

CHANNAHON PLANNING AND ZONING COMMISSION

May 10, 2010

Chairman Clark called the meeting to order at 6:00 p.m.

Chairman Clark led the Pledge of Allegiance.

Members present were Curt Clark, Karen Ciarlette, Chantal Host, Rick Lyman, Jeff Simon and Phil Loizon. Also present were Village Attorney Dave Silverman, Director of Community Development Mike McMahon, Village Planner Jake Melrose and Community Development Assistant Lydia Ledesma.

A quorum was declared present.

Karen Ciarlette made a motion to approve the April 12, 2010 meeting minutes. Seconded by Phil Loizon.

ROLL CALL: ALL AYES

MOTION CARRIED

FARM STAND SPECIAL USE PERMIT – PUBLIC HEARING

Karen Ciarlette made a motion to open the public hearing. Seconded by Chantal Host.

Those present wishing to give testimony were sworn in.

Mr. Melrose presented the Farm Stand Special Use Permit memo.

The applicant, Kevin McDonald, is proposing to operate a farm stand at 25210 W. Reed St. in the parking lot of the Channon Acres Shopping Center. In order to do so, the applicant is required to obtain a special use permit.

The subject property is zoned C-1 Local Shopping District. In this district, a farm stand is not identified specifically as a permitted use and the Special Provisions of the C-1 district state that “all business servicing or processing shall be conducted within completely enclosed buildings except for accessory uses when allowed by the special exception procedure.”

Chapter 156.701.C.1 states that a special use permit may be obtained for “similar and compatible uses to those allowed as permitted uses in this district.” As the retail of farm goods is considered a similar use to those permitted in the C-1 district, the SUP will allow the farm stand to operate under certain conditions and criteria.

The details of the farm stand include:

- 10 x 18 hay wagon with shelves and an awning will be used as the “food stand”.

- It will be located in the parking of the shopping center near Channon Drive.
- Expected operation of the stand will be from June 1 – November 1.
- The products sold at the stand will be from a cooperative of local farmers selling a variety of farm produce.

Staff recommends the Village place the following condition of approval:

- Only produce is allowed for sale. No processed foods, crafts, live animals, or the like are allowed for sale or trade.
- All garbage/refuse must be contained properly and disposed of daily so as not to cause any public nuisances.
- The operating dates of the farm stand are from June 1 to November 1.
- The special use permit is valid for two (2) consecutive years and must be renewed every two (2) years hereafter.
- The special use permit is only valid for the property located at 25210 W. Reed St.
- The operator of the farm stand must be Kevin McDonald or his designee.

Kevin McDonald was present.

Commissioners questioned where the farm stand would be located, whether it would be on the asphalt or in the grass area.

Mr. McDonald responded that they will try to put it right by the sign at the location.

Commissioner Host inquired whether the village would require any special insurance for this usage and if Mr. McDonald has a rental agreement with the property owner and does this agreement require insurance be carried.

Mr. McDonald explained that the agreement is pending with the outcome of the public hearing and he will be carrying liability.

The stand will stay at the location for the entire season; it will not be moved once it is set up, it would be moved after the season ends, after Halloween.

Commissioner Simon questioned what or who would be the competition for the farm stand and whether it would be possible for one of the empty units in any of the shopping strips along Route 6 could be rented.

Mr. McDonald commented that the only competition he would see is possibly Jewel. The stand will be carrying different products than Jewel. It will be mostly organic, lot of the product will be hydroponically grown and will all be grown in a controlled environment. It will be mostly local growers that will be contributing to the produce. In response to renting an empty unit in one of the shopping strips, Mr. McDonald explained that this would be cost prohibitive. There will be daily cleanup, as well as a trash container for any litter; organic refuse will be kept for compost piles.

Commissioners questioned who will be monitoring the site for daily clean up, as well as whether there will be village tax dollars involved in this.

Mr. McMahon explained that the Development Department/Code Enforcement will be monitoring the site; there won't be much if any tax dollars at all with this.

Commissioner Loizon questioned whether this will be permanently situated for the months outlined.

Mr. McDonald explained that this stand will be similar to the Glascock Farm Stands in Joliet. Daily/Regular hours Mon-Sun, not like the Farmer's Markets that are open on specific days.

Karen Ciarlette made a motion to close the Public Hearing. Seconded by Chantal Host.

ROLL CALL: ALL AYES

MOTION CARRIED

Chantal Host made a motion to recommend approval of the ordinance granting a special use permit to operate a stand at 25210 W. Reed St. Seconded by Karen Ciarlette.

ROLL CALL: ALL AYES

MOTION CARRIED

AT&T CELLULAR TOWER SPECIAL USE PERMIT AND VARIANCE – PUBLIC HEARING

Karen Ciarlette made a motion to open the Public Hearing. Seconded by Phil Loizon.

ROLL CALL: ALL AYES

MOTION CARRIED

Those present wishing to give testimony were sworn in.

Mr. Melrose presented the AT&T Special Use Permit and Variance memo.

The applicant, Tony Phillips – representative of AT&T Mobility, is proposing to construct a Wireless Telecommunications Service Facility (WTSF) at 24531 Ford Road, commonly known as Lake Shokakana. The applicant is seeking a special use permit as well as a variance to construct a 150' cellular tower and asks the Commission to review the requests and provide the necessary approvals.

The subject property is 5.06 acres zoned A-1 Agricultural District. In accordance with Chapter 159 of the Village Code, a special use permit is required to construct a telecommunications tower. Chapter 159 also establishes a height limit of 80' for a tower in the A-1 Agricultural District thus requiring the applicant to apply for a variance for the 150' tower.

The proposed telecommunications facility is set back in the property approximately 350' from Ford Road. The facility area will contain a 150' monopole tower with 9 antennas that will be

neutral in color, a 10' X 20' pre-cast aggregate shelter housing AT&T equipment and will be surrounded by a 30' x 30' redwood fence. Two easements will be provided to and from the facility for maintenance purposes.

Landscaping has been designed around the subject area. No lighting is being proposed at the site except for a small security light above the shelter door that will be on from dusk until dawn. Currently, the tower is not being proposed with any lighting as the standard lighting requirement for the FAA is for any tower 200' or more. However, the applicant submitted its FAA Determination on 4/13/10 and will not know if the FAA would require lighting for 90 days.

The applicant has stated that the subject area has been chosen for a tower to fill a gap in the coverage of AT&T's grid system. This system works by meshing other covered areas together creating a seamless wireless network system. The current levels of coverage versus the proposed levels of coverage can be seen on the propagation map exhibits. Collocation was also sought by the applicant; however, it did not achieve the desired coverage needed for AT&T.

In order to grant a variance, the following three standards of criteria must be met in order to do so:

1. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
2. That the plight of the owner is due to unique circumstances; or
3. That the variation, if granted, will not alter the essential character of the locality.

If the Commission and Board decide to approve the requests, Village staff recommends placing conditions on the approval to ensure the subject property is in conformance with all Village Codes. At this time, it is believed that individuals are living in the large barn and the trailer on site without the proper permitting with the Village. If approved, staff would request these housing units be brought up to code, if possible.

The special use permit and variance public notice was published in the Joliet Herald on Sunday, April 25, 2010 with all property owners within 250' of the subject property being notified and a public hearing notice sign placed on the property on Friday, April 23, 2010.

Village staff has 5 letters to enter into record, requesting denial based on the obstruction of harmony of the subject area, as well as one letter requesting approval, and one signature opposing which was taken out in the waiting area, due to the residents couldn't stay for the public hearing.

Mr. Phillips with SAC Wireless out of Schaumburg, IL representing AT&T was present at the meeting and began by producing a power point presentation. Mr. Phillips pointed out on an

exhibit where the proposed site will be located. He stated it will be in the middle of the field near the rear of the property.

Village Attorney, Dave Silverman explained that since there is a court reporter present and we are making this public record and asked the applicant refer to the document by name so that we can identify it later in the record.

Mr. Phillips continued and explained all the exhibits to include existing coverage. He stated AT&T is proposing to add the tower at this site because it will add coverage to the area and that it is naturally screened by trees with a water buffer. He stated that cell towers are not popular and they had looked at co-locate to another site, but the nearest site would not give the coverage AT&T needs.

Mr. Silverman interjected that the first document with the Existing Propagation Plot (without IL0853 NSB) we will call this Applicant #1. The Proposed A.T.&T. Propagation Plot (with IL0853 NSB) we will call this Applicant #2. The AT & T IL0853 Proposed Site & Existing Tower List we will call this Applicant #3. The AT&T IL0853 Coal City Vicinity Map will be Applicants #4; AT&T IL0853 Coal City Existing Viewpoint 1 will be Applicants #5. AT&T IL0853 Coal City Proposed Viewpoint 1 will be Applicants #6. AT&T IL0853 Coal City Existing Viewpoint 1 will be Applicants #7; AT&T IL0853 Coal City Proposed Viewpoint 2 will be Applicants #8. AT&T IL0853 Coal City Existing Viewpoint 3 will be #9; AT&T IL0853 Coal City Proposed Viewpoint will be #10.

Mr. Phillips explained that as you can see there is no way of avoiding the impact of a cell tower, in order to have coverage the antennas have to be high enough above the trees to get coverage.

Commissioner Host questioned how many sites are currently within the village limits.

Mr. McMahon stated he does not have an exact number of sites. There was discussion regarding the screening of the tower with trees and how far is the tower signal going to carry based on where it's located.

Commissioner Loizon had concerns regarding the three criteria that must be met to approve a variance. He stated that this request would not meet the three standards of criteria.

Mr. Phillips commented that with the cell tower on the property it would create a favorable return for the property.

Commissioner Loizon and Commissioner Ciarlette disagreed that the cell tower would benefit the property value.

The issue of individuals possibly living in the barn and trailer was raised. Staff reaffirmed its position from the staff memo.

At this time it was opened up to the public.

Mr. Chuck Lyons, 24432 S. Dosage Drive gave testimony introducing himself as a former Village Board member. He indicated at that time he served on the Village Board the cell towers were not allowed within the boundaries of the village for several reasons. They are ugly and they propose health risks. We've worked hard to keep Channahon a village rural in nature.

Mr. Silverman clarified that the federal law provides that the Commission or Village Board cannot take into consideration any perceived health risks resulting from a radio tower. Federal law would prohibit the village from considering those issues and that is a determination that's been made at another level.

Mr. John Hanson, 1802 N. Division, Morris, IL, Attorney here on behalf of resident Jeff Dames. Mr. Dames owns property within 250 feet of the proposed site, slightly south of the site which you are considering tonight. Due to the number of people present wishing to give testimony, Mr. Hanson distributed a handout with the points he wanted to make. Mr. Hanson stated numerous items that he contested made the application incomplete or invalid.

Commissioner Host asked if we are aware of just how many residential properties are within the 250 foot limit.

Mr. McMahon commented that the 250 foot limit is the public notice requirement.

Mr. Hanson explained that he and Mr. Dames took a look at the application which was submitted. Looking at the application for the variance and special use, we believe there are a number of deficiencies by which we would ask that you deny the request.

There are two general categories listed on the handout, one is code compliance deficiencies and the other is application deficiencies.

Mr. Hanson continued comment on the handout and the reasons for request of denial for the variance and special use permit.

Mr. Silverman entered the outline and letter from Mr. Hanson as Objector's #1 and Objector's #2. Mr. Silverman requested that Jake Melrose, Village Planner, submit the letters and other information to be entered as well.

Commissioner Simon questioned whether village staff has had an opportunity to look this information over.

Mr. Silverman explained that the specific document hasn't been looked at; however, a review of the application has been done, and at a staff level the most appropriate avenue would be that the applicant put on their case and the objector's and concerned resident present their position. We wouldn't ask the Commission to make any decisions tonight, as a staff we would like the opportunity to absorb all this from both sides and go back and look at the application and ordinances and various laws and come back to the next meeting and get direction from the Commission and give you better direction from staff.

Jeffrey Dames, 24675 S. Ford Road, came forward to express his concerns and stated this use will forever change the landscape.

Denise Malone, 24545 S. Ford Road, came forward and shared what it's been like to live next door to the property in question for many years. Many of the conditions of the original special use are still being violated to this day. Mrs. Malone commented on the many violations as well as presented pictures of some of the violations as recent as yesterday and today.

Mr. Dames came forward to finish Mrs. Malone's concerns due to her inability to finish for health reasons.

Mr. Silverman questioned if Mr. Dames would like the photos submitted as part of the record.

Mr. Dames submitted the letter and 10 photos.

Mr. Silverman named the letter as Objector's #3 and the photos will be Objector's Group #4. If there is a different letter, let staff know and it will be substituted.

Commissioner Ciarlette asked if Mr. Koerner is a legal co-applicant.

Mr. Melrose explained that he had to sign off as owner; however, SAC Wireless is acting as the applicant.

Commissioner Lyman commented that based on the amount of residents present in opposition to the proposal he would be comfortable making a decision tonight.

Mr. Silverman explained that the public hearing needs to be completed. It is the Commissioners prerogative to make a motion; however, what needs to be considered is not the number of people present but what they say, which is the evidence, and the evidence whether or not the tower in question complies with the special use of the village code.

Mr. Silverman suggested that if you want to make a motion before leaving tonight, I would suggest hearing from as many people possible. Not everyone has to make an extended statement, just a brief statement.

Mr. Silverman explained we have to make the decision based on whether or not the application meets the ordinance and the federal law and the State of Illinois law.

Rhonda Novak, 24453 S. Dupage Drive; Julie Cesario, 24453 Blackhawk Drive; David Mahiliks, 24316 S DuPage Drive; Peter Remus, 25559 Northcrest Drive; Sharon May, 25545 Northcrest Drive; Greg Fiegel, 24536 S River Trail; Steve Arrigoni, 24463 S. Dupage Drive; Dave French, 24450 S Blackhawk Drive Raymond McSteen, 24645 S Blackhawk; Joe Macejkik, 24146 Countryside; David Cesario, 24453 S Blackhawk Drive; Mitch Pratl, 24445 S Dupage Drive; Sue Miller, 24560 S. Blackhawk Drive; Corina Davis, 24441 S. Blackhawk Drive; Greg Whalen, 24460 S Blackhawk followed and all gave testimony objecting to the request for various reasons to include aesthetics and adverse affect on property values of the surrounding properties.

Mr. Phillips requested that the Commission table its decision so that he can discuss the situation and opposition with his client.

Commissioner Host commented that considering some of the factors that were outlined by counsel for Mr. Dames, perhaps some of these items could be rectified. If we want to do this properly and only one time I suggest we table it and make sure they have ample opportunity to submit accordingly and then we can make our decision.

Mr. Silverman commented that if we grant the request to table this it would be for the applicant to submit sufficient evidence or different evidence.

Mr. Silverman explained that if there is going to be additional evidence submitted by anyone I would keep the public hearing open. If you keep the public hearing open, everyone would be advised that we will be back next month to re-open the public hearing to address any issues that might come up.

Mr. Hanson asked to keep the public hearing open, and any additional materials submitted that I get copies without having to do the FOIA process.

Mr. Silverman explained that this is a fair question and that the information would be reciprocal.

Commissioner Host commented that for efficiency purposes it seems logical to keep the public hearing open at this point and then we wouldn't have to revisit it formally again without new evidence and then if they want to withdraw the problem is resolved.

Mr. Phillips has asked if this is tabled that staff keep retained counsel informed with all pertinent documents.

Mr. McMahon explained that this is a public hearing and that the Commission is a recommending body. If they make a decision it still needs to go before the Village Board for final decision.

He also stated that staff would like time to digest what evidence has been given on both sides and I would like to request that the public hearing be continued until June 14, 2010.

Mr. Silverman explained that we are going to take a look at the record in this case; we will work with staff to come up with a written document that the Commission can vote on after hearing the evidence. We're not trying to put the matter off, we're trying to give everyone the opportunity to get in the record the evidence they need so that we're not back redoing this in the future.

Commissioner Ciarlette commented that the same individuals will be here on June 14th and we have heard everyone's comments, and we know your oppositions. We will just have more evidence put in front of us to give more information to make our decision.

Chantal Host made a motion to keep the public hearing open contingent on allowing further rebuttal evidence and any new evidence as well. Seconded by Karen Ciarlette.

ROLL CALL: ALL AYES

MOTION CARRIED

Karen Ciarlette made a motion to adjourn the meeting at 7:40 p.m. Seconded by Phil Loizon.

ROLL CALL: ALL AYES

MOTION CARRIED