

RESOLUTION _____

Approving a Special Use Permit for the Construction of a New Wireless Telecommunication Facility to be located at 3911 Eva Road

WHEREAS, Tillman Infrastructure has made application to construct a new wireless telecommunication facility to be located at 3911 Eva Road, Eva, Alabama to provide improved wireless service for AT&T within the corporate limits and police jurisdiction of the Town of Eva; and,

WHEREAS, the proposed facility consists of a 305' guyed tower, that is constructed within a 100' by 100' lease area on the existing parcel owned by Keli P. Mickle; and,

WHEREAS, the anchor tenant for the tower will be AT&T; and,

WHEREAS, Section 4 (P) of the Town of Eva's Code states that, unless waived by the council for good cause shown, no work of any kind on a facility shall be started until the application is reviewed and approved by the Town and the Special Use Permit, or Administrative Authorization if applicable, has been issued and any applicable permits have been issued; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 4 (P) of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and

WHEREAS, Section 4 (T) of the Town of Eva's Code states that, unless waived by the council for good cause shown, a tower or other support structure and all accessory or associated structures and equipment shall maximize the use of building materials, colors and textures designed to harmonize with the natural surroundings to make the facility substantially invisible. This shall include the utilization of stealth or camouflage techniques or other concealment methods such as but not limited to abiding by the established limited or maximum permitted height; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 4 (T) of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 4 (Z) of the Town of Eva's Code states that, unless waived by the council for good cause shown, to provide an opportunity for those reasonably expected to be affected to understand what is proposed and its impact, and to have input to the applicant, at the Town's option given the facts and circumstances involved, for any new macro wireless facility support structure, or any Substantial Modification, a public meeting may be required to be held. The meeting shall be scheduled by the Town. The applicant shall provide written notice of the meeting and its purpose, to all property owners located within one thousand (1,000) feet of the proposed facility, at least two (2) weeks prior to the date of the meeting. The written notices should be sent via registered mail to property owners. All costs related to the meeting shall be borne solely by the Applicant, including but not limited to the cost of written notification and any reasonable costs of the Town; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 4 (Z) of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 8 (C)(9) of the Town of Eva's Code states that, unless waived by the council for good cause shown, requires balloon testing at the proposed facility prior to the approval of a Special Use Permit for the facility; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 8 (C)(9) of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 4 (C)(12) of the Town of Eva's Code states that, unless waived by the council for good cause shown, if co-location on an existing structure is not reasonably feasible if the co-location is technically or commercially impracticable or the owner of the structure is unwilling to enter into a contract for its use. Clear and convincing evidence to support such claims shall be submitted with an application; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 8 (C)(12) of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 9 of the Town of Eva's Code states that, unless waived by the council for good cause shown, all applicants shall locate, site, and erect all proposed facilities in accordance with the requirements set forth by this Section; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 9 of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 10 of the Town of Eva's Code states that, unless waived by the council for good cause shown, all applicants shall locate, site, and erect all proposed facilities in accordance with the requirements set forth by this Section; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 10 of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road; and,

WHEREAS, Section 15 of the Town of Eva's Code states that, unless waived by the council for good cause shown, all proposed towers and any new proposed support 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 support structure plus ten (10) percent of the height of the Tower or other structure, otherwise known as the fall zone; or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located within the fenced compound area as approved in the Special Use Permit and to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone shall be measured from the nearest edge of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines. The nearest portion of any access road leading to a facility shall be no less than ten (10) feet from the nearest property line. There shall be no development or human occupation of habitable buildings within the setback area or fall zone.; and,

WHEREAS, Tillman Infrastructure, has submitted the required letter requesting relief from Section 15 of the Town's Wireless Telecommunication Facilities Siting Ordinance, the Town Council, after review and approval of the required justification provided by Tillman Infrastructure and AT&T in the application for construction, will permit a new tower located at 3911 Eva Road, at the proposed height of 305'; and

WHEREAS, Tillman Infrastructure, has complied with Town's Ordinance with exception to the items, where the applicant is seeking relief; and,

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Eva, Alabama that Tillman Infrastructure is hereby granted a Special Use Permit for the constructed wireless telecommunication facility located at 3911 Eva Road, Eva, Alabama. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Compliance:

1. To prevent warehousing of permits or authorizations and to assure the best service to the Town's residents as expeditiously as possible, the facility must be built, activated, and be providing service *no later than one hundred eighty (180) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the Town.* Tillman Infrastructure may petition the Town for an extension of this for good cause shown, but the decision whether to grant the extension shall exclusively be the prerogative of the Town.
2. All contractors that worked on the construction of the facility, shall obtain a business license from the Town of Eva.
3. Tillman Infrastructure shall not be permitted to provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
4. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.
5. The provision of the Certificate of Completion for this work shall be a pre-condition for any future modifications of any kind by this carrier, at this facility.

THEREUPON _____, a member, moved and _____, a member, seconded the motion that Resolution _____ be given vote, and said resolution

passed by majority vote of the Council present, and the President of the Council declared the same passed.

ADOPTED this 10th day of August 2021.

Gary L. Livingston,
Mayor

[SEAL]

ATTEST

Kathy Nelson,
Town Clerk