

I. OPENING

CALL TO ORDER: The Planning Commission meeting of Lower Saucon Township Council was called to order on Thursday, August 19, 2010 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

ROLL CALL: Present: John Landis, Chair; John Lychak, Secretary; Craig Kologie; John Noble, members; Dan Miller, Engineer from Hanover Engineering; Chris Garges, Zoning Officer; Kevin Kochanski, Planner from Boucher & James; and Linc Treadwell, Solicitor. Absent: Haz Hijazi, member and Tom Maxfield, Vice- Chair.

PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS

None

III. BUSINESS ITEMS

A. METRO PCS PENNSYLVANIA LLC – METRO PCS SITE PLAN #SP 02-10 & CONDITIONAL USE #CU 02-10 – 1995 LEITHSVILLE ROAD (TIME LIMIT 10/13/10 & 08/29/10)

Debbie Shulski, Attorney for the applicant was present. She said this is a very similar application to the one you saw a few months ago with another existing tower in the Township on Sherry Hill Road. This is at the Leithsville Fire Company. It's a co-location again. We are proposing a 12' extension of the tower. We did have go to the Zoning Hearing Board for a zoning relief because we had a setback issue for the fall zone. We did receive that zoning relief and we submitted a conditional use application. We are here before you this evening for recommendation on the conditional use. It's very similar to the other application you saw in terms of what we're proposing. Our antennas will be a height of 150'. The compound area we're proposing our radio equipment cabinets within the existing compound area. There's no proposal to expand the compound area, so it will be within that existing area. The equipment cabinets, themselves, are the size of a refrigerator. We do have two review letters from HEA and Boucher & James, and most of these items are will complies. Mr. Landis said is there anything you need to discuss? Attorney Shulski said with the Planner's letter and in addition to the conditional use there are site plan requirements and a number of items that are similar to the other application that you saw before. The application itself only involves 160 square foot of additional impervious coverage, so there is really diminimus impact on stormwater. We would be requesting waivers from some of these items. She would have their engineer and planner work with your engineer and planner so the items can be resolved.

Mr. Kochanski said the letter of July 14, 2010, that is for the previous application. The August 11 letter should be in your packet. Mr. Noble asked if they were scheduled for the September Council meeting. Mr. Garges said September 1. Mr. Noble said they are looking for a recommendation from us today. Mr. Garges said the variance is already granted. Mr. Kochanski said things we would like to see on a site plan aren't really applicable to this type of plan. What the applicant may be looking for is some direction as the use requirements would be information the applicant would be providing testimony towards the conditional use hearing or providing supplemental information after that as far as any agreements or documentation from the FCC. Where we get into what the applicant may need some direction on is item 2, the site plan requirements and what you may or may not want to provide on the plans and what you feel that is necessary for your application. Mr. Kologie said the purpose for tonight is recommendation on the conditional use, not a

recommendation on the site plan approval. Attorney Treadwell said he thinks Council is going to take them both at the same time. Attorney Shulski said she has a package of documents she put together for the hearing and she'd be happy to go through them with you. In terms of the use, she has their FCC license and propagation plans which their radio-frequency person put together and you've seen these before. One shows the existing coverage and one plan shows a significant gap which is the white area on the plan showing there is no reliable coverage in that area. The applicant is required to have reliable coverage under its license and coverage is the ability to initiate and maintain a call without going into voice mail, getting a busy signal, or experiencing a dropped call.

Mr. Landis said because of the use, starting with B. Attorney Shulski said this is a comment regarding lighting. Typically, the tower is not over 200', so it's not required to be lit by any standards. They are showing a light right now for safety purposes within the compound area. Mr. Kochanski said the ordinance is regarding the tower itself, and this is a work light with a timer. We are asking that a note be added to the plan. Attorney Shulski said they will comply.

Attorney Shulski said item C, landscaping, they will comply and make sure it gets resolved. Attorney Shulski said item D is a structural report and they will be submitting that at the time of the hearing.

Attorney Shulski said item E goes to the NEPA. She does have various documents relating to the NEPA requirements. There was a Phase I environmental done and a SHIPO compliance done when the original tower was built. What happens is when you go into construct the original tower you have to get the NEPA clearance and when future co-locators come on, as long as there is no substantial change to it, you get what is called a POW letter. She has a letter that shows there are no substantial changes to it. They'd be happy to submit them to the Planning Commission.

Mr. Noble said this is really messy and this needs to be done before it goes to Council. Mr. Landis said if you have those documents and can show them to our Engineer, that would be great. Attorney Shulski said she can give her whole package as that's what they will be submitted for their conditional use.

Attorney Shulski said they don't believe the airport requirement applies to the extent that it does. They have to require with any FAA as it's part of their license. Mr. Kochanski said the only caveat he would ask if you aren't within the five miles, put an note on the plan you aren't within five miles of an airport.

Attorney Shulski said Item G is the FCC license and the maximum permissible exposure letters. They do have their FCC license and an EFM report which basically confirms that all the levels will be in accordance with the FCC standards. Way below the standards is about less than a half percent of what their standards are. It's a very low power transmitter similar to fire police and emergency services.

Attorney Shulski said Item H goes to the demonstration of the need and that would be satisfied by the propagation plans that we have. Attorney Shulski said Item I, this is something they would agree to as a condition of approval to the extent that the operation ceased in the future they would remove the antennas in accordance with your ordinance. She believes it's typically a standard of the conditional use approval.

Attorney Shulski said Item J regarding maintenance of the structure of the foundation, that's a "will comply" and they will certainly add a note to the plan about that. Attorney Shulski said Item K goes to what she mentioned earlier about the NEPA. They do have the NEPA letter and POW

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letter confirming that requirement. Attorney Shulski said Item L is just adding a standard note to the plan and that's a "will comply".

Attorney Shulski said under Site Plan Requirements, this is where they get into some of the waivers. They would be requesting a waiver from A through E. A lot of these are shown as existing features and contour line, natural resources, the calculations from the natural resources, and they are not expanding that compound area whatsoever. The amount of impervious that is being added is 10'x16' concrete pad. They think that would be very diminimus. That seems to be something that's typically done after the approvals when you get the signatures on the plan, and they would comply with that at that time.

Attorney Shulski said Item G, that's a "will comply". They have a very limited disturbance area here. Attorney Shulski said Item H is a "will comply". Attorney Shulski said Item I is just adding a note to the plan and it's a "will comply". Attorney Shulski said Item J is a standard and they "will comply".

Attorney Shulski said under 3, they don't have anything on the plan indicating what the maximum impervious coverage is. They are only increasing it by less than a percent as it's only 160 square feet. We can get another plan from the Township. Mr. Kochanski said 3A is related to basically 1 through E in the site plan requirements where the site capacity calculations under 3A are required per the ordinance but you then don't require the applicant to provide the natural features, then they can't do the site capacity calculations. What happened with the previous application, you waived those first five requirements thereby offsetting the applicant to do any kind of detailed survey work for a co-location in an existing compound. We did not have a problem with it at that point nor would we at this point. Mr. Landis said if we would give the waiver, 3A goes away.

Attorney Shulski said B sounds like it's just a discrepancy on the plan that they need to correct, so it's a "will comply". On 4, they would be requesting a waiver given the type of application it is. Mr. Kochanski said or it falls in line with 3A if you were to waive the other requirements, then they couldn't ask them to provide it under a separate requirement. Mr. Landis said you would need a waiver from the ordinance 180.102.C and then the other two on top of it or we can make the waivers as per the letters. Mr. Kochanski said it would be that the applicant wouldn't be required to meet the site plan requirements for Subsection A, C, D, E and F. Subsection F is E in our review letter. On B, they had met on the plans they had submitted. Attorney Treadwell said you don't have to take any action on 3A and 4, as they will go away.

Mr. Landis said let's go over Hanover's August 11, 2010 letter. Attorney Shulski said the first three items are comments. No. 4 we talked about the structural and they have that. No. 5 is whether the FAA clearance is required, which it is not as the tower is less than 200'. No. 6 is the FCC license and she does have a copy of that. No. 7 is the need for the site again, which would be demonstrated by the propagation plans which she has. No. 8 is the security hold-harmless agreement, and they will agree to that as a condition of approval. Your solicitor has a form that they entered into for the prior application and they would similarly do that as well. No. 9 that's a "will comply" just showing additional materials with respect to the equipment cabinets. No. 10 regarding an as-built after the plans, they will agree to that as a condition as well and will add that to the plans.

- MOTION BY:** Mr. Kologie moved to recommend not requiring Subsections 180-102.C.2.a, c, d, e, and f of the site plan requirements.
- SECOND BY:** Mr. Lychak
- ROLL CALL:** 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

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MOTION BY: Mr. Kologie moved to recommend Site Plan and Conditional Use approval for the Metro Pennsylvania PCS Site Plan and Conditional Use Application subject to compliance with Boucher & James and Hanover Engineering August 11, 2010 letters.

SECOND BY: Mr. Noble

ROLL CALL: 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

IV. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF SCENIC VIEW GARDEN APARTMENTS PLANNING MODULE

Mr. Landis said Jeff Hough has approved this. Mr. Miller said correct. Mr. Landis said he doesn't know what issues there are with the apartment. Mr. Miller said this application is based largely on old testing and old standards for testing. All the facilities in the new one it uses the old testing, so there's a good chance that they met the regulations. It's ready to be submitted, but DEP may reject it just because they are relying on the old information. If you saw this coming back, that would be the reason. They've met with the requirements, but it may come back.

Attorney Treadwell said is this for the new proposed construction or for to bring the old one into compliance? Mr. Miller said this one is for the four units. The four units is fine, but the question is, is it going to open the old testing for the existing units. Attorney Treadwell said he remembers that was the question once they submitted for the new use, the old system doesn't technically meet today's standards or however DEP looks at it.

Mr. Noble said does this interfere with alternate sites or what's out there right now? Mr. Miller said no, it doesn't interfere with the alternate sites set aside for the existing facilities. Mr. Garges said this is a primary and an alternate for the new one.

Mr. Landis said this is designed based on the old criteria? Attorney Treadwell said the new system is designed under the new standards. The question is when you look at the property as a whole, when DEP gets this, they may say okay, new system for the new building, what about the old one. Should the old ones meet the new standards. That's where you might have some issues. Mr. Landis said for these four, it meets the new requirements.

MOTION BY: Mr. Noble moved for approval of the Scenic View Garden Apartments Planning Module.

SECOND BY: Mr. Lychak

ROLL CALL: 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

B. APPROVAL OF MINUTES – MAY 20, 2010 & JULY 15, 2010

MOTION BY: Mr. Noble moved for approval of the May 20, 2010 minutes.

SECOND BY: Mr. Lychak

ROLL CALL: 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

MOTION BY: Mr. Lychak moved for approval of the July 15, 2010 minutes.

SECOND BY: Mr. Noble

ROLL CALL: 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS

Mr. Landis said next meeting is with Hellertown and they are planning on coming with a couple of things and he was asked for items for the agenda. He doesn't know of any other than a review of what we've done in the last year. Probably the most significant thing was the last meeting proposal to have some sort of nursing home, retirement home, but other than that, he can't think of anything. He will look back and

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talk to Mr. Garges. He said if there were any other issues the Planning Commission wanted to bring up with Hellertown, think about it and let him know.

VII. ADJOURNMENT

MOTION BY: Mr. Noble moved for adjournment. The time was 7:38 PM.

SECOND BY: Mr. Kologie

ROLL CALL: 4-0 (Mr. Hijazi & Mr. Maxfield – Absent)

Submitted by:

Mr. John Landis
Chair