

**SHIAWASSEE COUNTY PLANNING COMMISSION**  
**APRIL 23, 2014**  
**PUBLIC HEARING/BOARD MINUTES**

**Call to Order:** Chairman Donald Dickmann called the regularly scheduled monthly public hearing of the Shiawassee County Planning Commission to order at 7:00 P.M. The hearing was held within the County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna.

**Roll Call:** Present: Steve Andrews, Henry W. Martin III, Bonnie Ott, Robert Ebmeyer, William Thelen, and Donald Dickmann. Absent: None.

**Also present:** Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and Matt Laverty/Community Development Department. County Commissioner Robert McLaren arrived at approximately 7:10 p.m.

**Excused Absences:** None.

**Pledge of Allegiance:** Chair Dickmann led the Pledge of Allegiance to the Flag.

**Proof of Publication:** Cordier informed the board that notice of the scheduled hearing was placed within the Shiawassee County Independent on Sunday, April 6, 2014. Chair Dickmann declared the hearing as legally noticed.

**Approval of the Agenda: Motion:** Ebmeyer moved to approve the agenda as printed.

**Support:** Ott. Motion carried: 6 ayes, 0 nays.

**Approval of Board Minutes: Motion:** Thelen moved to approve the February 26, 2014 board minutes as printed. **Support:** Ebmeyer. Motion carried: 6 ayes, 0 nays.

**Board of Commissioner Comments:** No County Commissioners present at the time.

**Call to the Public on Non-Agenda Items:** None.

**Old Business:** None.

**New Business:**

**Application #PSUP14-01**

**Applicant:** New Par/Verizon Wireless, Southfield, MI  
(c/o Bob Przybylo, RJP Consulting, Birmingham, MI)

**Property Owner:** Freeway Properties Investment, Inc., Freeland, MI

**Site Location:** west side of South Durand Road (approximately ½ mile north of Lansing Highway and South Durand Road intersection)

**Tax Id.** 78-012-09-400-013-01; Section 9, Vernon Township

**Request:** Special Land Use and Site Plan approval for a 195' Monopole Communication Tower within a 10,000-sf site compound

**Ordinance:** 1999 Shiawassee County Zoning Ordinance; Section 4.3.16. (Communication Towers)

(County Commissioner Robert McLaren arrived.)

Chair Dickmann asked if the request had been properly noticed.

Cordier answered that it had been published within the Shiawassee Independent and that the applicant, property owner, township, and surrounding property owners of the petitioned parcel received notification.

Chair Dickmann called for Ex-Parte contact from the board. Hearing none, Chair Dickmann asked staff to provide the staff report.

Preston provided the staff report. Preston explained that proposed was a communication tower on a parcel that contained approximately 12.17 acres. The area containing the tower and equipment shelter would be a 100' x 100' (10,000-sf) in size and set back approximately 400 feet west of Durand Road. It appears the tower would be approximately 100 feet from the I-69 right-of-way and 80 feet from residential property. The facility would have access from Durand Road by a 30' easement. Guidelines for communication towers are outlined within Article 4, Section 4.3.16. of the County's Ordinance. The property was rezoned to M-1 (Light Industry) in 2004 and currently has a billboard constructed on site in 2005, which will have no effect on the tower. The existing zoning does not appear to be in compliance with the County's Future Land Use Plan. There are a number of dwellings located to the north and east of the proposed site.

Preston noted that a copy of the redacted lease would be required if the special use is approved. Information on other communication towers within the area will need to be provided to verify whether or not they can meet the coverage areas for the applicant. Also, information on the equipment shelter is needed such as the height, width, and finish.

Preston continued with review of the staff report highlighting #4.1. regarding the layout of the tower on the property, and a recommendation that a turn around area be provided outside the site compound. This would allow someone the ability to turn around on site instead of backing out onto the public road. #4.4. – No lighting is anticipated due to the height of the tower. Preston noted that this is regulated by the FAA. If the tower will have a light, a copy of the requirement should be provided to the Community Development Department to keep on file. #4.5. – No landscaping was indicated on the site plan. However, the ordinance does not specify landscaping requirements for a communication tower or the facility but landscape language is provided within Article 8. Preston noted that most facilities provide some form of screening and buffering. The board should determine if they feel a buffer screen is necessary to help relieve any impact of the compound from the developed residential properties within the immediate area.

Preston continued that the proposed tower and compound met setback requirements from Durand Road and I-69. Staff reviewed the surrounding land use and noted again the property was zoned M-1, Light Industry, and that there was residential development across the road (Durand Road). The staff report also included the general standards for approval on pages 7 and 8.

Chair Dickmann thanked Preston and asked if the board had any questions before he opened the public hearing.

Ebmeyer questioned the lighting. The letter received from Vernon Township requested one of the conditions of approval be lighting added to the tower due to the many ultra-light airfields and private airstrips within the area.

Preston answered that the FAA would govern whether or not the communication tower had to be lighted or not. Those that are flying an aircraft should have a map showing where the airfields are. Typically, a tower does not have to be lighted unless it is over 200 feet in height.

Chair Dickmann noted that if a person was flying below 195 feet, the FAA could very well be waiting for that person on the airfield when they land. If lighting is considered, FAA will have to grant the approval.

Ott said she was concerned with setting precedent. If lighting is not required and the board requires a light, it could set precedent for the next applicant.

Ebmeyer answered he was just responding to the recommendation from the township.

Chair Dickmann stated he had visited the site but hadn't noticed any airfields along Durand Road. Dickmann noted he has a pilot's license to fly and reiterated that if someone were flying to low it could be a violation.

Ebmeyer questioned installing one (1) inch barb-wire on top of the woven fence surrounding the compound.

Preston stated the board should discuss whether or not they feel it is appropriate or not due to the residentially developed property within the immediate area and from the view of I-69. Preston said he only brought it up within the staff report to see if the board was concerned with it or not.

Chair Dickmann agreed it may be possible the residents to the north would not want to look at a barb-wired compound. Chair Dickmann opened the floor and asked the applicant if he wished to proceed.

Robert LaBelle, representative of Verizon Wireless of Southfield, MI, was present and informed the board that he was filling in for Bob Przybylo. As indicated, they are proposing to erect a 195' monopole tower with a 100'x100' compound area to house their own equipment shelter. There will also be a generator connected to a 1,000 gallon diesel tank should the electricity be disrupted for any length of time. The site will be setback over 400 feet from Durand Road and felt the need for a turn around area outside the compound would not be needed. Should someone accidentally pull onto the property, they probably wouldn't drive all the way back to the site just to turn around. The company will only send out a mini-van once a month for maintenance. Labelle then addressed the issue of lighting. If the board felt it necessary, they could require one be added; however, he found that people generally complain about having to look at lights. The FAA regulates the lighting and everyone is required to register. Again, if this body wants a lighted tower, they will add one, but Verizon felt they were better off without a light, especially if FAA didn't require them to have one.

LaBelle continued that they didn't feel landscaping was an issue as the site backed up to I-69, but again they were not opposed to landscaping if needed. They would consider the northeast corner of the compound if needed. Normally, their compounds do not have landscaping. LaBelle pasted out coverage maps of the area that included current coverage and the proposed coverage change. By locating the tower further south from the current tower location would increase the coverage area. They currently have coverage on an existing tower and believed their lease was not going to be reinstated.

Preston asked how far their current tower location was from the proposed new site location.

LaBelle answered he believed it to be about two miles.

Preston asked if Verizon was the owner of the current tower or did they have a lease to add on to it.

LaBelle stated he couldn't answer that for sure but knew Verizon had an antennae and equipment shelter there. Verizon was looking for a better coverage area.

The board discussed the other tower and its location. It was noted it was under a special land use permit granted a number of years ago and that it was visible from I-69. Preston stated he would like to know the owner of the tower so staff could be assured the tenants on the towers weren't being gouged. Thelen agreed with Preston stating he would like to know who owned the existing tower on Goodall Road.

LaBelle again noted he couldn't answer that as he was filling in for Mr. Przybylo this evening, but suspected they were a co-locator on the tower.

Ebmeyer asked if the existing tower was owned by Verizon, would they abandon that tower then.

LaBelle stated that if by chance it was their tower, they would have it removed from the property.

Chair Dickmann thanked LaBelle and opened the floor for public comment in support of the applicant's request. Hearing none, Chair Dickmann opened the floor for public comment in opposition of the request.

Speaker #1: Ronald J. Anderson, 4015 Durand Road. Anderson informed the board he had resided at 4015 Durand Road for 27 years. This is my neighborhood. The tower will not help the value of his property. Allowing the tower will raise health issues. The American Cancer Society has information about the effects radio waves have on people's health and that they should be no closer than a quarter mile from the nearest resident. Our homes are less than a quarter mile away from the proposed location. There are open fields by us. This will impact the health and property values of the area. There are only a small number of people here to defend this from going in. Also, the tower on Goodall Road has a light. Anderson stated he could bring information in from the American Cancer Society if needed.

Speaker #2: Paul Wilson 4687 S. Durand Road. Wilson stated he held the same concerns as Anderson. It is the aesthetics of the tower and health concerns within the area. It would affect his property values if he tried to sell his home. We are all less than a quarter mile from this. I am to the east of this. We have a couple of two-unit structures that face this. When we look out our front window this is what we will see. Wilson again noted it would affect his property values and that the biggest concern was health related. This property has not been developed yet. The neighborhood should be kept informed of any development. There should be some form of transition from industrial property to residential property. Wilson noted that he had sold some of his land to the City of Durand that was located on the east side of Durand Road and had asked for a transition from one use to another be considered. This property is south of the treatment plant. The tower is proposed to be located in an area of 10 already developed properties. There should be a buffer. If the tower needs to be on this property, then why can't it be moved further to the south away from the residential homes. We are all concerned about our health. Most of the towers are located within areas that are not near any homes.

Speaker #3: Scott McKay, 4600 S. Durand Road. McKay stated he resided north of the petitioned property. McKay wondered what type of impact this would have on his television or radio. Cell towers interfere with his car radio. He also noted that there are a number of ultra-

lights that fly over this area. The billboard has glaring lights that already light up his yard. The other tower discussed earlier tonight can be seen from his home as well and he wasn't interested in having another tower nearby.

Speaker #4: Ronald J. Anderson. Anderson noted that the ultra-lights fly a lot lower; generally under 200 feet.

Chair Dickmann noted that an ultra-light does not operate under the same regulations.

Speaker #5: Mark Perrin, 4350 S. Durand Road. Perrin discussed the highway signs in the area and the proposed location of the new tower and wondered why the tower had to be located in this particular area. The people in the immediate area shouldn't have to look at it. The city owns property with no residences on it. Maybe the board members should go out and look at the site; there are some multi-dwelling units in the immediate area.

Chair Dickmann stated he, as well as some of the other board members, had visited the site. The Vernon Township Planning Commission and Vernon Township Board has recommended approval of the application.

Ebmeyer asked if the township notified the residents when they held their public hearings.

Ott answered that the March 3<sup>rd</sup> minutes of the Vernon Township Planning Commission noted no citizens were present.

One citizen noted this was the first they knew or heard about the proposed request.

Ebmeyer asked staff if the board should consider referring it back to the township for public input.

Preston answered that it was up to the Township to provide notices of their public hearings and not the County. The law requires us to act upon a request in a timely fashion. If this board were to remand it back to the Township, you would have to ask the applicant to agree to an extension from the time frame that an application is to be handled.

Chair Dickmann suggested that the citizens consider approaching Vernon Township with their concerns about how notification on public hearings are handled at the Township level.

Preston informed the board and audience that in response to the concerns about protecting the residents from any potential health effects due to the location of the tower, the board cannot place conditions on a permit. The FCC regulates interferences with radios in cars. They have experts in that field.

LaBelle informed everyone that their tower will not have any effect on a car radio or a television. We are on a different wave level. We are reviewed constantly. Our track record is public. We are in compliance with the laws. LaBelle discussed cell phones and radios in comparison to the different types of radiation omitted. Studies have found that the use of a cell phone had no health effect on humans. LaBelle noted that health effects should not be considered when making a decision. To respond to the aesthetics of a tower, again that cannot be a basis for denial unless there is substantial evidence. The proposed tower will be painted gray to blend in with the typical sky color in Michigan. The tower is similar to a telephone pole or utility pole for power lines within suburban/urban areas. Verizon is not proposing the older lattice style towers to help

minimize the appearance of the tower. LaBelle stated to respond to how would you like one in your backyard; where he resides there is one in his back yard. It has had no effect on my property values. The tower is located within a park adjacent to his home. The petition before you tonight will place the tower within an industrially zoned area and even though the site is next to a residentially zoned area, another industrial use could be constructed within this district such as a large industrial building. If the industrial zoned area is not appropriate for a communication tower than where would it be.

Chair Dickmann discussed the feasibility of moving the tower to the south on the property.

LaBelle noted that this particular parcel contained 26 acres. The tower must be near I-69 to maintain the coverage without a lapse in service. Research to site location has already been completed; however, he was unable to answer that as Bob Przybylo was the person initially working with Verizon and was unable to attend tonight. Labelle did note that in some cases it has been left up to the owner as to the location of a tower. Another concern they have is to not place a tower too close to another tower. Verizon is attempting to increase coverage and if it is relocated, that may not happen. Aesthetically, there isn't much change in appearance from one tower to another.

Ott responded that the board should either act upon the proposal before them or consider tabling it.

LaBelle agreed with Ott. You have a proposal before you to either approve or disapprove. If you are suggesting it be relocated to the south than that means we are possibly moving it further away from the desired coverage area. I presented tonight the current coverage area and the proposed coverage area if the tower is approved for its current location.

Chair Dickmann discussed the feasibility of approving the permit with conditions.

**Motion: Martin moved to table** Application #PSUP14-01 based on the following two (2) issues: 1) Allow the applicant time to determine if the tower could be relocated to the south and still maintain the same level of coverage and; 2) Feasibility of a light and FAA approval.

**Discussion:** Preston said he would like to remind the board this property was rezoned to M-1 in 2004. Preston said he would also make note to the board and citizens present of some uses that are allowed within the M-1 District: Sexually Oriented Businesses are a use by right with conditions, Asphalt and Concrete Batching Facilities are permitted by special land use permit approval, Commercial Airports are a use by right, Communication Towers by special land use permit approval, General Building Contractor's Establishments are a use by right, Heavy Construction Contractor's Establishments by special land use permit, Junk Yards by special land use permit, Manufacturing Establishments (Light) are a use by right, Railroad Yards, under a PUD, Storage Facilities for Building Materials, Sand, Gravel, and Stone are a use by right, and a Truck and Rail Freight Terminal is a use by right. Preston noted those were just a few of the uses allowed in the M-1 District. Preston reminded the board the handling of the application was under a time line for action. If it is tabled, the board will need to address the rationale for relocation of the tower. Again this is an industrially zoned parcel, would relocating it to another area be a better solution. The ordinance allows the township a fifty (50) day review period.

Chair Dickmann noted that the board has ordinance regulations to abide by. The township has reviewed the request, the site plan review committee has reviewed the request, and now it is at the

County level tonight for final review and consideration. Chair Dickmann noted that on the other hand as a good neighbor, Verizon may wish to consider relocating the tower to the south.

LaBelle commented on the time frame for review and consideration. Verizon has presented the request and budgeted for the installation of the tower. If it is delayed, it could change the construction of the tower. We don't know if the tower could be moved to the south and still maintain the level of coverage that is needed.

Andrews agreed with Ott. The board needs to either approve or deny the request that is before them. Thelen also agreed. Thelen noted the area surrounding this parcel is zoned residential, which allows for residential homes and agriculturally related activities. This is zoned industrial and allows for industrial uses.

Speaker #6: Anderson noted that the township did not notify them or send out an agenda when they held their public hearing.

Speaker #7: Wilson stated he had attended the hearing when the property was to be rezoned in 2004. The property has never been developed. The tower will be located across from the residentially developed properties.

Thelen informed the audience that zoning controls the property.

Chair Dickmann closed the public hearing and called for board discussion.

**WITHDRAWAL OF MOTION:** **Martin** moved to withdraw his motion to postpone.

**Discussion:** Preston informed the board that if the applicant were willing to consider relocating the tower to the other side, the motion could include with staff's review and approval as long as it was no closer to Durand Road and/or the residents within the area. Staff could then bring it back before this board. No public notice would be given as the details would be worked out by staff. The board has granted similar type motions in the past allowing staff to work out the details on the site plan and approval. The board needed to determine whether or not landscaping should be implemented around the compound. If the board felt the request should be denied, then the rationale for denial must be clear within the motion. If it is left up to staff, staff would bring the site plan back for amendment.

LaBelle informed the board relocation of the tower cannot be agreed upon until it has been reviewed to see if it is even feasible. He also reminded the board that when they consider their motion the issues of the on-site turn around outside the compound area, lighting, and landscaping.

Preston reminded the board that if this were to be tabled, they could be at risk with other laws as it relates to the time frame in which an application is to be handled.

LaBelle agreed the "shock" clock states within 90 days or it automatically approved.

Martin asked where were they time wise with this application.

Preston informed the board they were pushing the 90-day time limit.

Martin discussed approval with the condition it be relocated and then if it didn't work; they could come back before the board.

Ott stated they needed to follow the ordinance for consideration of approval or denial.

**Motion:** Ott stated that based upon the review of the submitted materials, including description of improvements and site plan drawings, would **approve** the Special Land Use Permit/Final Site Plan for a 195' tower (including appurtenances) and associated facilities within a 10-000-sf site compound, as submitted by RJP Consulting (on behalf of New Par/Verizon Wireless) to be located on the west side of S. Durand Road, and as legally described in Section 9, Vernon Township, (Parent Tax Id. 78-012-09-400-013-01) based on the following reasoning and conditions:

Reasoning: 1) Subject to the conditions provided below, it is found that the petitioned special use permit for a wireless communication tower and associated facilities meets the general standards as provided for in Article 12 of the Ordinance.

Conditions: 1) Provide information as noted by the staff report as having not been provided for on the site plan or in supplemental information. Compliance shall be determined by the Community Development Director prior to the issuing of permits or authorization of construction of the petitioned use. 2) Compliance with the provisions of the Zoning Ordinance shall be determined by the Community Development Director prior to the issuing of permits or authorization of construction of the petitioned use. 3) Allow the Community Development Director permission to consider moving the tower to the south up to 1000 feet; no closer to the road or residences. 4) Approve Community Development Director to work out landscaping of the east side of the compound facing the residential dwellings. **Support: Ebmeyer.**

**Discussion:** Should barb-wire be placed along top of the fence.

**Friendly Amendment: Ebmeyer** moved to amend the motion to include lighting on the tower due to an airstrip located to the northeast.

**Discussion:** Andrews felt that lighting would be more detrimental to the area. LaBelle said he would like to make note that if lighting were required; they would have to follow FAA standards. FAA would determine what type of lighting could be placed on the tower; Verizon has no control over that.

**Friendly Amendment:** Failed for lack of support.

**Roll Call on Motion: Ayes to Approve:** Steve Andrews, Henry W. Martin III, William Thelen, Robert Ebmeyer, Bonnie Ott, and Don Dickmann. **Nays:** None. Motion carried: 6 ayes, 0 nays.

**Commissioner Comments:** Commissioner McLaren apologized for arriving shortly after 7:00 P.M. and noted he had been at another meeting. The commissioners had worked with the Village of Byron by approving a Brownfield Plan which will allow Byron the ability to start cleaning up the area before Memorial weekend. The commissioners also completed language for a County Millage Restoration. The millage proposal of 5.5550 mills will be placed on the August ballot. Language is being written on appointing a Shia-Town Dam Authority regarding the State's proposal to relinquish the dam. The County is looking into the feasibility of turning it into a family park with the option of fishing and canoeing. They are working with the Friends of the Shiawassee River.

#### **Committee Reports;**

**Ordinance Revision:** Chair Martin stated the committee met earlier this evening within the Community Development Department. Originally they had planned to meet on March 27<sup>th</sup>, but that date had to be cancelled. The committee discussed possible changes to lot sizes, dog kennels, and maximum size of accessory structures. Plans are to meet in June.

**Future Planning:** Ebmeyer stated he had nothing to report as the committee had not met. Cordier stated the office had just received the P.A. 116 application form this past Monday; therefore, staff determined it could be handled under “Communication’s Received” this evening.  
**Gravel Committee:** Thelen replied that the committee had not met but suggested they meet and schedule site visits as soon as the ground firms up.

**Communications Received:**

Cordier informed the board staff had received two (2) proposed text amendments within the Caledonia Charter Township Zoning Ordinance for review and recommendation from Doug Piggott, Caledonia Charter Township Zoning Administrator.

TA14-1 (Parking of Recreational Vehicles in the front yard between May and October be allowed within the R-1A, R-1B, and R-1C zoning districts). TA14-2 (Adult Foster Care Large Group Homes by Special Use Permit in the R-1A Zoning District. After discussion of the proposed text amendments, the board noted they would accept and place on file the two proposed amendments with the following motion:

**Motion: Henry W. Martin III** moved to accept and place on file proposed text amendments TA 14-1 (Parking of Recreational Vehicles in the front yard between May and October within the R-1A, R-1B, and R-1C zoning districts); and, TA14-2 (Adult Foster Care Large Group Homes by Special Use Permit in the R-1A zoning district).

**Friendly Amendment: Robert Ebmeyer** moved to amend the motion to include the following recommendation to text amendment TA 14-1: recreational vehicles parked within the front yard to be licensed, insured and road worthy.

**Henry W. Martin III** moved to amend his motion to recommend to Caledonia Charter Township including language that the recreational vehicles parked within the front yard be fully licensed, insured, and road worthy. **Support: Robert Ebmeyer.** Motion carried: 6 ayes, 0 nays.

**P.A. 116 Application # 1400003 – Gordon K. Godfrey**

Cordier informed the board the property is located within Section 28 of Antrim Township, total acreage of property 77.82 acres with 9.5 acres in cultivation, 30.51 acres cleared, fenced, pasture or harvested grassland, and 37.81 acres of woods or swamp. The area is used for cash crop and livestock. The applicant is requesting a 60 year agreement. The area is zoned agricultural.

**Motion: Henry W. Martin III** moved to recommend approval of PA 116 Application #1400003 (Gordon K. Godfrey) to the County Board of Commissioners as submitted. **Support: William Thelen.** Motion carried: 6 ayes, 0 nays.

**Director’s Comments:** Preston introduced Matt Laverty as a new planner to the department. Matt is from Saginaw and a recent graduate of Michigan State University. Cordier informed the chair that there were no pending applications to bring forward in May. Chair Dickmann noted the May 28<sup>th</sup> public hearing would be cancelled.

**Public Comments:** None.

**Adjournment: Motion:** Andrews moved to adjourn. **Support:** Martin. Motion carried: 6 ayes, 0 nays. Meeting adjourned at approximately 8:45 P.M.

Recording Secretary: Linda Gene Cordier

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Don Dickmann, Chairman  
Shiawassee County Planning Commission

June 25, 2014  
Approval Date