

MANDATORY REFERRAL REPORT NO. 12-08
Proposed Leasing of Portions of Two School Sites in the Town of Matthews for Cell Antennas

PROJECT PROPOSAL AND LOCATION:

Charlotte-Mecklenburg Schools (CMS) proposes to lease portions of certain school sites for cell antenna construction, operation, and maintenance.

On August 18, 2010 a *Request for Expressions of Interest* (REI) to lease land for cell tower construction/cell service was posted on the CMS website. The deadline for submitting that request to CMS was October 31, 2011. The REI asked respondents to identify specific sites upon which they desired to locate cell towers. Staff received expressions of interest for several school sites. Seven school sites were covered under a previous Mandatory Referral (MR12-04); two additional school sites (see table below) have been also identified.

On December 23, 2011, the Charlotte-Mecklenburg Board of Education gave approval for staff to negotiate with interested firms. CMS had entered into negotiations in accordance with applicable statutes and will advertise and seek upset bids.

The sites under consideration are:

Site Name	Address	Parcel Number	Parcel zoning
Elizabeth Lane Elementary	121 Elizabeth Lane	227-034-91	R/I(CD)*
Matthews Elementary	200 McDowell Street	227-211-02	R-1*

* R/I, Residential/Institutional per Matthews Zoning Ordinance

The proposed leases would be for five years (with renewal options). Liability would be limited for CMS (typical for CMS contracts), and clauses for termination and for convenience will be incorporated. The cell operators are not to interfere with school operations, staff, students, or the public who may use the school and property. These lease terms have proven successful with existing cell tower leases at Quail Hollow Middle School and Providence High School.

The Matthews Zoning Ordinance defines “communications antenna” as “any structure or device used to collect or radiate electromagnetic waves, including directional antennas – such as panels, microwave dishes, and satellite dishes – but not including satellite earth stations. Where a set or group of devices work as a single unit, such as three panels facing different directions for 360 degree coverage, then that group shall be considered as a single antenna.”

In contrast, a “communications tower” is defined as “a tower greater than 35 feet in height and which does not exceed 400 feet in height (including antenna) which is principally intended to support communication (transmission or receiving) equipment. The term ‘communication tower’ shall not include amateur radio operator’s equipment, as licensed by the Federal Communications Commission (FCC). Design examples of communication towers are described as follows: (a) self-supporting lattice; (b) guyed; and (c) monopole.”

PROJECT JUSTIFICATION:

Telecommunication antennas offer an opportunity for public agencies to realize a revenue stream from current real estate assets.

CONSISTENCY WITH ADOPTED PUBLIC POLICIES:

Town of Matthews Policies

The R/I (Matthews Elementary) zoning district only allows a “stealth” application for communications antennas here, not to exceed 80’ in height, because the school is adjacent to residential zoning. This means a “tower” cannot be constructed here. Communications antennas may be possible here if located within the principal building or within an accessory structure that is necessary and appropriate for the principal (school) use on this site. The Town has height limits for flag poles and lighting fixtures that regulate those stand-alone structures. Potential stealth applications in the R/I district may include a clock or bell tower, either attached to an existing principal structure or as a stand-alone accessory structure. The R/I district requires 50 feet for front (yard) setback, side yards, and rear yards. The R/I district allows structures by-right up to 60’, so any stealth application between 60’ and 80’ in height would need to be placed at least as far into the site as the actual total height (if 70’ tall, then the stealth application/structure must be located at least 70’ from all property lines).

Because Elizabeth Lane Elementary has a conditionally-zoned site plan that clearly establishes where improvements and structures can be placed, any stealth application must conform to zoning conditions. The conditional notes do not allow any other uses except as a school and its “associated ancillary facilities and functions”. The notes also indicate the site plan layout would not change more than 10% without requiring further zoning action. Since no stand-alone accessory structures which could serve as a stealth application are on the conditional zoning plan, any stealth application would either need to be on the existing school building itself or would need to go through a new zoning approval process.

At both locations, a site plan and related documents showing details of how an antenna placement could meet Matthews code provisions will be required. If all code provisions can be met at Matthews Elementary School, then antenna placement may be able to proceed for permits. The conditional zoning in place at Elizabeth Lane Elementary will first trigger further formal review and approval by the Town prior to any permits being issued for installation.

CMS Policies

Prospective leases of portions of school sites for cell antennas use are considered to be consistent with CMS policies regarding joint and community use of school sites.

CONSISTENCY WITH ADOPTED LAND USE PLANS:

The Town of Matthews does not have specific land use policies in the Matthews Land Use Plan regarding cell towers or antennas, however the Plan does call for preservation of land values of the predominate residential, low-height character where it exists. The provisions within the Matthews Zoning Ordinance do, however, illustrate the Town's adopted position that tower placement may be allowed in business and industrial districts outside of the Highway NC51 Overlay District and historic Downtown. Tower height in non-residential sites is restricted when adjacent to residentially-zoned property. Antennas may be placed on existing tall structures in most districts, including the Residential and Residential/Institutional districts, or located in a hidden or "stealth" application.

PROJECT IMPACT:

These telecommunication antennas should provide increased service to area customers. Each antenna operator is to be responsible for obtaining all permits and approvals necessary in order to erect the antennas.

RELATIONSHIP TO OTHER PUBLIC OR PRIVATE PROJECTS:

There are no known public or private projects that will be adversely impacted by this project.

ESTIMATED PROJECT COMPLETION

The estimated completion for antenna construction beginning with due diligence process is approximately twelve months per site.

JOINT USE TASK FORCE REVIEW COMMENTS:

The Joint Use Task Force discussed this matter at their June 6 meeting and no joint use comments were offered.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the placement of antennas at the indicated locations, subject to review and approval requirements prescribed by the Town of Matthews.

CMPC PLANNING COMMITTEE RECOMMENDATION:

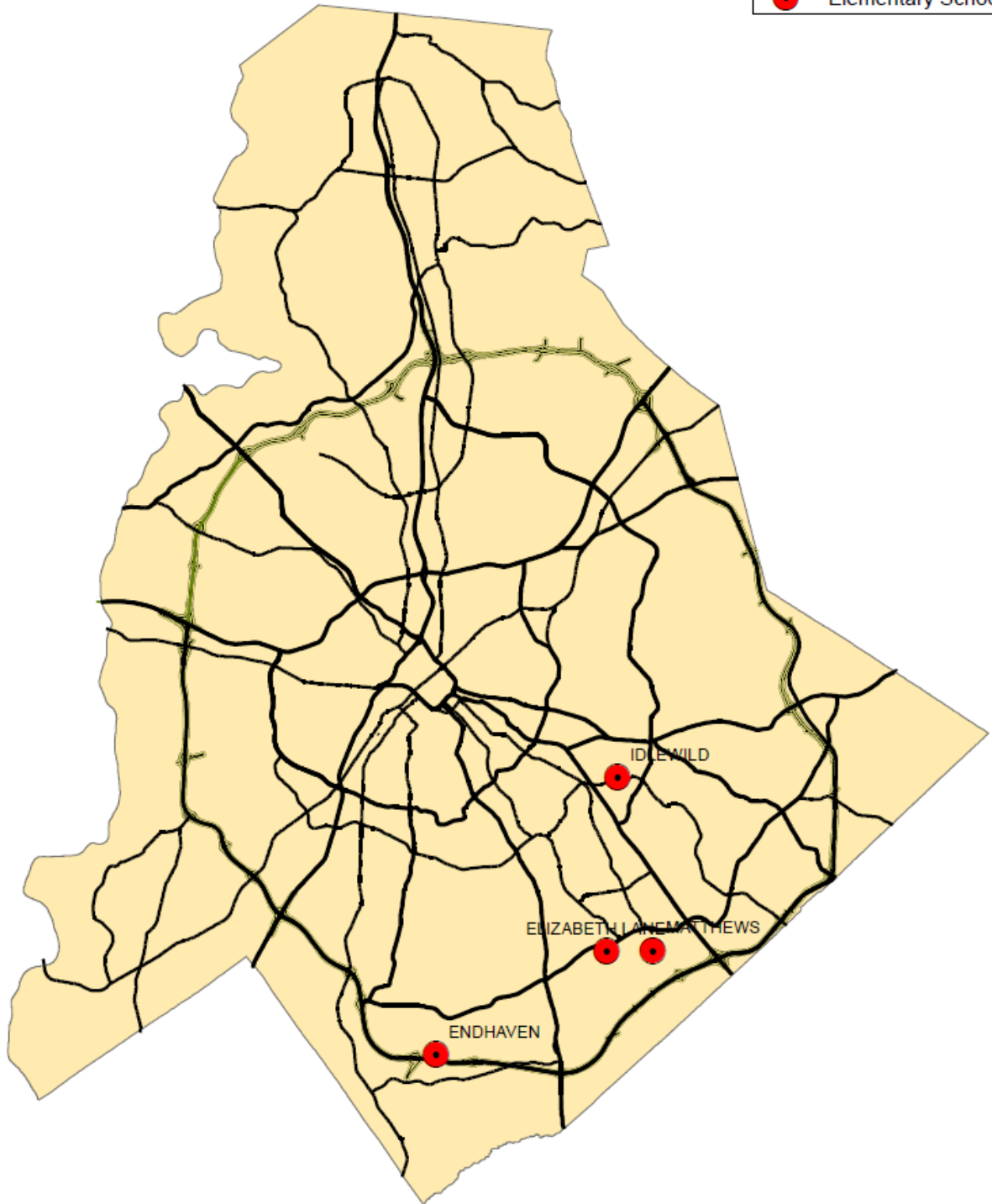
At their July 17, 2012 meeting the Planning Committee recommended approval (including staff-specified condition) by a 6-1 vote.

Proposed Cell Tower Sites

Legend



Elementary School



May 14, 2012
CMS Planning and Project Management
Facilities Planning and Real Estate
980-343-6870