

**Village of Lansing
Planning Board Meeting
February 13, 2006**

The meeting of the Village of Lansing Planning Board was called to order at 7:30 P.M. by Chairman Ned Hickey. Present at the meeting were Planning Board Members Doris Brown, Phil Dankert and Alternate Member Mario Tomei; Trustee Liaison Lynn Leopold; Attorney David Dubow; Engineer Brent Cross; Code Enforcement Officer Ben Curtis and members of the public.

Public Comment:

Hickey opened the Public Comment period. As there was no one present who wished to speak, Dankert moved to close the Public Comment period. Seconded by Brown. Ayes by Brown, Dankert, Hickey and Tomei. Motion carried.

Tomei as Member:

Next, Hickey appointed Alternate Member Mario Tomei to fill the vacancy as an acting Planning Board member at tonight's meeting due to the absence of Board Members Klepack and Stycos.

T-Mobile - Continued Discussion

Hickey stated this was a continuation of the prior meetings with T-Mobile and that he had prepared an outline to follow tonight. Hickey stated the Board reviewed the application two meetings ago and determined it to be substantially complete. The Village Attorney required some outstanding items pertaining to the lease of the McDonald's property. Should there be anything missing, the Board can provide for that under the conditions for approval. Hickey stated that additional information has been submitted since the last meeting. One item is the Master Lease Agreement which Dubow stated he has since received. Next, the Board reviewed the letter dated February 9, 2006 from Gerry Brophy of T-Mobile which outlined the efforts made to analyze other potential locations for the tower. Hickey stated the Thin Ice Building at 2 Graham Road West was listed by the Village's consultant as a possible site for the tower. The applicants have since reviewed that site and reported back that the building would not be suitable to support an attached tower. Additional information regarding the pole design was also submitted on January 31st to substantiate that it will be designed to withstand 100 mph sustained winds. The final design of the pole with specifications sufficiently detailed for engineering review cannot be prepared until the location of the tower is selected and soil borings done. Hickey stated that the Village Engineers approval of these final plans will be one of the conditions for approval. Once the approval is granted and other conditions are met including the granting of a variance by the BZA for the fall zone deficiency, then the soil borings will be done and the pole engineered accordingly. Hickey stated a new site plan was submitted on January 30th which has not been discussed. Senior Radio Frequency Engineer for T-Mobile Mike Crosby stated the new proposal is for replacing an existing light pole with the T-Mobile pole. The first proposal would have met all criteria except the fall down zone. The new location of the pole also would not meet the fall zone requirement and its fall zone would actually overlap a neighboring property slightly. It would, however, result in one less pole as it would double for an existing light pole. Board members preferred the original location. Hickey stated there is sufficient light for the area now and no additional light would be required on the T-Mobile pole. The applicants were amenable to going back to the first plan for location of the antennae.

Hickey then distributed material regarding the general conditions for cell towers in Village Code Section 145-60 K (2) of the Zoning Law. Hickey went through items a-g. a) Hickey stated the telecommunication facility is necessary to meet current needs and demands because of the gap in coverage on Route 13 and at Pyramid Mall. b) Hickey stated there was information provided by the applicant that this proposal would meet all FAA and FCC requirements. c) Hickey stated the tower only has one antenna on it and it will be designed to fit in with the existing light poles although without a light. d) Hickey stated it does not comply with the fall zone requirement in the Zoning Law so it would require a variance from the BZA. e) Hickey stated there are letters from the Village consultant as well as the applicant stating this is the best location. f) Hickey stated documents have been submitted by the applicant to allow for shared use by other service providers in the future. Crosby stated that the pole currently would only handle T-Mobile but could be altered to allow for an additional carrier, but this could require an additional 88 inches in height

for their equipment so it would be best to wait and see if another vendor wanted to locate there. The pole could be replaced or altered later if another vendor made such a request. Dubow stated that the letter from the applicant meets the requirements of this section of the law as the applicants have agreed to make the space available. g) Hickey stated this proposal does not interfere with the Greenway Plan. Brown moved that the applicant has met the general criteria for telecommunication facilities in Section 145-60 K (2) of the Zoning Law. Seconded by Tomei. Ayes by Brown, Dankert, Hickey and Tomei. Motion carried.

Next, Dubow stated the Board should review the other criteria for telecommunication facilities found in Section 145-60 K (3)-(10). Dubow stated that documentation has been submitted to support that the applicant has met the requirement for co-location and alternative sites as required in Section 145-60 K (3) of the Zoning Law. Regarding Section 145-60 K (4) for dimensions, Dubow stated that everything has been met except the fall zone requirement. Cross asked about the small encroachment on the drainage easement. Dubow responded that this would be addressed in the conditions for approval and the applicant would need to obtain an agreement for this encroachment from the Village. Regarding lighting and marking, Dubow stated information has been submitted to meet these requirements. Dubow stated appearance and buffering criteria have been met as this has been determined to create the least amount of visual impact. Dubow also stated that adequate access and parking have been confirmed through documents submitted. Dubow noted that security has been addressed, but the Planning Board should confirm that the requirement for barb wire around the tower is waived. Tomei moved that the requirement for barb wire around the tower for security be waived. Seconded by Dankert. Ayes by Brown, Dankert, Hickey and Tomei. Motion carried. Dubow stated that engineering and maintenance has been addressed through information provided by the applicant. Dubow noted one of the conditions of final approval will be approval of final documentation and plans by the Village Engineer. Dubow stated the obligation to remove the tower in the future will require the applicant to provide a security bond in the amount of at least \$50,000 with the amount to be determined by Cross. Dankert moved that the Planning Board reviewed the remainder of the requirements for a cell tower as listed in Section 145-60 K (3)-(10). Seconded by Tomei. Ayes by Brown, Dankert, Hickey and Tomei. Motion carried.

Next, the Board addressed the corrected SEQRA Part I submitted on January 10th. Hickey stated there is also a visual EAF to be completed. First, the Board did the SEQRA SEAF Part II. The responses were as follows: A - No, B - No, C1 - No, C2 - The project is going into a Commercial Low Traffic area and should be placed there. C3 - None, C4 - No, the project is consistent with the Village's plans and goals. C5 - None, C6 - None, C7 - None, D - No, E - No, there has been no controversy and only one letter received by the Board. Next, the Board reviewed the visual EAF information provided by the applicant with suggested answers. Dubow stated for the record that there are also pictures attached to the Visual Addendum.

Brown moved the following resolution, seconded by Tomei:

VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SEQR REVIEW OF SPECIAL PERMIT NO. 2089 ADOPTED ON FEBRUARY 13, 2006

WHEREAS:

- A. This matter involves consideration of the following proposed action: Special Permit 2089, Omnipoint Communications, Inc., to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 N Triphammer Rd. (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. The site is designed to provide in-building service coverage to malls and surrounding areas in the Village of Lansing and along Route 13; and
- B. This proposed action is an Unlisted Action for which the Village of Lansing Planning Board is an involved agency for the purposes of environmental review; and
- C. On February 13, 2006, the Village of Lansing Planning Board, in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), (i)

thoroughly reviewed the Short Environmental Assessment Form (the "Short EAF"), Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review (including any Visual Environmental Assessment Form required), (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) completed the Short EAF, Part II;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Village of Lansing Planning Board, based upon (i) its thorough review of the Short EAF, Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review (including any Visual Environmental Assessment Form required), (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its completion of the Short EAF, Part II, including the findings noted thereon (which findings are incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance ("**NEGATIVE DECLARATION**") in accordance with SEQR for the above referenced proposed action, and determines that neither a Full Environmental Assessment Form, nor an Environmental Impact Statement will be required; and:
2. The Responsible Officer of the Village of Lansing Planning Board is hereby authorized and directed to complete and sign as required the Short EAF, Part III, confirming the foregoing **NEGATIVE DECLARATION**, which fully completed and signed Short EAF shall be attached to and made a part of this Resolution.

The vote on the foregoing motion was as follows:

AYES: Hickey, Tomei, Dankert and Brown

NAYS: None

The motion was declared to be carried.

The Board then reviewed the 10 conditions listed in Zoning Law Section 145-59 E of the Village Code, General Conditions for all Special Permits. For Item 9, it was noted that the proposal does not conform in all respects to the applicable regulations for the district in which it is located because of the fall zone deficiency. The applicant will be required to obtain a variance from the BZA and this will be listed as a condition for approval. Dankert moved that the applicant has met the General Conditions for all Special Permits as listed in Section 145-59E. Seconded by Tomei. Ayes by Brown, Dankert, Hickey and Tomei. Motion carried.

Next, the Board reviewed the proposed resolution for Special Permit No. 2089. For Item C, Cross stated specifications will require the tower to withstand 100 mph sustained winds. For Item D, the security bond will be for \$50,000. For Item F, the easement or encroachment for the drainage area will be addressed by the Board of Trustees. For Item G, Dubow stated that written confirmation of compliance with all conditions of the final Master License Agreement and Site Agreement with McDonalds must be submitted after final plans have been approved. Hickey asked about a Landscape Plan and it was noted that one had been submitted listing the sizes and species of plantings.

The Board then returned to discuss Item A. Hickey stated sometimes the BZA asks for a recommendation from the Planning Board and other times they don't. Recently, they have requested a recommendation. Brown suggested the Board recommend this project. Dubow stated the BZA recognizes the Planning Board generally reviews projects in more depth and this Board has reviewed this project during three meetings. Dankert also feels comfortable recommending this to the BZA. Hickey would recommend this for two reasons: 1) The applicant has worked hard in

answering the questions of Board members and he feels comfortable with providing a recommendation to the BZA, and 2) Dubow has stated the condition of approval requiring an indemnification agreement and insurance addresses the fall zone concerns with regard to liability issues which may arise within the fall zone area. Dubow stated there was also detailed engineering data provided. John O'Neill asked about sustained winds which might be over 100 mph. Hickey noted that the applicant has gone above the 90 mph standard for sustained winds for this area in engineering the tower for 100 mph winds.

Hickey moved the following resolution to approve Special Permit No. 2089, seconded by Dankert:

**VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SPECIAL PERMIT NO. 2089
ADOPTED ON FEBRUARY 13, 2006**

WHEREAS:

- A. This matter involves consideration of the following proposed action: Special Permit 2089, Omnipoint Communications, Inc., to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 N Triphammer Rd. (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. The site is designed to provide in-building service coverage to malls and surrounding areas in the Village of Lansing and along Route 13; and
- B. On January 9, 2006, the Village of Lansing Planning Board held a public hearing regarding this proposed action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant in support of this proposed action, including information and materials related to the environmental issues, if any, which the Board deemed necessary or appropriate for its review, (ii) all other information and materials rightfully before the Board, (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations, and (iv) possible modifications and/or conditions that might be imposed in conjunction with any special permit approval to be granted, whereupon it was determined that further information, materials and Board deliberation would be required; and
- C. On January 31, 2006, the Village of Lansing Planning Board further reviewed the application materials submitted by the applicant (including the supplemental information and materials submitted as requested by the Board at its January 9, 2006 meeting) and determined once again that further information, materials and Board deliberation would be required; and
- D. On February 13, 2006, the Village of Lansing Planning Board determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act ("SEQR"), the Board (i) thoroughly reviewed the Short Environmental Assessment Form (the "Short EAF"), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review (including any Visual Environmental Assessment Form required), (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance ("Negative Declaration") in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact Statement would not be required; and
- E. On February 13, 2006, the Village of Lansing Planning Board once again further reviewed the application materials submitted by the applicant (including the supplemental information and materials submitted as requested by the Board at its January 9, 2006 and January 31, 2006 meetings) and determined, having completed the SEQR review and having made its SEQR determination, that the application was complete thereby enabling the Board to conclude its review and evaluation of the proposed action and take action

thereon; and

- F. On February 13, 2006, in accordance with Section 7-725-b of the Village Law of the State of New York and Sections 145.59, 145.60, 145.60.1 and 145.61 of the Village of Lansing Code, the Village of Lansing Planning Board, in the course of its further deliberations, reviewed and took into consideration (i) the general conditions required for all special permits (Village of Lansing Code Section 145.59E), (ii) any applicable conditions required for certain special permit uses (Village of Lansing Code Section 145.60, including subsection K thereof relating to special permit requirements and regulations for telecommunications facilities), and (iii) any applicable conditions required for uses within a Combining District (Village of Lansing Code Section 145.61);

NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:

1. The Village of Lansing Planning Board hereby finds (subject to the conditions and requirements, if any, set forth below) that the proposed action meets (i) all general conditions required for all special permits (Village of Lansing Code Section 145.59E), (ii) any applicable conditions required for certain special permit uses (Village of Lansing Code Section 145.60, including subsection K thereof relating to special permit requirements and regulations for telecommunications facilities), and (iii) any applicable conditions required for uses within a Combining District (Village of Lansing Code Section 145.61); and
2. It is hereby determined by the Village of Lansing Planning Board that Special Permit No. 2089 is **GRANTED AND APPROVED**, subject to the following conditions and requirements:
 - A. The granting by the Village of Lansing Board of Zoning Appeals of the necessary area variance(s) related to the fall zone dimensional standards and related requirements provided for in Village of Lansing Code Section 145.60, subsection K(4)(a), the granting of which variance(s) the Village Planning Board recommends to the Village of Lansing Board of Zoning Appeals.
 - B. An indemnification agreement in favor of the Village of Lansing and proof of insurance related thereto in an amount no less than \$4,000,000 naming the Village of Lansing as an additional insured, covering any potential personal and/or property claims, liabilities and damages associated with and/or arising from the tower and related telecommunications facilities, including, but not limited to, any claims, liabilities and damages arising from the tower falling down or otherwise suffering structural failures, the form and substance of such indemnification agreement and proof of insurance to be subject to the approval of the Village Attorney.
 - C. Approval by the Village Engineer as to the final design and specifications for the proposed tower (designed to withstand sustained winds of 100 miles per hour with gusts in excess of 100 miles per hour), equipment structure and additional related telecommunications facilities in accordance with Village of Lansing Code Section 145.60, subsection K.
 - D. Receipt by the Village of the required financial security bond for removal of the telecommunications facility and property restoration in accordance with Village of Lansing Code Section 145.60, subsection K(10)(b) and in the amount of \$50,000.00, the form and substance of such financial security bond to be subject to the approval of the Village Attorney.
 - E. Compliance with all continuing requirements applicable after issuance of the special permit approved by this resolution as provided for in Village of Lansing Code Section 145.60, including subsection K, including, but not limited to, all applicable security, inspection, maintenance, repair and removal obligations associated with the telecommunication facilities approved by this resolution.
 - F. Approval and execution by the Village of Lansing Board of Trustees and all other required parties of easement agreements, license agreements and/or encroachment agreements necessary for (i)

utilities connecting to the telecommunication facilities as provided in the site plans approved by this resolution (including, but not limited to, underground and/or above ground wires, conduit, pipes and related equipment) and (ii) landscaping as provided in the site plans approved by this resolution.

- G. Written confirmation in form and substance satisfactory to the Village attorney that all conditions and approvals under the Master License Agreement and Individual Site Agreement pursuant to which the telecommunication facilities are to be located and operated on the proposed site have been fully complied with and/or obtained as and when required.

The vote on the foregoing motion was as follows:

AYES: Hickey, Dankert, Tomei and Brown

NAYS: none

The motion was declared to be carried.

It was noted the next BZA meeting is March 1st and the Board would provide the BZA with a positive recommendation. Curtis reminded the applicants that notifications would need to be sent to contiguous property owners. Dubow also noted that there are different criteria for an area variance which the applicants would need to address. Board members discussed the value of their experience reviewing a proposal such as this. Dubow stated the Board might want to review the law and see if revisions are needed since there have been many changes in the technology of wireless communication over the years. Dubow stated that Engineer Cross and Chairman Hickey will attend the BZA meeting to answer any questions that may arise regarding the Planning Board's decision and provide technical advise. Dubow also noted that as the Attorney for T-Mobile stated, public utilities such as this are entitled to receive deferential treatment by local Boards.

Goals 2006:

Hickey reviewed the draft goals for 2006. The first goal is to review the Special Permit and Subdivision Regulations particularly with regard to process. Hickey stated it will be difficult to decide where to begin. Hickey recommended that beginning with the cell tower Section 145-60 K might be a good idea since it is fresh in the minds of Board members. For goal number 2, Klepack recommended the Greenway Plan be reviewed and volunteered to take the lead; and she will be setting a completion deadline and will be working on it. Goal number 3 to develop a storm water management regulation is in process as the County is currently looking at all Village regulations and is looking for gaps which must be filled regarding storm water management. A report will then be provided to the Village. Hickey stated the Soil and Water Conservation proposal to evaluate sites also need to be included in this goal as they can be a helpful resource. Goal 4 that the Planning Board review Chapter 8 of the Comprehensive Plan regarding the impact of the proposed new sewer line running through the Village and connecting the Town of Lansing to the Cayuga Heights Sewer Plant on the residential lands west of N. Triphammer Road came up at the Trustee's meeting. Hickey stated the Board should discuss the best location for trunk lines using Cross' expertise. No additional goals were presented so the Board will deal with the four as discussed.

Approval of Minutes - January 9 & 31:

Tomei moved to approve the minutes of January 9th as submitted. Seconded by Dankert. Ayes by Brown, Dankert, Hickey, and Tomei. Minutes approved.

Dankert moved to approve the minutes of January 31st as revised. Seconded by Brown. Ayes by Brown, Dankert, Hickey, and Tomei. Minutes approved.

Reports:

Board of Trustees: Hickey reported that there was a long discussion at the last Board of Trustees meeting on sewers with Bud Shattuck present from the Town of Lansing. The different options being considered were discussed.

Regarding the future Fire House, Hickey stated that Mayor Hartill felt the new station could fit on the lot where the existing station is if the access road for Pyramid Mall was used and the drainage way filled in. John O'Neill stated there are more problems with the existing site.

Other Business as Time Permits:

Hickey has asked Dubow to make a presentation on findings required for the exaction of recreation lands. Hickey stated that Dubow has reminded him that the Planning Board must make formal findings when requiring recreation land be dedicated to the Village. Hickey stated the findings should indicate why the recreation land is needed. Dubow stated he has materials available for distribution to the Board now, but would prefer to make a presentation when more Board members are present. Dubow distributed packets which included a summary of State statutes, local regulations, materials from NYCOM and Association of Towns, as well as a 1990 case which led to changes in the State statutes. Hickey suggested members review the packets for discussion at the next meeting. Curtis will provide copies to Klepack, Stycos and Leopold. Dubow stated the Village cannot simply take 6% but must document an actual need, a legitimate public purpose and a basis for determining the exact amount required. Dubow stated each project must be evaluated and the Board cannot just set the figure at 6% because that happens to be the amount allowed by law. Hickey recommended Board members keep the Crossmore Subdivision in mind when reviewing the packet as the discussions are on-going and this is a unique area which could provide lake access for the public. Findings will need to be established when the preliminary plat comes before the Village. In summary, Dubow stated if the Village wants 6% it must justify that exaction with findings as part of the record. Hickey will plan to place this on the agenda for the Feb. 28th meeting if time allows.

Adjournment:

Dankert moved to adjourn at 9:05 P.M. Seconded by Brown. Ayes by Brown, Dankert, Hickey, and Tomei. Motion carried.