

**KENTON COUNTY PLANNING COMMISSION
REGULAR MEETING**

Minutes

Mr. Wells, Chair, called the meeting to order at 6:15 PM on Thursday, May 6, 2010, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Eilerman. The meeting was held in the Commission Chambers of the NKAPC Building in Fort Mitchell. Attendance of members (for this meeting as well as those during the year to date) was as follows.

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Member	Jurisdiction	Ja n	F e b	M a r	A p r	M a y	J u n	J u l	A u g	S e p	O c t	N o v	D e c	
Mark Barnett	Taylor Mill	X	X	X	X	X								
Barbara Carlin	Kenton Co	X	X	X	X	X								
Barry Coates	Covington	X	X	X		X								
James Cook	Kenton Co	X	X		X	X								
Paul Darpel	Edgewood	X	X	X		X								
Chuck Eilerman	Covington	X	X	X	X	X								
Tom France, V.Chair	Ludlow	X	X	X	X	X								
David Hilgefurd	Villa Hills	X	X	X	X	X								
Lynne Hood	Crestview Hills	X	X	X	X	X								
Marc Hult	Covington	X	X	X	X	X								
Dan Ruh	Fort Wright	X	X			X								
Brandon Raybourne	Elsmere		X	X	X	X								
Mark Rogge	Crescent Spgs	X	X			X								
Phil Ryan, Treasurer	Park Hills	X	X	X	X	X								
Maura Snyder	Independence	X	X	X	X	X								
Diane Brown	Erlanger	X	X	X *	X *	X								
Joe Tewes	Bromley	X		X *	X	X								
John Wells, Chair	Fort Mitchell	* X	X	X		X								
Mark Hushebeck	Lakeside Park	X			X	X								

“X” denotes attendance at the regular meeting and “x” denotes attendance at the continuation meeting.

“*” denotes arrival after roll call was taken.

“-“ denotes not on the planning commission.

Also present were Mr. Matt Smith, Legal Counsel, and the following NKAPC staff: Martin Scribner, AICP, Deputy Director for Current Planning.

APPROVAL OF THE MINUTES:

Ms. Snyder made the motion to accept the minutes from April with Mr. Barnett seconding the motion. A roll call vote on the matter found Ms. Snyder, Mr. Barnett, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hilgefard, Ms. Hood, Mr. Hult, Mr. Hushebeck, Mr. Raybourne, Mr. Rogge, Mr. Ryan, Mr. Tewes and Mr. Wells in favor. Mr. Darpel abstained. The motion carried.

ACTIONS SINCE LAST MEETING:

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. There were no questions or comments.

RECEIPTS AND EXPENDITURES:

There were no questions or comments. Ms. Snyder made the motion to accept the report. Mr. France seconded the report as submitted. All in favor. None opposed. The motion carried.

RECENT ACTIONS BY LEGISLATIVE BODIES:

No action required.

PUBLIC HEARING:

TF-2010-37

APPLICANT: GPD Associates per Edward A. Block on behalf of AT&T Mobility

LOCATION: 5255 Madison Pike; an approximate 5,000 square foot area located between Carrie Way and Independence Road, approximately 200 feet south of Carrie Way and approximately 300 feet west of Madison Pike in Independence.

REQUEST: to review the location and extent of a Wireless Communications Facility that includes a 190 foot monopole and associated ground structures.

Staff presentations and Staff recommendations by Martin Scribner.

NKAPC Staff Recommendations:

To approve the location and extent of a Wireless Communications Facility, including a 190 foot high monopole and associated ground structures, but only subject to compliance with the following conditions:

1. Unless required by state and/or federal regulations, the proposed monopole shall be a uniform gray color.

2. Unless required by state and/or federal regulations, the proposed monopole shall not have any warning or identification lighting.

Comprehensive Plan Documentation:

- Date of Adoption by the Kenton County and Municipal Planning and Zoning Commission: December 18, 2001.

Supporting Information/Bases For Recommendation:

1. The proposed Wireless Communications Facility, in general proximity to the proposed location, is necessary to provide for the ongoing reasonable coverage of the applicants service area.

The NKAPC's RF Consultant concluded that “an additional wireless facility at the proposed location or within the general vicinity of the proposed site is necessary to meet the coverage objectives of the provider. A suggested, alternative site (at the Independence Court House) may meet the objectives of the provider if a tower was constructed with the antenna center of radiation located at the same height above mean sea level as that proposed. Other alternative sites proposed did not satisfactorily meet the objectives of the provider compared with the performance of the proposed site since these were too far away. No alternative structures were found to exist within a practical distance on which to collocate. It was not evident through this evaluation that lowering the antenna height would seriously compromise the operation of this facility in meeting the objectives of AT&T. In any event, reducing the tower height is not recommended since this would result in a tower that would appear to be of little change to the casual observer but would be less appealing to other users for collocation purposes and therefore could result in the proliferation of towers in the area.”

2. The location and extent of the proposed Wireless Communications Facility, except as noted under conditions, is in conformity with the *Comprehensive Plan Update 2006-2026* and the KCPC's Administrative Policy No. 6.

Chapter 3 of the *Comprehensive Plan Update 2006-2026*, as an extension of Chapter IX of the *2001 Area-Wide Comprehensive Plan Update*, and the KCPC's Administrative Policy No. 6 contain criteria which are to be used when evaluating such facilities. The proposed facility, as conditioned, is consistent with the following criteria items:

- Such facilities should be heavily screened from view and towers should be camouflaged or designed in such a manner to blend into the surrounding area when located in residential areas. Changes in topography of the land can be used effectively to separate such facilities from adjacent residential uses.
- The type of tower (e.g., monopole, carillon, etc.) should be evaluated based upon adjacent land uses and the character of affected areas.
- Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the

- site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc).
- Extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.

As proposed, the proposed tower would be located a minimum distance of one hundred (180) feet from any residential dwelling and approximately two hundred fifty (250) feet from the nearest structure on an adjoining property, providing for a reasonable setback, given the character of development that has occurred within the vicinity of the proposed monopole. Additionally, the proposed monopole is located within a large tract of land that has existing vegetation along its northern boundary. A monopole structure, as proposed, will be less intrusive than a self supporting lattice tower or a guyed structure.

The base of the proposed tower is also located approximately 14 feet lower than the grade of Madison Pike at the entrance to the site in question. While this certainly does not shield the entire tower from view, it will significantly screen the ground equipment from the view of Madison Pike.

3. The location and extent of the proposed Wireless Communications Facility is in conformity with the KCPC's Administrative Policy No. 6.

There is no tower within two (2) miles of the proposed location that would meet the applicant's radio frequency coverage objectives.

Additional Information

1. It is the policy of NKAPC staff to encourage the collocation of cellular antennas whenever practical. This reduces the propagation of cellular towers, reduces the visual impact of cellular towers (in most cases, the new antenna can use stealth technology and incorporate into an existing structure, such as a church steeple, and there would be no visual impact), and eliminates the need for a public hearing.

NKAPC staff, by way of its RF Consultant, looked very closely at whether there were any suitable alternatives to the proposed location. While each review is conducted on a case-by-case basis, the general hierarchy for cellular tower placement is as follows:

Collocation (preferred)

- Existing towers
- Existing tall buildings or structures

New Towers

- Industrial areas
- Commercial areas
- Multi-family residential areas
- Single-family residential areas

- Public land
- Institutional uses
- Large tracts of land

In this case, a more suitable location *that still met the provider's coverage objective*, was not found by NKAPC staff.

2. As stated in the RF Consultant's report, lowering the height of the antenna might be possible to still meet the needs of the provider's coverage objective. However, this could result in the propagation of additional antennas in the area since it may discourage the collocation of additional facilities on this single antenna. For this reason, the NKAPC staff does not see the benefit of a shorter antenna.

Mr. Ed Block of AT&T registered to speak on the issue. Mr. Block gave background information on working with Independence in the past on the placement of cell towers. He stated the elevation of the land would essentially hide the base of the site and there is existing tree cover on two sides that provide additional screening. He showed panoramic photos indicating the tree line around the site. Mr. Block stated this is a state of the art tower that is wireless. He then noted with wireless laptops and the fact that many homeowners are doing away with their land lines a stronger signal is needed. He noted Mr. Reinersman provided a photo depicting elevations and he noted he was proposing moving the tower back much farther on the property. Mr. Block stated to do that they would have to provide for a much longer driveway to get back to it. He stated there is a letter from the city stating there is not a historic classified district within the city. He also stated they have over 100 signatures of business owners and property owners that do not have an issue with the tower. He then stated AT&T wants to have better coverage for the area and that's why they would like it in this area.

Mr. Jeff Rich, engineer for AT&T addressed the Commission and stated this will be a monopole with the antennae at the top. He stated this is a line of sight tower which allows for better coverage since it works on FM frequency vs. AM. He stated it also provides for better coverage of the shadow areas being created by the monopole by having a higher pole. He noted to have a shorter tower the only co-locator could be Verizon because they operate at 850 megahertz which allows for coverage at a longer distance. Mr. Block then stated they tried to work with the city over the past few years and were not able to come up with a location so that is what led them to this location, He stated he doesn't feel it would be detrimental to the site. He further noted there is space for equipment shelters on this site for other co-locators should it become necessary.

Mr. Bill Cobble addressed the Commission and stated he agrees with the NKAPC findings. He stated when AT&T contacted them about placing a pole on their property that will be the least intrusive and obvious from the courthouse. He stated he feels it will benefit the area by having more coverage. He then asked for approval.

Mr. Don Nienaber addressed the Commission and stated with all the technology coming out a new cell tower is needed.

Ms. Marge Cooke addressed the Commission and stated she continually hears about people complaining in the area about poor service. She then stated she believes we need the added technology.

Ms. Julie Cobble addressed the Commission as the attorney representing the land owners. She stated Administration Policy 106 contains criteria that needs to be met for the placement of a monopole. She stated this criteria has been met. She further stated the base is located more than 14 feet lower than Madison Pike along with the existing tree lines that will help screen and lessen the visual impact on the downtown area. Ms. Cobble further noted they would more than welcome revitalization of the area but to bring this you need top of the line technology and this will provide that. She stated AT&T wants to expand and offer upgraded services.

Ms. Laurie Oliver addressed the Commission and stated she supports the cell tower and is tired of her calls being dropped.

Ms. Joann Cobble – addressed the commission and commented on a letter by Ralph Drees on the issue. She stated there have been times over the years that the courthouse grounds have not been so well taken care of as they have under Ralph Drees. She stated for him to send a letter stating this tower will not diminish the court house speaks volumes. She stated she has numerous signatures in favor of the cell tower that she will be submitting. She stated the fire chief has no objections whatsoever. She then stated the city's biggest employer LSI Technology has no objections. She further stated she has 125 resident signatures and 22 businesses that have signed the petition. She then submitted the petition and letter from Ralph Drees for the record.

Melissa Boyers addressed the commission and stated she is in favor and is sick of dropped calls so she thinks this is a real good thing.

Mr. Dan Broad addressed the Commission on behalf of Chris Marconi. He then read a letter into the record from Ms. Marconi that was made a part of the record. He noted her opposition to the cell tower.

Mr. Chris Reinersman addressed the Commission and stated he never received a notice on the issue. He stated he asked why the engineer can't come up with views of the proposed tower from different angles. He then showed an overhead slide depicting property owners in the area that are against He stated his hope is that AT&T will take a look at other options on placement of the pole. He then referenced the discussion of the area as being a historic area. He noted it is not. He then stated the NKAPC states the area is an historic area. Mr. Reinersman stated this doesn't belong in this area and he is shocked that the NKAPC is recommending that it be permitted.

Mr. John Richardson stated he is currently president of the Independence Business Association. He stated none of them are in opposition to new commerce. He indicated 32 of their members are opposed to the zone change. He stated they have no desire for the visual aspect of a tower looming well above surrounding buildings. He then submitted a packet of information wherein it documents a drop in property values. He then stated AT&T's website identifies this area as being totally saturated.

Mr. Rodney Crice addressed the Commission and cited various aspects from Administration Policy 106. He stated their preference would be to move it back further somewhere on the 62 acres of property.

Ms. Carol Franzen addressed the Commission and stated she will not be able to see it from her house but it bothers her that so many are opposed to it that she represents. She stated a cell tower is not a need. She stated most of the people present grew up with no cell phones. She then stated she has AT&T and never has trouble with dropped calls. She further stated there are studies that show health issues with cell towers. She then stated as a member of city council this report was not in there. She then asked the Commissioners to not vote for it.

Ms. Susan Gilliam stated it seems crazy to allow AT&T to choose the cell tower placement rather than city council members.

Ms. Laurie Pet addressed the Commission and stated she is a teacher. She noted the courthouse is a focal point of the city and stated if the cell tower is placed there it will become the focal point. She stated she moved to Independence because of the ambiance and noted she never would have if this was going to be there.

Mr. Steve Brightenish addressed the Commission and stated the tree line to the north of the proposed tower sits down and will not afford any obstruction of view of the proposed tower.

Mr. Geilen Bridges addressed the Commission and stated not one of the people that spoke who said they had trouble with dropped calls said they were an AT&T subscriber. He stated only one person who testified stated they subscribed to AT&T and they had no trouble with dropped calls. He noted the cell tower is not on the edge of the small area study, it is right in the middle of that area. He stated he feels it can go somewhere else. He then noted to approve this is overriding the planning process.

Mr. Greg McCoy addressed the Commission and stated the city is doing their best to balance growth and needs of the city. He stated if this does go through this needs to be a flag pole or dressed up or even somewhere else in the city.

Mr. Block addressed the Commission in rebuttal and stated JoAnn Cobble was on council when it was brought before them and she voted in favor of it then so it's not a question of her voting against it and then saying put it on my property. As to property owner being notified he stated they sent certified letter to everyone on the list that was provided to them and if they missed someone that was on their list then it is their fault but letters were sent to everyone provided.

Much discussion was had as to the location of the tower with regard to the comprehensive plan and whether or not it needs to be there. Mr. Ryan asked about flush mount vs. the top mounted antennae as well as internal antennas. Mr. Hushebeck stated it seems to be that the majority of those against the tower are opposed because of its location to the courthouse. He asked if moving it 1200-1600 feet to the west would change the coverage provided by doing so. Mr. Rich then stated they could probably have the coverage within that area. Additional discussion was had as to resubmitting the application if in fact the location was then changed.

Mr. Reinersman addressed the Commission in rebuttal and stated he did see the sign as to the cell tower but never dreamed it would be that close. He then stated the residents are going to have to live with the tower the next 20-30 years and asked why couldn't they put it back further. Mr. Wells then read a letter into the record from Mrs. Tapp with regard to the issue and made a part of the record. The public hearing was then closed for discussion. Ms. Snyder stated the biggest issue is the city has spent 80 thousand on the small area study and to put something in without some forethought is a bit of jumping the gun and not taking their opinion into account. She noted the city is spending money trying to revitalize the area and bring new business in to put a big monopole right next to the courthouse. Ms. Brown then agreed with Ms. Snyder. She stated she was impressed by the fact that those testifying weren't just saying they didn't want it in their yard, they were saying they didn't want it next to the courthouse in a historic area they are trying to revitalize. Legal counsel then stated the points necessary to deny a cell tower application based on Federal regulations. Mr. Eilerman then stated he feels there is substantial evidence to support that this is not in line with the comprehensive plan for the area. Additional discussion was had as to whether this is in conflict with the small area study. Prior to the public hearing being closed Mr. Wells asked Mr. Block to come to the podium. He asked if there was another location that might make this work. Mr. Block stated there is a pond that comes nearly up to the road and there are elevation issues to consider as well. He further noted the drive to get back to the back of the property if the site was moved is fairly substantial. He further noted that it would then be surrounded by residential areas and a cul de sac.

The public hearing was closed after much discussion on the issue. Ms. Snyder then made a motion to disapprove based on the fact it is not in compliance with the small area study and the comprehensive plan as well as the testimony heard. Ms. Hood seconded the motion. The motion was amended by Mr. Eilerman to include specific reference to the presentations by Mr. Reinersman, Mr. Criss and their testimony and to include specific reference to the small area study as well as the fact that there is an historic building within 500 feet of the proposed site. He also added another finding is that it is in conflict with the Kenton County policy #6. A roll call vote on the motion found Ms. Snyder, Ms. Hood, Ms. Brown, Mr. Eilerman, Mr. France, Mr. Hult, Mr. Hushebeck, Mr. Rogge and Mr. Ruh in favor. Mr. Barnett, Mr. Carlin, Mr. Coates, Mr. Cook, Mr. Hilgeford, Mr. Raybourne, Mr. Ryan, Mr. Tewes and Mr. Wells voted against. Mr. Darpel abstained. The motion failed with a vote of 9-9-1. Additional discussion was had as to the fact that with a vote of 9-9-1 the issue will essentially be approved. Mr. Darpel then stated he took a vote of abstaining because he didn't feel comfortable with the motion and having Staff write the letter necessary should it be approved.

Unfinished Business:

Mr. Wells stated Scott, he and Dennis met with regard to a development in Independence that was started in the late 1990's. He stated the developer has failed to make the final coat of asphalt and they have been unable to contact them. He stated they discussed calling in the bonds and working with the city to get that completed. He then stated the city will be getting bids and hopefully there will not be a shortfall. Mr. Hiles reminded the chairman that there is another development in the county where there is a similar situation involving the developer. Mr. Hiles stated the motion is to authorize the executive committee to call up the bonds and get the money to get it taken care of. Mr. Hiles further stated we are obligated to see that it is completed. A motion was then made by Mr. France to authorize the draw on the bonds. Mrs. Hood seconded the motion. A roll call vote on the motion found Mr. France, Mrs. Hood, Mr.

Barnett, Ms. Brown, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hilgefard, Mr. Hult, Mr. Hushebeck, Mr. Raybourne, Mr. Rogge, Mr. Ruh, Mr. Ryan, Ms. Snyder, Mr. Tewes and Mr. Wells in favor. The motion carried unanimously.

Reports from Committees:

By-Laws –Nothing to report.

Executive- Nothing to report.

Subdivision Regulations Review – Nothing to report.

Report from legal counsel – Nothing to report.

Announcements from Staff – Mr. Wells noted Mr. Raybourne will be moving to Cincinnati so tonight’s meeting would be his last. Mr. Raybourne then stated he has been on the other side and it’s been a great learning experience. Mr. Wells then wished him luck along with the rest of the commission.

A comment was made on the Crescent Small Area Study that they had their third meeting and would be working on the final draft this week.

Correspondence: None.

New Business:

Public Comments: None.

There being nothing further to come before the Commission, a motion was made by Ms. Snyder to adjourn. Ms. Hood seconded the motion. All in favor. None opposed. The meeting was then adjourned at 10:55 p.m.

APPROVED:

Chair

Date