



**Minutes**

**THOMAS TOWNSHIP PLANNING COMMISSION**

Thomas Township Public Safety Building, 8215 Shields Drive, Saginaw, MI 48609

April 20, 2016 at 7:00 p.m.

Rod Iamurri called the Planning Commission meeting to order at 7:00 p.m.

Present in addition to Mr. Iamurri were: Ruth McDonald, Patrick Lynch, Dave Sommers, Dale Halm and Diane Lamountain. Also present were Dan Sika, Director of Community Development, Connie Watt, Planning Assistant/Code Enforcement Officer, Otto Brandt, Township Attorney, Rob Eggers of Spicer Group, Leland Calloway, Domaine Consulting, Stephen Estey, Dykema Gossett, Wendy Dematio, Certified Shorthand Reporter, and several interested parties.

1. *Call to Order and Roll Call*

2. *Pledge of Allegiance.*

3. *Approval of Agenda:*

It was moved by Sommers, seconded by McDonald to approve the Agenda for the April 20, 2016 meeting. Motion carried unanimously.

4. *Approval of Minutes:*

It was moved by Sommers, seconded by Lamountain to approve the minutes of February 17, 2016 as presented. Motion carried unanimously.

5. *Communications – Petitions – Citizens Comments – None.*

6. *Presentations-None*

7. *Hearings*

*A. Special Use Permit Request by APC Tower*

Iamurri opened the Public Hearing at 7:04 p.m. He stated that a request was before the Planning Commission for a Special Use Permit by APC Tower for a wireless communication facility at 3705 N. River Road. Iamurri made a statement regarding public comment, that all would have an opportunity to comment, please do not be repetitive, and that there would be a time limit for speaking of three (3) minutes. He stated that the Public Hearing was now open and once it was closed there would be no further discussion on this matter. He then gave the opportunity for the

applicant to address the Planning Commission. Leland Calloway of Domaine Consulting representing APC Tower introduced himself as a consultant for APC Tower and Verizon for wireless communication facilities. He noted that Steve Estey, attorney from Dykema Gossett was also present. He stated that he wanted to go over the Site Plan that was presented to the Township. Calloway said they are proposing to construct a wireless communication facility on a forty (40) acre parcel on River Road. He said there was an access to it off of River Road behind the existing homes. He noted that this would be a paved road extending from River Road back to the tree line. On the north side of that tree line is where the construction of the wireless tower is to be in a 100 X 100 area which would house the 192' tower and equipment cabinets. Calloway went on to say that the tower is required to be setback from all residents and that the outer line on the Site Plan depicted those setbacks which he stated were at the appropriate distance required from all the residents. He said that utility access will be underneath the paved driveway. He added that the Township had questioned the electrical access on the property. Calloway said that it will be up to the utility company once they do a walk on with them. The utility company will then decide. What is shown is the idea proposed but the utility company will have the final decision on this. There is a turn-a-round for emergency vehicles. Trees are planned for the outer perimeter to help shield the tower. A propane tank will be on site for emergency back up and generators. Area will not be lit unless there are workers present on the site. The system of lighting is auto-shutoff and will go out one hour after there is no movement on the site. Calloway addressed some of the deficiencies noted in the review letter received from the Community Development Department. He stated there is no gas planned for the site only propane for back up generator use. He added that a sidewalk agreement was required by the Township and APC Tower has agreed to this and would install sidewalks if at such a time the Township would decide to install sidewalks on River Road. He stated that in regards to storm water management, they had recalculated and found less than 5% impervious and it was not needed for this project. There are no drainage tiles. The driveway area was changed to a paved driveway at the request of the Township. A Soil Erosion and Driveway permit will be obtained prior to any construction taking place. He added that no signage is planned for the site. Next Calloway introduced slides showing how the selection process of the site took place. A Power Point was presented showing the area where Calloway was searching for a site. This was near the river on the Thomas Township side. Slide showed existing Verizon cell sites and Calloway explained that when looking for an area to bridge coverage or get a good signal between sites you'd look at the arc of these existing sites and when you do cellular technology you'd look for areas in between. The areas are normally dense population areas of Verizon users who have a deficiency in service. He went on to add that the Township asked them to look at existing towers within two (2) miles. This would be the tower located on Tittabawassee in Saginaw Township. He said he was asked to plot what the coverage would look like if they used this tower. He stated they are already on a tower in Freeland and that tower would be too close, they would get service in the wrong area and not where it is deficient. He explained that the other slides of maps show the signal received at different tower heights. Verizon looks at this propagation of signal by height and chooses the optimal height accordingly. This is why the tower is at 192' The next set of slides shows the current proposed site within our search area. Calloway added that when they first applied to the Township Agricultural land was available to them through a Special Use Permit. This was changed by the Township in February and is no longer available. If you look at the search area we did approach Deitzel Trust and got no response. The other areas are located in the flood plain and would not be acceptable for a wireless communication

facility. The areas in yellow in the map are residential areas. Zoning only allows towers in M-1, B-1, B-2 and B-4 which is only a small portion of their search area. The allowable districts where the tower would be permitted are all to the south, outside of the area where coverage is needed. The lot shown in the search site that is zoned B-4 is shown on next slide. If you calculate that by ordinance we have to have a setback of twice the tower height I estimated that at 380'. The distance on this lot from the nearest building is only 322'. We would need a variance. At this time Calloway introduced Stephen Estey from Dykema Gossett to address additional legal issues. Estey stated he was going to speak on the timeline and Ordinance changes. He explained that the application was submitted to the Township in October of 2015. In November a letter was received from the Township requiring follow-up on a number of items. One item noted which is not addressed in the Ordinance but they did pursue was the MBS Airport permit. They needed to co-ordinate with MBS to make sure they had no issues with the tower. They have obtained that approval and submitted that information to the Township along with a packet of information from his office. Estey added that since applying they now learned that the Ordinance had been amended to "zone out" agricultural property for the wireless tower. Another provision in the Ordinance that they raised concerns with was that two (2) carriers be obtained before a construction permit is issued. Estey said he doesn't know if it's been amended but did know there was talk of it being amended. He mentioned that a group called PCIA had sent a letter in regards to this that had been sent to the Township. He added that if it has not been amended he is sure it would be addressed. Estey said that in regards to the zoning district where towers are now allowed, this has an effect on Verizon and the consulting firm as well. For Verizon it eliminates the ability to close gaps in coverage. He stated that in looking at the Township's Master Plan, page 64 and based on the Ordinance change allowing wireless towers only in M-1, B-1, B-2 and B-4 zoning districts, 95% of the Township land is eliminated for use by wireless towers which has the effect of serving both as exclusionary zoning in almost all of the Township and the direct effect of prohibiting wireless coverage by Verizon. Estey stated I know your council is present and he will probably have comment on this. When you have wireless coverage coming to your area you look under your own zoning ordinance but also the Telecommunications Act, which is a Federal Act. If you are in violation of the TCA then the TCA controls. He added that his position tonight through evidence submitted in writing as well as that presented this evening, the tower should be permitted in this location. If not it violates the TCA. Therefore, I think you do have the ability and authority under law to grant permission given the facts and circumstances presented pursuant to the TCA on this issue. Because Verizon could only put the tower far south in the Township they could not address the coverage issue. Estey asked Calloway to present a slide which identifies the issue. On the north side of the river in another township there is land located and the possibility of using it was explored and this is not an option. Regarding the property selected the tower would be setback into the agricultural land located near some residents who I am sure will have comment tonight. As I stand here there is a tower located right near this office that is not shielded from the residents located nearby. The proposed tower will be more shielded than the one that is right near us. This is demonstrated on the photo simulations provided to the Township. I also want to remind you that the TCA states also that radio frequency is not to be considered by any board rendering a decision regarding wireless communication and would not be appropriate and should not be raised. Estey added that he knew there were folks present who want to comment. He said he travels all over the state in regards to these towers and assures that no one wants them in their backyard. But the reality is we have transmission lines, distribution lines, cell towers, things that

are necessary to society. He added that Verizon is entitled to go about its business and provide seamless coverage to benefit users. Estey added that he hoped to see the commission approve this so they can get on with construction. Iamurri requested that the Township receive a hard copy or email of all the data presented tonight in the event that they are looking for more information and their Township experts can review it. He added it can be sent to the Township via Mr. Sika's email. Calloway agreed to provide this. Estey said he thought all this information had already been provided but would be happy to provide it in digital format. Iamurri then asked for public comment. Allen Chernik, of 3530 North River Rd. spoke. He said he is within ¼ mile of this site. He, his wife and several friends are Verizon customers and none can remember a time when they had a problem with service or coverage. His question is "Are we so densely populated that we need another tower; is anyone else having trouble calling?" He said he doesn't see the need with three towers in a triangle. "Do these towers only service a 2-3 mile radius?" Michelle McInnis, 3545 North River Rd. spoke next. She stated that she is the person who circulated the petition regarding the tower, with over 100 signatures. She said in talking to these people not one was in favor of the tower and not one Verizon customer had ever had a coverage issue. She mentioned that her brother-in-law, Ed, is blind and she is concerned for his safety because of the access road which will be used as a turn-a-round. It is right near his property and this is a very dangerous curve. It is not in a good spot. John McInnis, 3545 North River Rd. addressed the Planning Commission. His question was "What distance do these towers serve, 1-2-3-4 miles?" He is concerned with the "light pollution" from all of these towers. Also the dangerous curve the driveway is located on where there have been three deaths. He feels that with this new paved access road on the curve people will now lose control and have roll over crashes. He also asked "Are curbs required or just to have the road paved?" Tracy Garcia, 3695 North River Rd. questioned "will the drive be lighted?" She said they moved to the area not to have all this light shining everywhere but to have the deer, eagles etc to look at. Katherine Freeman, 3725 North River Rd. "How long will construction take?" "Is there any information on how property values changes after these towers are installed?" Albert Clements, 9347 Fair Lane. He said he works on telecommunications and has never had a problem with his Verizon coverage but does feel they can direct the signals where they are needed for any coverage gaps they are claiming. He added if the rule is two miles then abide by it and do not allow the tower. Dan Porath, 3720 North River Rd. He wanted to add that as a Verizon customer there are no coverage issues, he has not had a service problem and feels any information to the contrary should be held suspect. Iamurri closed the Public Hearing at 7:35 p.m. Iamurri recommended that the Planning Commission table the request until May 3, 2016 at 7:00 p.m. in order for the Planning Commission and Township experts to review all of the information presented by the applicant this evening. Motion by Sommers, seconded by McDonald to table the request by APC Tower for a Special use Permit to construct a wireless communication tower at 3705 North River Rd. Motion passed unanimously.

## 8. *Sign Board of Appeals-None*

## **9. *New Business-Business/Organization of the Year for 2016***

Iamurri explained that this is done yearly to recognize a business, church or organization in Thomas Township that has improved their site. He added that the criteria, list of businesses, churches, organizations was in the packet along with a score sheet. He asked that the members do their voting and give their choices and to please turn them in to the Township office by the deadline of April 29, 2016. After they are tallied and winner is decided, a date will be chosen for the presentation of the awards.

## **10. *Old Business***

### ***A. Wind Energy Ordinance Review-Discussion Only.***

It was decided that due to time constraints this discussion will be taken up at the next regular meeting of the Planning Commission on May 18, 2016. It was more pressing to continue with the Master Plan Update and keep that on track.

### ***B. Master Plan Update***

Rob Eggers of Spicer was present to continue with the update of the Master Plan. He instructed the Planning Commission to review the latest updates to the Township Goals that are located in their packets and note the changes that have been made as of 4/7/16. He stated that if they have any questions about those to please bring them to the May 18<sup>th</sup> meeting to discuss. The Future Land Use map and any changes needed was discussed. Area #1 on the map is currently zoned B-4/B-5. Future Land Use shows low density residential. Eggers asked for any comment by Sika. Sika explained that B-4/B-5 zoning is intended for the golf course and Apple Mountain and feels that it is appropriate zoning. If it were changed then it becomes non-conforming. B-5 for example does allow for the open air businesses but also single residential. Eggers questioned if it is appropriate to remain B-4/B-5 and Sika responded yes. Area #2 which is zoned agricultural with a future land use of medium density residential; Sika stated they will have to look into this area and revisit. Eggers and Sika will work on this. Area #3 Eggers mentioned is zoned R-2 but future land use shows it as commercial. Sika said a road was proposed through the area and was proposed as part residential and part small business. There are still plans for this in the future so it should be kept as is. Area #4 is currently A-1 with a future land use of low density residential. This area does experience a lot of flood issues but there some plans for development that have come about recently. Sika noted it would have to be looked at before any change is to be made. Area #5 Eggers explained is zoned environmental but future land use shows commercial. Sika noted this is owned by Thomas Township for the preserve area and would be recommended to have it be environmental. Area #6 which is zoned A-2 with a future

land use of low density residential is to be reviewed and looked into in more depth by Eggers and Sika. Area #7 is zoned A-2 with a future land use of Open Space Conservation. Some of this area overlaps the mobile home park there. Sika suggested a mobile home park zoning as it would be more appropriate along the property lines of Thomas Crossings. Area #8 zoned B-5 but as agricultural on future land use it was felt should be left as is at this point. Sika noted that it does cover the golf course there. He and McDonald will discuss since this affects most of her property. #9 zoned R-1 with a future land use of agricultural will be kept as is. Area #10 zoned A-1 with a commercial future land use includes a blueberry farm that Sika said in conversing with the owners they were going to continue to farm blueberries and should be kept as A-1. #11 is the area including the Tech Park. It was recommended that it continue as A-1 since part is still farmed with an overlay for the Tech Park. #12 zoned A-1 with a commercial future land use; Eggers was questioning if the depth of the area was to remain with the same future land use. Sika said due to plans for parallel roads it is an overlay as well it should remain unchanged. #13 zoned R-1 with a future land use of commercial does have 5-6 small parcels as explained by Eggers. Since it is part of the business corridor it will be left with the future land use commercial.

11. ***Receive and File All Correspondence-Planning & Zoning News-March 2016***

12 ***Adjournment***

Motion by Halm seconded by McDonald to adjourn the meeting at 8:25 p.m. Motion carried unanimously. ***A special meeting will be held May 3, 2016 at 7p.m. The next regular meeting date is May 18, 2016.***

*Respectfully submitted by Connie Watt, Planning Assistant/Code Enforcement Officer*