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CITY of NOVI CITY COUNCIL

Agenda Item 5
August 23, 2010

SUBJECT: Consideration of the request of SBA Towers, LLC for Special Land Use permit and Preliminary Site Plan approval, SP08-40D, for a proposed 150-foot tall cellular phone monopole tower, associated equipment shelters and accessory structures for property located at the southwest corner of Twelve Mile Road and the M-5 connector.

SUBMITTING DEPARTMENT: Community Development – Planning Division ^{Baum}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The applicant is seeking Special Land Use and Preliminary Site Plan approval for a 150-foot tall monopole cellular phone tower with room for six future cellular phone antenna arrays (none are proposed at this time). The applicant has also indicated that a Michigan Department of Transportation (MDOT) traffic surveillance camera may be attached to the pole, making the cell tower desirable and essential. To determine whether the MDOT camera is required at this location, staff contacted a representative of MDOT with responsibility in this area. The representative indicated that MDOT may want to locate a camera at this location at some point in the future, but does not have any immediate need or plans to install a camera on the proposed cell tower. MDOT has a tower nearby in Farmington Hills, close to the I-696/I-275/I-95 and M-5 interchange, with various MDOT equipment installed. In other locations, when a tower is not available and a surveillance camera is desired, MDOT typically locates cameras on 40 to 100 foot tall poles.

The site is leased State of Michigan right-of-way property located at the southwest corner of Twelve Mile Road and M-5 between the south bound M-5 entrance ramp and the southbound M-5 highway. The applicant has indicated that *associated equipment shelters, accessory structures and antennas for specific carriers will be submitted at a later date under separate permit.* The applicant proposes landscape screening on all sides of the site outside of the leased area. In addition to the tower and possible MDOT camera, electrical equipment, landscaping, driveway improvements and fencing are proposed.

The applicant is seeking a waiver of the street tree and landscape berm requirements due to the unique location of the proposed site. This waiver is supported by the City's Landscape Architect. The applicant has agreed to add additional screening plants as requested. The applicant also will be seeking a ZBA variance to permit a gravel driveway, which is supported by Staff since the proposed driveway would have little use. A second ZBA variance is required to permit development in the right-of-way. This request is not supported by staff because other sites exist that meet the requirements of the Ordinance.

An application for Preliminary Site Plan review was first submitted in November 2008. Since that time, several meetings and phone conversations have been held and the applicant has submitted three sets of revised Site Plans and four sets of supplemental application

materials to address comments in the staff and consultant's review letters. After receiving each of the sets of review letters (which had negative recommendations due to missing information and ordinance concerns), the applicant agreed to postpone forwarding the matter to the Planning Commission. On June 29, 2010 the applicant submitted supplemental materials and asked to move the matter to the Planning Commission for public hearing and recommendation, even with a negative recommendation from staff.

The Zoning Ordinance addresses "Uses Not Otherwise Included Within a Specific Use District." Since some uses possess unique characteristics making it impractical to include them in a specific use district, Section 2508 provides a mechanism where upon certain uses may be permitted by the City Council after review and recommendation by the Planning Commission. Special consideration is needed for uses that serve an area beyond the City and/or require sizable land areas creating potential control problems with respect to adjacent land use and use districts, traffic, noise, appearance and general safety.

Communications towers located outside of an Industrial zoning district are one of the uses that City Council may approve subject to the City Council finding that the proposal meets the following requirements of Section 2508.1.a., b. and c:

- Whether the requested use is essential or desirable to the public convenience or welfare. The applicant contends the MDOT camera makes to tower essential and desirable. The applicant also submitted proposed signal propagation charts for Verizon and T-Mobile whom, (both have applied to SBA to be located on their tower), demonstrating increased service with the proposed antennas;
- Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts. Consideration will be given to applications which present a creative solution to proliferation of antennas. The proposed pole is a standard mono-pole with extending antenna arrays in a very visible location. Staff asked the applicant to consider locating on other sites and to consider a shorter tower or stealth designs to minimize the visual impact of the proposed tower;
- Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services. The applicant submitted proposed signal propagation charts for Verizon and T-Mobile, both have applied to SBA to be located on their tower. No level of technical details were provided to support the charts;
- Whether the relief asked for is the minimum necessary to not have the effect of prohibiting personal wireless services. Alternative charts showing proposed coverage at lower heights or other locations have not been provided; and
- An applicant seeking to establish a new pole for wireless services shall be required to provide information regarding the feasibility of collocation at an existing site. Staff notes that there are several 90 foot tall ITC towers located nearby. The applicant provided correspondence from their potential wireless customers stating they were not able to co-locate on other facilities. Staff asked for a response from ITC and/or DTE stating that it was not possible to locate on their nearby electrical transmission towers, but no response from ITC or DTE was submitted.

Section 2508 also requires certain conditions and site plan issues be demonstrated. For the most part, the submittal meets these conditions, with the exception of the following:

- Antenna towers and related equipment shelter buildings are subject to site plan review. *Site Plan meets requirements except for a requested City Council landscape berm waiver, a ZBA variance for structures in the right-of-way and a ZBA variance for a gravel instead of paved driveway;*
- Equipment shelter buildings and equipment compounds shall comply with the building setback and height standards for the District in which they are located *Applicant seeking a ZBA variance to permit structures in right-of-way;*

Section 2516.2.c of the Zoning Ordinance outlines specific factors the City Council shall consider in their review of a Special Land Use Permit request, whether, relative to other feasible uses of the site:

- The proposed use will cause any detrimental impact on existing thoroughfares in terms of overall volumes, capacity, safety, vehicular turning patterns, intersections, view obstructions, line of sight, ingress and egress, acceleration/deceleration lanes, off-street parking, off-street loading/unloading, travel times and thoroughfare level of service;
- The proposed use will cause any detrimental impact on the capabilities of public services and facilities, including water service, sanitary sewer service, storm water disposal and police and fire protection to service existing and planned uses in the area;
- The proposed use is compatible with the natural features and characteristics of the land, including existing woodlands, wetlands, watercourses and wildlife habitats;
- The proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood;
- The proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use;
- The proposed use will promote the use of land in a socially and economically desirable manner; and
- The proposed use is (1) listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located.

Two public hearing responses were received for this request (attached). One is from MDOT and recommends approval of the request. The other is from a resident on Summit Drive and objects to the location and the height of the proposed tower.

The Planning Staff recommends denial of the Special Use Permit and Preliminary Site Plan because of the following:

- Substantial information demonstrating the location is essential for service or desirable for the public welfare or convenience was not provided;
- Substantial data demonstrating that it is not feasible to co-locate on existing sites or structures was not provided; and
- The proposed project does not meet setback requirements because it is located in the right-of-way.

This matter was brought before the Planning Commission for a public hearing and their recommendation on August 12, 2010. At that time, the Planning Commission made a positive recommendation for approval of the Preliminary Site Plan and Special Land Use Permit along with the associated waivers.

RECOMMENDED ACTION: Approval of a Special Land Use Permit and Preliminary Site Plan, Cell Tower at M-5 and Twelve Mile Road, SP08-40D, for a cell phone monopole tower, associated equipment structures and accessory structures subject to the following:

- a. The use is essential or desirable to the public convenience or welfare;
- b. The use is compatible with the orderly development of the OST, Planned Office Service Technology, zoning district and will not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts;
- c. Denial of the request will prohibit or have the effect of prohibiting the provision of wireless services;
- d. The applicant has provided sufficient information demonstrating that it is not feasible to co-locate on existing facilities;
- e. The use will not cause any detrimental impact on existing thoroughfares or the capabilities of public services and facilities;
- f. The use is compatible with the natural features and characteristics of the land and adjacent uses of land;
- g. The use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use;
- h. The use will promote the use of land in a socially and economically desirable manner;
- i. The use is (1) listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located;
- j. Obtaining a variance from the ZBA for a gravel driveway except that for first 25 feet adjacent to Twelve Mile Road;
- k. Obtaining a ZBA variance to permit structures in the MDOT right-of-way;
- l. Providing additional landscape screening as requested in the Landscape Review;
- m. City Council waiver of the right-of-way berm, street tree, understory trees or shrubs and irrigation requirements; and
- n. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan.

This motion is made since the plan is otherwise in compliance with Article 23A, Section 2400 and Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance.

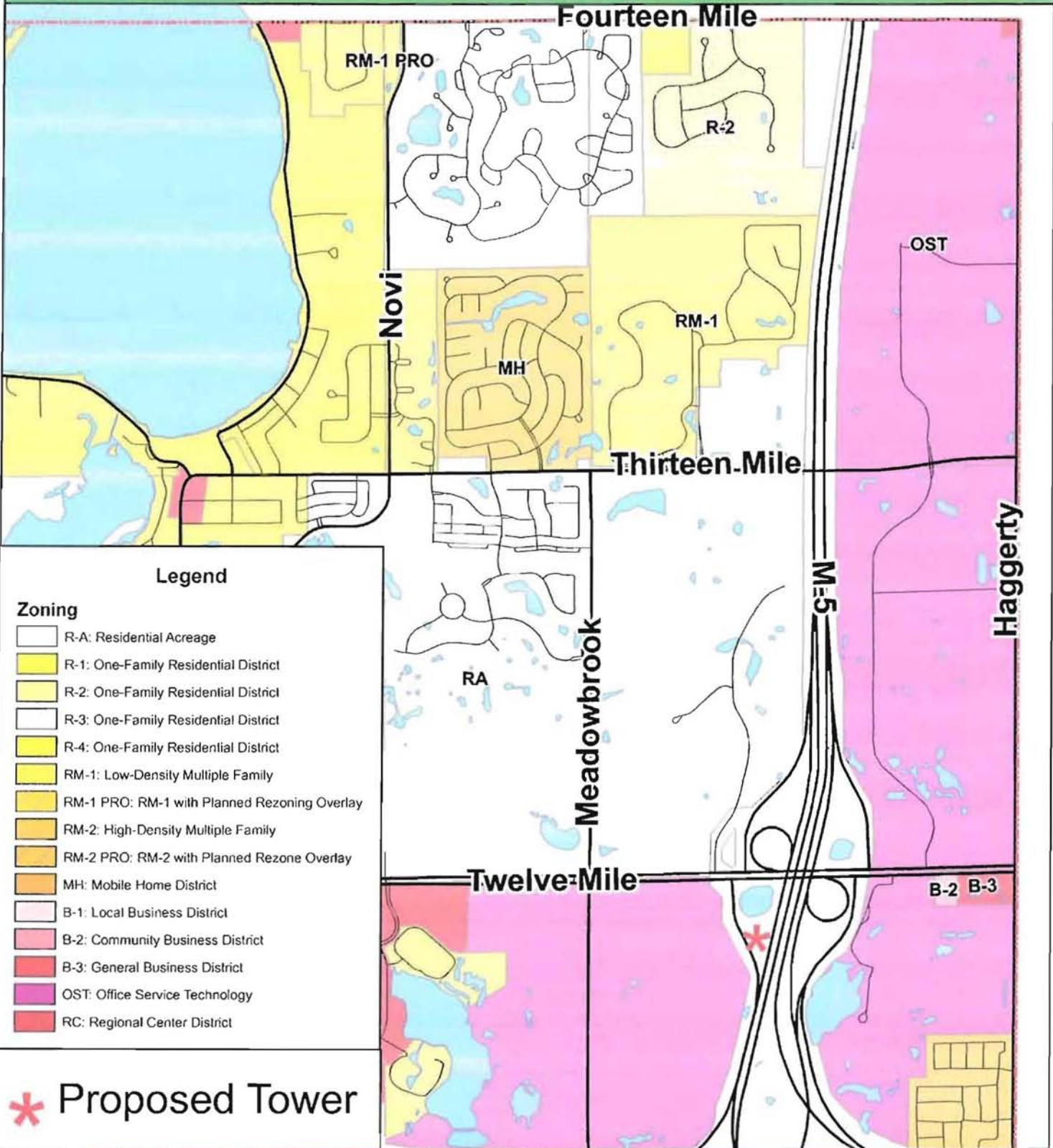
	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

MAPS

Location/Air Photo
Zoning

Cellular Tower at M-5 and Twelve Mile Road SP08-40 Zoning Map



Legend

Zoning

- R-A: Residential Acreage
- R-1: One-Family Residential District
- R-2: One-Family Residential District
- R-3: One-Family Residential District
- R-4: One-Family Residential District
- RM-1: Low-Density Multiple Family
- RM-1 PRO: RM-1 with Planned Rezoning Overlay
- RM-2: High-Density Multiple Family
- RM-2 PRO: RM-2 with Planned Rezone Overlay
- MH: Mobile Home District
- B-1: Local Business District
- B-2: Community Business District
- B-3: General Business District
- OST: Office Service Technology
- RC: Regional Center District

Proposed Tower



CITY OF NOVI

PLANNING DIVISION
48175 W. TEN MILE ROAD
NOVI, MI 48175-3024
(248) 347-0475
MARY SPENCER, AICP, PLANNER
CREATED: 5/26/09

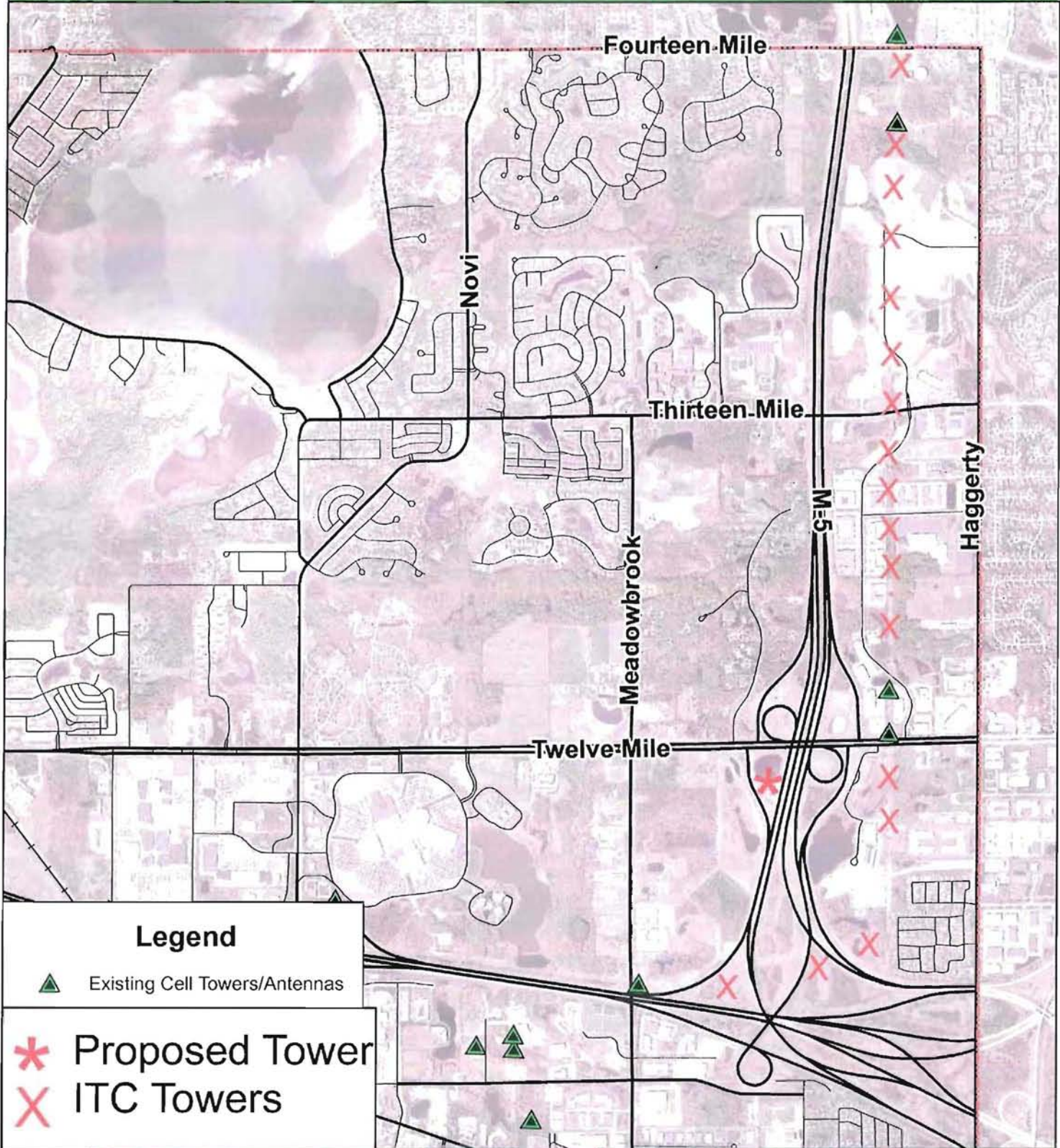


0 487.5 975 1,950 3,925
FEET


MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager for further source and accuracy information related to this map.

Cellular Tower at M-5 and Twelve Mile Road SP08-40 Location and Neighboring Tower Map



Legend

 Existing Cell Towers/Antennas

 Proposed Tower

 ITC Towers



CITY OF NOVI

PLANNING DIVISION

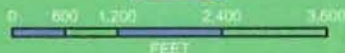
45175 W. TEN MILE ROAD

NOVI, MI 48375-3024

(248) 347-0475

MARK SPENCER, AICP, PLANNER

CREATED: 5/26/09



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REDUCED SITE PLAN

150'

PROPOSED LIGHTING ROD

MDOT CCTV EQUIPMENT

FUTURE T ANTENNA

140'

FUTURE T @ 130' A.

FUTURE T ANTENNA

125'

FUTURE @ 110' A.

FUTURE @ 100' A.

FUTURE @ 90' A.

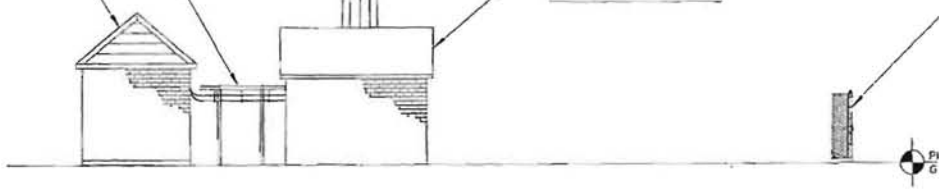
PROPOSED 145' MONOPOLE TOWER



NO
OF
JL
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TO

FUTURE T-MOBILE SHELTER



1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

24" x 36" PRINT IS THE FULL SCALE FORMAT. ANY SIZE OTHER THAN THAT IS AT REDUCED SCALE.

Photo Simulation



Before

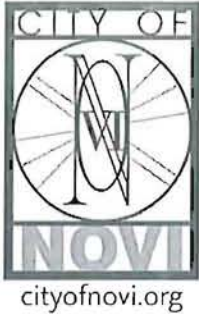


After

Southwest M5



Planning Commission
Action Summary Excerpts
August 11, 2010



PLANNING COMMISSION ACTION SUMMARY

CITY OF NOVI

Regular Meeting

Wednesday, August 11, 2010 | 7 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Member Baratta, Member Greco, Member Gutman, Member Lynch, Member Meyer, Chair Pehrson

Absent: Member Cassis (excused), Member Larson (excused), Member Prince (excused)

PUBLIC HEARINGS

1. CELLULAR TOWER AT M-5 AND TWELVE MILE ROAD, SITE PLAN 08-40D

Public hearing on the request of SBA Towers, LLC, for Planning Commission's recommendation to the City Council for Special Land Use Permit, and Preliminary Site Plan. The subject property is located at the southwest corner of Twelve Mile road and the M-5 connector in Section 13. The subject property is approximately 2 acres and the applicant is proposing to build a 150-foot tall cellular phone monopole tower, associated equipment shelters and accessory structures.

In the matter of Cellular Tower at M-5 and Twelve Mile Road, SP08-40D, motion to recommend approval to the City Council of a Special Land Use Permit for a cell phone monopole tower, associated equipment structures and accessory structures subject to the following: (a) Site plan approval by the City Council. This motion is made for the reasons that the Planning Commission finds that the proposed tower meets the requirements of Section 2508.1 of the Zoning Ordinance as follows: (a) The use is essential or desirable to the public convenience or welfare; (b) The use is compatible with the orderly development of the OST, Planned Office Service Technology District and will not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts; (c) Denial of the request will prohibit or have the effect of prohibiting the provision of wireless services; and (d) The applicant has provided sufficient information demonstrating that it is not feasible to co-locate on existing facilities; and for the reasons that the Planning Commission finds that relative to other feasible uses of the site, the proposed use: (a) Will not cause any detrimental impact on existing thoroughfares or the capabilities of public services and facilities; (b) Is compatible with the natural features and characteristics of the land and adjacent uses of land; (c) Is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use; (d) Will promote the use of land in a socially and economically desirable manner; and (e) Is (1) listed among the provisions of uses requiring special land use review as set forth in the various zoning districts of this Ordinance and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located. *Motion carried 6-0.*

In the matter of Cellular Tower at M-5 and Twelve Mile Road, SP08-40D, motion to recommend approval to the City Council of the Preliminary Site Plan subject to the following: (a) Obtaining a variance from the ZBA for gravel driveway except for the first 25 feet adjacent to Twelve Mile Road; (b) Obtaining a ZBA variance to permit structures in the MDOT right-of-way; (c) Providing additional landscape screening or obtain a waiver from City Council; (d) Planning Commission waiver of the right-of-way berm, street tree, understory trees or shrubs and irrigation requirements; and (e) The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan because it is otherwise in compliance with Article 23A, Section 2400 and

Article 25 of the Zoning Ordinance and all other applicable provisions of the Ordinance. *Motion carried 6-0.*

* Actual Language of motion subject to review.

Public Comment Letters



cityofnovi.org

CITY OF NOVI RESPONSE FORM

IN ACCORDANCE WITH MCL 125.3103, THE MANAGER OR OWNER OF A SINGLE STRUCTURE CONTAINING MORE THAN 4 DWELLING UNITS OR OTHER DISTINCT SPATIAL AREAS OWNED OR LEASED BY DIFFERENT PERSONS, IS HEREBY REQUESTED TO POST THE NOTICE AT A PRIMARY ENTRANCE TO THE STRUCTURE(S).

REQUEST FOR: PROPOSED CELLULAR TOWER NEAR TWELVE MILE ROAD AND THE M-5 CONNECTOR, SP08-40D

YOUR COMMENTS:

You are invited to attend the meeting and voice your support or objection. If you are unable to attend, you may use this form to reply by mail or fax. Returning this form by mail or fax has as much validity as verbal comments. Please note copies of the plans are available for viewing at the Novi City Public Library in the reference section the Friday evening before the meeting date. There will also be a copy of the project plans available for viewing on the table outside the City Council Chambers approximately one hour prior to the Planning Commission meeting. Signed comments will be added to the record of the meeting. Unsigned or anonymous comments WILL NOT be considered. Please return this form prior to 4:00 PM on the day of the meeting to:

Community Development Department
Planning Division
45175 W. Ten Mile, Novi, Michigan 48375
248-347-0475 (Main)
248-735-5633 (Fax)

I (APPROVE) OBJECT) TO THE ABOVE REQUEST FOR THE FOLLOWING REASONS:

The Michigan Department of Transportation and Federal Highway Administration have established guidelines for allowing wireless communication equipment in our right of way. This particular tower site has passed all our review and have been given a permit to construct. The tower company is still required to follow local and state agency approvals as mentioned in the permit. (MDOT)

SIGNATURE: Joe Ries

PRINT NAME: Joe Ries - MDOT Cell Tower Representative

ADDRESS: 7050 West Seginaw, Lansing

DATE: August 2, 2010

RECEIVED

AUG 11 2010

Leskun, Richelle

From: Nick Valenti [nickvalenti@mac.com]
Sent: Tuesday, August 10, 2010 4:44 PM
To: Leskun, Richelle
Cc: Nick Valenti
Subject: SP08-40D

3-11-10
COMMUNITY DEVELOPMENT

My name is Nick Valenti and I am out of town and just received notice of the proposed cellular tower. I own the two parcels directly to the North of the project. I request an adjournment as I had virtually no notice of this.

1. Both properties I own are zoned residential and this tower would have a negative impact on those properties.
2. The tower is too high. 100 feet is more typical.
3. This will be unsightly and clearly is meant to provide for the collocation with 4 other providers requiring additional structures on the ground that are not part of the information provided.
4. This is a gateway to the community in many ways. This huge tower is not the best image for the City.
5. What is the purpose of the MDOT camera system?
6. I further request substantial landscaping and a stealth design so that it cannot be seen.
7. It will devalue my property located closest to this property/project.
8. None of the other towers in or near residential districts have such a high profile. This will stick out like a sore thumb. What other alternative locations have been considered?

Thank you for allowing me to submit this via email as I do not have access to a fax and only received this yesterday as notified by someone who is collecting my mail.

Nick Valenti
27925 Summit Dr
Novi, MI 48377

248.701.6425
nickvalenti@mac.com

PLANNING REVIEW



PLAN REVIEW CENTER REPORT

March 29, 2010

Planning Review

Cellular Tower at M-5 and Twelve Mile (SBA Towers)
SP08-40D

Petitioner

SBA Towers, LLC

Review Type

Revised Preliminary Site Plan and Special Land Use Permit

Property Characteristics

- Site Location: Southwest corner of Twelve Mile Road and M-5
- Site Size: Less than 2 acres
- Zoning: OST, Planned Office Service Technology
- Surrounding Zoning: North: RA, Residential Acreage; and East, South and West: OST
- Surrounding Land Uses: North: Vacant residential and M-5 interchange; and East, South, and West: M-5 and interchange
- School District: Walled Lake Consolidated
- Proposed: 150 foot cellular phone tower and accessory structures
- Plan Date: March 16, 2010

Project Summary

The applicant proposes to build a 150 foot tall monopole cellular phone tower and attach one MDOT CCTV camera to the pole and provide room for future cellular phone antenna arrays. The site is leased State of Michigan right-of-way property located at the southwest corner of Twelve Mile Road and M-5 between the south bound M-5 entrance ramp and the southbound M-5 highway. The applicant has indicated that associated equipment shelters, accessory structures and antennas for specific carriers will be submitted at a later date under separate permit. The proposed tower is designed to accommodate six cell phone carriers and antenna arrays. The applicant proposes some landscape screening on all sides of the site outside of the leased area. In addition to the tower, a ground mounted electrical transformer, electrical meter equipment, landscaping, driveway improvements and fencing is proposed at this time. The applicant is proposing to complete the driveway improvements after MDOT closes a cement batch plant that it has permitted just south of the site.

Recommendation

At this time the Planning Staff **does not recommend approval** because the submitted application does not meet the standards of the Zoning Ordinance, specifically:

- **Substantial information demonstrating the location is essential for service or desirable for the public welfare or convenience was not provided;**

- **Substantial data demonstrating that it is not feasible to co-locate on existing sites or structures was not provided;**
- The proposed gravel parking spaces and access aisles are required to be paved and thus a **variance is required from the Zoning Board of Appeals** for a gravel drive and parking space (staff could support this variance);
- The proposed equipment screening is not adequate and would **require a waiver from City Council**; and
- The proposed future accessory structures and parking do not meet setback requirements because if they are located in the right-of-way and thus a **variance is required from the Zoning Board of Appeals** to locate the proposed facilities at this site.

The applicant was asked to provide additional application material demonstrating the location is essential for service or desirable for the public welfare or convenience and that it is not feasible to co-locate on existing sites or structures prior to the matter proceeding to the Planning Commission. The revised Site Plan now includes a MDOT camera mounted near the top of the tower. No material was provided demonstrating that this location is needed for the camera or that co-location on existing facilities is not possible. The current revised submittal also included additional narrative regarding cell phone coverage for two potential carriers, neither of whom are part of this application. Technical details explaining the maps was not provided. The applicant previously provided an affidavit stating that DTE controlled the lease of the ITC towers and the ITC headquarters building was not available co-location. The City has not received anything from ITC or DTE stating the ITC towers could not be used for co-location. Currently, four of the sixteen ITC towers located within 2¼ miles north of the site have communication antennas attached. A detailed discussion follows below.

Comments:

Preliminary Site Plans and Special Land Use Permits for new communications towers require approval from the City Council after a public hearing, review and recommendation from the Planning Commission. The Zoning Ordinance recognizes that communication towers service an area beyond the City but they also can create potential control problems as they relate to adjacent land uses and appearance.

Section 2508.1. of the Zoning Ordinance states

a. The City Council may permit a communication antenna or pole in non-industrial zoning districts when it finds that such restrictions would prohibit or have the effect of prohibiting the provision of personal wireless services, so as to contravene the provisions of 47 U.S.C. § 332(c)(7)(B)(i). The relief granted shall be the minimum necessary to eliminate such an effect."

b. The following criteria shall be considered in the recommendation of the Planning Commission, and decision of the City Council:

- (1) Whether the requested use is essential or desirable to the public convenience or welfare;*
- (2) Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts. Consideration will be given to applications which present a creative solution to proliferation of antennas.*
- (3) Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services.*

The Zoning Ordinance sets these high standards of review in order to protect the public from a proliferation of towers and poles in undesirable locations.

Federal law cited above, specifically preserves local zoning authority over wireless communications facilities provided the local ordinance:

- (1) Does not discriminate among providers; functionally equivalent services,
- (2) Does not prohibit wireless services;
- (3) The local government acts within a reasonable time; and
- (4) If the application is denied, the local government provides its denial in writing supported by substantial evidence contained in the written record.

In staff's opinion, the application is not supportable because the applicant has failed to provide the following information:

- **Substantial information demonstrating the location is essential for cellular phone service or desirable for the public welfare or convenience was not provided; and**
- **Substantial data demonstrating that it is not feasible to co-locate on existing sites or structures was not provided.**

The Preliminary Site Plan and Special Land Use request was reviewed under the general requirements of Article 23, Planned Office Service Technology (OST) District, and Section 2400, the Schedule of Regulations of the Zoning Ordinance, and other sections of the ordinance, as noted. Items in **bold** below must be addressed by the applicant or City Council before Site Plan approval may be granted. Items underlined may be addressed at the time of Final Site Plan review. Please see the attached Planning Review Summary Chart for information pertaining to ordinance requirements.

- 1. Schedule of Regulations** The future shelter buildings (to be applied for later) and parking areas are required to meet the setback and height requirements listed in Section 2400 for the OST district. The proposal does not demonstrate compliance with the minimum setback requirements for buildings and parking. The site compound is within the M-5 road right-of-way and thus the shelters and parking area do not meet the setback requirements for buildings and parking. The applicant is asked to **relocate the proposal to a place where they can meet the set back requirements of the zoning district or obtain a variance from the Zoning Board of Appeals for the location of the shelter building and parking in the right-of-way.**
- 2. Parking Spaces** (Section 2505 and 2506) The Zoning Ordinance does not specify a parking requirement for this use. One parking space is provided and should be adequate to serve the site. The Planning Commission may determine the parking requirement for an unlisted use with a recommendation from the City's Traffic Consultant. The City's Traffic Consultant's review of October 22, 2009 recommends one parking space. The Zoning Ordinance requires all commercial parking spaces and drives to be paved with asphalt or concrete. The applicant is proposing gravel drive and parking space. The applicant is asked to **pave the drive and parking space or seek a Zoning Board of Appeals variance**

from the paving requirement. Staff supports this variance since cell tower sites typically generate little traffic and because the City's Design and Construction Standards permits the City Engineer to allow non-paved access and parking for private utility facilities.

- 3. Special Requirements** (Section 2508.1.) City Council may waive any of the requirements of Section 2508.1 regarding communication towers if the Council finds that the requested use is essential or desirable to the public convenience or welfare, or whether the denial of the facility, as proposed, would prohibit, or in effect prohibit, wireless services and whether the size, location and character of the proposal is compatible with the orderly development of the district, environment and use of adjacent properties.

- **Essentiality and Compatibility** (Section 2508.1.a. and b.) The applicant proposes a standard style 150 foot tall (including appurtenances) gray painted monopole communications tower. Communication towers are permitted in the I-1 and I-2 industrial districts and may be permitted in all other districts if the City Council determines that the requested use is essential or desirable to the public convenience or welfare, or whether the denial of the facility would prohibit or in effect prohibit wireless services and whether the size, location and character of the proposal is compatible with the orderly development of the district, environment and use of adjacent properties. Section 2508.1.a states that City Council may vary the standards of Section 2508 if they determine the proposal meets the above requirements. The applicant provided some information to demonstrate these items.

Only an MDOT camera is proposed on the tower at this time. No information was provided by MDOT requesting this location or demonstrating that they need a camera mounted at the proposed 145 feet. A camera mounted at 145 feet could view objects on the horizon about 14 miles distance. M-5 ends 4 miles north of this site. About $\frac{3}{4}$ miles south of the proposed tower site, two 90 foot tall ITC transmission line towers exist within the MDOT right-of-way. Cameras mounted on either of these structures could be able to see objects on the horizon about 11 miles away.

The applicant provided completed SBA applications from T-Mobile and Verizon to locate on the proposed tower. The applicant has provided an "indoor coverage" propagation map for T-Mobile demonstrating existing and expanded indoor coverage with a facility on the proposed tower and existing and proposed propagation maps for Verizon showing an increase in RSSI (dBm) demonstrating expanded coverage with a facility on the proposed tower. The applicant has stated that the maps show an increase in "green" areas that demonstrate best coverage areas. Technical details explaining the maps was not provided.

The applicant provided a short narrative stating that the proposed tower is compatible with the district and existing uses. The applicant has stated that due to the MDOT cameras a stealth design could not be considered. The color mock-up provided with the application shows two antenna arrays and an MDOT camera on the proposed tower although the proposed tower is designed to carry up to six antenna arrays.

The Planning Staff notes that the proposed tower would be highly visible to traffic travelling down Twelve Mile Road or M-5. Locations further from the roadways would be aesthetically more appealing. A shorter tower or a stealth tower design with flush mounted antennas would also be aesthetically more appealing. Co-locating on existing structures would even be more appealing.

The applicant is asked to provide additional information demonstrating that the location is essential for service or desirable for the public welfare or convenience or seek a City Council determination that the proposed tower is essential for service or desirable for the public welfare or convenience.

- **Co-location** (Section 2508.1.c) Applicants seeking approval of a new communications tower are required to provide information that demonstrates that it is not feasible to locate the proposed antennas on any existing structures. The applicant states that due to the proposed MDOT CCTV camera, they can not collocate on another facility. No information was provided by MDOT expressing a preference for this location or that other locations would not provide similar service. The applicant provided a map indicating the location of other towers. The applicant's previously submitted "Other Towers Map" did not depict all of the several ITC electrical transmission towers located within two miles of the site but did provide a note on the map indicating the location of a "string of ITC towers." The applicant provided an e-mail from T-Mobile (a potential carrier) stating that ITC would not permit co-location on their nearby 90-foot plus electrical transmission line towers or their headquarters building. The applicant also provided an affidavit stating that they contacted ITC and they were informed by ITC that they were unlikely to grant permission to locate on their headquarters building and that DTE Energy and not ITC had the authority to grant leases on the ITC transmission line towers. The applicant did not provide a statement from ITC or DTE on this matter. Currently, four of the sixteen ITC towers within 2¼ miles north of the site have communication antennas. **The applicant is asked to provide additional information from MDOT regarding camera locations, an inventory of tall structures in the vicinity and additional information that demonstrates that locating in these locations is not feasible or provide evidence supporting a waiver and request a waiver of the requirement from City Council**

Further, Section 2508.1.c. of the Zoning Ordinance requires applicants to provide a letter of intent to lease excess space and commit itself to the following:

- Respond to any requests for information from another potential shared use applicant;
- Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible, and
- Make no more than a reasonable charge for a shared use lease.

The applicant has provided an affidavit of intent that meets the requirements of Section 2508.1.c.

- **Required Notes** (Section 2508.1.d., f. and j.) All required notes are on the Site Plan (see attached Summary Chart for details).
- **Equipment Structures** (Section 2508.1.g.) All equipment shelters must be constructed of face brick on all sides and have gabled roofs unless City Council waives the requirement. The applicant has depicted "future" equipment structures that meet the requirements of the Ordinance and provided notes on the plan states that details for a specific provider will be submitted separately and "Future equipment shelters to be clad in brick or panel brick with a gabled roof."
- **Outdoor Equipment** (Section 2508.1.h.) All equipment must be placed in equipment buildings unless the City Council finds that due to site conditions or due to equipment design it is impractical to place the equipment in a building and that all outdoor equipment is screened from view on public roads and neighboring properties. The proposed outdoor equipment includes a transformer cabinet, a telco "H" frame structure, ice bridges and wave guide structures. In addition, the Verizon and T-Mobile applications to SBA indicate a desire to have a generator and three equipment cabinets outside of the equipment shelters. Along with a note stating that the carriers will apply for separate permits, the site plan depicts all proposed carrier specific equipment to be placed in brick faced equipment buildings. The applicant proposes to place all the equipment and buildings inside of a six foot chain link fence with some landscaping outside of the leased compound along the west and south side of the fenced area. Although the road surface of M-5 at the Twelve Mile Road overpass is over 10 feet higher than the compound and it will be difficult to screen the equipment from the view of the south bound motorist on M-5, the **applicant is asked to increase the screening or seek a waiver from City Council.**
- **Tower Height** (Section 2508.1.j.) The applicant proposes a 150 foot tall tower and antenna array and the maximum height permitted is 150 feet.
- **Fall Zone** (Section 2508.1.d.) Towers located on a site containing another use are required to be setback from all structures, driveways and parking areas by at least 40% of the height of the tower (63.2 feet). When the structure is setback less than 100% of the tower height, data must be provided showing that the tower is designed to keep from falling outside of the 40% fall zone. Roads (including freeway ramps) are considered structures and thus the above tower setbacks pertain. Setbacks are measured from all road surfaces, including the maintained shoulder. The proposed tower meets these requirements. The applicant has submitted data demonstrating that if the tower fails it will only fall within a distance equal to or less than 40% of its height and place the tower at least 40% of the height of the tower from all road surfaces. This is in the form of an engineer's evaluation.
- **Outdoor Lighting** (Section 2511) If the applicant is proposing any outdoor lighting, the applicant is asked to submit fixture details, including any fixtures used to illuminate the tower, and a photometric plan as required by Section 2511.

- **Future antennas, equipment shelters and accessory equipment** (Section 2509.1.k.) If the proposed tower is approved and constructed, site plan approval for future antennas, equipment shelters and accessory equipment may be granted administratively if all other conditions of the Zoning Ordinance are met.

4. Special Land Use Considerations Communications towers require Special Land Use approval and thus are subject to meeting the requirements of Section 2516.2(c). The City Council in exercising its discretion over site plan approval should consider the following factors relative to other feasible uses of the site:

- Whether the proposed use will cause any detrimental impact on existing thoroughfares in terms of overall volumes, capacity, safety, vehicular turning patterns, intersections, view obstructions, line of sight, ingress and egress, acceleration/deceleration lanes, off-street parking, off-street loading/unloading, travel times and thoroughfare level of service.
- Whether the proposed use will cause any detrimental impact on the capabilities of public services and facilities, including water service, sanitary sewer service, storm water disposal and police and fire protection to service existing and planned uses in the area.
- Whether the proposed use is compatible with the natural features and characteristics of the land, including existing woodlands, wetlands, watercourses and wildlife habitats.
- Whether the proposed use is compatible with adjacent uses of land in terms of location, size, character, and impact on adjacent property or the surrounding neighborhood.
- Whether the proposed use is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use.
- Whether the proposed use will promote the use of land in a socially and economically desirable manner.
- Whether the proposed use is (1) listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located.

5. Other Issues

- **Pre-Construction Meeting** Prior to the start of any work on the site, Pre-Construction (Pre-Con) meetings must be held with the applicant's contractor and the City's consulting engineer. Pre-Con meetings are generally held after Stamping Sets have been issued and prior to the start of any work on the site. There are a variety of requirements, fees and permits that must be issued before a Pre-Con can be scheduled. Contact Sarah Marconi for a sample checklist or to schedule a Pre-Construction Meeting at 248-347-043 vrfv0 or smarchioni@cityofnovi.org.
- **Address** An **address must be assigned** before a building permit is issued. Recommend filing an address application (available at <http://www.cityofnovi.org/Resources/Library/Forms/Bldg-AddressesApplication.pdf>) to the Community Development Department, at the time of submitting a Final Site Plan.

- 6. Response Letters** A letter from either the applicant or the applicant's representative addressing comments in this, and in the other review letters, is requested with any subsequent submittal and prior to the matter being reviewed by the Planning Commission. The letter must highlight all changes made to the plans and address each of the comments listed in all review letters and with any conditions of City Council approval.

Please contact Mark Spencer at (248) 735-5607 or mspencer@cityofnovi.org with any questions or concerns.



Prepared by Mark Spencer, AICP, Planner

Attachment: Planning Review Chart

PLANNING REVIEW SUMMARY CHART

Review Date: 3/29/10
Project Name: Cellular Tower at M-5 and Twelve Mile (SBA Towers)
Project Number: SP 08-40D
Plan Date: 3/16/10

Items in **Bold** need to be addressed by the applicant and/or the Planning Commission before approval of the Preliminary Site Plan. Underlined items need to be addressed on the Final Site Plan.

Item	Required	Proposed	Meets Requirements ?	Comments
Master Plan	Public (adjacent)	No change Proposed	Yes	
Zoning (Article 23A)	OST, Office Service Technology	No change proposed	Yes	
Uses Not Otherwise Included Within a Specific District (Sec. 2508.1.a)	Communication Antennas and Poles Permitted use subject to conditions	150 foot (total height) monopole – located on MDOT right-of-way – public road principal use on property	Yes?	<u>Special Land Use Permit</u> Public Hearing at Planning Commission Requires Planning Commission recommendation and City Council Approval
Criteria considered for Planning Commission recommendation and City Council Approval (Sec. 2508.1.a.)	City Council it finds that such restriction would prohibit or have the effect of prohibiting the provision of wireless services	Some information provided – <u>Use of ITC towers considered</u> – E-mail from one potential provider indicates ITC will not grant permission to use towers or headquarters building – SBA affidavit states leasing on towers is controlled by DTE – No response from DTE <u>Applicant states that provided propagation maps showing coverage gaps and filling of gaps for T-Mobile (indoor coverage) and Verizon (from RSSI (dBm) of >=.95 and .85 to >=.75) demonstrate that not having this tower prohibits service</u>	Yes/No	<u>Requires City Council determination and approval</u> Applicant asked to provide additional information from DTE denying access to their towers (4 of the 16 towers within 2¼ miles north of this site have cellular antennas) – Although propagation maps provided, <u>applicant asked to provide details of the terms "inside coverage" and "RSSI (dMb)" that were not included</u> <u>Planning Commission should note that this application now includes an MDOT antenna but does not include any cell phone antennas or shelters for any specific carrier – All references to cell antennas, equipment and shelters are for future facilities to be submitted with a separate application</u>

Item	Required	Proposed	Meets Requirements ?	Comments
Note: Applicant may provide evidence supporting and requesting a waiver of any of the requirements of Section 2508.1 from City Council.				
<p>Criteria considered for Planning Commission recommendation and City Council Approval (Sec. 2508.1.b. & c.)</p>	<p>(1) Whether the requested use is essential or desirable to the public convenience or welfare;</p> <p>(2) Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts. Consideration will be given to applications which present a creative solution to proliferation of antennas.</p> <p>(3) Whether denial of the request will prohibit or have the effect of prohibiting the provision of personal wireless services.</p> <p>(4) An applicant seeking to establish a new antenna or pole for the providing of wireless services shall be required to <u>provide information regarding the feasibility of co-location at existing sites</u>. Before approval</p>	<p>Some information provided – Applicant provided general statements that public wants good cell service and Police & Fire need service</p> <p>Applicant provided narrative to support their position</p> <p><u>Applicant propagation maps indicate reduced service without new location</u></p> <p><u>Use of ITC towers considered</u> – E-mail from one potential provider indicates ITC will not grant permission to use towers or headquarters building – SBA affidavit states leasing on towers is</p>	<p>Yes/No</p>	<p>Although propagation maps provided, applicant asked to provide details of the terms “inside coverage” and RSSI (dMb) that were not included Applicant does not explain how signals in areas not covered by T-Mobile or Verizon get picked up by other carriers? – <u>Planning Commission should note that this application does not include a cell phone antenna or shelter for any specific carrier</u></p> <p>Applicant asked to provide additional supporting material from DTE on co-location on ITC facilities or provide information from their RF engineer demonstrating why co-locating on ITC towers</p>

Item	Required	Proposed	Meets Requirements ?	Comments
	is granted for a new facility, the applicant shall demonstrate that it is not possible to co-locate at an existing site.	controlled by DTE – <u>No response from DTE –</u> Nothing from RF engineers stating that if they did locate on an ITC tower, they would not be providing adequate service		would not provide desired coverage
Co-Location Provisions (2508.1.c.)	Provide for co-location	Space for 6 carriers provided	Yes	
Removal Note (2508.1.d)	Commitment to remove tower (if tower ceases to be utilized must be removed within 90 days)	Provided on plan	Yes	
Utility transmission lines underground (2508.1.f.)	All utility transmission lines must be underground	All underground not on plan	Yes	
Equipment Structure Requirements (Sec. 2508.1.g)	All equipment must be placed in an equipment building(s) unless the approving body permits the installation per Section 2508.1.h. and the buildings shall be constructed of face brick on all sides with gable roof in addition to compliance with standards at Section 2520	Note on sheet C-1 states "all equipment shelters to be brick with gabled roof" – "Elevations provided are a guide only." – "...shelter <u>design to be supplied by future carrier at the time of each individual permit application</u> " Sheet ANT-1 indicates Verizon shelter and antenna as proposed and T-Mobile as future Sheet C-1 indicates future Verizon and T-Mobile shelters <u>No application for a carrier at this time</u>	Yes	<u>Planning Commission may want to discuss why no specific carriers are part of this application</u>
Outdoor Equipment (Section 2508.1.h.)	Outdoor equipment may be permitted if approving body finds that it is not practical due to site constraints or due to the type of	Equipment in shelters and only transformer outside – Compound fenced with chain link fence with some screening plants	Yes	Increase screening of compound or seek waiver from City Council

Item	Required	Proposed	Meets Requirements ?	Comments
	equipment and the equipment compound is adequately screened from public roads and neighboring properties. Equipment may not exceed height of screening and masonry or vegetation screening permitted.			
Tower Height (Section 2508.1.j.)	150 feet	150 feet including antenna	Yes	
Annual Inspection (Section 2508.1.n.)	Commitment to provide to the City of Novi Building Department on an annual basis, beginning the first July 1st after erection of the tower, an inspection report from a licensed engineer confirming: (1) the continued structural integrity of the facility in accordance with applicable standards; and (2) that the facility meets those standards imposed by the Federal Communications Commission for radio frequency emissions.	Note provided on plan	Yes	
Tower and Equipment Buildings Setback				
Front north (building 2400, tower 2508.1.d., e. & i.)	Buildings 50 feet Tower 40% of height from other uses (fall zone) 63.2 ft. If less than 100% of height provide data showing tower designed to keep from falling outside of fall zone	<u>located in right-of-way</u> – over 500 ft. to Twelve Mile Rd.	No	Relocate building outside of right-of-way or obtain a variance from the ZBA
Side east (building 2400, tower 2508.1.d., e. & h.)	Buildings 50 feet Tower 40% of height from other uses (fall zone) 63.2 ft.	<u>located in right-of-way</u> tower 157+ ft. and cabinets 130+ ft. from	No	Relocate building outside of right-of-way or obtain a variance from the ZBA

Item	Required	Proposed	Meets Requirements ?	Comments
	If less than 100% of height provide data showing tower designed to keep from falling outside of fall zone	M-5 road surface		
Side west (building 2400, tower 2508.1.d., e. & h.)	Buildings 50 feet Tower 40% of height from other uses (fall zone) If less than 100% of height provide data showing tower designed to keep from falling outside of fall zone	<u>located in right-of-way</u> tower 220+ ft. and cabinets 200+ ft. from M-5 ramp surface	No	Relocate building outside of right-of-way or obtain a variance from the ZBA
Rear (building 2400, tower 2508.1.d., e. & h.)	Buildings 50 feet Tower 40% of height from other uses (fall zone) If less than 100% of height provide data showing tower designed to keep from falling outside of fall zone	<u>located in right-of-way</u> tower 250+ ft. and cabinets 250+ ft. from M-5 ramp surface	No	Relocate building outside of right-of-way or obtain a variance from the ZBA
Parking Setback				
Front (2400 h)	20 feet	<u>located in right-of-way</u>	No	Relocate outside of right-of-way obtain a variance from the ZBA
Side east exterior (2400 h and c)	20 feet	<u>located in right-of-way</u>	No	Relocate outside of right-of-way or obtain a variance from the ZBA
Side west interior(2400)	20 feet	<u>located in right-of-way</u>	No	Relocate outside of right-of-way or obtain a variance from the ZBA
Rear (2400)	20 feet	<u>located in right-of-way</u>	No	Relocate outside of right-of-way or obtain a variance from the ZBA
Number of Parking Spaces (2505.10)	For uses not listed Planning Commission may accept Traffic Consultant recommendation	Traffic Consultant recommends one parking space - One space provided	Yes	<u>Planning Commission acceptance of Traffic consultant recommendation for one parking space</u>
Parking Space Dimensions and Maneuvering Lanes (2506)	9 ft. x 19 ft. parking space dimensions and required fire lanes must be min. 18 ft. wide	Space provided and 18 ft. gravel access drive	Yes	

Item	Required	Proposed	Meets Requirements ?	Comments
Parking Lot Surface (2506.8)	Parking spaces and maneuvering lanes shall be paved of asphalt or concrete to City Design & Construction Standards (standards permit exceptions for private utility service driveways)	Gravel	No	Pave or obtain ZBA variance – Staff supports variance due to low use –
Barrier Free Parking Spaces	None per Sec. 1103.2.9 2006 Mich. Building Code	None	Yes	Not accessible for public
Exterior lighting (Section 2511)	Photometric plan and exterior lighting details needed at time of final site plan submittal	No outdoor lighting depicted	Yes	<u>If outdoor lighting proposed must comply with Section 2511</u>
Design and Construction Standards Manual	Land description, Sidwell number (metes and bounds for acreage parcel, lot number(s), Liber, and page for subdivisions).	Items provided	Yes	
	General layout and dimension of proposed physical improvements, showing the following: <u>Location of all existing and proposed buildings, proposed building heights, building layouts, (floor area in square feet),</u> location of proposed parking and parking layout, streets and drives, and indicate square footage of pavement area (indicate public or private).	Concept building elevations and façade calculations provided – <u>Each co-locator will apply with separate permit</u>	Yes	<u>Only MDOT camera proposed at this time</u>

Prepared by Mark Spencer, AICP (248) 735-5607

McBeth, Barb

From: Spencer, Mark
Sent: Wednesday, August 18, 2010 1:34 PM
To: McBeth, Barb
Subject: FW: SBA Cell Tower M-5 and Twelve Mile Rd.

Mark Spencer, AICP, Planner
 City of Novi
 45175 W. Ten Mile Rd.
 Novi, MI 48375
 248-735-5607

From: Michele Mueller [mailto:muellerm2@michigan.gov]
Sent: Wednesday, August 18, 2010 1:32 PM
To: Spencer, Mark
Cc: McBeth, Barb; Michele Mueller; Joe Rios
Subject: Re: SBA Cell Tower M-5 and Twelve Mile Rd.

Mark:

That is correct with the exception that there are rules/caviats etc with your first two bullet points. There is more to both of those but nothing that pertains to your inquires for this location.

Thanks,
 Michele

>>> "Spencer, Mark" <mspencer@cityofnovi.org> 8/17/2010 12:30PM >>>

Michele:

Thank you very much for taking the time to talk to me about the potential for MDOT to locate a CCTV camera on the proposed SBA cell phone tower at M-5 and Twelve Mile Road. Please review and confirm my recap of the points we discussed regarding this matter. Your help on this matter is greatly appreciated. Thanks.

- SBA has an exclusive agreement with MDOT to locate cell phone towers in the MDOT right-of-way throughout the State.
- As part of the agreement, MDOT can locate MDOT equipment on SBA towers in the right-of-way.
- MDOT has indicated to SBA that they may want to place a closed caption TV (CCTV) camera, at an undetermined height, in the future on a SBA tower at M-5 and Twelve Mile Road if SBA constructs a tower (thus reserving space on the tower).
- At this time MDOT does not have any plans to install a CCTV system along M-5.
- At this time, MDOT has not identified a need for a CCTV camera at M-5 and Twelve Mile Road.
- MDOT has a 400 foot tower located nearby just east of the I-696, I-275, I-96 and M-5 intersection in Farmington Hills.
- If a tower is not available, MDOT typically locates CCTV cameras on 40 to 100 foot tall concrete poles.

Mark Spencer, AICP, Planner
 City of Novi
 45175 W. Ten Mile Rd.
 Novi, MI 48375
 248-735-5607

LANDSCAPE REVIEW



PLAN REVIEW CENTER REPORT
March 29, 2010
Revised Preliminary Landscape Review
Cellular Tower M-5/ Twelve Mile SP#08-40C

Review Type

Revised Preliminary Landscape Review / Special Land Use

Property Characteristics

- Site Location: M-5
- Site Zoning: OST
- Plan Date: 2/26/10

Recommendation

Approval of the Preliminary Site Plan for 08-40D Cellular Tower is recommended provided the applicant receives the necessary waivers from the Planning Commission.

The project is unique in both due to its use and placement within the right-of-way. The Planning Commission is asked to consider the Staff comments listed below in light of the unique project purpose and location and in regard to typical requirements within OST zoning districts. The Applicant is asked to please address all other minor comments upon Final Site Plan Submittal. Please note that the City of Novi recently cooperated with the Michigan Department of Transportation on a joint effort tree planting project for all 4 quadrants of this interchange. A total of 150 deciduous and evergreen trees of mixed species have been planted.

Ordinance Considerations

Adjacent to Residential – Buffer (Sec. 2509.3.a.)

1. The project site is not directly adjacent to residential properties.

Adjacent to Public Rights-of-Way – Berm (Wall) & Buffer (Sec. 2509.3.b.)

1. The entirety of the project is within the right-of-way. The tower itself cannot be buffered through the use of landscape. Typically development on properties zoned OST would be required to install a 3' high berm or wall along right-of-ways. This is not practical on this site. Site grades do not allow for the installation of a berm over much of the surrounding area due to the presence and grades of the freeway ramps and existing pond. Installation of a berm would require the removal of numerous existing mature trees that are proposed to be preserved. The southbound M-5 ramp connecting to other freeways is elevated over the facility, making any berm along the ramp ineffective for effective screening. Given the site circumstances, **Staff supports a Planning Commission waiver for a berm along the right-of-way frontage.**
2. Outdoor service structures such as those proposed are required to be screened. **The Applicant should add additional understory trees or large shrubs to further buffer the fenced are. Alternately, the Applicant could seek a Planning Commission waiver for the screening. Staff would not support the waiver.**

Street Tree Requirements (Sec. 2509.3.b.)

1. One Canopy Street Tree per 35 LF is typically required between any proposed bike path / sidewalk and roadway. No walkways are proposed due to the project location. Further, MDOT and transportation safety issues preclude the planting of street trees along these right-of-ways. **Staff supports a Planning Commission waiver for the required street trees.**

Parking Landscape (Sec. 2509.3.c.)

1. No formal parking area is proposed for the project.

Building Foundation Landscape (Sec. 2509.3.d.)

1. A 4' wide landscape bed is typically required along all building foundations with the exception of access points. An area 8' wide multiplied by the length of building foundations is typically required as foundation landscape area. Due to the nature of the facility and the need for continued access, a landscape bed is not practical for the small building proposed. **Staff supports a Planning Commission waiver for the required building foundation landscape.**

Plant List (LDM)

1. A Plant List has been provided per Ordinance requirements.

Planting Details & Notations (LDM)

1. Plan Details and Notations have been provided.

Irrigation (Sec. 2509 3.f.(6)(b))

1. All landscape areas are typically required to be irrigated. It would be cost prohibitive to provide irrigation to this site, and the applicant has proposed the use of native plants with relatively low water requirements. **Staff would support a Planning Commission waiver for the site irrigation.**

General Notes

1. There appear to be several trees shown to be removed on the north side of the proposed access road that do not seem to be affected by any aspect of the development. The Applicant should clarify the reason for the proposed removal with the City's Landscape Architect.

Please follow guidelines of the Zoning Ordinance and Landscape Design Guidelines. This review is a summary and not intended to substitute for any Ordinance. For the landscape requirements, see the Zoning Ordinance landscape section on 2509, Landscape Design Manual and the appropriate items in the applicable zoning classification. Also see the Woodland and Wetland review comments.



Reviewed by: David R. Beschke, RLA

TRAFFIC REVIEW

June 30, 2010

Barbara McBeth, AICP
Deputy Director of Community Development
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375



SUBJECT: SBA Cellular Tower (M-5 and 12 Mile), SP#08-40E
Traffic Review of Fifth Revised Preliminary Site Plan

Dear Ms. McBeth:

At your request, we have reviewed the above and offer the following recommendation and supporting comments.

Recommendation

We can not recommend approval of the fifth revised preliminary site plan, since the driveway apron adjacent to 12 Mile Road is now proposed to be "stone" rather than asphalt as it was on the fourth revised preliminary site plan.

Project Description

What is the applicant proposing?

1. The applicant, SBA Towers LLC, proposes to construct a 145-foot monopole cellular communications tower within the property bounded by eastbound 12 Mile Road, the on-ramp to southbound M-5, and southbound M-5. A gated access drive is proposed on the south side of eastbound 12 Mile Road. Six cellular providers are planned collocate on the tower.

Traffic Study

Was a study submitted and is it acceptable?

2. No traffic study was submitted. The proposed facility would not generate enough new trips to warrant a study, based on the City's Procedures Manual.

Trip Generation

How much traffic would the proposed development generate?

3. Typically we would provide a trip generation table for the proposed land use within our traffic review, but no data is available from the Institute of Transportation Engineers (ITE) for the proposed communications tower. In our discussion with the applicant's engineer in 2009, a facility such as the one proposed generates approximately six visits per month by a

single vehicle (one monthly maintenance check by each of the approximately six providers that would collocate on the proposed tower).

Vehicular Access Locations

Do the proposed driveway locations meet City spacing standards?

4. A gated access drive is proposed on the south side of eastbound 12 Mile Road, and would follow the same general path as the existing gravel drive, which serves the MDOT construction staging area and temporary batch plant. One new curb cut and curbed driveway is proposed on the south side of eastbound 12 Mile, approximately 110 feet (measured center-to-center) east of the southbound M-5 on-ramp. We do not believe that the City's commercial driveway spacing standards (DCS Section 11-216.d.1.d) apply because the proposed driveway should not be considered a commercial driveway. Given the very limited volume of traffic to be generated by the proposed facility (approximately six vehicles per month), the location and visibility of the proposed gate, and the proposed signage (two "Authorized Vehicles Only" signs, one on either side of the driveway), we have minimal concern for the potential of traffic conflicts created by the proposed drive.
5. **The driveway is now proposed to include a "stone" apron immediately behind the curb line of 12 Mile Road. This represents a significant change from the prior proposal of an asphalt apron, one we can not support due to its traffic safety implications. The absence of a paved driveway surface adjacent to 12 Mile will result in loose stones being occasionally thrown back onto the road, and could also result in less frequent and/or effective snow removal. The previously proposed 25-ft deep asphalt apron should be restored to the plan.** (Note: The Design and Construction Standards, Sec 11-216(e)(9), authorizes the City to require the paving of such approaches "in a given location.")
6. The proposed utility structure driveway meets all of the Design Considerations included within Section 11.216.e of the City's Design and Construction Standards.
7. The revised plan includes a note on Page LP (Location Plan) stating that City emergency services will have access to the locked gate.

Vehicular Access Improvements

Will there be any improvements to the public road(s) at the proposed driveway(s)?

8. No improvements are proposed to eastbound 12 Mile Road. The proposed use is not expected to generate sufficient traffic to warrant a turn lane or taper.
9. The existing gravel drive is now accessible from the southbound M-5 on-ramp (via a gravel service area adjacent to the east shoulder of the ramp). This will be modified so that the sole point of access to the site will be via a new gated driveway on the south side of 12 Mile Road. Sheet C-2 (Site Grading Plan) provides a detail describing how this area would be cleared of aggregate and seeded. No change is proposed to the existing flat topography.

Driveway Design and Control

Are the driveways acceptably designed and signed?

10. The design standards for a Utility Structure Driveway (DCS Figure IX.6) have been met. Two "Authorized Vehicles Only" signs are proposed on either side of the new entrance, to deter motorists from mistaking it for a ramp onto M-5. Two "Turn Right Only" signs are proposed to deter authorized vehicles exiting the site from turning left into one-way traffic. The revised plan provides height and dimensions of proposed regulatory signs. Sign height has been reduced to the 5-ft rural standard, per our request.

Pedestrian Access

Are pedestrians safely and reasonably accommodated?

11. The proposed facility is not intended to accommodate pedestrians.

Circulation

Can vehicles safely and conveniently maneuver through the site?

12. The applicant has provided a turnaround at the east end of the driveway. No further improvements are necessary.

Parking Requirements

Is adequate on-site parking provided?

13. Section 2505.10 of the City's Zoning Ordinance states that for uses which do not have an off-street parking requirement listed in the Ordinance, the City's traffic consultant may make a recommendation to the Planning Commission. Birchler Arroyo recommends that the single parking space proposed on the east side of the service pad be deemed adequate off-street parking for the use proposed.

Sincerely,
BIRCHLER ARROYO ASSOCIATES, INC.



Rodney L. Arroyo, AICP
Vice President



William A. Stimpson, P.E.
Director of Traffic Engineering

ENGINEERING REVIEW



PLAN REVIEW CENTER REPORT

April 8, 2010

Engineering Review

Cellular Tower M-5
SP08-40D

Petitioner

SBA Towers, LLC

Review Type

Revised Preliminary Site Plan

Property Characteristics

- Site Location: Southwest corner of 12 Mile and M-5
- Site Size: 2 acres
- Plan Date: 3-16-10

Project Summary

- Construction of a 150-foot tall monopole cellular tower on property owned by MDOT. Site access would be provided from 12 Mile at an existing access point currently used for a staging area.
- The access drive would be an 18-foot wide, gated access drive within a proposed 30-foot wide access and utility easement. An aggregate access drive is proposed over the existing gravel access drive, with a vehicle turn around area near the end. The drive would be paved from 12 Mile to the gate (~25 feet).

Recommendation

Approval of the Revised Preliminary Site Plan is recommended, with items to be addressed at Final Site Plan submittal.

Comments:

The Revised Preliminary Site Plan meets the general requirements of Chapter 11 of the Code of Ordinances, the Storm Water Management Ordinance and the Engineering Design Manual with the following exceptions, which can be addressed at Stamping Set submittal:

General

1. As previously stated, a right-of-way permit will be required from the City of Novi and the Road Commission for Oakland County. Traffic signs in the RCOC right-of-way will be installed by RCOC.

The following must be submitted with the Stamping Set:


(Please note that all documents must be submitted together as a package with the Stamping Set submittal. Partial submittals will not be accepted).

2. An executed copy of the 30-foot access easement must be submitted to the Community Development Department.

The following must be addressed prior to construction:

3. A City of Novi Grading Permit will be required prior to any grading on the site. This permit will be issued at the pre-construction meeting (no application required). A grading permit fee in the amount of \$ 201.25 must be paid to the City Treasurer's Office.
4. Construction inspection fees in the amount of \$ 1,375.00 must be paid to the City Treasurer's Office.
5. A Soil Erosion Control Permit must be obtained from the City of Novi. Contact Sarah Marchioni in the Community Development Department, Building Division (248-347-0430) for forms and information. The financial guarantee and inspection fees will be determined during the SESC review.
6. A permit for work within the right-of-way of Twelve Mile Road must be obtained from the City of Novi. The application is available from the City Engineering Department or on the City website and may be filed once the Final Site Plan has been submitted. Please contact the Engineering Department at 248-347-0454 for further information. Only submit the cover sheet, standard details and plan sheets applicable to the permit.
7. A permit for work within the right-of-way of Twelve Mile Road must be obtained from the Road Commission for Oakland County. Please contact the RCOC (248-858-4835) directly with any questions. The applicant must forward a copy of this permit to the City.

Please contact Lindon Ivezaj at (248) 735-5694 with any questions.



cc: Ben Croy, Engineering
Brian Coburn, Engineering
Kristen Kapelanski, Community Development Department
Tina Glenn, Water & Sewer Dept.
Sheifa Weber, Treasurer's
T. Meadows, B. Hanson, T. Reynolds; Spalding DeDecker

FIRE REVIEW



CITY COUNCIL

Mayor
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Mayor Pro Tem
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Director of Public Safety
David Molloy

Director of EMS & Fire
Jeffrey Johnson

March 31, 2010

TO: Barbara McBeth, Deputy Director
Community Development, City of Novi

RE: Cellular Tower @ M-5 and Twelve Mile Rd., SP08-40D
4th Revised Preliminary Site Plan
Fire Department Review

Dear Ms. McBeth,

The above plan has been reviewed and it is **Recommended for Approval.**

Sincerely,

Michael W. Evans
Fire Marshal

cc: file

Novi Fire Department
42975 Grand River Ave.
Novi, Michigan 48375
248.349-2162
248.349-1724 fax

cityofnovi.org

APPLICANT RESPONSE LETTER(S)



Dykema Gossett PLLC
Suite 300
39577 Woodward Avenue
Bloomfield Hills, Michigan 48304

WWW.DYKEMA.COM

Tel: (248) 203-0700

Fax: (248) 203-0763

Alan M. Greene

Direct Dial: (248) 203-0757

Email: AGREENE@DYKEMA.COM

August 11, 2010

E-Mail and Facsimile

Novi Planning Commission
c/o Mark Spencer
45175 W. Ten Mile Road
Novi, Michigan 48375

Re: SBA Communications Tower at M-5 and Twelve Mile Road--Site Plan 08-40D

Dear Mr. Spencer:

I am legal counsel to SBA Towers II, LLC ("SBA") in connection with its application for approval of a communications tower (the "Project") to be located on property owned by MDOT at the southwest quadrant of M-5 and Twelve Mile Road. I have been asked by SBA to provide an opinion with respect to the scope of Novi's regulatory oversight over the Project as generally reflected in the exchange of letters between Black & Veatch dated May 12, 2010 and yourself dated May 18, 2010 (copies of which are enclosed herewith). For the reasons stated below, it is my opinion that your conclusion that the City regulates the property at issue pursuant to Section 204.8 of the Zoning Ordinance, is incorrect. While SBA intends to continue the process of obtaining Novi's approval for the Project, we are not waiving our position that the regulatory requirements you are imposing on the Project in your planning analysis are incorrect. I would appreciate it if you would distribute this letter to members of the Planning Commission so that the Commission is at least aware of our position in this matter.

As you know, SBA proposes to construct a 150' communications tower to serve up to six collocated telecommunications users. Two users have committed to the tower (Verizon and T-Mobile). Indeed, it is their specific needs that have prompted the Project in the first place. MDOT also intends to install a camera on the tower for its own traffic needs. The Project is located on MDOT owned property within and surrounded by M-5 and the entrance ramp to southbound M-5, and thus does not directly abut any other properties. Consistent with State and Federal policy that promotes the siting of communications facilities along limited access State and Federal highways, SBA obtained approval for the Project from the State of Michigan over a year ago. The State and SBA executed a license agreement for the property in January 2010.



Novi Planning Commission
August 11, 2010
Page 2

In your letter of May 18, you determined that the City regulates the use of the property at issue pursuant to Section 204.8, which states that district boundaries extend to the center of any “public right of way.” Because lands on the other side of the cloverleaf are zoned OST, you conclude that the OST district covers the property at issue. You then analyze the request under the terms of the OST zoning, including applicable setbacks. It is obvious that trying to bootstrap the OST district requirements onto this parcel has resulted in numerous anomalies, including the conclusion reached in your staff report that setback requirements are not met here.

The reasons why your May 18 letter is incorrect include the following:

1. It is undisputed that the Novi zoning map clearly does not zone the property at issue. This is not a public right-of-way strip of land along a public road, but rather an acreage parcel of land owned by MDOT and completely surrounded by limited access highway uses.
2. Section 204.8 of Novi’s Zoning Ordinance should reasonably be interpreted as applying to zoning districts that abut a “public right-of-way,” and that such zoning district boundaries extend to the center of the “public right-of-way.”
3. The Zoning Ordinance does not define “public right-of-way.” However, every other provision of the City’s Code of Ordinances that does define “public right-of-way” excludes federal or state rights of way. See for example, Chapter 32.5, Article II. Rights-Of-Way Oversight, definition of “Public Right-of-Way” in Section 32.5-28. See also Definition of “Public Right-of-Way” in Section 31-2 of Chapter 31 regarding the regulation of streets, sidewalks and other public places. Where one part of the City’s ordinances does not specifically define a term, it is appropriate to look to other parts of the City’s ordinances for consistent definitions of the same term. Here, the only definitions of “public right-of-way” in the City’s ordinances make it clear that the definition does not include state or federal rights of way.
4. The above interpretation is exactly how many other communities construe their ordinances as explained in the Black & Veatch letter dated May 12, 2010, that included the City of Troy as an example.
5. Independent of the above argument, the property at issue here is not properly characterized as “public right-of-way.” Rather, it is limited access right-of-way, which the MDOT defines as “highway right-of-way in respect to which owners or occupants of abutting lands and other persons have **no legal right of access** to or from the highway except at designated access points, determined by the public authority having jurisdiction over the highway.” See R 247.204(3) (emphasis added). This definition should be compared to the definition of “right-of-way” in the State Motor Vehicle Code, which states that a right-of-way means “the privilege of the **immediate use** of the highway.” MCL 257.53 (emphasis added). Limited access right-of-way

DyKEMA

Novi Planning Commission

August 11, 2010

Page 3

owned by the State around highway interchanges is simply a different animal than the "public rights-of-way" described in the City's ordinances. The City itself recognizes this fact by excluding State rights-of-way from definitions of "public rights-of-way" and not zoning the property at issue for any particular use.

6. Distinguishing these particular circumstances further, the land at issue is completely surrounded by limited access roadways. It does not directly abut private property. Even the MDOT's definition of a right-of-way line is a "boundary between private property and public land under legal control of the agency having jurisdiction over the highway." R 247.206 (3). Thus, the right-of-way boundary line is on the other side of the limited access roadways at issue.

7. Section 200 (10) of the City's Zoning Ordinance provides that terms not defined in the Zoning Ordinance shall have the meaning customarily assigned to them. As previously stated, the City's own ordinance provisions as well as other regulatory definitions make it clear that the term "public right-of-way" does not include the limited access state highway parcel at issue in this matter.

Again, we believe the interpretation set forth above reflects the intent of the City's ordinances and is consistent with the treatment of such lands in other communities that are similarly situated. A contrary interpretation results in the application of standards and requirements that are not only unreasonable to this property, but are also illogical. We appreciate your consideration of these comments and thank you for making them available to the Planning Commission.

Best regards,

DYKEMA GOSSETT PLLC



Alan M. Greene

cc: Barbara McBeth, Deputy Director Community Development
Charles Boulard, Director Community Development
Joy Tiemeyer, SBA Services
Krysten M. Kitzman, Black & Veatch
Lauren Cato, Black & Veatch

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IDVAMG - 019956/0999



BLACK & VEATCH
Building a world of difference.®

May 12, 2010

VIA FedEx

City of Novi
Planning Department
45175 W. Ten Mile Road
Novi, MI 48375
Attn: Mr. Mark Spencer, Planner

RE: SW M-5 Proposed SBA Tower at the 12 Mile and M-5 Interchange

Dear Mr. Spencer:

As you are aware, SBA Towers II, LLC (SBA) submitted an application for a 150' monopole tower to be located in the M-5 right-of-way at the 12 Mile and M-5 Intersection. This letter is a follow up to our meeting on April 27, 2010, where we discussed the City of Novi's regulation, if any, of the state right-of-way.

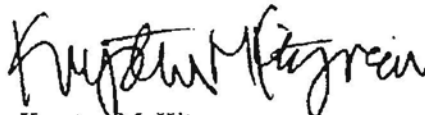
The City of Novi's Zoning Map (enclosed) clearly shows the proposed site location to be within the State of Michigan right-of-way and not part of a specific zoning classification. The City of Novi Zoning Ordinance specifically excludes state and federal rights-of-way from its regulations. The Michigan Department of Transportation (MDOT) has sole jurisdiction over the state right-of-way and has reviewed and approved the site, as is evidenced by MDOT's permit which was previously submitted to you, as Exhibit L of SBA's March 24, 2010, response to your Planning Review.

The City of Troy made a similar determination regarding a proposed SBA communication tower in the I-75 right-of-way. The City determined that because the City of Troy's Zoning Ordinance did not have specific provisions regulating the I-75 right-of-way, it did not have jurisdiction over the site. As a result, SBA was able to construct the tower in Troy, so long as SBA pulled the proper driveway permits for access to the site. We have enclosed a copy of that letter. Both the City of Detroit and the City of Lansing have taken a similar stance on this issue, and we have also included those letters for your reference.

As the City of Novi's Zoning Ordinance does not contain provisions regulating the state right-of way, the proposed monopole tower in the M-5 right-of-way at the 12 Mile and M-5 intersection will not require a zoning process from the City of Novi. Please sign and return this correspondence, acknowledging the above, to my attention via facsimile at (248) 594-9337 or e-mail (kitzmank@bv.com).

Should you have any questions or require additional information, please feel free to contact me at (248) 594-9330. Thank you for your time and consideration.

Sincerely,



Krysten M. Kitzman
Manager, Site Acquisition and Zoning

Signed this _____ day of _____, 2010

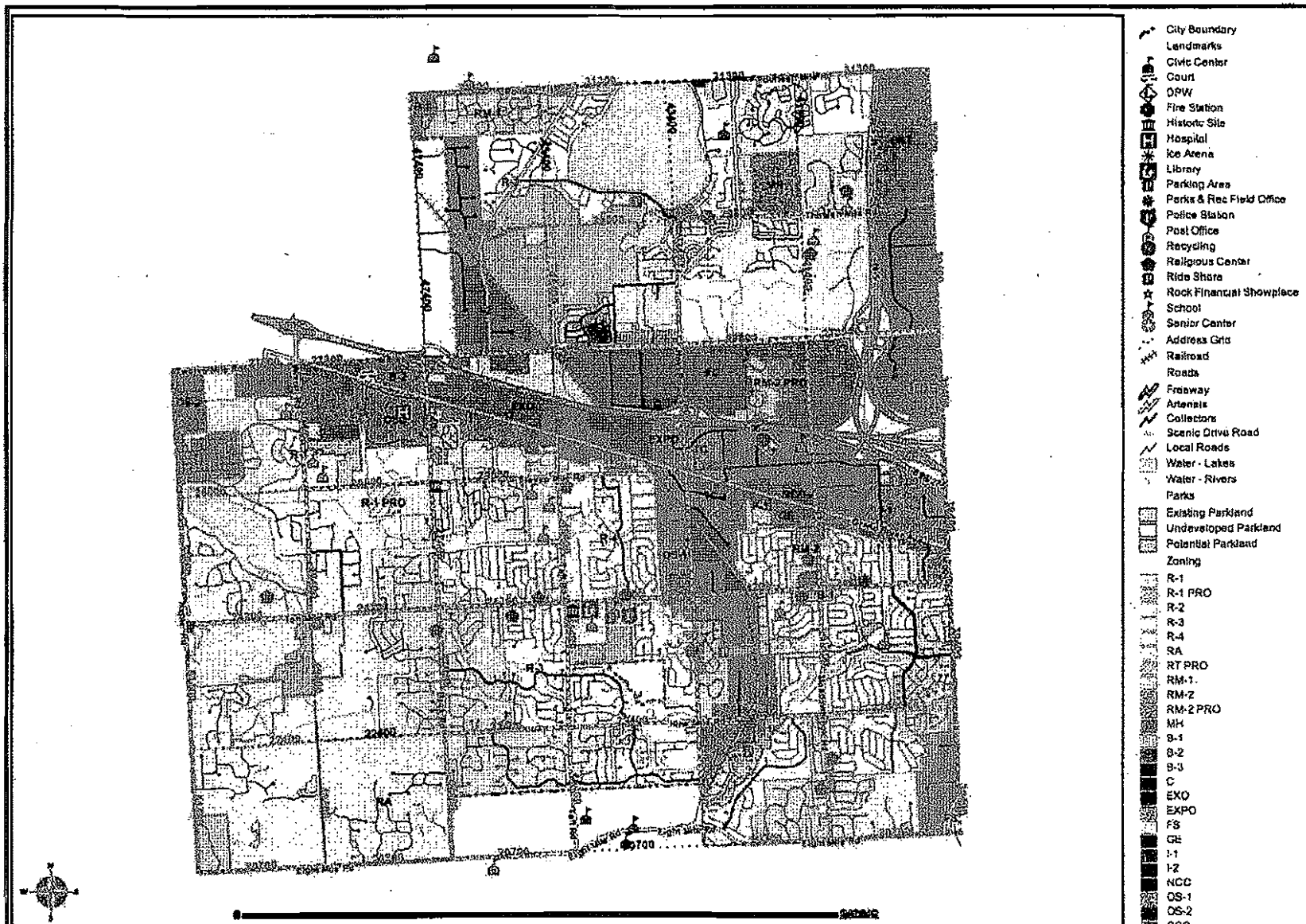
By _____

Print Name _____

Title _____

Enclosures (4)

cc: Joy Tiemeyer, SBA Services



DISCLAIMER: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys, and other public records. The information presented is not a legally recorded map or survey and is not intended as a substitute for original or official source information. The City of Novi makes no warranty, express or implied, as to the accuracy, completeness, or usefulness of the information presented.

SOURCES: City of Novi, Oakland County, Plansight LLC; October 2006 for County Data; October 2006 for City Data; Aerial Imagery as specified

- City Boundary
- Landmarks
- Civic Center
- Court
- DPW
- Fire Station
- Historic Site
- Hospital
- Ice Arena
- Library
- Parking Area
- Parks & Rec Field Office
- Police Station
- Post Office
- Recycling
- Religious Center
- Ride Share
- Rock Financial Showplace
- School
- Senior Center
- Address Grid
- Railroad
- Roads
- Freeway
- Arterials
- Collectors
- Scenic Drive Road
- Local Roads
- Water - Lakes
- Water - Rivers
- Parks
- Existing Parkland
- Undeveloped Parkland
- Potential Parkland
- Zoning
- R-1
- R-1 PRO
- R-2
- R-3
- R-4
- RA
- RT PRO
- RM-1
- RM-2
- RM-2 PRO
- MH
- B-1
- B-2
- B-3
- C
- EXO
- EKPO
- FS
- GE
- I-1
- I-2
- NCC
- OS-1
- OS-2
- OSC
- P-1
- P-2
- TC
- TC-1



500 West Big Beaver
Troy, Michigan 48064
Fax: (248) 524-0851
www.ci.troy.mi.us

April 24, 2008

- Area code (248)
- Assessing
524-3311
- Bldg. Inspections
524-3344
- Bldg. Operations
524-3368
- City Clerk
524-3316
- City Manager
524-3330
- Community Affairs
524-1147
- Engineering
524-3383
- Finance
524-3411
- Fire-Administration
524-3419
- Human Resources
524-3339
- Information Technology
619-7279
- Law
524-3320
- Library
524-3545
- Parks & Recreation
524-3484
- Planning
524-3364
- Police-Administration
524-3443
- Public Works
524-3370
- Purchasing
524-3338
- Real Estate & Development
524-3498
- Treasurer
524-3334
- General Information
524-3300

Ellen Tencer, Petitioner
SBA/T-Mobile
5030 Cooley Lake Road
Waterford, MI 48327

RE: Proposed T-Mobile Cellular Tower, Located within the I-75 Right-of-Way, South side of Square Lake Rd., between Crooks Rd. and Coolidge Hwy. (1641 W. Square Lake Rd. proposed), Section 8

Dear Ms. Tencer:

We are in receipt of your Preliminary Site Plan Application for the above referenced project.

The City of Troy Zoning Ordinance does not have regulations which permit wireless communication towers in the I-75 right of way. Therefore, we cannot process your request for Preliminary Site Plan Approval. The Preliminary Site Plan Application fee will be returned to you in the very near future.

Please note, that in order to access the site from the Square Lake right-of-way you will need to be granted a driveway permit from the City of Troy Engineering Department.

If you have any question please call me.

Sincerely,

Mark F. Miller, AICP, PCP
Planning Director

G:\SITE PLANS\ISP 948 T-Mobile Tower Sec 8\Letter to Petitioner 04 23 08.doc

Post-It™ brand fax transmittal memo 7671 # of pages 1

To: ELLEN TENCER	From: R. B. SANDAUST
Co.:	Co. CITY OF TROY
Dept.:	Phone: (248) 524-3364
Fax: (248) 524-3300	Fax: (248) 524-3300