

PLAN COMMISSION
MEETING MINUTES – November 26 2019

- 1) The meeting was called to order in the Harrison Municipal Building by Chairman Hietpas at 6pm.
- 2) The Pledge of Allegiance was recited.
- 3) Roll Call: Members present were: Jim Fochs, Jim Lincoln, Buddy Lisowe, Kevin Hietpas, Pat Hennessey, and Dennis Reed. Darlene Bartlein was absent.
Staff Present: Mark Mommaerts, Planner; Carie Krause, Deputy Clerk - Treasurer
- 4) Public Participation: None.
- 5) Motion (Fochs/Lisowe) to approve the minutes of October 29 2019.
Motion carried 6-0.
- 6) Convene Meeting and Enter Public Hearing 6:03pm
 - a) Conditional Use Permit – Cell Tower – Tillman Infrastructure LLC – Hwy 10: Planner Mommaerts introduced the item stating that Tillmann Infrastructure is requesting a Conditional Use Permit (CUP) in order to construct a wireless communications facility on the property located along Hwy 10, between Hwy 114 and County N, Location ID 33536. The proposed wireless communications facility will consist of a 180-foot tall self support lattice tower with a 9-foot lightning rod for a total height of 189-feet. It will be located within a 100-foot by 100-foot lease area on the property. The proposed tower will be constructed, owned, and managed by Tillmann Infrastructure. Upon construction, Verizon Wireless will install equipment on the tower at the 170-foot level. The tower will be unstaffed and will only require service technicians periodically, about once a month. Typical service vehicles will be pick-up truck/van sized.
The property is currently zoned General Agricultural [AG]. Wireless communication facilities are a conditional use in the AG zoning district. The zoning ordinance has a special provisions section for wireless communication facilities, which is attached. State Statutes also cover mobile tower siting regulations, SS 66.0404, which is attached. With some provisions, State Statutes preempt Harrison’s zoning, including tower height and financial guarantee amount. In these instances, State Statutes will prevail and Harrison’s provisions are not applicable.
One of the provisions of Harrison’s is in regards to co-locations, Section 117-132(f)(4). The codes states that no new tower shall be permitted unless the applicant can demonstrate that no existing tower can accommodate the applicant’s proposed antenna by meeting any one of the six criteria listed (Harrison Zoning Ord attachment page 4&5). The applicant is stating that criteria #5 pertaining to fees, costs, or contractual provisions of an existing tower apply. The applicant has a sworn statement from Verizon Wireless regarding fees and contractual provisions that are 30%-40% higher at the existing tower than the proposed new tower. The sworn statement also states that the existing tower (SBA) is no longer viable from an economic standpoint. The sworn statement is also a requirement of State Statue 66.0404(2)(b)6.

Basis for Approval: (from the Zoning Ordinance Section 117-319)

- 1.Zoning. The proposed use conforms to the underlying zoning district intent and design standards and is in harmony with the general purpose and intent of this chapter. Where there is an existing nonconforming structure, the design standards of the underlying zoning district may be waived by the plan commission and town board. Wireless Communication Towers are a conditional use in the AG Zoning District.
- 2.Plans. The proposed use conforms to the comprehensive plan and any other officially adopted plan. The Comprehensive Plan includes a goal to promote services and community facilities in order to meet the growing demand for such services.
- 3.Traffic. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. There is limited traffic accessing the site and the proposed use should not negatively affect the traffic on Hwy 10.
- 4.Landscaping and screening. Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use as established in article VI, Access, Parking, and Loading and article IX, Landscaping and Screening Standards. The applicant is proposing a 6-foot wide landscape buffer strip surrounding the lease area.
- 5.Neighborhood compatibility. The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development and whether the proposed use creates a nuisance due to noise, odor, or dust. Currently there is limited development around the proposed lease area. The proposed use will have limited nuisance due to noise, odor, or dust, mostly during the construction process.
- 6.Services. Adequate facilities, access roads, drainage and/or necessary services have been or will be provided. Roadway access must be granted by WisDOT. Stormwater Management must be reviewed and approved by the Village.

Planner Mommaerts would like the Staff Memo dated November 26 2019 to be entered into the Public Hearing. Mike Bieniek of LCC Services (Rosemont IL) spoke in favor and on behalf of Verizon regarding the Cell Tower on Hwy 10 (ID# 33536) stating that there is one minor change to the initial plans, Verizon is proposing to do an equipment shelter with the same footprint as the original cabinet. Mr. Bieniek stated that all village and state rules are being followed and that an economic hardship is why this is CUP is being proposed.

Jake Remington of Husch Blackwell spoke in favor regarding the relocation of Verizon from the current SBA Tower to a new Tillman Tower. Mr Remington stated that the economic hardship is inflated pricing. Each time Verizon modifies or adds equipment their rent is inflated. Verizon will see a \$1.8 Million savings over 25 years if they move to the new location.

Robert Gagan of Conway, Olejniczak & Jerry, S.C.spoke against the CUP and on behalf of SBA, stating that Verizon did not prove a financial burden and that they have a contract with SBA until 2023. Mr. Gagan provided multiple handouts to the Plan

Commission including what a duplicate tower would look like and asked for the item to be denied or tabled.

A response from Bieniek/Remington included information of this being a duplicate tower, stating that if the other carriers on the current tower were to relocate to the Tillman tower, the SBA tower land would have to be restored to its original condition. Tillman was hired by Verizon to look within a specific search area, they reached out to residents, sent letters, etc. that's how they found the site. They then worked with the engineer at Verizon and worked with the landlord to get a lease in place. The reason the new tower is so close to the SBA tower is because it will replace that coverage.

Robert Gagan commented, don't buy the whoa is Verizon, get the additional information and see if the parties can work it out.

7) Close Public Hearing and Reconvene Regular Meeting 6:27pm

8) Items for Discussion and Possible Action

- a) Conditional Use Permit – Cell Tower – Tillman Infrastructure LLC – Hwy 10: Planner Mommaerts stated that he had nothing additional to add from the Public Hearing and that the issue will come down to is there an economic burden or not. Commissioner Fochs questioned the SBA rates in the letter as being 30-40% higher. Commissioner Hennessey questioned if there are other carriers on the existing tower. Bieniek/Remington stated that within Calumet County, it is 180% higher and that yes there are 4 others. They will look into who would be willing to relocate. Commissioner Hennessey asked if there is a deadline time table wise. Bieniek/Remington answered that the lease expires in 2023 but they don't know how long it will take, time is SBA's friend because if you don't have the tower up, Verizon can't move. Commissioner Lisowe asked how long it takes to build the tower. The answer came from Bieniek/Remington as the process taking about 9 months to a year. Planner Mommaerts asked if the landowner is willing to sign the lease? The answer is yes, it is already signed. Commissioner Fochs asked if this were to move forward, with the residential growth, what kind of distance would we need to be away from the tower, how would that restrict future growth? The answer is there would be no impact other than the leased area. Planner Mommaerts asked if the applicant would be open to an extension to which they agreed, a 30 day extension with a final date of February 14 2020. A form letter will be sent in to formally give the extension. The next Plan Commission meeting is January 29 2020 at 6pm. This item is tabled until the next meeting.

Motion (Fochs/Lisowe) to table the Conditional Use Permit for the Tillman Infrastructure LLC Cell Tower until January 28 2020.

Motion carried 6-0.

- b) Preliminary Plat – Kimberly Heights 4 – Schmidt Road: Planner Mommaerts introduced the items stating that the developers, Dercks DeWitt LLC, have submitted a preliminary plat for Kimberly Heights 4, a 37-lot subdivision. This subdivision is located along Schmidt Road, east of County N. The property is currently zoned Single-Family Residential (Suburban) [RS-1] which is consistent with the rest of the subdivision. This is phase 4 of the Kimberly Heights subdivision. Stormwater management is expected to be accomplished through a combination of using the Van's Road regional stormwater

pond (off-site), other detention ponds within the subdivision may be required during the stormwater management plan review. There is a 50-foot strip of land designated Outlot 2 (OL 2). Outlot 2 is for future access to a future lot in the southeast corner to the subdivision. Access is planned for this route due to Schmidt Road being an access controlled roadway. A sewer and water easement between lots 146 & 147 is identified to extend utilities to the existing home and for a future home. Staff recommends conditional approval of the Preliminary Plat of Kimberly Heights with the following conditions:

1. Please provide a proposed Drainage and Grading Plan and a Utility Plan for verification of the appropriate sizing and location for all easements.
2. The existing property on Schmidt Road appears to drain into the proposed subdivision near Lots 145-148. Please ensure that the Drainage and Grading Plan accounts for drainage from neighboring properties. A private drainage easement will be required for any offsite drainage that is routed through the subdivision from private properties.
3. Please provide storm sewer sizing calculations to ensure that storm water can be conveyed to the regional detention facility for treatment.
4. If driveways for Lots 115 and 151 are to be installed off of Schreiber Lane extended, a temporary cul-de-sac will be required at the end of the road. If a temporary cul-de-sac is required, please show a temporary cul-de-sac easement to encompass the entirety of the cul-de-sac bulb.
5. The Final Plat shall include the statement, "No improvements are allowed within the areas reserved for public utility and drainage easements. Improvements include, but are not limited to, building structures, driveways, parking areas, sheds, landscaping or fences. Any improvement shall be allowed only by special exception of the Village of Harrison Zoning Administrator."
6. Erosion Control Silt Fence shall be installed, in accordance with State Specifications, along the right-of-way line of all streets prior to roadway acceptance.
7. All lots shall have a storm sewer lateral provided for sump pump discharge.
8. All drainageways, drainage easement, and associated infrastructure shall be installed, graded and seeded prior to roadway acceptance.
9. All utilities, including but not limited to, sanitary sewer, water, storm sewer, gas, electric, cable, phone, shall be installed prior to roadway acceptance.
10. The Village Board shall accept the roadway in a graveled state prior to issuance of building permits and zoning permits.
11. All other improvements, including but not limited to, curb & gutter, concrete paving, sidewalks, shall be installed prior to issuance of building permits or zoning permits, unless the Village Board approves a Subdivision Development Agreement to allow for improvements to be installed at a later date.
12. All review comments from the Village staff shall be included in the Plan Commission discussion and decision.
13. Typical Street Section to be in accordance with the Village of Harrison Standard Specifications Manual for Concrete Streets.
14. High-back, integral concrete curb shall be utilized rather than the mountable curb.
15. If applicable, wetland determinations and/or studies shall be provided to the Village.

16. Location of all sidewalk curb ramps shall be approved by Harrison staff.
17. Final utility and street plans shall be reviewed and approved by the Village prior to approval of the Final Plat and prior to utility and street construction.
18. Benchmarks shall be established on all hydrant tag bolts.
19. All environmental corridors shall be clearly identified and setback lines to be indicated.
20. Grading/Drainage Plan shall identify elevations of ground at the foundation.
21. Streetlight at Dusty & Schmidt.
22. Outlot 2 to be removed, Engineer to submit revised plan.

Motion (Lisowe/Lincoln) to approve the Preliminary Plat for Kimberly Heights 4 with all 22 Staff Recommendations including #21 Street Lights #22 Outlot Removed.

Motion carried 6-0.

9) Items for Discussion

- a) Report: Zoning Permits: Single Family permits are down for the year, possibly due to the costs of construction. Creekside Estates is moving forward with winter construction, Hidden Pines has decided to halt construction until Spring.

10) Next Meeting Date: Tentative January 28, 2020 at 6:00pm.

11) Adjourn: Motion (Lisowe/Fochs) to adjourn the meeting at 7:05pm.

Motion carried 6-0.

Prepared by: Carie Krause, Deputy Clerk – Treasurer
Dated: November 27 2019