

**HILLTOWN TOWNSHIP BOARD OF SUPERVISORS
ADVERTISED CONDITIONAL USE HEARING
FOR METRO PCS PENNSYLVANIA, LLC
Monday, October 27, 2008
8:00PM**

The advertised Conditional Use Hearing before the Hilltown Township Board of Supervisors for Metro PCS Pennsylvania, LLC was called to order by Chairman Richard J. Manfredi at 8:00PM.

Also present: John B. McIlhinney, Vice-Chairman
 Barbara A. Salvadore, Secretary/Treasurer
 Christopher S. Christman, Township Manager
 Bill E. Wert, Asst.Mgr./Dir. of Parks, Recreation & Open Space
 Francis X. Grabowski, Township Solicitor
 Lynda S. Seimes, Admin. Asst. to Township Manager

The applicant, Metro PCS Pennsylvania, LLC, has requested conditional use approval to establish a proposed F-6 use upon a property owned by Michael D. Hatter and Ida J. Hatter, identified as TMP #15-034-033 located on Broad Street. AT&T owns the existing tower; and said tower has a height of 199 ft. 7 inches above existing grade. The tower contains cellular telecommunication antennas of AT&T Wireless (formerly Cingular Telecommunications).

Solicitor Grabowski advised that the Conditional Use Hearing was advertised in the Doylestown Intelligencer, and the Proof of Publication of said hearing is on file at the Township Office. The Board accepted an Affidavit of the Hilltown Zoning Officer indicating the appropriate posting of a Notice of Pending Conditional Use Hearing upon the property on October 16, 2008. The Board also accepted the Affidavit of Darlene Hunsberger indicating that she mailed a copy of the Legal Notice to all individuals listed by the applicant as being adjacent property owners within 500 feet of the site. Also accepted into the Record was a copy of the August 18, 2008 review letter of Township Engineer, C. Robert Wynn, as well as the applicant's application, site plan, property owner list, letter of authorization and offered Exhibits A-1 through A-10. It was noted that no visitors to the Public Hearing requested party status.

A. **PRESENTATION:** Pursuant to the Pennsylvania Municipalities Planning Code and the pertinent sections of the Hilltown Zoning Ordinance, the Board of Supervisors requested an Offer of Proof from the applicant's legal counsel, Mr. Eric Goldberg, as to the testimony that would be presented if the witnesses were to testify directly. Witnesses in attendance included Mr. Bill Blessing and Mr. Len Etskovitz, who were sworn in by Court Stenographer, Ms. Gail McCarthy. Both witnesses testified that the information presented in exhibit form and the information presented by the Offer of Proof by Attorney Goldberg was accurate and presented what would have been their individual testimony if so given to the Board.

B. EXHIBITS: the applicant entered Multiple Exhibits into the record as follows:

- A-1 – Copy of the Site License Agreement
- A-2 – Copy of Conditional Use Application
- A-3 – Copy of Metro PCS FCC License
- A-4 – RF Plot entitled PH0535 - Metro PCS site number for site
- A-5 – RF Plot entitled PH0535A – Coverage only
- A-6 – RF Plot entitled PH0535A – Surrounding coverage
- A-7 –RF Plot entitled – Surrounding coverage including PHO535A
- A-8 – Report from Kenneth R. Foster dated September 15, 2008
- A-9 – Revised set of drawings dated October 27, 2008
- A-10 –Structural Report dated October 27, 2008

C. REQUEST PRESENTATION: The tower is currently owned by AT&T with existing cellular communication antennas attached at 195 ft. above grade level and now owned by AT&T Wireless (formerly said antennas were approved for use by Cingular Telecommunications). The applicant proposes to attach its 6 antennas at a height of 170 ft. upon the tower from grade level. The telecommunications equipment would be located at the site of the existing tower. The above listed Exhibits provide Proof of Ownership, Assignment of Lease, Structural Analysis Report, Federal Communications Commission Compliance Report, and documents and mapping providing information on propagation coverage.

Mr. Goldberg advised that Metro PCS is a low cost alternative wireless telecommunications carrier, which recently launched service in the Philadelphia area this past summer. The site for this proposal is located near the intersection of Callowhill Road and Broad Street. The purpose of the proposal is to address a significant gap in coverage, and Mr. Goldberg stated that the 170 ft. mark is the minimum height required to fill that significant gap. Pursuant to the applicant's FCC license, it is obligated to provide reliable coverage in the Philadelphia suburban area, which includes Hilltown Township. Mr. Goldberg referred to Exhibit A-6, "PH0535A Surrounding Coverage," which shows the coverage without the subject site and Exhibit A-7, "Surrounding Coverage Including PH0535A," comparing the reliable coverage vs. unreliable coverage, and the coverage that would be realized from the addition of the proposed site.

Metro PCS is also seeking approval to place three cabinets on a concrete pad within the existing fenced area. The application proposes to no increase to the fenced area or to the height of the tower. The concrete pad containing the equipment cabinets will not be visible due to the landscaping that currently exists on site. The tower itself is located in the middle of the site, and the site would generate no noise, odor, glare, or pollution, as it is completely unmanned with no traffic, water, or sewer required. A Metro PCS

technician will visit the site on a monthly basis for maintenance purposes, and as such, no additional parking is required.

The Structural Report was submitted today (Exhibit A-10), as such, the Township Engineer has not yet had the opportunity to review it. Mr. Goldberg advised that the Report notes that the maximum capacity of any component is 52.4%, thus the tower can structurally accommodate the proposed equipment.

Solicitor Grabowski commented that the physical address of the site is incorrectly listed as 30 Broad Street, however he feels that is immaterial since the application was completed and the Public Hearing was advertised referencing the correct Bucks County Tax Map Parcel Number.

D. DISCUSSION: Based on use regulations contained in Section 160-23.F(6) of the Zoning Ordinance, Mr. Wynn's review dated August 18, 2008 notes that the Township should verify the following items are accomplished by the applicant prior to the issuance of a building/zoning permit:

1. No information is contained on the site plan relative to existing/proposed buffer plantings around the perimeter of the security fence to screen the equipment shelter area from view. A site inspection by Mr. Wynn's office indicates that the fenced compound is located in an area of the parcel containing existing vegetation, however he recommends that the Board should determine whether evergreen plantings or other suitable buffer material should be proposed to supplement existing vegetation.

Since the Township Engineer has not yet had the opportunity to review the structural report, Chairman Manfredi suggested that any approval should be conditioned upon Mr. Wynn's review of both buffering and the Structural Report. The applicant offered to plant additional huffer should the Township Engineer feel it is necessary.

2. Documentation prepared by a licensed professional engineer in the Commonwealth of Pennsylvania should be submitted to verify that the antennas have been designed to withstand wind gusts of at least 100 mph; and that the existing tower will support the additional loading of antennas proposed to be installed on the structure.

Supervisor McIlhinney sought confirmation that this condition would be accomplished. Mr. Goldberg confirmed that the tower's owner, AT&T, has had the plans sealed verifying the design and strength of the structure.

3. Applicant should submit documentation confirming that the owners of the parcel on which the telecommunications facility is located have granted an easement and/or other approval to the proposed facility owner to access the site for use of the telecommunications facility.
4. If Conditional Use approval is granted, Township should condition approval upon the agreement by the applicant to promptly remove the proposed facilities should they cease to be used for receiving or transferring telecommunication, radio, or other signals.
5. Installation of non-residential structures associated with the telecommunication use, including the equipment shelters proposed within the fenced compound is considered a land development by definition contained in Section 140-6 of the SALDO. If not already accomplished, the applicant should seek land development approval, or a waiver of land development submission requirements from the Township, which should be obtained by the applicant prior to issuance of a building/zoning permit. As proposed development activity associated with telecommunication facility installation at the subject site should not significantly alter the character of the site, or increase traffic on public roadways in the vicinity of the site, Mr. Wynn recommends the Township approve a waiver of land development plan submission, if required by the applicant.
6. Application proposes new equipment platforms within the fenced compound, which involve construction of new impervious surface areas. Applicant should verify compliance with requirements of the Township Stormwater Management Ordinance; or in the alternate, seek an exemption of Stormwater Management Ordinance requirements for installation of additional impervious surface. As the amount of new impervious surface appears minimal, Mr. Wynn would support approval of an exemption of Stormwater Management Ordinance requirements, if requested by the applicant, conditional upon the applicant depositing a fee in-lieu-of stormwater management facilities to the Township Stormwater Management Capital Fund, as adopted by separate Resolution of the Board of Supervisors.
7. Written verification of approval for proposed erosion and sediment control measures to be implemented during construction activity should be received from the Bucks County Conservation District, prior to issuance of a building/zoning permit.

E. CONCLUSIONS OF LAW:

- Applicant's proposed use constitutes an F-6 Utility Use pursuant to the Hilltown Township Zoning Ordinance Section 160-23.F6.
- The proposed use is a use permitted by a Conditional Use request within the Zoning District within which the proposed site is located.
- The proposed use meets the specific conditions for an F6 Utility Use as set forth within the Hilltown Township Zoning Ordinance and the general conditions for a Conditional Use application as further set forth within the said Ordinance.
- The Hilltown Township Board of Supervisors has the right to impose reasonable restrictions and conditions on its approval.

F. DECISION: Motion was made by Supervisor McIlhinney, seconded by Supervisor Salvadore, and carried unanimously to grant approval to the Metro PCS Pennsylvania LLC Conditional Use Application as noted above, with the condition that landscaping be finalized in coordination with and as prescribed by the Township Engineer, and conditioned upon completion of all outstanding items as noted in Mr. Wynn's August 18, 2008 review. There was no public comment.

The Board of Supervisors of Hilltown Township hereby grants the applicant's request for the Conditional Use subject to the following conditions:

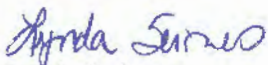
- The six (6) antennas proposed by applicant shall be attached to the existing tower currently owned by AT&T located upon Bucks County Tax Map Parcel No. 15-034-033; and said antennas shall be attached at a height no greater than 170 ft. on said tower.
- In accordance with Section 160-23.F(6)(d){2} of the Hilltown Township Zoning Ordinance, design information associated with proposed equipment building shall be submitted to the Township to verify that the equipment and/or building is at the minimum height necessary to house equipment of the facility.
- In accordance with Section 160.23.F(6)(d){8} of the Hilltown Township Zoning Ordinance, approval is hereby conditioned upon the agreement by the applicant to promptly remove its facility should it cease to use such facilities for receiving a transferring telecommunication signals.
- The proposed improvements have been determined to cause only a "de minimis" increase in stormwater runoff; and as a result, the applicant has offered to pay a

fee of \$750.00 in lieu of stormwater management facilities as established by Hilltown Township Fee Resolution; and said fee shall be paid at the time of application for the appropriate zoning permits and building permits.

- The applicant has requested a waiver of land development. The proposed improvements have been determined to appropriately receive a waiver of land development by the Township; and the applicant has offered a fee in-lieu-of land development in the amount of \$2,500.00 pursuant to the Hilltown Township Fee Resolution; and said fee shall be paid at the time of application for the appropriate zoning and building permits.
- Applicant shall, and has agreed to, provide additional buffer plantings around the perimeter of the security fence in order to further screen the proposed equipment shelter area from view; and said planting requirements shall be under the supervision and approval of the Hilltown Township Engineer who, on behalf of the Township, shall determine whether additional evergreen plantings or other suitable buffer material is needed to supplement existing vegetation upon the site. Additionally, written verification of approval for proposed erosion and sedimentation control measures to be implemented during construction activity from the Bucks County Conservation District should be provided to the Township at the time of application for appropriate zoning and building permits.

G. ADJOURNMENT: Upon motion by Supervisor Salvadore, seconded by Supervisor McIlhinney, and carried unanimously, the advertised Conditional Use Hearing for Metro PCS was adjourned at 8:35PM.

Respectfully submitted,



Lynda Seimes

Administrative Assistant to the Township Manager

(*These minutes were transcribed from notes and recordings, and should not be considered official until approved by the Board of Supervisors at a public meeting).