



Planning Commission Meeting

July 1, 2026 | 12:00 PM

Planning Commission

- I. Call to Order
- II. Notice of a Quorum
- III. Approval of June Meeting Minutes;
- IV. Conditional Use Permit - Antenna in R-3 - 140 Longleaf Drive - Freddie Rixie
- V. Adjournment

Board of Zoning Adjustment

- VI. Call to Order
- VII. Notice of a Quorum
- VIII. Variance Request - Sign - David's Burgers - Race Avenue - ACE Sign Company
- IX. Adjournment

Steve Jordan (Chairman)

Amy Cox

Andrew Ingle

Larry DeGroat (Vice Chairman, Secretary)

Casey Cullipher

Jamie Mobley

Matt Boyd

Charles Green

Todd Sparks



PLANNING REPORT

TO: Planning Commission, City of Searcy
FROM: Richard Stafford, Planning & Development Director
SUBJ: July 1, 2026 Planning Commission Meeting
DATE: June 26, 2026

There is 1 actionable item scheduled for the upcoming Planning Commission meeting and 1 item for the Board of Zoning Adjustment.

Planning Commission

1. Conditional Use Permit – Antenna in R-3 – 140 Longleaf Drive – Freddie Rixie

This agenda item was tabled in June in order to get an opinion from the City Attorney after reviewing the federal law Mr. Rixie provided.

Board of Zoning Adjustment

1. Variance Request – Sign – David’s Burgers – Race Avenue – ACE Sign Company

This item was also tabled at the June meeting. There was discussion on if the variance was denied, would they be allowed any additional signage.

This a 3-lot commercial subdivision. Two of the lots – Planet Fitness and Dollar Tree – are single tenant structures. The third lot is a multitenant structure – David’s Burgers and two other commercial lease spaces in the same structure. The existing sign sits on the lot with the multitenant structure. That lot is also a corner lot. By code, this lot would be allowed 2 multitenant signs up to 50 ft high and 120 sf max. One located along Race and one located along the entrance ramp of I-57. Each of the single tenant lots would be allowed a freestanding sign up to 50 ft high and 120 sf max. So, in addition to the existing sign, the David’s lot could have a second multi-tenant sign along the entrance ramp, Planet Fitness could have a single tenant sign along the entrance ramp and Dollar Tree could have a single tenant sign along Race. That would be in code compliance right now and not require variances.

They are asking to put all the sign panels for all three lots on a single multitenant sign which would exceed the allowed square footage for the allowed multitenant sign that already exists.

It’s also good for the Board to remember that any condition can be placed on the applicant when a variance is granted.

**Searcy Planning Commission
Meeting Minutes
June 6, 2026**

This regularly scheduled meeting of the Planning Commission was held in the City Hall Chambers at 12:00 Noon.

Commission Members Present:

Steve Jordan, Chairman
Larry DeGroat, Vice Chairman/Secretary
Amy Cox
Casey Cullipher
Andrew Ingle
Jamie Mobley
Todd Sparks

City of Searcy Staff Present:

Gabrielle Swain, Recording Secretary
Guy Grady, Fire Inspector
Phil Watkins, Building Inspector

Commission Members Not Present:

Matt Boyd
Charles Green

Chairman Jordan called the meeting to order and noted that a quorum was present.

Approval of Minutes

The first item on the agenda was the approval of the May Planning Commission minutes. **Commissioner Cullipher made a motion to approve the minutes as presented. Commissioner Ingle seconded the motion. The motion passed unanimously.**

Rezone – UT to C-4 – Hwy 367 and the off-ramp of I-57 – Davidson Engineering

The next item on the agenda was a request to rezone a parcel located at Hwy 367 and the off-ramp of I-57 from UT (urban transitional) to C-4 (open display commercial). Bear Davidson represented the request; he cited the parcel's proximity to the freeway, as well as neighboring C-4 zone to the south of the parcel, as justification for the requested zone.

Chairman Jordan opened the Public Hearing.

Chairman Jordan closed the Public Hearing.

Commissioner DeGroat made a motion to recommend the requested rezone for approval by City Council. Commissioner Sparks seconded the motion. The motion passed unanimously.

Rezone – R-3 to PUD – 103 S Greer – Austin Riley

The next item on the agenda was a request to rezone 103 S Greer from R-3 (one-unit residential) to PUD (planned unit development) for a self-storage facility. Adam Whitlow represented the request; he cited the parcel's proximity to nearby storage units, residences, and a mix of surrounding zoning districts as justification for the requested zone. Mr. Whitlow stated that a self-storage facility has a lower trip

generation rate than a comparable multi-family residential development, and would therefore place less demand on existing infrastructure.

Mr. Whitlow described the proposed development as a single building with an office and interior access to climate-controlled storage units. He presented a design that included a front setback below the required minimum, omitted required sidewalks, and did not comply with all façade requirements.

Chairman Jordan opened the Public Hearing.

Andrew Crossman of 101 S Greer voiced concerns regarding privacy, light pollution, property use, and transportation and utility infrastructure.

Chairman Jordan closed the Public Hearing.

Commissioner Sparks referenced a letter submitted to the Commission by Debra Kent, a property owner on S Greer. Ms. Kent expressed concerns regarding privacy, security, and property use.

Fire Inspector Guy Grady confirmed that the Fire Department had no issues with the proposed development, noting that a nearby fire hydrant had been installed in recent years, and that he had communicated with the applicant regarding fire code requirements.

Building Inspector Phil Watkins stated that the façade images were not submitted to the staff for review. Recording Secretary Gabrielle Swain confirmed that the façade images presented by Mr. Whitlow were not included with the submitted application materials by the required deadline.

Mr. Watkins also stated that the previous City Engineer, Mark Lane, had identified a conflict between the proposed use and what is permitted under the Zoning Code. Ms. Swain explained that Section 4-4-2 of the Zoning Code permits PUD uses that conform with either the existing residential zoning district or the commercial designation in the Comprehensive Plan. Chairman Jordan referenced City Planner Richard Stafford's Planning Report, which supported this determination.

The Commission considered whether the applicant demonstrated that the property could not be made productive under normal zoning regulations, as required by Section 4-4-2 of the Zoning Code, and concluded that the property was unlikely to be developed into a residence.

Commissioner Sparks made a motion to recommend the requested rezone for approval by City Council with the added conditions that the development be subject to and in compliance with all applicable commercial design standards and infrastructure improvement requirements, including but not limited to façade and sidewalk improvements, as required by the Zoning Code and Land Development and Subdivision Regulations. Commissioner Cullipher seconded the motion. The motion passed unanimously.

Conditional Use Permit – Antenna in R-3 – 140 Longleaf – Freddie Rixie

The next item on the agenda was a request for a conditional use permit at 140 Longleaf to install an antenna in an R-3 zone. Freddie Rixie represented the request; he described a 40 ft. tall antenna with a 3 sq. ft. footprint and no guy wires.

Commissioner DeGroat referenced a letter submitted to the Commission by Linda Law, a neighboring property owner. Ms. Law expressed concerns regarding noise, medical equipment interference, and radio and television interference. Mr. Rixie stated that the antenna will not emit noise nor interfere with radio or television; he did not know if there was potential for interference with medical equipment.

Commissioner Cullipher asked Mr. Rixie about the existing wires on the property. Mr. Rixie explained that the wire is 12-gauge antenna wire that is unrelated to this request.

Chairman Jordan opened the Public Hearing.

Mark Davis, of 101 Cody Trail in McRae, Arkansas, spoke in support of the request, citing the potential to support emergency communications. Mr. Davis stated that the proposed antenna would not interfere with pacemakers.

Chris Lowe of 140 Deer Trail spoke on behalf Ken Graves of 128 Pinon in opposition to the request, citing damage to a tree on the property and the aesthetics of the antenna.

Keith Webb of 2626 Highway 267 S in McRae, Arkansas spoke in opposition to the request, citing his intention to develop nearby property into single-family residences, and concerns that the antenna is inconsistent with the visual character of the area.

Roland Aldrich, Jr. of 2312 Orleans Place spoke in support of the request, citing the unobtrusive, low-profile nature of the antenna, as well as PRB-1, a Federal Communications Commission ruling regarding reasonable accommodation for amateur radio antennas.

Lisa Neal spoke in opposition to the request on behalf of her mother, of 131 Pinon, citing concerns regarding tree damage, safety, contractor licensure, setbacks, compliance with FCC guidelines and HOA restrictions, liability, and property values.

Chairman Jordan closed the Public Hearing.

Commissioner Mobley made a motion to table the requested conditional use permit for one month pending the review and recommendation of City Attorney Will Moore. Commissioner DeGroat seconded the motion. The motion passed unanimously.

Nonconforming Boundary Street Improvement Request – Rand Property on Park Avenue – Davidson Engineering

The next item on the agenda was a request for approval of nonconforming boundary street improvements at the Rand Property on Park Ave. Bear Davidson represented this request; he explained that this segment of Park Ave has a 0.20% longitudinal fall, but that a minimum 0.50% roadway slope is necessary for proper drainage.

Mr. Davidson explained that standard boundary street improvements are not feasible without major roadway reconstruction, and added that doing so would necessitate City coordination with the railway company. Mr. Davidson proposed forgoing major half-street improvements, but substantially increasing the ditch cross-section to improve capacity.

Mr. Davidson referenced a letter from the previous City Engineer Mark Lane that was included with the submitted materials, in which he stated his agreement with Mr. Davidson's assessment and proposal.

Mayor Mat Faulkner added that the City is engaged with Crafton Tull to study the area for future improvements under the RAISE (Rebuilding American Infrastructure with Sustainability and Equity) grant through the U.S. Department of Transportation. **Commissioner Mobley made a motion to approve the applicant's request to provide an in-lieu contribution for half-street improvements, thereby enabling the applicant to request City Council waive the required half-street improvements as presented. Commissioner Sparks seconded the motion. The motion passed unanimously.**

Adjournment

Larry DeGroat, Secretary

**Searcy Board of Zoning Adjustment
Meeting Minutes
June 6, 2026**

This meeting of the Board of Zoning Adjustment was held in the City Hall Chambers immediately following the regularly scheduled meeting of the Planning Commission at 12:00 Noon.

Commission Members Present:

Steve Jordan, Chairman
Larry DeGroat, Vice Chairman/Secretary
Amy Cox
Casey Cullipher
Andrew Ingle
Jamie Mobley
Todd Sparks

City of Searcy Staff Present:

Gabrielle Swain, Recording Secretary
Guy Grady, Fire Inspector
Phil Watkins, Building Inspector

Commission Members Not Present:

Matt Boyd
Charles Green

Chairman Jordan called the meeting to order and noted that a quorum was present.

Variance – Sign – David’s Burger’s – Race Avenue – Ace Sign Company

The next item on the agenda was a request for a variance to expand the existing sign at David’s Burgers to accommodate two additional tenants. Tonya Hulett represented the requested sign expansion, which includes two 4 ft by 10 ft signs, and would increase the existing 268 sq ft signage by 80 sq ft.

The Commission was unclear whether the existing signage exceeded the allowable square footage, and was unable to make a determination without the length of street frontage. Commissioner Cox asked if there would be future structures added to the lot; the applicant said that she was not aware of any such plans.

Chairman Jordan expressed a preference for utilizing the existing sign pole rather than constructing additional poles. Commissioner Sparks asked if additional poles would be permitted; Recording Secretary Gabrielle Swain explained that freestanding signs for individual businesses are not permitted in multi-tenant commercial developments.

Commissioner Mobley expressed a preference for utilizing a ladder sign. Building Inspector Phil Watkins explained that the ideal solution in this case would be the installation of a new ladder sign to accommodate the tenants, but that it would not be possible for the applicant to erect a ladder sign on the front of the property due to utility easements. The Commission considered that the easements may constitute undue hardship, but that the applicant could also consolidate the existing signage to create space for the additional tenants.

Mr. Watkins stated that each business is permitted to display a pole sign, rather than each parcel, and that in the event that the Board of Zoning Adjustment denies the variance request, the applicant would be able to construct additional pole signs in the area, totaling up to seven signs with a maximum of 80 sq ft each. **Commissioner Cullipher made a motion to table the requested variance for one month pending the review and recommendation of City Attorney Will Moore and City Planner Richard Stafford. Commissioner Mobley seconded the motion. The motion passed unanimously.**

Adjournment

Larry DeGroat, Secretary

PROJECT SUMMARY

Installation of a Rohn 40 ft 45g tower, four (4) feet from the back of my home to hold up a Hex Beam for Amateur radio use. I have been an Amateur Radio Operator for forty-nine (49) years.

Amateur Radio Operators have been helping with Fire and Police communications in disasters all over the country for many years.

Property Description

FURNISHED (Book 2023, Page 14439):

Lot Seven (7), Block Two (2), Pinewood Estates Subdivision in Section Seven (7), Township Seven (7) North, Range Seven (7) West.

Certification

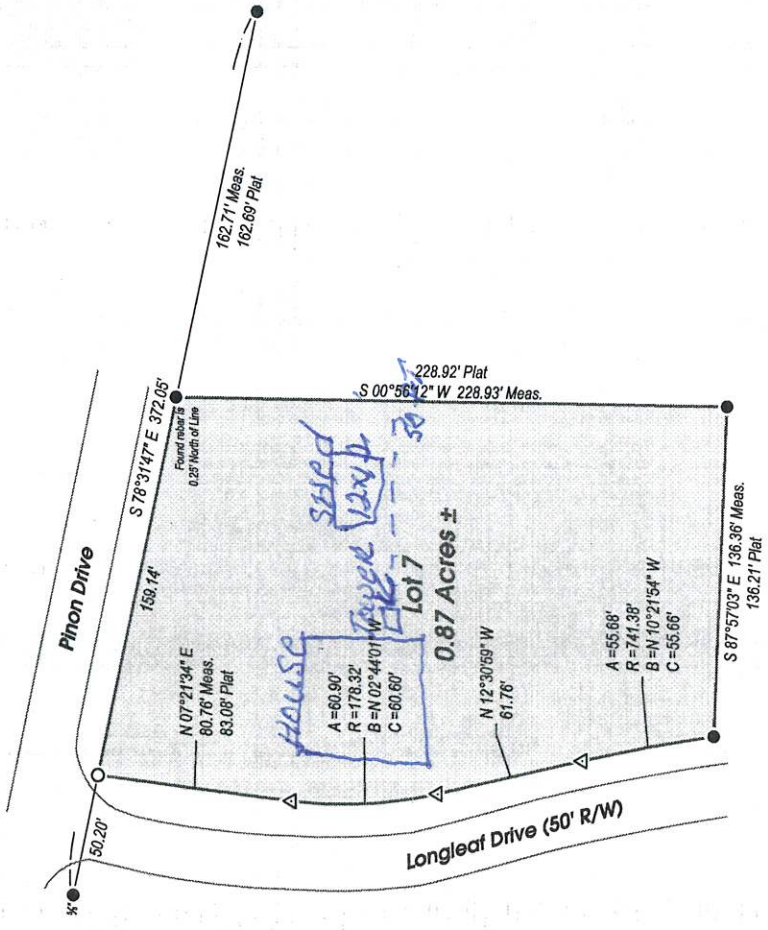
I certify that this plat represents a survey in August, 2024, by me or under my supervision from existing monuments and plats in the area, meets applicable Relative Positional Accuracy Standards, and is true and correct based on existing monuments at the time of completion.

NOTES:

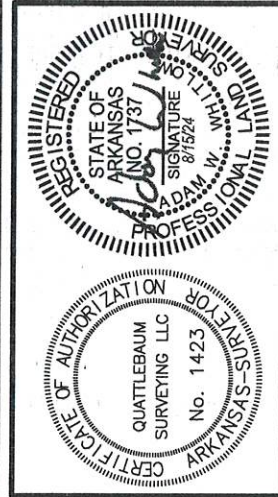
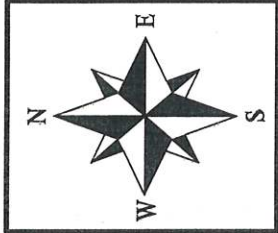
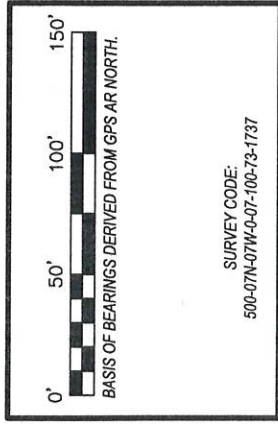
1. This survey is a re-tracement of a parcel listed in Deed Book 2023, Page 14439.
2. This survey and certification is the property of the surveyor and is intended for the use and benefit of the surveyor and the clients listed.
3. The certification of this survey expires ninety days from the date of the surveyor's signature for the purpose of new or revised financing.
4. All iron pins set are 1/2" Rebar, unless noted otherwise.
5. Only copies with surveyor's signature in blue ink are valid copies.
6. This research completed for this survey includes the description furnished by clients (Book 2023, Page 14439), and the recorded plat of Pinewood Estates Subdivision.
7. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership, title evidence, or any other facts that an accurate and current title search may disclose.
8. As a boundary survey, there has not been any attempt to obtain or show any existence, location of any overhead or underground utilities or their right of way width. For any information regarding any utilities contact the appropriate agencies.

Legend

- Found 1/2" Rebar (unless noted)
- Set 1/2" Rebar (capped #1737)
- ▲ Calculated Point



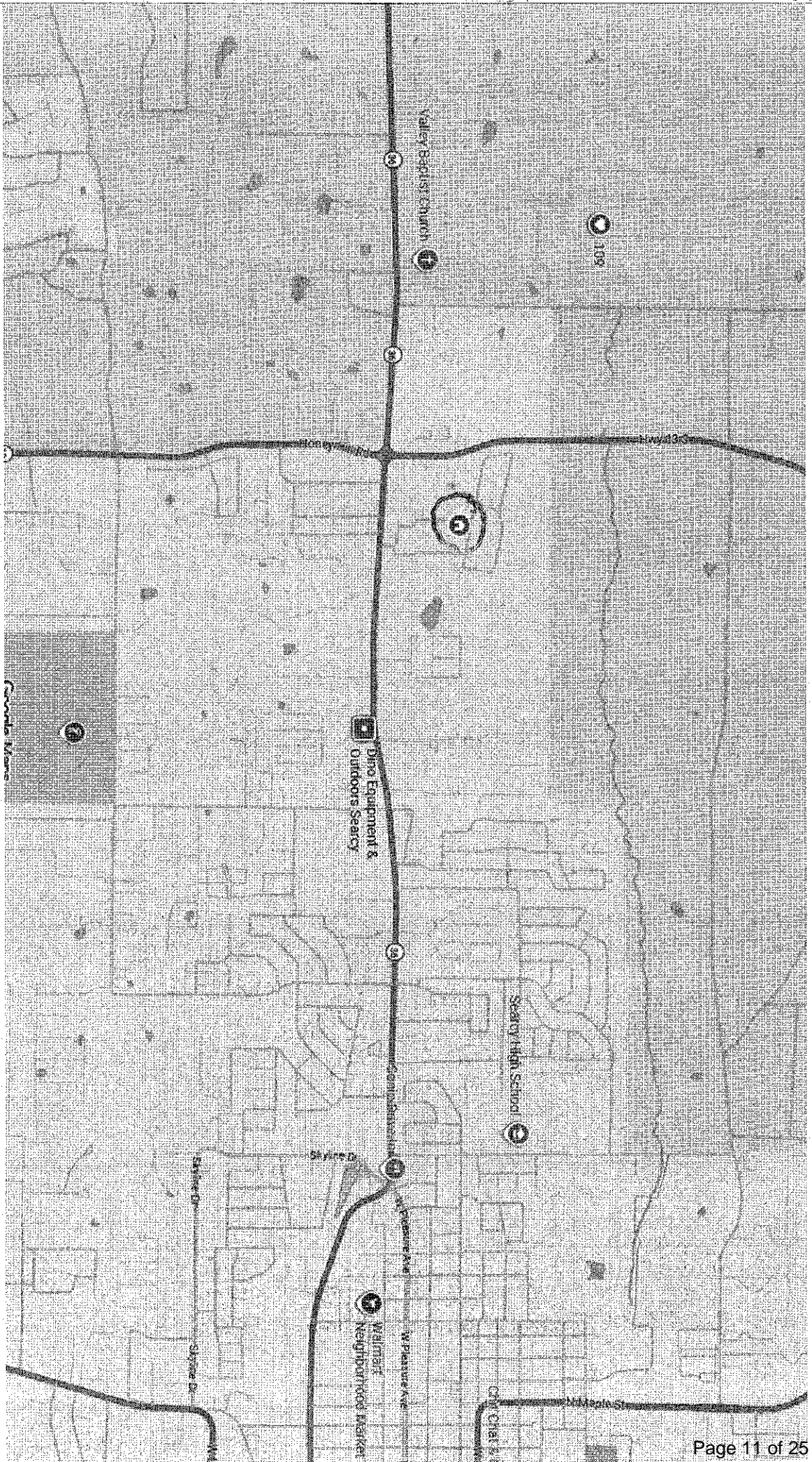
BOUNDARY SURVEY FOR:
Freddie & Mary Rixie



301 EAST LINCOLN AVE
SEARCY, ARKANSAS 72143
(501) 268-2174 (501) 279-3498 FAX

QUATTLEBAUM SURVEYING, LLC
BOUNDARY • TOPO • CONSTRUCTION

DRAWN BY	DATE	APPROVED	DATE
JDC	8/15/24	AWW	8/15/24
PROJECT	SCALE		SHEET
24-297 (L7 B2 Pinewood)	1" = 50'		1 of 1



Fw: Subject: Urgent Support for Amateur Radio Tower Installation – 140 Longleaf Dr, Searcy, AR

From: freddie rixie (w9tb@yahoo.com)

To: kn4jx@yahoo.com; ka1jy@nctc.com

Date: Monday, April 20, 2026 at 01:05 PM CDT

Support letter from local club
Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Monday, April 20, 2026, 12:44 PM, Jon W. Reynolds <KI5UCZ@jonwreynolds.com> wrote:

Date: April 20, 2026

To: Mayor Mat Faulkner City of Searcy Council Chambers, City Hall Searcy, AR 72143

Cc: Searcy Planning Commission Freddie E. Rixie, W9TB 140 Longleaf Dr Searcy, AR 72143

Dear Mayor Faulkner and Members of the Planning Commission,

I am writing in my capacity as Secretary of the North Central Arkansas Amateur Radio Service (NCAARS), representing a community of licensed amateur radio operators dedicated to public service, emergency communications, and technical education within White County and beyond.

We are writing to express our unequivocal support for Mr. Freddie Rixie (FCC Issued Callsign: W9TB) regarding his proposed installation of a 40 ft tall amateur radio tower at his residence at 140 Longleaf Drive. ~~We understand that a dispute has arisen with a neighboring property owner, leading to a scheduled planning meeting.~~ We urge the City of Searcy to recognize the critical importance of this infrastructure and to uphold the legal protections afforded to amateur radio operators, which are currently being reinforced by new federal legislation.

The FCC has codified, in 47 CFR §97.15(b), that reasonable accommodation must be afforded licensed amateur radio stations:

§97.15 Station antenna structures. (b) Except as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. (State and local regulation of a station antenna structure must not preclude amateur service communications. Rather, it must

reasonably accommodate such communications and must constitute the minimum practicable regulation to accomplish the state or local authority's legitimate purpose.)

Public safety is imperative for the amateur radio service as it is not merely a hobby, but a licensed radio service defined in the International Radio Regulations and is a vital, non-commercial emergency communication resource. The FCC also states in 47 CFR §97.1(a) that a basis and purpose of the amateur radio service is "(a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications." When cellular networks fail, power grids go down, or internet infrastructure is compromised—as frequently happens during severe weather events in Arkansas—amateur radio remains the only reliable link for first responders and citizens.

Mr. Rixie's proposed tower is essential for him to effectively participate in SkyWARN and AUXCOMM networks, providing "ground truth" reports to the National Weather Service and supporting local emergency management. Restricting his ability to erect a functional antenna directly diminishes the City of Searcy's resilience and its ability to receive real-time data during crises.

Federal Legislative Protection: The Amateur Radio Emergency Preparedness Act

It is crucial to note that the rights of amateur radio operators are not just protected by existing FCC Preemption Rule 1 (PRB-1), but are currently being strengthened by active federal legislation.

In February 2025, the Amateur Radio Emergency Preparedness Act (H.R. 1094 in the House and S. 459 in the Senate) was introduced. This bipartisan legislation is designed to:

- Prohibit private land-use restrictions (including those raised by neighbors or HOAs) that prevent or severely limit the installation of amateur radio antennas.

- Grant amateur operators the same rights to install antennas as users of satellite dishes, wireless internet, and flagpoles.

- Ensure that local zoning cannot unreasonably restrict the ability of operators to communicate.

While this bill is currently pending, its introduction signals a clear national consensus: local obstruction of amateur radio infrastructure is contrary to public safety interests. The City of Searcy has the opportunity to align itself with this forward-looking federal policy by approving Mr. Rixie's request based on objective engineering standards rather than subjective neighbor disputes.

Our Recommendation

We respectfully request that the City of Searcy:

- Recognize Federal Intent:** Acknowledge that the pending Amateur Radio Emergency Preparedness Act reflects a national priority to protect amateur radio infrastructure from unreasonable local restrictions.

- Focus on Objective Standards:** Evaluate the tower based on standard engineering safety codes (height, structural integrity, wind load) and existing Searcy zoning ordinances, rather than subjective aesthetic objections.

- Prioritize Public Safety:** View this installation as a critical asset to the community's emergency preparedness, not a nuisance.

The North Central Arkansas Amateur Radio Service stands ready to provide technical guidance, engineering documentation, or testimony regarding the necessity of this equipment should the Commission require it. We hope for a swift and favorable resolution that allows Mr. Rixie to continue his service to our community.

Thank you for your time and for your leadership in fostering a safe and communicative Searcy.

Respectfully,

Jon Reynolds, KI5UCZ Secretary North Central Arkansas Amateur Radio Service (NCAARS) 501-388-1836
KI5UCZ@jonwreynolds.com

Jon
KI5UCZ

KNOW YOUR RIGHTS: HAM RADIO ANTENNAS & TOWER ZONING

PRB-1 IS YOUR FEDERAL SHIELD



PRB-1 — YOUR FEDERAL SHIELD

PRB-1 (47 CFR §97.15) states that a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications.

State and local regulation must not preclude amateur service communications — it must reasonably accommodate them and be the minimum practicable regulation to accomplish the authority's legitimate purpose.

- ✓ PRB-1 is binding in all states.
- ✓ It supersedes conflicting local ordinances but leaves interpretation to municipalities.



WHAT THEY CANNOT DO



A "balancing of interests" approach is not appropriate — the FCC has already done the balancing. The local authority may not weigh community interests against those of the amateur operator.



Local authorities also cannot consider potential RF interference to home electronic equipment or public service communications as grounds for denial — interference falls within the FCC's exclusive jurisdiction.

PRB-1 PROTECTIONS ARE STRONG. KNOW THEM. USE THEM.

A federal regulation that protects your right to effective amateur radio communications.



WHAT LOCAL GOVERNMENTS CAN REGULATE

Local governments can zone for height, safety and aesthetic concerns — but restrictions cannot be so prohibitive that they become overly restrictive.

Common local requirements include:

- Anti-climb devices on towers or fences around them
- Minimum distances from high voltage power lines
- Minimum distances from property lines
- Regulations pertaining to structural soundness of the antenna installation



THE HOA PROBLEM

PRB-1 traditionally only applies to government zoning — HOAs and deed restrictions are a separate fight.

The Amateur Radio Parity Act has been proposed to extend PRB-1 protections to HOAs, but it has not yet become law.



If you're dealing with an HOA, that's a trickier battle requiring legal counsel.



PRACTICAL TIPS



ARRL strongly encourages hams facing zoning difficulties to contact an ARRL Volunteer Counselor — lawyers who are also hams — before taking any action.



Also consult Volunteer Consulting Engineers (registered professional engineers who are hams) for technical support and documentation.



Find ARRL resources, counsel contacts, and more at ARRL.ORG/ADVOCACY



AMATEUR RADIO: A PUBLIC SERVICE • A SCIENCE • A COMMUNITY

WE HAVE THE RIGHT. LET'S USE IT!

Memorandum Opinion and Order in PRB-1

Before the
Federal Communications Commission
Washington, DC 20554

FCC 85-506
36149

In the Matter of)
)
Federal preemption of state and) PRB-1
local regulations pertaining)
to Amateur radio facilities.)

MEMORANDUM OPINION AND ORDER

Adopted: September 16, 1985 ; Released: September 19, 1985

By the Commission: Commissioner Rivera not participating.

Background

1. On July 16, 1984, the American Radio Relay League, Inc (ARRL) filed a Request for Issuance of a Declaratory Ruling asking us to delineate the limitations of local zoning and other local and state regulatory authority over Federally-licensed radio facilities. Specifically, the ARRL wanted an explicit statement that would preempt all local ordinances which provably preclude or significantly inhibit effective reliable amateur radio communications. The ARRL acknowledges that local authorities can regulate amateur installations to insure the safety and health of persons in the community, but believes that those regulations cannot be so restrictive that they preclude effective amateur communications.

2. Interested parties were advised that they could file comments in the matter.¹ With extension, comments were due on or before December 26, 1984,² with reply comments due on or before January 25, 1985.³ Over sixteen hundred comments were filed.

Local Ordinances

3. Conflicts between amateur operators regarding radio antennas and local authorities regarding restrictive ordinances are common. The amateur operator is governed by the regulations contained in Part 97 of our rules. Those rules do not limit the height of an amateur

antenna but they require, for aviation safety reasons, that certain FAA notification and FCC approval procedures must be followed for antennas which exceed 200 feet in height above ground level or antennas which are to be erected near airports. Thus, under FCC rules some antenna support structures require obstruction marking and lighting. On the other hand, local municipalities or governing bodies frequently enact regulations limiting antennas and their support structures in height and location, e.g. to side or rear yards, for health, safety or aesthetic considerations. These limiting regulations can result in conflict because the effectiveness of the communications that emanate from an amateur radio station are directly dependent upon the location and the height of the antenna. Amateur operators maintain that they are precluded from operating in certain bands allocated for their use if the height of their antennas is limited by a local ordinance.

4. Examples of restrictive local ordinances were submitted by several amateur operators in this proceeding. Stanley J. Cichy, San Diego, California, noted that in San Diego amateur radio antennas come under a structures ruling which limits building heights to 30 feet. Thus, antennas there are also limited to 30 feet. Alexander Vrenios, Mundelein, Illinois, wrote that an ordinance of the Village of Mundelein provides that an antenna must be a distance from the property line that is equal to one and one-half times its height. In his case, he is limited to an antenna tower for his amateur station just over 53 feet in height.

5. John C. Chapman, an amateur living in Bloomington, Minnesota, commented that he was not able to obtain a building permit to install an amateur radio antenna exceeding 35 feet in height because the Bloomington city ordinance restricted "structures" heights to 35 feet. Mr. Chapman said that the ordinance, when written, undoubtedly applied to buildings but was now being applied to antennas in the absence of a specific ordinance regulating them. There were two options open to him if he wanted to engage in amateur communications. He could request a variance to the ordinance by way of a hearing before the City Council, or he could obtain affidavits from his neighbors swearing that they had no objection to the proposed antenna installation. He got the building permit after obtaining the cooperation of his neighbors. His concern, however, is that he had to get permission from several people before he could effectively engage in radio communications for which he had a valid FCC amateur license.

6. In addition to height restrictions, other limits are enacted by local jurisdictions—anti-climb devices on towers or fences around them; minimum distances from high voltage power lines; minimum distances of towers from property lines; and regulations pertaining to the structural soundness of the antenna installation. By and large, amateurs do not find these safety precautions objectionable. What they do object to are the sometimes prohibitive, non-refundable application filing fees to obtain a permit to erect an antenna installation and those provisions in ordinances which regulate antennas for purely aesthetic reasons. The amateurs contend, almost universally, that "beauty is in the eye of the beholder." They assert that an antenna installation is not more aesthetically displeasing than other objects that people keep on their property, e.g. motor homes, trailers, pick-up trucks, solar collectors and gardening equipment.

Restrictive Covenants

7. Amateur operators also oppose restrictions on their amateur operations which are contained in the deeds for their homes or in their apartment leases. Since these restrictive

covenants are contractual agreements between private parties, they are not generally a matter of concern to the Commission. However, since some amateurs who commented in this proceeding provided us with examples of restrictive covenants, they are included for information. Mr. Eugene O. Thomas of Hollister, California, included in his comments an extract of the Declaration of Covenants and Restrictions for Ridgemark Estates, County of San Benito, State of California. It provides:

No antenna for transmission or reception of radio signals shall be erected outdoors for use by any dwelling unit except upon approval of the Directors. No radio or television signals or any other form of electromagnetic radiation shall be permitted to originate from any lot which may unreasonably interfere with the reception of television or radio signals upon any other lot.

Marshall Wilson, Jr. provided a copy of the restrictive covenant contained in deeds for the Bell Martin Addition #2, Irving, Texas. It is binding upon all of the owners or purchasers of the lots in the said addition, his or their heirs, executors, administrators or assigns. It reads:

No antenna or tower shall be erected upon any lot for the purposes of radio operations.

William J. Hamilton resides in an apartment building in Gladstone, Missouri. He cites a clause in his lease prohibiting the erection of an antenna. He states that he has been forced to give up operating amateur radio equipment except a hand-held 2 meter (144-148 MHz) radio transceiver. He maintains that he should not be penalized just because he lives in an apartment.

Other restrictive covenants are less global in scope than those cited above. For example, Robert Webb purchased a home in Houston, Texas. His deed restriction prohibited "transmitting or receiving antennas extending above the roof line."

8. Amateur operators generally oppose restrictive covenants for several reasons. They maintain that such restrictions limit the places that they can reside if they want to pursue their hobby of amateur radio. Some state that they impinge on First Amendment rights of speech. Others believe that a constitutional right is being abridged because, in their view, everyone has a right to access the airwaves regardless of where they live.

9. The contrary belief held by housing subdivision communities and condominium or homeowner's associations is that amateur radio installations constitute safety hazards, cause interference to other electronic equipment which may be operated in the home (television, radio, stereos) or are eyesores that detract from the aesthetic and tasteful appearance of the housing development or apartment complex. To counteract these negative consequences, the subdivisions and associations include in their deeds, leases or by-laws, restrictions and limitations on the location and height of antennas or, in some cases, prohibit them altogether. The restrictive covenants are contained in the contractual agreement entered into at the time of the sale or lease of the property. Purchasers or lessees are free to choose whether they wish to reside where such restrictions on amateur antennas are in effect or settle elsewhere.

Supporting Comments

10. The Department of Defense (DOD) supported the ARRL and emphasized in its comments that continued success of existing national security and emergency preparedness telecommunications plans involving amateur stations would be severely diminished if state and local ordinances were allowed to prohibit the construction and usage of effective amateur transmission facilities. DOD utilizes volunteers in the Military Affiliate Radio Service (MARS),⁴ Civil Air Patrol (CAP) and the Radio Amateur Civil Emergency Service (RACES). It points out that these volunteer communicators are operating radio equipment installed in their homes and that undue restrictions on antennas by local authorities adversely affect their efforts. DOD states that the responsiveness of these volunteer systems would be impaired if local ordinances interfere with the effectiveness of these important national telecommunication resources. DOD favors the issuance of a ruling that would set limits for local and state regulatory bodies when they are dealing with amateur stations.

11. Various chapters of the American Red Cross also came forward to support the ARRL's request for a preemptive ruling. The Red Cross works closely with amateur radio volunteers. It believes that without amateurs' dedicated support, disaster relief operations would significantly suffer and that its ability to serve disaster victims would be hampered. It feels that antenna height limitations that might be imposed by local bodies will negatively affect the service now rendered by the volunteers.

12. Cities and counties from various parts of the United States filed comments in support of the ARRL's request for a Federal preemption ruling. The comments from the Director of Civil Defense, Port Arthur, Texas, are representative:

The Amateur Radio Service plays a vital role with our Civil Defense program here in Port Arthur and the design of these antennas and towers lends greatly to our ability to communicate during times of disaster.

We do not believe there should be any restrictions on the antennas and towers except for reasonable safety precautions. Tropical storms, hurricanes and tornadoes are a way of life here on the Texas Gulf Coast and good communications are absolutely essential when preparing for a hurricane and even more so during recovery operations after the hurricane has past.

13. The Quarter Century Wireless Association took a strong stand in favor of the Issuance of a declaratory ruling. It believes that Federal preemption is necessary so that there will be uniformity for all Amateur Radio installations on private property throughout the United States.

14. In its comments, the ARRL argued that the Commission has the jurisdiction to preempt certain local land-use regulations which frustrate or prohibit amateur radio communications. It said that the appropriate standard in preemption cases is not the extent of state and local interest in a given regulation, but rather the impact of the regulation on Federal goals. Its position is that Federal preemption is warranted whenever local government regulations relate adversely to the operational aspects of amateur communication. The ARRL maintains that localities routinely employ a variety of land use devices to preclude the installation of effective amateur antennas, including height restrictions, conditional use permits, building setbacks and dimensional limitations on antennas. It sees a declaratory ruling of Federal preemption as necessary to cause municipalities to accommodate amateur operator needs in land use planning efforts.

15. James C. O'Connell, an attorney who has represented several amateurs before local zoning authorities, said that requiring amateurs to seek variances or special use approval to erect reasonable antennas unduly restricts the operation of amateur stations. He suggested that the Commission preempt zoning ordinances which impose antenna height limits of less than 65 feet. He said that this height would represent a reasonable accommodation of the communication needs of most amateurs and the legitimate concerns of local zoning authorities.

Opposing Comments

16. The City of La Mesa, California, has a zoning regulation which controls amateur antennas. Its comments reflected an attempt to reach a balanced view.

This regulation has neither the intent, nor the effect, of precluding or inhibiting effective and reliable communications. Such antennas may be built as long as their construction does not unreasonably block views or constitute eyesores. The reasonable assumption is that there are always alternatives at a given site for different placement, and/or methods for aesthetic treatment. Thus, both public objectives of controlling land use for the public health, safety, and convenience, and providing an effective communications network, can be satisfied. A blanket to completely set aside local control, or a ruling which recognizes control only for the purpose of safety of antenna construction, would be contrary to...legitimate local control.

17. Comments from the County of San Diego state:

While we are aware of the benefits provided by amateur operators, we oppose the issuance of a preemption ruling which would elevate 'antenna effectiveness' to a position above all other considerations. We must, however, argue that the local government must have the ability to place reasonable limitations upon the placement and configuration of amateur radio transmitting and receiving antennas. Such ability is necessary to assure that the local decision-makers have the authority to protect the public health, safety and welfare of all citizens.

In conclusion, I would like to emphasize an important difference between your regulatory powers and that of local governments. Your Commission's approval of the preemptive requests would establish a "national policy." However, any regulation adopted by a local jurisdiction could be overturned by your Commission or a court if such regulation was determined to be unreasonable.

18. The City of Anderson, Indiana, summarized some of the problems that face local communities:

I am sympathetic to the concerns of these antenna owners and I understand that to gain the maximum reception from their devices, optimal location is necessary. However, the preservation of residential zoning districts as "liveable" neighborhoods is jeopardized by placing these antennas in front yards of homes. Major problems of public safety have been encountered, particularly vision blockage for auto and pedestrian access. In addition, all communities are faced

with various building lot sizes. Many building lots are so small that established setback requirements (in order to preserve adequate air and light) are vulnerable to the unregulated placement of antennas. ...the exercise of preemptive authority by the FCC in granting this request would not be in the best interest of the general public.

19. The National Association of Counties (NACO), the American Planning Association (APA) and the National League of Cities (NLC) all opposed the issuance of an antenna preemption ruling. NACO emphasized that federal and state power must be viewed in harmony and warns that Federal intrusion into local concerns of health, safety and welfare could weaken the traditional police power exercised by the state and unduly interfere with the legitimate activities of the states. NLC believed that both Federal and local interests can be accommodated without preempting local authority to regulate the installation of amateur radio antennas. The APA said that the FCC should continue to leave the issue of regulating amateur antennas with the local government and with the state and Federal courts.

Discussion

20. When considering preemption, we must begin with two constitutional provisions. The tenth amendment provides that any powers which the constitution either does not delegate to the United States or does not prohibit the states from exercising are reserved to the states. These are the police powers of the states. The Supremacy Clause, however, provides that the constitution and the laws of the United States shall supersede any state law to the contrary. Article III, Section 2. Given these basic premises, state laws may be preempted in three ways: First, Congress may expressly preempt the state law. See *Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977). Or, Congress may indicate its intent to completely occupy a given field so that any state law encompassed within that field would implicitly be preempted. Such intent to preempt could be found in a congressional regulatory scheme that was so pervasive that it would be reasonable to assume that Congress did not intend to permit the states to supplement it. See *Fidelity Federal Savings & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 153 (1982). Finally, preemption may be warranted when state law conflicts with federal law. Such conflicts may occur when "compliance with both Federal and state regulations is a physical impossibility," *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142, 143 (1963), or when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). Furthermore, federal regulations have the same preemptive effect as federal statutes, *Fidelity Federal Savings & Loan Association v. de la Cuesta*, supra.

21. The situation before us requires us to determine the extent to which state and local zoning regulations may conflict with federal policies concerning amateur radio operators.

22. Few matters coming before us present such a clear dichotomy of view point as does the instant issue. The cities, counties, local communities and housing associations see an obligation to all of their citizens and try to address their concerns. This is accomplished through regulations, ordinances or covenants oriented toward the health, safety and general welfare of those they regulate. At the opposite pole are the individual amateur operators and their support

groups who are troubled by local regulations which may inhibit the use of amateur stations or, in some instances, totally preclude amateur communications. Aligned with the operators are such entities as the Department of Defense, the American Red Cross and local civil defense and emergency organizations who have found in Amateur Radio a pool of skilled radio operators and a readily available backup network. In this situation, we believe it is appropriate to strike a balance between the federal interest in promoting amateur operations and the legitimate interests of local governments in regulating local zoning matters. The cornerstone on which we will predicate our decision is that a reasonable accommodation may be made between the two sides.

23. Preemption is primarily a function of the extent of the conflict between federal and state and local regulation. Thus, in considering whether our regulations or policies can tolerate a state regulation, we may consider such factors as the severity of the conflict and the reasons underlying the state's regulations. In this regard, we have previously recognized the legitimate and important state interests reflected in local zoning regulations. For example, in *Earth Satellite Communications, Inc.*, 95 FCC 2d 1223 (1983), we recognized that

...countervailing state interests inhere in the present situation... For example, we do not wish to preclude a state or locality from exercising jurisdiction over certain elements of an SMATV operation that properly may fall within its authority, such as zoning or public safety and health, provided the regulation in question is not undertaken as a pretext for the actual purpose of frustrating achievement of the preeminent federal objective and so long as the non-federal regulation is applied in a nondiscriminatory manner.

24. Similarly, we recognize here that there are certain general state and local interests which may, in their even-handed application, legitimately affect amateur radio facilities. Nonetheless, there is also a strong federal interest in promoting amateur communications. Evidence of this interest may be found in the comprehensive set of rules that the Commission has adopted to regulate the amateur service.⁵ Those rules set forth procedures for the licensing of stations and operators, frequency allocations, technical standards which amateur radio equipment must meet and operating practices which amateur operators must follow. We recognize the amateur radio service as a voluntary, noncommercial communication service, particularly with respect to providing emergency communications. Moreover, the amateur radio service provides a reservoir of trained operators, technicians and electronic experts who can be called on in times of national or local emergencies. By its nature, the Amateur Radio Service also provides the opportunity for individual operators to further international goodwill. Upon weighing these interests, we believe a limited preemption policy is warranted. State and local regulations that operate to preclude amateur communications in their communities are in direct conflict with federal objectives and must be preempted.

25. Because amateur station communications are only as effective as the antennas employed, antenna height restrictions directly affect the effectiveness of amateur communications. Some amateur antenna configurations require more substantial installations than others if they are to provide the amateur operator with the communications that he/she desires to engage in. For example, an antenna array for international amateur communications will differ from an antenna used to contact other amateur operators at shorter distances. We will not, however, specify any particular height limitation below which a local government may not regulate, nor will we suggest the precise language that must be contained in local ordinances,

such as mechanisms for special exceptions, variances, or conditional use permits. Nevertheless, local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.⁶

26. Obviously, we do not have the staff or financial resources to review all state and local laws that affect amateur operations. We are confident, however, that state and local governments will endeavor to legislate in a manner that affords appropriate recognition to the important federal interest at stake here and thereby avoid unnecessary conflicts with federal policy, as well as time-consuming and expensive litigation in this area. Amateur operators who believe that local or state governments have been overreaching and thereby have precluded accomplishment of their legitimate communications goals, may, in addition, use this document to bring our policies to the attention of local tribunals and forums.

27. Accordingly, the Request for Declaratory Ruling filed July 16, 1984, by the American Radio Relay League, Inc., IS GRANTED to the extent indicated herein and in all other respects, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION
William J. Tricarico
Secretary

Footnotes

¹Public Notice, August 30, 1984, Mimeo. No. 6299, 49 F.R. 36113, September 14, 1984.

²Public Notice, December 19, 1984, Mimeo. No. 1498.

³Order, November 8, 1984, Mimeo, No. 770.

⁴MARS is solely under the auspices of the military which recruits volunteer amateur operators to render assistance to it. The Commission is not involved in the MARS program.

⁵47 CFR Part 97.

⁶We reiterate that our ruling herein does not reach restrictive covenants in private contractual agreements. Such agreements are voluntarily entered into by the buyer or tenant when the agreement is executed and do not usually concern this Commission.



United States of America
Federal Communications Commission



AMATEUR RADIO LICENSE

W9TB

Freddie E Rixie

140 Longleaf Dr
Searcy, AR 72143-9407

FCC Registration Number (FRN) **0014918361**

Special Conditions/Endorsements

NONE

Grant Date	Effective Date	Print Date	Expiration Date
02-19-2026	02-19-2026	02-19-2026	04-29-2036
Operator Privileges		Station Privileges	
Amateur Extra		PRIMARY	

THIS LICENSE IS NOT TRANSFERABLE

Freddie Rixie

(Licensee's Signature)

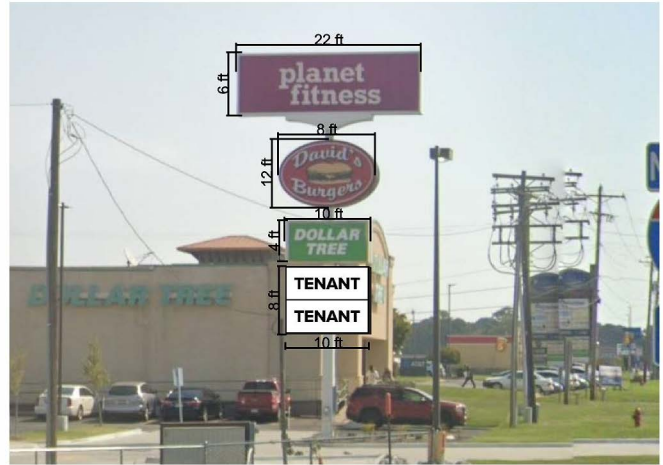
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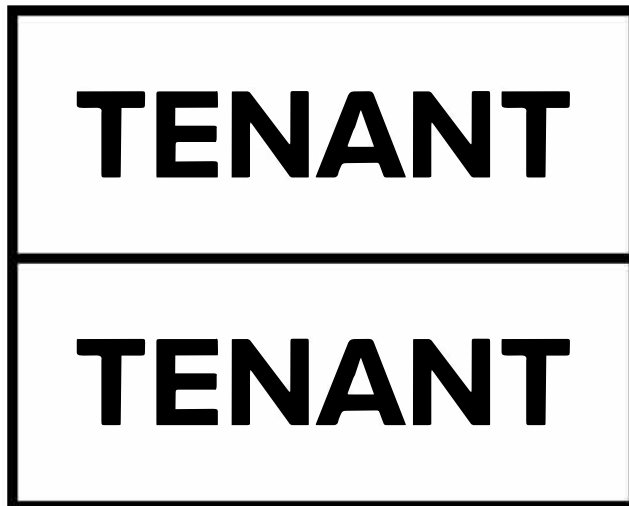
EXISTING



PROPOSED



RENDERINGS NOT TO SCALE



(2) H4' x W10' Tenant Panels
 Overall Dimension: H8' x W10'
 Existing Signage 268 Sq Ft
 Proposed Signage 80 Sq Ft
 *Survey required before production

- PANTONE WHITE
- PANTONE BLACK

	PROPERTY BRAND/EXTENSION: David's Burger	PROPERTY LOCATION: 3502 E Race Avenue Searcy, AR 72143	PROPERTY CODE: TBD
	DATE: 01/30/26	SALES REP: Tonya Hulett	PREPARED BY: Kayla Roy
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