

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of February 27th, 2017

Item 1. Call to Order.

Item 2. Approval of the Agenda

CHAIRMAN SCHERER CALLED FOR THE APPROVAL OF THE AGENDA. COMMISSIONER FINLEY MAKES A MOTION TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER WHITE SECONDS THE MOTION.

Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	Aye	---	Aye	---

Item 3. Roll Call

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
Present	Present	---	Present	---	Present	---

Staff Members Erin George, Planner I, and Dustin Parks, Zoning Administrator were present.

Item 4. Approval of the December 19th, 2016 minutes.

CHAIRMAN SCHERER ASKED IF THERE WERE ANY CORRECTIONS OR ADDITIONS TO THE MINUTES. COMMISSIONER FINLEY STATED THAT HIS NAME WAS MISSPELLED ON ONE LINE ON PAGE 9. A CORRECTION WAS NOTED.

ACTION: *VICE CHAIR JOHNSON MAKES A MOTION TO APPROVE THE DECEMBER 19TH, 2016 MINUTES, COMMISSIONER FINLEY SECONDS THE MOTION.*

Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	Aye	---	Aye	---

Item 5. Public Hearing of PR2017-01 for Z2017-01 (Moved to later in the Agenda because due to absence of applicant.)

ITEM 6: Public hearing of CU2017-01

Chairman Scherer – This is a request for a conditional use permit for a 190-foot-tall wireless telecommunications tower located on the north side of 50th between Decatur and Westlake Road at the request of SSC, Incorporated. I'll ask members of the planning commission if they have had any ex-parte communication or if they have any potential conflicts of interest. I see none, so I'll ask staff for their report.

Dustin Parks: As you stated, the summary of this request is to receive a conditional use permit for the installation of, this says 180-foot wireless tower, that does not include the height of the lightning rod. Total it would be 195ish, less than 199 feet. Generally located on the north side of 50th between Decatur and Westlake Rd at the request of SSC. This is also set to be a Verizon Tower as you probably saw on the plans. The location of the request is roughly here (referencing map displayed via projector) I know it's kind of hard to see there, this is the southwest portion of Lake Perry and here is Decatur and 50th rd. This is the zoning map for the area, all the oranges are Rural Residential and all the greens are Ag. The dark blue up here is Army Corp of Engineers and the light blues are suburban residential. The location of the tower is roughly where my mouse is currently (referencing map displayed via projector) and you will see later on that the road report says that they are supposed to move the entrance that was initially submitted, but the plans you have in your packet are the result of that and they show the moved entrance. This is the notification area which is 1000ft from the parcel. We do 1000ft from the parcel that the CUP will be located, not just the location of the tower itself so it goes from the edges of the parcel. This is just a general area map (referencing map displayed via projector) and this is the site plan. This reflects the tree row on the east side of the parcel and this is where the tower is. The tower will be a self-standing tower, meaning no guyed wires. That also means it's designed to collapse in on itself. As stated earlier, it will be roughly 199 feet tall or less. That means there probably won't be any FAA required lighting. The FAA designates whether or not lights are put on towers, and they do a study per individual tower. 90% percent of the time the ones that are under 199 feet they come back and say no lights. The closest registered tower, as you know we have a requirement that says any tower that is to be placed with-in 3 miles of another tower has to provide us with a reason why there is no co-location available. The closest tower by gps is 3.09 miles away, so this tower is outside of that requirement area. There is also an unregistered Southwestern Bell tower closer to the lake, but it's more for telephone/internet and doesn't fall into our guidelines. This is my overview of the admin report. The site itself is zoned Agricultural, to the north and the south is Agricultural and to the east and to the west is Rural Residential. The lot size of the parcel in question is 38.5 +/- acres and I believe, please correct me if I'm wrong (directed to applicant), the actual lease site is only 50ft by 50ft of that 38.5 acres. It is not located in a special flood hazard area. The existing field entrance on the property would not qualify, so they moved it roughly 300ft and the plan that you have reflects that. Waste water and water itself is not required for this. There will be no lighting on the tower unless required by the FAA and there will be no signs on the site except for safety and identification as required by the FCC. These signs are not lit, and are affixed to the front side on the gate. We did not receive any public comments on this.

My comments: With the closest tower being 3.06, my radius was a little different than the one they submitted, this exempts it from needing a co-location denial. My recommended conditions: Build the tower at the maximum proposed height of 195 feet including equipment. Require a performance bond to ensure completion of construction as well as removal after 18 months of none use and that the bond be

issued in the name of the county in equal amount to the construction cost. However, that could change based on HB-2131 which was enacted in July of last year. It changed drastically what counties can and can't require. So at that point it will be whatever is legally required, which is why I put that in there. I also put: Require that the service be provided for up to three provided including Verizon at the prevailing rate. Which is something we request of all towers. And that Jefferson County Emergency Services have tower space for two antennas and space in the control room for a repeater with hookups to the backup generator. Again, this would be as per Kansas HB-2131. Which means that the county has to do co-location stuff. They'll have to go through the co-location requirements as anyone else would with Verizon. Technically, if Verizon wanted to, they could charge the county for being on this tower. We can still ask for space, we would just be subject to the same co-location requirements.

Commissioner Finley: Does the county count as one of those providers?

Dustin Parks: No, but most of the time there is space on the tower. There's usually space for four, am I right? (Directed to Applicant)

Justin Anderson with SSC: I can address that real quick: The county equipment never really affects our structural analysis. That's why carriers like to have these co-location applications just to keep a good inventory of what's on their tower.

Commissioner Finley: Could you explain your first recommendation? You're just saying build the tower to what is specified, correct?

Dustin Parks: Yes. That way in...In the past we've had questions when somebody applies to upgrade their antennas and they come back and go "Well the total height would be 198." If the conditional use permit is for 195, they'd have to adjust. It just clarifies; "This is the maximum height." As per usual, the alternatives are: The planning commission can recommend approval based on the following findings with staff recommendation of conditions. I do need to apologize, because the Jefferson County Emergency Services section was not in the initial staff report that you have, it's something I found out today in the county commission meeting that they were requesting. I added it last minute, literally while sitting here.

Chairman Scherer: Paul was going to ask if you had that on there, because he remembers the last one.

Vice Chair Johnson: I didn't know what the status was at this point.

Dustin Parks: I took it as "If they requested it." So I asked Keith Jeffers today if they needed it, and he said it would be good because that area has some spotty service for some of their towers, so I went ahead and added it. That's my report.

Chairman Scherer: Any questions for staff that we haven't already asked?

Vice Chair Johnson: Can you go back to the map and show where the entrance is going to be?

Dustin Parks: I'll show you this one first, the site plan for it. Initially the filed entrance was roughly here (referencing map displayed via projector) and they had to move it 300 feet to the west. (after changing maps) So that puts the entrance roughly here. (referencing map displayed via projector) This is a hill right here that you drive down and flattens out where they put the entrance.

Vice Chair Johnson: Got it.

Chairman Scherer: Any other questions for staff? Seeing none, you represent Verizon or SSC? (directed to Justin with SSC) would you care to make a presentation?

Justin Anderson with SCC: I'll keep it brief. My name is Justin Anderson and I'm with Selective Site Consultants. My address is 9900 W. 109th St. Overland Parks, KS. Staff report is accurate; we agree with all of the conditions. The site is being proposed in this area as you can see. There are a number of residences that have basically zero coverage for data and/or voice. This is a targeted area for Verizon. It will allow co-location of the other big carriers if they should see fit. There weren't any other towers in the area within a 3 mile area that would have provided any of the necessary coverage objective. I'm happy to answer any questions.

Chairman Scherer: Do we have any questions?

Vice Chair Johnson: Could you talk through the county's request for emergency provision and will the county pay a fee having that on this tower?

Justin Anderson with SSC: The process is, there is a number on this Verizon site and soon it will be registered with the FCC on their ASR website and it will receive an FAA number as well. There is a phone number attached to both of those registrations. They would call that number or me, as the applicant I'm probably the quickest to do it. Verizon has a management company that also represents them in tower development called KGI Wireless. They use them to filter and examine all of their co-location requests. So, if AT&T comes along and says we want 12 antennas and as many lines of coax, they'll run a structural so on and so forth to see how they would affect the tower and their rent is somewhat evaluated on that. The way it works traditionally with public entities and emergency services is the carrier just says "Yeah that's fine, come on." This is a 180 foot tall tower, so you'll have the carrier Verizon at 180 feet, another one at around 170 and another at 160. They roughly want a 10ft separation as to not have any interference. Your emergency services management equipment is much lower. Maybe 120ft because you have to get to the equipment and that's a bit of a hassle. The equipment that goes on isn't really anything to be considered. There's not a lot of wind load to it, it doesn't change all that often. If anything your equipment, to my understanding, has gotten a bit smaller. As to if Verizon will charge, I haven't known them to charge, I just know that now they have a protection that they can. I mean, I don't know to what end they would get from doing that. The equipment that counties put on is significantly less. It's really a competition advantage between the carriers to co-locate. They go on faster when they co-locate. They pay more rent, but they don't go through a two or three-month hearing process, they don't hear from angry neighbors that they're putting up unnecessary towers and at the end of the day they're probably trying to cover the exact same area. Multiple levels of antenna is better than multiple towers, right?

Chairman Scherer: Other Questions:

Vice Chair Johnson: When you're required to post a performance bond to assure completion of construction as well as remove after 18 months of non-use, what kind of amount of money are we talking about for such a bond?

Justin Anderson with SSC: Well, the bond has to be for the cost of the construction or the removal which is about the same. So the problem with holding a bond is you have to show that on your books for that whole time. So they've just got a tower like this that is roughly a 175 thousand dollars to develop so they've just got an on going 175 thousand dollar tab on their books that they don't see anything from. They don't get to recapture that it's just there. There's enough of those that it's a problem. It's a lot of

money to hold and not get any benefit from it. There is protection that really addresses this in the lease, Verizon has removal language with the property owner. If for some reason the lease expires or they take the tower down, or Verizon terminates their lease, they have to take the tower down and return the property to “before” status.

Chairman Scherer: Staff mentioned that the tower is not guyed, and would collapse in a certain manner, could you briefly describe that?

Justin Anderson with SSC: So it’s a 50x50 lease area, the setbacks are the total height of the tower with the lighting rod which is 195 feet. Self support towers are designed to collapse at the top third. If they do collapse, which self support towers are relatively safe compared to guyed towers for a number of reasons both environmental and structurally, Dustin I can’t remember, did we submit a structural letter with our application?

Dustin Parks Yeah, it was in the engineering plans.

Justin Anderson with SSC: There is a letter from EEI, which a major tower manufacturer, addressing how towers are designed to collapse from the manufacturer. As well the historical lack of them collapsing. Not being an engineer I don’t want to say something that I can’t reverse out of.

Chairman Scherer: Well, being an engineer I had to ask. Any other questions?

Vice Chair Johnson: What kind of wind speed are we looking at that would cause partial or total collapse? Are they in the 100 to 120 mile an hour range?

Justin Anderson with SSC: They do a gust speed test and a continual speed of 80 to 90 miles an hour. The standard for structurals, you guys are getting me pretty technical here, right now structurals are ran at class 2 because class 3 is for an essential service like fire station towers. So they’re ran at class 2, Rev F. Which accounts for twist and sway. They’re getting ready, and a lot of places already are, to use class 2 Rev G or H, I’m sorry. Which not only accounts for the tower itself, but also the mounts that you use on the antenna. So it’s just one more way to keep people accountable and make sure that the tower is safe. Say the tower is at 99 percent capacity, you have until 103 or 105% capacity before you have to start doing major modifications to the tower. So you got a tower that might be at 99% capacity but what’s the actual mounting for the antenna look like? There have been a lot of new designs for that. Basically, just making towers safer by assuring that the equipment going on towers is being considered.

Commissioner Finley: What is the depreciation schedule on these towers generally?

Justin Anderson with SSC: The depreciation schedule is

Commissioner Finley: Well, I mean how long do you feel this tower will be there for?

Justin Anderson with SSC: Oh, uhm, I don’t know. I can tell you that the last renewal I did, well the longest renewal I’ve ever done was a tower over by St. Louis that was put in in like 1985. So it’s a 30 year lease. We do renewals quite often, we just did one for the Prairie Village city hall tower, that one’s been there since 1990 1993. So I would imagine as long as cell phones are in people’s hands.

Dustin Parks: I would like to add, as part of my recommendations, but I wanted to look up and make sure I had the right verbiage. The county can also accept financial security provided to the land owner as

sufficient as long it can also name the county. So the verbiage they have with the lease for the land owner works for us as long it names the county. They don't have to get a specialized bond.

Justin Anderson with SSC: We can provide a redacted copy of the lease, that's not a problem. That way I can highlight that language.

Commissioner Finley: Is that sufficient?

Dustin Parks: Yeah, that counts for us.

Chairman Scherer: Other Questions?

Vice Chair Johnson: So the land owner then is a co sponsor with Verizon as far as having an adequate bond in place?

Dustin Parks: Yeah. At that point it falls to the land owner to be able to re coup moving that tower if need be. Usually the verbiage is that Verizon would pay them or agree to get it back to as is, like a quarry. They'll do the reclamation.

Chairman Scherer: Much less expensive than a quarry. Other question for the applicant? Thank you very much it was very informative. There may be other questions afterward. At this time ladies and gentlemen, I would ask if there is anyone present who wishes to speak in favor of the application?

Audience Member: I do have a question.

Chairman Scherer: Can we finish the hearing part please? Thank you. Next I'll ask if there is anyone who wishes speak in opposition the application? Seeing none, I'll take your question.

Audience Member: I believe Justin may be able to help me with this. If I understand this correctly, it does not help with data for internet service?

(At this point Mr. Anderson describes the difference between cell phone data and internet data which is not pertinent to the hearing)

Chairman Scherer: Thank you, at this time I would ask if there anyone who wishes to speak to this application before I close the public comment portion of the hearing?

Audience Member: I have a question, probably for him. (Referring to Justin with SSC)

Chairman Scherer: If it is really just a question regarding individual things could we wait until after the hearing?

Audience Member: Sure.

Chairman Scherer: Thank you. Again I'll ask if there is anyone who wishes to speak to the planning commission about this application before I close the public hearing. Seeing no-one I'll close the public comment portion of the hearing so we can prepare a recommendation to county commissioners. Discussion? Further Questions? Could you put the recommended conditions back up on the screen?

Dustin Parks: Sure.

Chairman Scherer: Dustin, do we need to modify number 2 to account for what you told us earlier about the bond?

Dustin Parks: No, HB-2131 also goes into the fact that it's more of an agreement between the land owner and the owner of the tower. With HB-2131 in there we don't have to adjust it, if you wish to though, you can. Since it's backed by our regulation, when I take this to the commission I'll make sure to note it.

Commissioner Finley: Basically we're saying that the performance bond doesn't just include a financial bond.

Dustin Parks: By our regulations it can also say financial security provided to the land owner.

Chairman Scherer: Any discussion or comments?

Vice Chair Johnson: We're a recommending body, so we make recommendations to the county commission so if they want to fine tune it or if new data is presented then the county could build that into their final action. Are you ready for a motion?

Chairman Scherer: Anytime anybody's ready.

Vice Chair Johnson: Well I would move recommendation of CU2017-01 with the four staff recommended conditions.

Chairman Scherer: We have a motion to approve CU2017-01 with the four staff recommendations provided by staff.

Commissioner White: Seconded

Chairman Scherer: Is there any further discussion? Seeing none all those in favor of the motion please say Aye? Those opposed? 3-0 Thank you and staff can tell you when the county commission will actually take this up.

Dustin Parks: Barring anything else, it will go in front of the county commission March 20th. Usually our hearing times are at 1:30 but I'll keep you informed.

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	Aye	---	Aye	---

Motion carried Unanimously, 3-0

Chairman Scherer: I assume the applicant from the previous application is still not here?

Dustin Parks: They're still not here. We send the same letter to them that we send to the people around them.

Chairman Scherer: In that case we have finished with the hearings for today. Thank you very much, everyone is welcome to stay. We'd be happy to have you stay. If you wished to ask Justin your question, please feel free.

(Indistinct Chatter amongst those present as the public begins to move out of the room)

Chairman Scherer: Ladies and Gentlemen at this time we have a place on the agenda for comments from the public with regards to issues other than what we've had hearings about today if anyone has anything they'd wish to bring forward at this time?

Dustin Parks: We need a motion to table the other hearing to the next month. Just to be safe.

Commissioner Finley: I move that we table PR2017-01 and Z2017-01 until the March meeting.

Chairman Scherer: We have a motion that we table PR2017-01 and Z2017-01 until the March meeting, is there a second?

Commissioner White: Seconded.

Chairman Scherer: All those in favor please say Aye. Those opposed? 3-0

Matt Scherer	Paul Johnson	Vacant	Jerry White	Vacant	Matthew Finley	Brandon Newman
DNV	Aye	---	Aye	---	Aye	---

3-0

ITEM 7: Old Business:

Staff updated the planning commission on previous hearings and budget situation for comprehensive plan.

(At this time, members from the public arrived and asked to make comment. Chairman Scherer allowed them to make comment. The discussion was centered around Tiny Homes and Self sufficient farming. Steve Moring spoke at length about his farm, having people help on that farm and his belief that developing regulation for Tiny Homes would benefit the community. Dustin Parks discussed the lack of building codes available to enforce regulations of tiny homes, and that currently they are treated as permanent residences if they are on a permanent foundation or as an RV if they remain mobile (via trailer or other mobile design) Susan Jones also spoke to the benefit of Tiny Homes and having the ability have people live on site to help with the farming operation. Dustin Parks advised Ms. Jones that currently that request would be handled by Conditional Use Permitting.)

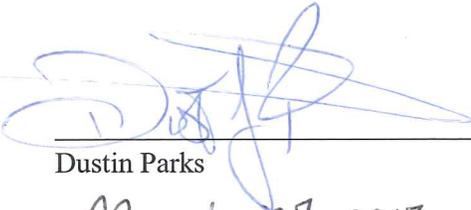
ITEM 8: New Business:

Staff advised the commission of upcoming hearings. PR2017-02 and PR2017-03. Also, Chairman Scherer advised that during the April Re-Organization meeting he would step down as Chair.

Item 9. Adjournment

Action: Vice Chair Johnson made a motion to adjourn. Commissioner Finley seconded the motion. Meeting adjourned at 8:10pm

Minutes taken by:



Approved:

March 27, 2017

Chairman:



Secretary:

