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**BEFORE THE HILLTOWN TOWNSHIP
BOARD OF SUPERVISORS**

HILLTOWN TOWNSHIP

**APPLICATION OF
SPRINT/NEXTEL**

The applicant, **SPRINT/NEXTEL**, has requested conditional use permission to establish a proposed F-6 use upon property owned by the Philadelphia Electric Company on Bucks County Tax Parcel No. 15-35-63-1 and more particularly identified as being located on Upper Stump Road within Hilltown Township, Bucks County, Pennsylvania; and said proposed use consists of a twelve foot by twenty foot equipment building within an eighteen foot by thirty eight foot fenced compound and a proposed cellular tower having a height not to exceed one hundred forty eight feet to be physically attached to the existing Philadelphia Electric Company transmission tower No. 19-1/5017. The proposed utility use requires conditional use authorization pursuant to the existing Hilltown Township Zoning Ordinance.

The Hilltown Township Board of Supervisors advertised the conditional use hearing pursuant to the requirements of its Zoning Ordinance; and held a hearing at the Hilltown Township Municipal Building on Friday, December 1, 2006. Proof of Publication for the legal advertisement of said hearing is on file at the Hilltown Township administrative office.

Additionally, the Board accepted an Affidavit of the Hilltown Township Zoning Officer indicating that he had appropriately posted a Notice of the pending conditional use hearing upon the property on November 24, 2006. Additionally, the Board accepted the Affidavit of Darlene Hunsberger, indicating that she sent a copy of the Legal Notice to all of the individuals listed by the Applicant as being adjacent property owners. Further, the Board accepted into the record a copy of a November 14, 2006 review letter of the Hilltown Township Engineer, C. Robert Wynn Associates, Inc.; and also accepted into the record an excerpt of the minutes of the Hilltown Township Planning Commission in which the said Planning Commission endorsed the improvement of the conditional use.

DISCUSSION

Pursuant to the Pennsylvania Municipalities Planning Code and the pertinent Sections of the Hilltown Township Zoning Ordinance, the Hilltown Township Board of Supervisors took testimony at a public hearing on the application of **SPRINT/NEXTEL** for the establishment and installation of a proposed F-6 utility use being a modular telecommunications building with a telecommunications tower. Hilltown Township Supervisors present for the hearing included Chairman Jack McIlhinney and Board members Richard J. Manfredi and Barbara Salvadore. Additionally, Francis X. Grabowski, Esquire,

Hilltown Township Solicitor was present. The Applicant was represented by Edward Wild, Esquire; and various representatives of the Applicant were present to provide testimony.

Additionally, several Entries of Appearance were provided in writing; and they included Harley and Kenneth Smith of 120 Middle Road, Perkasio, Pennsylvania 18944; Virgil and Sylvia Miller of 20 Middle Road, Perkasio, Pennsylvania 18944 and Stephen J. Wargo of 1220 Upper Stump Road, Chalfont, Pennsylvania 18914.

At the hearing, multiple exhibits were introduced by the Applicant; and the Board heard extensive testimony from the various representatives of the Applicant as well as the protestants to the matter; and all of the exhibits introduced, including A1-A11 and Board exhibits B1-B6 were made a part of the formal record of this matter.

The Hilltown Township Board of Supervisors (the "Board") has reviewed the various legal cases in the Commonwealth of Pennsylvania; and has determined that a conditional use is one which the governing body has determined to be not adverse in and of itself. Under the Hilltown Township Zoning Ordinance, F-6 utilities are permitted as a conditional use in each zoning district with certain conditions as enunciated. The parcel of property subject to this hearing is currently zoned RR (Rural Residential) under the existing Hilltown Township Zoning Ordinance; and an F-6 utility use is permitted as a conditional use in said district.

The Board is also mindful of the fact that the existence of a conditional use provision in a zoning ordinance indicates generally that the use is consistent with the zoning plan of the Township. We are further of the opinion that we must grant a conditional use where the Applicant has demonstrated compliance with the specific requirements set forth in our Ordinance. The burden is upon those who would protest the use to come forward with substantial evidence that the proposed conditional use, if created, would be detrimental to the health, safety or general welfare of the public. We are of the opinion that this has not occurred in this instance. Aesthetics, general fear and speculation do not constitute substantial evidence to indicate a substantial threat to the community. The applicant in this case has demonstrated compliance with the objective standards of our Ordinance; and has further demonstrated that the proposed use falls within the given category specified within the Ordinance.

Representatives of the Applicant included Roger Johnson of Damiano Long, Inc., a Professional Engineer, who reviewed the location of the proposed use upon the 8.28 acre tract of land owned by the Philadelphia Electric Company; and reviewed plan Z-1 and plan S-1. He testified that the telecommunications building would have the dimensions of twelve feet by twenty feet and is proposed to be approximately eight feet high constructed of pre-stressed concrete. The building would be enclosed within a fenced area of eighteen feet by thirty feet which would also include an emergency generator. Utilities to the use would be provided by underground cable from Upper Stump Road. Brian Eicens, a radio frequency engineer, testified as to the need of the cellular telephone tower by use of exhibit A-11 which identified an area within the Sprint/Nextel network where its cellular signal lacks sufficient strength to permit reliable wireless communications. Mr. Johnson further testified that the

proposed tower would have an actual height of one hundred forty eight feet; and be physically attached to an existing Philadelphia Electric Company transmission tower No. 19-1/5017. Mr. Johnson testified that the maximum height of the antenna shall not be more that twenty five feet above the existing Philadelphia Electric Company transmission tower.

Mr. Johnson, in conjunction with Mr. Timothy Manning, a site representative of Nextel testified that using the Philadelphia Electric Company tower is a compatible non-residential use and meets the general provisions of the Hilltown Township Zoning Ordinance Section 160-23.F6(c)(3) in that the location of the tower and equipment building shall comply with all natural resource protection standards of the Zoning Ordinance applicable chapter; and an evergreen screen will be planted in conformity with the requirements of the Hilltown Township Zoning Ordinance and the requirements of the Hilltown Township Engineer review letter of November 14, 2006; and an eight foot high security fence shall completely surround the tower and equipment building.

Mr. Johnson further testified that the tower shall be designed and constructed and include all applicable standards of the American National Standards Institute; and in conjunction therewith, a structural analysis of the existing transmission tower was provided as completed by Paul J. Ford & Company under date of November 29, 2006 to indicate compliance with the said standards as well as the requirements of the Hilltown Township Zoning Ordinance. Mr. Johnson further testified that the tower and antenna shall be designed to withstand wind gusts of at least 100 miles per hour; and that in all other respects, the proposed conditional use application complies with the requirements of the Hilltown Township Zoning Ordinance.

The Board received testimony from the parties who entered their appearance into the matter. Mr. Smith testified that he believes that his father has a verbal agreement with Philadelphia Electric Company that allows him to farm the subject property; but the Board is mindful that the only written submission provided regarding the ownership and use of the property is Exhibit A-4, a letter of the Philadelphia Electric Company indicating that said Philadelphia Electric Company authorizes Sprint/Nextel to act on its behalf in the matter of filing the conditional use application upon its property. Any rights, verbal or otherwise, claimed in the property by Mr. Smith is a private matter between Mr. Smith and Philadelphia Electric Company; and cannot be viewed as a part of the determination of this proceeding.

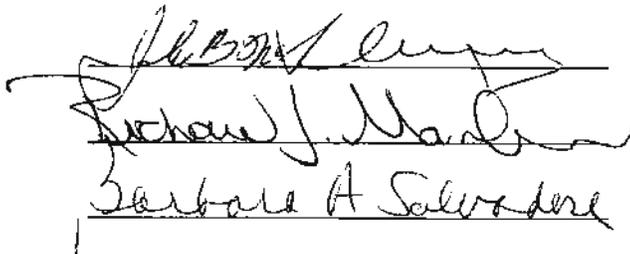
The applicant's representatives agreed that it would comply with all requirements of the Hilltown Township Engineer's November 14, 2006 correspondence; that the design of the cellular tower would provide compliance with the Hilltown Township Zoning Ordinance to withstand wind gusts of at least 100 miles an hour either as a separate installed structure and also in conjunction with its physical attachment with Philadelphia Electric tower No. 19-1/5017 collectively with said design certified by a professional engineer licensed within the Commonwealth of Pennsylvania with said certification provided in writing with attached calculations. The representatives of applicant agreed that said requirement shall also be a requirement for the issuance of any building permit for the proposed use. The

ORDER

AND NOW, this 1st day of December, 2006, the Board of Supervisors of Hilltown Township hereby grants Applicant's request for the conditional use subject to the following conditions:

1. The proposed telecommunications tower shall not exceed the height of one hundred forty eight feet; and, when attached to the existing Philadelphia Electric Company transmission tower No. 19-1/5017, shall be less than twenty five feet higher than said existing Philadelphia Electric Company transmission tower No. 19-1/5017.
2. The telecommunications proposed building shall have dimensions not exceeding twelve feet by twenty feet with a pitched roof compatible with existing residential homes in the RR zoning district in which the proposed use is proposed.
3. Applicant, at the time of submission of an application for a building permit, shall provide a certification of a Pennsylvania licensed professional structural engineer of compliance with the design ability of the proposed telecommunications tower to withstand wind speed of 100 miles per hour or less both as a free standing tower and also in conjunction with its proposed physical attachment to the existing Philadelphia Electric Company tower No. 19-1/5017; and said certification shall include all appropriate calculations used to prove said certification results.
4. The applicant shall comply with all other requirements of the Hilltown Township Zoning Ordinance of 1995, as amended; and shall also comply with all of the requirements of the Hilltown Township Engineer's letter of November 14, 2006 (Exhibit B-6).

HILLTOWN TOWNSHIP
BOARD OF SUPERVISORS


Richard J. Martin
Suzanne A. Salvadore