CASE NO. 0222-022

| | |
|---|---|
| Teas Appellant | State of Texas |
| Vs | |
| Third Party Petitioner | Municipal and/or Fact Finders in Court City of Corpus Christi RE: rezoning is not Variance to be used |
| City Staff, and | County of Nueces |

To City, Curtis Titus, owner of Subject Property, seeking to benefit via lease agreement reported to Teas by…..Third Party Petitioner? Is on its face purposeless, not purpose of zoning, city quasi governmental power traded for? Less than zero.

**Here, Teas asserts,** Adjacent Property Owners' ("Teas") **IN OPPOSITION, mailed properly, and timely, and pursuant to City's rules and regulations**, hereby restates IN OPPOSITION to Petition Case No. **CASE NO. 0222-022,** that is more likely than not to be disposed of, dismissed not to keep purposefully acting against City's own Zoning Purpose, and reasonable request City dismiss Case No. **CASE NO. 0222-022**—but for reals…not to approve via scheme.

"Appellant, Teas' owner of 4737 Mt. Vernon Dr. vested in Deed under Charles B. Teas, (83 year old man) Grantor to Son, Timothy B. Teas, and Timothy Teas and for and by Charles B. Teas as City may require, I, Timothy B. Teas, restate: IN OPPOSITION variance based on future Map and not or reality aka comprehensible, 'real' real zoning," and
I, am not going to see something, and not say something, and

I, have found in 2022 5G network whether on going pursuant to zoning, does not include variance, spot, unreasonable zoning as it relates to health and safety at least, and

I, submit to City via e-mail from timteas@gmail.com to Andrew Dimas via UETA AndrewDw@cctexas.com.

*/s/ Timothy B. Teas*
Timothy B. Teas and for Charles B. Teas
4737 Mt. Vernon Drive
Corpus Christi, TX 78411
timteas@gmail.com
361 739.0151

1. In Opposition to foreseeable harm to Teas rights, Teas heath and welfare cause by actual and proximate nexus via 5G on Tower Variance Case, not a Variance. Here Subject Property is next to Teas and his Property within 200 feet, of proposed 130 foot tower.

2. Subject property that does not fit into uniqueness required to rezone, thus lessen City decreasing "policing type power" inflicting not only harm upon Teas, but City upon itself.

3. The foreseeable Harm, is foreseeable to exclude City Staff?

Here, City Staff whether by Special Permit or intermediate actions is variance with substantial legal implications, such as legal waiver, by variance (or other stupid acts City takes part), Third Party Wireless is obviously out to lessen City powers, already limited, but for City Staff. City Staff is out to put Zoning as unenforceable, thus no need for City Staff relative to Zoning that is trades for no and or less than Zero Citizens (except Teas), zero consideration or less than zero, because without purposeful zoning, at some point zoning is purposeless.

4. Unwarranted enforcement is excessive as is underwhelming Notice and Staff report unenforceable, sooner or later.

5. Again, City Staff. Here, City inflicts waiver upon itself pursuant to not enforcing its own rules and regulations, and or City Quasi- Home Rule Legislation, set towards self distruction, by legal waiver, Variance is a Variance, not a listed purposeful zoning purpose describes as such In section 1: specifically heath and safety, set back, wind storm findings, et.al. is either named pursuant to City Zoning Code or it isn't.

*6. Rezoning excludes this case. Disposal of this case and all like it relative to Petitioners seeking City Power, City hands over via non-disclosure and or purposeful, thus intentionally AKA (Statutory Fraud) or similar cause of action not limited to misrepresentation of FACTS and LAW to a City by Third Party backed by City Staff is unconscionable.*

*7. Constitutional due process and Rights as nuisance not far from reach.*

*8. A Variance is a Variance, regardless how it is named, outcome is "Grandfathered in" and takes affect, because of legal waiver City Staff*

*seems to seek against Teas, Appellants; for Third Party: to usurp City's limited power by not enforcing its limited power, but waiving it?*

*9. Encroaching on Teas Property and or Teas' property rights is trespass. And at least,* Teas appeal, as Appellant would show said rights, and Property rights to cause Purpose of Zoning, to exclude waiver via Variance —regardless of how it is framed….by City Staff?

10. Thus City acts to inflict harm upon itself via waiver, a substantial legal determinate regardless of how it is framed by City staff: A Variance is A Variance.

But, to what end?

11. City staff can differ to Third Parties by calling 130 foot nuisance, **not** a foreseeable nuisance all it can get passed the City legislative body, via waiver, "grandfathering in Billboards to an excess" or "Cell Towers to an excess." Notwithstanding a billboard may fall on Teas and or his property via 130 MPH winds, whether Teas is protected by insuring Cell Tower remains constantly next to him or his property both during a hurricane and every other day, not to be confused with 130 Tower equals a 130 foot Cell tower, or a 130 MPH winds equals a billboard.

12. City Staff likely will continue to confuse Appellants, City, Citizens of the City via ambiguous Notice to cause not actual concern, but actual complacency. Zero people reported by City, despite Teas mailed his IN OPPOSITION on February 1st 2022.

13. But for City's Staff sending out underwhelming Notice, or Lack of Notice Teas Appellant would not have suspected City Staff of speaking in double language, on Yellow NOTICE, that was either impossible to read parts of or find for enough issues to contact the Petitioner ("Wireless") who replied,

_____Commencing of email from third party with a lease, prior to PUBLIC HEARING—CITY AVOIDS_____

***Insert A:***

Mon, Jan 31, 7:20 PM (5 days ago)

to me, Ferrisco@aol.com

Mr. Teas,

Thank you for the email. Tillman Infrastructure and AT&T already have secured a lease on the 5007 Property. It isn't likely they would want another lease. Thank you for your inquiry.

Ferris Consulting, Greg Ferris

PO Box 573

Wichita, KS 67201

316-516-0808

-----Original Message-----

From: Tim Teas <timteas@gmail.com>

To: Ferrisco@aol.com; Tim Teas <timteas@gmail.com>

Sent: Mon, Jan 31, 2022 12:13 pm

Subject: Cell tower location Everhart and Mt. Vernon Corpus Christi, Texas 78411

Greg,

Good Morning.  Are you interested in a ground lease at 4737 Mt. Vernon Dr., Corpus Christi, Texas  78411?

This location is next to subject property 5007 Everhart Road, according to applicants for special zoning.

Let me know at your earliest convenience.

361.739.0151 or timteas@gmail.com

Texas Real Estate Commission: Consumer Protection Information About BrokerageServices

This email is not intended to form any agreement, Respectfully,

*Timothy B.Teas*

**Texas Licensed Real Estate Broker and Corporate Broker Executive**

**Juris Doctor BBA, MBA, ATC Metro Properties, Inc.**

**MAIN CORP. OFFICE:** 4737 Mt. Vernon Dr. Corpus Christi 78411

**Rio Grande Valley OFFICE:** 26 Coria St. Brownsville, TX 78520

Proud to be **C2EX** Commitment to Excellence Endorsed



Ferris Consulting, Greg Ferris

PO Box 573

Wichita, KS 67201

316-516-0808

_____end of email insert_____

What?

13. But for City Staff acting so obviously after two or three readings of portions of Yellow Notice that were possible to read, Appellant could only find ambiguity, and purposeful misrepresentation of Zoning Purpose. Notice, and relative Documents received from City, shows City staff, by omitting growth under facts and circumstances related to 5007 Everhart, Subject Property, if anyone else was noticed or could notice.

14. Pursuant to City Staff acting to waive listed "set backs" "City's own rules and regulations, and Notice, who would not say something if they saw something. My covering something up defeats purpose of zoning. Defeats Notice. City acts to defeat itself until it stops.

15. Here, City Parks (e.g. Thanksgiving, Maria Lauren, etc.) under City's own zoning not….. in accordance with language that does not look to future to miss foreseeable advancing technology, but catch City and Citizens, and here Teas off balance purposefully, therefore not likely in accordance… with (its) City's own comprehensive plan, but citing the applicable Future Land Use Map? To justify third party Wireless influence, undue influence via City staff, as an excuse used in 2022 post 5G findings, notwithstanding Futures Map's overall irrelevance, it is used as double language, double talk to confuse R-1 Resential Subdivisions who, will be effected by outcome of misrepresented billboard to withstand 130 miles an hour winds, and or 130' wind resistant cell tower, but omit reasoning behind "set back", purpose of zoning to include, not exclude safety and welfare. Here, specifically Charles B. Teas and/or Timothy B. Teas (owner of 4737 Mt. Vernon Drive, City, Texas 78411 adjacent to residential an Subject Matter Property, if said property is not residential pursuant to un-filed deed, conveyed from Charles B. Teas 83 years old to his son Timothy B. Teas, who intended— upon grantor executing documents to grantee—to wait to file, but may be forced to file deed and lawsuit against City Staff, et.al. who acts to mislead, misinform Teas.

16. Precedent set under prior small city charter about 1970 era “City” powers used to “gain City Parks” from developers as a buffer from overcrowding in area built out, except for said buffer Parks.

17. Here, City prior to 2022 or about 2018 sold off buffer parks to developers, thus causing dense population consisting substantially of single family residential “zoned” housing not to be less dense, and have room to grow, but more dense when buffer “parks” sold off, “in leu…” of Developers violating density via parks via City’s police powers it used to benefit itself and its Citizens prior to 2022, prior to 5G towers that are not billboard, and lack expectations of falling onto Teas or Teas’ Property, but radiation emissions are crux of issue. Not 130 MPH windspeed to shadow or cover up reasoning for radioactive 5G and foreseeable 6G technology, that eliminates number of cell towers, in foreseeable future, if not present condition. And not to be confused with 130’ foot cell tower radiation, whether it is seen to be able to say something or not will result in an outcome not likely favorable to health and welfare of a person or persons property located next to a 5G, foreseeable 6G excess RF’s, not monitored by City Staff, but covered up to defeat purpose of zoning to include asubstantial set back of Cell Towers, and or 200’ based on previous generation radiation output nowhere close to 5G in 2022, but relied on City Staff to provide accurate information, and at least notice to cause concern equal to threat to more than those who received, City staffers “Notice” not less than zero claimed by Department that claims to be part of legislative, quasi legislative staff, but purposefully confuses instead of informing…..as it is relative a persons, children’s, health and welfare, Purposeful zoning, not purposeless zoning via waiver as Variance regardless of how it is purposefully discussed by…City Staff? And pursuant to 5G type radiation in 2022 and foreseeable future as it relates to harm, not foreseeable map or future map described in “Notice”.

**18. Conclusion:** City has burden to comply with its own rules and regulations, and 1) City Council has burden of oversight of its City Planning Commission— staffed by City Developmental Services, the sophisticated information providers—said **"denial"** specifically of "Wireless" Telecommunication facilities are regulated by UDC Section 5.5. (See Street R.O.W. Staff Report Page 3) However purposefully misleading, purposeful finding not in dismissing this case or disposal of what could be a problem for City and staff.

19. Notwithstanding, City Staff, ***"Wireless Telecommunication facilities in excess of 85' are permitted in nonresidential zoning districts as indicated in UDC Table 5.5.4.F. with a Special Permit", and*** because Subject Property fails under ***, "Wireless telecommunication facilities shall be <u>set back</u> a minimum of one and a half times the height of the tower from the public right-of- way of all federal and state highways and any arterial street", and " Wireless telecommunication facilities adjacent to*** (Not billboards)

> ***1.residential dwellings shall be a minimum of one and a half times the height of the tower from any residential dwelling," 2. Staff Recommendation:***
> ***Denial of the change of zoning from the "CN-1" Neighborhood Commercial District to the "CN-1/SP" Neighborhood Commercial District with a Special Permit.***

20. Yellow paper Notice lacking torn off and mailed requirement, is for an owner must establish **Unnecessary Hardship** (excluding Titus and Subject Property) relative to a variance, not to include **Practical Difficulties, that** Teas would show somebody at some point, excludes City to obtain bulk variance for said converted Parks to Residential Subdivision. Teas is only adjacent property owner to Subject Property, and according to set back finding, is better suited for consideration, not Titus at 5007 Everhart Rd. at Mt. Vernon (SPID).

21. Whether City "jumped the gun" and/or City Staff purposefully caused AT&T and/or Wireless to contract with Titus, thus via 27. insert A Teas could show "done deal" communicated from either City and or City Staff or Again acting to violate its own by-laws to favor Wireless is unconscionable.

Submitted to Andrew Dimas UETA AndrewD2@cctexas.com from Timothy B. Teas (Charles B. Teas) Owner timteas@gmail.com so provide additional IN OPPOSITION To Case styled above.

By:

***/s/Timothy B. Teas***

Timothy B. Teas for Charles B.Teas

4737 Mt Vernon Drive,
Corpus Christi, TX 78411
timteas@gmail.com
361.739.0151

## Memorandum to City Legislative Body

**From:** Appellate, Teas whether you believe it possible or not.

**Date:** February 2, 2022.

**RE:** CASE NO. 0222-022

Appellant arguments:

**CITY OF CORPUS CHRISTI, TEXAS (NUECES COUNTY) ("CITY") CONSPICUOUSLY LACKS PROCEDURE REQUIREMENTS IN CITY'S OWN RULES, LACKS DUE PROCESS, THEREFORE VIOLATES NOTICE REQUIREMENTS RELEVANT TO 5007 EVERHART ROAD REZONING C/N1 TO C/N1/SP, "SUBJECT PROPERTY" DEEMED BY CITY APPROVED FOR THE PETITIONERS SCC [AKA—AT&T] &TILMAN INFRASTRUCTURE, ("WIRELESS) THIRD PARTIES WITH AND BY A SECURED LEASE WITH APPLICANT APPLICANT CURTIS TITUS ("TITUS") TO EXCLUDED TEAS FROM SAME RIGHTS ON OR BEFORE JANUARY 31, 2022 NOTWITHSTANDING JANUARY 25, 2022 (TIME STAMPED) MAILING OF NOTICE BY CITY EXPRESSLY DATING ITS "CITY PLANNING COMMISSION, PUBLIC HEARING NOTICE, REZONING CASE NO. 0222-022" TO BE HELD ON FEBRUARY 9, 2022.**

**BUT FOR CITY'S LACK OF NOTICE, IN CITY'S NOTICE OF REZONING CASE NO. 02220-02, YELLOW PAPER "NOTICE" TO NOT LIMITED TO TEAS, TEAS' FINDING CITI'S "DOUBLE LANGUAGE', BAD FAITH AS WORDING INDICATED ZONING, ITS OWN PUBLIC HEARING NOTICE THUS UPON READING, TEAS (IN COMPLIANCE WITH CITY'S OWN RULES), EMAILED PETITIONER ABOUT POTENTIAL ALTERNATIVE ADJACENT PROPERTY OWNED BY TEAS, TO BE NOTICED BY PETITIONERS ON JANUARY 31, 2022 OF A SECURED LEASE BETWEEN WIRELESS, PETITIONER AND WITH BY APPLICANT (TITUS, SUBJECT PROPERTY OWNER) IN EXCHANGE FOR CONSIDERATION, PRIOR TO SAID CITY NOTICE REPRESENTED BY CITY TO BE HELD FOR PUBLIC AND APPELLANTS HEARING ON FEBRUARY 9, 2022.**

**TIME LINE**

**JANUARY 25, 2022 CITY MAILED NOTICE OF HEARING FEBRUARY 9, 2022.**

**JANUARY 30, 2022—TEAS RECEIVED YELLOW NOTICE HE FOUND SUSPECT IN DOUBLE TALK OR DOUBLE LANGUAGE.**

**JANUARY 31, 2022—TEAS EMAILED PETITIONERS, IN COMPLIANCE WITH CITY RULES AND REGULATIONS.**

**JANUARY 31, 2021—PETITIONERS NAMED AS SCI WIRELESS & TILLMAN INFRASTRUCTURE, NOTICE TO TEAS IN**

**CONFLICTING WITH NOTICE AND CASE NOT DISPOSED, THUS LEASE FOR 130' CELL TOWER COMMENCED BETWEEN WIRELESS PETITIONER AND APPLICANT TITUS — PRIOR TO JANUARY 31, 2022, THUS PRIOR TO PUBLIC HEARING NOTICE STATING WEDNESDAY, FEBRUARY 9, 2022 FOR HEARING IN VIOLATION OF ITS OWN CITY PROCEDURE, CITY'S NOTICE, LACKING ITS OWN REQUIREMENTS.**

**JANUARY 31, 2021, TEAS MAILED NOTICE PURSUANT TO HEARING VIA TORN OFF BOTTOM SECTION OF YELLOW CITY NOTICE PROPERLY FILLED OUT BY OWNER, TO CITY AS REQUIRED—IN OPPOSITION OF RE-ZONING C/N 1 TO C/N 1/SP.**

**FEBRUARY 2022, TEAS EMAILED CITY REQUESTING INFORMATION AND RECEIVED APPLICANTS NAME: CURTIS TITUS JUST AS PETITIONER DESCRIBED TO TEAS JANUARY 31, 2022.**

**FEBRUARY 2022, TEAS FOUND CITY PLANNING COMMISSION TO SEEMINGLY AND AGAIN SUSPECT IN DENIED RECOMMENDATION FOR PROJECT, BASED ON DISTANCE FROM EVERHART AND SPID RELAVANT AND DISREGARDED IRRELEVANT (E.G. YORKTOWN ROAD, ETC.**

**FEBRUARY 2022, TEAS AGAIN EMAILS CITY: FOR CITY'S LIKELY APPROVAL , CIRCUMVENTING CITY'S OBLIGATIONS, DUTIES OWED TO TEAS AND ALL POTENTIAL APPELLANTS WHETHER APPROVAL CALLED A**

**DENIAL IS QUASI-LEGISLATIVE/ HOME RULE INTENT OR NOT IN LIKELY CITY'S PREMATURE FINDING FOR REZONING A HAZARDOUS 130 FT. TOWER NEXT TO TEAS PROPERTY IN VIOLATION OF CITY'S OWN RULES AND REGULATIONS TO BE INCONSISTANT WITH ITS OWN COMPHRENSIVE PLAN, AND OR ITS BLUE PRINT.**

**HERE, SPECIAL PERMITS APPROVED IS A SIGNIFICANT LEGAL OUTCOME NOT LIMITED TO CITY VARIANCE AGAINST ITS SELF, ITS CITIZENS, AND TEAS. OR A LEGAL WAIVER AGAINST ITSELF, CITIZENS, TEAS SPECIFICALLY.**

**ADDITIONAL FACTS**

**AS ADJACENT PROPERTY OWNER, AND UPON TEAS (CHARLES B. TEAS & [TIMOTHY B. TEAS], OWNER) NO. 3 291200020110 RECEIVING CITY NOTICE WHETHER IT LACKED NOTICE REQUIREMENT (DUE PROCESS) ON OR ABOUT JANUARY 30, 2022,**

**Tillman Infrastructure and AT&T AKA PETITIONERS NAMED SCI WIRELESS AND TILLMAN INFRASTRUCTURE ON CITY NOTICE,** FOR FEBRUARY 9, 2022 PUBLIC HEARING, Notwithstanding Petitioners and Applicants Curtis Titus **already secured a lease on the 5007 Property based on suspected City Notice, Review, and Findings to be a disposal of rezoning case, but likely unconscionable act City uses to circumvent its own process, Notice, Hardship necessity for Teas or for Titus. Petitioner, " It isn't likely they would want another lease. Thank you for your inquiry." Ferris Consulting, Greg Ferris Re: Case described address: PO Box**

**573Wichita, KS 67201. Kansas supersedes Texas? And Mr. Ferris Contact No. 316-516-0808….**

**PROR TO JANUARY 31, 2021 (SEE WAIVER, THUS ESSENTIALLY AN UNDISCLOSED VARIANCE (STATUTORY FRAUD), OF FACTS, LAW, PROCEDURE CAUSING COMPENSATION "MONETARY CONSIDERATION" BY AND FOR HAZARDOUS RADIATION, HERE TO BENEFIT KANSAS PETITIONER, AND UNJUSTLY BENEFIT TITUS OWNER, IN "DONE DEAL" THUS, CITY LIKELY IS CAUSE OF RADIO ACTIVE RF, EMF, AND HAZARDOUS EMISSIONS UPON ACTIVATING DESCRIBED 130 FT. TOWER.**

CITY **facilitated KANSAS WIRELESS AND NEIGBOR TITUS, Not by acting reasonably, but unreasonably City lacking due process, and location Subject Matter is likely against Teas' rights, and** a done deal pursuant to Petitioner's writing —to exclude Teas' rights and Property Rights, et.al. , under a **"secured lease".** (Greg Ferris for Wireless Petitioner and Against Teas et.al.) *(See Insert A)*

Teas, would show City lacking in Notice was intentionally unconscionable act by City to deny Teas due process rights, cause cell tower to benefits neighbor Titus, and deny him building value, but within hazardous 5G ..foreseeable future 6G, not technology lacking pursuant to The Planning Commission usually limited to only approving zoning applicants, but together with City Council and City Development Services prejudice this case.

… But for this subsequent Appellant's opposition by City under lack of standing, not withstand City's causing Titus and Wireless in reliance to form a **premature lease agreement. Not under City obligations to protect Teas or City's own Citizens Rights specifically Teas' property**

**not only adjacent to Titus property on 5007 Everhart Road, but a "buffer" that is mutually exclusive from safety and health, Fire Code, and all prohibited acts to favor wireless (Kansas) and Subject property found to be too close to traffic, Teas property is higher and better according to City's own findings.**

Here, the City previously acted against itself, citizens, relative to new subdivision "in leu" of ongoing comprehensive Zoning plan on or about 1971 in exchange for City Parks.

In, and or about 2018-2022, City in selling off what is essentially the developers land, except for City police powers "in leu said 1960-70's development of subdivisions, thus if technology cannot keep up for those said subdivisions on towers already in service, why would Teas' Property whether deemed commercial or in fact residential conveyance prior to any notice pursuant to relying on City to protect Teas' on Teas property aka Commercial/Neighborhood C/N referred to as only Commercial by sophisticated, unconscionable City Planning and Zoning, Board of Adjustment with Council or without, collectively the City (failing to name ***Neighborhood*** designation in C/N review), proximately already afforded via obvious higher technology not considered in first generation, second generation, but uses FCC third generation (3G), thus mile radius cell pole, tower, is foreseeable 4G, and 5G unaccounted for in review by City specifically its own Development Services Department —elected city council and voluntary (small town) planning and zoning is not as sophisticated as unelected staff lacking accountability, but through City oversight, which is a viable another City option prior to finding, prior to lease notice to Teas', prior to February 9, 2021 hearing, and/or pursuant to Cell Tower outcome. Proximately and Actually harming

Teas, Teas Rights, Teas Property Rights 4737 Mt. Vernon Dr. Corpus Christi Texas, 78411.

Thus, sequential notice from Teas to City, again IN OPPOSITION by email from timteas@gmail.com to andrewD2@CCTexas.com respectively Teas, Owner at 4737 Mt. Vernon Dr., City, Texas 78411 and as described herewithin. But for Teas' mailing **pursuant to Notice and City not acknowledging it as of this writing dated and signed below,** City's requirements suspect to acts not to mitigate Teas damages, but in furtherance of cell tower installation and Safety, Health, Fire, Wind, issues that weigh more heavily on Teas' rights, regardless of City likely using its "quasi judicial" or substantial variance, waiver of law by continuing to act Against City, City's Rules and Regulations, Citizens, and Children prohibited from being additionally exposed to known high RF and EMF, cell towers existing, not to mitigate but to add additional cell tower lacks rationale, reasonableness, in 2022 pursuant to current FCC, WHO, and Texas findings relative to 5G and its radiation towers called cell towers and reviewed based on outdated guidelines, and facia value of 130' eye soar, by City.

Rules:

**CITY PLANNING COMMISSION**

**PUBLIC HEARING NOTICE**

**Rezoning Case No. 0222-02**

thus lack of City process is lack of due process, and/or lack of said process City lacks in complying with its own rules and regulations, City Developmental Services' staff oversight acting to circumvent due process, under shadow of violating Teas constitutional rights. Regardless, of planning and zoning committee whether volunteers and and City Council elected unsophisticated, or turns away form

compliance, or relies on sophisticated Development Services Department for judicial type legal finding likely "police powers" it waives, as opposed to holding on to little power left to protect City, Citizens, Teas, Children in radiation zone found for Kansas Developers, third party petitioners, with consideration via lease agreement with actual owners, Titus, to exclude Teas.

**Why?** Here, it likely seeks to eliminate as opposed to facilitate City Public Hearing Process, thus to favor furtherance of Cell Tower, Third Parties, and only Citizen benefiting is Titus, Teas neighbor.

City cannot pick and chose which rules and regulations apply:

- **Staff Recommendation**:
  Denial of the change of zoning from the "CN-1" Neighborhood Commercial District to the "CN-1/SP" Neighborhood Commercial District with a Special Permit.
- What does that mean? Outcome via temporary zoning causes actual and proximate harm to Teas'.

**Plan CC & Area Development Plan Consistency**: The subject property is located within the boundaries of the Midtown Area Development Plan and **is planned for commercial uses.** ***Not true.***

The proposed rezoning to the "CN-1/SP" Neighborhood Commercial District with a Special Permit is consistent ***not true it is inconsistent with accordance with ongoing case "future" precedent to undermine City by its own misrepresentation of future growth as opposed to future technology (e.g. 2G, 3G, 4G,…. 5G, future is foreseeable 6G etc.) , not future according to City, or City's*** the "adopted Comprehensive Plan (Plan CC)". The following policies should be considered: ***Not true***

- ? Encourage orderly growth of **new residential,** mutually excludes Parks converted pursuant to residential new construction by City, ***not true. Here City, in acting to sell City Parks, in otherwise established 1960-1970 R-1, or C/N, not either "commercial, and industrial areas" presented by City staff, regardless comprehensive plan is ongoing blue print, and it is not unreasonable, inconsistent R Residential pursuant to sale of City Parks. Thus limited growth, not to be framed as " (Future Land Use, Zoning, and Urban Design Policy Statement 1)",***

- ***City Notice likely in lack of oversight of staff, or by turning a blind eye to known Subject Property, Known Teas' Property, thus relative to C/N zoning Notice, of the Subject Property, and/or Teas' property next door as adjacent residential for Teas, not to be deemed commercial by staff, Teas Property even if C/N pursuant to Deed Records, only acts at most as "approved" buffer between substantially [mis]represented residential and or State intent in Zoning, to exclude staff presentation from calling Teas Residential, and at most C/N—to be called, "Commercial".***

- ? Promote a balanced mix of land uses to accommodate continuous growth…**Not true, because Teas' 4737 Mt. Vernon and/or neighbors 5007 Everhart Rd, Subject Property per City Notice, is not in growth, but established non-growth location relative to 130 ft. Kansas third party cell tower, does not…** "promote the proper location of land uses based on compatibility, locational needs, and characteristics of each use. Framed correctly as ongoing residential and C/N use that cannot be further developed. If it could be relative to Cell Tower at 5007 Everhart Rd, (at SPID) comprehensive plan is not….what City staff says, "(Future Land Use, Zoning, and Urban Design Policy Statement 1)."

- ? Promote the monitoring of current development to identify infrastructure capacity deficiencies in advance of future development. (Future Land Use, Zoning, and Urban Design Policy Statement 1). ***Still not comprehensive plan established in 1960-1970 full residential subdivision,*** as **of 2022. Here, because of City Parks with Residential Subdivision to exclude Teas Property and or its subdivision per city Notice: Gray Village #2,** not in omitting truth, e.g. "Thanksgiving Subdivision is Residential just prior to 2022, as is **Maria Lauren Subdivision is not Teas' subdivision responsible for City acting based on its own requirement in 1970,** "in leu" of City gaining Parks thus City developers et.al. And residential and C/N, and all subdivisions proximate to 130' cell tower or radiation pole is full. No growth possible, after City— in reversing in leu condition for City acquisition of developers parks prior to 2022, as opposed to established and ongoing use relative to cell tower at Mt. Vernon Dr. 78411. But for City in 1960-1970 developments, requiring developers "in leu" of Parks, Teas could not easily show residential zoning intended, to exclude Commercial, but include only C/N.

Thus Teas Property is C/N, based on "in accordance language…." not future unviable language called double language aka double talk by City staff—established said residential with a couple of C/N's, Teas property even if Residential, at most is C/N pursuant to Deed filings.

- Regardless omitting real facts and law known to be…not future expectations that even lack but "in accordance with comprehensive plan, to exclude framed future growth.

- But for ….In accordance law, developers lacking "in leu" of consideration of City Park, would have violated the established **Comprehensive plan.**

- Therefore, full residential and C/N subdivisions are not going to outpace technology as staff implies, because it is established by Comprehensive plan, but under future plan 1970's or subsequent fulfilled ….In accordance Legal is not Future Growth.

- **Unified Development Code (UDC):**
  Wireless Telecommunication facilities are subject to regulation as follows:

? Wireless Telecommunication facilities are regulated by UDC Section 5.5.

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**Street R.O.W.**

Staff Report Page 3

- ? Wireless Telecommunication facilities in excess of 85' are permitted in nonresidential zoning districts as indicated in UDC Table 5.5.4.F. with a Special Permit. Here, ***only Teas'***

***Property under CN complies with UDC. Thus, excludes Subject Property pursuant to Staff Report, thus acts to violate City's ….In accordance meaning, by subverting unforeseeable growth in fulfillment of its own and known comprehensive plan dating back to 1960, 1970's, and if services is needed in 2022, regardless of described, technology expands faster than areas proximate to Subject Property , therefore City's ongoing plan relative Comprehensive Plan is not to include, but exclude areas relative to 5G type hazard in City violating its own code to its own demise in 2022 Staff Plan.***

- ***It is staff plans intent to include, despite legal outcome is to obviously exclude Titus, at CN.***

- ? Wireless telecommunication facilities shall be set back a minimum of one and a half times the height of the tower from the public right-of- way of all federal and state highways and any arterial street. **If this is true, then Titus and his Property "Subject Property" is intended to be excluded. Not premised on Growth, and legal waiver of City's last powers, to erode them further. Thus inconstancy is not consistant, nor can words be used to cause (statutory fraud) as it relates to real estate, using loophole in calling intermediate and/or Special Permit anything more than Special Use, and resulting in permanent cell tower, without staff review its excessive emissions, because the pole proximity is already excessive radiation to at least those areas said to be lacking service….**

- ? Wireless telecommunication facilities adjacent to residential dwellings shall be a minimum of one and a half times the height of the tower from any residential dwelling.

- If, true City Staff eliminates Subject Property, further proves Teas' Property at C/N is better and higher use than C/N of subject

property deemed to be one and a half times the high of—— Residential, not Commercial.

- **Department Comments**:

  - ☐ The proposed rezoning is consistent with the adopted Comprehensive Plan (Plan CC)
    and the Southeast (Midtown) Area Development Plan (ADP).***Here, City Staff represents either by adopted plan based on CC, not subject property and/or misrepresented relationship of radiation pole next to Teas' property C/N, Residential, described by City in previous misrepresentation.***

  - ☐ The proposed wireless telecommunication facility will increase data availability in an
    area where it is needed to prevent a degradation of services. **It is Untrue, it is NOT needed 2G, 3G, 4G, 5G…. in established neighborhood relative to comprehensive plan zoning rational not to prevent existing poles and cell towers from degradradation, on it face. Because, said utility type radiation emitting cell towers or not monitored by staff are existing and upgraded by Cell or Wireless third Parties, thus over reach in justification that again fails on its face, lacks any merit…..used to justify Kansas wireless and Titus Subject Property not maintained or in scope of City to upgrade existing technology, thus excludes Teas' neighbors 5007 Everhart Road, it known consideration via lease agreement—entered into "in leu of _____$0?**

  - **Not Parks, already in lue used by Staff, in reversing use from Park to Residential neighborhoods, thus in leu of**

**bribe or unrelated harm is not consideration, monetary consideration, or subject matter consideration, relative to a new pole via city staff acting in leu of unknown "consideration " as it is only relative to consideration between parties Titus and Wireless, in exchange for value, to exclude Teas, and City if acting properly with zoning powers.**

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- **Simple language: Rights, Property Rights, using city infrastructure whether by special provision as an amendment is essentially City using its (police power) against Teas in leu of some deal only between Kansas Wireless, Petitioner and Titus, Owner and lease consummated based on City acting so urgently for ……" no consideration, no pole or 5G type maintenance…. to unjustly unknown benefit via variance and or legal waiver of city rights that are being degraded by City staff.**

- ? Construction of the wireless telecommunication facility will increase coverage in
areas that are currently underserved. **What area relative to Subject Property is underserved? If radiation is increasing to out pace potential City growth cited omitting legal….language to cause harm to Teas, City by waiver of legal authority by precedent, thus erosion inflicted by City on itself.**

- ? The proposed tower does not meet the minimum required setback to a residential
dwelling as per Section 5.5.3.E.3. of the UDC. **Here, If 5007 Everhart Road, Subject Property violates Section 5.5.3.E.3. of the UDC, per staffs own report how can**

**violation or prohibited non coming use be justified to the point a lease agreement exist already, prior to public hearing, Appellate Harm, not provided a legal remedy pursuant to City finding Against Teas, and hiding behind "growth, when non growth, or growth cannot outpace growing technology (e.g. 5G). Therefore, adding a new pole for additional foreseeable excessive and unmitigated and ongoing RF's, not noticed except by those in "Silicone Valley" who demanded City not put 5G next to them in their own neighborhoods. Similarly Kansas, SCI, AT&T and or Tillman is a third party provider that maintains poles, notwithstanding City Staff expressly stating "degradation issue" is on its face a non-issue. Here third Parties benefits and deals based on City staffs "bad faith" act to restrict cell tower 130' tall for some reason….oh Section Section 5.5.3.E.3. of the UDC.**

- ? However, the proposed tower will be designed to withstand a wind speed of at least 130 mph and therefore qualify for a variance according to Section 5.5.3.E.5. of the UDC. However, the proposed tower will be designed to withstand a wind speed of at least 130 mph and therefore qualify for a variance according to Section 5.5.3.E.5. of the UDC. The above City staff recommendation is a perfect example of dual language, double language, double talk…… Despite Subject Property harming Teas and others, it is restricted based on setback, because notwithstanding a hurricane and Fire Code Violation, in firefighters suffering injury are harm dealing with a downed radiation tower prosed, calling it to be viable "However, the proposed tower will be designed to withstand a wind speed of at least 130 mph and therefore qualify for a variance according to Section 5.5.3.E.5. of the UDC. ***Nice, but what about all times not***

***downed by hurricane winds However, the proposed tower will be designed to withstand a wind speed of at least 130 mph and therefore qualify for a variance according to Section 5.5.3.E.5. of the UDC? Follow the lease agreement, Staff unreasonable acts in bad faith to cause Teas harm, to undermine City by waiver of its power (precedent—set by unknowing Residents, or Anyone, except for missing IN OPPOSITION TEAS mailed in properly leaving Teas, Property owner only with ¾ of yellow City Notice, double language, to be filed of recored, but conspicuously not 3 or less days prior to being "turned down by Hearing, in leu of Third Party Benefits claimed to be City responsibility, framed on Growing not established Subject Property proximate cell tower location, not as despised by thin viewing, or open pursuant to a non applicable, but if applicable during a hurricane pursuant to staff finding a positive attribute to benefit City Staff, not City or Citizens, or Fire Department, nor Teas—Who has notice that consideration is and has been exchanged under a lease agreement, to harm City via waiver of powers, to harm Teas, the only relevant Property Owner within 200' of 130' radiation emitting Cell Tower, not under reasonable set back standard (because of the very Heath and Safety, Staff ignores to further say, but for radiation of Teas, set back is to distance foreseeable harm pursuant to Section 5.5.3.E.5. of the UDC,***

- ***"proposed tower will be designed to withstand a wind speed of at least 130 mph and therefore qualify for a variance according to Section 5.5.3.E.5. of the UDC"***

- ***Notwithstanding, "***The proposed tower does not meet the minimum required setback to a residential dwelling as per Section 5.5.3.E.3. of the UDC."

- Set back implies foreseeable radiation, not temporary downed pole during a hurricane—that is likely also to be avoided, thus not a positive however it may be spun.

- **Staff Recommendation**:
  Denial of the change of zoning from the "CN-1" Neighborhood Commercial District to the "CN-1/SP" **Neighborhood Commercial District with a Special Permit.**

**Simply, Stated Staff recommends Subject Property, although reasonably denied to be found against Teas, City, et.al. under some misrepresentation scheme benefitting City Staff.**

# PLANNING COMMISSION REPORT **INFOR No.** 22ZN1002

**Case No.** 0222-02
**Planning Commission Hearing Date**: February 9, 2022

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**Owner:** Curtis and Donna Titus
**Applicant:** SCI Wireless & Tillman Infrastructure
**Location Address:** 5007 Everhart Road
**Legal Description:** Lot 10, Block 2, Gray Village #2 Subdivision, located along the east side of Everhart Road, north of South Padre Island Drive, and south and east of Mt Vernon Drive

**From: "CN-1" Neighborhood Commercial District**
**To: "CN-1/SP" Neighborhood Commercial District with a Special Permit Area: 0.4477 acres**
**Purpose of Request: Simply,**
***"To allow for the construction of a 130-foot monopole cell tower" prohibited by City pursuant to City's own rules. City cannot exceed authority of UDC. Texas under small town set up, FCC finding in 2022 against Cell Tower 5G radiation exponitionally high, but disregard in set back under UDC, in best interest of third party "Wireless" petitioner with expectations that "it is a done deal" otherwise Titus and Wireless (5G cell radiation non-disclosure is a City Violation) under "*****The proposed tower does not meet the minimum required setback to a residential dwelling as per Section 5.5.3.E.3. of the UDC."** **City Staff 2022 own findings favoring third party and third party Wireless petition (See insert A) for consideration to unjustly enrich Titus which Teas Harm clearly his property is within setback limits to cause harm— as opposed to Purpose Zoning Statement. For whom?**

**Transportation and Circulation**: The subject property has approximately 130 feet of street frontage along Everhart Road which is designated as a "A1" Minor Arterial Street and approximately 150 feet of street frontage along Mount Vernon Drive which is designated as a "Local/Residential" Street. According to the Urban Transportation Plan, "A1" Minor Arterial Streets can convey a capacity between 15,000 and 24,000 Average Daily Trips (ADT).

**Again City staff manipulates information.**

**Transportation**

**ADP, Map & Violations**

**Existing Zoning and Land Uses**

**Zoning Request**

**Applicant & Legal Description**

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**Street**

**Yorktown Boulevard**

**Staff Summary**:

**Urban Transportation Plan Type**

"A1" Minor Arterial

**Proposed Section** 95' ROW 64' paved

**Existing Section** 83' ROW 63' paved



**Traffic Volume**

N/A N/A

| | | | |
|---|---|---|---|
| **Mount Vernon Drive** | "Local / Residential" | 50' ROW<br>28' paved | 50' ROW<br>30' paved |

**Existing Land Uses & Zoning**: The subject property is currently zoned "CN-1" Neighborhood Commercial District and consists of a two-tenant shopping center constructed in 1968. **Therefore it is not Commercial as stated previously,**

**To the north and west are office buildings zoned "ON" Neighborhood Office District Therefore, not Commercial and or industrial.**

**"To the south is a multitenant shopping center zoned "CG-2" General Commercial District. To the east across Everhart Road are retail and office uses zoned "CN-1" Neighborhood Commercial District. And under at least UDC set back indicates RF emissions, whether intentionally acted upon to not disclose (Tex. Prop. Code 5.0008, UDC, Notice and consistant and legal significant abuse of City posers, application process, notice process, despite it is untrue to base on future growth, in an area that is not able to grow, but for a few city parks being rezoned in the past and prior to 2022, thus not future growth area framed by City staff.**

**AICUZ: The subject property is not located in one of the Navy's Air Installation Compatibility Use Zones (AICUZ).**

- Wireless telecommunication facilities shall be set back a minimum of one and a half times the height of the tower from the public right-of- way of all federal and state highways and any arterial street.
- UNC and AICUZ state: "Wireless telecommunication facilities shall be set back a minimum of one and a half times the height of the tower from the public right-of- way of all federal and state highways and any arterial street"

- Not windstorm type code pursuant to a cell tower during a hurricane event, still harmful…..maybe more harmful if falls on Teas or his property?

- ? Wireless telecommunication facilities adjacent to residential dwellings shall be a minimum of one and a half times the height of the tower from any residential dwelling.

- **Simply stated, the subject property under reasonable standards violates rational decision making. But in furtherance of irrational cell tower, with substantial Radio Frequency (RF's) prohibited by City, City's own rules, UNC, AICUZ, Statute of Texas, FCC in 2022 because a new cell tower is not justified based on excessive radiation already at the Subject Property, not monitored or reviewed on towers already increasing RF's via 5G radiation that causes City to find for RF, EMF, 5G known emission to be mitigated on surrounding poles existing, not to undermine "set back" expressed by City Staff, City by City Staff, or Teas by City Staff, thus new cell tower proposed at 5007 Everhart Road in 2022 is preposterous act to benefit only: wireless and Titus exchanging consideration for use of Subject Property (insert A), and unknown City Staff benefit.**

- **City Staff is undermining City, using double language City's own rules against itself here in proposed Cell tower.**
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- **Department Comments**:

- ☐ **The proposed rezoning is consistent with the adopted Comprehensive Plan (Plan CC) and the Southeast (Midtown) Area Development Plan (ADP).** ***Irrelevant.***

- ☐ The proposed wireless telecommunication facility will increase data availability in an area where it is needed to prevent a degradation of services. ***Irrelevant based on UNC, et.al. set back provisions in area land locked, thus not growing and certainly not growing faster than harm of 2022 5G emission that would cause reasonable City staff to actually dismiss zoning case, not facilitate under some ulterior motive of City Staff.***

- ☐ Construction of the wireless telecommunication facility will increase coverage in areas that are currently underserved. Subject property cannot be underserved, next door to Teas' property that is under 2022 5G findings excessive based on existing and unmonitored poles City staff is likely too busy trying to push through the Case and other Meritless Cases on their face, not to be aware of actual and proximate RF's already at Subject Property, thus as technology increases existing poles more than sufficient, but more likely than not need to be lessened, because 3G is not 5G. Research reasoning behind set back under 2022 standards, not on past pursuant to zoning applied to…..in accordance with comprehensive plan as it relates to Subject Property at EVERHART ROAD AND SPID, and technology increasing to excess prior to City Staff communicated (against its own bylaws with Wireless, otherwise Wireless would not be bound by lease agreement prior to Hearing with Titus, Teas' neighbor.

City's Report to the City is neither based in Fact or Law required of City by the City. Here, to justify what is more like "taking" not only in Subject Property at 5007 Everhart Road, in Gray Village Subdivision, based on monetary comphensation, but Teas neighbor within 200 Ft of 130 foot, unneeded additional Cell Tower. And whether City Staff calls significant legal zoning precedent…a special permit or intermediate plan City staff is facilitating only Staff, third party Wireless not located proximately to the proposed Tower of RF's EMF's, unlike Titus, however 1) lease agreements between Titus and Wireless provided to Teas by Petitioner premised on City Staff double language and prior to January 31, 2021 when Teas received Notice of compensation between Titus and Wireless, by Wireless petitioner, 2) not only to exclude Teas Rights and Adjacent Property Rights, but expose Teas and Teas' property to stimintation of RF's sooner or later admitted to be excessive already at Subject Property, thus Teas' not requiring pole per City Staff with some interest not disclosed, 3) Again agreements between Wireless and Titus excluded Teas from exposure hazard even if only 200 feet in 2022, because Teas Property is within 200' of 130' proposed cell pole, notwithstanding radiation grows exponentially with Technology to be mitigated by City Staff who spends time in schemes to further private and third party interest that is contrary to Purpose of Rezoning stated Safety Welfare outweighs private deals between Petitioner, and Applicant as it is intended to protect Teas from RF's already known to be excessive on poles the City Staff claims to have some interest in. Here, no interest by Third Party especially those not affected by RF's on proposed cell tower AKA Radiation, leaving consideration only for Titus, applicant disclosed and undisclosed benefit to harm Teas Rights, Teas' Property, undermine City via City Staff causing temporary to be essentially unconscionable act in forming legal waiver to benefit City Staffer? Teas lacks consideration, Wireless does not suffer from its own proposed Cell Tower 130' nor does anyone else in meritless claims by city staff.

Legal Notice of Public Hearing 2) Excluding Teas, as he is harmed by neighbor Titus and Wireless' 130' pole radiation 3) omitting set back findings thus omitting radiation sickness et.al. that harms those not lacking current service at subject location, nor under City Staff presentation to City considers set back in UNC or Any Acronym in 2022 not limited to the FCC, WHO, State finding 5G for instance

is exponentially more dangerous to those proximate to pole than 4G was, and 3G was before that thus guidelines misleading based on RF commission's in past.

City Staff not only withholds relevant information in 2022 pursuant to 5G causing excess in Growing Area, but Area is landlocked and cannot grow faster than 6G.

And stating the opposite, City staff is saying, "Growth in Subject Property location despite already not conforming to City Code, UNC, et.al. described pursuant to 2022 5G requiring mitigation of those towers that surround Subject Property, omitting that City staff is negligent in obviously not finding excessive RF's emitted to exceed service of those proximate to tower, thus is not monitoring excess, and therefore not mitigating in compliance with Zoning Purpose favoring health and welfare of Teas and those already exposed, because of said lack of monitoring of Towers existing, 5G mounted on Buildings, et.al. resulting in excessive, un monitored health and welfare issue City Staff not only ignores pursuant to its own report favor subject property in 2022, but at the same time does not monitor to mitigate, but spends City Staff time on influencing wireless third party placing unneeded, pole that is a noice, thus nuisance that would not only violate Teas rights, but cause constitutional question neither City nor Courts want to interfere with, thus dispose of such cases that might lead to said rights.

City Staff acts not under City Rules and Regulations, but despite them which undermines City, and harms Teas compensating only Titus based on 5G and future of 6G etc. that far outweighs Titus rights to a cell tower for additional income, not uniquely affording service to those who have excessive service, via excessive health and safety concerns, from 5G not fully understood but causing set backs from said RF emission towers.

City Staff, whether via conta-defining e.g. a "non change" to mean "a change by amendment", is as **degrading** to City Code, City Power in zoning it allows to be taken by Wireless, petitioner here from City via waiver (Special Permit or Variance called an Intermediate Zoning Classification) is degrading of said City limited and lessening power, petitioned for Wireless' here by 130' tall cell tower increase both Wireless Third Parties Power Now, and precedent set later via legal waiver.

City staff is not mitigating Teas Health and Welfare, but in furtherance of facilitating Wireless only causes harm to City's limited zoning power, and Teas.

Thus legal waiver (via variance called Special Permit) is the very waiver to decrease City's own power, by not following its own rule. Alternative said City decrease of its own police type power used against itself—via waiver increases Third Party Influence while Third Party, Wireless Petitions for Special Permit, sets up City via precedent in waiving its own power, by what includes "set back" and "radiation emissions" or rules existing waived in favor of Third Party "Wireless" relative to this case. And precedent Set for other Third Party Wireless class vendors to increase Cell Towers in number and increase a Third Party Cell Tower technology via 5G on existing Cell Towers to exceed reasonableness.

UP ZONING or SPOT ZONING is neither favorable to City or City's residence or Teas Property value, or Teas Health and Well Being.

Increasing Radiation both by tower already in service via 5G, and in obtaining new towers via variance does not equal two, Third Party Positives thus is more than Excessive legal and technology expectations, City either facilitates against its self via waiver by variation, that is not intended in this case, but will be the outcome based on City Staff finding Against Appellant Teas, a Citizen of City, as opposed to Citizen of City in California who IN OPPOSITION cause 5G technology to be avoided by rezoning schemes.

Here, **City Staff** causing City's degrading (decreasing) "police type power" is controlled limited power left controlled by City, Notwithstanding, City staff is controlled by City, thus it comes back to City acting to waive its own limited power via variance, regardless of what its is called, or misrepresented to City via City Staff a power is decreasing to favor Third Party Wireless whether in not monitoring its actual and proximate 5G type technology already zoned, or spending time confusing those that would otherwise say something if they saw something. Whether RF's can be seen is irrelevant if they can be heard. Because a

Nuisance is clearly defined by City Code as it relates to either hearing or seeing illegal fireworks, waived due to lack of enforcement or RF emissions pursuant to foreseeable 4G, 5G, thus 6G. If Radiation causes a nuisance later defined by City, all the unwarranted Cell Towers are "grandfathered in."

Whether Third Party here, Wireless, Petitioners Control more of City via influence provided by City Staff is not the crux of the issue but outcome of allowing legal type waiver via variance as it relates to technology that outpaces City population growth.

Here, City staff is essential creating a variance, thus legal waiver City has to deal with in foreseeable future. City can waive its police and its legal powers. "Variance" precedent established is limited, thus to what end will City stop transfer

**of its own power?**