

MEMORANDUM

To: City of East Lansing

From: Frederick M. Baker, Jr., for Citizens Engaged for Livable Locations (“CELL”)

Re: Crown Castle Small Cell Wireless Permit Application

Date: March 7, 2023

Background

A number of East Lansing residents¹ are concerned about the potential impact on the East Lansing cityscape, and especially affected historic areas and residential neighborhoods, of the extensive Crown Castle small cell 5G installations depicted in **Attachment A**. It appears that approximately 80 are contemplated, of which an unknown number already have been installed.

No one can tell from information publicly available, and the Crown representatives at the Open House were unable to say, how many (and which) of these installations will be colocated on existing utility, light, or other support structures that can be used for this purpose. This prevents any determination by affected members of the public (or, indeed, by City officials charged with enforcing the City’s ordinance) whether what Crown proposes is consistent with the Act’s expressed preference for colocation,² and how many will be free-standing 40-foot towers like the ugly, *beeping* tower recently erected in the heart of Glencairn shown in **Attachment B** (the tower on Wildwood off Harrison – go listen for yourself).

Many of CELL members’ questions remained unanswered after meeting with Crown representatives at the February 27 Open House at Hannah. Among these was why so many structures are being constructed in obvious proximity to the MSU campus, rather than to provide 5-G service to the greater East Lansing community, most of which lies far outside the limited range of the planned facilities.

MSU already provides (at a charge) 100% 5-G coverage to the faculty, staff, and over 50,000 students on its campus. It does so by using the on-campus portion of the same fiberoptic

¹ These residents have formed CELL, the voluntary unincorporated association identified in the salutation.

² 2018 PA 365, the Small Wireless Communications Facilities Deployment Act (“The Act”), MCL 460.1301, et seq. See §1(2)(i) (“The purpose of the act is to do all of the following ... (i) **Prioritize, as provided in this act, the use of existing utility poles** and wireless support structures for collocation [sic] **over the installation of new utility poles or wireless support structures.**”) (Emphasis added).

network that Crown itself installed in 2022 that is located on campus, as depicted in **Attachment C**.

When asked about this, Crown representatives stated at the Open House that the specifications of its customer, Verizon, not Crown, dictate the locations of these proposed new 5G facilities. Crown confirmed this in a March 2, 2023, email sent to the writer in response to a written question left on a query card that Crown provided at the Open House:

Crown Castle has been contracted to build in the public right of way in East Lansing. Wireless carriers provide Crown Castle with specific locations based on the carrier's network coverage and capacity needs.

Small Cells are often attached to existing infrastructure in the public right of way, such as streetlights and utility poles. Where there is no viable existing infrastructure, then the alternative is to propose to build a new pole or streetlight that will accommodate the small cell. In East Lansing, the final determination of new pole vs. existing pole locations has not been made.

Crown Castle Lansing area team

See **Attachment D**.

From the configuration of the proposed installations depicted in Attachment A, and as we have learned Crown has confirmed in direct communications with at least some council members, it plainly appears that the facilities Crown now proposes, and the two towers for which permit applications are pending, are part of a network of 5G facilities designed to enable Verizon, the Crown customer identified at the Open House as the only party that could explain why the 5G facility locations it proposes have been selected, to compete with the 5G service being provided by MSU's existing 5G facilities.

It appears that, because the MSU is a constitutional body (and a land grant university), MSU's campus has no "public right-of-way"³ subject to the Act. Therefore, if (as it appears) Verizon does not wish to use MSU's existing 5G network capacity (and pay what MSU charges

³ Section 7(h) of the Act defines "public right of way" as "the area on, below, or above a *public roadway, highway, street, alley, bridge, sidewalk, or utility easement* dedicated for compatible uses," and does not include "a private right of way." (Emphasis added). An "authority" is defined to mean "this state, a county road commission, or a county, township, city, village, district, or subdivision thereof," and thus does not include Michigan's five constitutionally created universities.

The East Lansing Code of Ordinances (the "Code"), § 42-278, specifically provides that it "does not apply and the City of East Lansing does not have jurisdiction or authority of [sic – over] small cell wireless facilities located upon the campus of Michigan State University ...".

providers to do so), the only alternative that will enable Verizon to reach MSU's large and highly concentrated market for 5G services is to use East Lansing's public right-of-way to build a competing network to serve the MSU campus.

If, as it appears, Crown, and its customer, Verizon, are using the Act and the Ordinance to exploit East Lansing's public right-of-way to serve a market that is explicitly not within the reach and jurisdiction of East Lansing's "small wireless communications ordinance," it would appear that, at least arguably, the Act and the Ordinance are being employed (and "applied," for purposes of constitutional analysis) in a manner, and for a purpose, inconsistent with East Lansing's constitutional right⁴ to exercise "reasonable control" of its streets, and to condition such use of its streets on its consent. That right was not nullified by the Act or the Ordinance, and it is at least arguably impinged if the result of Verizon's pursuit of *a market located outside East Lansing's jurisdiction unreasonably burdens East Lansing public right-of-way, in the process imposing significant and disproportionate burdens on selected East Lansing residential and/or historic district property owners who are not even members of the market to be served.*⁵

Meanwhile, little time remains before the March 27, 2023, which, if the December 27, 2022, publication of the permit application notices in **Attachment E** started the "shot clock" under the ordinance, would be the automatic approval date.⁶

⁴ No person, partnership, association or **corporation**, public or private, **operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.**

⁵ Const. 1963, art. vii, § 29 (emphasis added).

⁶ The [FCC broadband map](https://broadbandmap.fcc.gov/home) shows that East Lansing currently enjoys full 5G coverage, both fixed AND mobile broadband. See <https://broadbandmap.fcc.gov/home>.

⁶ See 2018 PA 365, the Small Wireless Communications Facilities Deployment Act ("The Act"), MCL 460.1301, et seq. § 15(2)(h)(B), and the corresponding Code provision, § 42-275(b)(5)(b)(6) ("A completed application is considered to be approved if not timely acted upon by the authority and, if the authority receives a notice not less than seven days before, the applicant may proceed with the work pursuant to this automatic approval.")

Since the notice was obviously published after Crown filed the applications, we do not know at this time what the actual automatic approval date is, because it is not included in the Notices, probably rendering them defective under the Act and the Code. This impending deadline adds a note of urgency to CELL's requests.

CELL members are concerned that large, ugly, beeping towers like the one in Attachment B (the tower on Wildwood off Harrison) are going to appear gradually, over time, without any *comprehensive* consideration of the entire proposed plan to determine:

(1) the feasibility, in keeping with the preference embodied in the Act, of using colocation on existing structures;

(2) the feasibility of nearby siting options the City may request or suggest under the Act and the East Lansing City Code;⁷ and

(3) whether historic district preservation requirements should be adopted and/or applied to any of the proposed locations affected by Crown's plan, which appears to place almost 20 of the proposed facilities in the Collegeville and Oakwood historic districts, and possibly an undetermined additional number in the College Grove and Bailey districts. Attachment F.

For all of these reasons, CELL requests that the Council take two actions, as outlined in the following proposals.

1. THE COUNCIL SHOULD EXTEND THE AUTOMATIC APPROVAL DEADLINE FOR THE TWO PENDING PERMIT APPLICATIONS TO ENABLE THE CITY TO DETERMINE WHETHER ALL SITING AND COLOCATION ALTERNATIVES THAT WOULD MAKE A NEW TOWER UNNECESSARY HAVE BEEN CONSIDERED.

Under the both the Act and the Code,⁸ the City may extend the automatic approval deadline by 15 days, to give itself time to review the suitability of the type and location of the facilities described in the applications published on December 27, 2022.

For the reasons outlined in the Background, above, CELL believes that this is a reasonable and prudent means to ensure that the applications are consistent with the Act's expressed preference for colocation, and with the protection of the aesthetic integrity of the residential neighborhoods in which they are proposed to be located.

2. THE COUNCIL SHOULD PROPOSE THAT CROWN AND VERIZON DISCLOSE THE LOCATION OF EACH NEW TOWER THAT IS

⁷ The Act, § 15(6); Code § 42-275(f) ("Upon receipt of an application to place a new utility pole, the authority may propose and the applicant shall use an alternate location within the ROW or on property or structures owned or controlled by an authority within 75 feet of the applicant's proposed location if reasonably achievable.").

⁸ MCL 460.1301, et seq. § 15(2)(h)(B), and the corresponding Code provision, § 42-275(b)(5)(b)(2), the City may notify the applicant that an extension is needed, stating the reasons for the extension.

PLANNED TO BE INSTALLED UNDER THE VERIZON SPECIFICATIONS THAT RESULTED IN THE SMALL CELL 5G FACILITY LAYOUT CROWN HAS PROPOSED AND MEET WITH A REPRESENTATIVE OF CELL AND THE CITY TO EXPLORE WHETHER, DESIGN, COLOCATION AND/OR SITING ALTERNATIVES ARE AVAILABLE AND/OR REQUIRED UNDER THE ACT AND THE CODE.

CELL's members are not Luddites intent upon obstructing progress or interfering with the efficient provision of 5G service by Verizon or any other provider. CELL's members recognize that the Act, and the East Lansing ordinance enacted pursuant to it, are designed to simplify the process of securing access to public right-of-way that will enable Crown and its customers to provide 5G services to the residents of East Lansing.

That said, *nothing that Crown's representatives conveyed to the East Lansing residents at the February 27 "Open House," and nothing in its e-mail response to questions allayed the concerns that have been outlined here.* In essence, as Crown's email response confirmed, the reasons for the location and the intended use of the facilities has been withheld by simply saying that these are dictated by Verizon's specifications. Yet no Verizon representative was present to address those questions and to our knowledge the City has not asked Verizon to provide that information.

CELL suggests that the way to achieve harmonious implementation of Verizon's specifications and Crown's plan is for Crown and Verizon to meet with representatives of the City and CELL to provide the information necessary to permit the parties to have a transparent discussion of the necessity for any facilities that are not currently slated for colocation. Such a process, which can be modeled on the same process devised by the stakeholders in Ann Arbor to give members of the public affected by the development of 5G facilities to voice legitimate concerns and propose feasible alternatives. **Attachment G** provides a concise description of the

Ann Arbor Small Cell Facilities program and links to the guidelines and engineering criteria that Ann Arbor has developed. Contact information for Ann Arbor's Cellular Infrastructure manager is available from CELL if the City wishes to look into this possibility.

CELL urges the City to give citizens a voice in this process, through their ad hoc representative, and to itself take a more proactive role in the Crown project (and any future 5G proposals) to prevent the erection of unsightly new towers that are not strictly *necessary* to achieve the goals underlying the Verizon specifications and the Crown proposal.

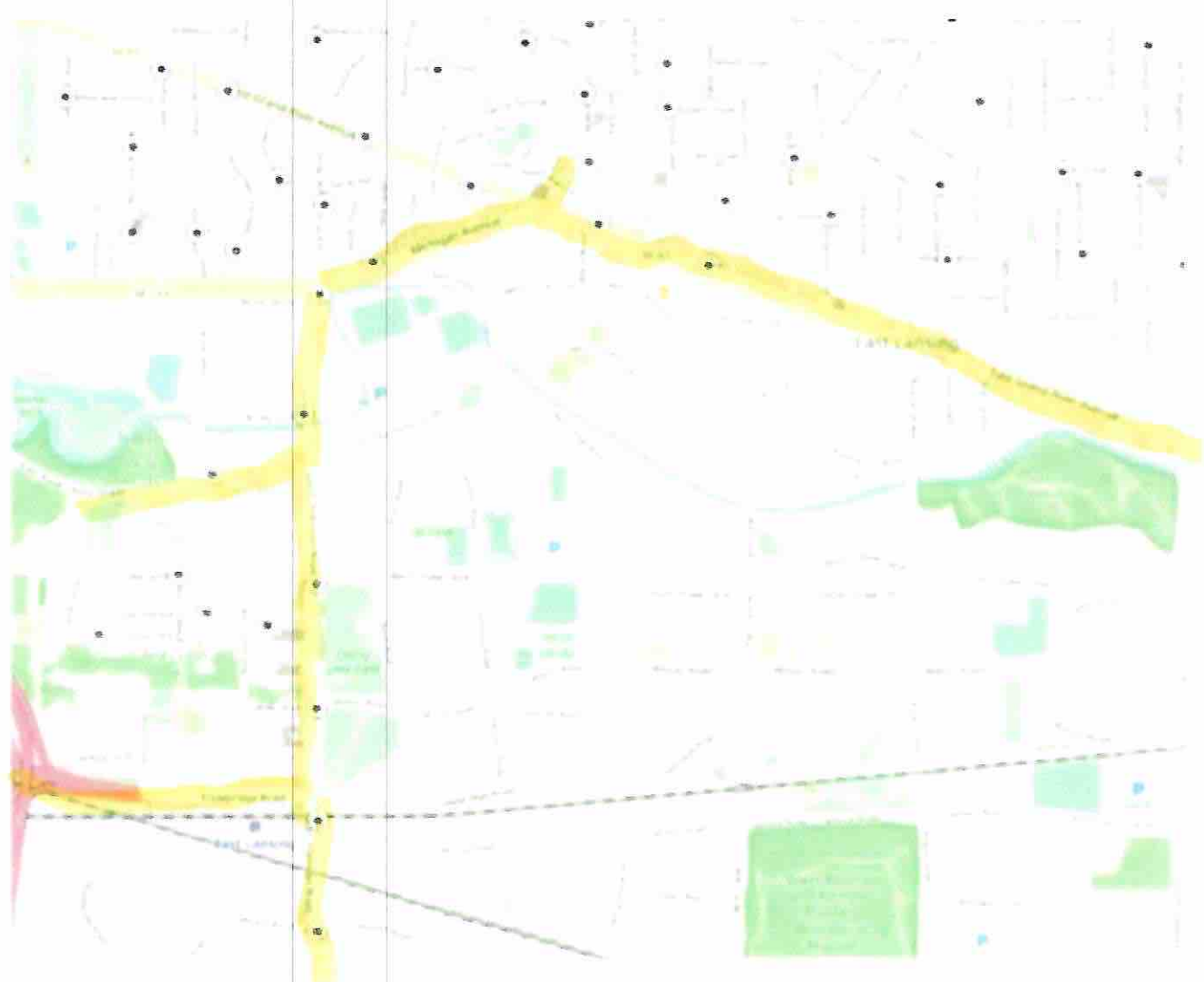
The prompt creation of such an ad hoc working group would cause no delay, or at least certainly would cause no unreasonable delay, in the current gradual implementation of Crown's plan that is already underway.

CONCLUSION

For the reasons submitted, CELL urges the Council to adopt a resolution at its meeting of March 14, 2023, implementing the two requests for action outlined above, and instruct City officials to seek the cooperation of Crown and Verizon in implementing them.

Thank you for your consideration of these proposals.

A



B

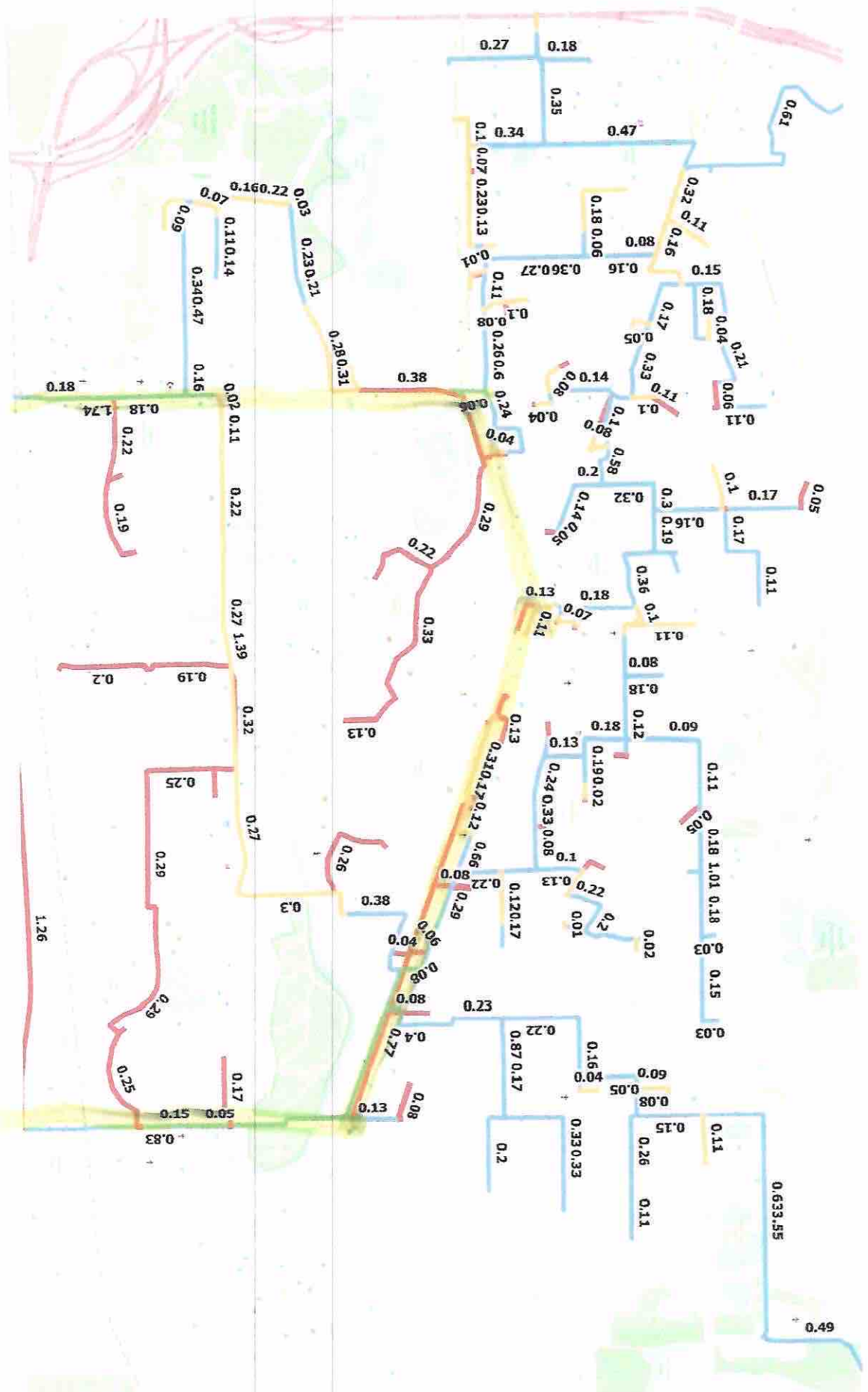


C



FIBER

Proposed East Lansing Route Map



D

Subject: Inquiry for Crown Castle

Date: Thursday, March 2, 2023 at 3:50:18 PM Eastern Standard Time

From: Crown Castle - Lansing, MI

To: fmbjrpllc@outlook.com

We received your inquiry from Monday, February 27th.

Crown Castle has been contracted to build in the public right of way in East Lansing. Wireless carriers provide Crown Castle with specific locations based on the carrier's network coverage and capacity needs.

Small Cells are often attached to existing infrastructure in the public right of way, such as streetlights and utility poles. Where there is no viable existing infrastructure, then the alternative is to propose to build a new pole or streetlight that will accommodate the small cell. In East Lansing, the final determination of new pole vs. existing pole locations has not been made.

Crown Castle Lansing area team

This email may contain confidential or privileged material. Use or disclosure of it by anyone other than the recipient is unauthorized. If you are not an intended recipient, please delete this email.

E



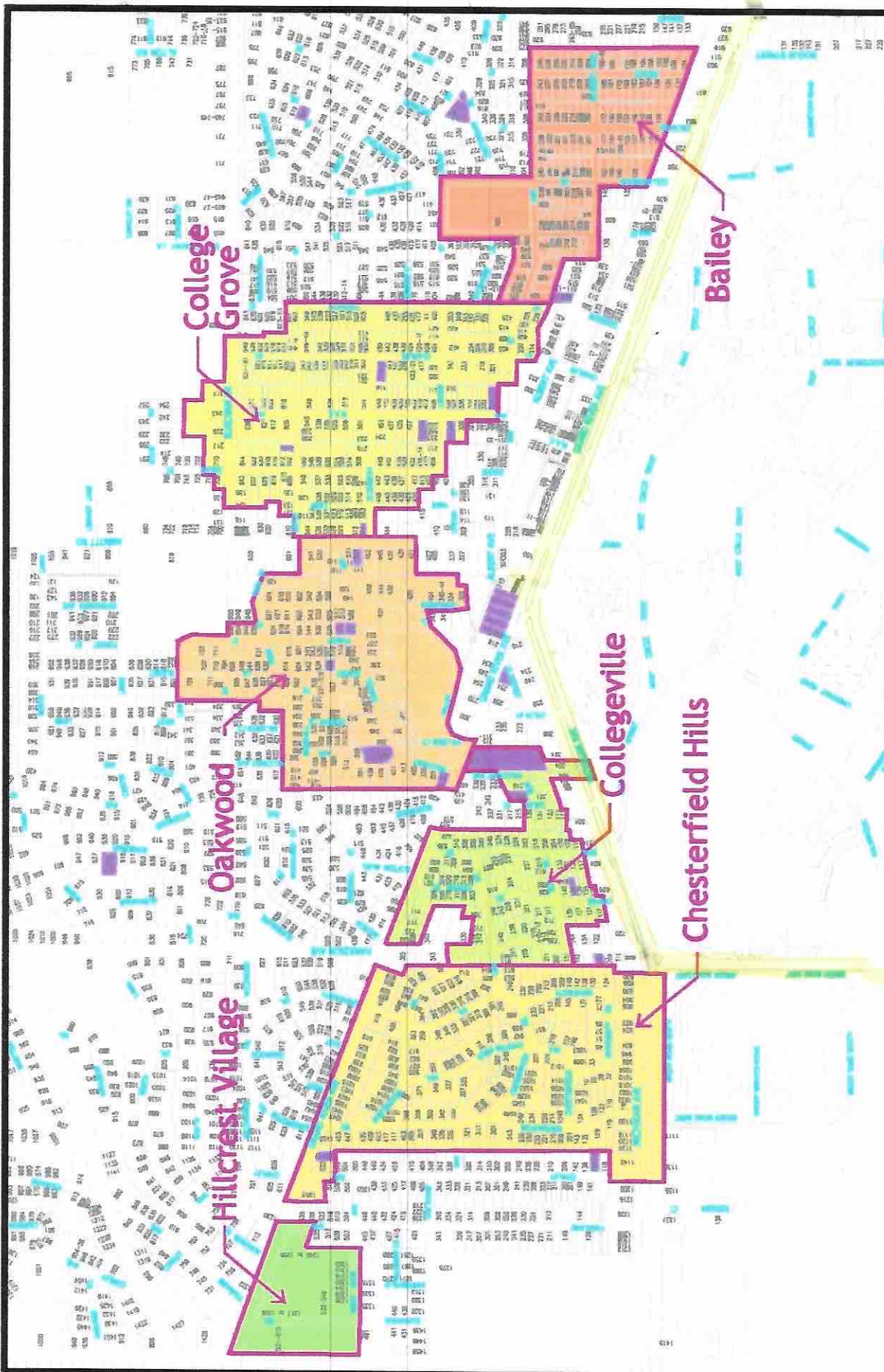
bid
5 E.
023.
ligh
that
ity
MI
or.
All
th
he
nt
ne
ie
it
d
r
t
e

Crown Castle is proposing to install a 40 foot pole telecommunications utility structure at the following site: 414 Southlawn Avenue, East Lansing, Ingham County, MI, 48823. The structure will be in the public right of way of the intersection of Southlawn Ave and Rosewood Ave. Crown Castle invites comments from any interested party on the impact of the proposed action on any districts, sites, buildings, structures or objects significant in American history, archaeology, engineering or culture that are listed or determined eligible for listing in the National Register of Historic Places and/or specific reason the proposed action may have a significant impact on the quality of the human environment. Specific information regarding the project is available by calling Monica Gambino, 2000 Corporate Drive, Canonsburg, PA 15317, Monica.Gambino@CrownCastle.com, 724-416-2516 within 30 days of the date of this publication.
LSJ-5532345 12/27/2022

Crown Castle is proposing to install a 40-foot pole telecommunications utility structure at the following site: 670 Lexington Avenue, East Lansing, Ingham County, MI, 48823. The structure will be in the public right of way of the 600 Block of Lexington Ave. Crown Castle invites comments from any interested party on the impact of the proposed action on any districts, sites, buildings, structures or objects significant in American history, archaeology, engineering or culture that are listed or determined eligible for listing in the National Register of Historic Places and/or specific reason the proposed action may have a significant impact on the quality of the human environment. Specific information regarding the project is available by calling Monica Gambino, 2000 Corporate Drive, Canonsburg, PA 15317, Monica.Gambino@CrownCastle.com, 724-416-2516 within 30 days of the date of this publication.
LSJ-55323230 12/27/2022



F



East Lansing Historic Districts and Landmark Structures

- Landmark Structure Properties
- Landmark Structures Not Shown: 1101 Burcham Dr.
334 N. Hegadorn Rd.
690 N. Hegadorn Rd.
1628 E. Grand River



Last Amendment: January 1992

EAST LANSING BIG PICTURE COMPREHENSIVE PLAN FOR OUR FUTURE

G

ATTACHMENT G

THE ANN ARBOR EXPERIENCE

- The City of Ann Arbor has developed a *Small Cell Facilities Guidelines* manual which it uses to site-place 5G technology, including aesthetic and noise requirements in residential areas, and an emphasis on both co-location consistent with the Act and the ability to move poles within 75 feet of original proposal to achieve more appropriate siting of 5G infrastructure.
- See the following links for documents embodying the Ann Arbor plan:
 - https://www.a2gov.org/departments/engineering/Documents/A2%20Small%20Cell%20Infrastructure%20April%202020v1%20City_Final%20update_8-28-20.pdf
 - <https://www.a2gov.org/departments/engineering/Pages/Small-Cell-Wireless-Facilities.aspx>
- The City of Ann Arbor works in close collaboration with telecom providers and has a full-time ‘Cellular Infrastructure Manager’ who is responsible for reviewing applications and working on appropriate site placement with telecom providers and utility installers. This employee has worked with various telecom companies.
- The City of Ann Arbor also has several franchise agreements with these companies.
- The City of Ann Arbor infrastructure department has indicated to a private East Lansing citizen that they would be happy to discuss with East Lansing City staff their approach to Small Cell technology (including their robust siting review and improvement process).
- Ann Arbor’s proactive experience can provide a valuable model for East Lansing to use going forward.