

**BOARD OF ADMINISTRATIVE REVIEW  
CITY OF LADUE  
ST. LOUIS COUNTY, MISSOURI  
WEDNESDAY AUGUST 17, 2022**

The meeting of the Board of Administrative Review of the City of Ladue, St. Louis County, Missouri, was held on Wednesday August 17, 2022, at 4:00 p.m., at City Hall, 9345 Clayton Road. The following members were present:

Members of the Board present:

Liza Forshaw, Chairman  
Dan Welsh  
Laura Long  
Elizabeth Panke  
David Schlafly

Five Members present.

Also present were Mayor Nancy Spewak; Ms. Andrea Sukanek, City Planner; Ms. Anne Lamitola, Director of Public Works; Ms. Erin Seele, City Attorney; Mr. David Streubel, City Attorney; and Ms. Stacey Mann, City Clerk.

**Approval of the Agenda:** Chairman Forshaw stated that Case Number 2022-02 has been withdrawn. Ms. Long moved to approve the agenda as amended, upon second by Mr. Schlafly the motion passed unanimously.

**Case 2022-01:** Chairman Forshaw incorporated the following exhibits into the record:

Exhibit A:	Code of Ordinances
Exhibit B:	Petition submitted by Mr. Bird (petitioner)
Exhibit C:	Supporting Evidence
Exhibit D:	Ladue Small Cell Presentation <i>*Let the record reflect that Mr. Bird objected to the inclusion of the cell phone coverage map included within this exhibit.</i>
Exhibit E:	Handouts (2)
Exhibit F:	Ladue 2040 Comprehensive Plan
Exhibit G:	Advisory Committee Report
Exhibit H:	Email communications
Exhibit I:	Petitioner's Exhibits

Ms. Forshaw asked that the petitioner come forward and be sworn in and provide his evidence and testimony. Ms. Forshaw reminded the members of the audience that anyone who wished to present evidence or testimony would do so under oath.

Mr. Bird, 1 Robin Hill Lane, was sworn in by the court reporter.

Mr. Bird stated that the proposed cell structure would be located at his front yard, and that he has objected to this request at the City of Ladue Zoning and Planning Meetings, as well as at the City Council meetings. Mr. Bird added that he was of the

opinion that the structure would significantly alter the nature of the neighborhood. Mr. Bird stated that in addition to negative impacts to the neighborhood, there were many defects in the special use application submitted by AT&T. Mr. Bird outlined these deficiencies, which consisted of errors, including incorrect addresses, listed on the application, as well as incomplete portions of the application.

Mr. Bird stated that recently he tested his ability to make phone calls throughout his neighborhood, and adjacent streets, and was successful in making calls with 5G coverage. Mr. Bird added that a recent report by the Wall Street Journal has called out a lack of accurate maps showing gaps in coverage. He believes that the maps presented by AT&T do not reflect the current coverage in the area.

Mr. Bird stated that for these reasons, in addition to what he considers to be deficiencies in the wireless communication regulations of Ladue, that he believes that Council erred in their approval of this Special Use Permit.

During cross examination by Mr. Streubel, Mr. Bird acknowledged that prior to the City Council meeting he became aware of where 62 South McKnight was located.

Mr. Streubel and Mr. Bird engaged in a line of questioning regarding provisions of the City code, including the zoning chapter, building code, and right-of-way management code.

Mr. Streubel asked Mr. Bird if the structure would be installed on his property or on the right-of-way. Mr. Bird stated that it was unclear to him who owns and is responsible for the right-of-way adjacent to his property.

Ms. Seele addressed the Board and audience detailing the purpose of the meeting, and the allegations brought forward by the petitioner. Ms. Seele provided a summary of the witnesses the city plans to call forward including Sandra Szyhowski (AT&T), Joe Markus (Black & Veatch), Andrea Sukanek (Ladue City Planner), and Charlie Hiemenz (Ladue Advisory Committee on Cell Service). Ms. Seele informed those in attendance of state and federal laws regarding wireless facilities.

Mr. Streubel called Ms. Sandra Szyhowski, RF engineer at AT&T, to provide her testimony.

Ms. Szyhowski was sworn-in by the court reporter. Ms. Szyhowski testified that in her role at AT&T she analyzed data to try and determine locations for towers in areas where there was gap coverage. Ms. Szyhowski stated that in this area cell coverage is not to their standard, and the height is necessary to fill the gap.

Mr. Streubel called Joe Markus, Black & Veatch, to provide his testimony.

Mr. Markus was sworn in by the court report. Mr. Markus testified that his role is to identify areas to install poles, within the parameters set by the engineers and Ameren. Mr. Markus stated that he holds a real estate license, and that it has been his experience that increased cell coverage can enhance property values. Mr. Markus testified that the pole has undergone structural analysis and the location has been determined to be suitable for better coverage.

Ms. Seele called Ms. Andrea Sukanek, Ladue City Planner, to provide her testimony.

Ms. Sukanek was sworn in by the court reporter. Ms. Sukanek reviewed her primary job responsibilities for the Board, and the process by which the most recently comprehensive plan was updated. Ms. Sukanek described the goals of the comprehensive plan, which include improvements to the reliability of cell service. Ms. Sukanek added that the plan includes strategies and plans to improve the quality of cell service. Ms. Sukanek explained what necessitates a special use permit and the process of obtaining a special use permit. She testified that AT&T complied with the requirements of the special use permit application. Ms. Sukanek testified that the pole would be installed on city right-of-way, not on private property.

Ms. Seele called Mr. Charlie Hiemenz, Ladue Advisory Committee on Cell Service, to provide his testimony.

Mr. Hiemenz was sworn in by the court reporter. Mr. Hiemenz described his affiliation and experience with the City of Ladue, including his service on the City Council for twenty years. Mr. Hiemenz provided the background on the Ladue Advisory Committee created by Mayor Spewak to address cellular service. Mr. Hiemenz testified that the committee found three primary problems, which included tree canopy, topography, and the age of the buildings and infrastructure. Mr. Hiemenz stated that the committee collaborated with the cellular carriers to better understand where the gaps were and how to address them. Mr. Hiemenz testified that as a resident, and former council member, cell coverage is the top complaint of Ladue residents.

Valerie Anderson, 2 Robin Hill Lane, stated that she felt the City lacked transparency, and attempted to intentionally deceive residents by not providing a more recognizable address for the site in question. Ms. Seele provided to Ms. Anderson a copy of Exhibit C, which included the public notice. On the public notice, it includes the parcel address, 62 South McKnight, and identified the location as adjacent to 1 Robin Hill Lane, to eliminate confusion as to where the pole was intended to be installed.

Peggy Ward, Ladue Resident, stated that a goal of the comprehensive plan was to preserve and enhance the character of Ladue, and she felt that the approval of the pole would negatively impact and alter the landscape.

John Brunner, 5 Ridgewood, spoke in opposition to the pole, and stated that the Board and elected officials should give weight to the voice of the residents who are expressing the opinion that their cell coverage is adequate, and the installation of a pole is not necessary. Mr. Brunner said it was disconcerting that the Board and Council are unable to consider health effects.

Anthony Bommarito, 7 McKnight Lane, stated that he has never experienced problems with his cell coverage, and is concerned about the character and beauty of Ladue being affected by this pole.

Lauren Brunner, 5 Ridgewood, stated that she is opposed to the installation of the pole at this location, and added that there was litigation around the country that

shows that it is not ideal for poles to be installed in residential areas. Ms. Brunner stated that she was concerned about the precedent that this may set for future pole installations.

Hearing no additional testimony, Chairman Forshaw closed the evidence portion of the meeting.

Mr. Welsh confirmed with Mr. Bird that he was aware of the special use permit process, and the location in which AT&T was seeking to install the pole, and that the deficiencies he pointed out in the application were technical in nature. Mr. Bird responded in the affirmative and agreed that he understood the intended location of the pole. Mr. Welsh also confirmed with Mr. Bird that he was aware that the pole was to be located in the right-of-way, and not on his private property. Mr. Bird stated that he does not dispute that the pole was to be installed on the right-of-way but has questioned who is responsible for the right-of-way.

Mr. Welsh explained that the Board may move to request findings of fact and conclusions of law from the petitioner and the City. Mr. Welsh added that he believed that this approach seems desirable, as it gives the Board the opportunity to digest the facts and decide at a later date.

Ms. Long moved for both sides to prepare and submit findings of fact and conclusions of law within thirty days for review and approval by the Board, with a second by Mr. Schlafly. A roll call vote then took place with the following results:

Schlafly:	"In favor."
Long:	"In favor."
Forshaw:	"In favor."
Welsh:	"In favor."
Panke:	"In favor."

Motion carried.

Mr. Streubel stated that thirty days from the meeting was Saturday, September 17<sup>th</sup>, and requested that the Board suggest having the findings of fact be submitted by Monday September 19<sup>th</sup>. Board set the date for submittals of finding of fact and conclusions of law to Monday September 19, 2022.

**Adjournment:** Mr. Schlafly moved adjournment, with second by Ms. Long the motion passed unanimously. The meeting adjourned at 6:45 P.M.

**APPROVED THIS 26<sup>th</sup> DAY OF OCTOBER 2022.**

  
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Liza Forshaw, Chairman