



**PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building
6 South Killingly Road, Foster, RI
Wednesday: March 15, 2017
7:00 p.m.**

A. Call to Order

Mr. Carey called the meeting to order at 7:00 p.m.

B. Roll Call

Board Members Present: Joseph Carey (Chair); Helen Hardy (Secretary); Michael Carpenter; and Ron Cervasio.

Board Members Excused: Richard Sparks (Vice-Chair); Tom Mercier; and Sergio Spaziano.

Staff Present: Juliana King (Planner) and Joanna Achille (Solicitor).

Public and Applicants Present: John Champ and Kevin Delaney (ITW); Mark Menninger (Wind Energy Development); Chris Stone and Denise DiFranco (Town Council); Ken Field; Carolyn Faiola; and Carole Malaga (Stenographer).

C. Approval of Minutes

Discussion/Action

- 1) June 15, 2016
- 2) January 18, 2017
- 3) March 1, 2017

Motion by Ms. Hardy to table the minutes of June 15, 2016 and January 18, 2017 to a future meeting. Second by Mr. Carpenter. Approved 4 – 0.

Motion by Mr. Carpenter to approve the minutes of March 1, 2017. Second by Mr. Cervasio. Approved 4 – 0.

D. Correspondence

Discussion/Action

There was none.

E. Board Members' Reports

Discussion/Action

- 1) Land Trust
- 2) Conservation Commission

No reports were available at this time.

F. Major Land Development

Discussion / Action

- 1) Combined Preliminary and Final Plan Public Hearing of owner and applicant Industrial Tower and Wireless, LLC (ITW Realty Trust) to construct a 150' personal wireless service telecommunications lattice tower and related facility including equipment shelter, security fencing, and service gate encompassing 6,400 square feet, with underground utilities and erosion control measures, and constructed with the intent to co-locate; located on Luther Road by Pole 1 on 155 acres, being Plat 5 Lot 64 in an Agricultural/Residential AR district.

Mr. Carey wanted to make sure that the applicant was okay with only four board members present, and they were. Mr. Carey then read the Hearing Procedure into the record.

Mr. Cervasio asked that cell towers no longer be reviewed as major land developments in the future.

Kevin Delaney, Regulatory and Compliance Manager at ITW, was sworn in. Mr. Delaney gave a brief presentation on the site plan, which had not changed since the Special Use Permit most recently received from the Zoning Board of Review. The layout is comprised of a 12'-wide driveway with hammerhead turnaround, one new utility pole by the road with utilities underground from there, 80' x 80' compound with 150'-high lattice tower in the center and ¾" crushed gravel base, a 10'-wide entrance gate, and surrounded by an 8'-high chain-link fence, with equipment shelters, minimal tree clearing to fit the

compound in, and space for five major wireless carriers. He stated that no lighting is required by the FAA approval, and per RI HPHC there will be no effect on historic properties in the area. Mr. Delaney explained that there is a significant gap in coverage encompassing Luther Road, Howard Hill Road, Plainfield Pike, and Briggs Road which the proposed tower will fill in.

Ms. Hardy asked if there would be lighting in the compound. Mr. Delaney answered that typically the larger equipment shelters have motion sensor lights at entrances with shields to direct the light down. He noted that no light was required on the tower because of its height.

Mr. Carey asked if the submitted propagation study showed the proposed Cucumber Hill coverage. Mr. Delaney replied in the affirmative, and said that the yellow portions on the map represent coverage from vehicles and the blue portions shows coverage while walking. Mr. Carey remarked that even with a tower on Cucumber Hill, a gap still exists by Luther Road. Mr. Carey also questioned if there was a tangible tax on the equipment. Mr. Delaney replied yes: the property owner will receive and pay for the tax bill.

John Champ, Site Acquisition Specialist for ITW, was sworn in. Mr. Champ reiterated that the owner was responsible for taxes in town.

Ms. Hardy requested and received confirmation that there is no impervious surface planned for the site.

Mr. Carey opened the Public Hearing at 7:18 p.m.. He asked if anyone would like to speak on the application.

Carolyn Faiola, of 72 Howard Hill Road, was sworn in and stated that her property abuts against the subject site; she was concerned with an old easement across from her. Mr. Delaney said there were no plans for anything else on the site. Ms. Faiola said that the easement is on her deed. Ms. Achille commented that such an easement could be discharged between the private parties. Ms. Faiola mentioned the tower as assisting in emergency service response.

Mr. Carey asked if anyone else wanted to speak. There were none. Mr. Carey closed the Public Hearing at 7:21 p.m..

Ms. Hardy queried if it was necessary to ask three times if anyone from the audience wants to speak. Ms. Achille said no.

Mr. Carey asked if the applicant had a chance to review the Staff Report, and Mr. Delaney had no objections to it.

Mr. Carey marked the full plan set and attachments as Town Exhibit #1 and the accepted Staff Report as Town Exhibit #2.

Motion by Mr. Carpenter to grant combined Preliminary and Final Plan approval for the proposed communications lattice tower,

WHEREAS: Representatives of the owner and applicant Industrial Tower and Wireless, LLC (ITW Realty Trust) appeared before the Planning Board for property located on Luther Road by Pole 1, being Plat 5 Lot 64 on approximately 155 acres in an Agricultural/Residential AR zoning district, to construct a 150' personal wireless service telecommunications lattice tower and related facility, including equipment shelter, security fencing, and service gate encompassing 6,400 square feet, with underground utilities and erosion control measures, and constructed with the intent to co-locate; and

WHEREAS: The Planning Board received reports and testimony from Town Departments, abutting property owners, and representatives of the applicant regarding the application; and

WHEREAS: The Planning Board heard the land development proposal as a Pre-Application on 3/16/2016, and conducted the required Commercial Site Review and granted Master Plan approval on 6/15/2016; and

WHEREAS: The development meets historic cemetery setbacks, and no land dedication or payment-in-lieu is required because no lots are being created; and

WHEREAS: The communications tower was granted a special use permit from the Zoning Board of Review on November 9, 2016; further

Having considered the requirements of Rhode Island General Laws of 1956, as amended Section 45-23-30, and based on the Hearing conducted before the Planning Board and on:

- Testimony presented to the Board, and
- Recommendations of the staff, and
- Review and consideration of the Exhibits made part of the record, and
- Personal knowledge of the area in question, now

The approval is subject to the following conditions:

- Condition 1. Combined Preliminary and Final Plan approval is based on the project titled "Proposed Communications Facility, Luther Road, Foster RI" on the plans entitled "Industrial Communications, Luther Rd, Foster RI", as last updated 2/28/2017 and marked as Town Exhibit 1 at the March 15, 2017 Hearing, prepared by Commonwealth Land Surveyors, Inc., stamped and signed by Curt A. Nunes, Registered Professional Land Surveyor.
- Condition 2. The Overall Site Plan and Detailed Site Plan sheets shall be recorded as the Final Plan.
- Condition 3. A surety bond of \$11,585 to cover cost of removal shall be posted prior to issuance of any building permits, and annual proof that the bond has been renewed shall be sent to the Foster Building Official.
- Condition 4. All pertinent building permits shall be obtained from the Building Official prior to start of construction; proof of liability insurance will be submitted with the permit applications and kept on file in Town.
- Condition 5. The project access shall require a driveway permit from the Foster Department of Public Works.
- Condition 6. Design shall accommodate the co-location of at least five (5) wireless communication providers.
- Condition 7. 6x6' antenna space shall be provided to Foster Emergency Services (FES) for Town equipment.
- Condition 8. A 4x6' space and electrical power will be provided to Foster Emergency Services (FES) within the proposed equipment shelter with a separate entrance to be utilized by the Town.
- Condition 9. The identification sign shall be no greater than six (6) square feet in area and shall be located within eight (8) feet of the ground.
- Condition 10. A copy of completed FAA Form 7460-2, Notice of Actual Construction or Alteration, shall be sent to the Foster Building Official within five days after the construction reaches its greatest height or upon abandonment.
- Condition 11. The communication facility shall be in compliance with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.
- Condition 12. Inspection of the tower for structural integrity shall occur on an annual basis in accordance with Rhode Island Building Code by a RI registered professional engineer and the report forwarded to the Foster Building Official.

The Planning Board further finds that the proposed development, subject to the conditions imposed,:

1. Is consistent with the Comprehensive Community Plan and has satisfactorily addressed the issues where there are inconsistencies in accordance with the Rhode Island General Laws Section 45-23-30;
2. Is in compliance with the standards and provisions of the Foster Zoning Ordinance in accordance with the Rhode Island General Laws Section 45-24;
3. Will cause no significant negative environmental impacts;

4. Will not create individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable; and
5. Has adequate and permanent physical access to a public street for the development.
6. Provides for safe circulation, adequate surface water runoff, suitable building sites, preservation of features that contribute to the attractiveness of the community, and allows for adequate delivery of municipal services.
7. Minimizes flooding and soil erosion.

Ms. Hardy asked if they should add a condition regarding the lighting as Condition 13. Mr. Carey said they would discuss after a second.

Second by Ms. Hardy.

Motion by Ms. Hardy moved to amend the original motion to add Condition 13 as “Any outdoor lighting in the compound shall be down-facing and controlled by motion sensors”. Second by Mr. Cervasio. Discussion ensued on lighting versus fencing to protect the equipment from trespass, and Ms. King cautioned about lighting and the dark skies provision. Amendment approved 4 – 0. Mr. Cervasio seconded. Someone asked if the lighting should face outward. Ms. Hardy said the fence should protect from mischief. Ms. King said they should be careful of the dark skies provision. Amendment was approved 4 -0. Motion was approved 4 – 0.

Ms. Hardy polled the Board on the original motion:
Mr. Cervasio aye, Ms. Hardy aye, Mr. Carpenter aye, Mr. Carey aye.
Approved 4 – 0.

G. Zoning

Discussion/Action

Vote to Pursue 1) Marijuana, and 2) Wind Turbine, Ordinances (no language discussed tonight).

Ms. King gave a brief explanation why each of the items was on the agenda. Mr. Carey added that the Attorney General’s office presented to the Council on marijuana and other towns have passed ordinances addressing marijuana.

Mr. Cervasio said that Foster could benefit down the line from legalized marijuana and the Town should foresee and try to attract such a retail use. Ms. Hardy agreed but stated that she would like to educate herself more. Mr. Carey said it would be important to draft something on the topic. Ms. King pointed out that the Department of Business Regulations has a protocol and rules in place but state law covers unlicensed grows, and Foster would want to cover its bases for proper setups.

Mr. Carey noted that the Board can only recommend to the Council anyway. Mr. Carpenter recalled that it has not been the first time the Board has been asked to draft an ordinance on an issue they know nothing about; marijuana is a market-driven product so it is important to garner knowledge about it. Mr. Carpenter emphasized that the Board want to make a recommendation to the Council based on fact, not opinions, and with the best interests of Foster in mind. Ms. King remarked that an ordinance doesn’t have to stick strictly to medical marijuana. Mr. Cervasio didn’t think the Board was qualified to draft an ordinance.

Motion by Mr. Cervasio to send both ordinance topics back to the Council. There was no second. Ms. Achille stated that the Board could ask the Council to narrow the scope.

Motion by Mr. Carey to go forward with a marijuana ordinance and to request input from the Council and other sources. Second by Mr. Cervasio. Approved 4 – 0.

Mr. Cervasio asked about other towns’ wind ordinances. Ms. King replied that they seem to be split on reviewing turbines through the major land development process or just requiring a special use permit.

Motion by Mr. Cervasio to add building a wind turbine ordinance to a future agenda. Second by Ms. Hardy. Approved 4 – 0

H. Comprehensive Plan Update

Discussion/Action

Ms. King reminded the Board of the rough timeline for a second draft at the end of April, to send to Boards/Council/State and local organizations/public; this would meet the state's June 1 deadline. A third draft will incorporate all received comments and be reviewed by the Council and Board at joint Public Hearings. Mr. Cervasio opined that the Town should have more manufacturing and light industry/commercial properties, and Ms. King responded that it is pertinent to the Economic Development chapter. Mr. Carey said maps will help illustrate where uses are viable.

I. Future Agenda Items

Discussion

- 1) 4/5/17 Continued Presentation & Discussion re: Accessory Businesses on Farms/Forests
- 2) RIDEM Farmland Access Program
- 3) Full Meeting of Town Boards & Commissions

Mr. Carey wanted to add the wind turbine and marijuana ordinances. Mr. Cervasio suggested adding transferring 4% to Capital, the school's capital budget, and cell towers as not a major land development.

J. Adjournment

Motion to adjourn at 8:14 p.m. was approved unanimously.

Respectfully submitted,

Helen Hardy, Secretary