

Denmark Township Planning Commission Meeting  
13711 122<sup>nd</sup> Street South- Tower  
Buell Consulting/T-Mobile/Crown Castle amend Conditional Use Permit  
June 17, 2013

**Planning Commission members present:** Charlie Grote, Don Schneider, Bob Barr, Steve Radke, Roger Lang

**Absent:** None

**Supervisors Present:** Kathy Higgins

**Others Present:** Attorney Troy Gilchrist (Kennedy Graven) and Planner Kelsey Johnson (WSB)

7:01 PM Chair Barr called Planning Commission to order.

**7:02 PM** Chair Barr opened Public Hearing. 13711 122<sup>nd</sup> St S. Tower Conditional Use Permit (CUP) Amendment.

Request by Steven Mangold of Buell Consulting (agent for T-Mobile), on behalf of Crown Castle for the attachment of one new microwave dish to the existing cellular tower. Steven Mangold-agent for T-Mobile present.

Applicant proposes to install one 2 ft microwave dish on the existing tower, to increase speed and capacity for the cellular network that T-Mobile is operating. At this time there is no fiber connected to the tower that is available to T-Mobile. This dish will allow networking (receive fiber) from other T-Mobile towers in the area. No expansions or extensions to the tower are proposed. Work project expected to begin in approximately 90-120 days.

Planner submitted 06/06/2013 report with Findings of Fact and recommended conditions.

Tower CUP has been in existence since 1980. Modifications in 1996 to construct new tower and equipment.

The current ordinance requires an amended CUP for any modifications to a tower. Discussion regarding the possibility of a future amendment to the ordinance, which may not require amending a CUP to make minor changes to a tower such as the addition of antenna or a small microwave dish.

Discussion regarding financial security requirement. Historically, the Town has required financial security should the tower need to be removed if vacated.

Discussion regarding poor condition of the road on the property, showing signs of erosion to 122<sup>nd</sup> St S.

Public Comment-None

**7:29 PM** Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk.

**7:30 PM** Planning commission resumed.

Planning Commission is recommending language be added to condition #10 to reflect that an amended CUP requirement for minor alterations would be necessary only if required by the ordinance in place at the time of the modification.

Planning Commission is recommending a condition be added to indicate that financial security be required to assure the removal of the tower and restoration of the site.

Planning Commission is recommending a condition be added to require maintenance/care/restoration upkeep of the road on the property.

Attorney will draft resolution adding Planning Commission recommendations.

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**Motion Schneider/2<sup>nd</sup> Grote to forward Buell Consulting/TMobile/Crown Castle request to the Board with a recommendation to approve an amended Conditional Use Permit for the attachment of one new microwave dish to the existing Tower at 13711 122<sup>nd</sup> St S, based on the Planner's 06/06/2013 Findings of Fact and subject to the following conditions:**

1. Scope of Permit. This permit amendment serves to reaffirm and document the original conditional use permit issued for the tower and to allow for the addition of one (1) two foot microwave dish onto an existing 300-foot cross bar design tower with antenna equipment located 210' from the road right away along 122<sup>nd</sup> Street, 140' from the west side lot line, 220' from the east side lot line and 220' from the rear lot line. The tower has anchored guy wires which are setback approximately 20' from the side lot lines and 50' from the rear lot line. An unmanned transmitter equipment building just north of the tower and a fence enclosing the equipment building and tower are also permitted.
2. FCC and FAA Regulations. The Property Owner must ensure that the tower, antenna and associated ground equipment remains in compliance with the regulations of the Federal Communications Commission (FCC) and Federal Aviation Authority (FAA) including obtaining all approvals from both agencies as may be necessary on an ongoing basis. Lighting and painting of the tower and associated equipment shall meet the requirements of the Federal Aviation Authority (FAA).
3. Removal of Tower. If the tower and associated equipment is unused for one (1) year, the tower, antenna, equipment, ground equipment and building, fence and driveway must be removed from the Property at the Property Owner's expense and the site shall be returned to its original state.
4. Fence. The tower facility and equipment building shall continue to be enclosed with a fence to deter access by trespass.
5. Maintenance. All structures, landscaping, fences, ground equipment and building shall be maintained as not to be unsightly or present harmful health or safety concerns. *[Language to be added addressing the keeping of the road on the property in good repair].*
6. Inspections. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this permit. Prior notice to inspect the Property is not required in the event of an emergency.
7. Change in Ownership. The Property Owner shall provide written notice of any change in ownership of the tower, antenna and associated equipment.
8. Copy of Lease(s). The Property Owner shall provide the Township a copy of the lease(s) between all tenants and the Applicant, which may be redacted to exclude any financial obligations contained therein.
9. Annual Inspection. The Property Owner, or its designee, shall conduct an annual inspection of the Tower to insure continued compliance with the Development Code and all applicable County, State and Federal regulations, and provide an inspection report to the Town at least once a year.
10. Alterations. Any alterations of the premises or any plans, including but not limited to expansion of the use, shall not be permitted unless an amended Conditional Use Permit (CUP) is issued by the Town Board. *[Language to be added to address permits that would be required by the Ordinance in effect at the time of the proposed addition].*

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11. Co-Location. The Property Owner shall not limit or otherwise restrict its interest in the Property by deed, easement, lease, contract, or otherwise so as to prohibit or unreasonably limit the ability of other companies to collocate their facilities and equipment on the Tower or on the Property. The Town Board reserves the right to act as arbiter in determining if the tower owner is acting in good faith in leasing to other tenants. The tower shall be constructed to allow for the co-location of at least three additional antennas. Unreasonably refusing to allow other users on the tower shall constitute a violation of this CUP.
12. Only Permit. This permit shall constitute the conditional use permit issued to the Property for the tower and this permit supersedes and replaces any other permits previously issued by the Town for the tower.
13. *[Language to be added to address financial security to secure the Applicant's obligation to remove the tower and restore the site if vacated].*

**All In Favor. Motion Carried 5-0.**

**APPROVAL OF MINUTES-**

**Motion Grote/2nd Radke approval of Minutes 05/20/2013 Planning Commission/Tiller Corporation 15672 87<sup>th</sup> St S Interim Use Permit (mining). All In Favor. Motion Carried 5-0.**

**7:45 PM Motion Grote/2nd Lang to adjourn. All In Favor. Motion Carried 5-0.**

Becky Herman  
Denmark Township Clerk/Treasurer