

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE MARCH 15, 2012 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, March 15, 2012 at 7:30 p.m. at the Ada Township Offices, 7330 Thornapple River Dr., Ada, MI.

I. CALL TO ORDER

Meeting was called to order by Chairperson Korth at 7:30 p.m.

II. ROLL CALL

Present: Chairperson Korth, Commissioners Lowry, Butterfield, Jacobs, Lunn, Easter and Treasurer Rhoades.

Staff present: Planning Director Ferro

III. APPROVAL OF AGENDA

Motion by Easter, second by Lowry, to approve the Agenda. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF FEBRUARY 16, 2012 MEETING

Commissioner Easter noted on page 3, second to last paragraph, the comment was by Easter, not Butterfield. Motion by Butterfield, second by Rhoades, to approve the February 16, 2012 meeting minutes, subject to the correction as noted by Easter. Motion passed unanimously.

V. PUBLIC HEARING

Request for Special Use Permit Co-Location of Wireless Communications Antennas on Athletic Field Lighting at Forest Hills Eastern Campus, 5688 Knapp St. NE, Parcel No. 41-15-08-300-012, AT&T Mobility

Bryan Monaghan, Attorney, AT&T Mobility, stated they are seeking approval of the application for special land use for construction of a cell tower at the Forest Hills Eastern High School.

Planning Director Ferro stated the Forest Hills Public School District is considering entering into an agreement to permit AT&T to replace one of the light standards on the football field at Forest Hills Eastern, at the northeast corner of the stadium, with 150 foot tall monopole tower that would be used for both the football field lighting and up to four sets of antennas for four different wireless carriers. Ferro stated the existing light standard is 72 feet high, which would be increased to 150 feet, and there would be a 60 foot x 60 foot fenced equipment compound at the base of the tower. He also stated wireless communication towers are permitted by special use permit in all of our zoning districts and there are specific standards contained in the zoning regulations that apply to the proposed use.

Ferro stated the Federal Telecommunications Act of 1996 places some limits on the range of discretion that local governments have with respect to review and approval of wireless tower facilities. He stated it also establishes a timeframe during which decisions need to be made, and these provisions were summarized in his staff report. Ferro stated in November 2009 the FCC issued a ruling that new tower proposals should be decided within a 150 day timeframe, and we are well within that timeframe since the application was submitted shortly after the first of the year.

Monaghan introduced Ruth Gaudard, External Affairs Manager for AT&T Mobility, Michael Elia, Radio Frequency Engineer and Steve Carr, Acquisition Agent, both with AT&T, and Mark Daneman, AT&T Attorney. He stated AT&T and the Township have been working for a number of years on a technical solution to the gap in coverage along the Grand River valley area. Monaghan stated the gap in coverage

is documented in their application materials. He stated he also reviewed the report drafted by the Township's consultant, Drew Wireless, which also confirms the existence of a significant gap in coverage centered at the corner of Pettis and Knapp. Monaghan noted that the Township considered a 180-foot tower request in 2008 at a stable operation site on Pettis, and that the Township suggested consideration of the school campus at that time. He stated in June of last year, AT&T sent a survey to 233 households in the neighboring area, and there were 53 survey cards returned, of which 43 were positive regarding the need for better service and use of the school campus to address the need. Monaghan stated AT&T considers this a win-win situation. He stated it will address AT&T's need for better service in the area, and do this in a way that lessens the visual impact, since the existing light pole already has an impact. In addition, there will be increased revenue for the community. He pointed out that there are also other schools and athletic complexes where this has been done, including Northview, Calvin Christian, Lowell, East Grand Rapids, and South Christian Athletic Complex.

Monaghan referenced the standards for approval contained in the zoning regulations, which require submittal of photo-simulations of the proposed tower. He stated those were prepared and submitted, with input from the Planning Director on vantage points for the photos.

Steve Carr, 2894 Aldersgate Drive, Greenwood, Indiana, presented photos taken from different vantage points that show the difference in the height of the light pole before and after the pole replacement, as prepared by their surveyor. He stated the original pictures used for the photo simulations were provided by Jim Ferro.

Monaghan stated the second set of criteria that's outlined in the zoning regulation is: a cellular phone or personal communication service antenna tower shall be exempt from building height limits from the height that it's contained in the height exception provisions of Article 1 of this chapter, provided, however, that the tower height shall be the minimum height necessary to serve it's intended function. He stated, in that regard the height of the proposed tower is in a very large degree governed by the size of the gap in the coverage, which is fairly significant, as well as the surrounding topography. Monaghan stated the radio frequency propagation maps provided graphically demonstrate that this height is necessary to fill that gap, and the Township's consultant confirms both the need for the tower and the existence of the gap.

Michael Elia, AT&T Radio Frequency Engineer, stated he has been a Radio Frequency Engineer for 18 years, and received a Bachelor's of Sound & Electrical Engineering from the University of Michigan in 1994. He stated the propagation map that shows the coverage strength does show a need for improved coverage. Monaghan asked Elia whether the existing 72-foot light pole could be used to provide adequate coverage. Elia stated that it would not. Elia stated the second map shows the coverage with the proposed tower at 150 feet, and shows the improvement in coverage on Knapp Street, Pettis and the surrounding areas. He described the proposed 150-foot height as a happy medium in terms of providing improved coverage. He stated he looked at dropping the tower height 10 feet or so. He stated although it lessens the amount of coverage, they could live with it. Elia also stated that in driving the area near the school he experienced multiple dropped calls.

Lunn asked whether an antenna height on the bottom, at 120 feet, would be less than optimum. Elia stated yes, and that the lower you go, the more you constrain the coverage.

Lowry asked whether hilly terrain affects coverage. Elia stated that it did, and that both terrain and foliage affect coverage.

Monaghan stated one of the things they tried to address, at the suggestion of the Township, was maximizing co-location, and at a tower height of 135 feet you're losing one or two co-locators, and at 150 feet there's no doubt there's going to be space for four co-locations, and there will be a demand for that many as well.

Easter asked where the goal of 4 co-locators came from. Monaghan stated it came from the Planning Department.

Monaghan stated the third criteria is whether it is feasible to provide an equivalent service by locating the antenna on an existing tower or existing structure in the Township. Monaghan stated the only other potential is the existing water tower on the school property, and an antenna on the water tower would have to be above the height of the existing tower now. He stated it is our understanding that when the tower was constructed the Township stated there would not be anything else on the tower other than what is there today, so that is an issue. Also, he stated an important consideration is the land to the water tower is owned by the school and they've made it very clear to us it is their preference for us to swap out an existing light pole rather than deal with the water tower.

Monaghan stated the fourth requirement is the tower will not have an adverse impact on significant views from properties within ¼ mile of the tower site, which is defined as a view from residential property with one or more of the following characteristics: (1) a view from a residence and its immediate perimeter which encompasses landscape features substantially free of man-made alteration. He stated we are taking a man-made structure and simply proposing to increase the height. He stated the existing high school campus is a significant man-made view. Monaghan stated this tower will not have any lights on it. Also he stated it is well under 200 feet, which is the minimum for requirements of lighting by the FAA. He pointed out that written approval for the tower height by the Gerald R. Ford airport has been provided to the Township.

Monaghan stated the tower and ancillary building housing equipment needed for the operation shall be of a size, type, color, exterior which are aesthetically compatible. He stated they are proposing a stone aggregate finish on the equipment shelter, 12 feet x 20 feet, 100% unmanned; there is no water, no sewer, just utility hook-up. He stated once this facility is done someone comes to this location twice a month. Monaghan stated they would do whatever the Township wants them to do as far as a different color for the aggregate, different blend, different exterior finish, will paint the tower whatever color is desired, and will do whatever landscaping is required. He stated as mentioned previously, they have supplied documentation of the Gerald R Ford Airport approval. Monaghan stated they have agreed to permit use of the tower by other communication services, and if the tower ceases operation or is abandoned the Township may order its removal from the site by the owner of the tower within three months of notification. Monaghan stated he believed that it is certain that other carriers would wish to locate on the tower. He stated if the height of the tower to serve its intended function decreases from the installed height due to some technological advancement they will agree to reduce it.

Commissioner Lowry asked about the kind of noise that would be issued by the equipment.

Monaghan stated it is negligible, and the air-conditioning that accompanies these shelters is no more than you have at your own home. He stated as far as the generator it is for an emergency situation, and if we run out of electrical power the batteries are going to kick in and run for 36 hours, and after that if the electricity hasn't been restored the generator will kick in.

Easter asked if they have looked into the Lucent technology with a cellular antenna about the size and shape of a Rubics cube.

Elia stated that they have not looked at that yet.

Easter asked what the problem is with the water tower.

Monaghan stated co-locations on the water tower are very limited, and it would basically be only one carrier. He stated it's only 120 feet and a tower would have to be put on top of the tower to provide a usable height.

Ferro stated that neither the Township nor the school district have been interested in co-locating on the water tower. He agrees with the applicant you would have to go vertically above the top of the tower, which would have an awkward appearance. He stated there may also be ground space limitations for multiple carriers. Ferro pointed out that the water tower at Forest Hills Eastern is 1/4 the size of the one on Ada Drive, which has about 4 carriers' equipment mounted on it.

Ferro stated everyone has an aerial photo that shows the limits of 1/4 mile radius around the school district, around the proposed tower location. Ferro stated the homes that 1/4 mile radius encompasses includes five home sites on the north side of Knapp Street, several southeast of the campus, some in the Hunters Run subdivision, and some on the north side of Two Mile Road. He stated he did have a photo taken from a home about 300 feet from the tower site that shows the existing football field lighting that extends above the tree line; the top of the pole that would be replaced is below the tree line, and the increased height from 72 feet to 150 feet would put the new monopole well above the top of the tree line.

Joe Ditonto, 5985 Two Mile Road, summarized his recent report submitted to the planning commission, which used a CAD tool to create a scale model of the tower, of the school and the surrounding site, and shows different areas from different angles. He stated they do not believe what was presented by AT&T is really accurate. He stated the proposed tower is not compatible with the structures, area or the landscape. Ditonto stated their quality of life as residents would be irrevocably altered by the introduction of a cell tower, and feel very strongly that the property values in the area are being affected by a lot of the cell towers being constructed, as shown in our Exhibit A. He stated they would like to see a study done by the Township in regard to property values. Also, he suggested the Kent County Road Commission property would be a better site for the cell tower as the elevation is 118 feet above the proposed site.

Robert Young, 5899 Two Mile Road, stated his house is 300 feet from the proposed cell tower. He stated the Forest Hills School District has cooperated with them to try to keep the campus activities non-intrusive on our property. Young went on to elaborate about the noise and the vibrations in the house caused by the proximity of the stadium to his house. He stated he never even saw, looked at, or heard of the survey. Also, he asked who gets the money for the tower and how much is it; is there money involved, or is it a non-profit thing, or a school sharing thing. Young stated we bought our house in the country because there are hills and trees, and you do lose signals, but we don't have to be connected all the time. He stated we bought where we're at because of the environment, and to create the city in your own background has just gone too far, and the tower looming over you like a giant umbrella is the last straw.

Christina Morg, 2926 Pettis, along with her daughter, stated they have been out having conversations with people in over 100 homes in the area, and they are speaking on behalf of over 70 people. She stated of the 70 signatures they obtained 40 to 45 of the people were passionate about keeping the cell tower off Forest Hills Eastern property. Morg stated there were 12 people who did not sign the petition as they did not buy into the research regarding other significant variables and/or wanted an improved cell phone service. She stated she feels the information presented on behalf of AT&T was accurate in terms of the cell phone coverage. Morg stated the people are tired of the battle and feeling their voices are not being heard. She stated she would seriously consider not sending her daughter to Eastern as she does not want her in school under a cell phone tower with possible electro-magnetic radiation waves.

Heidi Cottrell, 1801 Flowers Mill, stated she is one of 3,300 parents of a Forest Hills student, and many are considering taking their child out of Eastern High School. She stated if the school board allows Eastern to have a cell tower they will have to do it for Northern and Central if that ever comes up.

Pamela Ditonto, 5985 Two Mile Road, stated we are here fighting for our homes, fighting for the places that we live, the places that we should be able to retreat to at the end of a long day in peace and quiet and safety, and that is about to be impacted by what AT&T is proposing here. She stated this is not a win-win

situation as it will greatly impact our neighborhood, the aesthetics, our property values, and our life style, for a number of reasons. Ditonto stated where we live is agricultural, residential zoning and is not a place to put a cell phone tower. She stated that of the surveys sent out 187 were not returned, which were basically three questions, and there was absolutely no scientific backup with the survey. Ditonto stated the safety issues of the tower and it's physical presence are many, some of which the Telecommunications Act forbids us to speak of, but what if it falls over from the straight line winds; they are lightning rods and attract lightning which travels underground and is a potential danger to animals and children; it's way too close to other properties; the batteries for the backup in case of a power failure contain sulphuric acid which is a hazardous material and can leach into the surrounding environment and potentially cause contamination. She stated there is not a good reason to locate this tower here.

Rachel Terpstra, 601 Terrace, Muskegon, Attorney representing the Ditonto's, stated one of the requirements for your applicant is that the tower height should be the minimum height needed, and they only showed you one option. She stated it would be nice to have a study showing what is the real minimum, could it be 130 feet, to get adequate coverage because if you look at the to-scale drawing the difference is very significant, 72 feet or 75 feet to 150 feet is very significant, and that height towering over the tree lines is very significant. Terpstra requested that the Planning Commission look into the very significant issues when this decision is made and require them to meet the burden that they are required with your ordinance to do, which is to show whether it is absolutely essential to be at this site or are there existing sites that they can use, and require them to provide that documentation.

John Cottrell, 1801 Flower Mills Road, stated it seems to be beholden on AT&T to provide realistic displays of how high this is going to be, and that's probably the most pivotal thing you have to consider is the aesthetic of it. He stated if an architect can produce renderings to depict an accurate sort of height that is completely different than what AT&T showed here today, to me shows that AT&T tried to sort of fool you and to present something that is not realistic. Cottrell stated this is really a visually and strong negative thing to look at.

John Westra, 6127 Winthrop Court, and Ada Township Trustee, stated he became aware of this project through a google search that looks for any reference to Ada Township. He stated a point he has made to the Township Board is that we need to make sure that as many members of the community as possible are engaged in important decisions that are made by the Township, which are often based on recommendations that come from the Planning Commission. Westra stated the Planning Commission should look at the differences between the photo-shop drawings and the to-scale architectural renderings and make a decision that is based on fact and as much input as possible.

Tim Raymer, Forest Hills Public Schools, stated the school district has not entered into any agreement, and we have said this process can proceed and our board would have to take final action on that. He stated if the Planning Commission were to approve it then we would look at a lease negotiation process and then our board would consider it at that point. Raymer stated we have received many requests since 2004 to look at cell towers at this site, and over the years we have received concerns expressed by parents at the school regarding the lack of coverage. He stated there is likely to be a tower somewhere and if we do have a prime location that we can minimize the number of towers we can't just dismiss that. Raymer stated what is being considered here, modifying a light pole that is already there, is not an unheard of approach, and it has been pursued on a number of light poles at a number of athletic facilities throughout the state.

Ferro asked if the school district has ever been approached by carriers other than AT&T to allow use of the Eastern campus.

Raymer stated he would have to look in the file, but he believes they were approached by land brokers who were looking at the property.

Commissioner Butterfield asked if Raymer had a number of the parents that had expressed concerns about lack of coverage.

Raymer stated he did not. He stated he has just talked with principals, the superintendent has heard from parents, so it was verified again this week with the principals at Eastern High and Eastern Middle.

Carol VanDyke, 2928 Bird NE, stated we knew when they built the building the cell phone usage would be spotty and it's not a big deal. She stated her daughter knows where to go if she needs to get a hold of her.

Korth closed the public hearing.

Ferro stated he had received several emails from: Lisa Keller, Lookout Farm Dr., in opposition, Mary Oele, Two Mile Road, in opposition, Beth Wozniak, Glenwood Lane NE, in support, and Marcia Mitchell, Two Mile Road, in opposition to the request. He stated the Township's wireless consultant who has reviewed AT&T's application and their signal propagation modeling and maps is here and he submitted a written report that basically concurs that there is a need for better coverage in the vicinity of the Eastern High School campus.

Korth asked for each commissioner to briefly give their feelings on this application.

Commissioner Jacobs stated she does not feel ready to make a decision as she has questions about the survey and who it was sent to, the questions on the survey, and the co-locators.

Easter stated the hearing has been enlightening but feels there is more work to do.

Butterfield stated she concurred with that, and feels there was a lot of feedback tonight.

Lowry stated there have been a lot of questions and statements made, and I need the facts and a lot more information before I can make a decision.

Commissioner Lunn stated he is not ready to make a decision and has a lot of questions.

Treasurer Rhoades stated he would like to know more about where other carriers are located, and also get more input on the survey.

Ferro stated neither the Township nor the school district had any involvement in preparing the survey that AT&T did other than providing them with mailing labels generated from our property records. He stated they did share the results with us and we have copies of all the response cards that show everyone's hand-written comments. Ferro stated he thinks it might be worth considering whether the height could be reduced and whether it would facilitate a lower height by allowing only three carriers to be accommodated rather than four. He stated he would give further study to the photo simulation submitted in relation to the CAD renderings. Also, he stated we can ask the applicant and our consultant to comment on other possible alternative locations that were suggested in the public input, the Kent County Road Commission, the Pettis concrete recycling site, and a small shooting range property northwest of Pettis and Knapp.

Korth asked where we are in the 160 day FCC time limit for a decision.

Ferro stated the application was submitted in early January, so we are still less than 90 days.

Korth stated his feeling is a lot of effort was put into this in 2008 with a public meeting at the high school, a lot of public input and a lot of public comment, presentations, and our own consultant who gave us a

very detailed understanding of the valley at that point and what the constraints were. He stated there has been a lot of consolidation in the cell phone industry in the last few years, and it would be interesting to see where are the competitors' towers, and how is the competitive coverage in this area related to AT&T, and maybe we don't need to accommodate three carriers, maybe we only need two, maybe only one. Korth suggested the formation of a sub-committee with the purpose of moving this process on by digesting this information and come back to the commission as a whole and report at the next meeting.

Korth asked for members who would be interested in serving on the sub-committee in the next month so a lot of the issues could be digested more in detail. Jacobs, Easter, and Rhoades agreed to serve on the sub-committee. Korth we have to help AT&T find a location as they've worked very hard, put a lot of effort into this second round, and we really do not have an option not to make a decision.

Korth asked Ferro if we have any idea of the monetary benefit to the location provider, and given the school location does Ada Township have any potential benefit from this that the community should be aware of.

Ferro stated Ada Township certainly doesn't. He stated he would assume that if the school district negotiated a lease agreement then they would be compensated for the use of their property. Ferro stated that the Township obtains about \$70,000 per year from the cell phone antenna leases on the Ada Drive water tower. He stated he does not know if current lease rates are comparable to the rates that were negotiated several years ago for these leases.

Korth stated this school was placed at this location outside of any review or approval by Ada Township, and it had to do with the State statutes that allow the superintendent of schools to surpass the zoning, and asked if this is on school property why is it in front of us at all.

Ferro stated there is limited case law on whether a facility like a cell phone tower is similarly exempt from zoning as school facilities themselves are. He stated he has gotten a formal legal opinion on it from an attorney, but he did find an unpublished Michigan Court of Appeals case that found that some other type of facility unrelated to school usage was deemed not being exempt.

Motion by Rhoades, second by Jacobs, to postpone action until the next meeting, April 19th.

Motion passed unanimously.

Zoning Ordinance Amendment – Article III, Administration and Enforcement, to Establish Requirement and Procedures for Issuance of Certificate of Zoning Compliance

Ferro stated a Certificate of Zoning Compliance is a commonly used administrative tool to provide documentation to an interested party that a proposed land use, construction, or change of a use of a building complies with zoning. He stated we don't use a formal certificate right now, we respond to inquiries on the phone or in letter form. Ferro stated when a building permit is applied for we have a zoning sign-off form we fill out that has a zoning checklist on it, before a building permit is issued. He stated that for anything that requires a building permit there is a zoning compliance review and sign-off to insure it complies with zoning.

Ferro stated there are certain types of land use activity where there currently is no zoning review required. He stated one is agricultural buildings, which by state law are exempt from needing a building permit. He stated there have been instances where an agricultural landowner will simply hire a contractor to put up a building, and sometimes the contractor will check with us for zoning compliance, and sometimes they don't. Ferro stated the proposed amendment establishes a requirement that for any land use activity, whether it requires a building permit or not, you must obtain a zoning compliance certificate before you undertake that activity.

Ferro stated another example is when the use of a building changes from one use to another, for example a building might have an office use in it and one tenant moves out and another one moves in, and the new use may or may not comply with zoning. He stated if the landlord or the tenant doesn't check that out there could be a zoning violation created. Ferro stated this is intended to prevent those types of things from happening by establishing a requirement that people must check in writing and get it approved.

Korth asked about the change of an agricultural building to suddenly an RV storage building.

Ferro stated if it's a rental RV storage that's a zoning violation.

Lowry asked if there was anything to fine them for non-compliance.

Ferro stated, yes, if you don't obtain the zoning compliance certificate it's a violation of the zoning ordinance.

Korth opened the public hearing. He then closed the public hearing as there was no comment.

Easter asked if this is typical in most communities.

Ferro stated it is common but it's not universal. He stated Cascade Township doesn't have a similar requirement; Vergennes Township does, for example.

Easter asked if this is a revenue generator for the Township, another fee.

Ferro stated only if we establish a fee, and he doesn't know that there's any need to establish a fee, which is up to the Township Board. He stated if we were to establish a fee, he would encourage it to be modest because you don't want to discourage people from following the procedure, and it should not be a time consuming, costly process to administer.

Jacobs asked if someone is denied whether they can appeal. Ferro stated yes, there is an appeals chapter in the zoning rules that says that any administrative decision can be appealed, and this would be an administrative decision.

Motion by Rhoades, second by Jacobs, to approve the Zoning Ordinance Amendment – Article III, Administration and Enforcement to establish requirement and procedures for issuance of Certificate of Zoning Compliance.

Motion passed unanimously.

Korth asked if this goes before the Board of Trustees. Ferro stated yes.

VI. UNFINISHED BUSINESS - None

VII. NEW BUSINESS - None

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Ferro stated the Planning Commission priority ranking is self explanatory. He encouraged everyone to read the 2011 Citizen Survey summary, and if there are any significant items that have been missed or inaccurately described to let him know. Ferro stated they did not do any rigorous statistical measurements to see if the differences between 2004 and the 2011 survey responses are statistically

significant as to actually be beyond random differences. He stated we do have a lot of younger developments we didn't have 10 years ago.

Korth asked if these two items could be left on the draft agenda.

IX. PUBLIC COMMENT - None

X. ADJOURNMENT

Motion by Easter, second by Jacobs, to adjourn the meeting at 10:00 p.m. Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk

SB/dr