

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE JULY 18, 2013 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, July 18, 2013 at 7:00 p.m. at the Ada Township Offices, 7330 Thornapple River Dr., Ada, MI.

I. CALL TO ORDER

The meeting was called to order by Chairperson Korth at 7:00 p.m.

II. ROLL CALL

Present: Chairperson Korth, Commissioners Lunn, Leisman, Jacobs and Lowry

Absent: Commissioners Butterfield and Easter.

III. APPROVAL OF AGENDA

Motion by Jacobs, supported by Lowry, to approve the Agenda as presented. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF JUNE 20, 2013 MEETING

Motion by Jacobs, supported by Lunn, to approve the Minutes of the June 20, 2013. Motion passed unanimously.

V. PUBLIC HEARINGS

None.

VI. UNFINISHED BUSINESS

Request for Special Use Permit, 150-foot tall Wireless Communications Tower, 6390 Knapp St. NE, Parcel No. 41-15-08-426-007, AT&T Mobility

Ferro stated the Planning Commission postponed action on this request at the June 20th meeting. At that meeting AT&T proposed reducing the height of the tower from 150 feet to 130 feet, and confirmed their desire to amend the application to provide that the tower would be of a unipole style, which is a clean appearance tower in which all of the antenna elements are enclosed within the tower. Ferro stated revised drawings were submitted within the last week that modified all of the drawings to reflect that the proposed tower would be a 130 foot unipole style tower. Ferro also noted that revised photo simulations were submitted with the revision date of July 3rd on them that reflect lowering of the tower to 130 feet, and the views are from either direction on the Knapp Street corridor, and from other sites that are identified on the photo location maps. Ferro stated subsequent to the June 20th meeting, 6 members of the planning commission, in small groups, visited the vicinity of the proposed tower and three homes located on the north side of Bridlewood Court to observe firsthand the setting of those homes in relation to the proposed tower site.

Ferro stated he has drafted two alternative sets of findings, conclusions and actions – one for approval and one for denial of the application. He stated the findings vary as to what conclusions are reached with regard to adverse impact on significant views from the home sites on Bridlewood Court, and they vary in the findings regarding the general impact of the proposed tower on the character of the surrounding area in general, in terms of the views of the tower along the four road corridors that approach the intersection of Egypt Valley and Knapp Street. Ferro stated these findings and conclusions are judgment calls for the Commission to make.

Ferro stated another significant judgment for the Commission is to what extent the proposed tower will satisfy both AT&T's need for better coverage in the area, and to what extent this tower may or may not be of interest to other carriers in the future for co-locations. Ferro stated the findings and conclusions that are drawn in the two alternative courses of action differ with respect to that question as well. Ferro stated he included in the packets both past correspondence that we've received from our wireless consultant, Drew Wireless, and a summary piece of correspondence from the consultant received today. Ferro stated that based on the input from Drew Wireless, he has doubts as to whether a tower that's 130 feet high will be of interest for co-location by any carriers other than AT&T because of the fact that they would be mounted at lower heights than the AT&T installation, and he's concerned how effective those lower mounting heights will be in reaching the area of the Township in the river valley that has the worst coverage, especially with the impact of tree foliage which is not modeled in the signal strength modeling carried out by AT&T and Drew Wireless. Ferro stated there is a lot of judgment to be exercised by the Commission as to what conclusions are reached. He stated he is not able to clearly identify any objective standard conformance reasons for recommending one action or the other. Ferro also noted that the AT&T representative pointed out to him that there is an error in one of their drawings they may want to clarify and verbally correct. Ferro stated this is the identification of mounting heights for AT&T antennas at 3 different heights on the proposed tower – at 125 feet, 115 feet and 105 feet.

Steve Wells, 280 N. Old Woodward, Suite 250, Birmingham, MI, Attorney for AT&T, stated an error needs to be corrected on drawing C-3, for which he apologizes. Wells stated AT&T plans to be at 125 feet and at either 105 feet or 95 feet. He stated they do not wish to be located at 115 feet. He stated they are willing to accept these locations on the tower as a condition of approval, and they would submit a new C-3 drawing.

Wells stated they do dispute some of the matters that have been stated. He stated they chose the 130 foot height and stealth design tower as a compromise. Wells stated they have been pursuing a site in this area for the past eight years, and have worked with the Township and school district in order to be a good neighbor.

Wells quoted provisions of the state zoning law, which states that a local government must act on a special use application for a tower site within 90 days. Wells stated AT&T Mobility has demonstrated through expert testimony that they have a four mile by four mile gap, so a 16 mile gap that they are attempting to fill. He stated they can't fill the entire gap with one tower, but what they can do with the tower they have, at the 130 feet height, is provide 65% to 69% coverage, which will certainly enhance their coverage, which is basically non-existent at present.

Wells stated that AT&T Mobility does want co-location, as it was stated in the last minutes. Wells stated there are some carriers that did not respond to their inquiry regarding co-location interest. He stated that the one that did - Verizon Wireless, does not want to co-locate on this tower, but we really feel that this is a good place. He also pointed out that the ordinance standards do not address views from public roads. Wells thanked Commission members for all the time they have spent in reviewing this application.

Korth asked the Commission whether they wished to entertain brief public comment. Lunn stated he would wish comment to be limited to any new information. The balance of the Commission members concurred with this view.

Ferro stated we wished to point out recent correspondence received, which he described.

Ruth Gaudard, Director of Internal Affairs for AT&T, stated regarding the suggestion of going back to the school board for locating on the Eastern campus, they have not had any indication or outreach from the school district that they are willing to reopen any negotiation. Gaudard stated that at the time they were originally working with the school district they were told to stay away from the water tower because of the sensitivity of it. She stated they have not had any indication that anything has changed in that regard.

Leisman asked if in the future a third co-locator wanted to go on the tower, would it be possible to add another 10 feet section on top of the tower to add a third co-locator.

Steve Carr, 2894 Aldersgate Drive, Greenwood, Indiana, stated that in order to add to the tower height in the future, the design of the initial tower would need to physically and structurally be planned at the front end to accommodate a future 10 foot extension.

Lowry asked if the height that was proposed at the football field was much less than the proposed site on Knapp.

Carr stated the facility at the high school was 150 feet.

Lowry stated but the elevation of the land is higher.

Carr stated there is an increase in elevation but you're moving away from your coverage objective.

Lowry stated so it really doesn't make a difference, you're not seeing that dramatic a difference between the new proposed site as against the football field.

Carr stated the football field was in the preferred area that gave us better coverage, but we are still able to obtain an improved coverage, as Mr. Wells stated at 69%. It's not the best we could get based on where the football field was located, but it does serve a purpose and gives us a great improvement.

Leisman observed that based on input from Drew Wireless, if the water tower were available for co-location it would provide equivalent service to make the proposed tower unnecessary.

Ferro stated I think the conclusion by our wireless consultant is it would provide superior service to the area where better coverage is desired.

The Commission discussed the various alternative findings in the draft approval and denial resolutions prepared by the Planning Director.

Following discussion, it was moved by Leisman, supported by Lunn, to adopt the approval resolution, to read as follows:

“WHEREAS, on April 8, 2013, New Cingular Wireless PCS, LLC, dba AT&T Mobility, submitted a special use permit application requesting approval of a 150-foot wireless communications tower, in the form of a conventional “monopole” with exposed antennas, on property located at 6390 Knapp St. NE (Permanent Parcel No. 41-15-08-426-007); and

WHEREAS, on May 16, 2013, the Planning Commission held a public hearing on the special use permit request, and

WHEREAS, subsequent to the public hearing, at the June 16, 2013 Planning Commission meeting, legal counsel for AT&T Mobility verbally offered to revise the proposed wireless communications tower to be of a “unipole” style, with all antenna elements concealed from view, at a modified height of 130 feet, and

WHEREAS, the Planning Commission, after considering materials submitted by the applicant, as well as oral and written public comment, has completed its evaluation of the application with respect to its conformance with the standards for approval contained in Sec. 78.152(14) and Sec. 78-493 of the Ada Township Zoning Ordinance; and

WHEREAS, the Planning Commission has reviewed information from its wireless communications consultant regarding the placement of wireless facilities on the municipal water tower located less than one mile to the west of the property at 6390 Knapp St.,

NOW, THEREFORE, BE IT RESOLVED,

1. The Planning Commission hereby makes the following findings with respect to the application:

a. AT&T has been searching for a site on which to locate wireless communications equipment in the vicinity of the Knapp St./Pettis Ave. area for several years. A previous application for a new wireless communications tower on a site at the southeast corner of Pettis Ave. and 2 Mile Rd. was denied by the Planning Commission. A previous application for co-location of wireless communications equipment on an extension of an existing athletic field lighting tower at the Forest Hills Eastern Middle School/High School campus was approved by the Planning Commission. AT&T has been unable to obtain approval by the Forest Hills Public Schools Board of a site lease allowing the approved co-location on the lighting tower to be carried out. However, recent communications between School District and Township officials have indicated a willingness by both parties to consider allowing the placement of wireless communications facilities on the water tower, which has been identified by the Township's wireless communications consultant as a superior location to the 6390 Knapp St. site with respect to providing wireless coverage in the Grand River valley

b. Computer simulation of existing wireless coverage carried out both by the applicant and by the Township's wireless communications consultant, Drew Wireless, LLC, has demonstrated a need for improved coverage in the Grand River valley along the Knapp St. corridor.

c. At the June 20, 2013 Planning Commission meeting, AT&T legal counsel Steve Wells stated that the proposed reduction in the height of the proposed tower from 150 feet to 130 feet would result in the coverage from the proposed tower site being "down to about 65-69%" of the coverage resulting from the original proposed height of 150 feet.

d. The Planning Commission finds that the proposed tower height of 130 feet appropriately balances the need for improved wireless coverage in the Grand River valley with the Township's desire to minimize the visual impact of wireless communications facilities on adjacent properties and the surrounding area, if the use of the water tower for such facilities is not available.

e. The visual impact analysis prepared and submitted by the applicant accurately depicts the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis have been reviewed and approved by the Township.

f. The proposed tower height of 130 feet and location conform to the overall goals and recommendations for wireless infrastructure in the Township contained in the September, 2005 report titled "Ada Township Wireless Communications Report," prepared by Drew Wireless, which is referenced in the 2007 Ada Township Master Plan, if the use of the water tower for such facilities is not available.

g. The proposed tower height of 130-feet is the minimum height necessary to serve its intended function. The computer modeling and graphic depiction of radio frequency signal propagation and coverage submitted by the applicant have been reviewed by the Township's

wireless communications consultant, who has concurred that there is a need for improved wireless coverage in the area and that the proposed tower addresses that need.

h. It is not feasible at this time to provide equivalent service by locating the antenna on another existing structure in the township. However, if the municipal water tower located on the Forest Hills Public Schools property located less than one mile to the west of the subject property were available for location of wireless facilities, it would provide superior service coverage compared to the subject property, and would render the proposed tower at the subject property unnecessary.

i. The Commission has considered the location and view orientation of homes located within one-quarter mile of the proposed tower, and concluded that while the proposed tower will be visible, the presence of woodlands on the subject property and in the surrounding area, the reduction in tower height from the originally-proposed 150 feet, and the proposed use of a “unipole” style tower on which all wireless antenna elements are concealed from view within the tower, all mitigate the visual impact of the tower from properties located within one-quarter mile of the tower site.

j. The tower and ancillary buildings housing equipment will be of a size, type, color and exterior materials which are aesthetically and architecturally compatible with the surrounding area, and as minimally obtrusive as possible.

k. The tower is of a height that is not required by FAA regulations to have tower-mounted lighting.

l. The applicant has provided documentation of conformance with the county international airport zoning ordinance.

m. The applicant has expressed its agreement to permit use of the tower by other communications services providers on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower.

n. The applicant has expressed its agreement to remove the tower if, for any reason, the tower ceases operation or is abandoned, within three months of notification by the township.

o. The applicant has expressed its agreement to reduce the height of the tower, if the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors.

p. The design and height of the proposed tower is such that the proposed tower will be harmonious with the character of adjacent property and the surrounding area. The Commission has concluded that the 130 foot height of the proposed tower, combined with the use of a “unipole” tower design in which all antenna elements are concealed from view, contribute to the compatibility of the tower with the surrounding area, if the use of the water tower for such facilities is not available.

q. The Planning Commission also finds that the existing wooded conditions located on the portions of the subject parcel that are outside the AT&T lease area serve the important purpose of visually screening the ground lease area and portions of the tower from view from the adjoining streets and surrounding properties. The continued presence of natural wooded conditions beyond the lease area is essential to ensuring that the proposed tower is compatible with the character of adjacent property and the surrounding area.

r. For the reasons stated in Par. p. above, the proposed tower will not change the essential character of the surrounding area, if the use of the water tower for such facilities is not available.

s. The proposed tower will not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.

t. The proposed tower will not place demands on public services and facilities in excess of capacity.

2. Based on the above findings, the request for special use permit for the proposed wireless communications tower, as originally submitted by the applicant, and as subsequently modified by the applicant, is hereby approved, subject to the following conditions:

a. The wireless communications tower shall have a maximum height of 130 feet, and shall be initially designed and constructed to accommodate potential future extension of the tower height by a maximum of 10 additional feet. The tower and ancillary equipment shall be constructed as shown on the plans submitted by the applicant, as listed herein:

1. Sheet LS1, with a revision date of 04/03/13
2. Sheet S-1, with a revision date of 03Jul 13
3. Sheet C-1, with a revision date of 03Jul 13
4. Sheet C-3, with a revision date of 03Jul 13, and as verbally corrected by the applicant at the July 18, 2013 Planning Commission meeting, and subsequently confirmed by a revised sheet submittal submitted by the applicant thereafter.
5. All other plan sheets not inconsistent with the above listed sheets, as contained in the application materials submitted by the applicant on April 8, 2013.

b. The tower and equipment compound shall be designed to accommodate 5 installation heights for wireless antennas, between 125 feet in height and 85 feet.

c. Co-location installations by individual carriers shall be subject to submittal of a site plan application for administrative review and approval by the Planning Director.

d. Any exterior site lighting installed on the site shall be motion sensor activated and shall be fully-shielded "cutoff" style fixtures.

e. If, for any reason, the tower ceases operation or is abandoned, the township may order its removal from the site by the tower owner, its successors or assigns, within three months of notification by the township. If the owner fails to remove the tower within the time specified by the Township, the Township shall have the right to remove the tower, and the owner shall be liable for all costs incurred by the Township.

f. If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum height.

- g. Each co-locating carrier's equipment shelter/cabinet shall be labeled with contact information for the carrier. The entry gate to the equipment compound shall be labeled with the facility owner's name, phone number and site ID number.
- h. The tower shall not have tower lighting.
- i. The 80-foot by 80-foot AT&T lease area shall be enclosed by an opaque fence or wall having a minimum height of six (feet), subject to review and approval of the material and appearance of the fence or wall by the Planning Director.
- j. Any exterior lighting on equipment cabinets or buildings within the lease area shall be motion sensor-controlled.
- k. A driveway access permit from the Kent County Road Commission shall be issued for the site, prior to issuance of a building permit.
- l. Those portions of the subject parcel that are outside the 80 foot by 80 foot AT&T Mobility lease area and associated driveway access easement, and outside existing utility easements of record, shall be retained in an undeveloped, wooded condition at all times and until such time that a wireless communications tower is no longer located on the subject parcel.

Compliance with this condition shall be achieved by the recording of a deed restriction, enforceable by Ada Township, setting forth restrictions on removal of existing vegetation on the subject parcel, and establishing the conditions under which the deed restriction may be removed from the subject parcel. The deed restriction provisions shall be subject to approval of the Township Board, prior to recording. The deed restriction shall be approved by the Township Board and recorded with the Register of Deeds, prior to issuance of a building permit.
- m. Any future extension of the tower height by an additional 10 feet as provided in Part.2,a. above shall be subject to approval of a special land use permit by the Planning Commission.
- n. No building permit shall be issued and no construction on the subject property shall be undertaken for a period of 120 days from the date of adoption of this resolution, in order to allow the Ada Township Board, Forest Hills Public School Board, AT&T Mobility and local residents to consider the feasibility of use of the superior water tower site. If AT&T Mobility and the Forest Hills Public Schools district enter into a lease agreement on reasonable terms within the 120 day period, approval of the special use permit for the 6390 Knapp St. property shall be withdrawn, and shall no longer be valid."

Motion carried by a 4-1 vote, with one Jacobs voting no.

Wells stated he didn't understand the condition prohibiting issuance of a building permit for 120 days, or the approval is withdrawn, and asked what that means.

Leisman stated if the water tower becomes feasible with a reasonable signed lease between the parties, then this approval is withdrawn, and if that doesn't happen then you're on your way.

Wells stated so I can tell my client the special land use is approved but we cannot pursue for 120 days a building permit. In the meantime we will be available to negotiate with the school for the water tower.

Korth stated correct, and I think you have the Commission's full support in this position as well.

VII. NEW BUSINESS

Final PUD Plan, 18,983 Square Foot Addition to Existing Building, Change of Use from Office to Office/ Computer System Configuration/Distribution Facility, 390 Spaulding Ave SE, Parcel No. 41-15-30-451-005, Century Technology Group

Ferro stated the property is unique in that it is zoned residential and currently has a 15,000 square foot office building on it and there's a large warehouse addition proposed to it. The reason for that is this property was involved in the litigation that took place between Eastbrook Homes and Ada Township over the overall Clements Mill development prior to 2000, and a settlement agreement was entered into between the two parties that governs what can be done with the property.

Ferro stated under the terms of the settlement agreement Eastbrook agreed to withdraw the seven acre property from the land that was to be included in the proposed apartment community, and the settlement provided that the seven acres could be used for a number of uses that were specified in the settlement in an exhibit. The settlement allowed the property to be used for any use that was permitted in our office district, and in addition, a list of specified other uses. Ferro stated the use that is proposed in the application is not among the uses that were specified originally in the settlement agreement. Based on past history of the settlement agreement, it has been amended on three different occasions. Ferro stated some type of procedure needs to be followed to change the terms of that settlement agreement even though the property has changed ownership since 2000, and is now owned by a different party than it was when the settlement agreement was entered into. He stated he doesn't believe the actual settlement agreement and the restrictions that are contained therein have ever been recorded with the Register of Deeds. Certainly the current property owner is aware of the terms of the settlement agreement, and the potential new occupant of the property is aware of that settlement agreement. Ferro stated the task before the Commission is to review of the proposed development plan. The terms of the settlement agreement say that any development on the seven acre parcel is subject to review and approval of a final PUD plan by the planning commission. Ferro noted the Final PUD review process does not require a public hearing.

Mike Baker, Nederveld, Inc., 217 Grandville, stated he is here representing the applicant Century Technology Group. He stated they are proposing just over 19,000 square feet as a warehouse addition to the existing 15,000 square foot building. He stated the use that is proposed is basically a computer technology business related to networking equipment, and they do have some technology space in the office portion, which is assembly and reconfiguring of computer components. The site as it was originally designed did anticipate a building addition in the same location that is shown. Baker stated storm water facilities were designed to accommodate the addition. He stated there was one change they have made in coordination with the Fire Chief; because the building is going to be fully sprinkled they were able to keep the fire access lane limited to the east side of the building. He stated the proposed addition is very well screened from the adjacent uses. Baker noted there is a large wetland along the south boundary of the property, and a substantial tree buffer on the north between the site and the rail line. He stated there is also an existing dense vegetation buffer between the existing building and Spaulding. Baker stated the parking supply would be expanded to meet the requirements of the additional use, with a proposed 70 parking spaces.

Korth asked if they needed 70 parking spaces.

Baker stated he doesn't think they're anticipating they'll need quite 70. He stated they are showing 11 spaces as being deferred for possible future construction.

Jacobs asked what the zoning requirement is for parking on the site.

Ferro stated in the ordinance standards its 70 spaces; but we have language in the ordinance that gives the planning commission discretion to relax that on a case-by-case basis, or to allow deferral of some of the required parking until the need is demonstrated, either one.

Korth asked to have the use described, and if you look at Exhibit C in the settlement agreement it's got a list of the uses that were part of the settlement agreement, and #16 says "all uses allowed under the Township general zoning ordinance Section 15.43." Korth asked if this was a reference to the Professional Office district, and if the previous use had been a title company office.

Ferro stated that was correct.

Ferro stated that with respect to the proposed use, it is a very clean unobjectionable type of use that is really a desirable type of use in the community. He stated that the site context is also suitable for this use, as it is directly across the road from the former Amway distribution facility/future Nutrilite manufacturing plant, adjacent to the rail line, and near an electric substation that is also zoned industrial. He stated the apartment community to the south is visually separated from this site by a pretty significant wooded wetland buffer. He stated the site was prepared at the time the existing building was constructed for a future building addition. Ferro noted that storm water design calculations that were submitted originally have been reviewed, and they addressed the impervious area that's proposed here with the building addition.

Ferro stated that the recommended condition of approval pertaining to exterior light fixture specifications can be removed, as those are already in the file with the original application. Ferro stated he has asked the applicant to look into whether any of the large expanse of pavement that's in the northeastern portion of the parking lot, some of which is needed for truck maneuvering to back into the loading dock, can be removed. Ferro stated he also noted there are no sizes or types of trees specified for the landscape islands in the parking lot, and that information should be provided.

Korth asked if there is a possibility that the additional parking being planned at the north end of the site could be accessed by a one-way drive, and made angle parking, to permit decrease in the amount of pavement.

Baker stated its set up as a 90 degree two-way drive isles, half of which is in place right now, basically the southerly portion of that back-to-back bay of parking. Baker stated this might result in loss of a space or two, but that he can discuss it with the owner.

Korth stated he was stating this as a suggestion, not as a proposed condition of approval.

Jacobs stated she believes there are some issues with the settlement agreement, in that there are no provisions stating that it runs with the land, which is standard, boiler plate contract language. She stated she is concerned that a new property owner may not be bound by this agreement. She noted there's been no recording of this agreement prior to this, and that since ownership was previously transferred from Eastbrook to another owner, there may currently be no binding deed restrictions. She stated her only caution is that we just get this straight. She noted that the condition suggested by Ferro referring to "possible recording of the settlement agreement" may not alone be sufficient, if the settlement agreement is null and void at this time because the parties to it are no longer the parties before us. She suggested adding wording to the condition stating "and/or any other necessary documentation."

Ferro stated if it were determined that the settlement agreement is no longer in effect on this property, then we have a non-residential use in a residential district, and a different procedure would need to come into play and that would be rezoning of the property.

Jacobs stated her only point in bringing this up is she thinks it's our responsibility to fix this for the new buyer, because we don't want them to have new problems down the road.

Ferro stated we can bring that to the Township supervisor's attention and get correspondence with legal counsel going regarding that.

Motion by Jacobs, supported by Lowry, to approve the Final PUD Plan for a 19,000 square foot addition to the building at 390 Spaulding Ave SE, subject to the following conditions:

1. Approval is conditioned upon the Township Board taking appropriate steps to authorize the new use of the property, including possible recording of the Settlement Agreement, and/or any other procedures necessary to authorize the proposed new use of the site.
2. A supplemental utility permit to adjust sewer rates based on the added square footage and use shall be issued by the Township, prior to issuance of a building permit.
3. A soil erosion and sediment control permit shall be issued by the Kent County Road Commission, prior to issuance of a building permit.
4. The pavement layout shall be modified to remove pavement that is not necessary for truck movements in the northeastern corner of the parking area.
5. The plans shall be modified to specify deciduous tree sizes and species, prior to issuance of a building permit.

Motion passed unanimously.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Status of Ada Village Urban Design Plan

Ferro updated the Commission on meetings that have been held between the Village Design Plan consultant and various stakeholder groups regarding their ideas for the future of the Village.

IX. PUBLIC COMMENT

None.

X. ADJOURNMENT

Motion by Lunn, second by Jacobs to adjourn the meeting at 9:35 p.m. Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk
SB/dr