

City Of Hart

407 S. State St
Hart, Mi 49420
Planning Commission
Thursday, April 3, 2025
Minutes

MEMBERS PRESENT: Jim Cunningham, Cynitha Fout, Gale Goldberg, Diane LaPorte, Andrew Mullen, and Betty Root

ABSENT: None

OTHERS PRESENT: City Manager – Rob Splane, Eric Ensay – Mckenna and Deb Brown

- C. Fout called the meeting to order at 4:00 pm.

APPROVAL OF AGENDA:

- B. Root motioned to approve agenda and supported by A. Mullen
 - Ayes: 6 Nays: 0 Absent: 0

APPROVAL OF MINUTES:

- J. Cunningham moved to approve minutes from February 6th, 2025, and supported by D. LaPorte
 - Ayes: 6 Nays: 0 Absent: 0

PUBLIC COMMENTS ON AGENDA ITEMS:

- NONE

PUBLIC HEARING:

- Proposed Special Use Permit – Antenna Tower
 - G. Goldberg motioned to open Public Hearing at 4:05 pm on Proposed Antenna Tower and supported by B. Root
 - Ayes: 6 Nays: 0 Absent: 0
 - J. Cunningham motioned to close Public Hearing on Proposed Antenna Tower and supported by B. Root

ACTION ITEMS:

- Consider Approval of Special Use Permit
A Special Land Use Permit and associated Site Plan application and supporting documentation was submitted for construction of a new 250-ft telecommunications tower to be located at 3123 N. Oceana Drive has been reviewed. The applicant for this request is SMJ International, who will be the responsible party for the construction of the proposed tower. The property owner, who is party to a lease agreement with the applicant, is Engage Real Estate, LLC. Mckenna has reviewed the application and provided our analysis and recommendations as part of this memorandum.

APPLICATION

The site is approximately 14 acres in area and is zoned C-2, Limited Commercial. The application proposes construction of a new 260-foot high wireless communications tower on the subject property (tower structure is 250 feet with a 10-foot high lightning rod at the top). The application includes a 100-foot by 100-foot lease area with a 75-foot by 75-foot fenced in area that will contain the tower and associated equipment. Access to the tower will be by an existing 12-foot wide gravel access drive.

Section 1243.18 of the Planning and Zoning Code indicates that towers are permitted in all zone districts subject to a Special Land Use Permit. The maximum allowed height in the C-2 zone district is 35 feet. However, Section 1243.10 indicates that the applicant can request consideration by the Planning Commission to exceed the height limitation in the zone district, which triggers a Site Plan review by the Planning Commission. Therefore, the Planning Commission will be considering the Special Land Use Permit along with the Site Plan.

ANALYSIS OF APPLICABLE LAND USE CRITERIA

The proposed land use is a wireless telecommunication tower, which is subject to the requirements of Section 1243.18 of the code. The following is a review of the criteria outlined in Section 1243.18 pertaining to the regulation of antennae and towers. The following table is a review of the criteria against the proposed application.

REGULATION OF ANTENNAE AND TOWERS	
Code Criteria	Finding
A) the antenna or tower shall be permanently secured to a stable foundation	<i>In conformance.</i> The proposed tower will require a building permit to ensure a stable foundation and construction.
B) No portion of the antenna shall conduct or display any advertising. Message, or other graphic representation other than the manufacturer's name.	<i>In Conformance.</i> There are none shown on the plans.
C) Freestanding antennae or towers shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the required yard setbacks, whichever is the greater.	<i>In Conformance.</i> The location of the proposed tower is not in the front yard of the subject property. The proposed tower is setback from all property lines as follows: front (east): 292'; side (south): 204'; side (north): 330'; rear (west): 792'. The code requires that the proposed tower be setback a distance of the height of the proposed tower, which in this case is 260 feet. Although the proposed tower complies with the setback requirement from the north, east and west property line, it does not comply with the south setback. However, the applicant has submitted a letter from their engineer that describes that the tower is designed in a manner that would collapse inward in the event of a catastrophic event and not impact adjacent properties. Further they have included information that demonstrates their need for the height as proposed. As a result, the applicant will be required to submit application for a variance to the setback from the Board of Appeals. We recommend any approval of this application be contingent on the applicant either receiving approval of a variance from the Board of Appeals or revising the height of the tower to comply with the setback, in the event that a variance is not approved.
D) An antenna or tower may be mounted on a principal or accessory building, provided it shall not exceed a height of ten feet, as measured from the base of the antenna or tower.	<i>In conformance.</i> This criterion is not applicable to this application.
E) All antennas or towers must be grounded to protect against damage from lightning.	<i>In conformance.</i> The plans indicated a 10-foot lightning rod.
F) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.	<i>In conformance.</i> The location of the tower appears to be far enough away from any property line so as not have a serious adverse impact on adjacent or nearby land uses. Additionally, they have provided a letter from their engineer that demonstrates the tower would collapse inward and not on any adjacent property in the event of a catastrophic

	event. The existing vegetation provides screening of the tower from adjacent properties.
G) Freestanding antennae or towers (including satellite dish antennas, excluding amateur radio antennae) exceeding a height of twenty-five feet above grade, or exceeding a dimension of twenty-five feet in any direction, including any mounting structure, shall require approval by the Planning Commission as a Special Land Use. A building permit shall be obtained before installation.	<i>In conformance.</i> The application has provided a site plan that can be utilized for review by the Planning Commission. The applicant will also be required to obtain a building permit, should the Planning Commission approve the proposed Special Land Use Permit and Site Plan.
H) A commercial or public antenna or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, having such height as reasonably determined by the Planning Commission	<i>In conformance.</i> The Site Plan includes a proposed 6-foot high chain link fence with gate surrounding the proposed tower to safely enclose the tower and all equipment.
I) The antenna or tower and the construction, installation, maintenance, and operation thereof shall comply with all federal, state, and local law, ordinances, and regulations.	<i>In conformance.</i> The applicant will comply with this requirement.
J) The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use and maintenance of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following: 1) the screening of an antenna, tower, or any accessory structure or structures. 2) the timely removal of unused or unsafe antenna, towers, or accessory buildings or structures. 3) the prohibition on the construction or occupancy of dwelling units or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or tower.	<i>In conformance.</i> Due to the location of the proposed tower on the site and the existence of the surrounding wooded screening, no additional terms or conditions are necessary to impose on the proposed tower.
K) The regulations of this section must not preclude amateur service communications and the installation of amateur radio antenna (being antenna operated for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 or the U.S. Code and operated under a license by the Federal Communications Commission). Rather, these regulations must reasonably accommodate such communications and must constitute the minimum practicable regulations to accomplish the City's legitimate purpose in regulating such communications.	<i>In conformance.</i> This criterion is not applicable to this project.

Based on the findings outlined in the table above. Mckenna believes that the proposed telecommunication tower is consistent with the land use criteria outline in the code, subject to the condition that the applicant either receive approval from the Board of Appeals for a variance from the south setback or redesign the tower to comply with the setback.

ANALYSIS OF APPLICABLE REVIEW CRITERIA

Mckenna has reviewed the proposed application for compliance with all applicable review criteria for each of the application types required for consideration by the Planning Commission. Special

Land Use Permit and Site Plan. This section of the memorandum will include McKenna's findings based on the type of application.

SPECIAL LAND USE PERMIT:

Section 1256.04 stipulates the standards required for approval of a Special Land Use Permit by the Planning Commission. The following table is an analysis of those requirements against the proposed development.

SPECIAL LAND USE PERMIT	
Standard for Approval	Finding
a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not result in a detrimental change to the essential character of the area in which it is proposed.	<i>In Conformance.</i> The proposed tower is located on the site in a manner to minimize the impact of surrounding properties and the community. The C-2 zone district allows for commercial and light industrial uses. The proposed tower is consistent with the general character of those uses.
b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.	<i>In Conformance.</i> The proposed tower facility is adequately served by essential public facilities. However, the nature of the proposed uses with no habitable employees effectively does not impact public facilities.
c) Not create excessive additional requirements at public cost for public facilities and services.	<i>In Conformance.</i> No additional costs associated with providing services to the site are anticipated.
d) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be overly detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.	<i>In Compliance.</i> The proposed tower will not increase traffic or effectively result in additional noise, smoke, fumes or odors. Because the proposed tower is in excess of the 200-foot height threshold, it will need to comply with FAA requirements for safety visibility, which includes a proposed flashing light at the top. The applicant has provided documentation of the need for proposed height of the tower provided RF coverage and indicated that they will comply with FAA requirements for safety visibility. Due to the safety requirement associated with the flashing light at the top of the tower, we do not believe this will be detrimental to adjacent property, and in fact is common with telecommunication towers.
e) Be consistent with the intent and purpose of the zoning district in which such use will be located.	<i>In Conformance.</i> The proposed tower is compatible with land uses in the C-2 zone district.
f) Be compatible with and in accordance with City Master Plan.	<i>In Conformance.</i> The proposed tower will provide enhanced telecommunications for wireless providers in the area. There are not any conflicts with the City's Master Plan.

Based on the findings outlined in the above table, McKenna recommends approval of the proposed application for Special Use Permit.

SITE PLAN:

Section 1258.07 outlines the standards for Site Plan approval that are to be considered by the Planning Commission. The following table is an analysis of those requirements against the proposed application.

SITE PLAN:	
Standards for approval	Findings

a) Landscaping and buffer strips shall be provided and designed in accordance with the City's landscape provisions.	<i>In Conformance.</i> There are significant wooded areas to be preserved around the proposed tower site that will provide adequate buffering of the tower.
b) All elements of the site plan shall be designed to take into account the topography, size and type of lot, character of adjoining property, and try and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Zoning Code.	<i>In Conformance.</i> The location of the proposed tower has been designed in a manner consistent with this provision.
c) The landscape shall be preserved in its natural state, insofar as practical. A development shall respect the natural resources of the City as recommended in the Hart Master Plan	<i>In Conformance.</i> The proposed tower will require the removal of some plant materials to accommodate construction. However, the plan indicated that the vast majority of the existing tree area will be preserved.
d) Areas of natural drainage shall be protected and preserved insofar as practical in their natural state to provide areas of natural habitat, preserve drainage patterns, and maintain the natural characteristics of the land.	<i>In Conformance.</i> The location of the proposed tower does not impact any areas of natural drainage.
e) Provide reasonable visual and sound privacy for all dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.	<i>In Conformance.</i> The applicant proposes construction of a 6-foot-high chain link fence to reasonably secure the proposed tower.
f) All buildings shall be arranged so as to permit necessary emergency vehicle access.	<i>In Conformance.</i> The plans indicate that the applicant will provide an extension of a 12-foot gravel access drive to provide access to the facility.
g) A pedestrian circulation system, separated from the vehicular circulation system, may be required. To ensure public safety, special pedestrian measures may be required in the vicinity of schools, playgrounds, shopping areas, and other uses which generate a considerable amount of pedestrian traffic.	<i>In Conformance.</i> This criterion is not applicable to the proposed application.
h) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian pathways in the area. Streets and drives which are part of existing or planned street patterns serving adjacent development shall be of a width appropriate to the traffic volume they will carry.	<i>In Conformance.</i> This criterion is not applicable to the proposed application.
i) All streets and driveways shall be developed in accordance with Chapter 1222 or Michigan Department of Transportation specifications, unless developed as a private road in accordance with the requirements for private roads in the City.	<i>In Conformance.</i> This supplication includes the extension of an existing 12-foot private road on site. The application proposes extension of the proposed gravel road to access the tower.
j) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion particularly during construction, and the formation of dust. The use of retention ponds may be	<i>In Conformance.</i> This criterion is not applicable to the proposed application.

required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles on paved areas. Catch basins may be required to contain filters or traps to prevent contaminants from being discharged to the natural drainage system.	
k) Exterior lighting shall be arranged so that illumination is deflected away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets.	In Conformance. The only lighting associated with the proposed application is a flashing light at the top required by the FAA for safety of aircraft. As a result, the proposed application will not have lighting that would interfere with motorists on adjacent streets. Additionally, because of the location of the tower on the property along with the existing trees surrounding the site, there will be no impact of lighting on adjacent properties.
l) All loading, unloading areas, and outside storage areas including dumpsters which face or are visible from residential districts or public thoroughfares shall be vertically screened by a structure or plant material no less than six feet in height. The finished side of any wall, fence, or other screen shall face adjacent properties.	In Conformance. This criterion is not applicable to the proposed application.
m) Site plans shall conform to all applicable requirements of county, state, and federal statutes and approval may be conditional upon the applicant receiving necessary county, state, and federal permits before final site plan approval or an occupancy permit is granted.	In Conformance. The proposed application is in compliance with all applicable requirements and subsequent proof of compliance with those agencies will be required before any final occupancy or sign-off will be granted by the City.

Section 1258.12 outlines Access Control Standards that the Planning Commission shall use in reviewing vehicle access and circulation associated with Site Plan. The following table is an analysis of those requirements against the proposed application.

ACCESS CONTROL STANDARDS	
Standards for Approval	Findings
a) The Planning Commission shall have the authority to require a frontage road or service drive for contiguous parcels along Polk Road, Oceana Drive, State Street or on other streets as deemed necessary. The Planning Commission shall also have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.	In Conformance. This criterion is not applicable to the proposed application.
b) [other considerations] For uses along Polk Road, Oceana Drive, State Street, and other streets as deemed necessary.	In Conformance. There is currently one driveway that accesses the site. The proposed tower will be accessed from the existing private driveway. No additional driveways or right-of-way access points are proposed.

Based on review of all applicable standards for approval and access control standards for Site Plan applications, Mckenna recommends approval of proposed Site Plan.

CONCLUSION

One component to consider when reviewing telecommunication tower request is that these facilities also are regulated by the FCC and are subject to certain federal requirements. Certain

studies and information are required by the FCC in review of telecommunication towers beyond local regulations. This procedure is a necessary step performed by the applicant that is separate from local review.

Following review of the application and supporting information provided by the applicant, the Special Land Use Permit application and Site Plan are ***recommended for approval, subject to conditions***. McKenna recommends that if the Planning Commission does approve the proposed Special Land Use Permit and Site Plan that a condition be included that the approval is contingent of the applicant receiving approval of a variance to the south setback by the Board of Appeals, or the tower will need to be revised to comply with the setback requirements.

- J. Cunningham motioned to consider approval of Special Use Permit and supported by D. LaPorte.
 - Ayes: 6 Nays: 0 Absent: 0

DISCUSSION ITEMS:

- None

PUBLIC COMMENTS ON NON-AGENDA ITEMS:

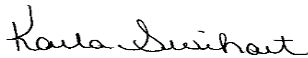
- NONE

OTHER BUSINESS:

- NONE

ADJOURN:

- There being no further business to come before the Planning Commission, the meeting adjourned upon a motion by D. LaPorte and supported by B. Root. The next meeting scheduled will be held on May 1st, 2025.



Karla Swihart
City Clerk