

DEPARTMENT OF
PLANNING & ZONING



PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission

From: Tim Padalino | Director | Department of Planning & Zoning

Date: April 16, 2014

Subject: Staff Report for Class III Tower Permit #2014-005 Application (AT&T / CV488)

Site Address / Location: 301 Drumheller Orchard Lane / Lovingson / Central District

Tax Map Parcel: #67-A-49

Parcel Size: 81 acres

Zoning: Agriculture (A-1)

Request: Class III Tower Permit #2014-005 / pursuant to Article 20, Section 8 of the Communication Tower Ordinance in effect at the time application was made (February 24, 2014)

Application Overview

The Department of Planning & Zoning received an application on February 24th from Mr. John Milisitz of Velocitel, Inc., seeking approval for Class III Tower Permit #2014-005, on behalf of AT&T. This application seeks permission for the, "installation and operation of antennas and associated equipment inside a new fenced compound on a new 130' monopole." The proposed new tower site is identified as "CV488."

The subject property is identified as Tax Map Parcel #67-A-49, and is located on the western side of Thomas Nelson Highway (Rte. 29). It adjoins the Nelson County High School property, which is located to the northeast across Drumheller Orchard Lane. The 81-acre subject property is zoned Agricultural (A-1) and is currently used for agricultural and residential purposes. Vehicular access to the proposed site is from 6391 Thomas Nelson Highway (Tax Map Parcel#67-A-49A). Please see the attached maps (pages 5 and 6).

The application includes the required property owner's signature (Mr. Ronald L. Collins) on the affidavit (item #5). Separately, the Communication Tower Ordinance in effect at the time of application required a \$1,000 application fee payment for all Class III Tower Permit applications. The County did receive and process a \$500 payment (Check #1667) on March 27th – but at the time of this staff report, the County has not received the outstanding balance of \$500 as requested in writing on April 10th.

Review of Proposed Uses

This application for Tower Permit #2014-005 seeks approval for a new Class III Communication Tower, which was the classification for (proposed) 130' tall facilities under the Communication Tower Ordinance that was in effect at the time this application was submitted. Specifically, the application seeks approval to install the following, as specified on Sheets C-1, C-2, and C-3 of the site plan drawings:

- a 130' tall monopole (as specified on Sheet C-2), with a potential maximum total of three separate arrays (including the proposed AT&T array at 127' above ground level (AGL), plus two possible future co-location arrays at 117' AGL and 107' AGL);
- a total of twelve (12) AT&T antennas and an additional six (6) "TMAs" mounted on a three-sided platform mount, which is 12' wide on each side (as specified on Sheet C-2); and
- associated ground equipment (as specified on Sheet C-1), located within a lease area that is surrounded by security fence that is eight (8) feet tall (as specified on Sheet C-3).

For more information, please reference the site plan drawings.

Site Plan Review Committee Meeting and Comments

The Site Plan Review Committee convened on April 9th to review the application materials. The committee members' comments are as follows:

VDOT: Mr. Jeff Kessler requested that additional stone be laid at the access point for this proposed project, in order to accommodate the construction equipment which would access the lease area from Thomas Nelson Highway. Mr. Kessler said he considered the addition of the requested material to be part of the maintenance of the existing entrance.

VDH: Mr. Tom Eick of the Health Department was not in attendance, and has not provided comments at the time of this report. County staff do not believe this application pertains to Mr. Eick's or VDH's scope of responsibilities.

TJSWCD: Mrs. Alyson Sappington of the Thomas Jefferson Soil & Water Conservation District was not in attendance, and has not provided comments at the time of this report. Because this project will involve approximately 2,500 SF of disturbance (as specified in the "Project Summary" table on Sheet T-1), County staff believe there should be no problematic issues with erosion, sediment control, or stormwater management.

Nelson County Building Code Official: Mr. David Thompson was not in attendance, but provided comments prior to the meeting. Mr. Thompson's comments remind the applicant that an approved Erosion & Sediment Control Plan is required for projects that disturb 10,000 square feet or more; and that a Building Permit would be required to authorize the construction activity for this site, if the County permits the proposed project.

Nelson County Planning Commission: Commissioner Linda Russell, in collaboration with County staff, reviewed the site plan drawings and discussed the following issues with Mr. Milisitz:

- Sheet C-2: specify the dimensions of how far from the monopole the platform antenna mounts will extend outward (two separate dimensions were requested – the shortest dimension and the longest dimension);
- Sheet C-2: specify and clarify the exact height of the proposed monopole, the height of antenna, and the total height of tower facility (inclusive of the lightning rod);
- Sheet C-2: regarding the note "tower comes in its natural galvanized steel but can be painted if jurisdiction prefers it," a suggestion was provided for the monopole to be painted java brown (or some similar natural / neutral color, to be approved by the final approving authority);

- (New Sheet): Provide details (including dimensions) of all types of AT&T antennas and other equipment that are proposed to be mounted in conjunction with this application;

In addition to the details associated with the monopole and all the associated tower equipment, there were several issues regarding the landscaping requirements. Note 4 in the “Site Notes” (on Sheet C-1) indicates that “Any vegetated area disturbed by construction shall be topsoiled and seeded to restore a permanent vegetative cover.” But that does not satisfy the requirements of Section 20-7-5k(1), which states that, “Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the facilities.”

With respect to the landscaping requirements contained in Section 20-7-5k, the following comments were provided to the applicant:

- Sheet L-1: Provide more information on existing landscape (vegetation) in vicinity of proposed tower location, per Sections 20-7-5k and 20-7-5l.
 - *Note*: the landscape plan may potentially be modified (reduced), based on the ability of existing vegetation to provide screening, and based on the existing vegetation not being removed. Specifically, Section 20-7-5k-(2) provides a reduction and/or total waiver from the requirements of Section 20-7-5k-(1) if the “Planning Commission finds that the visual impact of the tower would be minimal.”
- Sheet L-1: modify the plant palette to remove “southern wax myrtle,” which has deciduous foliage and stoloniferous form (and as a result cannot provide effective year-round screening); and replace with different species that will satisfy the requirements of Section 20-7-5k-(1), with some suggested species as follows:
 - *Ilex glabra* “Gray Inkberry Holly”
 - *Ilex vomitoria* “Yaupon Holly”
 - *Ilex decidua* “Deciduous Holly”
 - Other evergreen shrub / small tree species may be suggested by applicant

Additionally, Section 20-8-3 states that, “A Class III Communication Tower cannot be located closer than two (2) miles to another Class III or Class II Communication Tower.” The applicant submitted his analysis of the proposed tower’s location relative to existing Class II and Class III facilities on April 15th. He concluded that, according to FCC data, there are no such existing towers within a 2-mile radius of the proposed site.

I reached the same conclusion through my own independent analysis: the County Broadband Project tower at Cooperative Way is approximately 2.5 miles away; the County Broadband Project tower at the Courthouse is approximately 2.9 miles away; and the Mountain Cove tower farm in Lovington is approximately 2.8 miles away. There are existing telecommunication facilities mounted to the transmission line towers across Rte. 29 (approximately 0.5 miles away), but they are not Class II or Class III Communication Towers and thus do not pertain to Section 20-8-3.

Balloon Test

Section 20-7-5g requires that scaled depictions of the proposed tower be superimposed onto photographs of the balloon test (referred to as a photo simulation or “photosim”). To satisfy that requirement, on Wednesday April 9th the applicant scheduled a balloon test to be conducted on Monday, April 14th at 9:00am.

During the balloon test, I drove around the high school property, Drumheller Orchard Lane, and Route 29 to observe the balloon test and to take photographs. I then went to the proposed tower site and further observed the balloon. Throughout the morning, consistently windy conditions (including intermittent gusts of very strong winds) prevented the balloon from flying at full-height. By my estimation, during stronger gusts the balloon was flying as low as a 45-degree angle; and in

between those strongest gusts, the balloon was still only flying at a 60-degree to 70-degree angle – which means that using the photographs of the balloon test for the production of the photosims may not result in an accurate depiction of the total (AGL) tower height.

In short, the windy conditions limited the ability of the balloon test to effectively demonstrate the height of the proposed tower.

Summary

In summary, County staff have attempted to evaluate the potential (negative) visual impacts to the immediate vicinity and adjoining properties, with consideration to the potential (positive) benefits of improved cellular coverage and data capacity.

At the time of this staff report, no photo simulations have been submitted to depict the proposed tower's visual effects or impacts, as required by Section 20-7-5g.

Even without the required photosims, it is clear that due to the proposed tower site being located on the top of a knoll that does not contain any existing vegetation in the immediate vicinity, the tower (and more specifically the ground equipment and security fencing) will be visible from the high school, from the adjoining properties on League Lane and Drumheller Orchard Lane (which contain single-family dwellings), and possibly from Thomas Nelson Highway.

As such, County staff recommend that the Landscape Plan on Sheet L-1 be modified to emphasize the establishment of effective year-round screening, at least four (4) feet in depth, on the northern, northeastern, eastern, and southeastern sides of the lease area perimeter. County staff also recommend that the other issues related to landscaping / screening (specified on page 3) be successfully resolved and incorporated into the Landscape Plan on Sheet L-1.

In addition to (and separate from) the landscaping / screening issues, County staff recommends that the other issues identified at the Site Plan Review Committee meeting (and summarized on pages 2-3) be successfully resolved and be incorporated into revised drawings.

Finally, the applicant has recently requested clarification regarding the County's recent adoption of a new Communication Tower Ordinance, which occurred after their application was submitted and while their application was being processed. County staff are continuing to review this issue, both internally and with the applicant. As of the day of this staff report, no resolution has been reached; and the application is continuing to be processed in accordance with the Communication Tower Ordinance that was in effect at the time the application was submitted.

However, if the application needs to be processed and reviewed in accordance with the newly adopted Communication Tower Ordinance (adopted effective March 11, 2014), County staff will apprise the Planning Commission about any implications this has on the evaluation and review of the application. One potential impact would be the need for the applicant to conduct a new balloon test, in accordance with the (new/current) Section 20-13-D, which requires the applicant to advertise a Legal Notice in the Nelson County Times at least 7 days prior to the test being conducted. Please reference the current Section 20-13-D items 1, 2, 3, and 4 for more details.

Conclusion & Staff Recommendation

With all of the above factors in mind, County staff recommend that the Planning Commission not take any action until the following issues can be successfully resolved by the applicant: revision(s) and resubmission of the site plan drawings in accordance with the issues contained in this report; production and submission of the required photosims; and submission of the remaining fee payment balance of \$500.

Thank you for your attention to this matter; please contact me if you have any questions about this report or this application, or if I may be of assistance in any other way.



