

**I. OPENING**

**CALL TO ORDER:** The Planning Commission meeting of Lower Saucon Township was called to order on Thursday, November 29, 2012 at 7:00 P.M., at 3700 Old Philadelphia Pike, Bethlehem, PA, with Mr. John Landis, Chair, presiding.

**ROLL CALL:** Present: John Landis, Chair; Tom Maxfield, Vice Chair; Scott Kennedy and Craig Kologie, members; Chris Garges, Zoning Officer; Karen Mallo, Boucher & James; Dan Miller, Hanover Engineering; Linc Treadwell, Solicitor. Absent: John Lychak, John Noble, and Sandy Yerger.

**PLEDGE OF ALLEGIANCE**

**II. PUBLIC COMMENT/CITIZEN AGENDA ITEMS – None**

**III. BUSINESS ITEMS**

**A. ALLENTOWN S.M.S.A. d/b/a VERIZON WIRELESS – VERIZON WIRELESS SITE PLAN #SP 01-12 – 3693 HICKORY HILL ROAD – EXP. 12/14/12**

Kate Durso was present on behalf of Verizon Wireless as well as Jim Rogers. Ms. Durso said they are here this evening before the P/C for site plan review. They've appeared before the ZHB and in June 2012 obtained a number of variances with regard to the installation including approval of the use setbacks, right at the PPL substation. A number of years ago there was an existing PPL structure that the applicant who was Sprint at the time came in and got approvals. It's a footment to an existing pole. In this case, none of the existing PPL poles that are located within the substation are strong enough for the number of antennas that Verizon requires, so what the carrier is doing is constructing a freestanding pole adjacent to the existing poles and then placing similar antennas that you see that are already there for Sprint on this pole, similar base equipment at the base of the pole. The next property over there was another application that was before the Township for Metro PCS which you used a PPL utility pole for antennas so there are a number of poles in the area that have antennas currently located on them. From a site plan perspective, it's the construction of a pole, antennas at the top, equipment at the base surrounded by a fence compound, landscaping is required by the ordinance. The facility right now with the PPL substation is only visited when PPL has to do maintenance or some adjustments to their poles, similar for the Verizon installation, they typically go once a month. The other reason the location for that site was chosen was to be as close to the Sprint pole as it could be so it would blend with the existing tower that has antennas on it and they wanted to put it as close to the highway as they could and far away from the residents located in the subdivision adjacent to the PPL substation which is one of the variances they needed for the installation. Other than that, there's not a lot to these facilities.

Attorney Treadwell asked Ms. Durso to explain what relief the applicant received from the ZHB. He's not sure the P/C has that decision in front of them. Ms. Durso said typically your installations in the Township go through a conditional use approval when they are within a zone where they would be allowed. For this installation, they received variances to permit the use, a setback variance from the property line, a variance to allow poles to be less than what's required from each other because of the Sprint pole being there where the antenna is located. The ordinance has a requirement that you have to have FCC approval. The FCC doesn't actually approve the sites, they give you a license and that essentially authorizes the site. That was one of the variances that they received relief from.

**Planning Commission Meeting  
November 29, 2012**

Attorney Treadwell asked how tall is the pole? Ms. Durso said to the top of the lightning rod is 114'. The pole itself is roughly 110', but the antennas extend above it which makes it 112'. Mr. Kologie asked which property lines did you need the variance? Ms. Durso said the property line closest to the highway. They met the setback from the residential property line, but needed it from the highway property as they were trying to force it as close to the highway area as opposed to be close to the residents. You could call it the north property line or I-78. Mr. Kologie asked what are the setbacks from the residential properties? Ms. Durso said the closest residential property they were required to be set back was 200' from the property line and they are 200' from the property line.

Mr. Landis said we have two letters from Hanover and Boucher & James. If you are going to comply, you don't have to go through the letters. Are there any issues you want to bring up that you aren't going to comply with? Ms. Durso said everything that is under the zoning district regulations were addressed at the ZHB; and the same thing with those under commercial communication antenna tower regulations. They were going to request relief from the scale that's under the site plan requirements under 9a because of the size of the property and the goal to have a different scale so you can have everything on one sheet as opposed to two sheets. They are requesting relief from 9a. No. 11 they would need a waiver from because there are utility lines there. They are limited to the type of landscaping that they can place under those lines because of maintenance and Hurricane Sandy was a good example of that. There are only certain trees they can and cannot put there. They would need relief from No. 11 but everything else they can address. It would be a waiver from 9a and 11.

Mr. Kologie said there seems to be a difference of opinion on the needs analysis and the individual impact analysis. Ms. Durso said the ordinance requires that you provide documentation and evidence and at the ZHB they provided both a visual analysis as well as a testimony that went with the analysis. The ZHB found that was adequate and they satisfied the requirements for that. Mr. Kologie asked if they requested a variance from those sections? Ms. Durso said no, they satisfied them. Mr. Kologie said was it their purview to make that determination? Attorney Treadwell said it's a zoning ordinance section and they look at that as well. That was one of the things the applicant had to satisfy. He wasn't at the ZHB meeting, but to allow the ZHB to grant the relief that they were requesting. Ms. Durso said what typically happens is they would have done the same thing if it was a conditional use and that is for documentation of need, they provide propagation plots. The Township has these in their files and it shows what coverage Verizon has there now and what coverage Verizon would have with the facility installed. It shows we are pressing the minimum height necessary and documenting the need as there's existing gap and coverage that Verizon has. There was testimony that went along with it. There's typically not a written report that goes with the documentation of need. You have to have a witness explain under sworn testimony how the propagation plots were derived, what they show, what they depict; the same thing for the visual impact analysis. They had photographs taken before and after and then they had testimony that comes with. There's typically not a written report provided as they want them to have it under sworn testimony that the witness said these are how the photographs were taken, this is what the photographs demonstrate, and showing that it conformed with the ordinance requirements. She's not sure what else they would have done differently even if they were before the P/C presenting it.

Mr. Garges said he was at the ZHB meeting and that was all taken care of at that time. One of the things that has made this different and as Ms. Durso mentioned a conditional use is a new tower in this zoning district typically is not permitted. That's why they went to the ZHB to get that form of relief. The conditional use didn't go through. They followed through the ZHB the same realm as they would a conditional use because it wasn't a use that was permitted in that zoning district. They provided the information they needed before the board to get them to agree that relief was warranted.

**Planning Commission Meeting  
November 29, 2012**

Attorney Treadwell said it's a little bit of a different procedure than we are used to at the P/C because normally we see the site plan first and we're looking at it to determine whether the sections of the ordinance have been met. In this case it went to the ZHB first because of that situation so the ZHB made certain determinations that you would sometimes make. Mr. Kologie said we're operating under the assumption that that's already been done. Attorney Treadwell said Mr. Garges was there and they presented that testimony and whatever they had relative to No. 7 and 8 in the Boucher & James letter.

Ms. Durso said having done the conditional use applications in your Township; she would not have done it any differently. She would have presented the same type of propagation plots, the exact testimony and same visual impact analysis and have gotten the conditional use approvals before with the same type of presentation.

Mr. Maxfield had a question about a statement. Under No. 8 where it says "the township did receive a photo simulation, no report or analysis has been received to date as specifically required". Ms. Durso said the analysis, there's nothing specific in the ordinance saying it has to be a written analysis. The analysis was what was done through the testimony. There's typically not a written analysis that accompanies the visual impact. Mr. Maxfield said other than the record, we really don't have a record. The minutes are the record of the analysis. Attorney Treadwell said you actually have a transcript from the ZHB and the exhibits that went along with it.

Mr. Maxfield said you said 200' from a property line where a residence occurs and you said that is what is required. Does the ordinance not require 1-1/2 times the tower height? Ms. Durso said sorry, what's required is 168'. They are 200'. They exceed it. Thank you for bringing that to her attention.

Ms. Mallo said they did request a waiver from Item 11 for the trees and 9a. They said they would comply with b, c, and g. Ms. Durso said their guys said they have the right-of-way for b. Ms. Mallo said you have what's out there, but not what's required? It's smaller than what's required. Ms. Durso said she's sure they can add it. Mr. Landis said the other issue was the landscaping. Ms. Mallo said the site is heavily wooded. They are going to be showing the delineation where the woodlands are.

Mr. Landis asked if there was anything on the Hanover letter? Mr. Miller said he did have one thing and it wasn't in their letter. This is the first meeting he has come to and the first time he received a copy of the memo from the Police Chief. His only comment is he wants a Knox padlock on the gate. Are you okay with doing that? Ms. Durso said yes, they can do that on their gate. Some of Hanover's comments were similar to the zoning ones that they just said they believe they have complied. Attorney Treadwell said Dan's letter refers to the visual impact again. Is there anything different? Ms. Durso said their engineers did talk to Dan about additional information he wanted to show on pages C.1., C.2., and C.2.e. They said said you wanted to see the limit of disturbance shown to include the silt fence. They are going to do whatever was spoken about. Mr. Miller said the first comment is just a commentary. The second one is rehashing of B&J's letter. No. 7 is basically they have vegetation around the fence. They haven't specifically identified that it will be a complete visual. He's not sure if it's a big concern as it's a wooded area, but they noted it. Can you identify what these plants would be full-grown and that would address it. Someone said arborvitae is planted around the fence. He doesn't know what spacing is. Mr. Miller said they've addressed every concern they've had regarding the landscaping except this one. He's questioning the spacing and the plating height is 6'. Mr. Miller said the height is more than adequate. It's the girth. Are they going to block? Ms. Durso said they are outside of their fence, but kind of within the back of the substation. They probably can still get back there. They are proposing 28 of them. Ms. Mallo said they are planted 5' on center. Arborvitae typically grows to a width of 3', so if you have 5' and 3' on center, it's 1-1/2' and 1-1/2' on each side, so there's approximately 2'. 3' is the minimum to about 5'. If they grow 5' you are fine. If they get eaten at

**Planning Commission Meeting  
November 29, 2012**

4' high, then they are not going to grow to 5'. You are having about a foot space between them. They are not staggered at all. If you are concerned, you could do a double row off center.

Mr. Maxfield said he thinks we need to insure somehow that we have a total visual block from the residents. Ms. Durso said the majority of the vegetation is the opposite way because of how you have to come into the compound. There's wooded area between the PPL property and the homes. Attorney Treadwell said why don't we just have B&J go out there and work with you. Ms. Mallo said as far as she knows they will go out and inspect. Mr. Garges said it's only a site plan. Attorney Treadwell said we can still have B&J to go out there and look at it. Mr. Maxfield said they can gauge what it's going to look like in five years. Someone said who is going to go out there when these trees are mature? Is it an issue? Attorney Treadwell said it's probably not an issue, but if they go out there and determine there are place where you will be able to see it even when it gets mature, they can redirect how it gets planted. Ms. Durso said she doesn't want to pull the trees out. If it ends up there's a hole somewhere and they need to put one behind it, they can do that. They can do a double row on the southeast side, off center. Ms. Mallo said if they stay 5' on center and then plant another row in-between so it's in the center of the two, which will provide the screen. That will be fine if they are going to do the double row.

Mr. Miller said No. 8 is not necessarily they need to be concerned with, but it definitely needs to be addressed as the structural design. There are statements made that they will do it. It needs to be done. Ms. Durso said they usually submit as-built afterwards to verify it was done and they can give a structural analysis when it's built. They can submit the foundation design and the tower design.

Mr. Miller said radiation exposure, they may have done that. Ms. Durso said they did. Mr. Miller said No. 1 they did already. A security agreement, they will have to get. Ms. Durso said they have their usual form. Mr. Miller said 13, 16 and 17 they will comply with. No. 19 they are okay with that condition.

Ms. Mallo said when they asked them to do the site capacity calculations; they basically excluded all the property that was PPL and south of the site. They wanted to add a note to the plan explaining that. Ms. Durso said that's fine. Mr. Landis asked if anyone wanted to speak from the audience?

Someone who did not give their name said they represent a small amount of people who live in the Woodfield development. Most of them it's right in their back year. Why did none of them know about this? She saw it for the first time in the LST email that came out in August. She went to four meetings since then. Every time she went to a meeting there was going to be discussion on it, they were told there was no discussion. She's astounded right now that these plans have already been made and it's already been approved. This is totally news to her and many others. Ms. Durso said they appeared at the ZHB in June. That was advertised. The Township sent the required notices. The property was posted. This is the first meeting they've had for the site plan. As is typical, they submit the plans and then the consultants give a review letter and we discuss that with the consultants. That's not unusual. This is the first meeting they are here. Mr. Kologie said the ZHB is the first step. Someone said has this been approved? Is it being done? Mr. Landis said no. Mr. Maxfield said Council gives the approval. Attorney Treadwell said he doesn't want anyone leaving here with any misconception. The ZHB approved the use of the property for this tower on June 18, 2012. Someone said why didn't we know about this and why didn't we have any say? How did this happen? It's a residential area. There's about 18 children within that children and some people will say studies show there's nothing proven with the cell tower. She doesn't buy it. Attorney Treadwell said the notice requires that notification go out to 500'. Mr. Garges said the legal requirements are to have the property posted and to have it advertised in the newspaper two weeks prior. The Township also mails out letters to adjoining property owners of the time and date of the hearing. Someone asked what adjoining means? Mr. Garges said it's within 300'. Someone said from what point? She didn't get a letter. Mr. Garges said he believes it's from the p

property line. Someone said she's like to see a copy of the letter. Mr. Maxfield said does your property touch this property? Someone said her property doesn't but someone here does. Mr. Maxfield said adjoining property owners within 300' ends up people touching up the actual property. Someone said she is right across from it and sees it from her house. How would you feel if this was happening in your front yard? They are all upset and what it's going to do to the value of their homes. How many trees are going to be cut down? They want to clear an area of 80'x100'. That's a lot of trees. That's going to be a lot of noise. Mr. Maxfield said it's brush. Someone said these are the details they need to know. There are a lot of tall trees. Ms. Durso said that's not where they are putting it. Someone asked what kind of cell tower will this look like? A big metal tree or a metal contraption? Ms. Durso said it's the metal contraption to match the one that is already there. It's larger than the one that's there by about 10' taller than the Sprint. Someone said from their standpoint, what effect can they have on anything at this point, in terms of fighting it? She's worried about the health risks. There's a lot of concern. What can they do? Ms. Durso said the municipality according to the FCC can't prohibit it. Attorney Treadwell said they aren't allowed to consider that factor. They are based on the federal law. Mr. Maxfield said even if you were to show up at a meeting and bring that up, it would not be allowed to affect the decision. They are a recommending body and make a recommendation, but Council makes the final decision whether it occurs or not. Attorney Treadwell said we have to go back. Council will make the final decision on what it looks like on this site plan. The use issue is gone. The ZHB made that determination and Council cannot overturn the use aspect of it. The use was approved in June by the ZHB. Someone said we have no recourse. Depreciation from their homes is going to hurt. Attorney Treadwell said you can come to the Council meeting. You are certainly allowed to make whatever statements you want to make. The use issue was resolved in June. Mr. Maxfield said this can't be opposed at all by Council? Attorney Treadwell said no, the use was decided by the ZHB. Someone said how could that have happened? Attorney Treadwell said the applicant followed the procedure that is in place pursuant to the laws requiring the notice and how it gets sent out and where it is posted and when it gets advertised. Ms. Durso said the property was posted. Someone said you clearly have all the answers and all the information no one else had. Mr. Maxfield said the adjoining property neighbors have received letters. Someone said she called many times and they didn't have answers for her. There wasn't a lot of information to be given. This is the most that was heard. Attorney Treadwell said do you know where it's going? Someone said yes, she saw the plans.

Tammy Ferguson said she has a property caddy corner to this. She came the last meeting they had when Metro PCS wanted to extend the cell tower on the existing cell tower on Hickory Hill Road, along I-78. She was the only one from the community who came and went on public record. She said for a variance you need to prove a hardship. Tell her what the hardship is that people absolutely need this cell phone coverage here from this particular provider. Mr. Landis said there is a federal law. Ms. Durso said there's a federal mandate as they license the carriers and the carriers pay money for the licenses. There's now legislation in PA that allows it and makes it easier for carriers to co-locate and attach the antennas to various structures. Mr. Kologie said even if we agree with you about a hardship, that's not for us to determine or have an opinion on. Ms. Ferguson said that was an existing structure. This is a brand new structure. Mr. Kologie said we can't do anything to change the ZHB decision. Ms. Ferguson said she went on public record there and she saw a slippery slope. It's going to open the door for anyone else who wants to come in, whether it's residential or not, be granted the ability to do it. This is what happened. Mr. Landis said there are requirements on close towers can be together. We have an ordinance. Attorney Treadwell said that was a relief they got. Each individual variance is specific to itself. Ms. Ferguson said in essence you are putting up the vacancy sign for anybody else that wants to put up a structure similar to this on that mountain. You've opened the door by doing this. This is the second siltation we are talking about. You talked about the woodland area, and then you said it's not woodland, it's brush. It is brush. The woodland area is a setback where you are proposing to put this by several feet, at least 30' in either direction. You are aware as a result of last year's snowstorm, PPL has said they are going to claim more land and we're going to extend their right-of-way. They've come through and cut a lot of trees in that wooded area that is there. They have

also come back a second time and marked a lot more trees to be cut down. It is not wooded and over the course of time it will be less and less. You talked about the 6' bushes and staggering them, they are going to be 28 of them, now you are doubling the row. Are there more going to be put in or are we limited to the 28? If you go out and look at the property that substation, there are arborvitaes there. They are chewed by the deer. No matter how many years they are there, they aren't going to close the gap. There will always be a visibility factor there. It's not wooded, and they will see it every single day and the arborvitaes are not going to cover it. They will see it very plainly. Mr. Maxfield said it would be interesting to look at it and see how many trees have been cut and have been tagged? Ms. Ferguson said they mow down whatever is in the way. Mr. Kologie said there will be more than 28. Ms. Ferguson said what about the deer? Mr. Kologie said that's something that happens. Ms. Ferguson said they are out there eating them. Mr. Maxfield said it should be based on current conditions and we need to know that. Ms. Ferguson said do we have recourse if the Zoning people did not do their homework and go out and visit the site? Attorney Treadwell said based on experience, very rarely does the ZHB venture out to look at any site. Ms. Ferguson said she was a Chairman of a ZHB and she did. Attorney Treadwell said very rarely where he's ever seen the ZHB as a whole board go out. Ms. Ferguson said each of them would go out and look at the site. Attorney Treadwell said he doesn't know if the ZHB did that or not. Ms. Ferguson said do they have recourse? Attorney Treadwell said no, he doesn't think so. They are not required to go out. That maybe your opinion but the ZHB did what it did. Mr. Maxfield said that's a lawsuit basically. Ms. Durso said the ZHB did not have that aerial. They had a zoning and we had the impact analysis and the photos were taken recently for the visual impact. Mr. Maxfield said we still need to insure that there is a landscaping wall there. Ms. Ferguson said it has to be set back 200' from the property line. Mr. Maxfield said it's basic ally 1-1/2 times the size of the tower. It's from the tower itself. Ms. Ferguson said we are trying to cover up the fencing, the building, trucks. Mr. Maxfield said the setback is more of a safety issue than a visual. The landscaping and buffers is the visual issue. Ms. Ferguson said go look at the substation. You have sticks up to here with a nice topiary top on it. Mr. Maxfield said he did go out and look at it. Mr. Kologie asked if there was any other landscape that could be used? Ms. Mallo said she and Chris were discussing a wooden fence rather than the chain link fence. Mr. Kologie said maybe a wooden fence would work. Ms. Durso said you can put the slats. The wooden fences are hard to maintain. Ms. Ferguson said there are vinyl fences. They don't want to see any type of structure back there. It is not wooded. You're building a building in what you claim is woods and is really brush and they get to look at it. Mr. Maxfield said the only way to guarantee that you aren't going to move next to something like that is to buy the property next to y you. There's always some sort of legal recourse of somebody to use a piece of property. You would have assumed this too. Ms. Durso said PPL is in the business of doing wireless sites throughout the commonwealth. They have their own sub company. PECO does the same thing. All the utility companies, they have a market and that's what they do. Ms. Ferguson said was this the best place to put it? We're not talking \$100,000.00 homes here. You're impacting the entire neighborhood, over 80 homes and the value of those homes. As it is now, she has come to the people of the Township and neighborhood and said the sound on I-78 is getting ridiculous. It's having a impact on the quality of life, on the value of our homes, now we're dealing with this has well. Mr. Landis said this is a done deal. This Commission is looking at the landscaping. Ms. Ferguson said let's talk about security risks. You talked about taking the barbed wire off the top of the fencing that it's not allowed. Obviously that standard is there that there's a concern of trespassing and vandalism as it was put there to begin with. Now there's another issue coming in, a safety issue. Ms. Durso said they don't always put the barbed wire at their sites. It's something they do if they can. She was just talking to Jim and he said they could probably do something like a PVC if that's something you would rather see. Mr. Maxfield said we are limited in height to 6'. Mr. Garges said the ordinance has a leeway for fences to secure towers. Ms. Durso said you would rather see an 8'. Mr. Maxfield said there's a choice, either we have total blockage up to 8' or can we lose the 15' height and have arborvitae grow 15' with 5' of open space. Which is more acceptable? Mr. Kologie said the more effective screen would be the fence. Ms. Ferguson said after 5' the deer can't reach that high. The fence was proposed anyway. You are just talking about changing the material of the fence. Can't we continue to just put those trees in there? Mr. Maxfield said if we

were to continue to go to a single row of trees and a fence. You stagger them and the fence will be blocking that whole section so a single row of trees and a 8' fence would be about the ultimate that we could do that we would be able to ask the applicant to do. Ms. Durso said they could do the 8' high brown tan PVC with the 20 trees. Ms. Ferguson said back to the security, we don't have the barbed wire, but you mentioned a padlock has to go on to keep people out. Obviously the police had some concern that the padlock be put on. Mr. Garges said it's the exact opposite. The Knox box pads are put on so the police could get in if they have to. If there's a 9-1-1 call and a fire at that facility, if they had their own locks on it, the police or fire company couldn't do a thing to get in until one of their representatives came in. The Knox pad is a county-wide system that would allow the fire company or police to get in there immediately if they needed to. That's what that discussion was about. Ms. Ferguson is this area going to be regularly controlled? Ms. Durso said the facilities are monitored remotely 24 hours and there are alarms in there that alarm the system. Mr. Maxfield said when they talked about the motion-censored base for the Metro one, that's why the light can be on and then it goes off. It's on the base and is motion sensitive. Mr. Miller said what they have done in the past is have it on a timer. Does it need to be motion censored? Ms. Durso said they can do it as a timer or when they get there they can turn the switch on. Mr. Miller said a dial timer. Mr. Maxfield said we don't want a light that goes on every time the sun goes down. Ms. Durso said they can do that, the guy turns it on when he shows up. It's so they can see the door so they can get in. Ms. Ferguson asked what the timeline was for all of this? Mr. Landis said we make a decision tonight which is a recommendation to Council. Then it goes to Council for the second meeting in December. Ms. Durso said it will be 2013. Ms. Ferguson said someone said it was really difficult to get back to the site. They have seen a huge increase in traffic, trucks going back to the PPL substation. Not only does traffic come in and out of there, they are parking there for extended periods of time, on the outside of their fenced in area. They get the luxury of seeing trucks every once in awhile. Her concern at that time was what's the frequency of traffic and park any type of equipment there? Ms. Durso said once the site is constructed, maintenance is roughly once a month. The other trucks that are there are probably PPL trucks and they have a right to be back there whenever they need to be. Sprint has the same type of maintenance, once a month. Mr. Kologie said the arrangement with PPL is a lease. Ms. Durso said yes. Mr. Rogers said they aren't going to be parking trucks there. It's not even once a month. Sometimes it's once every six to eight weeks. Everything is monitored remotely. They have parking within their compound and would have a Verizon logo on their truck. Ms. Ferguson said is this as well as the lighting situation a condition that can be added to the variance? Attorney Treadwell said the ZHB is over, but we will make it a condition of the site plan. Ms. Ferguson said another thing mentioned was erosion. She has a real concern about that. Anytime there's land pushed around there, there's a shift in how the water comes down the mountain and through their properties. She just spent a sizeable amount of money for sub pumps and drainage situations in her yard. There's a diagonal stream that comes from the substation area, southeast, across the Smith's yard, down into her yard and it sat and go into her sump pump and she paid electricity to have that thing constantly running anytime rain came and then pump it down her driveway. This will always be an issue for them. Mr. Maxfield said that's something their engineer has looked at already. Mr. Miller said they are tasked with preventing erosion on their property and from leaving their property or at least minimizing it. They've commented on it and try and hold them to a higher standard than is absolutely necessary. Hopefully it will prevent any significant impacts. Ms. Ferguson said she's heard hopefully and somewhat, if something happens where the situation becomes worse or there is water flowing visibly across the yards, who do we go to? Mr. Miller said you can address it on your property. Ms. Ferguson said spend more money? Mr. Miller said that is an option. Ms. Ferguson said not really, she's done with that. She's already done that once for thousands of dollars. Attorney Treadwell said are you talking about after the construction is done, a permanent type thing? You have a cause of action against whoever is sending the water towards your property, it's trespass. The water is trespassing on your property. Ms. Ferguson said she would have to take someone to court to get it remediated. Attorney Treadwell said yes. Ms. Ferguson said why would you impose that upon us. Ms. Durso said they are meeting the requirements of the ordinance. Mr. Maxfield said they are attempting to do that and cannot impose that on you. Ms. Ferguson said there is no way ahead of time you can assure this won't be an issue. Attorney

Treadwell said no, there's no guarantee, never a guarantee. Ms. Ferguson said if something that happens and causes the residents a hardship, they have to put out money to remediate or ask for money. Attorney Treadwell said if it's a violation from some type of a plan condition, the Township also helps to enforce of that. Ms. Duro said they are only proposing a little over 2,000 square feet. It's gravel. Mr. Miller said more funs off of that than grass, but it's a lot more if it was pavement. Ms. Ferguson said right now there isn't gravel there. You are putting gravel there and increasing the amount of runoff. Mr. Miller said he's with you so far. Ms. Ferguson said it already comes into their yards, why is that something they have to deal with? Mr. Miller said because the ordinance and as time has gone on, the thresholds for regulation have gotten tighter and tighter and this is so little that it's still less than the threshold regulations. Ms. Ferguson said you have this knowledge just like you had visual impact and you debated whether it was brush or wooded, you know have this knowledge that there's a runoff issue and that's their problem. Ms. Durso said there's not knowledge that there's a runoff issue. They are required to meet the ordinance requirements because they are adding for whatever relates to the 2,000 square feet of gravel area. Ms. Ferguson said she understands you are meeting the requirements, but there is already a problem with the land and you are going to make it worse, who do they go to, and it's not coming out of her pocket. Mr. Miller said we cannot require them to do more. They could choose to be good neighbors. Ms. Durso said there's nothing more they could do. Mr. Miller said he's not sure that's a true statement. They could always do what HEA would require them to do. Ms. Durso said they are not doing anymore. Someone said creating 2,000 square feet of more impervious area will create more runoff than what's happening now and there are things you can do but aren't required to do it by the ordinance. We can't require you to do it. Mr. Garges said we could make this argument all the way down the line. Mr. Kologie said there's people who come in and put 15,000 square feet patios in time and time again and then all their neighbors experience runoff. We have the regulations in place and the thresholds, by requiring a smaller threshold is really a burden on the individual property owner, the resident who wants to do that for the shed or what have you, and then all of a sudden the shed turns into a \$3,000.00 project. It's a tough balancing act. Mr. Garges said as of right now you have up to 2,500 square feet of new impervious coverage from 2007 on. Ms. Ferguson said what's the bottom line after all of that? Mr. Garges said they are proposing 2,00 square feet of new coverage. Ms. Ferguson said her question was, what do they do? If this is a property for their property value, it's a problem they would have to remediate. Mr. Landis said it meets the ordinance and we're talking about 2,000 square feet. Mr. Maxfield said LST's stormwater ordinances are tougher than most municipalities. Ms. Ferguson said come to her yard and you can see where the water is running. Mr. Maxfield said they are tougher than most of the surrounding municipalities to our township. There are still storm waters that still occur like our Engineer told us, we are not lacking water in this Township. There's water everywhere. Along with those ordinances being tough, they are doing everything they can legally do to make this a no impact situation. Ms. Ferguson said she's looking for a good neighbor who's coming in here and profiting off this tower that we're all going to have to live with and see every day, if there's an issue that comes up they will remediate it. Mr. Maxfield said they can't even make that promise. Ms. Duro said no. Mr. Maxfield said they are legally bound and can't do those kind of things for them. Ms. Ferguson said this is a hardship that the Council is now, if they approve it, putting on us. We know as we lived there. It's going to increase. Mr. Landis said you don't know that. Ms. Ferguson said we do know. Ms. Durso said that's existing. Ms. Ferguson said it's going to be increasing, and greater because of the surface. Mr. Landis said the ordinance says if it's less than 2,500 square feet. Ms. Ferguson said she heard that and as a good neighbor coming in here and making money off of this land, she's like some assurances that if this become a problem, she's not going to have to pay money to get it resolved. Mr. Maxfield said we can't make that promise. Ms. Durso said she can't make that representation. Attorney Treadwell said there's no guarantee and the Township can't give you that assurance. Ms. Ferguson said the Township is basically putting us out there...Attorney Treadwell interrupted and said no, the Township is following their ordinances. We don't know it's a hardship on you yet. Ms. Ferguson said it's there. Attorney Treadwell said it's there now, you don't know it's going to become worse. Ms. Ferguson said we just talked about the fact that the surface isn't going to allow for drainage. Attorney Treadwell said it does not mean it's going to go onto her property. Ms. Ferguson said come and look at it, where

else would it go. It's a point she wants addressed. Attorney Treadwell said he's addressed as best as he can. The ordinances are what the ordinances are and they are enforcing the ordinances. Ms. Ferguson said you are putting them in as situation by them coming in is going to cost them money. Mr. Landis said you don't know that, you can't predict the future. We are following the Township's ordinances. If there is a situation that occurs, you do have some legal recourse. If it occurs and we are talking about going from basically brush to gravel, it's not like paving. How much actual water comes down depends on how much it's raining. If it is under 2,500 square feet, it's negligible as far as our ordinance says. We're not going to do anything. If it's over that, we will require things. We can't require anything if it's under 2,500 square feet. This is 2,000 square feet and the impervious is gravel. Ms. Ferguson said they've agreed to a brown vinyl fencing 8' high, 20 shrubs that are minimum 6' high when they put them in, 5' on center spacing that hopefully will grow and fill in. What color is the tower? Ms. Durso said it's galvanized steel silver. There is no debate on the color of the tower, it's going to be the color like the poles are out there. Ms. Ferguson said why? Ms. Durso said because that's what they are proposing and that's what it's going to be. Ms. Ferguson said why can't we have it green or brown to blend in? Ms. Durso said it's going to be silver. We are not proposing any other color. The more you try to color it, the more you drive attention to it. It's going to be the same silvery color that's out there. There will be no lights on the top. Mr. Landis said we can't determine the color so we aren't even going to go there. Ms. Ferguson said they get to determine the color of the tower, period. Ms. Durso said yes. Mr. Maxfield said it's the industry standard. That's what the color of the towers come in. Ms. Ferguson said every other tower we have seen Christmas tree looking or cactus looking, they are not willing to go there. Ms. Durso said no, they are not going there. They are building a galvanized silver tower which they feel is the best suited. She doesn't have to explain why. That's what the industry standards require. That's what is being built here. Attorney Treadwell said it's like asking someone why they painted their house yellow because that's the color they want it painted. We don't have an ordinance that regulates the color of the tower. Ms. Ferguson said why would you allow something so intrusive in an area that of residential. Even the telephone poles are brown. Ms. Durso said there's 20 some PPL poles and there's the Sprint one. Mr. Rogers said the reason they chose the galvanized steel as there was never any question as everything else is galvanized steel out there. There are 20 poles on this property. That's why the decision was made that way. Mr. Landis said it's up to the applicant what color they want. We don't have an ordinance saying we have anything to do with the color. Attorney Treadwell said just for the P/C's information, the letters were sent to 22 different property owners, 12 of them lived on Woodfield Drive, the rest were on either East Rader's Lane or Hickory Hill Road. Ms. Ferguson said when the posting was made, was it made at the site where the tower is going to be or out on the road? Ms. Durso said slightly in off the road at the entrance. She showed a picture of it. It was in enough and the Zoning Officer has to verify it. Ms. Ferguson said there's requirements how apart cell towers have to be. Mr. Landis said there's a federal requirement. Attorney Treadwell said there's a requirement in the zoning ordinance that talks about distance between towers. Mr. Landis said they got relief from a variance.

Ms. Mallo said the Verizon tower, one of the things they made in their testimony before the ZHB was that this tower is capable of holding additional antenna. Other carriers will co-locate prior to the construction of any other towers. They can add antennas at the structure of the base. Ms. Durso said they are required by the ordinance to make sure the pole is designed for co-location. Mr. Landis said if there is a tower, then the cell phone companies have to allow each other to put an antenna on them. Ms. Ferguson said the structure beneath it can be added on to it. Ms. Durso said they would need their own structure at the base. Ms. Ferguson said we'll have a little city down there eventually. Ms. Mallo said the separation between two towers is equal to or greater than the height of the two towers. Mr. Landis said he was talking about when you have a cell tower, you can't have another cell tower a quarter of a mile away. Ms. Durso said you have to examine co-locating on an existing structure within a quarter of a mile radius. You have to discount all those before you build a tower. Ms. Ferguson said if this can allow for expansion for building on the bottom, how big is this going to get? Ms. Durso said the pole height is not expanding. It depends on the carrier and they would have to get the necessary permits from the

**Planning Commission Meeting  
November 29, 2012**

Township. Every carrier is different. It could be a little cabinet or a larger shelter. Mr. Maxfield said we've had some co-locations where they put their facilities within the existing compounds at the base. It's usually like that. Mr. Landis said it has to come before the P/C. Ms. Ferguson said this came before you this evening and look at the things that weren't addressed. Mr. Maxfield said most of the things you addressed tonight should have been addressed at the ZHB. Ms. Durso said they were discussed at the ZHB. Mr. Maxfield said there's a lot of things we can't do anything about. Ms. Ferguson said if someone wants to expand, they have to go through the same process and have to go to zoning. Attorney Treadwell said the tower stays there. The PA legislature recently passed a law that encourages and promotes and requires that the Township have an expeditious process for co-locations, which means that it may not be the exact same process. They can put the antennas on the pole with a permit. Mr. Landis said if they were to add anything on the structure. Attorney Treadwell said we would see what they were going to do on the ground. It's new legislation. He doesn't know how it will work in terms of a site plan, no site plan. It actually says no site plan for a co-location. Ms. Durso said it's supposed to be as long as you are not increasing the height and going more than 25' above the existing structure, it should be permit only. Her it's going to depend if you are going on this compound. Attorney Treadwell said here, there's also that imperious coverage issue that will throw a little bit of a wrench in it. Ms. Ferguson said is there any other access than that access road, any other right-of-way into that? Ms. Durso said no. Ms. Ferguson said so she won't see Verizon trucks driving through her backyard as she sees PPL doing? Ms. Durso said no, and she doesn't know what PPL does. She's sure they are going to wherever their right-of-way is, but they are only allowed on the access drive off of Hickory Hill back to the site. Ms. Ferguson said she would appeal to Council the permitting powers and just realize this is a sensitive issue. It's not a personal thing. It's a thing of property values at stake and all of us agree it was not looked at in the best interest of the residents who are the taxpayers when it was granted as a variance. She can't even believe that it was approved. IN the future, this will expand and she would hope there is a lot at stake for them and they would appreciate you acting in their best interests.

Mr. Maxfield said they agreed on an 8' high fence, brown PVC, tree coverage of a single line of trees to be projected 15' of height, light notation changed on the plan, and the two letters and the Knox padlock. Mr. Landis said we do have the thing on scale, 9a and 11.

The motion was as follows:

- MOTION BY:** Mr. Kennedy move to approve the Site Plan with the following conditions:
- Waiver/modification from Site Plan requirement ZO 180-102.C(2)a., which requires a scale of no less than 1"=50'. A scale of 1"=80' is provided.
  - A waiver from SLDO 145-52.C. which requires one tree to be provided for each 500 square feet of impervious coverage.
  - Compliance with the November 19<sup>th</sup>, 2012 Boucher and James letter
  - Compliance with the November 26<sup>th</sup>, 2012 Hanover Engineering letter
  - Buffer plantings as shown on the plans to be supplemented with an 8' high brown PVC fence.
  - Lighting shall be changed from photocell to a switch (on-off) and is to be shielded.
  - Knox Padlock to be installed on the gate
- SECOND BY:** Mr. Kologie
- ROLL CALL:** 4-0 (Absent: John Lychak, John Noble, and Sandy Yerger)

**IV. MISCELLANEOUS BUSINESS ITEMS**

**A. APPROVAL OF MINUTES – SEPTEMBER 27, 2012**

Mr. Kologie said there's some notations in there that about not being able to get the wording. Attorney Treadwell said it has to. The tape just is inaudible. You cannot tell. What the staff did

**Planning Commission Meeting  
November 29, 2012**

was to summarize the best we could. It's not verbatim. We understand it's not word for word, but it's the best. When the transcriptionist, it's very hard to know when she's listening which voice is voice is which.

**MOTION BY:** Mr. Kologie moved for approval of the September 27, 2012 minutes.  
**SECOND BY:** Mr. Maxfield  
**ROLL CALL:** 4-0 (Absent: John Lychak, John Noble, and Sandy Yerger)

**V. PUBLIC COMMENT/CITIZEN NON-AGENDA ITEMS**

- Denise Smith said she lives in the Woodfield's. She does acknowledge that she got some letter around May 10<sup>th</sup> or 15<sup>th</sup> that said there was going to be a request and the name of Verizon was on it. She considers herself a pretty smart person, but she didn't understand it and it seemed vague to her. Frankly, it is a letter that arrived on fairly short notice and was something they could not attend. One thing that caught her attention tonight was that it was commented there was an appeal process after that meeting where the variance was approved. She does acknowledge getting a letter, but if there was communication to the residents within so many feet, would we not also get some notification that there was an approval that directly impacted them and that there was an appeal process? Attorney Treadwell said no, that's not part of the ordinance nor part of the municipalities planning code. The planning code and Township ordinance requires that people be notified of the hearing, not of the results of the hearing. Ms. Smith said she thinks we are all reasonable people but that is a fault of the government process. If there is a need for residents to be going to directly impacted, and there is an appeal process they should be made aware of that. She had spoken to Kate Durso a couple of months ago, and no doubt she did everything right in terms of following the zoning ordinances and all those kinds of things and can stand behind that, and one thing is she feels that is it incumbent upon them as citizens and every one of you as our municipal leaders to make sure we are looking at a situation not just one particular things, but quality of life for our residents here. The reason there was some sensitivity in the room tonight, and that was just a small percentage, she would ask that you keep them in mind for future things as it concerns her to hear we are opening the floodgates for the paring. With our situation in the Woodsfield's and any other community that's right on top of Route 78, our homes are close to that and anyone of you could say, well, the road was there when you bought your home, and you could say that, but if you look at the twelve year history in the Township since they bought those homes, that since that time, Route 33 was opened and it very much achieved its goal of dumping a lot of more traffic onto I-78, so while the decibel studies at that time did not allow for the building of a wall behind their particular community, they know as residents and anybody who's been through there, the decibels are significantly higher than they used to be. They now have casino gaming and Route 412 is the primary interchange. Where do all those busses come from. Additionally, this is one of the things that concerned her, as it relates to this tower, it is a heavily wooded area. At one point she would agree this was true when they bought their home, that was a true statement, but because of what has happened since the storm of last October and then the storm this October 29<sup>th</sup>, it's absolutely true that PPL has been under significant pressure and we got the transmission line vegetation information from them. They have behind us twice before and knocked down significant amounts of trees. What was truly tolerable in the past is not tolerable anymore. We like our cell phones as much as you do and we know things have to move ahead, but what has happened is this neighborhood has been impacted through the growth that has happened and this is just one more thing. There were health concerns and radiation exposures and things like that, and she can't even begin to argue that in an intelligent matter as someone could counter point her all night. She can't say whether the runoff is going to be an issue. Can we prove that? No, she never had water in her basement, but if she has water in her basement a year from now, that's going to be a concern and it will fall back on them. Their home values are being impacted. There are homes on her street that are not selling and the reason is because of the noise and people know what's going to be happening now. It is impacting them. She asks that you take this into consideration. They are very happy taxpayers or were. Things like this make it difficult for people like them. It's important for you to know that. The one thing she'd specifically like to comment on is the tower

itself. Ms. Durso said there would be no lighting on the pole at all and then it would be a completely dark structure at night. Ms. Durso said yes. Ms. Smith said she doesn't know she heard that. There was down lighting. Will they be able to see and their homes are right there, the light on it at night? Ms. Durso said no, the question that was asked first was would the pole be lit, and she said no. Then they asked about whether the shelter base was going to be lit and that will have a light on it for the person going to the property can see if they are there at night. It would be such that when the person comes to the site, they can turn on a switch and put the light on. Typically they are there during the daytime unless there is an emergency. For example, Hurricane Sandy, and they have to bring someone there in the middle of the night, that's what they have to do. Ms. Smith said they can all understand situations like that. Ms. Durso said a small light on the door. Ms. Smith said they just want to make sure it will change as she doesn't want to get in a situation where they have problems and they say it's not in the ordinance and too bad, there's a loophole there. Mr. Maxfield said those are all conditions of their recommendations. If it gets approved by Council, they will also be conditions of the approval which means they must be adhered to. Ms. Smith said one of the first things she heard tonight was the ordinance before this was approved was that there were no towers in this district at that height. She would think that was for a very good reason. It sounds as the horse is out of the barn and this is too late. Were there other sites that were considered for this? Ms. Durso said this was the primary site and they sent it to the ZHB. The ZHB decision was conditioned upon the pole not being lit. That's a written condition so there's no possibility it can be lit. Mr. Maxfield said which will also limit it as far as it can be extended in height because the FAA requires a light on a pole when it gets to a certain height. If we say no lights at all, it's stuck at that height. Ms. Smith said she knows we were all a small number of voices here tonight, but she can say her voice is representing many people in her community, so please take this into consideration as it's really impacting them. Mr. Maxfield said this might be for anything future, our website is a great source of information. If you get a letter, you can keep up with what's going on with the ZHB through our website. There are all sorts of information on there. You can call our staff whenever you want. You can basically find out what you need to find out at the Township. Once you get that letter, you have to make that effort. It's citizen participation. Ms. Smith said she agrees with that, they have to be active citizens. She would ask you to consider a follow-up because had she been given an opportunity to know it passed, the initial letter didn't say enough as it said Hickory Hill Road, which if you ask anyone in our Township, we say "oh, it's out there". We wouldn't have thought what seems behind her property on Woodfield Drive and that seems deceiving. Ms. Durso said that's the address. Ms. Smith said any reasonable person would have known that. Mr. Landis said we did send letters. Mr. Maxfield said Council will read these minutes and hear your concerns about the follow up.

- Mr. Mark Smith said he doesn't know how many guys are landscapers or know anything about trees. Arborvitae are deer caviar. They will not stand up. There are deer going through there all the time. The tree guys that are dumping chips back there from the cleanups, they are chasing doe out there. If you go look at the enclosure by the PPL substation, there is no block. Deer eat arborvitae. They are a very inexpensive fix and there are other fixes for that out there. There's a simple book you can pick up "Gardening in Deer Country" and it will tell you what they eat. Evergreen holly would be a much better block. It would get nice and tall and stay green. There are native plants that would do the job more efficiently.

## **VI. ADJOURNMENT**

**MOTION BY:** Mr. Kennedy moved for adjournment. The time was 8:45 pm.  
**SECOND BY:** Mr. Kologie  
**ROLL CALL:** 4-0 (Absent: John Lychak, John Noble, and Sandy Yerger)

Submitted by:

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Mr. John Landis, Chair