

**MINUTES
CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING
April 4, 2012**

PRESENT: Beverly Meyer – Chairperson, Don Hickok, Ron Kiefer, John Lind, Ray Mielkus, Pauline Oberland, Louis Mallers, Ken Ritzert, Susan Vonder Heide, Michael Griffith – Senior Planner, Elizabeth Lahey-Secretary

ABSENT: None.

Chairperson Meyer called the meeting to order at 700 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present and swore in the audience members wishing to present public testimony.

A. PZC 2012-03: 8245 Lemont Road, Chicago Tower Leasing: Petitioner seeks a special use in order to expand an existing private utility facility within the OR&I zoning district, and a variation in order to construct a 200 ft. tower where 60 ft. is the maximum permitted.

The petitioner, Mr. Stanley Stann, Chicago Tower Leasing Corporation, stated that he owns the land and would own the proposed tower. He stated that the existing tower does not have the capacity for new technology. He further stated that the microwave is back and has been overshadowed by fiber optic. Mr. Stann reported that he is requesting to construct a second tower with approximately 4-6 microwave dishes 6-10 feet in diameter with various heights.

Commissioner Oberland questioned if it was better to have two smaller towers versus one large tower. She questioned when the subdivision was built.

Mr. Stann reported that the tower has been there for 34 years and preceded the subdivision.

Commissioner Lind questioned the easement location and fence enclosure and if the petitioner was given the rights or easement to access the parcel.

Mr. Stann reported that he has an easement to allow access to the property. He stated that from time to time a service technician is at the site to service the tower. Mr. Stann reported that the road is private and that sometimes during the snowy months that the snow would be plowed blocking the entrance of the gates. Mr. Stann stated that if he was invited that he would be happy to participate in the association.

He stated that he made an attempt to speak with the residents who attended the last meeting to speak to them about the issues and come to an agreement but only two people returned his call.

There was more discussion regarding the easement. Mr. Stann reported that the property to the east is sizeable and appears that at some point the road would be continued.

Commissioner Mallers questioned if the existing tower has outlived its usefulness.

Mr. Stann stated that the tower is 34 years old but has not outlived its usefulness.

Commissioner Mallers questioned if there was an option to add to the existing tower.

Mr. Stann stated that adding on is not an option. He stated that reinforcement could be done but that the foundation will not allow all the dishes on one.

Commissioner Hickok questioned what the petitioner plans on doing if there is damage to the road.

Mr. Mike McCrery, 411 W. Hillgrove, LaGrange, Attorney for the petitioner stated that if their equipment causes any damage that they will do the repairs.

Commissioner Hickok questioned if the petitioner was open to installing a fence around the perimeter.

Mr. Stann stated that the fence that belongs to the association is wooden. He stated that if a fence around the perimeter is required, it would be chain link

Commissioner Hickok stated that he would like to see a fence for safety reasons.

Mr. Stann reported that climbing the tower is a federal offense. He stated that he owns 14 towers and generally he has no problems with climbing.

Mr. Stann stated he would prefer not to be required to pave the site, since they may need install fiber optic cables at a later date and that would only tear up the pavement.

Commissioner Hickok stated the equipment to construct and maintain the tower may tear up the pavement too, does not seem like a good idea.

Commissioner Hickok stated that he did not think staff's recommendation for landscaping was necessary.

There was some discussion regarding property maintenance.

Mr. McCrery stated that the work that will be done will not create dust.

Chairperson Meyer questioned what type of security is available and if there would be security at night.

Mr. Stann reported that normally there is no security system in place. He reported that one site has security and that there is no way for a camera to provide live coverage. Mr. Stann reported that he has two contractors that keep an eye on the site one or two days per week.

Chairperson Meyer questioned if the petitioner is a member of the association.

Mr. Stann stated that he was not but he was willing to join the association and because he would like to be a good neighbor.

Commissioner Oberland questioned if anyone from the association ever approached Mr. Stann regarding maintenance/snow plowing.

Mr. Stann reported that he has worked with the association and contributed regarding the retaining wall issues. He stated that the association has never approached him regarding maintenance/snow plowing.

Commissioner Ritzert questioned how much wind velocity a tower can withstand.

Mr. Stann stated that the tower is a Zone B and meets the wind load and can handle half an inch of radial ice.

Mr. McCrery stated that engineering has progressed and that if the tower fell it is designed to fall within the radius and to take a wind load and folding in within the property.

Mr. Stann stated that the buildings are built with precast concrete on top to protect the equipment from falling ice.

Commissioner Meyer questioned if the petitioner can be expected to provide a certificate of insurance if passed.

Mr. Griffith reported the property owner is not required to provide a certificate of insurance. He stated that the contractor will have to provide one in order to obtain a building permit.

Commissioner Vonder Heide questioned if there were any reported injuries.

Mr. Stann reported that there were no reported injuries.

Chairperson Meyer questioned the heliports and concern getting caught by the tower. She questioned what precautions are in place so this doesn't happen.

Mr. Stann stated that he has to meet the government specifications and meet the FAA. He stated that he has a tower near O'Hare Airport.

At 7:40 p.m. Chairperson Meyer opened the public hearing for anyone wishing to present public comment.

Mr. John Gorak, 2641 Woodmere Drive reported that there is research completed by the Appraisal Institutes of Chicago and Washington D.C. stating that any cell tower within 300 feet of a residence will drop the property value 2%. He stated that the general public perception is that the tower is health hazard. Mr. Gorak questioned the need for another tower.

Chairperson Meyer questioned if the petitioner had something in writing. Mr. Gorak stated that he could provide something in writing.

Commissioner Hickok stated that the proposed tower will be further away from the other tower.

Commissioner Oberland questioned how long the petitioner lived in the area.

Mr. Gorak stated that he moved to his home in 2005 and the tower was a concern then.

Ms. Gabriella Comstock, Attorney, Keough & Moody, PC, representing the Woodmere Condominium Association summarized the association's position. The PZC received a copy provided in the staff agenda memo.

Ms. Comstock asked that the PZC table the item so the petitioner can present additional information as to how the construction of the tower will not adversely affect or change the character of the area and diminish or impair the property value. She further asked that the PZC require the petitioner to meet the permitted tower height.

Mr. Stan Widlacki, 8195 S. Lemont Road stated that he was the property across from the tower. He stated that the City has the right to protect the citizens of Darien and that density of the tower will cause harm. Mr. Widlacki provided before and after photos of the retaining wall. He provided history of the area, the retaining wall, the road and the maintenance issues. He stated that he would like to have something in writing from the petitioner stating that he is going to join the association.

Mr. Lind had a question as to the easement location, which was clarified. He stated that someone from the Rockwell property was required to put in the road. He questioned if the property to the north is part of the association.

Mr. Widlacki stated that the property to the north is not part of the association. He reported that the easement was granted so that access was available to access the properties.

Mr. Lind questioned what precipitated this decision.

Mr. Griffith reported that development proposal was submitted for review to resubdivide and redevelop the property. He stated that the road was not platted as public road, in a dedicated public right-of-way. He further stated that the road is private and is not aware of any request for the City to take it over. Mr. Griffith stated that at the time the City probably required the developer to build the road to the City's standards even though it was private. He stated the City has adopted a policy on how to consider requests to take over private roads. He further stated that Mr. Dan Gombac, Director can be contacted to start the process.

Ms. Ann Cattaneo, 8171 Lemont Road stated that she is concerned about the damage and liability. She stated that the City should consider taking over the road and that she was informed that the City denied the request to take it over.

Ms. Cattaneo stated that the petitioner is abusing the easement and the property around the tower and utilizing it for his own good. She stated that there has been little response from him and it is just “bad business” with no return phone calls until the present. Ms. Cattaneo stated that there is nothing short of a bad neighbor who has no regard for other neighbors. She stated that a contract needs to be developed.

Commissioner Oberland stated that those with concerns have the right to ask for a certificate of insurance and protection of liability. She stated that any contractor working would have to provide the certificate.

Mr. Griffith stated that the City cannot monitor if there are damages to private property. He stated the street condition was looked at by staff, and staff believes the street is in good shape. Mr. Griffith reported that the conditions of approval would be monitored.

Mr. Greg Brzozowski, 2647 Woodmere stated that he purchased his property in 2007 and the closest to the tower. He stated that ice and debris falls within 20 feet from his home. He stated that he has never met Mr. Stann and that he has never received a letter or a knock on his door. Mr. Brzozowski stated that he is offended that Mr. Stann stated that after a while that the tower is invisible. He stated that he is not asking the present tower to be taken down but that he shares great concern for the proposed tower.

Chairperson Meyer questioned if Mr. Brzozowski was aware of anyone hurt by fallen ice. He stated that he was not aware of any reported injuries.

Commissioner Lind suggested that the PZC wait until a status is determined from the FCC/FAA.

Mr. Griffith reported that the City is not part of the process.

Mr. McCrery reported that standard practice is that the petition is brought before the municipality and if approval is given it moves along to the federal bodies. He stated that once approval is given at the federal level it is back to the City for the permit process.

Commissioner Lind asked the attorney for his opinion.

Mr. McCrery stated that the FCC regulates the height and lighting. He stated that there are two local airports in favor of the petition and that the petitioner will be locating radios for gratis if approved.

Mr. Robert Petranek, 2700 Woodmere stated that at the March 21st meeting it was asked what benefit the City would receive from the tower.

Mr. Griffith reported that he was not aware of any benefits to the City.

Mr. McCrery stated that the addition of the tower will increase the tax levy and that there may be a tax benefit from the County.

Commissioner Kiefer stated that the City is pushed in one direction by the federal government and that the PZC is an advisory committee and that this petition needs to move forward. He stated that if there is something in writing regarding property values that it should be provided at the next meeting. He further stated that this needs to move along so the City is not in violation.

Commissioner Ritzert stated that the Telecommunications Act of 1996 states that no city or government entity can regulate the placement of a tower. He stated that the City's hands are tied.

Mr. Griffith reported that an email to the Committee was provided from a resident with no objections to the tower. Mr. Griffith reported that the tower was built well before the Woodmere development in 1996. Mr. Griffith also reported that the City Attorney provided a document which was provided to the PZC summarizing the federal government regulations. He stated the city attorney has also provided court case citations which clarify the substantial evidence requirements where municipalities deny towers. He stated substantial evidence must be presented in order support a denial and withstand a legal challenge.

Mr. Griffith stated that the property is zoned Office and Light Industrial and the proposed use is allowed and consistent with how the property is zoned.

At 8:20 p.m. Chairperson Meyer closed the public hearing.

Mr. Stann stated that some of the same people attended both meetings. He stated that calls were made and no response except for one. Mr. Stann addressed the audience and stated that if anyone has any questions or comments that he can be contacted. He provided his phone number.

A resident at 2627 Woodmere stated that the area is industrial in nature but it does not mean more towers should be allowed. He stated that there are many technical decisions to solve a problem and maybe there are other options rather than building another tower.

Commissioner Ritzert provided data regarding the hazards of microwaves and that there are no issues unless someone stands right next to it for a long period of time. He stated that his concerns were rested.

Commissioner Lind stated that he would like to continue the meeting so that staff can find out more history and fix the abutters issues and so that everyone can agree on the issues, problems and benefits to the City.

Chairperson Meyer stated that prolonging this is inevitable.

Mr. Griffith stated that road maintenance and the property has nothing to do with the request. He stated that if the petitioner damages the road it is still a private matter. Mr. Griffith reported that staff looked at the retaining wall and there were no issues other than cleaning up the site.

Mr. Griffith reported that he received a letter prior to the meeting that the City did not give proper notice. He stated that residents 250 feet from the site were given notice. He stated that he personally stuffed the envelopes and sent them out.

Commissioner Vonder Heide stated that there are very clear requirements governing this petition. She stated that if the City denies this, it is the City's burden show evidence. Commissioner Vonder Heide stated that real evidence needs to be provided from a qualified real estate professional and that there was nothing provided. She stated that issues related to maintenance are those of the association and their duty to get the tenant on board. She further stated that the City has responsibility to the road only if the road is taken over by the City.

Commissioner Vonder Heide stated that the area is industrial and properly zoned and there already exists a tower. She stated that everyone's home values have gone down by 30% due to the economy and a 2% decrease due to a tower is not that great in comparison.

There was no one else wishing to comment and Commissioner Vonder Heide made a motion, and it was seconded by Commissioner Mielkus that based upon the submitted petition and the information presented, the request associated with PZC 2012-03 is in conformance with the standards of the Darien City Code and move that the Planning and Zoning Commission approve the petition subject to the following conditions:

- 1. A fence is to be installed around the parcel. At the entrance to the site, a decorative fence is to be installed, with a chain-link fence for the remainder of the site.**
- 2. Outdoor storage materials, rubbish, construction related equipment and debris, is not permitted. These items are to be removed.**
- 3. The inoperable vehicle (no plate, flat tire) is to be removed from the property.**
- 4. Remove gravel/stone/dirt pile.**

Upon roll call vote, THE MOTION CARRIED 8-1.

AYES: Meyer, Hickok, Kiefer, Lind, Mielkus, Oberland, Ritzert, Vonder Heide
NAYS: Mallers

Mr. Griffith stated that this would be forwarded to the Municipal Services Committee on Monday, April 23, 2012 at 6:30 p.m.

CORRESPONDENCE:
None.

OLD BUSINESS/PLANNER'S REPORT:

None.

MINUTES

Commissioner Lind made a motion and it was seconded by Commissioner Kiefer to waive the reading of the March 21, 2012 Meeting Minutes.

Upon voice vote, THE MOTION CARRIED unanimously 9-0.

Commissioner Ritzert made a motion and it was seconded by Commissioner Mallers to approve the March 21, 2012 Meeting Minutes.

Upon voice vote, THE MOTION CARRIED unanimously 9-0.

NEXT MEETING:

Mr. Griffith announced that the next meeting is scheduled for Wednesday, April 18, 2012 at 7:00 p.m.

ADJOURNMENT:

With no further business before the Commission, Commissioner Mallers made a motion and it was seconded by Commissioner Kiefer to adjourn. Upon voice vote, THE MOTION CARRIED unanimously and the meeting adjourned at 8:40 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

**Elizabeth Lahey
Secretary**

**Beverly Meyer
Chairman**