



Meeting Date: May 20, 2024

PLAN COMMISSION REPORT

Item No. **5A**

Proposal: Conditional Use and Building, Site, and Operation Plan Reviews

Description: Review a request to approve a conditional use and building, site, and operations plan for a proposed cell tower located at 3426 Stephan Road.

Applicant(s): Diamond Communications LLC

Address(es): 3426 Stephan Road

Suggested Motions: That the Plan Commission recommends to the Village Board that a conditional use for the construction and use of a 160-foot monopole (plus two-foot lightning rod) mobile service support structure and a $\pm 5,120$ square foot compound for the property located at 3624 Stephan Road be approved with conditions in Exhibit A for the following reasons:

1. The proposed use is allowed by underlying zoning through the conditional use review process.
2. The proposed use will not adversely affect the surrounding properties.

That the Plan Commission recommends to the Village Board that a building, site, and operation plan for the construction of a 160-foot monopole (plus two-foot lightning rod) mobile service support structure and a $\pm 5,120$ square foot equipment compound for the property located at 3624 Stephan Road be approved for the following reasons:

1. The proposed use is allowed by underlying zoning through the conditional use review process.
2. The proposed use will not adversely affect the surrounding properties.

Owner(s): Curtis L. Studey

Tax Key(s): 104-04-23-18-006-000

Lot Size(s): 28.71 acres

Current Zoning District(s): R-4, Single-Family Residential

Overlay District(s): N/A

Wetlands: ☒ Yes ☐ No Floodplain: ☐ Yes ☒ No

Comprehensive Plan: Medium Density Residential, Secondary Environmental Corridor

Background: The applicant is requesting approval for a conditional use, along with a building, site, and operation plan, for a wireless communications tower facility. The proposed location is adjacent to a Southeast Wisconsin Regional Planning Commission (SEWRPC) delineated secondary environmental corridor in the southwestern portion of the property at 3426 Stephan Road. Currently, the property is used for agriculture and includes a single-family home. The planned tower will be a 160-foot-tall monopole featuring a 2-foot lighting rod, and it will be situated within a fenced-in equipment compound covering approximately $\pm 5,120$ square feet, as shown on the submitted site plan. To improve access to the facility, the applicant proposes to widen the existing driveway off Stephan Road to a 16-foot-wide gravel drive, with an additional 2 feet of cleared space on each side. Additionally, a new 16-foot-wide gravel drive, with 2 feet of cleared space on either side, will extend from Stephan Road to a $\pm 40' \times \pm 63'$ gravel turnaround area south of the proposed equipment compound.

The proposed tower complies with Title 16, Chapter 14 of the Village Municipal Code regarding Mobile Tower Siting. Engineering has no concerns or issues with the proposed siting of the facility. Due to the existing tree buffer that provides natural screening, and given that there will be no vibration, noise, air pollution, odor, electromagnetic radiation, glare/heat, toxic or noxious chemicals, waste material, drainage, or hazardous materials on site, the proposed tower and equipment area will have minimal negative impact on the surrounding area. If the Plan Commission is comfortable with the proposed communications tower, staff has drafted a suggested motion for consideration.

EXHIBIT A CONDITIONS

Diamond Tower V LLC Cell Tower Located at 3426 Stephan Road

1. **Building Permit.** The applicant must obtain a building permit from the Village and pay all applicable zoning and building fees. The building permit card must be displayed in a prominent location at the project site, and a copy of these conditions must always be kept at the project site until the project has been completed.
2. **Compliance.** Failure to comply with the terms and conditions stated herein could result in the issuance of citation(s) and/or revocation of this permit.
3. **Binding Effect.** These conditions bind and are applicable to the Property Owner, Applicant, and any other users of the Property Owner with respect to the uses on the Property.
4. **Plans.** The proposed use (160' mobile service monopole with a 2' lightning rod and associated ground equipment) must be located, conducted, and utilized in compliance with the plans and documents received by the Village Planning Department on April 15, 2024.
5. **Lease Agreement.** Prior to the issuance of the building permit the applicant must provide a lease agreement or binding lease memorandum which shows on its face that it does not preclude the site owner from entering into leases on the site with other provider(s); the legal descriptions and amount of property leased; in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
6. **Abandonment.** Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility must remove the support structure must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the location to its natural condition

(except any grading may remain in the after-condition as determined by the Zoning Administrator) within ninety (90) days of receipt of notice from the Zoning Administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the Village may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner. The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of Section 16-14-7(a) of Municipal Code. Said agreement must also identify that the agreement is binding on future property owner(s) and future owner(s) of the mobile service support structure and facility. The mobile service support structure and facility must be recorded in the Register of Deeds Office and a copy of the deed must be filed with the Zoning Administrator prior to the issuance of the building permit.

7. **Liability.** The Village does not warrant any mobile service support structure against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a conditional use permit or building permit.
8. **Illumination Not Allowed.** Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.
9. **Fencing.** Per Section 15-5-3(b) of Municipal Code, a fence with barbed wire is prohibited.
10. **Security For Removal.** The applicant shall provide to the Village, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) to guarantee that the tower and all supporting equipment, buildings, and foundations will be removed when no longer in operation. The Village must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the Village will be given notice if the bonding company cancels the bond. If prior to the removal of the tower, tower removal rates exceed twenty thousand dollars (\$20,000.00), the Village reserves the right to require a corresponding increase in the bond amount.
11. **Pre-Development Agreement.** The applicant must execute a Pre-Development Agreement with the Village of Caledonia at an amount determined by the Village of Caledonia. Contact the Village of Caledonia at 262-835-4451 to execute the Pre-Development agreement.
12. **Continued Compliance.** Upon written inquiry by the Plan Commission, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation.
13. **Performance Standards.** The applicant must comply with the provisions of Section 16 Chapter 14 Mobile Tower Siting of the Village of Caledonia's Municipal Code.
14. **Expiration.** This approval will expire twelve (12) months from the date of the Village's final approval unless substantial work has commenced following such grant. If this office determines that no substantial work has commenced, the project will be required to go through the conditional use review process.

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15. **No Accumulation of Refuse and Debris.** Any fence, wall, hedge, yard, space or landscaped area must be kept free of any accumulation of refuse or debris. Plant materials must be kept in a healthy growing condition and structures must be maintained in a sound manner.
 16. **Property Maintenance Required.** A complete and thorough maintenance program must be established to insure attractiveness. The continued positive appearance of structures and property is dependent upon proper maintenance attitudes and procedures. Maintenance programs must be established that include cleaning up litter; sweeping, cleaning, and repairing paved surfaces; and cleaning and repairing fence materials.
 17. **Access.** The applicants must allow any Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, or maintenance.
 18. **Compliance with Law.** The applicants are responsible for obtaining all necessary federal, state, and local permits, approvals, and licenses. The applicant is required to comply with all applicable local, state and federal regulations.
 19. **Reimburse Village Costs.** Applicant shall reimburse the Village all costs incurred by the Village for review of this conditional use including but not limited to engineering, legal and planning review that occurred prior to permit issuance and during the implementation of the plans and construction of the improvements.
 20. **Amendments to Conditional Use Approval.** No additions, deletions, or changes may be made to the project, site plan, or these conditions without the Village of Caledonia's prior approval. All addition, deletion, and/or change requests must be submitted to the Caledonia Zoning Administrator in writing. A minor change to the conditions of this permit, as deemed by the Zoning Administrator, may be made at a staff level, if authorized by the Zoning Administrator.
 21. **Agreement.** By accepting the conditional use approval/zoning permit and beginning the project means that you have read, understand, and agree to follow all conditions of this approval. Therefore, Diamond Communications LLC, Curtis L. Studey, and their heirs, successors, and assigns are responsible for full compliance with the above conditions.
 22. **Subsequent Owner or Operator.** It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.
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Prepared by:

Todd Roehl
Planner/Zoning Administrator

Respectfully submitted by:

Peter Wagner, AICP
Development Director