

Dexter Township Planning Commission Resolution #08-PC-132

A resolution to grant approval of the Special Land Use and Preliminary Site Plan application submitted by Tele-Site for New Par (d/b/a Verizon Wireless) for property located at 10101 North Territorial Road, Dexter, MI 48130 (i.e., parcel 04-14-300-009) in Dexter Township.

Whereas, pursuant to the provisions of the Dexter Township Zoning Ordinance, Tele-Site (for New Par, d/b/a Verizon Wireless), submitted an application for a Special Land Use Permit and Preliminary Site Plan (File # 08-PC-132) and plans (dated February 14, 2008) on February 21, 2008 for a cellular telephone tower at the above address. The site plan was prepared by James Fisher, P.E. of Midwestern Consulting, L.L.C. The applicant subsequently submitted a Section 16.24 addendum that addressed comments from the Director of Planning and Zoning's March 12, 2008 report. Most recently, the applicant submitted revised plans (dated June 27, 2008) and a booklet titled "Supplemental Materials" on July 10, 2008; and,

Whereas, Section 11.02(D)(5) of the Dexter Township Zoning Ordinance designates "Communication towers and related broadcasting and receiving facilities" as special land uses in the RC - Recreation Conservation zoning district; and,

Whereas, the Planning Commission has received reports from Patrick Sloan, Dexter Township Director of Planning & Zoning, dated March 12, 2008, June 13, 2008, and August 15, 2008, Ron Cavallaro, Kristofer Enlow, and Matthew Parks of OHM Engineering Advisors dated March 17, 2008, June 11, 2008, and July 31, 2008, Donald Dettling of the Dexter Area Fire Department dated February 28, 2008, June 9, 2008, and August 6, 2008, Nell Caviness of the Washtenaw County Road Commission dated April 29, 2008 and July 11, 2008; and,

Whereas, the Planning Commission has received e-mail comments (some with attachments) from representatives of the University of Michigan dated April 29, 2008, July 23, 2008, August 25, 2008, September 22, 2008, and October 24, 2008 regarding its concerns of the tower's impact on the Peach Mountain Observatory; and,

Whereas, as required by the Dexter Township Zoning Ordinance, a Public Hearing on the application was held on July 22, 2008, and neighbors and representatives of the University of Michigan attended and voiced opinions and concerns; and,

Whereas, the Planning Commission has received letters on behalf of the University of Michigan from Thomas Blessing, Assistant General Counsel of the University of Michigan (dated September 8), Robert Wierenga of Miller, Canfield, Paddock, and Stone, P.L.C. (dated September 19, 2008 and October 21, 2008), and Jim Kosteva, Director of Community Relations for the University of Michigan regarding proposed special land use conditions. These letters contain proposed conditions of approval for the special land use/preliminary site plan application; and,

Whereas, the Planning Commission has received letters on behalf of the applicant from Jonathan Crane, P.C., attorney and representative of Verizon Wireless, dated September 8, 2008 and October 24, 2008. These letters contain proposed conditions of approval for the special land use/preliminary site plan application; and,

Whereas, at its September 9, 2008 meeting, the Planning Commission requested a written opinion from the Township Attorney, Peter Flintoft of Keusch, Flintoft & Conlin, P.C., regarding the legal status of the conditions suggested by the University of Michigan Observatory; and,

Whereas, on October 28, 2008 the Planning Commission received a letter (dated the same day) from Mr. Flintoft containing a formal opinion regarding the legal status of the conditions suggested by the University of Michigan Observatory; and,

Whereas, the information in the Special Land Use and Preliminary Site Plan application meets the completeness requirements of Section 6.03(B)(1) through 6.03(B)(15) of the Dexter Township Zoning Ordinance, except as to matters addressed in the conditions below; and,

Whereas, the information in the Special Land Use and Preliminary Site Plan application meets the compliance requirements of Section 6.05(A) through 6.05(P), Section 16.01(A)(1) through 16.01(A)(7), Section 16.24 (Communication Towers), and Articles 18 (General Provisions), 20 (Access Controls), 21 (Off-Street Parking and Loading), 22 (Signs), 23 (Landscaping and Screening), and 24 (Environmental Standards), except as to matters addressed in the conditions below;

Now therefore be it resolved, the Dexter Township Planning Commission, by a vote of the majority at a regularly scheduled and duly noticed meeting held this **28th day of October, 2008**, grants **Approval** of the **Special Land Use Permit and Preliminary Site Plan** for the use of the property to be a communication tower and related broadcasting and receiving facility, subject to the conditions listed below:

- 1) Prior to Final Site Plan application, the applicant or property owner shall demonstrate compliance with Dexter Township's Land Division Transfer Ordinance.
- 2) The applicant shall revise Note 15 on Sheet 3 to acknowledge the wetland within 150 feet of the access drive and note the proposed protections in James Fisher's June 26, 2008 letter to ensure no negative impact.
- 3) Prior to Final Site Plan application, the owner of the parcel shall stipulate on the lease or memorandum of lease recorded with the Register of Deeds that the fall radius area (199 feet around the proposed tower) be kept clear of all buildings, structures, and materials for as long as the tower remains in place, except for infrastructure related to tower operations.
- 4) The applicant shall show verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the proposed installation is in compliance with all applicable codes, including wind load standards, and Paragraph 14(f) and (g), below.
- 5) The applicant shall provide to the satisfaction of the Township Engineer verification that the antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations, and standards.
- 6) Prior to Final Site Plan application, the applicant shall either obtain a variance for a lower cable/ice bridge of 10 feet high or raise the cable/ice bridge to 15 feet high.
- 7) If the applicant eventually obtains Final Site Plan approval, the applicant shall comply with Section 16.24(B)(18)(a)(2), which may be amended from time to time.
- 8) Prior to Final Site Plan application, the applicant shall obtain approval of a shared driveway in accordance with all standards of Section 20.05 for the 2 users (Moose Lodge and Verizon Wireless).
- 9) The applicant(s) shall note on the site plan that there are no discharges (dust, fumes, noxious odorous matter, gas, and radioactive emissions) proposed.
- 10) The applicant(s) shall satisfy all remaining concerns, if any, outlined in the March 12, 2008, June 13, 2008, and August 15, 2008 reports from Patrick Sloan, Dexter Township Director of Planning & Zoning.
- 11) The applicant(s) shall satisfy all remaining concerns, if any, outlined in the March 17, 2008, June 11, 2008, and July 31, 2008 reports from OHM Engineering Advisors.
- 12) The applicant(s) shall satisfy all remaining concerns, if any, outlined in the February 28, 2008, June 9, 2008, and August 6, 2008 reports from the Dexter Area Fire Department.
- 13) The applicant(s) shall satisfy all remaining concerns, if any, outlined in the April 29, 2008 and July 11, 2008 letters from the Washtenaw County Road Commission.

14) The applicant(s) shall include the following conditions on the Final Site Plan application, which shall also be conditions of this Special Land Use approval as well as Final Site Plan approval if such approval is obtained and shall apply to Verizon, its successors or assigns, or any other locator or co-locator of the facility:

- a. Applicant may transmit from the tower within its current licensed frequency bands of 869Mhz to 891Mhz and 1931.25Mhz to 1963.75Mhz ("Current Frequencies").
- b. Prior to transmitting at a frequency other than the Current Frequencies ("New Frequencies"), Applicant shall provide the Dexter Township Clerk and Dexter Township Director of Planning & Zoning ("Township") and the University of Michigan notice of (a) any grant of license for the New Frequencies obtained from the FCC or other licensing authority; and (b) the date on which Applicant intends to begin transmitting under the New Frequencies. Applicant shall provide these notices at least sixty (60) days prior to beginning transmissions under the New Frequencies.
- c. Prior to a co-locator transmitting from the tower, Applicant or the proposed co-locator shall, at least sixty (60) days prior to beginning transmissions, give the Township and the University of Michigan notice of the name and address of the co-locator, the frequencies under which it intends to transmit, a copy of its license to transmit under those frequencies, and a drawing made to scale showing the precise location and configuration of the co-locator's antennae.
- d. In addition to any other condition, prior to the Applicant transmitting under a New Frequency and prior to a co-locator transmitting from the tower the Applicant or the co-locator shall conduct appropriate tests to determine if its intended transmissions will produce Radio Frequency Interference ("RFI") or otherwise interfere with the operation of the University of Michigan's radio telescope located at Peach Mountain, and shall submit the results of such tests to the Township and the University of Michigan at least sixty (60) days before it begins transmitting.
- e. Nothing in this approval is intended to be a regulation by the Township of RFI or of any other matter within the exclusive jurisdiction of the FCC, and should the Applicant, a co-locator, an aggrieved property owner or the Township have a grievance or dispute regarding a matter within exclusive FCC jurisdiction, the aggrieved party or parties shall seek resolution of that grievance or dispute through that agency.
- f. The apex of the triangular platform must have its azimuth pointed towards: Longitude 83 deg 56 min 10.5 sec W; Latitude +42 deg 23 min 55.9 sec., and its elevation shall be 1,140 feet above sea level.
- g. Antennas on the face, closest to apex oriented 10 deg off tower face away from observatory.
- h. The monopole shall be lit only if required by FAA.

Resolution offered by Planning Commission Member **Korcek**

Resolution supported by Planning Commission Member **Wade**

Tally Y = **6**; N = **0**; Abstain = **0**; Absent = **1**

The Chair declared the resolution **Adopted**

DATE: **28th** day of **October, 2008**



John Shea, Chair