TOWN OF TILTON
PLANNING BOARD MEETING
DECEMBER 3, 2002

MEMBERS PRESENT: Mike Curley, Chairman, Vice-Chair George Helwig, Michelle Jackson, Katherine Dawson, Ex-Officio, Sandy Plessner

OTHERS PRESENT: Chris Rice, Tim Pearsen, Janet Lombardo, Jason Kahn, Center Sanders, Woody Fogg, Thomas Welch, James Burgess, Mustaque Mohamed, Rick Lepene, Gary Hamm, Joe Plessner, Kristen Michaelides

AGENDA:

6:30 PM       Call to order
              Minutes of November 12, 2002
              Correspondence
              Any other business

7:00 PM       Case #02-20-Amended Site Plan Review for Summa Humma Realty-Tilton, LLC (MB Tractor)- Applicant proposes to amend site plan to include a 90 foot flag pole. Property is located at 10 Bittern Lane, Tilton, NH 03276. Tax Map R-24 Lot 4 in the Regional Commercial District.

7:30 PM       Case #02-21-Site Plan Review for AT&T Wireless Services. Applicant is proposing to place a telecommunications antenna inside a church steeple. Property is located at 274 Main Street, Tilton, NH 03276. Tax Map U-5 Lot 14 in the Downtown District.

8:00 PM       Conceptual- Rick Lepene and Gary Hamm to discuss possible cluster type residential project on R-17 Lot 24 (Buffalo Park) for senior citizens.

              Possible zoning changes for the March 2003 Town meeting

MEETING:
6:37 PM  Call to order. Chairman Curley asked alternate Sandy Plessner to sit as a full member for the meeting. The Chairman asked if any one had to excuse themselves from either of the cases being heard and no one had a conflict.

Sandy Plessner told the Board she had a phone call from a citizen asking if the Board would consider putting a Zoning District boundary line adjustment on the ballot for the next Town meeting. Board members spent several minutes discussing the issue and decided it would be inappropriate for the Board to act on this issue. It should be up to the citizen to present a petition with signatures to the Selectmen.

Board members spent several minutes discussing changes to consider for the next Town meeting. These changes included correcting conflicts in the Zoning Regulations, adding definitions and purpose statements. Members will continue to work on the proposed changes and discuss their suggestions at the meeting on December 10th.

7:00 PM  Case #02-20 for an amended site plan for Summa Humma Realty (MB Tractor)

Chairman Curley told the Board he had found the application to be substantially complete and asked for a motion. Sandy Plessner made a motion to accept the application. George Helwig seconded the motion. No further discussion. All voted in favor.

Chris Rice, from TF Moran, explained to the Board that the building inspector had asked him to do an amended site plan for the 90 foot flag pole to be placed on the existing site. Mr. Rice continued by saying the flag pole would hold one flag as it only had equipment for one flag, which would be a 25 foot X 40 foot American Flag.

Michelle Jackson asked how they were going to light the flag. Mr. Rice said he didn’t believe there were any lights proposed for it. Michele Jackson asked if they were going to take the flag down at night and Mr. Rice stated he believed they would but was not sure. Ms. Jackson stated if they did not take the flag down, it had to be lit. A few minutes were spent discussing the lighting of the flag. Mr. Rice stated they would probably take the flag down but if not, it would have the proper lighting. Ms. Jackson stated it was an awfully big flag to be taking down at night.

Ms. Jackson asked if there was a reason they were asking for 90 feet. Mr. Rice stated it was what his client had asked him to bring to the
Board. Ms. Jackson stated the 90 feet pole exceeded the building height and the signage height.

George Helwig asked if Mr. Rice knew how far away the proposed pole could be seen and Mr. Rice stated he didn’t know but felt one could see a portion of it from Interstate 93.

General discussion on the height and size of the flag continued. Katherine Dawson wondered if it wouldn’t be noisy. Ms. Dawson stated if it were left up all night, it could be noisy to the residents in the area. Discussion continued on the distance the flag would be seen and how much noise the flag might make during windy conditions.

Ms. Jackson asked if they would need to get a special exception for a pole over 50 feet. Discussion concerning the Zoning ensued. Mr. Rice stated the building inspector had requested they do the site plan and to the best of his knowledge, there was nothing in the ordinance or site plan regulations saying they couldn’t have a pole that high.

Ms. Jackson stated the pole would be considered a structure. Mr. Rice agreed. Sandy Plessner stated that using the ordinance as a guide, there was a maximum building height in that district of 50 feet. Mr. Rice stated it wasn’t a building and all agreed it was all structure and according to the RSA’s, the definition of structure was anything man made which would include buildings.

Ms. Jackson stated there was also the potential nuisance to the residents in the area.

Sandy Plessner stated the zoning did cover cell towers and things that needed to be considered such as ice and fall zones and how it might affect what would be underneath it.

Joe Plessner, building inspector, stated all of the reasons being discussed was why he had said a site plan was needed. Mr. Plessner stated they were getting up into the same heights as some towers and antennas and all of these items had to be considered and it was part of the site plan.

Chairman Curley looked at the potential fall zone for a 90 foot pole. Mr. Rice stated it would hit the building it fell but a good foundation would be put in to support the pole. Sandy Plessner stated there had been a lot of cell towers and electrical towers that had fallen down during the last ice storm a few years ago.
Discussion on structures continued. Mr. Rice stated the zoning regulations restricted building heights and not structures and George Helwig stated the Board was using the height restriction as guidance.

Ms. Jackson stated cell towers would not be permitted in the zone and they were using the zoning regulations for guidance. Ms. Jackson continued by saying there were site issues and she didn’t feel the residents would want to see a flag the size of their homes or hear the noise it would make during windy conditions. Ms. Jackson stated there was also the issue of how the proposed structure would be lit.

7:15 PM Open to public comment.

Joe Plessner asked Mr. Rice why the pole had to be 90 feet tall and Mr. Rice stated he could not answer as he was not the person asking for the 90 foot pole.

Chairman Curley stated they could get smaller poles for smaller flags and Mr. Rice agreed.

Mr. Plessner stated the highest pole he could find was about 50 foot tall.

Ms. Plessner stated MB Tractor had several flag poles in the front area and wondered if Mr. Rice knew why they didn’t fly a flag on one of the existing poles. Mr. Rice stated he did not know.

Jason Kahn, having just arrived, stated it was his application and apologized for being late. Mr. Kahn stated this was Mark Bourgeois’s application and the same issues talked about before applied here such as the property was a low topographical area and Mr. Bourgeois was trying to draw awareness to his building, to his business. The size of the flag was driven by the flag pole and the flag pole was fully engineered in terms of what was done. Mr. Hahn stated the request was to get the 90 foot to get the visibility of the flag. Mr. Kahn stated he was putting the flag up to get visibility, particularly as one would come over the crest so Mr. Bourgeois objective was to get awareness of the flag. The flag poles referred to at the front of the lot were more for decoration for the lot itself. Mr. Kahn stated those poles were not visible as one would see the lot, they were just there. Mr. Kahn continued by saying it was Mr. Bourgeois request to put in a 90 foot flag pole. Mr. Kahn stated he believed there were 60 foot poles in Tilton and there were certainly highway signs over 90 feet in the area. Mr. Kahn said they had provided a site plan showing where the pole
would be placed and was not aware of any ordinance that would tie what he could or could not do in regard to the size of the flag pole and the flag.

Ms. Jackson asked how tall the existing flag poles were on the site and Mr. Kahn stated he believed they were about 25 feet.

Joe Plessner asked Mr. Kahn if what he was saying was they were using the flag for identification and not for the purpose of flying the flag. Mr. Kahn stated he said Mr. Bourgeois was drawing awareness to the flag.

Ms. Jackson stated there were Federal flag codes that said the flag was not to be used for advertising. Mr. Kahn stated there was no advertising on the flag or the flag pole. Mr. Kahn stated they would not make poles of this size if it weren't for the purpose of drawing attention to the flags.

Ms. Jackson stated they had talked about line of site issues before Mr. Kahn had arrived and the Board would require a line of site study if this were a cell tower Ms. Jackson stated she felt this 90 foot pole basically fell in the same range as a cell tower and there could be some noise issues as well with the medium density residential area behind the MB Tractor site. Ms. Jackson told Mr. Kahn she did not know whether Mr. Kahn had anything to address these issues or not.

Mr. Kahn stated the poles were fully engineered and they would ask the manufacture to provide data on that. Mr. Kahn continued by saying the line of site was a topographical issue. Ms. Jackson stated the noise was a wind issue and felt the applicant would have to provide data on that as well. Ms. Jackson stated flags could be very noisy in windy conditions. Mr. Kahn stated flags flying in the wind and whatever that would generate could be provided by the engineers and the companies that make the poles as this is their business.

Mr. Kahn stated he wanted to know what ordinance the Board was referring to as this was not a cell tower but a flag pole. Chairman Curley stated it was a 90 foot structure. Sandy Plessner stated they were referring to the fact that they do have regulations to control cell towers as far as a fall zone and protecting the surrounding area. Ms. Plessner asked what one would do if the flag became covered with ice and it were to get windy. Ms. Plessner stated the ice could break off and fall to the ground.

Mr. Kahn stated ice would not adhere to the cloth flag and the pole was tapered. Ms. Plessner stated in the last big ice storm, cell towers and
Ms. Dawson stated the possibility existed for a flag pole to fall over in an ice storm.

Ms. Plessner stated they were looking at this from a safety aspect. The plan showed the flag pole fairly close to the building and it would be 90 feet high.

Mr. Kahn asked what ordinance were they referring to when equating a flag pole to a cell tower. Ms. Jackson stated they were similar as far as the height went. Mr. Kahn asked again what ordinance were they dealing with. Mr. Helwig stated they were dealing with the structure or building in the area not being over 50 feet. Mr. Helwig stated the Board was using that as guidance.

Mr. Kahn stated the U.S. Constitution provides that we can fly these flags. Board members stated they were not saying the applicant could not fly the American Flag, what they were talking about was the height of the flag pole.

Mr. Kahn asked if the Town had an ordinance prohibiting flying a flag over 50 feet. Ms. Jackson stated they did not specifically but they did have an ordinance for obnoxious use, which did qualify for health and safety issues and peace and enjoyment of the area.

Ms. Dawson stated there were residential homes back behind MB Tractor and certainly the noise of a 25 foot X 40 foot flag up 90 feet flapping could disturb the people living there. Ms. Dawson asked if they were going to take the flag down at night and Mr. Kahn said it would be
left up and have lights. Ms. Dawson stated that if the flag had been there yesterday with all of the wind, it would have disturbed the residents with all of the noise it generated. Mr. Kahn stated the direct abutters support the application and they would certainly provide that in writing. Ms. Plessner asked about the residents and Mr. Kahn stated their obligations were to the abutters. Ms. Dawson stated the Board’s obligation was to the residents of the Town.

Mr. Kahn stated it sounded like the Board was not supporting this and he wanted to understand what statutes the Board was using for obnoxious presentation. Board members stated it had nothing to do with the American flag. Ms. Jackson stated the obnoxious use rule was about the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance. Ms. Dawson stated it was from RSA 674:44.

Discussion continued. Mr. Kahn stated 50 foot wouldn’t accomplish what Mr. Bourgeois wanted to accomplish and the area had over 50 feet already. Mr. Kahn stated that Mr. Plessner had already offered him 60 foot with a permit without coming to the Board.

Chairman Curley asked why a 50 foot pole wouldn’t do what Mr. Bourgeois wanted if it was flying the American Flag. Mr. Kahn stated Mr. Bourgeois was trying to develop a brand presence. Mr. Kahn continued by explaining in Mr. Bourgeois’s other location he had a 90 foot flag pole, and he was trying to develop this brand as one identity and a 90 foot flag was one of his identities. George Helwig asked if Mr. Bourgeois was using the flag for identity instead of using it as an American Flag. Mr. Kahn stated Mr. Bourgeois was using it as a flag. Mr. Bourgeois was displaying a large flag, which was his right. Mr. Bourgeois wanted a large American flag and to do that, he needed a 90 foot pole.

Ms. Jackson stated she looked at the ratings and one could get a slightly smaller dimensional flag for a 90 foot pole. The 25 feet X 40 feet was on the high side.

Chairman Curley reminded the people present that the meeting was still open to public comment. One woman, Janet Lombardo, asked where the flag was going and was invited up to see the plans.

7:30 PM Close to public comment.

Sandy Plessner stated that using the zoning as a guide and
considering the MB Tractor building was 25 feet high, she made a motion to approve a flag pole for 50 feet with the condition they abide by the Federal Flag codes.

Discussion ensued. Mr. Kahn stated he was not applying for a 50 foot flag pole. Mr. Kahn stated he understood the Board was making a motion but his application was for a 90 foot flag pole.

Ms. Jackson stated she would make a motion to deny the site plan as it exceeded the 50 foot height requirement and potentially fell into the obnoxious category; the applicant had not provided a line of site study which the Board would require of other structures that high, there were safety issues and the Board had not been provided with lighting information, which was required with a flag flown over night.

Joe Plessner called a point of order and explained a motion was made and a second motion had been made. Mr. Plessner felt the first motion needed to be dealt with first.

Chairman Curley stated the motion had been made for a 50 foot pole with compliance with the Federal Flag Codes. George Helwig seconded the motion. Chairman Curley asked if there was any further discussion. Hearing none, he called for a vote. All voted in favor.

Mr. Kahn stated he did not apply for 50 feet, he had applied for a 90 foot pole. Chairman Curley stated what the Board had done was deny a 90 foot pole but they were approving a 50 foot pole. Mr. Kahn stated they did not deny the 90 foot pole yet. Discussion ensued. Mr. Rice asked if he would have to go to the Zoning Board. Mr. Plessner stated they would have to take it to Superior Court if they wished to appeal the decision.

Mr. Kahn stated they could provide a line of site study so the Board was denying it based on obnoxious use. Chairman Curley added the structure size.

Mr. Rice stated there was nothing in the zoning that said a structure couldn’t be 90 feet, it said a maximum building height. Chairman Curley stated they were using that as a guide.

Discussion continued. Mr. Kahn stated they were going to read into the record the obnoxious use relative to the denial. Ms. Jackson added the pole, the size of the pole and the noise factor.

Mr. Kahn stated the Board was saying the flag, the size of the flag.
Board members interrupted and said it was not the flag it was the pole. Ms. Jackson told Mr. Kahn he could twist it all he wanted but he would lose that argument because it was the pole, the pole. Ms. Jackson stated she hoped she was being clear and said it was the pole that was too high.

Mr. Kahn stated the Board was going to site safety issues on a fully engineered pole, which could be provided and Ms. Jackson stated they could still fall.

Mr. Plessner stated no one had addressed the fact that this was a site plan issue and how and why something was done on a site was really what was before the Board. Mr. Plessner continued by saying it didn’t necessarily need something specific if something was wrong or out of place, it might not be appropriate for a site. Ms. Dawson agreed and stated that was in RSA 674:44.

Discussion continued. Mr. Kahn stated he didn’t believe the board had voted on the motion and the Board stated they did. Ms. Dawson stated the Board had given Mr. Kahn their decision. Mr. Kahn stated he didn’t believe the Board had denied the application. Chairman Curley stated they did not deny the application, they were approving the site plan for a 50 foot pole.

Mr. Rice stated the Board could either approve or deny a 90 foot pole but they weren’t asking for 50 feet. Chairman Curley stated it was like a negotiation where one would approve things with certain conditions and that was basically what the Board did. Chairman Curley stated that in this particular case, the Board was telling the applicant that they were approving this (site plan) for a 50 foot pole. Mr. Rice stated there was nothing in the zoning stating you could or could not have a 90 foot pole. Sandy Plessner stated the Board was using the overall zoning as a guide. Ms. Dawson stated the Board had just said the applicant could have a 50 foot pole.

7:40 PM Case #02-21 for a site plan review for AT&T Wireless. The Chairman stated he looked over the application and found it to be substantially complete and asked for a motion. Michelle Jackson made a motion to accept the application. George Helwig seconded the motion. No further discussion. All voted in favor.

Tom Welch, engineer, explained that AT&T Wireless proposed a stealth design by installing antennas in an existing church steeple. Mr. Welch stated they had been before the Zoning Board and had obtained
the Variance and Special Exception needed to proceed.

Mr. Welch continued by stating the equipment would be inside the structure and the church itself and it would be completely withdrawn from the outside view. The panels would be installed at approximately the 95’ level of the structure and would be located behind fiberglass panels. Mr. Welch stated that from the outside, it would appear to be a pedestal that the cross was attached to.

Mustaque Mohamed, engineer, spent a few minutes explaining how they determined where they needed antennas to provide coverage without gaps in service.

Mr. Welch described the equipment used, which employed the newest technology available.

George Helwig stated if he had any concerns it would be from possible problems with the radio waves. Mr. Welch stated that just simply was not an issue as it was well below the Federal guidelines.

7:50 PM Open to public comment.

Janet Lombardo stated she did not feel people would notice anything different.

Woody Fogg stated he was in favor of the project.

7:51 PM Close to public comment.

Sandy Plessner made a motion to accept the site plan as presented with the condition they comply with Life Safety 101 Codes. Ms. Plessner stated she was sure the Fire Department would want to see the installation and wiring. Michelle Jackson seconded the motion. No further discussion. All voted in favor.

8:04 PM Conceptual for R-17 Lot 24 (Buffalo Park) Rick Lepene and Gary Hamm spoke with the Board members about the possibility of developing the west side of the property with a cluster residential project for senior citizens. General discussion covered sewer / septic service and which might be better. Joe Plessner felt with a project of this size, tying in to the municipal service would be better. Mr. Hamm who was in the septic business stated they had some septic systems now that could easily handle a project such as this for many years. Public water and gas were also discussed.
Board members felt wetlands would need to be considered in deciding on the acreage needed for development.

Mr. Hamm stated there was a lot more he needed to look into and thanked the Board for their time.

The Board spent several minutes discussing the information dropped off by Kristen Michaelides and other changes to the Zoning Regulations. Board members agreed they would like to see a wetlands buffer added to the items to be voted on. Everyone would draft what they felt was needed and would discuss the results at the December 10th meeting.

9:30 PM Meeting adjourned.

Minutes prepared by,
Sandy Plessner