

Lyndon Township
PLANNING COMMISSION MEETING
17751 N. Territorial Rd., Chelsea, MI 48118
May 14, 2009 @ 7:00 PM

APPROVED MINUTES

Members Present: Leon Moore, John Reilly, Joyce Spencer, Jerry Nelson, Mary Jane Maze, Michael Grambau

Members Absent: None

Also Present: John Francis, Township Supervisor; Merritt Honbaum – Ordinance Officer; Sally Elmiger – Carlisle/Wortman; Kevin Glardon, Pyramid Network Services; T.J. Sauthoff, Pyramid Network Services; Craig Swenson, Washtenaw County 800 MHz Radio Consortium; Mike Strother, Motorola; Theron Shinew, Michigan Public Safety Communications System (MPSCS); and State Police Deputies Jack Ceo and E. Toth.

Moore called the meeting to order at 7:00 PM, followed by the Pledge of Allegiance.

Call to the Public: Attorney Fred Steingold, representing Glenn and Tammy Williams, 7937 Werkner Road, stated the Planning Commission could be subject to legal challenge in reducing separation distances and recommended denying the application request.

John Langmore, 14095 Island Lake Rd., Chelsea, MI, voiced his opinion concerning lower property values, setback issues, not “harmonious and appropriate in appearance with the existing or intended character of the general vicinity,” and the high cost of a new structure versus collocating.

Mike Dahl, 7993 Mester Road, stated residents affected by the tower should receive tax abatements. In a letter to the Planning Commission, Dahl provided names/addresses of five residents willing to locate the tower on their property.

Approval of Minutes: Nelson motioned, second Grambau, to approve minutes of April 9, 2009, as presented. CARRIED.

Maze motioned, second Spencer, to approve minutes of April 16, 2009, as presented. CARRIED.

Approval of Agenda: Nelson motioned, second Spencer, to approve the agenda, as amended, moving the 800 MHz tower discussion to the first item of business. CARRIED.

Old Business – Special Land Use Application - 800 MHz Tower: Moore reviewed, as an end result of the previous Special Land Use Public Hearing, the applicant agreed to go back and evaluate the site. Jack Ceo gave a brief summary of the project and T.J. Sauthoff reviewed the revised site plan using illustrations to reveal residential properties, setbacks, landfill area, and wetlands of the parent parcel. Also made known were areas not permissible to building according to DEQ, due to the flow of underground water from the landfill, leaving frontage on Werkner Road as the only viable option.

Sauthoff reported they were able to shift the tower and compound approximately 50 feet to the east and 20 feet to the north supporting the request to reduce setback requirements for this project.

However, not all setbacks could be met and they were here again asking the Planning Commission for relief of those setbacks. Sauthoff reported the Planning Commission has authority to grant relief on setbacks based on Section 1.02 of the Lyndon Township Zoning Ordinance, which states *"The purpose of this Ordinance is to promote and safeguard the public health, safety, morals, prosperity and general welfare of the people."*

The new location would place the tower and equipment shelter behind an earthen berm. The access road was deleted and minimal tree removal would be required. Additional grading and landscaping would **completely screen the tower base and facilities public view** from the Werkner Road public right-of-way and neighboring properties.

Comments from Carlisle/Wortman Associates: Elmiger reported John Enos' updated review reflects elimination of the access road off Werkner Road, reduction in the compound area by 1200 square feet, and improvements to the original proposed setbacks. This review states the Planning Commission may waive or relax setback requirements when the intent of the Ordinance would be better served. Two setbacks from tower to house could not be met, as well as, one setback from the tower to the west parcel line. Enos recommended approval of the special land use conditional on providing more detail on the planting of trees, relaxing dimensional setbacks as provided for in the plan, and down shielded lighting on wall packs. Elmiger stated Enos considers this necessary for the health, safety, and welfare of Township and County residents.

Questions/Answers of the Planning Commission: Commissioners asked several questions of the applicants and clarified the final grading plan, including the elevation change behind the earth berm, the slope down to the road, and nearby electrical lines. Sauthoff stated the top of the berm would be about 90 feet from the edge of the road and the slope would be no steeper than it is now.

Moore inquired if Lyndon's regulations for setbacks were standard or on the conservative side as compared to other townships/cities. Elmiger responded they were on the conservative side and that most communities use 150% for their calculations. Shinew (MPSCS) stated the more conservative setbacks were designed for towers with guy wires in the event a wire snapped.

Swenson described in detail, issues with the cost to collocate on the WPXD tower. Swenson stated it was originally understood they would have free space on the tower and budgeted as such. During negotiations, 800 MHz found they would have to lease space and the going monthly rate was \$4,000/month. WPXD agreed to lease at a police discount rate of \$1,500/month. Swenson stated WPXD would only allow a 15-year contract, which would include escalating clauses to renegotiate the cost every five years. WPXD could not guarantee renewal of the lease after 15 years as they themselves have only 17 years left on their own lease. Swenson reported collocating required investing \$135,000 to add equipment to the tower plus additional costs to build an equipment shelter, which would require leasing land at the base of the tower. Swenson added that rental for 35 years at \$1500/month plus the cost to remediate the tower would equal \$635,000. That is without increases and does not include the cost to lease property at the base for the shelter. Swenson added that three residents from Mr. Dahl's letter were contacted and all withdrew their offers.

Swenson confirmed for the Commissioners that the City of Chelsea would not reap benefits from the tower unless a cell phone company collocates at a later date...and if so...800 MHz would split the benefits with the City of Chelsea. Swenson also confirmed that space would be reserved on the tower for County projects, i.e. Wireless Washtenaw, at no cost.

Moore reported, in the event the tower becomes obsolete, Pyramid Network Services would be obligated to take down the tower. Moore asked about routine maintenance. Shinew (MPSCS) stated the tower is built with solid steel and would be inspected quarterly and climbed on an annual basis.

Questions/comments from the public: Warren Widmayer, 14333 Island Lake Road, wanted to know if the applicants approached WPXD to strike a *deal* and believes the tower represents a money making venture. Moore responded citing information listed above.

Dean Racine, 8319 Werkner Road, asked how far the tower would be from his property line now that it has been relocated. Sauthoff responded 920 feet.

Planning Commission Discussion: Maze inquired, in the event of any noise issues, who would be responsible. Swenson went on record to say the tower is operated by the 800 MHz Consortium and would be responsible for noise, television interference, etc., and would come out and work to resolve the problem to the best of their ability.

Nelson clarified that Chelsea would not gain financially from the tower. Swenson stated they had a draft agreement with the City of Chelsea, which they would share with Lyndon. Sauthoff confirmed the structure would adequately provide a minimum of 2-3 collocators.

Reilly stated he understands about concerns over property values and does not know what affect this will have on neighboring properties, but reiterated this is “to promote public health, safety, and welfare of the people” and they are looking to do the best for *all* people concerned.

Moore stated with regards to intent, the Zoning Ordinance is clear and the tower is needed from a public safety, health, and welfare standpoint. Moore stated emergency communication ability is badly needed as there are dead zones where cell phones/radios don't work and emergency staff could find themselves unable to protect themselves or citizens. Moore added the site plan has been redesigned and the tower is not within the fall zone of any homes, no cables are involved, and there has been an improvement in the view from residences and roads and asked if anyone was ready to make a motion or discuss further.

Nelson reported he did not like previous setbacks and appreciates efforts to relocate the tower. Nelson stated the efforts of the Township Planner should not go unrecognized and recommended approval of the special land use and motioned that the Planning Commission approve the proposal as proposed in its revised location, with the following conditions: providing more detail on proposed trees to be planted, relax the dimensional setbacks as provided for in the plan, and provide down shielded lighting on wall packs. Grambau seconded. Discussion.

Moore suggested adding noise as a condition, not to exceed 50 decibels at the property line. Moore also stated conditions of proposed trees and down shielded lighting should be held for the Site Plan approval by the Board.

Reilly requested that the motion be amended to reflect that the proposed tower meets the intent of the Zoning regulation by enhancing the health, safety, and welfare of the community. Moore and Nelson agreed with Reilly on this request.

Grambau asked if the state sends out reports after inspections are done. Shnew reported they give inspection results to 800 MHz Consortium who could pass those on to the Township. Swenson concurred and reported they enter into agreement with MPSCS who invoices 800 MHz for the inspections and provides a report. Swenson reported he would provide a copy of the agreement and inspection results to the Township.

Reilly offered an amended motion *to approve the special land use for the Washtenaw County 800 MHz Radio Consortium based on the recommendation of our Planning Consultant, and reflecting on the purpose of our ordinance to promote and safeguard the public health, safety, morals, prosperity, and general welfare of the people, with the following conditions:*

1. *Provide relief from the setback requirements.*
2. *Receive certified “as built” drawings upon completion.*
3. *Yearly inspections of the facility occur, with inspection reports being provided to the Township.*
4. *Noise from the tower shall not exceed 50 decibels at the property line.*
5. *Submission of a final grading plan.*

Nelson approved the amended motion. ROLL CALL VOTE: Grambau – Aye; Maze – Aye; Moore – Aye; Nelson – Aye; Reilly – Aye; Spencer – Aye. CARRIED 6-0.

Reilly motioned, second Grambau, to schedule a special meeting of the Planning Commission on June 4, 2009, to review the site plan prior to going to the Board for approval. CARRIED 6-0.

Honbaum suggested the type of foundation be determined prior to the June 4 meeting. Ceo and others agreed they should be able to look at that before the meeting and will contact DEQ.

Moore proclaimed the Planning Commission did not take this issue lightly and looked at the needs of the entire community and tried to make sure everyone had input into the process. Moore thanked the residents for being part of that process.

No other business was discussed.

The meeting adjourned at 9:15 PM.

Respectfully submitted,

Roxanne Petrie
Office Manager