

**CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE DECEMBER 13, 2011 MEETING**

MEMBERS PRESENT:

Mr. Larry Barrow
Mr. Dennis Bass
Ms. Lauri Harding
Mr. Tony Pfeffer
Mr. Michael Williams
Ms. Cindy Minter, Chair

MEMBERS ABSENT:

Ms. Deborah Blake, TPO
Mr. Justin Verst, Vice Chair

STAFF PRESENT:

Mr. Peter Klear, AICP, Director of Planning & Zoning
Mr. Matt Smith, Legal Counsel
Ms. Stephanie Turner, Secretary

Ms. Minter called the meeting to order at 7:00 PM. Following roll call, a quorum was found to be present. Ms. Minter asked if everyone had reviewed the November 8, 2011 meeting minutes and asked if there were any additions or corrections. There being none, Ms. Minter called for a motion. Mr. Barrow made a motion to approve the November 8th meeting minutes as submitted. Mr. Pfeffer seconded the motion. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer, Mr. Bass and Mr. Williams in favor of the motion. Ms. Minter abstained. Motion passed.

Ms. Minter introduced case #102-11-SPD-01, applicant GPD Group, and asked Mr. Klear to present the staff report and staff's recommendation to the Commission.

CASE:	102-11-SPD-01
APPLICANT:	GPD Group
LOCATION:	An approximate 10,000 square foot area within property located at 3597 Kennedy Road, California, KY 41007 (Unincorporated Campbell County).
REQUEST:	Approval of the location and extent of a Wireless Communication Facility including a 285 foot high tower and associated ground structures.

Considerations:

1. The site in question is located at 3597 Kennedy Road, California, Kentucky (Unincorporated Campbell County). The proposed cell tower location is approximately 130 feet southeast of Kennedy Road and approximately 1050 feet east of the AA Highway.
2. The zoning for the site in questions is A-1 Agriculture Zone. The A-1 Zone requires a minimum lot size of one acre, lot widths of 100 feet, minimum setback dimension of 50 feet, side yards of 10 feet (one side) and 25 feet (total both sides), and a minimum rear yard depth of 35 feet. The subject property meets these zoning requirements. Zoning for the properties to the north, east, and south is also A-1. Zoning for the property to the west is IM/A-1 Industrial Mining Overlay Zone/Agriculture Zone.
3. The 2008 Campbell County Comprehensive Plan Update designates the site for agricultural and rural uses.

4. The current land use for the site in question, as well as the surrounding properties, is a combination of agricultural/vacant land and low-density, single-family residential associated with the agricultural land.
5. The applicant has submitted the following information [*Please note that pursuant to KRS 100.987(3), this information is confidential and proprietary and is meant to be used only for CC&MP&ZC members and staff for review purposes*]:
 - a) Cellular License and Limited Partnership details.
 - b) Notice of Proposed Construction or Alteration – Off Airport to Federal Aviation Administration (FAA).
 - c) Letter stating need for new location and co-location is not possible for the service area.
 - d) Area search ring details and potential site locations.
 - e) Geo-technical report from G2 Consulting.
 - f) Directions to the proposed site.
 - g) Details of the proposed lease agreement.
 - h) Qualifications of persons responsible for the design and construction of the tower.
 - i) Site plan.
 - j) Tower detail sheets.
 - k) Identification of adjacent property owners.
 - l) Sample letters of notification to adjacent property owners.
 - m) Sample letter of notification to local unit of government.
 - n) Details for proposed cell tower notification sign posted on site.
 - o) Sample legal notice.
 - p) Site photos.
 - q) Proposed compliance with current Comprehensive Plan.
 - r) Site details relative to soils and floodplain.
 - s) Letter of approval from Kentucky Airport Zoning Commission.
 - t) Determination of No Hazard to Air Navigation from FAA.
 - u) Listing of existing cell tower locations.
6. The applicant is proposing the following:
 - a) The lease of an approximate 10,000 sq. ft. compound area.
 - b) Construction of a 285' tall, self-supporting lattice tower.
 - c) Access to the compound area via a 12' wide gravel drive off of an existing gravel drive.
 - d) Installation of a "swing gate" to replace a portion of an existing fence.
 - e) Installation of underground utilities to service the cell tower compound area, with related above-ground utility pedestals.
 - f) Installation of an approximate 12' x 28' Prefabricated Radio Equipment Shelter.
 - g) Installation of an 8' tall chain link fence, with a 12' wide swing gate entrance.
 - h) New grading in excess of 20% slope north of the tower and compound area.
7. The proposed tower is located:
 - a) Approximately 82' from the nearest property line.
 - b) Approximately 230' from the nearest structure, immediately to the north of the tower.
8. Notice of the proposed location of the cellular tower facility was given in accordance with KRS 100.986(17), and KRS 424.

Recommendation:

To approve the location and extent of a Wireless Communications Facility, including a 285 foot high tower and associated ground structures subject to the following conditions:

1. That the applicant obtains final approval from the Federal Communication Commission (FCC) for the installation and operation of a wireless communications facility. The applicant shall forward a copy of the FCC approval, within two weeks of receipt, to staff.
2. That the applicant submits a revised site plan to address issues such as erosion control, etc. to staff for review and approval. Once the revised site plan is approved, the applicant shall comply with any and all recommendations contained within the staff approval.

Bases for Recommendation:

The submitted application is consistent with the 2008 Campbell County Comprehensive Plan Update, Subdivision Regulations, Zoning Ordinance, KRS Section 100.985 to 100.987, and 807 KAR 5:063 except as noted below:

1. 807 KAR 5:063 and CAMPBELL COUNTY ZONING ORDINANCE Section 9.29 require approval from the Federal Communication Commission (in the form of a license and/or registration number) as part of the application and approval process for a wireless communication facility.
2. CAMPBELL COUNTY SUBDIVISION REGULATIONS Section 7.12: "Any developer who intends to make changes in the contour of any land...shall submit a plan for erosion and sedimentation control to the planning commission's duly authorized representative for approval."

Mr. Klear noted for the record that he has received a revised site plan, but has not had an opportunity to review it to certify if it complied with the items listed in condition #2. Mr. Klear asked that condition #2 remain as listed at this time. Mr. Klear asked if there were any questions for staff. Mr. Barrow asked if the notification made to neighbors resulted in any comments either negative or positive. Mr. Klear stated he had not received any comments from the public. Mr. Pfeffer asked Mr. Klear what would happen to the tower should the applicant abandon it or suddenly decide to stop using it. Mr. Klear replied that it almost never happened that a tower went up and then was determined that it was not viable. However, there is usually a clause in the contract between the lessee and the lessor that determines how the tower will be disposed of should there be a need to do so. Mr. Klear advised the Commission that this issue is beyond the purview of their authority.

Ms. Minter asked if there were any additional questions for staff. There being none, Ms. Minter asked the applicant to come forth and identify themselves for the record. Mr. Ed Block, representative for GPD Group, and Mr. Matt Macoda, Legal Counsel for AT&T Wireless, came forward. Mr. Block explained that AT&T Wireless only puts up towers where they need them. They try to put them where they get the most impact. AT&T receives customer feedback about dropped calls and poor service. Now with data transfer, this also affects the signal strength. After extensive research, the company identifies a ½ mile to a mile target area and an ideal elevation. GPD goes into the target area and attempts to locate the actual parcels with adequate zoning and construction regulations that would allow a cell tower to be built. GPD then negotiates with interested parties for the placement of that cell tower.

Mr. Block advised the Commission there was an error on the site plan with the scaling. The cell site is actually over 2,000 feet from AA Highway. Mr. Block stated they try to find areas where there is low density population and low impact to the community. The gravel drive will be improved with new gravel as well as any other site maintenance that may be required over the years. Mr. Block advised the Commission there is no increased traffic to the site once the tower is built. There are maintenance visits

to the site 3-4 times per year and at a maximum 1-2 times per month. There is no noise generated by the cell tower. Mr. Block stated that GPD Group has not received any comments from the public regarding the placement of the cell tower. Mr. Block assured the Commission there would be no harm to the general community. Mr. Block also answered Mr. Pfeffer's previous question about abandonment of the tower. Per the contract, if the tower were determined to be unnecessary, the tower will be dismantled and the cables will be cut about 5 feet underground and returned to pre-construction conditions.

Mr. Block offered to answer any questions the Commission might have. Ms. Harding asked if any of the wavelengths would be at a frequency that is inaudible to humans but might be harmful to livestock or animals that might affect the agricultural communities. Mr. Block explained that the largest part of the system is the antenna and they are on top of the tower. The FCC regulates the power and type of frequency that can be used. On the ground, you would not be affected by it. You would have to be directly in front of the antenna to be affected by any of the frequencies. Mr. Block stated that the radio station frequencies of old were more harmful than anything they are using now to transmit. Mr. Smith agreed with Mr. Block and stated that federal regulations prohibit any wavelengths that would be damaging to humans or animals. Mr. Smith stated it is a federal crime to violate any of these regulations.

Ms. Minter asked if there were any additional questions for the applicant. There being none, Ms. Minter asked the applicants to be seated. Ms. Minter asked if there were any audience members that wished to speak either for or against this issue. Ms. Minter asked for the record to reflect there were no audience members. Ms. Minter opened the floor for discussion among the Commission. There being no discussion, Ms. Minter called for a motion. Mr. Barrow made a motion to approve case #102-11-SPD-01, by GPD Group, an application for approval of the location of a cell tower with both conditions as stated in the staff report. Mr. Barrow cited for his basis that the application is consistent with the 2008 Campbell County Comprehensive Plan Update, Subdivision Regulations, Zoning Ordinance, and KRS. The motion was seconded by Ms. Harding. A roll call vote found Mr. Barrow, Ms. Harding, Mr. Pfeffer, Mr. Bass and Mr. Williams in favor of the motion. Ms. Minter abstained. Motion passed.

There being no other cases to come before the Planning Commission, Ms. Minter requested that Mr. Klear present his Director's Report.

DIRECTOR'S REPORT

Mr. Klear advised the Commission that Mr. Huck's position has been filled by Mr. Edward Stubbs who could not be present tonight but should be joining us in January. At this point in time, we have a case that is basically complete, but we are waiting for a signature of one of the property owners. If they can get that signature to us shortly, we may have a case to decide in January. If not, we will be meeting to approve meeting minutes and hold our election of officers. Mr. Klear advised he would like to consider working on the Subdivision Regulations at our next meeting as well if there is no case. It was determined after some discussion to leave it at a loose schedule until we can determine if there will be a case to be decided.

Ms. Minter asked if there was any other business to discuss. There being none, Ms. Minter asked for a motion to adjourn. Mr. Williams made a motion to adjourn. Mr. Barrow seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:39 PM.

Respectfully Submitted,

Approved:

Peter J. Klear, AICP
Director of P&Z

Cynthia Minter
Chair