

December 7, 2006

Mr. William J. Mueller,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 06-34: 543 E. Taylor Road (Madison Meadow Park)

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. In order to provide for the approval of two 100-foot high personal wireless facility monopoles, the petitioner requests approval of the following zoning actions for the subject property located within the C/R Conservation/Recreation District:

1. Pursuant to Section 155.404 (C)(6) of the Zoning Ordinance, grant a conditional use for a planned development;
2. Grant a use exception and a variation from Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions);
3. Grant conditional uses as referenced in Section 155.206(A)(2) (General Requirements for Personal Wireless Facilities) with relief from the following subsections:
 - a. Section 155.206 (B)(2)(b)(1) (Maximum Height Requirements in Non-Residential Zoning Districts) providing for a monopole of greater than forty-five feet (45') in height;
 - b. Section 155.206 (B)(2)(e)(1) (Separation) to allow for the two monopoles to be located closer than five hundred feet (500').

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on November 27, 2006. Mike Fugiel, 404 W. Edward, Lombard, Director of the Lombard Park District, introduced himself and noted that the Park District is the owner of the subject property. He then turned over the presentation to the attorney who represents the petitioners.

Richard Nikchevich, of the law firm of Barack, Ferranzano, Kirschbaum, Perlman & Nagelberg LLP, 333 W. Wacker Drive, Suite 2700, Chicago, noted that he is representing US Cellular and T-Mobile with substantive identical petitioners and asked to represent both of their requests. There are no material differences in their cases, so they will make one presentation.

He introduced the team members associated with the petition. Each of the carriers is well known and valued leaders in wireless communication services. There is a need for approved wireless communication services and there is a deficiency in the Madison Meadow Park. This is a unique application because it is both sensitive to the community and at they are trying to meet a service need. Its network operates on a cell basis, and needs overlapped cells of coverage. There are a variety of factors as to how they wound up in this location. This is a stealth application, not a traditional monopole. The antennas are hidden inside the pole. This design is not typical to Sunset Knoll or other locations around Lombard.

He noted the requested relief associated with the petition. He stated that to address the standards, there are three critical questions their presentation will address:

1. Why are the proposed monopoles proposed at this location?
2. Height. What already exists at this location? 70' light standard poles, which they propose to swap out 2 poles at 70' for 100' poles with the feature with antennas inside the pole.
3. What are the impacts on the neighboring properties?

He referenced their submitted application package on behalf of both carriers. He mentioned the FCC licenses, copies of David Kunkel's impact analysis, radio frequency propagation maps designed to tell part of the story from an engineering prospective, construction and site plans – how the pole designed and ground level equipment and photo simulations. He mentioned the flyers about radio frequency emissions. Radio Frequency (RF) standards are part of the Federal Communications Commission (FCC) regulations. They commissioned a third party that reviews their emission numbers.

He showed the existing pictures of the seventy foot high light standards. They propose to replace two poles with new one-hundred foot high poles. Antennas will be located inside the poles, above the light standards, and the lights will be reinstalled back on the poles at the same levels. The bottom ground level equipment will be fenced in and secured from public access. He showed a picture of the one at Sunset Knoll Park - the tower there is different than this. He described it as being about 100 foot high tower, where there is more of a traditional monopole tower platform, with nine antennas that stick out. There will be no beacon lighting on the pole, only the lighting associated with the ball fields.

At the ground level is complementary equipment that is consistent to a park setting. Access to the site would be made by the existing pathway. A couple of times a month, engineering personnel will visit and possibly perform maintenance. Utilities exist in park – they both operate with electricity and communications they feed into high speed fiber optics, which are in the

ground. There will be no additional lighting on the towers. The field lighting will remain at the seventy foot level.

Michael Cruz, 17356 Fender Rd., Naperville, senior design engineer, gave his professional background. He noted that there are several different cell sites that provide coverage to Lombard and the surrounding areas. Five sites are in the Village - three monopoles, all approximately one-hundred feet in height. Three of these T-Mobile and US Cellular share. He referred to the RF map tab where they have an affidavit stating why there are here and why they need the sites. He described how they use the propagation tool to determine where the coverage is and how there is deficient coverage. Industry standards want in-house coverage where all phones used operate at work and home. The color plots in the report differ by the two different companies, but represent the same thing. Their goal is achieving eighty percent coverage for this area.

In regard to in-vehicle coverage and in-street coverage, the map shows no coverage and poor/unreliable coverage for vehicles in the vicinity of the proposed cell towers. They want to provide consistent coverage. The primary goal for this area is to provide in-building coverage. Customers that do not have service cannot make emergency calls or other important calls. Customers have grown accustomed over time and they want to provide an acceptable service level. They try to place monopoles equidistant to each other. This one is placed in the center of this area, which is why this site was chosen. This will provide maximum amount of coverage. There are no tall structures located in this area. If the size was diminished, the tree line would interfere and you can provide better coverage looking down instead of looking up. Foliage acts like a sponge and does not allow the signal to travel. They find that this time of year with the leaves being off, coverage is easier to come in, but as it grows in and thickens up, coverage is harder to get through. They operate on a different frequency licensed by the FCC and will not interfere with TV, radios or other wireless devices like baby monitors, cordless phones, cell phones, etc. He mentioned there are other facilities with the same distances from residences as well as condominiums that have antennas on their rooftop.

When you dial 911, you get an operator, as more customers grow accustomed to this, you want to be sure you have that ability to call 911. They provide this service so the customers can feel comfortable and they can get through. As the technology evolves, they put GPS in the phones so the 911 operator can pinpoint that exact location without even speaking to you.

Mr. Nikchevich mentioned the numbers of cell phone use and how this is a critical component of a town. He re-mentioned the flyer about RF safety. They are regulated by the FCC, who tells what is safe for the public. They meet 1/10 of one percent allowed by the FCC, when standing right in front of antenna on top of the tower.

Mr. Cruz noted that each engineer has to run an exposure analysis. They do not exceed the safe levels by the FCC. An independent company was used to see what was emitted from the tower and he mentioned the name then stated that they had copies of the report. They confirmed the emissions would be within FCC regulations.

Sonjay Jaisingani, 8550 W. Bryn Mawr Avenue, Chicago, a radio frequency engineer for T-Mobile was questioned. He agreed with Mr. Cruz's comments regarding the coverage needs and how they are similar, but in this location where the park is located, there is a significant hole. The sites in surrounding areas are not tall enough or close enough, so they need to fill the coverage hole. T-Mobile has not run their independent review, but they will if need be, with their tools and it needs to be prefaced that the tech that US Cellular technology is different and they operate in a different band than T-Mobile. T-Mobile is operating on a PCS band and the signal is much smaller and more vulnerable to trees, leaves and branches. They must transmit at a slightly higher power.

The radio antennas are a more appealing design, but the energy is insignificant once it reaches the ground. The numbers drop as you move further away from the tower. If the capacity of the tower was reached and every possible connection made when you have all subscribers on site at one time, they are transmitting at most potential energy. He has taken the worst case scenario, which would be at 4.9 percent of the maximum level allowed.

Mr. Nikchevich introduced David Kunkle, employed by his own independent appraisal firm and retrained by carriers to look at what is the impact from the facilities on the neighboring properties. David Kunkle, 1440 Maple Avenue, Lisle has looked at these types of facilities all around Chicago. The primary challenges they have from a property value standpoint are similar enough in location and timeframe to isolate a factor. The studies they have done are very detailed in and around the location of the tower. The studies were done to isolate that one factor from proximity to the tower. He has done studies on 40-50 different locations around Chicago in several different time frames. His originally thought is there may be an impact, but found that there is no impact. There is a reaction of people when it is introduced that there must be an impact, but they cannot find an impact. His studies include the types of traditional monopoles, but since the stealth is a new design, the 40-50 studies did not include this type of pole. This is a positive impact. He has visited the site, looked at the plans, and seen many of these over ten years and do not see any factors here to have an impact.

Mr. Nikchevich is seeking various forms of relief that require that they show there to be no adverse impact, no harm to public safety and welfare, all which they have addressed. They have a unique situation, and they want to produce quality high rate of service and they have been creative with the light standards in the park. The carriers got creative by spending a few extra dollars in order to serve the community. They think it is the least intrusive. Cell phones are critical at a personal, professional, and emergency level. Half of all emergency calls are from cell phones, 200,000 calls in a given day. When they factor in why they need to be there, they cannot lose sight of that. Their petition is a win, win, win solution, from community, customers and park district perspective.

Chairperson Ryan then opened the meeting for public comment. There was no one to speak in favor of the petition. Those against the petition include:

Barb Alvarado, 1008 Lewis, stated that neighboring residents and she oppose in Madison Meadow Park, due to health hazards posed by exposure by RF radiation. These towers cannot provide that they are not and won't show a cumulative effect exposed on a daily basis. She conveyed research on electric fields. She mentioned the research did cover the exposure they generate and the side effects at the non thermal level, the type these towers give off. Studies have shown increased breaks in DNA in soldiers exposed 2-4 times as many cancers. EMF possible human carcinogens and receive limited exposure. She stressed that the cumulative data does not exist. She mentioned that acceptable levels of radiation can trigger additional cancer growth. The industry wants you to believe this research is harmless. The towers are high is because the trees soak up the radio freq. signal. Wouldn't the people in the park soak up the signal? They are not as safe as they want you to believe. She gave differing opinions from various entities. The poles are close to a day care center and the most used park in all of Lombard. She mentioned the independent studies are paid for by the companies. New technologies are always being introduced into the market so it is difficult for them to tell us what our bodies are exposed to. She questioned the location and probability for profit. The documents stated a smoke stack on Hammerschmidt, but it was the Village that did not want that, so it doesn't sound like it was their first choice. If you have to choose from the dropped call or cancer for her daughter, she would choose the dropped call.

Village Attorney George Wagner advised the Plan Commission members that the Telecommunication Act of 1996 specifically preempts the Village from environmental facts from conditions, so long that it is compliance with the FCC standards. They can listen to comments about emissions; they cannot consider those when making their recommendations.

Mr. Nikchevich cross-examined Ms. Alvarado. Under cross-examination she noted that she is not an expert in this field. He noted that their two experts testified that they were in compliance with regulations. He asked whether she has any reasons to believe that their testimony was not correct. She responded by stating that the analysis looked at these towers alone - what is the cumulative study how much hazardous effects? He asked if the flyer included within the Plan commission was created by her. She responded yes. He noted that they are not proposing a lattice type design. She stated that she did not know that the picture was not exactly like the one they are proposing.

John Fitzloff, 514 S. Lodge, moved there because of Madison Meadow Park. He is a biomedical scientist professor at University of Illinois-Chicago. His area of expertise is in the biomedical field. He started about one week ago with his research. Recent literature is still ambiguous about radio frequency waves. You will find both research for and against. He is convinced on the basis on several dozen articles and journals written it is not the risk, but this is something that has become a part of people's lives. If he had to choose again, he would never want to be there. He would not want his children to play baseball there.

Under cross-examination by Mr. Nikchevich, the following discussion ensued:

Nikchevich: Could he guess how many publications are out there.

Fitzloff: Over ten years, about several thousand.

Nikchevich: In your role as a professor, have you been engaged to study these?

Fitzloff: He is familiar with the terminology and the validity of their results. As a medicinal chemist, he understands how things affect cells. He is not a radio frequency scientist, but does understand the concept.

Nikchevich: You spent a week studying these articles. What you surmise would be more detrimental – using a cell phone or being in close proximity to the tower?

Fitzloff: The cumulative effect would be the tower.

Nikchevich: What about a handset to the head?

Fitzloff: I don't know what the emitter is, just the frequency.

Nikchevich: In your expertise, do you believe that the testimony is not accurate at the levels in excess of the federal mandated levels?

Fitzloff: No, he has no evidence.

Cindy Ward, 700 S. Chase, lives at the edge of Madison Meadow Park. She mentioned the Zoning Ordinance and it exists for the quality of life for its residents as well as mentioned the single family homes. She quoted the code that includes cell towers 500 feet apart and these are the two variations requested. Madison Meadow has uses that attract the public, and the residences need the assurances that the Zoning Ordinance will be enforced. She mentioned the letter to the Village about Sunset Knoll Parks, and that the monopole is a conditional use and does not comply based on monopoles being erected on residential districts under other conditions.

Under cross-examination by Mr. Nikchevich, the following discussion ensued:

Nikchevich: Are you familiar with the existing light standards and their height?

Ward: Yes.

Nikchevich: Are you aware that the Village Board approved the monopole at Sunset Knoll Park?

Ward: Yes, the Plan Commission was opposed to it, but the Park District managed to get it approved.

Kevin Thomas, 1046 Lewis, lives close to Madison Meadow Park. He mentioned all the inconclusive studies, such as www.cancer.org, which suggests that RF have increased brain tumors and expert agencies will provide this information as well.

Barbara DeSantis, 729 S. Fairfield stated her backyard butts up to the park. She would ever hate to find out ten years later that the towers caused cancer. It is meant for recreation, not cell towers, and she is totally against it.

Mary Beth Sullivan, 1071 S. Lewis, had concerns with environmental and nutritional concerns. She believes it is a major health threat.

Donald Ceithaml, 905 Cherry Lane, noted that as a retired science teacher of 35 years, he can look back at reports and predictions about radio activity, electro magnetic waves and that have now changed. All they are discussing is the current literature. We are looking in the wrong direction and should be looking at the human element. He would never think of doing that with the thought of the cell towers. He mentioned the petitioner's material about their scientific method. They are admitting their equipment is not adequate, but need to have those 100' foot towers. We don't have the service of these two companies and our phones work without any problems. Why should the Park District and the Village give up the nucleus of the Park District that is used 24/7 in the summer. He is very concerned and expressed this to because the Plan Commission judgment is very important.

John Guthrie, 1012 S. Lewis, lives three houses from the park and heard why the petitioner needs the sites. He needs to be here because he has three children. He mentioned other services out there and they don't have their towers in the middle of the park what is with the petitioner's equipment that they need it. He mentioned the height of the tower. He questioned the accuracy of their numbers but he thought they would access this site about two times a month. He doesn't believe that Roosevelt Road is not an option but can't consider it because it is cheaper to put on public property. What about when they want the polls removed? Where do you stand when something needs to be corrected? He mentioned possible scenarios and the dollar that goes into their pockets. He asked the appraisers background and if he is accredited, if he is paid for his analysis. This is important if you are to put this in the park. A child's head was broken open and what happens if the pole falls down. He doesn't believe any of the petitioners are from Lombard or the surrounding area of the park. Put this on a permitted location and the technology will get better and better.

Marilyn Jensby, stated that Dick Arnold was president last time she presented in front of the Plan Commission. She lives near Lombard Common. Her reaction is that a tower in Madison Meadow Park when will they get to Lombard Common, so she is here to support the neighbors. She mentioned the staff report that states that monopoles are limited to the (I) Limited Industrial District. A park is not an industrial park district. The petitioner stated that monopoles don't belong in the park, she believes children, trees, and the public belong in the park. What matters is that we pay the taxes to have open land and open space, not to have monopoles, etc. in their park. She asks them to vote as if this tower were coming to their house.

Shannon Wezeman, 706 S. Lodge Lane, lives one house away from the park and she moved there in 1998. One of the reasons she enjoys it is because of the park. She likes being out in nature and looked to upgrade around the park. She had one week's notice before coming here. The people that came tonight have been speaking, if they had more opportunity they would have more residents and if possible, the line for the residents would be out of the door. Concerned about the possible cancer exposure, she hopes that the Plan Commission will side with them, and say no.

Peggy Kozak, 611 Lilac Way, stated she has lived in Lombard 28 years and is well versed in what has happened in the town along with the wonderful development. She wanted to mention that we know the possible dangers, but doesn't know for sure what the cell towers will do to the environment. She is a realtor and does market analysis on homes; they (high tension wires) give certain values on homes. Homes lose value near high tension wires. Their neighbors are worried about their children as well as the market values of the homes, but there are people out there who care. Not talking just about aesthetics, but the children, adults, dogs, and voting in the commissioners and trustees. Their value needs to be protected and why would we put a deterrent in the park.

Under cross-examination by Mr. Nikchevich, the following discussion ensued:

Nikchevich: You mentioned property values. Are you licensed as appraiser?

Ward: Not as an appraiser but a real estate agent and mentioned the classes they have to take for her background.

Nikchevich: In the State of Illinois, are you licensed to make appraisals?

Ward: No.

Nikchevich: Have you done scientific methodologies on impacts? Have you prepared any scientific reports or any evidence?

Ward: She mentioned what she did. She takes exception to her clients who look to her for guidance.

Nikchevich: The high tension wires mentioned are not being proposed as part of this petition - they are proposing stealth poles.

Ward: She is entitled to give her opinion on how this is perceived by the public.

Bob Kozak, 611 Lilac Way, lives right on the park. He asked whose park is it? It is something we want aesthetically pleasing to the eye and does not impose a health risk. You can bring in experts to what they know today. As a taxpayer, I don't want that in my park, which I paid for.

It is a risk and the people who have to absorb that risk are not the experts you bring in. We have to live in the park and have to absorb that risk and as a taxpayer I don't want towers in this park.

Mark Cannon, 512 E. Taylor, owns a brand new house on side of park. He has a lot of concerns as others do tonight. He thanked the Park District for the new parking lot, which increased the value of his home and replacing the grass/sod in the park. The testimony says it will not have an impact, but what will it do anything to the tax base? He has Verizon and would hate to see them come and ask for them to come in and deny their request. Please take this into consideration.

Scott Whittke, 702 S. Lodge Lane, has lived there for 22 years. They had US Cellular and never had a connection problem. He did not hear the homes or what the benefit to Lombard there is. What is the percentage of calls from Lombard? What is the overall benefit; it has to be a bigger picture than to benefit the Village of Lombard, and it is not just to benefit us.

Ms. Alvarado, who testified earlier, asked how much the Park District will make in income from doing this?

Mr. Fugiel noted that while they have the largest acreage, they have the lowest tax base. The District will receive \$1,200,000 over 20 years.

Mr. Nikchevich stated that he appreciates the debate and the fear of the unknown that grips us in the force of lives and with our families. I apologize if I was less than respectful to them and try to treat each with respect and get to the bottom line. Facts are facts and speculation and conjecture are not appropriate. He then called upon Mike Cruz.

Mr. Cruz addressed the question in regards to the fear related to the towers toppling. He described how the towers are engineered. If they fall, they fall within a fall zone, which is 1/3 the height of a tower. He referred to tornado valley and how they never had a tower fall within that area. He mentioned Hurricane Katrina and mentioned that none of those fell, even being under 10 feet of water.

Regarding the high tension power line issues, he mentioned the different types of waves and that they are not comparable to monopoles. Regarding signals, there are signals are everywhere throughout this community. TV stations have 5m watts, police and fire operate at 500w, and these will operate at less than 100 watts. They have five locations in water tanks on top of condos where peoples reside. This is the 600 foot setback which is similar to what they are proposing. No matter where you go transmission waves are there. Radio waves are generally everywhere.

Mr. Nikchevich said the bottom line is an analysis if they operate within the FCC regulations. All evidence indicates that they are operating at a fraction of an exposure level and have no basis for finding otherwise. They have done their job to address the criteria like property values and what they have done for the right reasons. For the people who visit that park, this technology is

not speculative in its impact; rather it saves lives for the community. They don't mean disrespect but want to mention the tangible that this is the premier application in the Village.

Chairperson Ryan asked what percentage of 911 cell phone calls come from Lombard? Mr. Cruz said they don't have any way to tap the data for the Village.

Chairperson Ryan asked what is the percent of increase benefit overall of this coverage? Mr. Cruz said they can say their intent is to provide reliable service to an area within one mile of that park. So they physically improve the reliability of the service. It is directly affected by Lombard, not for future expansion of services. The petitioner then offered the educational background of the engineers on the project.

William Heniff, Senior then presented the staff report, which was submitted to the public record in its entirety. Following Counsel's direction, the role of the Plan Commission is to review the land use issues. The role of the Plan Commission is advisory one to the Board of Trustees. The Lombard Park District, not the Village, is the owner of the property.

They have two past monopoles cases pertaining to CR District property. There was a request for 100 foot high pole at Sunset Knoll Park that the Plan Commission recommended denial, but the Board of Trustees approved it and that monopole is 600feet away from the closest residence. The other petition was at Western Acres Golf Course, as the Park District wanted to preserve their existing right to erect a monopole through DuPage County, but that item was withdrawn.

He noted that monopoles only permitted in the I Industrial District. However, wireless facilities are permitted by right in the R5, R6 and commercial and office districts, if they are attached to roofs and he gave examples of where they are located.

He mentioned the objector's reference to Hammerschmidt School to accommodate the proposed antenna. The school site is closer to adjacent residences. When you look at other potential sites to get a maximum buffer separation, Madison Meadow Park would provide the separation.

He then noted staff's considerations included within the report including:

1. There are no I District properties within the RF hole in which a monopole could be erected and meet code;
2. There are no tall structures within the RF hole that would be able to provide coverage to the area;
3. The petitioner selected a site which provides the greatest amount of separation from adjacent residences; and
4. The proposed stealth design provides the minimum amount of impact within the park and on adjacent properties.

He then passed draft language for the Plan Commissioner's consideration. If the Plan Commission makes a recommended motion, feel free to add conditions or comments. If they recommend for denial he did provide additional language, but you must state the reasons the petition might be denied with emphasis to land use issues.

Chairperson Ryan then opened the meeting for the Plan Commissioners.

Commissioner Flint commended the petitioner for the findings and information. He also commended the residents for coming forth. This is a difficult issue but the petitioner is trying to blend something in the Park District. If this is approved for at least two carriers, would there be a possibility of someone else coming in at a later date?

William Heniff stated that if there was a petition brought forward that is above and beyond what they are considering now, it would require a public hearing process. Staff does not know whether there will be any future cases and would defer to the property owner. Mr. Fugiel stated that they have not been contacted by another carrier. At Sunset Knoll, they have not been approached by any one else either. It is not in high demand as one might think, but only in areas where it is needed.

Commissioner Olbrysh thanked the petitioner for the information as well as his neighbors. It is a difficult issue as he has terrible phone service in his area. Cell phones have become a way of live for most of us. His concern is that is if this is approved, what if others want to come in that could pose a problem? However, we can't look at the health issues, but the land issue based on those issues. He asked about landscaping and screening and this is approved with equipment near each one of these tower. In regards to the metal screen cage over the equipment, he would assume that this cage would be at an angle, should a ball go onto it that the ball would roll back down and be angled?

Mr. Fugiel stated that that is correct and already taken into consideration. One intangible is what element would that landscaping include. Village staff suggested that a hedgerow of arborvitae might be appropriate, but our staff that arborvitae is not desired, so we will look for an alternate plant materials.

Chairperson Ryan confirmed that if this petition is approved, they would still have to come before us is any other monopoles are installed.

Commissioner Sweetser asked if are we bound by precedent, or is this the case where past decisions are used as a basis? Mr. Heniff noted that conditional uses, by definition, can be considered on a case-by-case basis.

Commissioner Sweetser stated that the approval at Sunset Knoll was recommended for denial as during the discussion they noted that an industrial site near the site had not been pursued. The aesthetics in this case are different now. The land use is not an ideal location, but if we have to

disregard potential health issues, which I don't like, then we are looking at a pole that already exists. So if you say a park is not for poles that the evidence says otherwise. She also asked a rhetorical question for the petitioner - would they have their children live in this situation that they have asked us to be in.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed text amendment complies with the standards of the Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4 to 0, recommended to the Corporate Authorities, **approval** of the petition associated with PC 06-34, subject to the following conditions:

1. The monopoles shall be located and installed in compliance with the plans prepared by KCS Corporation, dated October 9, 2006 and submitted as part of this petition. Any modification to the petitioner's plan shall be considered a major change to the planned development.
2. That the petitioner shall apply for and receive approval of a building permit from the Village prior to starting installation of the monopole. Said monopole shall be subject to all relevant Village, state and federal regulations.
3. The petitioner shall provide a final landscape plan showing the proposed landscape planting materials proposed as part of the project. The plan shall also meet the provisions of the Zoning Ordinance.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

att-

c. Petitioner
Lombard Plan Commission