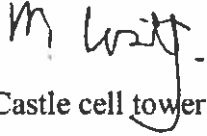


TOWN OF LANSING PLANNING MEMORANDUM

TO: PLANNING BOARD MEMBERS

FROM: Michael H. Long, AICP 

RE: Site Plan Review – Crown Castle cell tower
1901 East Shore Drive, Lansing

DATE: December 5, 2017

Project Overview: The applicant, Matthew Kerwin of Barclay Damon (legal firm), has proposed the construction of a 95 foot (formerly 135 foot) tall monopole Telecommunications Facility, building and equipment and site improvements located at Tax Parcel #37.1-8-4.1, – B2 - Commercial Zone (IR) on NYS Rt. 34 – East Shore Drive. This project will be a commercial utility installation and will not require water /sewer utilities.

Site Characteristics: The overall wooded site parcel consists of 3.94 +/- square foot site which has an existing commercial car wash building on the site. This proposal is to add 95 foot tower a small structure 11 foot 6 inch by 16 foot platform with related electrical wiring, structure, fencing, landscaping and a gravel access driveway from Atwater Road.

Surrounding Area: The area surrounding the site adjacent to the Car Wash, various commercial uses within the mall, mini storage buildings and scattered residential homes. NYS Rt. 34 / East Shore Drive is a major traffic route through the Town of Lansing that leads to Ithaca and Cornell University and the major transportation routes.

Comprehensive Plan/Zoning: The site is in the B2 – Commercial Zone and cell towers are currently permitted within this zone. The area is developed with mixed primarily commercial and some limited residential uses. The 2006 Town of Lansing Comprehensive Plan anticipates a range of including commercial activities including light manufacturing, fabrication, assembly or research, mining, and power generation/ utilities. These areas was planned to be small employment centers that could contain a variety of land use activities.

GML Referral: The revised proposal was submitted to the County Planning Department for 239 GML review with an additional view along NYS Rt. 34, 2017. The 239 Review letter dated November 3, 2017 states “The Department has reviewed the proposal, as submitted, and has determined that it has no negative inter-community, or county-wide impacts.”

Project Description:

The Site Plan and related electrical drawings were completed with the latest revision date of 11/15/2017 by INFINIGY8 of Albany, New York. This project includes a 12 foot wide gravel driveway within a 30 foot easement access from Atwater Road to the tower site. This will also be fenced and a 60' x 60' pad area surrounded by barbed wire fencing developed with concrete pads for adequate electrical equipment for this system. The limit of the disturbed area is calculated to be 17,359 square feet which is under the 1 acre minimum SWPPP threshold for a comprehensive storm water plan.

Planning Board did hold sketch plan review for the original 135 foot tower at the April 11, 2016 2017 to solicit comments about the proposed project. There were conflicts with the fall zone for a tower of that height and the developer was asked to evaluate other alternatives. The plan was revised to a 95 foot tall monopole communications tower. This has reduced the fall zone to 135 foot which effectively places the fall zone completely on the tax parcel. Conflicts still exist with the NYSEG Transmission Line (easement) and the car wash structure itself (waiver signed). The Planning Board has agreed to a "Public Hearing" at the May 22, 2017 meeting to receive additional comments on this particular project.

The Planning Board also held a meeting on November 13, 2017 and completed the SEQRA review and determined as "Lead Agency", issued a "Negative Declaration". Subsequently, the Lansing Zoning Board of Appeals received the area variance request for the "Fall Zone" setback requirements (95 foot height plus 40 foot). At the November 21, 2017 ZBA meeting, they had a "Public Hearing" and formally approved the Fall Zone Variance request as presented – see attached ZBA Findings statement.

The next step in the process is for the Planning Board to review and if found appropriate, approve the Site Plan for the cell tower.

Staff Recommendations:

The project as proposed is in compliance with all of the existing Town of Lansing Land Use Regulations. It will include site improvements, gravel driveway, and fencing and will not exceed the threshold for a completed SWPPP.

The staff recommendation is to review the Site Plan and approve as conditioned by the attached proposed resolution. Please feel free to contact me with any questions regarding the above.

Tompkins County
DEPARTMENT OF PLANNING AND SUSTAINABILITY

121 East Court Street
Ithaca, New York 14850

Katherine Borgella, AICP
Interim Commissioner of Planning and Sustainability

Telephone (607) 274-5560

November 3, 2017

Sue Munson, Information Aide
Town of Lansing
29 Auburn Road
Lansing, NY 14882

Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law
Action: Proposed Site Plan and Area Variance for Proposed Communication Tower at 1901 East Shore Drive, Town of Lansing Tax Parcel #37.1-8-4.1, Douglas Bianchi & Victor Renaldo, Jr., Owners; Crown Castle; Applicant.

Dear Mrs. Munson:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Planning and Sustainability Department pursuant to §239 -l, -m and -n of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it has no negative inter-community, or county-wide impacts.

Please inform us of your decision so that we can make it a part of the record.

Sincerely,



Katherine Borgella, AICP
Interim Commissioner of Planning and Sustainability

**AREA VARIANCE FINDINGS AND DECISION
TOWN OF LANSING ZONING BOARD OF APPEALS**

BACKGROUND INFORMATION

Applicant: Crown Castle, Verizon
Telecommunications Tower

Variance No: 17- 06
Zoning District: B2
Published Notice on: Nov 7, 2017
Notice to County Sent on: Oct 17, 2017
SEQRA Determination: Nov 13, 2017
Hearing Held On: Nov 21, 2017

Property Location: 1901 East Shore Drive (Rendano & Bianchi, Owners)
Tax Parcel #: 37.1-8-4.1

Requirement for which Variance is Requested: Fall Zone Variance, setbacks.

Applicable Section of Town of Lansing Communications Tower Local Law (Local Law #7 of 2015):
Article III, Section F(6).

RESOLUTION AND FINDINGS

WHEREAS, Crown Castle ("Applicant") proposes to construct a telecommunications tower for Verizon upon leased land and, in connection therewith, Applicant is required to demonstrate and provide information pertaining to a number of planning, environmental, and scientific issues, including proof of need and proper scaling of the site chosen in relation to other viable sites; and

WHEREAS, applicant filed for site planning and special permit reviews before the Planning Board, and the Planning Board duly referred this matter to the ZBA due to the need for an area variance for the required fall zone pursuant to Town Law Section 274-a; and

WHEREAS, the owners of buildings within the fall zone are the proposed landlords and support the project, which is an allowed use in the B2 zone; and

WHEREAS, the Planning Board, as lead agency, undertook a coordinated environmental review and, due to the reduction of the tower from approximately 160' to 95', and due to a demonstrated coverage need in the area, site and visual impact studies, and the fact that telecommunications coverage and infrastructure are imbued with a public interest akin to a utility, a negative declaration was duly issued; and

WHEREAS, County Planning has conducted a Section 239 review and no comments therein pertain to the role of the ZBA or the issuance of an area variance, and it is further duly noted that the Planning Board, if an approval is duly issued, has or will consider and respond as required by law; and

WHEREAS, based upon the evidence and testimony taken at a public hearing held before the ZBA upon November 21, 2017, and due deliberation upon all of the foregoing and the application as submitted to the ZBA, so

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Lansing Zoning Board of Appeals ("ZBA") hereby makes the following findings with respect to the specific criteria for area variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Town's Telecommunications Tower Local Law:

a. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?**

Yes ____ No **X**

Findings: Neighborhood impact already addressed by Site Plan Review and Variance does not add or subtract from site plan.

b. **Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?**

Yes ____ No **X**

Findings: No Other Properties Available after an extensive search.

c. **Whether the requested area variance is substantial?**

Yes **X** No ____

Findings: Engineering design has addressed the safety and visual concerns.

d. **Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

Yes ____ No **X**

Findings: Current commercial area in keeping with tower presence.

e. **Whether the alleged difficulty was self-created?**

Yes ____ No **X**

Findings: Applicant was constrained by physical attributes of property.

2. **DETERMINATION BASED ON THE ABOVE FACTORS (choose one):**

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following area variance is **GRANTED/DENIED**, with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such area variance is the minimum

necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

DESCRIPTION OF SPECIFIC VARIANCE GRANTED: Reduction of required 135' fall zone, as calculated based upon a 95' tower height, to approximately 115' West and 62' North.

ARE CONDITIONS IMPOSED WITH RESPECT TO THE AREA VARIANCE AS GRANTED?

Yes No

STATEMENT OF CONDITIONS:

1. As Variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described Area Variance within one year from the date hereof, this approval and such Area Variance shall expire. In cases where construction may be applicable, "avail itself of the benefits" shall mean a Building Permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if Application for an extension is submitted before the expiration of the then applicable Variance sunset period.
2. The obtaining of a building permit issued after the structural engineering reviews and opinions referenced in condition #3, below.
3. Prior to the issuance of any building permit, a review to be undertaken by an independent structural engineer selected by the Town that verifies: (i) the proper design of the Tower and its supporting structures; and (ii) that the material and structural designs proposed for a break-point in the tower at 50' are properly designed and have the potential to reduce the risks that potentially arise upon tower failure within a reduced fall zone.

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

Motion By: Judy Drake

Seconded By: Chris Williams

Member: Judy Drake - Aye

Member: Daniel Konowalow - Aye

Alternate Member: Chris Williams - Aye

Chair: Henry (Hurf) Sheldon - Aye

Dated: November 21, 2017

RESOLUTION PB 17- ____

**RESOLUTION CONDITIONALLY APPROVING CROWN CASTLE
SITE PLAN REVIEW APPLICATION AND ISSUING SPECIAL USE
PERMIT FOR 95' CELL TOWER AND RELATED IMPROVEMENTS**

WHEREAS, an application was made by Crown Castle, through Matthew Kerwin of Barclay Damon, agent, for a site plan review approval and a special use permit for construction of a 95' communications tower and related site improvements upon a portion of land located at 1901 East Shore Drive (NYS Route 34), Lansing, New York, being TPN 37.1-8-4.1 (3.94 acres) in the B-2 Commercial Zone, with the specific site and access roads and easements as set forth in the project site plan mapping; and

WHEREAS, more particularly, the proposal is to construct a 95' tall monopole communications tower to improve cell phone access and network reliability, while also fulfilling infill and local coverage gap needs, all of which needs were duly documented and proven to the satisfaction of the Planning Board, all together with related electrical equipment, antennae, and a gravel driveway access from Atwater Road, together with other traditional site improvements, such as fencing, landscaping, etc. on a portion of the larger Carwash parcel as afore-described; and

WHEREAS, the Planning Board held a sketch plan review meeting on April 11, 2016 whereat conceptual access and site planning input was duly provided upon a pre-application basis, such input having mainly been focused upon stormwater, buffering, traffic, sight impacts, tower height, and related issues, and the developer has since then amended and revised the site plan several times to reduce the proposed tower height and revise project plans to mitigate cited concerns and fall zone and visual impact issues, and the developer did duly submit a final site plan and special permit application that was deemed complete and a public hearing was duly held upon this application; and

WHEREAS, the developer has estimated 0.33 acres of disturbance will be the result of the proposed project, which is below the 1 acre minimum threshold for a Full SWPPP, and this project is in otherwise in compliance with current stormwater regulations, and such proposed tower and land use is a permitted use under the Land Use Ordinance in the Commercial (B2) Zone, subject to obtaining site plan review approval and a special use permit from the Planning Board; and

WHEREAS, the Planning Board has considered and carefully reviewed the requirements of the Town's Laws relative to site plan review and the unique needs of the Town due to the topography, the soil types and distributions, and other natural and man-made features upon and surrounding the area of the proposed site plan, and the Planning Board has considered the Town's Comprehensive Plan and compliance therewith, and the Planning Board has also duly considered the tower's siting and design under Local Law #7 of 2015, including a review under the criteria of Article III, Section (F) for specific rules and standards, all of which have been substantially met or fulfilled as follows: (F)(1) standards are deemed met as the site location requirements are met, propagation studies were duly delivered, colocation was explored adequately, and structural elements are specifically addressed by conditions below; (F)(2) locational preference were met and this siting is in highest and best location on the prioritization list for communications towers given lack of tall structures or colocation-available facilities in the services area that could fulfill gap coverage; (F)(3) the specific site planning and special permit requirements are all found to be met in the final application as submitted or, as to structural

elements of the tower, covered by project and permit conditions as hereinafter stated and imposed; (F)(4) is met as a 95' tower is within allowed tower heights; (F)(5) requirements are met as colocation is allowed and was duly examined; (F)(6) fall zone requirements were met through a combination of reducing tower height by approximately 40%, designing a specific break-point into the tower design to reduce the fall zone or potential impact of tower failure, and duly obtaining area variances from the Lansing Zoning Board of Appeals for the specific site and location chosen; (F)(7) Setbacks and yardage requirements were all met; (F)(8) no subdivision was required as the tower site rights are proposed to be acquired by a traditional tower lease; (F)(9) and (14) aesthetic issues were duly addressed through site planning and project mitigation, including ground buffering for near the tower's base within line of sight and by the reduction of tower height by approximately 40% to mitigate long-range view impacts; (F)(10-13 and 15-18) NEIR, RFI, FCC compliance and licensure, intermunicipal notification, traffic, access, and safety, agricultural impacts, and emergency response plans have all been addressed to the full satisfaction of the Planning Board; (F)(18) requirements for a suitable bond or other decommissioning plan and removal security are a condition of issuance of the building permit and duly require approval by the Town Board; (F)(19) a suitable indemnity and hold harmless agreement between applicant and Town is made a condition hereof as set forth below; and (F)(20) no other conditions here arise or are needed, and the proposed new tower to be constructed for Verizon Wireless by applicant has been reviewed under Local Law #7 of 2015, including for the site and review criteria of Article V therein; and

WHEREAS, this action was classified as a Type I Action under the State Environmental Quality Review Act ("SEQRA") and the Planning Board was duly declared lead agency, conducted a coordinated review, and upon November 13, 2017 duly issued a negative declaration of moderate or significant potential negative environmental impacts arising from this project; and

WHEREAS, General Municipal Law § 239 referrals were duly delivered to the Tompkins County Planning Department of the revised plans and such Department responded by letter dated November 3, 2017 stating that the project will have no negative inter-community or county-wide impacts; and

WHEREAS, a public hearing was duly held upon May 22, 2017 and the public was duly allowed to speak upon and address the communications tower and the site plan and special permit application, and all input and comments, if any, were duly considered, whereafter the Planning Board began consideration of the terms and conditions of approval or denial of the site plan and special use permit; and

WHEREAS, the project was referred to the Lansing Zoning Board of Appeals (ZBA) due to a need for area variances for the fall zone due to need a 125' fall zone (tower height plus 40') and buildings being approximately 115' away and power lines being approximately 65' away, and the ZBA, at their November 21, 2017 meeting duly held a hearing upon the application and at the close thereof conditionally granted area variances for the tower's "fall zone" requirement of 135' based upon the reduction in tower height and the break-away design, and the matter was thereafter referred back to the Planning Board for site plan and special use permit review for a communications tower with a proposed maximum height of 95'; and

WHEREAS, upon due consideration and deliberation by the Town of Lansing Planning Board, *now therefore be it RESOLVED as follows:*

1. Final Site Plan approval be and hereby is issued for this project for the proposed site area improvements as located upon the afore-described 3.94± acre parcel, TPN 37.1-4-4.1, as shown in and on updated Site Plan Sheets dated 4/3/2017, drawn and sealed by John Stevens, P.E. of INFINIGY8 Engineers, and upon updated 11/15/17 drawings and visualization materials as submitted by the applicant to this meeting (together, the "Site Plans"), all *subject to the following conditions*:

i. Developer obtaining a road access and culvert permit for the access way to Atwater Road as indicated in said site plan, with the access to be built in a manner as required and approved by the Town Highway Superintendent, with any license or easement therefore to be duly filed as a land record with the Tompkins County Clerk's Office.

ii. All new construction must meet the requirements of the New York State Building Codes and a building permit must be duly obtained for all project improvements. Any fill material brought to the site shall require fill compaction testing, and verification of proper completion of compaction and compaction testing shall be delivered to the Town's Code Enforcement Officer prior to the close-out of any building permit(s).

iii. Completion of the site plan improvements as shown upon the Site Plans, and specifically including the installation of vegetative buffering as meets the following goals: (a) all buffering shall be designed to provide both visual cover buffering and sound baffling features, and thus emphasis shall be placed upon solid cover barriers, such as hedges and offset rows of evergreen trees, or large or densely placed deciduous trees with variable heights and interspersed with evergreens or other plants as provide for such cover and buffering; and (b) developer and landowner(s) (and their existing and future tenants), as an express condition of site plan and special use permit approvals (the violation of which shall be a violation of the Land Use Ordinance and Town Law § 135, and enforceable as such), shall hereafter and at all times: (1) properly protect and maintain such trees and other vegetative buffers as healthy and natural non-invasive vegetation designed to provide both visual and sound buffering; (2) promptly remove and replace any dead, diseased, or dying trees or plants; (3) promptly replace, supplement, enhance, or otherwise effect changes in buffers whenever such buffers, or any plants therein, whether singularly or in combination due to lack of growth, death, recession, disease or other cause, cease to function as buffers as afore-required; and (4) effect such maintenance in a manner as promotes the goals of such buffers as stated in this site plan approval.

vi. All signs shall comply with the Town's sign local law unless variances shall be issued therefor, but in all cases site plan approval is conditioned upon all on-structure and freestanding signs being placed where indicated in the approved Site Plans.

2. A Special Use Permit be and is hereby issued and approved for the site plan and 95' communications tower, subject to the following conditions:

i. That substantial construction be undertaken within one-year of the date of the approval of the area variance (unless duly so extended by the ZBA), all as required by the Zoning Board of Appeals and its stated conditions affecting the approval of the area variances.

ii. Prior to the issuance of any building permit, a review to be undertaken by an independent structural engineer selected by the Town that verifies: (i) the proper design of the Tower and its supporting structures; and (ii) that the material and structural designs proposed for a break-point in the tower at 50' are properly designed and have the potential to reduce the risks that potentially arise upon tower failure within a reduced and approved fall zone.

iii. Submission of an indemnity and defense agreement or statement and submission of a decommissioning plan and security therefor in a form as approved by the Town Board.

Dated: December 11, 2017

VOTE AS FOLLOWS:

**Gerald Caward, Jr. -
Norman L. Davidson -
Sandra Dennis Conlon -
Al Fiorille -
Larry Sharpsteen -
Deborah Trumbull -
Thomas Ellis -**