

Final Minutes
PLANNING BOARD MEETING
FORT ANN, NEW YORK
January 27, 2014

Note: just prior to the opening of the meeting, Don Bedeaux/Chairman, Chad Wilson and Brian Mattison were sworn in as Fort Ann Planning Board members and Leslie Barker was sworn in as Planning Board Secretary by Barbara Winchell, Town of Fort Ann Clerk.

1.0 Call to order, (7:00 PM)

Pledge of Allegiance led by Chairman Donald Bedeaux

2.0 Roll Call

a) Roll call, Board members present:

- | | |
|-------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> | Donald Bedeaux, Chairman |
| <input checked="" type="checkbox"/> | William Hohmann, Vice Chairman |
| <input checked="" type="checkbox"/> | Chad Wilson |
| <input checked="" type="checkbox"/> | Brian Mattison |
| <input checked="" type="checkbox"/> | Curt Rehm |
| <input type="checkbox"/> | Vacant seat |
| <input type="checkbox"/> | Vacant seat |

Staff:

- | | |
|-------------------------------------|--------------------------|
| <input checked="" type="checkbox"/> | Secretary: Leslie Barker |
| <input type="checkbox"/> | Temporary Secretary: |

b) Others:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | Matt Fuller, Esq., Meyer & Fuller PLLC |
| <input checked="" type="checkbox"/> | Jeff Meyer, Esq., Meyer & Fuller PLLC |

3.0 2014 Planning Board appointments

3.1 Vice Chairman.

Chairman Bedeaux requested nominations for Vice Chairman.

Motion made to appoint Bill Hohmann as Fort Ann Planning Board Vice Chairman.

Tabled

Motion	<u>Brian Mattison</u>	Second	<u>Chad Wilson</u>
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Wilson
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/>

3.2 No other committee appointments were made.

The Chair advised the Planning Board to skip the committees because they "are" the committees.

4.0 Open Regular Meeting

4.1 Organizational Meeting.

Chairman Bedeaux advised the Planning Board that there were no organizations as part of the Planning Board.

4.2 Review, correct and or approve Minutes of the Last Planning Board Meeting 11/25/2013.

The Chair asked the Planning Board members if everyone reviewed them (no answer). Members visually reviewed the minutes from their packet.

Motion made to accept the 11/25/2013 minutes. A hard copy of the final November 25 2013 minutes will be filed in the November regular Planning Board meeting 2013 folder.

Tabled

Motion	<u>Bill Hohmann</u>	Second	<u>Chad Wilson</u>
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Wilson
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/>

5.0 Public Hearing continuation:

5.1 Continuation of County Waste and Recycling Service, Inc. d/b/a Ace Carting Site Review Application, 10913

New York 149, Fort Ann, NY 12827

Jon Lapper, Bartlett, Pontiff, Stewart & Rhodes, P.C. and legal counsel for County Waste and Recycling Service Inc., began his presentation by identifying himself and stated their application project team was present to answer Planning Board questions. He recapped where the application stood, pointed out they were sent back with a list of items to submit to the Planning Board at the last (November 2013) meeting and that the requested material was

Tabled _____
 Motion _____ Second Brian Mattison

5.2 County Waste and Recycling Service, Inc. d/b/a Ace Carting Site Review Application continued

Vote: All Ayes All Nays Abstentions: Chad Wilson
 Bedeaux Hohmann Wilson _____
 Mattison Rehm _____

Mr. Lapper thanked the board and expressed appreciation saying the applicant will do a good job. Secretary asked the applicant if they would like some of their last presentation material returned for their use and was advised that was not necessary. The secretary asked the board who tracks the \$1000.00 engineering deposit and if a refund will be due. She was told to track it once Tom Jarrett submits his final bill. The County Waste and Recycling Resolution is attached.

6.0 Public Comment

Public Comment is subject to the Privilege of the Floor Parameters. The chairman explained this section of the meeting is where anyone can take the floor and speak about anything on the agenda and asked the audience if there was any comment on the agenda. There were no comments.

7.0 Public Hearing:

7.1 Wayne Ferguson and Don Valentine, site review, the Shed Stop, 1131 New York 149, Fort Ann, NY 12827:
 approval of the Washington County conditional approval

Don Valentine introduced himself and recapped the applicant was before the Planning Board November 2013, was told the application needed to go to Washington County Planning Board for their approval to get the Fort Ann Planning Board approval. The applicant got a conditional approval from Washington County Planning Board. Tom Jarrett, Washington County Engineer, asked for the following changes: 1) the letter they had originally from DEC stating it was man-made wetlands so as not to be a DEC wetlands and 2) a berm be placed around the back of the lot so stormwater would not run into the wetlands but be directed to the road ditch. The site plan was updated to reflect both conditions. The Washington County Planning gave approval upon those conditions.

Planning Board question: they said you did not have to come back here (to the Fort Ann Planning Board)?

Applicant answer: they were told it would be approved and to drop off 3 copies of the revised map (site plan) at each place. The applicant dropped off 4 or 5 at the Fort Ann Town Hall. The Public Hearing (notice) was in the paper and he was present to answer any questions; they do not need to go back to the County because they got an (conditional) approval.

Planning Board question: is this supposed to be a public hearing? Applicant answer: yes. Planning Board comment: need a motion to close it? Comment: you did not open it.

Chairman: open the public hearing for the Shed Stop. Any public comment? There were no comments.

Motion to close the public hearing.

Tabled _____
 Motion Bill Hohmann Second Chad Wilson

Vote: All Ayes All Nays Abstentions:
 Bedeaux Hohmann Wilson _____
 Mattison Rehm _____

The Public hearing for the Shed Stop application was closed.

7.2 Jeff Meyer advised the Planning Board this is an unlisted action with a submitted new, improved short form and proceeded to go through the SEQR questions with the Planning Board.

Motion to declare a negative declaration, based on the outcome of the **SEAF (Short Environmental Assessment Form)**; and the proposed action not resulting in any significant adverse environmental impacts.

Tabled _____
 Motion Bill Hohmann Second Brian Mattison

7.2 Wayne Ferguson and Don Valentine, site review, the Shed Stop, 1131 New York 149, Fort Ann, NY 12827 continued

Vote: All Ayes All Nays Abstentions:
 Bedeaux Hohmann Wilson
 Mattison Rehm

Motion made to approve the project as stated. (Planning Board comment: applicant complied with everything).

Tabled _____

Motion Bill Hohmann Second Brian Mattison

Vote: All Ayes All Nays Abstentions:
 Bedeaux Hohmann Wilson
 Mattison Rehm

A short general discussion occurred between the applicant and Planning Board. Secretary brought up the engineering deposit and that it should be tracked to see if a portion or the whole sum of that deposit should be refunded to the applicant. Secretary offered extra site plan copies to the applicant for their use and the applicant accepted the offer. The applicant thanked the Planning Board.

The completed SEAF (Short Environmental Assessment Form) will be filed in the Shed Stop application file.

8.0 Public Comment

Public Comment is subject to the Privilege of the Floor Parameters. No public comment was sought by the Planning Board Chairman.

9.0 Reports from Committees

9.1 The Chair stated there were no reports from committees.

10.0 Old Business

10.1 **AT&T 1684 Pilot Knob Road LTE Upgrade PB** (continued from Nov 2013 meeting)

Thomas Puchner, Phillips Lytle LLP and Maryanne Terry, Airosmith Development introduced themselves on behalf of ATT to the Planning Board. Tom reviewed they were present on their application pursuant to Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012 and the equipment upgrade of the Pilot Knob cell tower, specifically 3 panel antennas on an already existing 105 foot mono pine tower. The ATT equipment is at 90 feet centerline and equipment at the base station. This application is an upgrade to add 3 more “LTE” antennas and associated equipment at the 90-foot centerline height and some [cages] within the footprint of the existing shelter to go along with the upgrade. He stated the big question was the stormwater question raised.

SBA (now) owns the tower. They bought the tower since the last time the application was before the Planning Board for an upgrade and were not aware of the former issues that have been raised. Mr. Puchner stated that SBA has committed to putting forward a \$20,000.00 (USD) financial guaranteed in whatever the form the town deems necessary (bond, escrow or letter of credit). All three were discussed with Planning Board legal counsel on this day. SBA wants to make sure it gets done and what the applicant is asking for is this arrangement is acceptable to the Planning Board so that ATT can move forward with its upgrade, which has nothing to do with stormwater and will not change anything stormwater related.

Planning Board asked about the previous 2009 ATT bond. Mr. Meyer responded he did not know where that stands, if the Town still has it or how well it was tracked. There was a discussion between Mr. Meyer and the Planning Board regarding the previous 2009 bond, what it covered and the best way to proceed.

Applicant offered there is a bond for when the tower becomes obsolete or the “tear down” and this is a separate issue. Whatever the issue for the stormwater is, “let’s investigate it, figure it out and get it done”. SBA is the succeder to the builder of this facility, is responsible for stormwater, and will put forward \$20,000.00; their estimate to do the required work is that \$10,000.00 would be more than enough. This is a special permit and under the law, the Planning Board can enforce; it is their prerogative. The applicant hoped that the \$20,000.00 is enough to make the Planning Board comfortable. Mr. Puchner pointed out there is nothing that can be done in the middle of the winter and they are trying to satisfy the Planning Board the stormwater issue will be taken care of.

Planning Board question to their legal counsel: does that take care of their issues? Legal counsel answer: it should

10.0 Old Business continued

10.1 **AT&T 1684 Pilot Knob Road LTE Upgrade PB** continued

take care of their issues. Mr. Meyer recapped Chris Navitsky, Lake George's Waterkeeper, concerns, the stormwater controls and lack of maintenance. He advised he felt this was a "pretty good compromise" which enables the applicant to fix the top and whether a letter of credit or in escrow, it enables the town to immediately fix it (stormwater issues) for the applicant and pay for it. He discouraged drawing on a bond that is already out there, pointing out it is horribly difficult to draw on. Planning Board question: what happens to the old bond? Legal counsel answer: does not know what that old bond looks like or if it is a tear down or stormwater bond; maybe it needs to be refunded or maybe it has expired on its own terms, he does not have that information. Applicant: good question-maybe that can be addressed in the process. Planning Board question: (from the material submitted) there was a maintenance and performance bond submitted to the Lake George Park Commission in 2009 which indicates the stormwater permit and the work covered under the permit by the new owner had not been completed; is it necessary to submit a bond to the Town of Fort Ann for the same problem? If bonds keep getting issued and things keep getting put off, it becomes a pattern. Applicant answer: that was a different owner. SBA is now the owner of the site and whatever their rights are to that bond, they are willing to put up a bond for this specific issue. There are questions about what has transpired. The applicant put forward a letter in their last submission from the Lake George Park Commission executive director after the date of that which said it meets the plans and regulations. Further investigation is needed. That deals with stormwater on the ground.

Planning Board question: if the applicant does not upgrade the tower and the Planning Board stops it, is there eminent danger to cell phone holders? If it makes someone's life better or more secure. Applicant response: ATT is building out as fast as they can to keep up with demand. This is an attempt to keep up with the latest 4G technology to make data etc faster. One can tell when they are in an area where there fast service is not available. There were several comments about living in a "dead area" and short discussion about the applicant's ability to upgrade with the Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012 'privileges'. A brief Planning Board discussion took place about the Section 6409 Law and resulted in the question to the Planning Board legal counsel: what is the best guarantee to (the problem) being fixed? Answer: an escrow or a letter of credit and the Park Commission's involvement from 2010-2011 is essentially separate from the letter of credit that the Town would be asking for. He spoke with Joe Thouin, head of the enforcement/Lake George Park Commission, that afternoon who said the letter they signed off on was located in a different physical file and the one Chris Navitsky reviewed resulting in some confusion. As far as they (Thouin/Lake George Park Commission) concerned stormwater was close enough to sign off on. If there was a bond, it probably was released at that time. Mr. Navitsky looked at the site and felt the stormwater controls were undersized and not functioning properly. The solution is secure the \$20,000.00 letter of credit or escrow. At that point, it will be up to the applicant to fix it and supply the proof to the Town. If not completed by "x" date, the Town can hire it out and pull on the letter of credit or escrow.

Planning Board question: can we put that in the conditions? Legal counsel answer: yes. Applicant responded that their proposal would be approval of the 6409 application conditioned on investigation and mediation to meet what was approved on the plans, which the condition to be of the original approval in 2010 was meet the plans. I think that is what everyone is looking for. It just requires someone to go out and figure out what the situation actually is.

Planning Board question: what is a reasonable time for completion? Applicant answer: construction season 2014? Jeff Meyer offered it is around Labor Day because if the applicant does not do the work the Town still has the time to finish it. The applicant agreed and asked if SEQR is required. Mr. Meyer advised it is a Type 2. A request for a motion to approve was made.

Motion made to approve subject to all the conditions and with the \$20,000.00 sign off and to be completed by September 1 2014.

The conditions are as follows: On behalf of the Town of Fort Ann, Chris Navitsky, PE inspected the facility and observed that the stormwater controls required for the site pursuant to the special use permit issued by the Planning Board on May 17, 2010 were not in compliance. In order to remedy this violation, the approval is conditioned upon the Applicant submitting Twenty Thousand Dollars (\$20,000.00) to be held in escrow by the Town subject to final approval by the Planning Board Attorney to ensure the stormwater controls are completed as designed on or before September 1, 2014. The deposit and escrow agreement shall be in place prior to commencing any construction activities in accordance with this approval.

Mr. Meyer asked the applicant if a letter of credit or escrow is better mentioning that the escrow is easiest and that

14.0 Public Discussion

Public Discussion is subject to the Privilege of the Floor Parameters. There was no public discussion at this point.

15.0 Executive Session

Executive Session was not required.

16.0 Adjourn.

Motion made to adjourn the meeting.

Tabled					
Motion	<u>Bill Hohmann</u>	Second	<u>Don Bedeaux</u>		
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions:		
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Wilson		
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/>		

The meeting was adjourned at 8:02 PM.

Leslie Barker, February 3, 2014

**PLANNING BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted January 27, 2014

Introduced by William Hohmann
who moved its adoption

Seconded by Brian Mattison

**RESOLUTION APPROVING SITE PLAN APPLICATION
OF
COUNTY WASTE AND RECYCLING SERVICE, INC.
D/B/A ACE CARTING**

WHEREAS, pursuant to Local Law 4 of the year 1990, also known as the Town of Fort Ann Site Plan Review Law (hereafter the "Site Plan Review Law") and article 16 of the Town Law, State of New York, the Town of Fort Ann Planning Board (hereafter the "Planning Board") is authorized and empowered to review, approve, approve with modification, and disapprove all site plans in the Town of Fort Ann as required under said Site Plan Review Law; and

WHEREAS, County Waste and Recycling Service, Inc. d/b/a Ace Carting (hereafter the "Applicant"), has proposed upgrading, expanding and completely renovating the waste transfer facility located at 10913 NYS Route 149, Tax Map Parcel 111.-1-16.2, Town of Fort Ann, the improvements related to which are found in the Application (hereafter the "Proposal"), which requires site plan review and approval under the site plan review law; and

WHEREAS, the Applicant has submitted documentation in support of its application, which are expressly referenced herein as if fully set forth herein and all of which shall constitute the Application; and

WHEREAS, the Planning Board is also in receipt of the Town Engineer's comments provided in memorandums submitted previously, and the same have been incorporated in the plans and/or the conditions contained herein; and

WHEREAS, a duly noticed public hearing has been held on the Proposal as presented in the Application, and the comments of the public are included in the record hereof; and

WHEREAS, the proposed action is an unlisted action under the State Environmental Quality Review Act found in 6 NYCRR section 617.5(c), the Town having previously taken a hard look at the potential environmental impacts of the Proposal and issued a Negative Declaration on the same; and

WHEREAS, the Planning Board has reviewed the application and is prepared to make a final determination thereon in accordance with Section 8 of the Town of Fort Ann Site Plan Review Law.

NOW THEREFORE BE IT RESOLVED:

RESOLVED, having reviewed the Application and all of the supporting materials, the Application is hereby approved; and be it further

RESOLVED, having reviewed the Application, the comments of the Town Engineer, the comments of the Washington County Planning Board and the comments of the public, and having reviewed the criteria for the review of site plan applications in the Town of Fort Ann Site Plan Review Law, the Planning Board hereby makes the following findings:

a. Is there adequate, and is the arrangement of, vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic controls. Consideration will also be given to the project's impact on the overall circulation system as it relates to adjacent uses.

Yes, there is adequate vehicular traffic access and circulation for the proposed site.

b. Is there adequate, and is the arrangement of, pedestrian traffic access and circulation, including, but not limited to separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience?

Not Applicable.

c. Does the Planning Board approve of the location, arrangement and setting of off-street parking and loading areas?

Yes, the Planning Board approves the location, arrangement and setting of off-street parking and loading areas.

d. Does the Planning Board approve of the location, arrangement, size and design of building, lighting and signs?

Yes, the location, arrangement, size and design of building, lighting and signs are approved.

e. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a notice deterring buffer between these and adjoining properties.

Yes, the proposed landscaping is acceptable as designed.

f. In the case of multiple family complexes, is there adequate usable open space for controlled and informal recreation?

Not Applicable.

g. Are there adequate provisions for the disposal of storm water, sanitary wastes, water supply for both fire protection and general consumption, ~~solid waste disposal~~, and snow removal storage areas?

Yes, the storm water, sanitary wastes, water supply for both fire protection and general consumption, solid waste disposal, and snow removal storage areas are all acceptable as designed.

h. In areas with moderate to high susceptibility to flooding and ponding and/or erosion, is there adequate structures, roadways and landscaping?

While this may not be applicable, there are adequate structures, roadways and landscaping for dealing with inundation from water.

i. Is there protection of adjacent properties against noise, glare, unsightliness or other objectionable features?

Yes, as proposed, there is protection of adjacent properties against noise, glare, unsightliness and other objectionable features.

j. Is there retention of existing trees for the protection and control of soil erosion, drainage and natural beauty?

Yes, the existing trees were retained.

k. For industrial site development plans, will there be impacts on air and water quality standards?

Yes, though there may be small to moderate impacts on the air and water quality associated with this facility

And be it further

RESOLVED, based upon all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions:

a. Any State or Federal permits or approvals required by the project will be secured by the Applicant prior to commencing any construction activities requiring that permit. A copy of that permit shall be submitted to the Planning Board Secretary.

b. Subject to a final review and approval of all site plan documents to be performed by the town engineer.

And be it further

RESOLVED, this resolution shall take effect immediately.

PRESENT:

Chad Wilson

Curt Rehm

Brian Mattison

William Hohmann

Donald Bedeaux, Chairman

AYES: 4

NAYES: 0

ABSENT: 0

ABSTAIN: 1 (Chad Wilson)

**PLANNING BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted January 27, 2014

Introduced by Brian Mattison
who moved its adoption

Seconded by William Hohmann

**RESOLUTION APPROVING SPECIAL USE PERMIT
OF
NEW CINGULAR WIRELESS PCS, LLC (AT&T)**

WHEREAS, pursuant to Local Ordinance 1 of the year 2003, also known as the Town of Fort Ann Regulating the Siting of Wireless Telecommunication Facilities (hereafter the "Cell Tower Law"), the Town of Fort Ann Planning Board (hereafter the "Planning Board") is authorized and empowered to review, approve, approve with modification, and disapprove all Special Use Permits in the Town of Fort Ann as required under said Cell Tower Law; and

WHEREAS, New Cingular Wireless PCS, LLC (AT&T) (hereafter the "Applicant"), has proposed to add three (3) panel antennas to the monopole at the same RAD center as its existing equipment and install six (6) Remote Radio Heads, two (2) power cables, one (1) fiber cable and a surge arrester behind the new antennas on the existing tower located at 1684 Pilot Knob Road (hereafter the "Proposal"); and

WHEREAS, the Applicant has submitted a Special Use Permit Application 'in accordance with section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012'; along with certain documentation in support of its application, which are expressly referenced herein as if fully set forth herein and all of which shall constitute the "Application"; and

WHEREAS, a duly noticed public hearing has been held on the Proposal as presented in the Application, and the comments of the public are included in the record hereof; and

WHEREAS, pursuant to the State Environmental Quality Review Act (SEQRA) the Proposal is a Type II Action and is not subject to any additional environmental review under SEQRA; and

WHEREAS, the Planning Board is prepared to review the application and make a final determination thereon in accordance with Sections 6 and 8 of the Town of Fort Ann Cell Tower Law.

NOW THEREFORE BE IT RESOLVED:

Section 1. The Planning Board hereby adopts the following findings in accordance with the Town of Fort Ann Cell Tower Law and section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012:

The Applicant is proposing the collocation of new transmission equipment that will not have a detrimental effect on the environment.

Section 2. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions:

a. On behalf of the Town of Fort Ann, Chris Navitsky, PE inspected the facility and observed that the stormwater controls required for the site pursuant to the special use permit issued by the Planning Board on May 17, 2010 were not in compliance. In order to remedy this violation, the approval is conditioned upon the Applicant submitting Twenty Thousand Dollars (\$20,000.00) to be held in escrow by the Town subject to final approval by the Planning Board Attorney to ensure the stormwater controls are completed as designed on or before September 1, 2014. The deposit and escrow agreement shall be in place prior to commencing any construction activities in accordance with this approval.

Section 3. This resolution shall take effect immediately.

PRESENT:

Chad Wilson

Curt Rehm

Brian Mattison

William Hohmann

Donald Bedeaux, Chairman

AYES: 5

NAYES: 0

ABSENT: 0

ABSTAIN: 0