has failed to establish any basis upon which the Board may properly grant its application for both a PD Substantial Change or a waiver of the setback requirements under Orange County Code Section 38-1427(d)(2)(c). Accordingly, AVCON's application should be denied.

## **Point II**

*AVCON's Application Should be Denied, Because the Proposed Tower Would Inflict Upon the Residential Neighborhood the Precise Adverse Impacts Which the Relevant Provisions of the Orange County Code Were Specifically Intended to Prevent*

Within the Orange County Code of Ordinances (hereinafter referred to as "the County Code"), Communication Towers are regulated under Section 38-1427.

As is explicitly set forth within such Section and its subdivisions, the very purpose for which Section 38-1427 was enacted, was to protect nearby property owners and residential communities against the "potential adverse impacts" of irresponsibly placed towers. *See* County Code Section 38-1427(a)(2).

Among the potential adverse impacts which the County explicitly enacted Section 38-1427 to prevent, are the adverse visual and/or aesthetic impacts which an irresponsibly placed tower would inflict upon nearby properties,<sup>1</sup> adverse impacts upon residential areas,<sup>2</sup> such as reductions in property values, and to guard against the potential dangers of cell tower failures and fires.<sup>3</sup>

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<sup>1</sup> *See* County Code Section 38-1427(a)(3).

<sup>2</sup> *See* County Code Section 38-1427(a)(2).

<sup>3</sup> *See* County Code Section 38-1427(a)(6) and (a)(7).

As set forth below, the approval of the proposed application would violate the explicit intent of the County Code, because the construction of the proposed cell tower would inflict upon the two hundred thirty-nine (239) nearby homes and community the precise adverse impacts which the Orange County Code was specifically enacted to prevent.

- (i) The Proposed Installation Will Inflict a Dramatic and Wholly Unnecessary Adverse Impact Upon the Aesthetics and Character of The Area

As logic would dictate, the irresponsible placement of a fourteen (14) story tower in such close proximity to a residential neighborhood where no other structures exceed two (2) stories in height would not merely “*stick out like a sore thumb*,” but it would dominate the skyline, be wholly inconsistent with the residential character of the neighborhood and would inflict severe adverse aesthetic impacts upon virtually all of the homes in close proximity.

Recognizing this likely impact which such a cell tower would inflict upon homes and residential communities, the County of Orange enacted County Code Section 38-1427 for the explicitly stated purpose of, among other things, “*minimiz[ing] the visual impacts of communications towers.*” See Section 38-1427(a)(3).

As federal Courts have ruled, where a local government is entertaining a cell tower application, it should accept, as direct evidence of the adverse aesthetic impacts which a proposed cell tower would inflict upon nearby homes, statements and letters from the actual homeowners, because they are in the best position to know and understand the actual extent of the impact they stand to suffer. See *e.g. Omnipoint Communications Inc. v. The County of White Plains*, 430 F2d 529 (2nd Cir. 2005).

Moreover, Federal Courts have consistently held that adverse aesthetic impacts are a valid basis on which to deny applications for proposed telecommunications towers. See Omnipoint Communications Inc. v. The County of White Plains, 430 F2d 529 (2nd Cir. 2005).

Annexed hereto collectively as Exhibit “B,” are letters from homeowners whose homes are in close proximity to the site upon which *AVCON* proposes to install its fourteen (14) story tower.

Within each of those letters, the homeowners personally detail the adverse aesthetic and other impacts that the proposed installation would inflict upon their respective homes.

Such detailed descriptions of the adverse impacts that their respective homes would sustain, and which the County should properly consider, include the following: (a) an adverse aesthetic impact letter from Larisa Updike, 249 Cape Sable Drive, Orlando Florida 32825; (b) an adverse aesthetic impact letter from Brian C. Peach, Phd, 218 Cape Sable Drive, Orlando, FL 32825, (c) an adverse aesthetic impact letter from Nikishia Lluvera, 10713 Cypress Trail Drive Orlando, FL 32825; (d) an adverse aesthetic impact letter from Julia Peach, 218 Cape Sable Drive, Orlando, FL 32825; (e) an adverse aesthetic impact letter from Alissa Coombs, 212 Cape Sable Drive, Orlando, FL 32825; (f) an adverse aesthetic impact letter from Melissa Juttelstad, 213 Cape Sable Drive, Orlando, FL 32825; (g) an adverse aesthetic impact letter from Catherine Ello, 10244 Cypress Trail Drive, Orlando, FL 32825; (h) an adverse aesthetic impact letter from Will Weatherford, 11254 Cypress Trail Drive, Orlando, FL 32825; (i) an adverse aesthetic impact letter from Lorrie Weatherford, 11254 Cypress Trail Drive, Orlando, FL 32825; (j) an adverse aesthetic impact letter from Piper Vargas, 201 S. Rosalind Avenue, 5<sup>th</sup> floor, Orlando, FL 32825; (k) an adverse aesthetic impact letter from Dan Schillinger, 248 Cape Sable Drive, Orlando, FL 32825; (l) an adverse aesthetic impact letter from Ranada Gray, 308 Cape Sable Drive, Orlando, FL 32825;



(m) an adverse aesthetic impact letter from Denise L. Calabrese, 9348 Raven Dell Street, Orlando, FL 32825; and (n) an adverse aesthetic impact letter from Lauren Fox, 248 Cape Sable Drive, Orlando, FL 32825.

Once again, all of the adverse aesthetic impacts that the proposed cell tower would inflict upon their respective homes are entirely unnecessary, because neither *AVCON*, nor anyone else, needs the proposed one hundred forty (140) foot cell tower to provide wireless services within the County.

(ii) The Proposed Installation Will Inflict a Substantial and Wholly Unnecessary Loss in the Values of the Adjacent and Nearby Residential Properties

As is described within subparagraph (a)(2), Section 38-1427 of the County Code was enacted for the specific purpose of protecting residential areas and land uses from potential adverse impacts which the irresponsible placement of a cell tower could inflict upon residential homes and communities. Among the most common of adverse impacts which irresponsibly placed cell towers cause residential communities to suffer, are unnecessary and unwarranted losses in residential property values.

Across the entire United States, both real estate appraisers<sup>4</sup> and real estate brokers have rendered professional opinions which simply support what common sense dictates.

When large cell towers are installed unnecessarily close to residential homes, such homes suffer material losses in value which typically range anywhere from 5% to 20%.<sup>5</sup>

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<sup>4</sup> See e.g. a February 22, 2012 article discussing a NJ appraiser's analysis wherein he concluded that the installation of a tower in close proximity to a home had reduced the value of the home by more than 10%, go to <http://bridgewater.patch.com/articles/appraiser-t-mobile-cell-tower-will-affect-property-values>.

<sup>5</sup> In a series of three professional studies conducted between 1984 and 2004, one set of experts determined that the installation of a cell tower in close proximity to a residential home reduced the value of the

In the worst cases, towers built near existing homes have caused the homes to be rendered wholly unsaleable.<sup>6</sup>

As has been recognized by federal Courts, it is perfectly proper for a local zoning authority to consider, as direct evidence of the reduction of property values which an irresponsibly placed tower would inflict upon nearby homes, the professional opinions of licensed real estate brokers, (as opposed to appraisers) who could provide their professional opinions as to the adverse impact upon property values that would be caused by the installation of the proposed cell tower. See Omnipoint Communications Inc. v. The County of White Plains, 430 F2d 529 (2nd Cir. 2005), and this is especially true when they are possessed of years of real estate sales experience within the community and specific geographic area at issue.

As evidence of the adverse impact that the proposed tower would have upon the property values of the homes that would be in close proximity to the tower, annexed hereto are letters setting forth the professional opinions of licensed real estate professionals.

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home by anywhere from 1% to 20%. These studies were as follows:

The Bond and Hue - *Proximate Impact Study* - The Bond and Hue study conducted in 2004 involved the analysis of 9,514 residential home sales in 10 suburbs. The study reflected that close proximity to a Cell Tower reduced price by 15% on average.

The Bond and Wang - *Transaction Based Market Study*

The Bond and Wang study involved the analysis of 4,283 residential home sales in 4 suburbs between 1984 and 2002. The study reflected that close proximity to a Cell Tower reduced the price between 20.7% and 21%.

The Bond and Beamish - *Opinion Survey Study*

The Bond and Beamish study involved surveying whether people who lived within 100' of a tower would have to reduce the sales price of their home. 38% said they would reduce the price by more than 20%, 38% said they would reduce the price by only 1%-9%, and 24% said they would reduce their sale price by 10%-19%.

<sup>6</sup> Under FHA regulations, no FHA (federally guaranteed) loan can be approved for the purchase of any home which is situated within the fall zone of a cell tower. *See* HUD FHA HOC Reference Guide Chapter 1 - hazards and nuisances. As a result, there are cases across the country within which: (a) a homeowner purchased a home, (b) a cell tower was thereafter built in close proximity to it, and (c) as a result of same, the homeowners could not sell their home, because any buyer who sought to buy it could not obtain an FHA guaranteed loan. *See, e.g.* October 2, 2012 Article “. . .Cell Tower is Real Estate Roadblock” at <http://www.wfaa.com/news/consumer/Ellis-County-Couple--Cell-tower-making-it-impossible-to-sell-home--172366931.html>.

Within each of these letters, the real estate professionals submit their professional opinions that the installation of the proposed tower would cause substantial losses in the property values of the 239 homes which would be situated in relatively close proximity to the fourteen (14) story cell tower, which would not only reduce the values of those homes, but would also make those homes more difficult to sell, at even reduced prices.

Such detailed descriptions of the reduction in property values that homes in close proximity to the cell tower would suffer, and which the County should properly consider, are submitted herewith as follows: Exhibit “C” - a professional opinion letter from Justin Shrouder, a Licensed Real Estate professional with Berkshire Hathaway, who submits his professional opinion that the proposed installation “in this close proximity” (to the nearby homes) will reduce the property values of those homes by between 15% and 20%; Exhibit “D” - a separate professional opinion letter from Sue Vasquez, a Licensed Real Estate professional with Berkshire Hathaway, who submits her professional opinion that the proposed installation “in this close proximity” (to the nearby homes) will reduce the property values of those homes by between 15% and 20%; Exhibit “E” - a professional opinion letter from Elise Green, a Licensed Real Estate Broker, member of the National Association of Realtors and the Florida Association of Realtors, and who submits her professional opinion that the proposed installation “within this close proximity” to the nearby homes will reduce nearby property values by “at least 20%, if not more, depending upon the obstructed views”; Exhibit “F” – a professional opinion letter from Piper Vargas, a Licensed Real Estate professional with Florida Realty Investments, who submits her professional opinion that the proposed installation “in such close proximity” (to the nearby homes) will reduce the property values of those homes by 20% of the market value;

Exhibit “G” - a professional opinion letter from Amy Ladd Miller, a Licensed Real Estate professional with All Real Estate & Investments Inc, who submits her professional opinion that the proposed installation “in this close proximity” (to the nearby homes) will reduce the property values of those homes by 15%; Exhibit “H” - a professional opinion letter from Patrice Denike, a Licensed Real Estate professional who submits her professional opinion that the proposed installation “in this close proximity” (to the nearby homes) will reduce the property values of those homes by anywhere from 15% to 20%; and Exhibit “I” - a professional opinion letter from Ixchel Mixon, a Licensed Real Estate professional who submits her professional opinion that the proposed installation “in this close proximity” (to the nearby homes) will reduce the property values of those homes by approximately 15%;

Given the reduction in property values which the nearby homes would sustain, the granting of *AVCON's* application would inflict upon the residential neighborhood the very impacts which the Orange County Code was specifically intended to prevent. Accordingly, its application must be denied.

### POINT III

#### The Proposed Installation Would Create a Public Danger in That it Would Fail to Provide Any Meaningful Fall Zone or Safe Zone

As enacted, the Orange County Code mandates the denial of any application for approval of a communications tower, where the proposed siting of the tower would lack a sufficient fall zone, and would thereby expose the public to risks of structural and other failures which would be hazardous to public safety. *See* Orange County Code Section 38-1427(a)(6) and (a)(7).

Given the remarkably poor placement chosen for the proposed installation, it is beyond argument that such installation would unnecessarily expose both pedestrian and vehicular traffic to the types of hazards for which applications of this type are being denied across the entire country.

As proposed by *AVCON*, its fourteen (14) story steel tower would be constructed well within striking distance of at least one public roadway, Lake Underhill Road, and a pedestrian sidewalk where a substantial number of school children walk to school each and every school day, well within the fall zone of the proposed tower.

As such, the proposed installation would present a clear public danger, in that it would not provide or afford a sufficient fall zone or safety zone to protect those who would commonly travel or walk upon that sidewalk or road.

There are three (3) principal dangers which have induced local governments to adopt specific setback requirements for cell towers, and which serve as the reason why required setback distances are invariable tied directly to the height of respective towers. Two of those dangers are structural failures and debris fall.

The multiple dangers of structural failures of all types of cell towers, from lattice structures to monopoles, wherein a component of an installation fails, causing an element or part of the structure to hurdle to the ground, or in some cases, the entire tower to collapse<sup>7</sup> or to burst into flames and fall over,<sup>8</sup> are well-documented.

By way of example, was the Oswego New York case where a brand new cell tower at a fire house collapsed and went from being 150 feet tall, to roughly 170 feet long, in a matter of seconds, crushing the Fire Chief's truck in the process. *See* Exhibit "J."

Aside from simple structural failures, roughly once per month a cell tower in the United States erupts in flames, and in some cases, collapses into a flaming heap, onto anything nearby. *See* Exhibit "K." The most dramatic case of same was the Wellesley Mass cell tower collapse, a clear video of which can be found and viewed on *YouTube*, by simply searching for "Cell Tower Burns to the Ground."

Some of the most common elements and areas of failure that result in the collapse of cell towers are baseplates,<sup>9</sup> flanges, joints, bolts and guy wires.<sup>10</sup>

Simultaneously, there is the danger of falling debris, and more specifically, items dropped or caused to fall during routine maintenance activities, which must be performed upon such towers on a regular basis.

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<sup>7</sup> To see dramatic images of a 165-foot tower having collapsed at a firehouse, crushing the Fire Chief's vehicle, go to [www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle](http://www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle), or go to Google and search for "Oswego cell tower collapse."

<sup>8</sup> To see videos of modern towers bursting into flames and/or burning to the ground, go to <http://www.youtube.com/watch?v=0cT5cXuyiYY&NR=1> or [http://www.youtube.com/watch?v=y\\_\\_NKVWrazg](http://www.youtube.com/watch?v=y__NKVWrazg), or simply go to *Google*, and search for "cell tower burns."

<sup>9</sup> To see images of monopole baseplate failures, go to: <http://residentsact.blogspot.com/2007/11/just-how-safe-are-monopole-cell-towers.html>

<sup>10</sup> To see multiple images of telecommunications towers which have collapsed, go to google, type in a search for "radio tower collapse", and then choose "images" from the search results.

To afford adequate protections against these very real dangers, local governments have imposed setback requirements to afford sufficiently sized buffer/safety areas to ensure the safety of both their citizens and the public at large.

These buffer or safety zones consist of an area surrounding a tower that is restricted from public or personal access, and which is large enough to ensure that if a tower were to fail or collapse, or debris were to hurdle downward from the top of it, nobody would be close enough to be injured or killed by same.

A sample of a typical local government zoning regulation that actually describes such concerns is the Town of Huntington, NY Code Section §113, which provides as follows:

“It shall be demonstrated to the satisfaction of the Town Board that the proposed facility is set back adequately to prevent damage or injury resulting from ice fall or debris resulting from the failure of a wireless telecommunications facility, or any part thereof and to avoid and minimize all other impacts upon adjoining properties.”

Huntington Town Code §113-58.1(F)

As a rule of thumb, to ensure that a buffer/safety zone of sufficient size is maintained, knowledgeable local governments across the Country have enacted ordinances that generally require minimum setbacks ranging from 100% to 200% of the height of a respective communications tower.<sup>11</sup>

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<sup>11</sup> See e.g. *County of Murray, KY* Ordinance 2005-1375 Section 156 “Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or lease line equal to at least the height of the tower.”; *County of Harrah, OK* Ordinance 2010-10 - “For cell towers ranging in height from one hundred thirty-one (131) feet up to one hundred eighty (180) feet, including antenna, the cell tower, buildings and power equipment, including the perimeter fence, must be located a distance of five hundred (500) feet minimum from any abutting property line and no closer than three hundred (300) feet to a residence or structure.”

*Orlando, FL* Ordinance 58.840 Setbacks, Required “All uses in R-1AA, R-1A, R-1, R-1N, R-2A, R-2B and H, and single-family uses in R-3A. 200 feet or 300% height of tower, whichever is greater.”

*Town of Limington, ME* Zoning Ordinance 8.19 “New Personal wireless service facilities shall be set back: 1. at least one (1) times the height, plus 50 feet from all boundaries of the site on which the facility is located and 2. at least 750 feet horizontally from any existing dwelling units.”

*Caldwell County, NC* Section 90G.20 “Fall zones, setback and buffers” “The minimum setback measured from the property line shall be equal to 100% of the telecommunication tower height.”

Remarkably, as proposed by *AVCON*, its tower would be irresponsibly placed so that that both Lake Underhill Road, and the sidewalk where large numbers of school children walk to school each day, would be well within the fall zone of the Tower.

While the rest of the Country is actively enacting and enforcing ordinances to protect their citizens and the public from the well-documented dangers of structural failures and debris fall by requiring applicants to create *safe-zones* around their towers, it would be wholly irresponsible of the County to grant *AVCON* permission to build its fourteen (14) story tower in a location that would virtually guarantee that the public, adults and children alike, would be routinely passing through the fall zone and debris zone of the tower.

Such a danger, in and of itself, should compel the denial of *AVCON*'s application for a waiver of the County Code's setback requirements because it would unnecessarily expose the public to the very types of hazards which the Orange County Code was specifically enacted to prevent.

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*Town of Edgewood, NM Ordinance 2003-11* "All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater."



#### Point IV

*AVCON's Application Should be Denied Because § 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 Would Allow AVCON to Increase the Size of the Proposed Cell Tower Without Prior Zoning Approval*

As substantial as the adverse impacts upon the nearby 239 homes will be if the tower is built at fourteen (14) stories, the fact is that once the tower is built, *AVCON* would thereafter be permitted to increase the height of the tower to as much as one hundred sixty (160) feet and the County would be legally prohibited from stopping *AVCON*, due to the constraints of the Middle Class Tax Relief and Job Creation Act of 2012.

§ 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 provides that "notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, a State or local government may not deny, and shall approve, any eligible request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." *See* 47 U.S.C. § 1455(a).

Under the FCC's reading and interpretation of § 6409(a) of the Act, local governments are prohibited from denying modifications to cell towers unless the modification will "substantially change" the physical dimensions of the tower.

The FCC defines "substantial change" to include any modification that would increase the height of the tower by more than ten (10%) percent or by more than "the height of one additional antenna with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater."

Simply stated, under the FCC's regulation, once this proposed one hundred forty (140) foot cell tower is put in place, *AVCON*, at any time, could increase the height of the tower by as much as an additional twenty (20) feet, and there would be no way for the County to prevent such an occurrence.

Considering the even more extreme adverse impacts which increasing the height of the tower to 160 feet would inflict upon the 239 homes nearby, *AVCON*'s application should be denied, especially since, as set forth above, *AVCON* doesn't actually *need* the proposed tower in the first place.

### **Point V**

#### **To Comply With the TCA, *AVCON*'s Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith**

The Telecommunications Act of 1996 (TCA) requires that any decision denying an application to install a cell tower: (a) be made in writing, and (b) be made based upon substantial evidence, which is discussed in the written decision. *See* 47 U.S.C.A. §332(c)(7)(B)(iii).

#### **(i) The Written Decision Requirement**

To satisfy the requirement that the decision be in writing, a local government must issue a written denial which is separate from the written record of the proceeding, and the denial must contain a sufficient explanation of the reasons for the denial to allow a reviewing Court to evaluate the evidence in the record supporting those reasons. *See e.g. MetroPCS v. County and County of San Francisco*, 400 F.3d 715(2005).

(ii) The Substantial Evidence Requirement

To satisfy the requirement that the decision be based upon substantial evidence, the decision must be based upon such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. "Substantial evidence" means "less than a preponderance, but more than a scintilla." Review under this standard is essentially deferential, such that Courts may neither engage in their own fact finding nor supplant a local zoning board's reasonable determinations. *See e.g. American Towers, Inc. v. Wilson County*, Slip Copy 59 Communications Reg. P & F 878 (U.S.D.C. M.D. Tennessee January 2, 2014)[3:10-CV-1196]

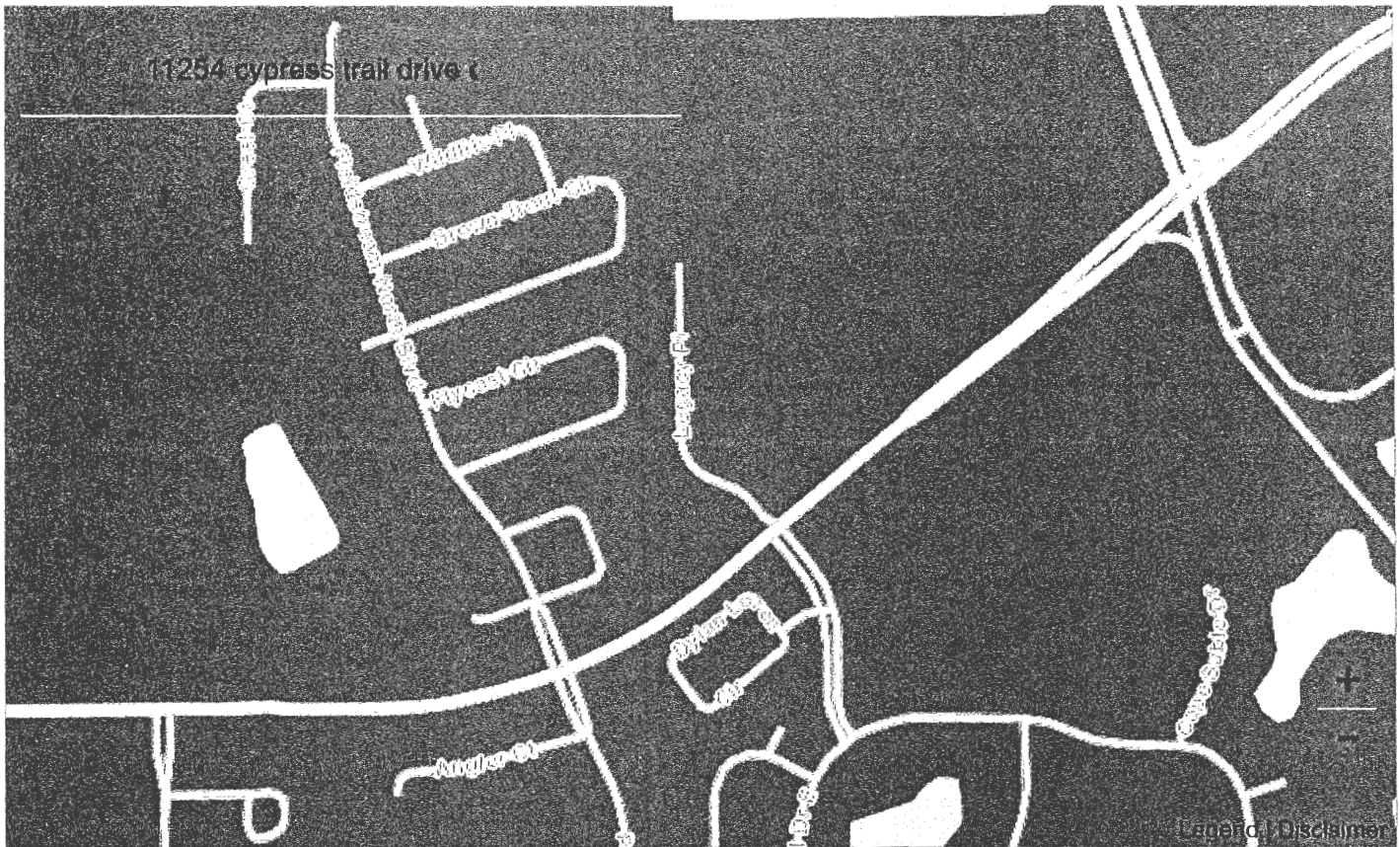
To ensure that the Planning Commission's decision cannot be challenged under the Telecommunications Act of 1996, it is respectfully requested that the Planning Commission deny *AVCON's* application in a separate written decision, wherein the Planning Commission cites the evidence based upon which it made its determination.

**Conclusion**

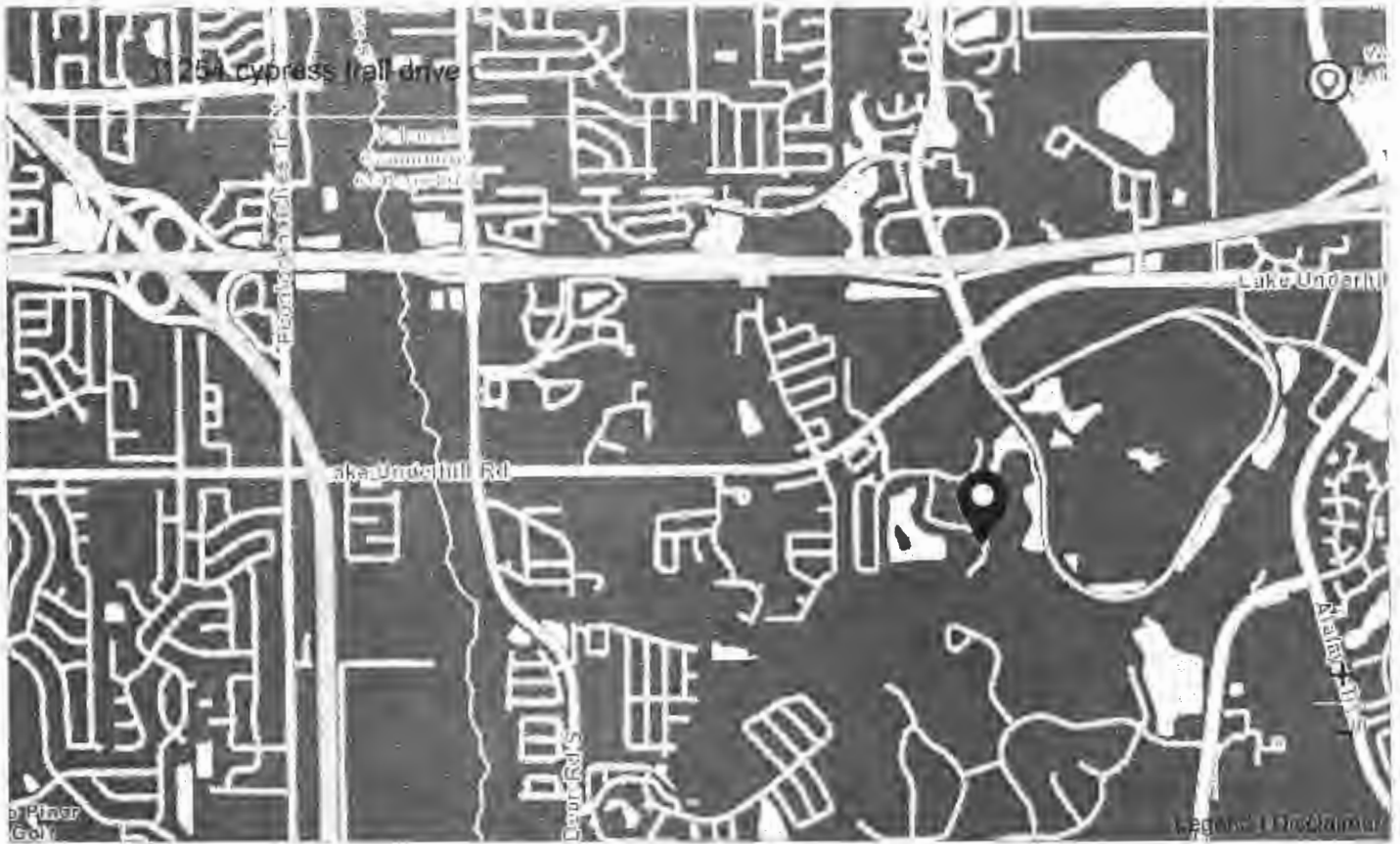
In view of the forgoing, it is respectfully submitted that *AVCON's* application should be denied in its entirety.

Respectfully Submitted,

*Lorrie Weatherford*  
*Jul RL*



# **EXHIBIT A**



# **EXHIBIT B**

Larisa Updike  
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Orlando, FL 32825  
[larisaupdike@gmail.com](mailto:larisaupdike@gmail.com)

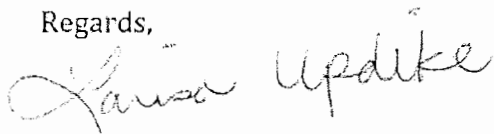
October 22, 2018

Board of County Commissioners  
201 S. Rosalind Ave, 5<sup>th</sup> Floor  
Orlando, FL, 32801

Dear Orange County Commissioners,

I am writing in opposition to the construction of a cell phone tower on Lake Underhill Road just west of Rouse Road. This tower will be visible from my driveway, front yard, front porch, front door, living room and 4 upstairs bedrooms. When we purchased our house the surrounding views were a big deciding factor and ultimately why we fell in love with our home and neighborhood. I am concerned with how much the 140 foot tower will affect the aesthetic value of our property and neighborhood. This tower will also negatively change the views on Lake Underhill Road, especially with it being so near the entrance to our neighborhood. It's sad to see how many trees have already been cut down for other projects in the area. I am also concerned that the tower may impact traffic and harm drivers or pedestrians on Lake Underhill Road if there was a structural failure. There has got to be a better spot for a cell phone tower of this magnitude that isn't so close to so many residents. Please deny the application for permit to build the cell phone tower here.

Regards,

A handwritten signature in cursive script that reads "Larisa Updike". The signature is written in dark ink and is positioned to the right of the word "Regards,".

Larisa Updike



Brian C. Peach, PhD, RN, CCRN

218 Cape Sable Drive

Orlando, FL 32825

215.380.4475

Brian.peach@ucf.edu

October 18<sup>th</sup>, 2018

Board of County Commissioners

201 S. Rosalind Ave, 5<sup>th</sup> Floor

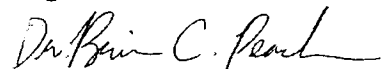
Orlando, FL, 32801

Dear Orange County Commissioners,

I am writing in opposition to the construction of a cell phone tower on Lake Underhill Road between Rouse Road and Dean Road. The impact of this 140-foot tower on my home value, those of my neighbors, and the surrounding neighborhoods will be catastrophic. This tower will be visible from my family room windows, back porch, 2<sup>nd</sup> floor extra space, and from my driveway, and will affect the anesthetic value of my property. As I am sure you are aware, using property values to deny a zoning permit request is not in violation of the federal Telecommunications Act of 1996.

Additionally, I am concerned about potential structural failures that could impede my entrance into my neighborhood, or even injure or kill my wife, my children, and I as we are driving on Lake Underhill Road. In short, this is not an appropriate location for this tower. The zoning laws as they are written exist to protect residents, and I would ask you to deny the developers' application for a permit as elected officials whose responsibility it is to uphold the law.

Regards,

A handwritten signature in black ink that reads "Dr. Brian C. Peach". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Dr. Brian C. Peach

Nikishia Lluvera  
10713 Cypress Trail Drive  
Orlando, FL 32825  
(571) 383-0690  
[nlluvera@gmail.com](mailto:nlluvera@gmail.com)

October 23, 2018

Commissioner Jennifer Thompson, District 4  
201 S. Rosalind Ave., 5th Floor  
Orlando, FL 32801

Re: Butte Planned Development, Proposed Cell Tower  
Case Number CDR-17-04-127

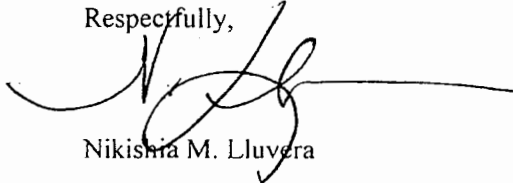
Dear Commissioner Thompson,

I am a resident of the Woodland Lakes II Subdivision located off of Lake Underhill Road and Cypress Hammocks Blvd. I just purchased my home in August of this year and was very excited to move in with my 3 year old daughter to only have my joy shattered when my first official piece of mail from Orange County was a notice for a proposed cell tower in the middle of the beautiful wooded serene setting not far from my front door. My property is not far from the entrance of the community and should the proposal be approved, I will be forced to look at this monstrosity every time I step out of my front door or look out of my windows.

I chose this neighborhood because I like the location tucked away off the busy Lake Underhill Road, it's serene views, and family oriented amenities. The proposed location for this cell tower so close to residential homes is not appropriate for several reasons that include: decreased value in home properties, possible health factors, safety factors and just a plain eye sore. There is evidence to show that when a cell phone tower is located in a residential community, the value in the home properties decrease. People do not want to move in these areas due to the undesirable views of the tower and possible health or safety risks. Had I known this proposal was going to happen for this community, I probably wouldn't have moved here. I have a 3 year old daughter and plan to live in this neighborhood for a very long time.

I am asking that you and the entire Board of County Commissioners vote **NO** on the Butte Planned Development. This proposal is not taking into account that not only will it destroy the serene nature areas in our community, it will also be put right in **FRONT** of a new memory care facility being developed in the exact same area. There is enough happening in this small area, we do not this added to the area. Please vote NO and ask the developer to come up with another location such as all the land available with our neighbors Lockheed Martin. Maybe some discussion can happen there with a new proposal. This is not suitable or respectful to those of us that live in this neighborhood. Thank you.

Respectfully,



Nikishia M. Lluvera

cc: Mayor Teresa Jacobs  
Commissioner Betsy VanderLey, District 1  
Commissioner Rod A. Love, District 2  
Commissioner Pete Clarke, District 3  
Commissioner Emily Bonilla, District 5  
Commissioner Victoria P. Siplin, District 6

Julia Peach

218 Cape Sable Drive

Orlando, FL 32825

267.738.9067

[JuliaPeach08@gmail.com](mailto:JuliaPeach08@gmail.com)

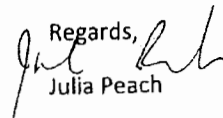
October 19, 2018

Letter of Aesthetic Impact:

The cell phone tower construction is proposed to be exactly 700.00 feet from my property. This will be an industrial eyesore to our area. We will see the tower through the trees and at the horizon from our backyard, front yard, porch, and second floor windows. Currently, we have natural beauty in our backyard with trees, flowers, and shrubs. This is a refuge from the urbanization that is occurring throughout the area. This woodland view was a major selling point for us, as the houses in many surrounding communities have small lot sizes and the homes back into other homes. The surrounding beauty of this property is one of the main reasons we purchased this home 3 months ago, but this is about to change. This tower will be a constant reminder of the unsightly impact that industrialization brings. According to our realtor and research studies our property value will dramatically decrease if this tower is built. In today's real estate market we spent one of the highest in home prices for this area as we believed this was good value, and now this tower jeopardizes our home value and our future financial stability. This tower will bring an industrial look to this community, which is not what we want. Surrounding structures in this area are only 1 to 2 stories high, yet this tower will be 14 stories and as high as 18 stories in the future. It will be a human monstrosity to this neighborhood and surrounding area – this cell phone tower does not belong near a residential community.

It will be a negative visual impact to Lake Underhill Road as well as one is driving down the road or into the neighborhood. But not only will this be unappealing visually and negative affect property values, but it also poses a major hazard if the tower fails, catches fire, or falls over in my property or on Lake Underhill Road. In the event of the tower falling, the road could be blocked preventing the nearby police or fire/emergency rescue to respond to emergencies. It could also cause fire or damage to the near-by wooded area and homes.

This cell phone tower will impact our safety, property value, financial future, and beauty this area offers.

Regards,  
  
Julia Peach

Alissa Coombs  
212 Cape Sable Drive  
Orlando, FL 32825  
(630)254-8503  
Coombs41214@gmail.com

10/20/18

Dear Orange County Commissioners,

My name is Alissa Coombs and my property will be the closest to the cell tower at 700.002 feet. In the community meeting the developer mentioned they did a sightline projection based on the trees being between 45 and 60 feet tall however they failed to take into account that the ground slopes down from the street level of our home on Cape Sable, to where the trees start growing. Due to this, and the proposed height of the tower of 140 feet, we would clearly see the tower from our back patio, our pool, our living room windows, kitchen windows, as well as every window of our master bedroom and bathroom and our daughter's bedroom. One of the main reasons we purchased this piece of property was feeling like we were secluded while being within close proximity to work and good schools.

Woodland Lakes has the unique set-up where the majority of properties back-up to either woods, lakes, or both. From the back side of our home we are able to witness the most breathtaking sunsets through the trees. The tower will be seen not only above the trees, but through them as well. Additionally, once the tower is up, there can be an extension of up to 40 feet added to the top with only a small application. This would take our gorgeous, natural view and tarnish it with a hideous manmade metal structure.

Having a cell tower so close to the woods deeply concerns me for the safety of the surrounding woods, the new memory care facility, and our property. Cell towers have the possibility of causing fires. If this tower caught fire, it could spread to the surrounding woods that come to our property line and some branches and shrubbery actually cross over our fence, into our yard. If a fire were to break out and spread, it puts my family with five children, our two dogs, my husband and I, and our forever home in jeopardy. The possibility of fire also concerns me for the residents of the memory care facility that will be less than 600 feet from this tower. The residents that live there will already be struggling with accommodating to change and memory, for them to have to be evacuated and relocated in a hurry is deeply unsettling.

In ten years living in Orlando prior to moving into the Woodland Lake community, I never realized there was even a community set back in this beautiful stretch of trees along Lake Underhill. In a town where so much development is booming, the stretch of Lake Underhill from Dean to Rouse seemed to be barely marked by developers. Since moving into Woodland Lakes two years ago, more and more of our beautiful surroundings that drew us to this neighborhood have been getting knocked down. The building of more communities is bad enough, but at least they cannot be seen from our front or back yard like

the tower will be. The animals that live in these beautiful woods are being pushed into our yards or into the street and becoming roadkill. Since the development of the memory care facility, we have had multiple moles drown in our pool. We have never seen a mole on our property before. We have had bats circling our yard every morning before the sun comes up. We have never seen bats before. There have been multiple types of snakes in pools and yards that we have never seen around here before. The wild boar that lives in the woods who we would hear only on occasion, has been pushed further into the woods, closer to the lake and now resides right behind our property. Multiple otters have been seen fleeing to other ponds through the yards of neighbors on Cape Sable. If the tower is built, not only will there be more trees knocked down to build the tower, but also another pond. Where will all of these animals, as well as the deer, rabbits and birds go? This peaceful slice of nature will be disrupted further and forever tarnished with an ugly, unnecessary cell tower.

Please do not approve a tower to be built near the Woodland Lakes community off of Lake Underhill Rd.

Sincerely,

Alissa Coombs

A handwritten signature in black ink, appearing to read 'Alissa Coombs', with a long horizontal flourish extending to the right.

Melissa Juttelstad

213 Cape Sable Drive

Orlando, FL 32825

Melissa.Juttelstad@gmail.com

October 23, 2018

Board of County Commissioners

201 S. Rosalind Ave., 5<sup>th</sup> Floor

Orlando, FL 32801

Dear Orange County Commissioners,

I am writing you this letter today to make known my opposition to the proposed cell phone tower on Lake Underhill Road between Rouse Road and Cypress Hammocks Blvd. This tower is projected to be 140 feet tall. That is much, much taller than the beautiful trees surrounding our lovely neighborhood of Woodland Lakes. We purchased this home because of the beautiful backyard and surrounding areas. If this waiver is approved not only will it uproot many animals that live in the wooded area but it will ruin the view from numerous windows from my home and anywhere you stand in my backyard. I do not want to live where I have to see an enormous metal pole towering over a scenic area. There are many other places this tower is better suited for. Please uphold the current law and DO NOT approve this waiver to be closer than the required 700 feet from our homes and the Memory Care Facility.

Thank you,

A handwritten signature in black ink, appearing to read "Melissa Juttelstad", with a stylized, flowing script.

Melissa Juttelstad

Catherine Ello

10244 Cypress Trail Dr.

Orlando, FL 32825

10/23/2018

Board of Commissioners

201 S. Rosalind Ave., 5<sup>th</sup> Floor

Orlando, FL 32801

Dear Orange County Commissioners,

I am a resident of Woodland Lakes subdivision in Orlando, FL. Our family has been living there for 10 years. One of the reasons we chose to move to this neighborhood is because of the beautiful scenery. We love the trees, the lakes and the feeling of being close to nature. If this tower is placed in our neighborhood, we will not have that same look of nature like what we are used to. Every time we walk out of our house we will see the tower and it will not have the same nature setting that we truly love. The cell tower will ruin the look of our neighborhood and will no longer have the same "Woodland Lakes" feel that we fell in love with. We truly enjoy seeing the foxes, squirrels, bats, and the bald eagles. These animals are part of our neighborhood. Considering all the construction that is going on in our surrounding neighborhood and off Lake Underhill Road, placing a tower in our neighborhood would be detrimental to not only the residents but also the wildlife that makes our neighborhood a sanctuary and a safe place to live.

Please consider these points that I have made and how putting this tower in our neighborhood would change the look and nature feel of our neighborhood.

Sincerely,

*Catherine Ello*  
Catherine Ello

Will Weatherford  
11254 Cypress Trail Drive  
Orlando, FL 32825  
407-600-6207  
[wweatherford11@gmail.com](mailto:wweatherford11@gmail.com)

10/22/18

Board of County Commissioners  
201 S. Rosalind Ave, 5<sup>th</sup> Floor  
Orlando, FL 32801

Dear Orange County Commissioners,

I am a resident of the Woodland Lakes subdivision on Lake Underhill Road. Woodland Lakes is a small community, which as its name suggests, is surrounded by wooded conservation areas and large natural lake. The majority of homes have either back up to a water view or a wooded view of conservation space. These conservation areas are home to many deer, rabbits and nesting birds, among other animals. The neighborhood is truly a sanctuary to both animals and people.

We purchased our home in 2003 as an original homeowner. We watched the neighborhood develop with many families. Beyond the entry gates, we have also seen the properties develop, with one-story office parks, an Orange County Sheriff's substation and now further clearing for the medical care residence. But once a home, and from the backyard, it is a quiet and visually calming frame, and one that many prospective home buyers would envy.

But this is now at risk and look to Orange County government to object to the proposed development eyesore of a 140-foot cell tower.

if a cell tower is installed in the proposed location on Lake Underhill Rd, it will be visible from our backyard. Instead of enjoying the view of trees and birds, we would have to endure the disruption of a cell tower standing above treeline backdrop. From my constant walks and bike rides throughout the neighborhood, I envision a majority of homes will have the tower within their line-of-sight. From front facing homes as well as others like ours from the rear.

Having attended the recently organized community meeting in response to the developer seeking a variance on the minimum distance of placing a cell tower to nearest residence, it was clear to all 100+ neighborhood attendees that the placement was just beyond the nearest home by inches. The calculation of cell tower height x 5 = minimum allowable distance, was purposefully positioned not have a violation. Rather, it is the County commissioner's recognition that the new medical care facility is now being classified as a residence and within this calculated minimum. Noting that the developer of the cell tower and the medical care residence are the same entity, there appears to be no original intention of including Woodland Lakes residents in the conversation!

Further, being positioned right along a major thoroughfare (Lake Underhill Road) which is primary route for nearby emergency medical services, the road is well within the fall zone of the tower. There was no study offered that this location is justified.



Further, there was no adverse visual impact analyses offered, nor a determination of need in placing the cell tower at this location. Rather, the developer has offered stories of the 20+ year history of the FCC telecommunications Act of 1996, and that no neighbor – nor local municipality – can stand in the way of progress. The developer actually entered into the official record, that this development is compatible and supported by the neighborhood. This is a total false statement, and makes clear that this type of infrastructure development is not compatible, and relies on a technicality in the planning, zoning, permitting process to recognize it.

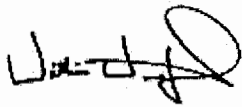
Finally, whatever potential tax revenue from this project is at the literal expense of well-recognized property value decrease as well as comparative reviews of similar home values in the area. Further, recognizing that the medical care residence is well within the minimum distance radius, there is well-placed concern for any medically-fragile resident and the well-meaning families placing trust in the health and medical care, while so close to the cell tower.

In summary, for these reasons and more as Orange County officials are here to look after the greater good of its constituents, I ask that the commission deny this communications cell tower project. There will be an undeniable, adverse impact from this project location that cannot be mitigated.

I hope you will take these points into consideration and vote to deny the placement of the cell phone tower in our backyards.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Will Weatherford', with a stylized, looped flourish at the end.

Will Weatherford

Lorrie Weatherford  
11254 Cypress Trail Drive  
Orlando, FL 32825  
407-929-1222  
[lweatherford73@gmail.com](mailto:lweatherford73@gmail.com)

10/20/18

Board of County Commissioners  
201 S. Rosalind Ave, 5<sup>th</sup> Floor  
Orlando, FL 32801

Dear Orange County Commissioners,

I am a resident of the Woodland Lakes subdivision on Lake Underhill Road. Woodland Lakes is a small community, which as its name suggests, is surrounded by wooded areas and has several beautiful lakes. In fact, most homes have either a water view or a wooded view of conservation space. These conservation areas are home to many deer, rabbits and nesting birds, among other animals.

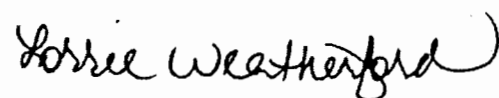
As you can imagine, to have such a natural setting in such proximity to the conveniences of nearby shopping and highways, makes Woodland Lakes unique and is one of the many reasons my husband and I chose to build a home here in 2003. We happened to choose a conservation lot, which we have enjoyed these past 15 years. The setting is very serene.

If a cell tower is installed in the proposed location on Lake Underhill Rd, it will be visible from our backyard. Instead of enjoying the view of trees and birds, we will have to endure the eyesore of a cell tower as a backdrop. This will ruin our views and scar the natural setting we call home. In addition, my daily morning walks with my dog take us right past the dog walk area on Cypress Trail Dr. If the tower is installed, the path which we take will take us right past the tower and our once tranquil walk will be tarnished by an unsightly monstrosity.

I hope you will take these points into consideration and vote to deny the placement of the cell phone tower in our backyards.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Lorrie Weatherford". The signature is fluid and cursive, with a large loop at the end of the last name.

Lorrie Weatherford

10/22/18

Board of County Commissioners  
201 S. Rosalind Ave, 5th floor  
Orlando, FL 32801

Dear Orange County Commissioners,

I am a homeowner in the Woodland Lakes II subdivision off Lake Underhill Road. Woodland Lakes is a beautiful, quiet, small community that is surrounded by wooded areas and lakes. One of the reasons we purchased our home almost 3 years ago is because of the wildlife, conservation areas and beautiful views the entire community enjoys.

If the cell tower waiver is approved and it is installed in the proposed location on Lake Underhill Rd, it will be visible from our backyard and driveway. We will see it every time we come and go from our community and have it in our sight during all of our runs and family walks that we enjoy in our neighborhood. A cell phone tower will ruin our community views and we will be reminded daily of the risks, both the physical and decreased property values, involved with living so close to it.

We hope you will take our perspective and concerns into consideration and that we can count on you to vote against the cell phone tower. Our request is that the ordinance is upheld and the waiver is not granted.

Thank you,

A handwritten signature in black ink, appearing to read "Piper Vargas", with a long, sweeping horizontal line extending to the right.

Piper Vargas

409 Fern Lake Drive  
Orlando, FL 32825  
[pipersvargas@gmail.com](mailto:pipersvargas@gmail.com)  
407-927-0255

Dan Schillinger  
248 Cape Sable Drive  
Orlando, FL 32825  
407-928-9634  
schjamdan@gmail.com

10-22-2018

Board of County Commissioners  
201 S. Rosalind Ave, 5th Floor  
Orlando, FL 32801

Dear Orange County Commissioners,

I have a home in the immediate vicinity of the proposed Certus approved cell tower. My realtor informs me that my recent investment will be impacted as a result of its placement so close to my property. I like my new community but don't like the impact it will have on my family and my neighbors in the circle (of Cape Sable Drive). My home has a wooded view. When I look straight back into those serene and nearly pristine woods, I often see wildlife that many other Orange County Residents don't have a chance to observe from their home. It's a unique opportunity for my child (and others in the neighborhood) to learn firsthand what animals look like in the wild as opposed to just simple illustrations.

This cell tower will be visible from my backyard and will tarnish the beauty of the vista I thought would be with me for the remainder of the time I live in this home. It just doesn't seem fair that a memory care center owner can fast track (approve on his own) this money making (revenue stream) cell tower without considering the concerns, needs and hopes of the very nearby residents of Woodland Lakes and Cape Sable Drive in particular.

We appeal to your sense of fairness in reconsidering the approval of this unsightly intrusion in our currently tranquil neighborhood.

Thank-you,

A handwritten signature in cursive script that reads "Dan Schillinger". The signature is written in dark ink and is positioned below the "Thank-you," text.

Dan Schillinger

Ranada Gray  
308 Cape Sable Drive  
Orlando, FL 32825  
407-242-3139  
RanadaGray@yahoo.com

October 22, 2018

Board of County Commissioners  
201 S. Rosalind Ave, 5<sup>th</sup> Floor  
Orlando, FL, 32801

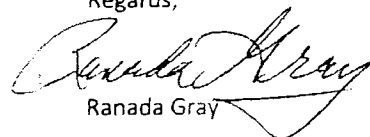
Dear Orange County Commissioners,

I am writing in opposition to the construction of a cell phone tower on Lake Underhill Road near Rouse Road and The Woodland Lakes II subdivision. This tower will be visible from my driveway, and will affect the anesthetic value of my property. The impact of this 140 foot tower on my home value, those of my neighbors, and the surrounding neighborhoods will be unreasonable and is unnecessary. The current zoning, if the tower is approved and built, also allows for increase in height without any vote from the county commission. As I am sure you are aware, using property values to deny a zoning permit request is not in violation of the federal Telecommunications Act of 1996.

Additionally, I am concerned about potential structural failures that could impede my entrance and exit of my neighborhood. Our neighborhood has only one entrance and exit. The safety of our entire residential population is in jeopardy in the event of structural failure blocking our passage. The potential for structural failure is unknown as has been proven in the failure of bridges and overpasses struck by vehicles resulting in fire or other unforeseen catastrophic conditions. This proposed location creates unnecessary danger for all residents as well as emergency first responders that drive continuously on Lake Underhill Road.

In short, this is not an appropriate location for this tower. The zoning laws as they are written exist to protect our entire population. As elected officials whose responsibility it is to uphold the law, I would ask you to deny the developers' application for a permit.

Regards,

  
Ranada Gray

## LETTER OF AESTHETIC IMPACT

To Whom It May Concern:

This letter is in reference to the proposed cell tower on Lake Underhill Road, abutting the Woodland Lakes subdivision. I am against it for several reasons, among them the unknown health and safety impacts of the 5G-compatible tower. My daughter, son in law and five young grandchildren live in the home closest to the location of the tower.

First, I'd like to call attention to the way this tower would look when driving along Lake Underhill Road. There are multiple housing subdivisions, with manicured lawns and lovely landscaping. Picture then, coming upon an ugly 140 foot tall behemoth. There is already one at Lake Underhill and Econlackhatchee, and even as part of the electric transfer station, it stands out in its' unsightliness. There is yet another one that is visible from where the current one is proposed. Also ugly, but at least that is near the 408.

As I play in the yard on Cape Sable with my grandkids, looking at that tower will be awful. Worrying about the health impacts of what we can't see, and just the fact that it is 140 feet tall. And, knowing that they can add an additional 40 feet to the top with no permit required...let me ask, would you like this in YOUR backyard? The property owners agent said the sight lines would be fine, but he did not take in to account the way the yards slope downward by many feet. The nearby trees are 60-70 feet tall. We will all see this monstrosity. Every day. Every time we look out our windows. The agent is just saying whatever it takes to get this passed.

Another major concern is the drop in property values in areas where cell towers are built. I have sent the County Commissioners two articles that state there is up to a 20% drop in property values when a cell tower is nearby. That means less value and less taxes for the County, not to mention the difficulty in selling the property.

There are other options very close to the location – across Lake Underhill Road is a commercial complex, and Lockheed Martin is immediately to the east of the current site. Why is it so important to put another one right in the back of young families' homes? The only thing I can figure is that the landowner has no other use for that small area and sees it as a way to make money. What a bad neighbor he is being to the Woodland Lakes subdivision.

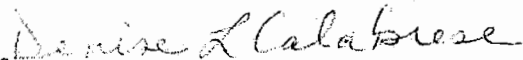
Just because this fits the zoning requirements, this cell tower has no place being so near a family-friendly subdivision. I respectfully ask that the regulations regarding the placement of cell towers in general, be revisited and updated to reflect the current state of technology. I believe the current regulations were written before the turn of the century.

Please do not allow this particular cell tower to be built there.

Thank you for your time and consideration.

Sincerely,

Denise L Calabrese



9348 Raven Dell St

Orlando, FL 32825

248 Cape Sable dr  
Orlando Florida 32825

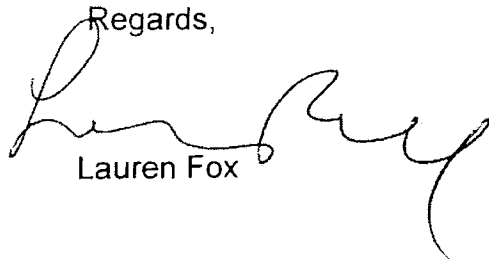
To Whom It May Concern,

When I first heard that there was a cell phone tower being placed just 4-5 doors down, in my neighbors backyard essentially, I was shocked and overwhelmed w a flood of feelings. Not only will this tower be quite an eye sore but I worry about the health risks. Being an oncology nurse and taking care of patients who now suffer from cancers due to environmental and radiation exposures will cause a concern for me. I worry not just for my 4 1/2 year old son but for all the other 17 children in immediate cul de sac area where this tower will be placed.

When I bought this home at the end of 2016 the 2 main selling points for me was the beauty of this neighborhood and the fact there wasn't any environmental risks to worry about. I almost bought a home in Avalon before I decided on the Cape Sable dr home and what stopped me in my tracks was the fact Avalon had smoke stacks a few blocks away from my possible future home and I just couldn't let myself buy a home and put my sons health at risk. I then found Woodland Lakes a few weeks later and absolutely fell in love immediately. This neighborhood is full of woods and ponds and the wild life here is amazing. Once this cell phone tower goes up the beauty and health safety concerns are no longer there. I know there are other options for where this tower can be placed and a residential neighborhood shouldn't be an option. This will bring our property values down and deeply impact sales and decrease home equity.

I hope relocation of this tower can be considered as the residents in Woodland Lakes would like to continue enjoying the beauty of our neighborhood.

Regards,

A handwritten signature in black ink, appearing to read 'Lauren Fox', with a stylized, flowing script.

Lauren Fox

# **EXHIBIT C**





BERKSHIRE HATHAWAY | Results Realty  
HomeServices

To Whom it May Concern

10-15-18

I am a licensed Realtor® with Berkshire Hathaway Home Services Results Realty, and have been licensed since 2014. In my professional opinion a cell phone tower in this close proximity will devalue the home values anywhere from 15% to 20%.

Having a cell phone tower this close to the homes make them hard to sell as no one wants to be near cell phone towers or large electrical towers. Buyers are not going to be interested in purchasing which leaves the sellers stuck. I personally have had clients tell me this very same thing.

Feel free to contact me.

Justin Shrouder 407-690-  
4917

Justin@LiveFloLife.com

5048 Dr. Phillips Blvd  
Orlando, FL 32819  
Office: 407-514-2800  
Fax: 407-514-2801

2801 E Irlo Bronson Memorial Hwy  
Kissimmee, FL 34744  
Office: 407-498-3838  
Fax: 407-891-0517

25 W. New Haven Ave, Suite F  
Melbourne, FL 32901  
Office: 321-766-4861  
Fax: 321-593-4279

# **EXHIBIT D**



BERKSHIRE HATHAWAY | Results Realty  
HomeServices

To Whom it May Concern

10-15-18

I am a licensed Realtor® with Berkshire Hathaway Home Services Results Realty, and have been licensed since 2002. In my professional opinion a cell phone tower in this close proximity will devalue the home values anywhere from 15% to 20%.

Having a cell phone tower this close to the homes make them hard to sell as no one wants to be near cell phone towers or large electrical towers. Buyers are not going to be interested in purchasing which leaves the sellers stuck. I personally have had clients tell me this very same thing.

Feel free to contact me.

Sue Vasquez

407-922-2444

sue@suevasquez.com

5048 Dr. Phillips Blvd  
Orlando, FL 32819  
Office: 407-514-2800  
Fax: 407-514-2801

2801 E Irlo Bronson Memorial Hwy  
Kissimmee, FL 34744  
Office: 407-498-3838  
Fax: 407-891-0517

25 W. New Haven Ave, Suite F  
Melbourne, FL 32901  
Office: 321-766-4861  
Fax: 321-593-4279

# **EXHIBIT E**

10/1/18

To whom it may concern,

I am a licensed Florida Real Estate Broker, currently running my own brokerage, Green & Company. I was with Keller Williams Waterford Lakes previously. I am a member of the National Association of Realtors, the Florida Association of Realtors and the Business Brokers of Florida.

I have sold 2 homes in the past few years in the Woodland Lakes community. Both buyers have paid TOP DOLLAR for their homes, due largely to the beautiful views that the properties offer in their respective backyards.

In my professional opinion, a cell phone tower within this close of proximity will devalue the home property by at least 20%, if not more, depending on the obstructed views. Having a cell phone tower in close proximity to this neighborhood will definitely make this property more difficult to re-sell. Buyers are much less interested in buying a house near a cell phone tower and will not be inclined to purchase this property after a cell phone tower has been built. This is especially true for families, due to the perceived health issues. There have been many studies done on this and in the California bay area, 94% of prospective buyers polled said that they would NOT consider a home near a cell phone tower.

Please consider the direct impact that this cell phone tower will make on the real estate values in the area, the detriment to the homeowners who plan to re-sell their homes at some point, and the ceased enjoyment of the properties that they purchased for their tranquil views.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Elise Green". The signature is written in dark ink and is positioned above the printed name.

Elise Green

Florida Real Estate Broker License #3301177  
Green & Company Brokers, INC  
239-834-8300  
buyandsellwithelise@gmail.com

# **EXHIBIT F**



**October 22, 2018**

Re: Woodland Lakes II Community  
409 Fern Lake Drive  
Orlando, FL 32825

To whom it may concern,

I am a licensed Realtor with Florida Realty Investments and have been both an investor and residential real estate agent in Orlando since 2014. In my experience and professional opinion, a cell phone tower with such close proximity to the Woodland Lakes II community would have a significant effect on the property values. It would make the homes less attractive in the market and make them more difficult to sell. A cell phone tower this close could decrease the value of homes up to 20% of the market value.

Thank you for your time and consideration of the consequences of the cell phone tower on this community.

Regards,

**Piper Vargas**

PiperVargasRealtor@gmail.com

Mobile: 941-677-0215

3451 Technological Ave, Suite 11

Orlando, FL 32817



# **EXHIBIT G**





September 28, 2018

*Re: 213 Cape Sable Drive, Orlando, FL 32825*

To Whom It May Concern:

I am a licensed Real Estate Agent and Broker for ALL Real Estate & Investments, Inc. I have had my real estate license for 11 years. During that time, I have represented over 425 transactions with with a total sales volume that exceeds \$100 million. For the last 5 years, I have been recognized as the top 1% in sales volume for the Orlando Regional Realtor Association.

In my professional opinion, a cell phone tower within this close proximity will devalue the home property value by 15%. Having a cell phone tower in close proximity to this neighborhood will make this property less desirable and more difficult to sell. Buyers are less interested in buying a house near a cell phone tower and will not be interested to purchase this property after a cell phone tower has been built.

With regards,

Amy Ladd Miller

**EXHIBIT H**

To Whom it May Concern

10-15-18

I am the Broker/Owner of DeNike Realty and Property Management. I have been licensed since 2005. In my professional opinion, a cell phone tower in this close proximity will devalue the home values anywhere from 15% to 20%.

Having a cell phone tower this close to the homes make them hard to sell as no one wants to be near cell phone towers or large electrical towers. Buyers are not going to be interested in purchasing which leaves the sellers stuck. I personally have had clients tell me this very same thing.

Feel free to contact me.

Patrice DeNike

321-805-4445

Patrice@denikerealty.com

# **EXHIBIT I**

## Ixchel Mixon

1447 Warner Dr.  
Chuluota Fl. 32766  
MPh. 407-579-7007  
ixchelmixon@outlook.com

September 25, 2018

To Whom It May Concern:

I am a licensed real estate agent. I have been a real estate agent in the Orlando Metro area for 3 years. I am currently studying to become an Appraisal Trainee.

In my professional opinion, if the cell tower in question is built where it is proposed (District 4, property generally located south of Lake Underhill Rd, approximately 970 feet west of Rouse Road, Orange County, Fl.), it will reduce the value of the nearby residential properties by approximately 15%. Most buyers don't want to move to homes close to cell towers. They are perceived as a health threat. The result is that prices on homes around the cell tower will decrease and they will take twice as long to sell.

To summarize, a cell tower installation in this area will decrease home values and make the homes less salable, even at reduced purchase prices.

Cordially,

Ixchel Mixon

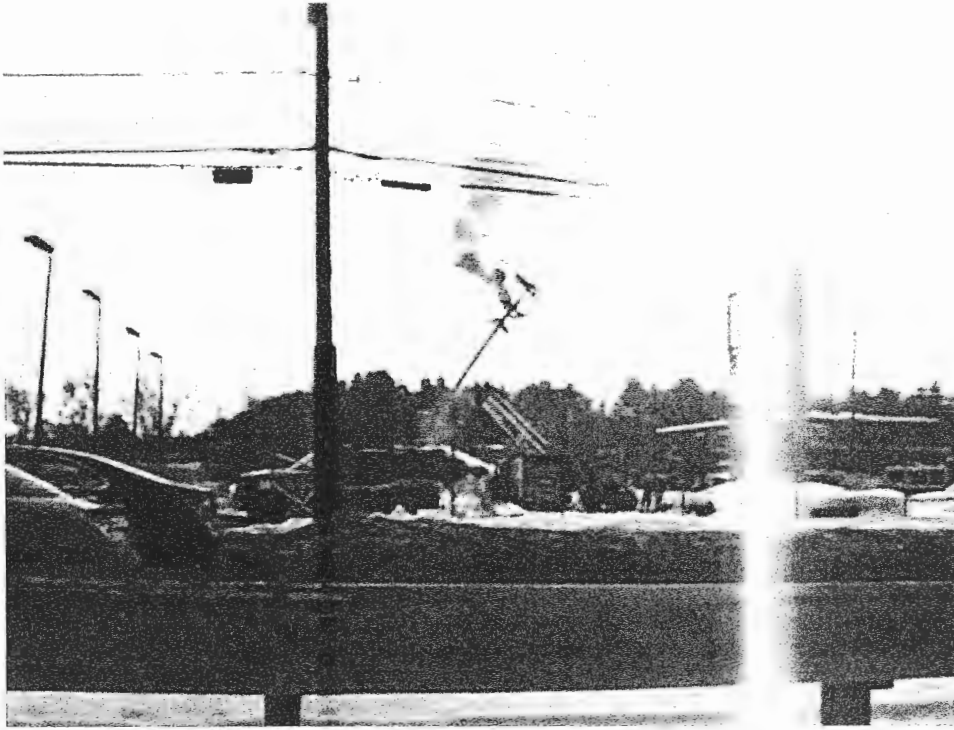
# **EXHIBIT J**



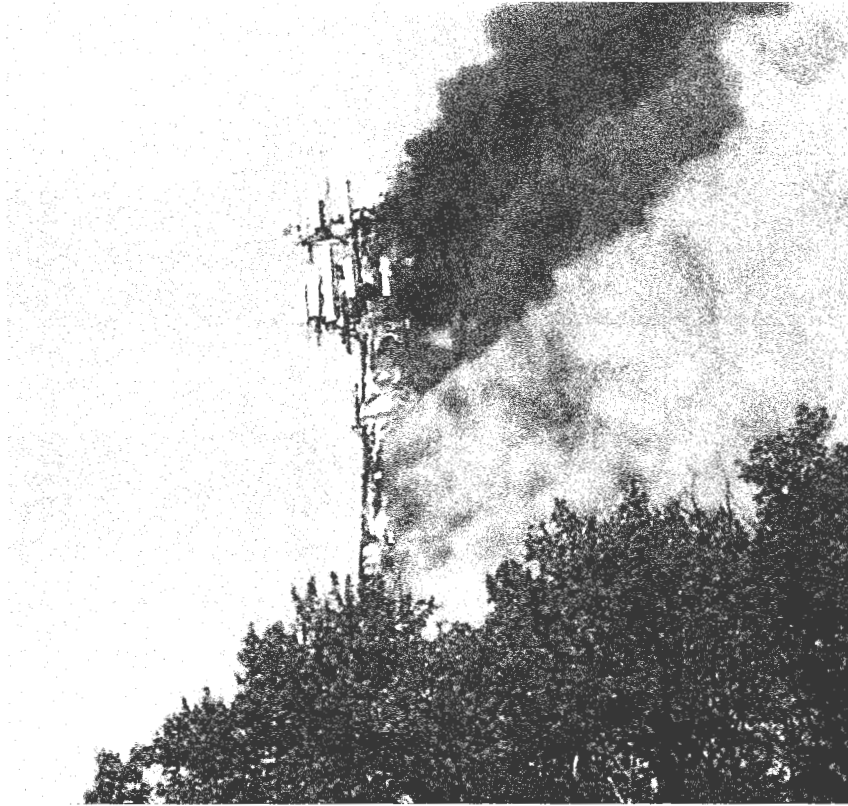




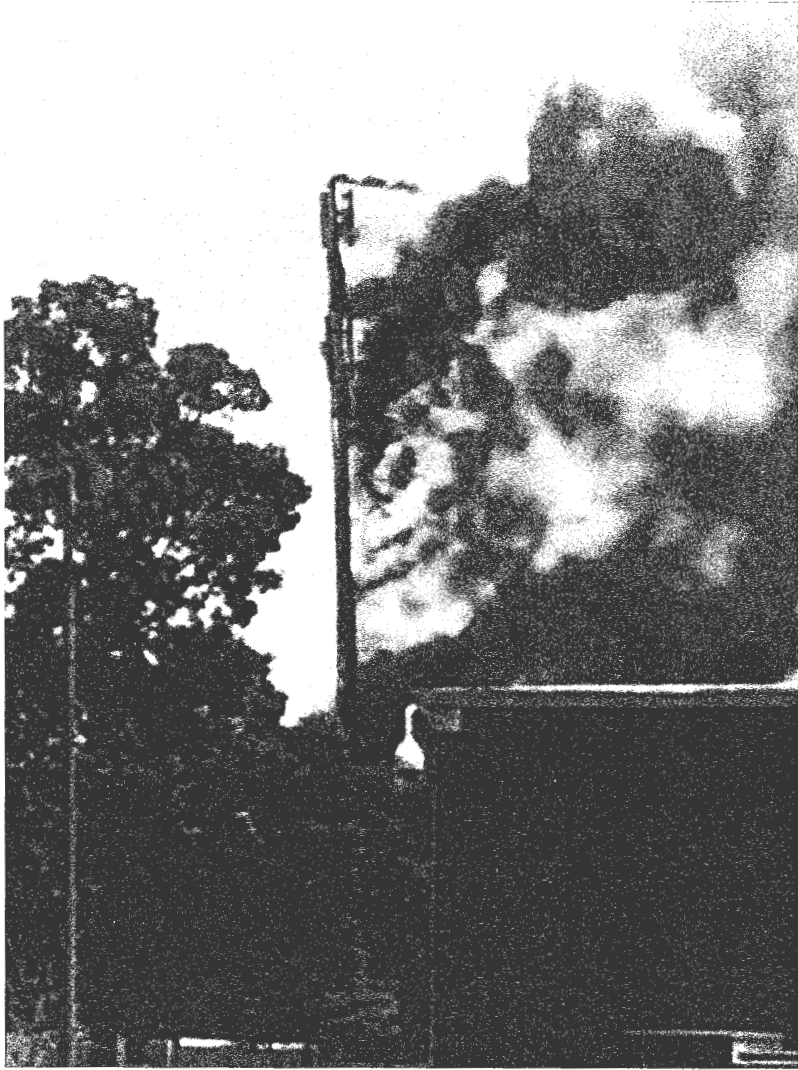
# **EXHIBIT K**



Wellesley, MA January 2009



Philadelphia, PA June 2013



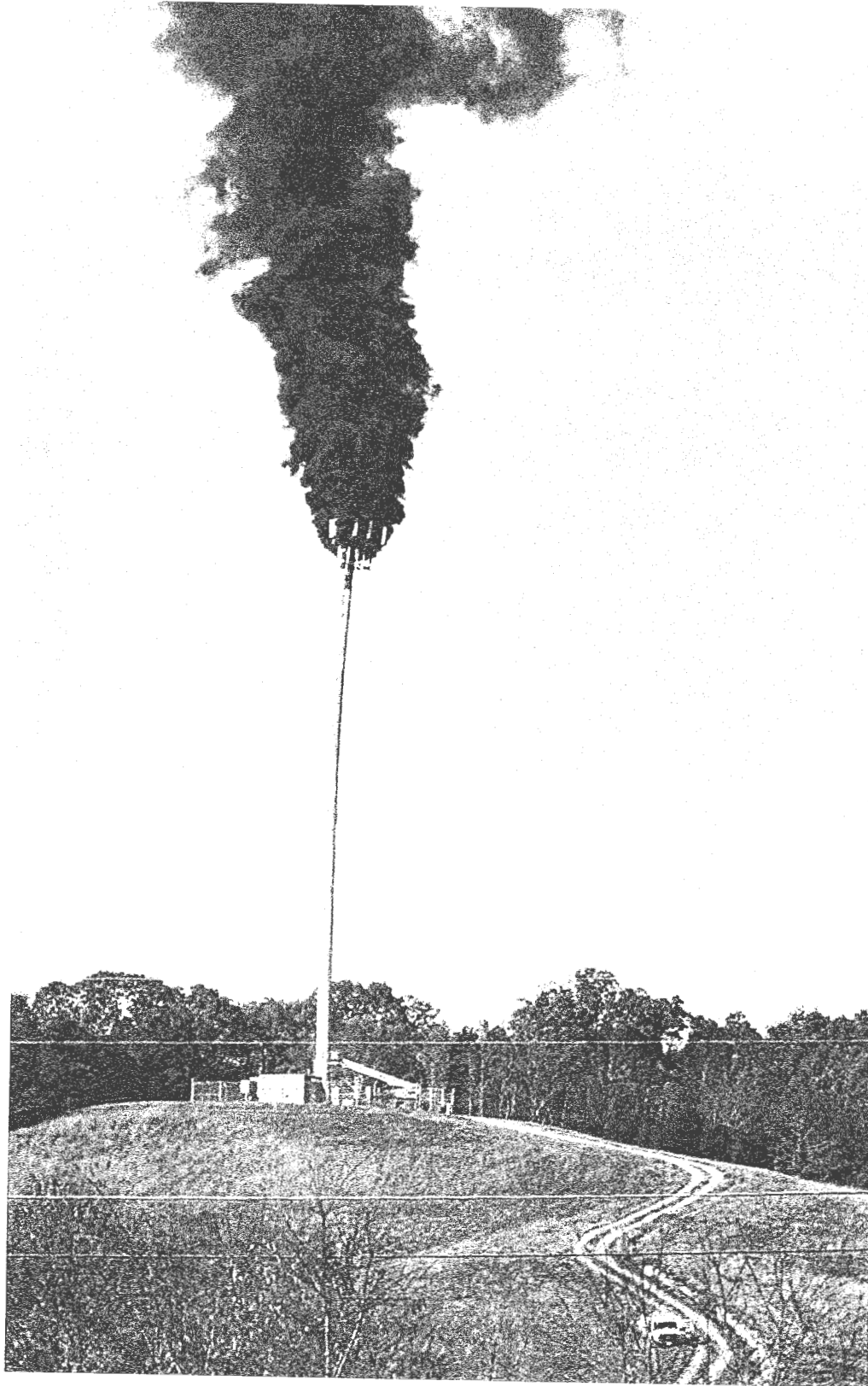
Montgomery MD June 2015



Newport, VA June 2015



Lilburn, GA December 2011



Greenville TN November 2014