



**Minutes**

THOMAS TOWNSHIP PLANNING COMMISSION SPECIAL MEETING  
Thomas Township Public Safety Building, 8215 Shields Drive, Saginaw, MI 48609  
May 3, 2016 at 7:00 p.m.

Patrick Lynch called the Planning Commission meeting to order at 7:00 p.m.

Present in addition to Mr. Lynch were: Ruth McDonald, Dave Sommers, Dale Halm and Diane Lamountain. Also present were Dan Sika, Director of Community Development, Jennifer Root, Receptionist, Otto Brandt, Township Attorney, Leland Calloway, Domaine Consulting, Stephen Estey, Dykema Gossett, Mona Storm, Court Reporter, and several interested parties.

**1. *Call to Order and Roll Call***

Those present; Patrick Lynch, Ruth McDonald, Diane Lamountain, Dale Halm, Dave Sommers. Those not present; Rod Iamurri, Steve Yockey.

**2. *Pledge of Allegiance.***

**3. *Approval of Agenda:***

It was moved by Sommers, seconded by McDonald to approve the Agenda for the May 3, 2016 special meeting. Motion carried unanimously.

**4. *Approval of Minutes:***

It was moved by Halm, seconded by Lamountain to approve the minutes of April 20, 2016 as presented. Motion carried unanimously.

**5. *Old Business***

**A. *Continuation of Tabled Item from April 20, 2016 Planning Commission Meeting regarding the Special Use Permit request by APC Tower.***

Vice Chairman, Patrick Lynch made a request for a motion to untable the item from the April 20, 2016 Planning Commission meeting. Motion by Sommers, support by Lamountain to untable the request for a Special Use Permit by APC Tower from the April 20, 2016 Planning Commission meeting. Motion carried unanimously.

Lynch stated that the information submitted by the applicant and public has been reviewed by the Township and the following resolution is to be read into the minutes. Lynch asked Jennifer to please read the resolution as follows:

**TOWNSHIP OF THOMAS  
PLANNING COMMISSION**

**RESOLUTION TO DENY APPLICATION FOR SPECIAL USE PERMIT  
RE: 3705 N. RIVER ROAD, FREELAND, MI**

At a regular meeting of the Planning Commission of the Township of Thomas, Saginaw County, Michigan, held in the Township Hall in the Township on the 3rd day of May, 2016, at 7:00 p.m.

PRESENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

The following preamble and resolution was offered by \_\_\_\_\_ and seconded by \_\_\_\_\_ .

WHEREAS, pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.* ("MZEA"), the Township has authority to adopt and amend zoning ordinances regulating the use of land in the Township; and

WHEREAS, pursuant to Section 18.2 of the Township Zoning Ordinance, the Township Planning Commission is the body responsible for reviewing and approving special land uses; and

WHEREAS, Section 18.34 of the Township Zoning Ordinance sets forth the standards for wireless communications facilities; and

WHEREAS, APC Tower (represented by Leland Calloway of Domaine Consulting) has filed a Special Use Permit Application ("Application") for a wireless communications facility to be located on real property located at 3705 N. River Road, Freeland, MI, identified as

Parcel No. 28-12-03-10-1002-011 ("Property"), which the Application states is owned by JDD Tower, LLC; and

WHEREAS, the Property is zoned A-1, Agricultural; and

WHEREAS, the Township has engaged an engineer, Spicer Group ("Engineer"), to review and analyze the Application and all related materials; and

WHEREAS, the Engineer provided its Analysis and Findings of the information and documents provided by the Applicant ("Engineer's Report"), and the Engineer's Report is attached as Exhibit A to the Resolution and is incorporated into the record; and

WHEREAS, the Planning Commission held a properly noticed public hearing regarding the Application on April 20, 2016; and

WHEREAS, having considered all comments and materials provided at and before the public hearing, including all documents, correspondence, maps and information submitted by the Applicant, and having considered the Engineer's Report and all other relevant information and documents, the Planning Commission now wishes to render a decision on the Application.

NOW, THEREFORE, the Planning Commission of Thomas Township, Saginaw County, Michigan, resolves as follows:

1. The Planning Commission hereby denies the Application for the following reasons:
  - a. The Property is located in the A-1 District. Pursuant to the Zoning Ordinance, Section 18.34.b.4, Wireless Communication Facilities are **not allowed** by special use permit in the A-1 District.
  - b. Pursuant to Section 18.34.b.4.a, even in areas where a special use permit is required, the Applicant still must demonstrate that the telecommunications equipment planned for the proposed tower cannot be accommodated on an

existing or approved tower or building within a two (2) mile radius of the proposed tower location due to one of four reasons as outlined in i through iv of Section 18.34.b.4.a as follows:

i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

iii. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

iv. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

c. As required by Section 18.34.b.4(a) and after reviewing all relevant documents submitted by the Applicant and the Engineer's Report, the Planning Commission has determined that the Applicant has not sufficiently demonstrated that the cell phone receptor cannot be placed on a tower within a 2 mile radius for the following reasons and based on the following information in the record:

1. There is a tower on Tittabawassee near Hackett located at 5043 Hackett Road. ("Tittabawassee Tower").

2. The Tittabawassee Tower is located within 2 miles of the proposed tower location on the Property.

3. In its January 19, 2016 letter, the Applicant states that using the Tittabawassee Tower would not "serve Verizon Wireless' objective of improving network coverage." Further, the Applicant claims it will result in "a significant and unnecessary overlap in network coverage." The Applicant also supplied propagation maps.



4. By letter dated February 17, 2016, the Township informed the Applicant that additional clarification was required to ensure that the requirements of 18.34.b.4(a) have been met. The letter further informed the Applicant that the information provided was not sufficient to demonstrate the requirement for collocation within 2 miles had been met.

5. Instead of providing any further information, by letter dated March 14, 2016, the Applicant relied on its previous statements and on the presentation to be made at the April 20, 2016 public hearing.

6. However, after reviewing these maps, the information submitted by the Applicant, and the testimony at the public hearing, the Township's Engineers have determined that the Applicant has not sufficiently demonstrated that the cell phone receptor cannot be placed on the Tittabawasee Tower.

7. Thus, the Planning Commission, in reliance on the above information and all the facts and testimony in the record, has determined that the Applicant has not demonstrated that wireless facilities cannot be placed on the Tittabawasee Tower.

d. Pursuant to Section 18.34.a., the intent and purpose of the Zoning Ordinance is to accommodate the communications needs of people while protecting the public health, safety and general welfare of the community by (1) facilitating the provision of wireless telecommunication services to the residents and businesses of the Township; (2) minimizing adverse visual effects of towers through design and siting standards, (3) avoiding potential damage to adjacent property from tower failure through structural standards and setback requirements, and (4) maximizing the use of existing approved towers and buildings to accommodate new wireless telecommunication facilities in order to reduce the number of towers necessary to serve the community. The Applicant has not demonstrated that it has evaluated other tall structures in the area for a possible location of a cell phone receptor; therefore, there is no evidence that APC has maximized the use of existing towers and buildings.

e. The Applicant has failed to demonstrate a good faith effort to collocate with other carriers by failing or refusing to provide the following information:

1. A survey of all existing structures that may be feasible sites for collocating wireless service facilities;

2. Documented contact with all the other licensed carriers for commercial mobile radio services operating in the County;
3. Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation; and
4. A written statement of any reasons for the lack of feasibility of collocation.

f. The Planning Commission has also determined the Applicant has not demonstrated that there is a significant gap in its own coverage, that the Applicant has not made a good faith effort to identify less intrusive alternatives to the proposed tower and that the Applicant has not made efforts to investigate sites that would be in compliance with the Zoning Ordinance, based on the substantial evidence on the record as follows:

1. The maps submitted by the Applicant have not demonstrated a significant gap in coverage (See Exhibit A).
2. The APC search ring as presented at the 4-20-16 public hearing shows that there are areas within the ring in Saginaw Township where a wireless communication facility may be allowed. Some of that area is within a flood zone.
3. APC stated that it is not appropriate to construct a tower within a flood zone. However, APC did not explain why this is not appropriate. According to Russ Beaubien, P.E., Spicer Group engineer, a tower could be permitted in a flood zone.
4. A portion of the search ring area in Saginaw Township is east of M-47, which is **not** in the flood zone.
5. Within Thomas Township, there are areas just outside of the search ring that are zoned B-4, which is an allowable zone for a wireless communication facility.
6. No information was provided about searching for or evaluating any other tall structures in the area for possible location of a cell phone receptor.
7. Coverage maps supplied by Verizon do not appear to show coverage from all of the towers in the area.

8. In its presentation, the Applicant noted that it had “reached out to the Deitzel trust and got no response.” This appears to be their only attempt to evaluate other sites.

9. Five Verizon customers who lived near the proposed tower spoke at the public hearing stating that they had no problems with cell phone reception. One of the five, Michelle McInnis, stated she had a petition signed by over 100 people who did not want the tower.

2. The Planning Commission finds that, based on the substantial evidence on the record, including but not limited to the recommendation for its Engineer, the Application should be denied. The Planning Commission further finds that denying the Application for the reasons stated in this Resolution is in the best interest of the public health, safety, and welfare.

3. A copy of this Resolution shall remain on file with the Township Clerk and shall be provided to the Applicant.

4. Any and all resolutions that are in conflict with this Resolution are hereby repealed but only to the extent to give this Resolution full force and effect.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

CERTIFICATION

STATE OF MICHIGAN        )  
  )  
COUNTY OF SAGINAW        )

I, Elizabeth Wietfeldt, Deputy Clerk of the Township of Thomas, hereby certify this to be a true and complete copy of the Resolution To Deny Application For Special Use Permit Re: 3705 N. River Road, Freeland, MI, duly adopted at a regular meeting of the Planning Commission held on the 3rd day of May, 2016.

\_\_\_\_\_  
Elizabeth Wietfeldt, Deputy Clerk  
Thomas Township

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## Thomas Township Planning Review

Special Use Permit Request  
Wireless Communication Facility  
3705 N. River Road

Submitted by: Robert R. Eggers, AICP  
Spicer Group



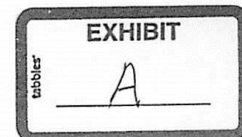
### Background

ACP Tower has applied for a special use permit to construct a wireless communication facility at 3705 N. Saginaw, Freeland, MI. A public hearing was held on the request on April 20, 2016.

The area is zoned A-1.

### Analysis & Findings

1. Section 18.34 a. provides the Intent and Purpose of Wireless Communication Facilities. Section 18.34 a. 2) states the regulations will "Minimize adverse visual effects of towers through design and siting standards". Section 18.34 a. 4) states the regulations will "Maximize the use of existing approved towers and buildings to accommodate new wireless telecommunication facilities in order to reduce the number of towers necessary to serve the community."
2. Wireless Communication Facilities are **not allowed** in the A-1 zoning district.
3. The APC search ring as presented at the 4-20-16 public hearing show that there are areas within the ring in Saginaw Township where a wireless communication facility may be allowed. Some of that is within a flood zone.
4. APC stated that it is not appropriate to construct a tower within a flood zone. They did not explain why this is not appropriate. According to Russ Beaubien, P.E., Spicer Group engineer, a tower could be permitted in a flood zone.
5. A portion of the search ring area in Saginaw Township is east of M-47, which is **not** in the flood zone.
6. Within Thomas Township, there are areas just outside of the search ring that are zoned B-4, which is an allowable zone for a wireless communication facility.
7. The proposed cell tower is within a two mile radius of an existing tower at Tittabawassee near Hackett. According to Section 18.34. b. 4) a), a newly constructed tower is allowed if a proposed tower cannot be accommodated on an existing or approved tower within a two mile radius for one of four reasons as outlined in I through iv.



- i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - iii. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonable as documented by a qualified and licensed professional engineer.
  - iv. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
8. The applicant has not sufficiently demonstrated that the cell phone receptor cannot be placed on the tower on Tittabawassee near Hackett.
9. No information was provided about searching for or evaluating any other tall structures in the area for possible location of a cell phone receptor.
10. Coverage maps supplied by Verizon do not appear to show coverage from all of the towers in the area.
11. Coverage maps supplied by Verizon do not sufficiently demonstrate a significant gap in coverage.
12. Five Verizon customers who lived near the proposed tower spoke at the public hearing stating that they had no problems with cell phone reception. One of the five, Michelle McInnis, stated she had a petition signed by over 100 people who did not want the tower.

#### Recommendation

Based upon the analysis and findings as outlined above, I recommend that the Thomas Township Planning Commission deny the Special Use Permit Application from APC for a Cell Phone Tower at 3705 N. River Road, Freeland.

Lynch requested a motion to approve the resolution. Motion by Sommers, supported by Halm to approve the resolution. Motion carried unanimously. (Yeas-5, Nays-0)

#### **6. *Public Comment***

Lynch asked for any comment from the public.

Michelle McInnis of 3545 North River Road addressed the Planning Commission. She wanted to express her thanks for their decision.

Joe Kozumplik of 3570 North River Road commented that he lives near the proposed site and does not feel another tower is needed. He said he is a Verizon customer and has no problem with service.

Lynch asked if there was any comment from the representatives of APC Tower. Response was that the decision had been made.

#### **7. *Adjournment***

Motion by Halm seconded by Lamountain to adjourn the meeting at 7:17 p.m. Motion carried unanimously. ***The next regular meeting date is May 18, 2016.***

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