

New Castle City Planning Commission Meeting  
Minutes  
November 20, 2017 -- 6:30 p.m.  
City of New Castle Town Hall

Members Present: David Baldini, Chair  
Jonathan Justice, Vice Chair  
Brenda Antonio  
Marco Boyce  
Peter Toner  
William Walters

Members Absent: Joseph DiAngelo  
Gail Seitz  
Vera Worthy

Also Present: Christopher J. Rogers, AECOM, City Planner

Mr. Baldini called the meeting to order at 6:32 p.m. Roll call followed. Mr. Baldini declared a quorum is present. Peter Toner was welcomed to the Planning Commission.

**Minutes – A motion was made and seconded to approve the minutes of the 9/25/17 Planning Commission meeting. Motion approved.**

**A motion was made and second to approve the minutes of the 10/23/17 Planning Commission meeting. Motion approved.**

Review of a request by Cellco Partnership d/b/a Verizon Wireless for a special exception, pursuant to New Castle City Code Section 230-25.1, to place telecommunications antenna arrays and infrastructure, screened by stealthing panels, on the existing rooftop of a building owned by Deemer's Landing, LLC, located at 419 W. 9<sup>th</sup> Street, New Castle, Delaware, 129720, New Castle County Tax Parcel No. 21-014.00-500; R-3 zoning –

John E. Tracey of Young Conaway Stargatt Taylor, LLP said the application is a result of a City ordinance adopted in September 2017 that expanded the area where cellular infrastructure could go in City limits. Previously it was limited to the telecommunication district where they already had infrastructure. They are looking for a site to address problems being experienced in the southwest portion of the City. Mr. Tracey informed that the revised ordinance allows opportunities for a special exception where applicants propose to co-locate equipment on existing tall structures. The statute does not give permission for a new tower to be constructed outside the telecommunications district, but does give the right to co-locate equipment on existing structures, which is what the application proposes. Further, Mr. Tracey said the Board of Adjustment special exception process requires a recommendation from the Planning Commission. The applicant must demonstrate a substantial need by showing a gap in existing cellular service and the general standards that apply to all special exceptions showing no adverse impact on the public interest. As part of the application they are required to stealth the infrastructure (screening in front of the antennas). This application is a result of continuing demands on cellular services.

Three reports were provided to Commissioners: RF Engineer Design Report, Emissions Report, and Non-Interference Report.

Andrew Petersohn, P.E., is a radio-frequency design engineer spoke on behalf of Verizon Wireless (Verizon). What is being proposed is more a capacity-driven facility. Using a map of the City and surrounding area provided in the design report, Mr. Petersohn illustrated the specific problem. Verizon currently has four “on-the-air” facilities that act as support structures where Verizon is installed. “On-the-air” is the area of coverage for a specific area. A fifth facility, WIL-TWINCAST, is the proposed facility that will support the on-the-air antennas that cellular devices would be using. Those antennas would be facing to the northwest from the facility being discussed tonight. The “vanilla design” is being proposed for this site. Mr. Petersohn described the vanilla design as having three separate sectors of antennas that point from three different directions from the site; 360 degrees surrounding the site. He said this is the design used on most of the sites, including what is shown on the map. The specific issue in the southwestern portion of the City is coverage is breaking up because the signal is becoming less clear. There is in-building coverage issues created as street density grows and structures cause difficulties with signal penetration. The antennas that point south from the northern facility are already trending at capacity exhaustion and cannot support the demand. Trending tools indicate the northern facility will be exhausted in the near future.

Mr. Petersohn spoke about service improvements resulting from co-location of equipment at 419 West 9<sup>th</sup> Street, Deemer’s Landing. Mr. Tracey noted that before going on line at a new site, they experiment at an existing site to ensure the issue will be addressed. He said that with the addition of the three new sets of antennas they are adding signal strength into previously unreliable service areas.

Noting development along the Route 9 corridor, Mr. Toner asked what plans the applicant has once this tower reaches exhaustion (possibly in two years). He wonders if the applicant would return to the City for another request. Mr. Petersohn said when Verizon has a clear vision that a facility is going to be exhausted in a certain timeframe that they cannot address, they work on a capacity site.

Mr. Toner asked how big the facility will be on top the building. Mr. Tracey informed it is a stealthing panel roughly 11 ft. tall designed to hide the three sets of two antennas. The panels will be painted to match the building’s exterior.

Mr. Tracey referenced two other standard reports prepared by Mr. Petersohn. The Non-Interference Report addresses questions about these types of facilities and radio waves that would interfere with other signals being put out by other cellular networks, etc. Mr. Petersohn said that Verizon is licensed by the FCC to operate in specifically-defined portions of the radio frequency spectrum as are other users of radio waves (ex.-commercial providers, emergency service providers, garage door openers, television broadcasts, home Wi-Fi, etc.). He stated there will be no harmful interference by channel overlap.

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The second report Mr. Tracey spoke about is the Electromagnetic Exposure Analysis. There are requirements under the Federal Telecommunications Act that require the applicant to demonstrate meeting or exceeding the Federal Communications Commission's (FCC) requirement concerning emissions from these facilities. If we satisfy the requirements then emissions cannot be used to deny an application for relief. A thorough analysis of the emissions from each facility is done according to Mr. Petersohn. Verizon has specific guidelines for safety related to these facilities. In this case the antennas will be elevated about 7 ft. above ground level. Electro-magnetic exposure from the equipment around the facility, inside and outside the facility, will be far below FCC exposure limits.

City Planner Chris Rogers, AECOM, summarized the application. All requests for special exception must come before the Planning Commission before going to the Board of Adjustment. The role of the Planning Commission is to make a recommendation with/without conditions or not make a recommendation to the Board of Adjustment. Variances are not addressed by the Planning Commission.

Mr. Baldini noted the application is a two-part application: special exception for the use and variance for the building height. Mr. Tracey said the City's building height limit is 65 ft. and the approved building variance allowed it to go to 67 ft. It is referenced on the site plan. Mr. Tracey said the Board of Adjustment will address any height variance.

Joel C. DeFreytas, Jr., PE, of CMC Engineering is the Civil/Structural Engineer for the project. He described the site plan as being a simple plan with the antennas situated on the north, west and east parts of the roof. (A fourth antenna would face towards the Delaware River/New Jersey and is not being requested.) An equipment shed, including equipment to be used to operate the antennas, will be in the center of the roof. The building will be made of structural steel and is about 15.5 ft. by 22 ft. An emergency generator, sitting on springs to help limit any vibrations, will be on the roof that will turn on remotely every couple of weeks for about 20 minutes. Testing is done during off hours. The three antennas are in an area about 225 sq. ft. and do not emit noise. Mr. Tracey noted the antennas need to "see" other towers they are communicating with, but stealthing panels do not interfere with that capability. They block the view of the antenna from those outside the building. The panels will be painted to match the building color. If a height variance is needed it would only apply to the antennas. Mr. DeFreytas confirmed the building is structurally sound to handle the equipment.

Ms. Antonio asked if the stealthing panels can be placed further back from the front of the building. Mr. Petersohn explained the further back the panels are placed the less effective they become; the gap causes signal interference. Ms. Antonio asked how they measure capacity (customer complaints) to know when a problem exists in a given area. Mr. Petersohn said they do trending analysis on how much capacity load an existing site is handling. They know how much the site can handle based on the equipment and the noise environment. The cleanliness of the signal is important.

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Mr. Baldini asked about the noise level for the emergency generator. Mr. DeFreytas said it meets decibel level requirements in the City Code. Mr. Tracey said the generator is situated on a pad that is designed to handle vibration. Mr. Baldini is concerned with noise for people beneath the unit. Mr. DeFreytas informed the pad is double rolled to take care of vibrations and the noise will be deflected upward. Noting the development activity already approved in the area as well as what is being planned in the area over the next two years, Mr. Baldini asked about capacity planning. Mr. Tracey said these would be perfectly situated for what is coming in the area as well as those traveling through the area.

Mr. Justice asked about the height of the stealthing panels and visibility, the natural gas tank on the plan, and other cellular providers. Mr. DeFreytas said the three panels are roughly 11 ft. tall. The shed is 10 ft. tall and will not be visible from the street. Routine diagnostic checks will occur once per month. There will be a natural gas tank tied into the building's natural gas system. Mr. Justice wondered if other cellular providers want to install a facility how that would affect the visual footprint. Mr. Tracey said by way of their lease Verizon only controls the three 225 sq. ft. areas and the equipment shed. The location is not exclusive to Verizon; however, another provider would need to go through the same process as Verizon.

Mr. Boyce pointed out from an architectural standpoint this is a symmetrical building and the renderings show two panels offset from the center line of symmetry. He asked if there is a way at this time to add panels that are not being utilized now, but continue the façade of the building. He asked if the antennas can be moved to the middle area. Mr. Tracey said moving the antennas from what is proposed would cause issues with radio frequency. Further, Mr. Tracey does not see how they can be moved and make everything symmetrical. The view shed needs to be preserved for the antennas and adding dormant stealthing adds cost and creates additional site lines on the building. Mr. Tracey acknowledged that it can be done structurally. And, the landlord would need to agree with it (not present at meeting). We typically try to avoid adding structures above the permitted height of the building.

Mr. Boyce expressed concern that another provider may follow Cellco asking for the same treatment and there may not be other locations than can make a symmetrical roofline. Mr. Walters feels by adding things to the architecture we will not enhance the architecture. We should leave it in place and consider the next application that may come before us. Mr. Tracey said if there is the ability to move the panel and not the antenna, as long as there are no other conflicts on the roof, the applicant would be willing to explore.

Mr. Bergstrom stated that federal law mandates that we must accommodate the carrier in some manner. This appears to be the best location proposed to date.

Mr. Rogers reviewed his review letter to Mr. Bergstrom dated 11/17/17. City Council amended the zoning ordinance in September 2017 to allow telecommunications equipment to be placed in the City in any district with the exception of the Historic Residential (HR)

and Historic Commercial (HC) areas by special exception under certain conditions. (Ordinance 511 containing those conditions was also provided to commissioners). The 2009 Comprehensive Plan appears to be silent on telecommunications equipment. When the ordinance was amended we did not consider §230-31 that speaks about those facilities that are exempt from height restrictions. Language in this section appears to only allow the

height limitation if it is an accessory use to the building it is on. We are still discussing this with the applicant and City Solicitor to determine if the application will need a variance.

Other issues noted in his letter is making sure the equipment has no adverse impact on human health (electromagnetic emissions report) and assuring the equipment does not interfere with other electromagnetic equipment. Mr. Rogers mentioned the Non-Interference Report provided by the applicant saying that AECOM does not have the expertise needed to comment on the technical need of the facilities as it relates to the application.

Speaking about liability, Ms. Antonio asked how exposure or interference to the public from the equipment would be handled. Mr. Tracey said the Non-Interference Report states if we are made aware of a problem it is our policy to address the problem. Verizon will be the point of contact if there is interference. There are also liability provisions between the landlord and the tenant (applicant) in the event the panels would become detached or there is some other equipment failure. Mr. Tracey added there are very few instances of failure. Mr. Petersohn cannot guarantee there will be no instances of interference; it is a possibility.

No one was present to speak for or against the application.

**Mr. Boyce made a motion to recommend the application as submitted with the condition that the architectural panels be aligned with the architectural components with the façade to be in a symmetrical fashion and they not exceed 12 ft. in height. Mr. Toner seconded the motion.**

Ms. Antonio asked about provisions in the contract protecting the City. She was informed that City Solicitor Dan Losco is aware of the City's need for protection.

**Motion was passed by unanimous vote.**

2019 Comprehensive Plan – Commissioners continue their review of the current plan and should submit comments directly to Debbie Pfeil or Lauren Good of KCI Technologies.

#### Commissioner's Comments

Mr. Boyce – Informed that the Tree Advisory Commission is requesting that City Council reach out to our State legislators to consider lowering the speed limit from 50 mph to 35 mph to be consistent along Route 273 from the City to Hare's Corner. The speed limit was set at 50 mph when the road was considered a rural road. The Tree Advisory Commission wants to plant trees along that road creating a wider green zone.

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Mr. Toner asked if there has been any thought to adding another lane on Route 273. Mr. Boyce has contacted a DelDOT project engineer who said there are no plans to widen the road anytime soon.

Mr. Justice – Revisited zoning maps in the meeting room. Mr. Bergstrom said there have been 10-12 amendments on the zoning map and that it needs to be redrawn. There are zoning issues with some properties and multiple zoning listed on other properties. Mr. Bergstrom will provide the Planning Commission with four properties for consideration when updating the Comprehensive Plan.

Public Comments – None.

The Planning Commission's next meeting is 12/18/17. There being no further business, a motion was made and seconded to adjourn the meeting at 8 p.m.

Debbie Turner  
Stenographer