

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A VIRTUAL MEETING HELD OCTOBER 14, 2021

Agenda

PUBLIC HEARING: COMMUNICATION TOWER, KCCDA OSHTEMO

Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA) was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on the back half of Parcel 05-10-155-011 along N. 6th St.

PUBLIC HEARING: COMMUNICATION TOWER ,CCDA WMU

Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA) was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on 5010 S. Drake Rd.

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, October 14, 2021, commencing at approximately 6:00 p.m.

ALL MEMBERS WERE PRESENT:

	<u>LOCATION</u>
Bruce VanderWeele, Chair	Oshtemo
Micki Maxwell, Vice Chair	Oshtemo
Kizzy Bradford	Oshtemo
Deb Everett	Oshtemo
Alistair Smith	Oshtemo
Anna VerSalle	Oshtemo
Chetan Vyas	Oshtemo

Also present were Iris Lubbert, Planning Director, Martha Coash, Recording Secretary and two guests.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m. and those in attendance joined in reciting the Pledge of Allegiance.

Approval of Agenda

Hearing no changes, the Chair let the agenda stand as published.

Approval of the Minutes of the Meeting of September 30, 2021

The Chair asked if there were additions, deletions, or corrections to the Minutes of the Meeting of September 30, 2021. Hearing none, he asked for a motion.

Ms. VerSalle **made a motion** to approve the Minutes of September 30, 2021, as presented. Mr. Vyas **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

PUBLIC HEARING: COMMUNICATION TOWER, KCCDA OSHTMO

Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA) was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on the back half of Parcel 05-10-155-011 along N. 6th Street.

Ms. Lubbert said Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA), was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on the back half of Parcel 05-10-155-011 along N. 6th Street. The property is zoned RR, Rural Residential and is owned by the City of Kalamazoo.

The site currently houses a water tower. The applicant was proposing to lease a portion of this property from the City of Kalamazoo on which to construct the proposed tower which will purely serve the KCCDA. The KCCDA provides public safety dispatch operations to Kalamazoo County and operates a central communications system for participating Local Governmental Units, the County, and other supporting agencies or entities. Communication towers are permitted in the RR zoning district as a special use. Notice of public hearing was mailed to all property owners within 300 feet of Parcel No. 05-10-155-011 on September 16 and published in the newspaper on September 21st.

The entirety of the property in question is zoned RR, Rural Residential. Uses permitted in the RR zoning district are outlined in Article 5 of the Township's Zoning Code. *Communication towers* are identified as a Special Use within this section and require review and approval of the Planning Commission. When reviewing a Special Use there are two sets of criteria that need to be considered: the general Special Use review criteria outlined in Section 65.30 and the specific requirements for the use in question outlined under Section 49.80. Ms. Lubbert provided an analysis of the proposal against these two Sections.

Section 49.80: Communication Towers

Ms. Lubbert walked through Section 49.80 and indicated all erection, construction, and location requirements for the requested communication tower have been met with the following exceptions:

Tower setbacks. A tower shall be located so that the setback from all property lines is equal to or greater than the height of the tower. The reviewing body may deviate from such requirements if the deviation is consistent with the spirit and intent of the Ordinance.

The proposed tower will be a total of 199 feet tall. The location of the proposed tower is over 500 feet from the right-of-way line of N 6th Street, over 350 feet from the eastern property line, 162 feet from the southern property line, and 39 feet from the northern property line. A deviation is requested from the Planning Commission for the northern and southern setback. Due to the shape and size of Parcel 05-10-155-011 the proposed tower would need a deviation for setbacks no matter where it is placed on the property. The tower is designed to collapse in on itself if it were to fall, so granting a deviation would not create a safety hazard. The location of the tower is fairly isolated and as the tower is providing a needed service to both the Township and County approving the deviation would be consistent with the spirit and intent of the ordinance.

Towers shall be set back at least 150 feet from any adjacent residences, residentially zoned property or a public street.

The only property line that the proposed tower does not meet this requirement for is the northern property line; with a proposed setback is 39 feet. The property to the north is classified as vacant by the Assessor's website. The nearest building to the north is over 900 feet away and buffered by established foliage. Staff had no concerns with the proposed location of the tower. The Planning Commission was requested to grant a deviation for the proposed tower setbacks.

Security fencing. Security fencing of at least six feet (unless other height is required by state or federal regulations) shall be required to prevent access to the tower, accessory building/structure and/or guy wires. The reviewing body may deviate from such requirements if the deviation is consistent with the spirit and intent of the Ordinance.

The tower and its equipment will be surrounded by a 9 foot tall, barbed wire fence (continuation of fencing surrounding the water tower). **A deviation is needed to be granted for this fence to be installed as proposed.**

Abandonment or Unused towers, portions of towers, tower mounted equipment, and associated facilities. Abandoned or unused towers, portions of towers, tower mounted equipment and associated facilities shall be removed as follows:

A copy of a signed lease, which includes a requirement that the applicant shall remove the tower, portion of tower, tower mounted equipment and associated facilities upon cessation of operations at the site shall be submitted at the time of application, if applicable.

A copy of the lease with the City of Kalamazoo is needed.

Section 65.30: Special Use Review Criteria

- A. **Master Plan/Zoning Ordinance: The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.**

Ms. Lubbert said zoning is purely a state and local issue except in two areas where Congress has imposed federal regulations: religious uses and telecommunications. Communication towers have special protections from the Federal Government and although the Federal Government dictates some of what can be done, municipalities have been granted a level of control over the placement, construction, and modification of wireless service facilities. As such, the Township's Zoning Ordinance allows construction of communication towers within the Township as long as "a need" for the tower is demonstrated. The code also provides legal tools and criteria against which to review the proposal.

The applicant provided a letter explaining that this proposed tower addresses an identified need to improve KCCDA's coverage and service to the County. This criterion has been met.

B. Site Plan Review: The Site Plan Review Criteria of Section 64.80.

Ms. Lubbert said Pyramid Network Services, LLC was proposing to lease a 75 foot by 50 foot area within Parcel 05-10-155-011 to hold their 199-foot-tall communication tower and supporting equipment. The proposed location of the tower is over 500 feet from the right-of-way line of N 6th Street, over 350 feet from the eastern property line, 162 feet from the southern property line, and 39 feet from the northern property line. **A deviation from the setback requirements will be needed.** Required setbacks for communication towers were addressed under the review of Section 49.80: Communication Towers.

A site plan for the proposed tower was submitted and reviewed by the Township's Fire, Public Works, and Planning Department. All requirements and comments have been addressed except for a proposed fence deviation.

She indicated that the tower and its equipment will be surrounded by a 9 foot tall, barbed wire fence. In the RR district a maximum fence height of 6 feet is permitted. The Planning Commission is authorized to grant height exemptions. The applicant requested this taller fence for security reasons, stating "we have found higher fences help control any trespassing that might occur. KCCDA is also matching the existing fence at the water tank." Security fences with barbed wire in the RR district require Special Use approval. Staff found this request reasonable. **The Planning Commission was requested to grant a deviation and special use approval to allow the proposed 9 foot tall, barbed wire fence at this site as proposed.**

RECOMMENDATION:

Ms. Lubbert said the Planning Department recommended the Planning Commission approve the proposed 199 foot tall communication tower at Parcel 05-10-155-011 with the following stipulations:

1. The tower will service the Kalamazoo County Consolidated Dispatch Authority.
2. The Planning Commission grant a deviation and special use approval to allow a 9 foot tall, barbed wire fence onsite as proposed.
3. The Planning Commission grant a deviation for the northern and southern setbacks to allow the tower can be built as shown.
4. A copy of the lease agreement with the City of Kalamazoo shall be provided prior to building permit issuance.

Chairperson VanderWeele asked if there were questions for Ms. Lubbert.

Ms. Everett asked whether there had been any comments from neighbors within the 39 foot setback.

Ms. Lubbert said no comments were received and that technically that land directly to the north of this site is vacant.

Mr. Vyas wondered whether the tower would be a hazard for helicopters.

Ms. Lubbert said the FAA provided a letter indicating the tower as proposed is not a safety hazard and will not require lighting.

Ms. Maxwell asked if this has anything to do with 5G, which will be a topic to be considered in the near future.

Ms. Lubbert said this tower will be limited to use by the KCCDA.

Hearing no further questions, the Chair asked if the applicant wished to speak.

Mr. Ben Varney, Pyramid Network Services, LLC, on behalf of KCCDA did a coverage analysis and determined the placement requested is the best place for the tower to cover the area for KCCDA and radio dispatch service.

Mr. Vyas asked what the size is of the coverage area radius.

Mr. Varney said the system is designed to work with other towers, existing and proposed. A radius is not the best way to describe the service since it works in conjunction with other towers that are the basis for the whole county, however a radius from the tower could be estimated at 5-6 miles. When the radio talks to the tower it selects the strongest signal depending upon its relationship to other towers.

Ms. Maxwell asked if there a service gap currently.

Mr. Varney said there is not a gap, but the signal is not as strong as it should be.

Chairperson VanderWeele moved to a public hearing, but no one was present to speak. He closed the hearing and moved to Board Deliberations.

No one commented, so he asked for a motion.

Ms. VerSalle **made a motion** to approve the Special Use and Site Plan to construct a 199-foot-tall communication tower at parcel 05-10-155-011 as recommended by staff with the following four stipulations:

1. The tower will service the Kalamazoo County Consolidated Dispatch Authority.
2. Deviation and special use approval be granted to allow a 9 foot tall, barbed wire fence onsite as proposed.
3. Deviation be granted for the northern and southern setbacks to allow the tower can be built as shown.
4. A copy of the lease agreement with the City of Kalamazoo shall be provided prior to building permit issuance.

Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item.

PUBLIC HEARING: COMMUNICATION TOWER , KCCDA WMU
Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA) was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on 5010 S. Drake Rd.

Ms. Lubbert explained that Pyramid Network Services, LLC, on behalf of the Kalamazoo County Consolidated Dispatch Authority (KCCDA), was requesting Special Use and Site Plan approval to construct a 199-foot-tall, unmanned communication tower on 5010 S Drake Road which is located on the north side of Parkview Avenue, west of the Parkview Avenue and S Drake Road intersection. The property in question is zoned Business and Research Park, BRP and is owned by Western Michigan University (WMU). The site currently houses a battery farm to the south and WMU's BTR 2.0, 53-acre business, technology, and research park to the north. The applicant was proposing to construct the proposed tower on a portion of this property to be purchased from WMU. If approved, a Land Division Application would be required. The tower will purely serve the KCCDA. The KCCDA provides public safety dispatch operations to Kalamazoo County and operates a central communications system for participating Local Governmental Units, the County, and other supporting agencies or entities. Communication towers are permitted in the BRP zoning district as a special use. The notice of public hearing was mailed to all property owners within 300 feet of 5010 S Drake Road on September 16th and published in the newspaper on September 21st.

She indicated the entirety of the property in question is zoned BRP, Business and Research Park. Uses permitted in the BRP zoning district are outlined in Article 20 of the Township's Zoning Code. *Communication towers* are identified as a Special Use within this section and require review and approval of the Planning Commission. She said when reviewing a Special Use there are two sets of criteria that need to be

considered: the general Special Use review criteria outlined in Section 65.30 and the specific requirements for the use in question outlined under Section 49.80. She provided an analysis of the proposal against these two Sections.

Section 65.30: Special Use Review Criteria

A. Master Plan/Zoning Ordinance: The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.

Zoning is purely a state and local issue except in two areas where Congress has imposed federal regulations: religious uses and telecommunications.

Communication towers have special protections from the Federal Government and although the Federal Government dictates some of what can be done, municipalities have been granted a level of control over the placement, construction, and modification of wireless service facilities. As such, the Township's Zoning Ordinance allows for the construction of communication towers within the Township as long as "a need" for the tower is demonstrated. The code also provides legal tools and criteria to review the proposal against.

The applicant provided a letter explaining that this proposed tower addresses an identified need to improve KCCDA's coverage and services to the County. This criterion has been met.

B. Site Plan Review: The Site Plan Review Criteria of Section 64.80.

Pyramid Network Services, LLC was proposing to create a new parcel within 5010 S Drake Road to hold their 199-foot-tall communication tower and supporting equipment. The proposed parcel will be approximately 1.2 acres and has no frontage to either Parkview Avenue or Drake Road. Frontage, width, and area requirements outlined in the Township's Zoning Schedule of Regulations do not apply to any parcel, lot, or building site with buildings or regulator stations for essential service (Section 50.10 F). A new 12 foot wide gravel drive and an access easement was proposed from S Drake Road to provide access to this parcel. **If approved, a copy of the recorded access easement will be needed.**

The proposed tower is 153 feet from the right-of-way line of S Drake Road and is placed within a 65 foot by 65 foot compound. Within the newly proposed parcel, the tower is 110 feet from the north property line, under 30 feet from the south property line, under 60 feet from the east property line, and 156 feet from the western property line. **A deviation from the setback requirements is needed.** Required setbacks for communication towers was addressed under the review of Section 49.80: Communication Towers.

An unmanned tower does not require any onsite parking. No lighting was proposed on the tower; however, two lights were proposed on the equipment shelter within the tower enclosure. These two lights are cut off fixtures and meet

ordinance requirements. Although the additional development standards outlined within the BRP district are not applicable to this project, the ordinance still requires that the WMU Design Committee review and approve all submitted site plans. **A letter from the WMU Design Committee is needed.**

The tower and its equipment will be surrounded by a 9-foot-tall, barbed wire fence. The Planning Commission is authorized to grant height exemptions for fences exceeding 6 feet in height. Security fences 6 feet high and above in industrial-zoned districts are permitted to include an additional 18 inches of barbed wire (the proposed fence is 8 feet with 12 inches of barbed wire). The proposed fence has been designed to match the existing fence surrounding the battery farm on the site. The applicant requested this taller fence for security reasons. Staff found this request reasonable. **The Planning Commission was requested to grant a deviation to allow the proposed 9 foot tall, barbed wire fence at this site as proposed.**

A site plan for the proposed tower was submitted and reviewed by the Township's Fire, Public Works, and Planning Departments. All but the following items were addressed. The following are items that needed to be addressed:

- **The access drive width needs to reflect the 30/50 turning radius required for fire apparatus. A site plan needs to be resubmitted with a 1"= 20' scale to confirm the proper turning radius.**
- **The proposed transformer shown in the drive isle needs to be moved to the north approximately four foot to accommodate the length of the fire apparatus.**
- **The 'proposed overhead power and fiber lines' shown on the site plan shall be placed underground.**

C. Impacts:

1. The proposed use would be compatible, harmonious and appropriate with the existing or planned character and uses of adjacent properties. This means the proposed use can coexist with neighboring uses in a stable fashion over time such that no neighboring use is unduly negatively impacted.

The property that will host the proposed tower is zoned BRP, Business and Research Park. This zoning designation is considered light industrial. The BRP district lists communication towers as a permitted special use if there is a demonstrated need. A need has been demonstrated. This tower will improve safety dispatch services to surrounding residents and the county overall. This criterion has been met.

2. Potentially adverse effects arising from the proposed use on adjacent properties would be minimized through the provision of adequate parking, the placement of

buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.

The proposed communication tower meets site plan requirements. **The Planning Commission needed to consider a deviation for both the tower setbacks and the proposed fence.** No adverse effects were anticipated in this area.

3. The proposed use would not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, or visual clutter.

The proposed use would not be detrimental, hazardous, or disturbing to adjacent uses by reason of excessive traffic, noise, smoke, glare, or odors. No lights are proposed on the tower itself.

- D. Environment: The natural features of the subject property shall only be cleared or altered to the extent necessary to accommodate site design elements, particularly where the natural features assist in preserving the general character of the area.

Aside from the trees that will be cleared to accommodate the 65 foot by 65 foot tower area for the tower, all natural features of the site will remain.

- E. Public Facilities: Adequate public and/or private infrastructure and services already exist or would be provided, and will safeguard the health, safety, and general welfare of the public.

Adequate public facilities are in place to support the proposed use.

- F. Specific Use Requirements: Special Use development requirements of Article 49.

Except for the following items, all of the specific use requirements in Section 49.80 were met.

Tower Setbacks

The proposed tower will be a total of 199 feet tall. Within the newly proposed parcel, the tower is 110 feet from the north property line, under 30 feet from the south property line, under 60 feet from the east property line, and 156 feet from the western property line. **A deviation was requested for the northern, southern, eastern, and western setbacks.** Due to the shape and size of the proposed parcel the proposed tower would need a deviation for setbacks no matter where it is placed. The tower is designed to collapse in on itself if it were to fall, so granting a deviation will not create a safety hazard. The placement of the tower is within a light industrial district within the WMU BTR.2 park. Although the property across the road to the south is zoned RR, Rural Industrial, the property is owned by WMU and contains a "Fluid Processing

Building.” The highway is immediately to the west. As the tower will provide a needed service to both the Township and County, approving the deviation would be consistent with the spirit and intent of the Ordinance.

Landscaping/Screening

The applicant has agreed to plant trees and shrubs for further screening where practical. **A landscaping plan shall be coordinated with Township Staff prior to building permit issuance.**

Security Fencing

The tower and its equipment will be surrounded by a 9 foot tall, barbed wire fence (mirroring the fencing currently surrounding the battery farm. **A deviation would need to be granted for this fence to be installed as proposed.**

RECOMMENDATION:

Ms. Lubbert recommended the Planning Commission approve the proposed 199 foot tall communication tower at 5010 S Drake Road with the following 9 stipulations.

1. The tower will service the Kalamazoo County Consolidated Dispatch Authority.
2. The Planning Commission grant a deviation for setbacks to allow the tower can be built as shown.
3. The Planning Commission grant a deviation to allow a 9-foot-tall, barbed wire fence onsite as proposed.
4. A letter from WMU Design Committee shall be provided prior to building permit issuance.
5. A Land Division Application is submitted and approved prior to building permit issuance.
6. A copy of the recorded access easement is submitted prior to building permit issuance.
7. A letter agreement shall be provided indicating that KCCDA will comply with Section 49.80, C, 14.
8. A landscaping plan shall be coordinated with Township Staff prior to building permit issuance.
9. An updated site plan shall be submitted prior to building permit issuance addressing the following comments:
 - a. The access drive width needs to reflect the 30/50 turning radius required for fire apparatus. A site plan needs to be resubmitted with a 1”= 20’ scale to confirm the proper turning radius.
 - b. The proposed transformer shown in the drive isle needs to be moved to the north approximately four foot to accommodate the length of our fire apparatus.
 - c. The ‘proposed overhead power and fiber lines’ shall be placed underground.

Chairperson VanderWeele thanked Ms. Lubbert for her presentation and asked if Board Members had questions for her.

Mr. Smith was concerned about what might happen if the tower comes down near the battery storage area.

Ms. Lubbert said the battery farm is a significant distance away from the tower and that the placement was coordinated with WMU, the owner of the battery farm, and that they have no concerns. She said the tower is designed to collapse into itself and asked the applicant to expand on that.

Mr. Varney said towers do not fall like trees. If one fell it would break around midpoint and then collapse straight down to the base of the tower. That is why deviation – wise setbacks are typically not a problem. In cities you will see towers next to buildings and schools – they will not fall on them.

Ms. Maxwell asked if there were any concerns regarding electromagnetic fields.

Mr. Varney said the emissions comply with all FCC requirements.

Mr. Smith wondered why the tower should not be moved to the north and west to the middle of the property.

Mr. Varney said it would be difficult to do at this stage. Before a tower is erected the plan must go before a lot of governmental agencies. Once located all work is planned and done based on that location. If it had to be moved now it would probably take another year to get another report. All agencies who reviewed the plan have approved it.

Ms. Lubbert said in addition, all Oshtemo staff have reviewed the plan and have no concerns with the placement.

Mr. Varney explained the site was chosen because of what it does regarding the radio signal in conjunction with other existing and proposed towers. It is a coverage issue. Signal in some spots is not what it needs to be; this addresses that situation.

Hearing no further comments, Chairperson VanderWeele opened a public hearing. As there were no public comments, he closed the hearing and moved to Board Deliberations.

Mr. Smith said he didn't have a problem with the plan, that the tower is needed, but he would have liked to have it in the center of the newly proposed parcel.

Ms. Maxwell felt, based on the time involved and that placement is not a problem, the tower should not have to be moved.

The Chair pointed out that a requirement to move the tower could not be made without declining the request by motion.

Ms. Maxwell **made a motion** to approve the Special Use and Site Plan to construct a 199-foot-tall communication tower at 5010 S. Drake Road, parcel 05-25-430-010 as recommended by staff with the following nine stipulations:

1. The tower will service the Kalamazoo County Consolidated Dispatch Authority.
2. The Planning Commission grant a deviation for setbacks to allow the tower can be built as shown.
3. The Planning Commission grant a deviation to allow a 9-foot-tall, barbed wire fence onsite as proposed.
4. A letter from WMU Design Committee shall be provided prior to building permit issuance.
5. A Land Division Application is submitted and approved prior to building permit issuance.
6. A copy of the recorded access easement is submitted prior to building permit issuance.
7. A letter agreement shall be provided indicating that KCCDA will comply with Section 49.80, C, 14.
8. A landscaping plan shall be coordinated with Township Staff prior to building permit issuance.
9. An updated site plan shall be submitted prior to building permit issuance addressing the following comments:
 - a. The access drive width needs to reflect the 30/50 turning radius required for fire apparatus. A site plan needs to be resubmitted with a 1"= 20' scale to confirm the proper turning radius.
 - b. The proposed transformer shown in the drive isle needs to be moved to the north approximately four foot to accommodate the length of our fire apparatus.
 - c. The 'proposed overhead power and fiber lines' shall be placed underground.

Ms. Everett **seconded the motion**. The **motion was approved** unanimously by roll call vote.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Mr. Jeffrey Troyer, KCCDA, thanked the Commission for its consideration and Ms. Lubbert and Oshtemo staff for their assistance.

Hearing no further comments, Chairperson VanderWeele moved to the next agenda item.

OTHER UPDATES AND BUSINESS

Ms. Lubbert invited Board Members and recommended they attend the Joint Board meeting to be held virtually on Tuesday, October 19 at 6:00 p.m.

ADJOURNMENT

With no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:00 p.m.

Minutes prepared:
October 16, 2021

Minutes approved:
November 18, 2021