

**Borough of Watchung
Planning Board Meeting
March 20th, 2012**

Minutes

Salute to the Flag

Chairman Speeney called the meeting to order at 7:35pm. Salute to the flag. The Chair called for a roll call. Present at the call of the roll were:
Speeney (X) Schaefer (X) Haveson (X) Ellis (X) Pennett (X) Boyd (X)
Beck-Clemens (X) Mobus (X) Pote (X) Desnoyers (A) Hartmann(X)

Chairman Speeney indicated there was a quorum to conduct business. The Chair stated that this meeting was being held in compliance with N.J.S.A. 10:4-6 of the open public meetings law and proper notification of this meeting has been made.

Beck-Clemens read :

PB12-01 New Cingular Wireless, PCS, LLC (At&T)

Block 202 Lot 7.01

799 Mountain Boulevard

Amendment to Minor Site Plan

Christopher Quinn, attorney for the applicant came to the microphone. Mr. Quinn works for the firm Day Pitney on behalf of the applicant.

Frank Linnus, board attorney said that before proceeding, there have been some discussions with Mr. Quinn regarding corporate disclosure, and it does appear that there is been good faith in disclosure, however in attempt to disclose ownership, there appears to be layers of ownership of 10% or more, so the disclosure doesn't 100% comply with the statute, and as Mr. Quinn is aware, the board cannot approve an application with an improper disclosure. Having said that Mr. Linnus said that he is satisfied that the disclosure is substantially in compliance with the statute. Mr. Linnus said that should the board make the decision to approve tonight, it would be subject to the applicant providing the additional information to achieve full compliance with the statute, and the approval would be conditional on receiving additional information to comply fully. Mr. Quinn said that the applicant acknowledges that and will be happy to provide the additional information.

Chairman Speeney said that he is a customer of AT&T and asked Mr. Quinn if that was a problem. Mr. Quinn said that no, that has never a problem with an application. Chairman Speeney said that in addition, one of his sons works for

AT&T at Intellectual Properties. Mr. Quinn said that there is enough distance between those two entities and that would not be a problem with the applicant. Mr. Linnus asked the board if anyone else wanted to challenge Mr. Speeney's association or had a conflict of any sort. Chairman Speeney said that he is also retired from AT&T. Mr. Quinn said that technically, if the Chair is receiving a pension from AT&T that would be a conflict, and the Chair said that he is not receiving a pension from AT&T. The Chair said that he has benefits, but no pension from AT&T. Mr. Quinn said that he deferred to counsel. He said that he has no problem with it but it was up to the board's Counsel. Mr. Linnus felt there was no conflict. Mr. Hartmann said that he worked for the parent company of AT&T in the mid nineties until 2000. Chairman Speeney said that he just wanted it on the record that he could be open to hearing the evidence in this application.

Mr. Quinn proceeded by saying that the property in question was located on block 202 lot 7.01 at 799 Mountain Blvd., and that the applicant is seeking an amended approval to locate a telecommunications facility on a First Energy high voltage utility tower. Mr. Quinn said this is the third application to do with this site and gave a history.

Mr. Quinn said that in 2006, the applicant received initial approval to install a facility on the existing transmission tower that is closest to Mountain Blvd. On the southern side of Mountain Blvd. This approval included 12 antennas, and the equipment at the base of the tower enclosed within an equipment shelter. Mr. Quinn said that the applicant also had to come back before the board because there was a new ordinance in place that placed some strict rules which forced the applicant to modify some of the equipment to comply with the noise ordinance. Mr. Quinn said that in 2007 the applicant had to come back before the board to get an amended approval due to the fact that the Board of Public Utilities issued new guidelines as to what landscaping was permitted at the base of a tower and under utility lines. Mr. Quinn said that construction on the shelter had begun and the applicant was in the process of getting final approvals from the landlord, and unfortunately for the applicant, the structural code changed and the structure as it was approved, no longer complied with the code. Antennas were no longer allowed to be placed between the power lines. Due to these changes in what was allowed, First Energy is in the process of constructing a new tower at this property. Mr. Quinn said that this tower is in construction now, and will probably go up within the next week or two. He said that the base is already constructed and that they have all their permits. He said that this new pole that is being constructed is the sort that you see going up in many areas now. Mr. Quinn said that what the applicant is seeking, is permission to put up their antennas on this new pole being constructed. Mr.

Quinn said that the difference in the tower is that this is a pole, rather than a lattice tower, which is what the utility companies are now erecting. Mr. Quinn said that since they can no longer erect the antennas between the power lines, they are placing them at the top of the pole which has a maximum height of 149 feet. Mr. Quinn said that it still complies with the height requirement, but it is a change from what they were previously going to do. Mr. Quinn said that they are seeking amended site plan approval and that there are no variances or relief being sought with this change. Mr. Quinn said that really summed it up. Chairman Speeney asked if the applicant was seeking amended approval from PB06-R15. Mr. Quinn said PB06-R15 was the initial approval in 2006. He said that PB07-R17 only encompassed landscaping changes. The amendment being sought was from PB06-R15. Mr. Quinn said that the amendment was for the antennas and the lines going down into the ground to the equipment. Chairman Speeney asked about the antennas on the next tower to the east. Mr. Quinn said the applicant had nothing to do with that tower. Chairman Speeney asked if the applicant had anything to do with the building of the tower. Mr. Quinn said that no, the utility company was building the tower. Chairman Speeney asked board members if they had any questions of the applicant. Mr. Haveson said that at the site visit, it was noticed that the building was not fenced and asked if that was a requirement. Mr. Quinn said that after the construction was completed, the landscaping and the fencing would be done at the end. Chairman Speeney asked that the site plan visit of 02/25/12 report was read into the record. The report was read by Mrs. Schaefer and showed that there are 10 waivers being sought. It also showed that the pole base was being constructed to the south of the original site. Mr. Quinn said that the new site was a little to the south, and they would submit an "as-built" after the construction to give an accurate site plan. Mayor Mobus asked why the utility company did not come before the Council before placing this pole at this location. Mr. Quinn said that he believed that that only a courtesy review be given to the Mayor and Council for a large scale project. Mayor Mobus said that another tower further down the site which is a lattice tower housed as many antennas as this new tower would, and asked if it was absolutely necessary to erect a monopole at this site. Mr. Quinn said that the utility company would be the best one to talk to about that, but that he believed that under the current code, if T-Mobile came in now to begin that same project, they would not be able to under the current code and structural requirement changes. Mrs. Beck-Clemens asked who is responsible for the maintenance of the facility once it is complete. Mr. Quinn said that they are responsible for any conditions of their prior approvals with respect to their equipment. Mr. Quinn said that with regard to the sound ordinance requirements and the landscaping requirements they

certainly have to comply with those approvals. He said that with regard to the property maintenance issue, those issues are governed through the zoning office.

Mr. Quinn introduced Frank Pazden, employed with Dewberry at 600 Parsippany Road, Parsippany, New Jersey, a civil engineer with 14 years experience in civil engineering and had been before this board before. He is a telecommunications expert and civil engineer. He was sworn in and recognized as an expert in civil engineering. He showed previously submitted sheet Z01Site Plan and notes. It depicted the overall site plan with the existing shelters in place. It showed Mountain Blvd. In relationship to the proposed tower. He said that once the fencing went in, it would help to secure the equipment. He said that the shorter shrubs would be planted around the shelter. Z03 Partial site plan and antenna information showing the antennas being mounted at the top of the tower. There was a platform at the top of the pole for the antennas and the top of the antennas would be within the maximum height allowed. He said that the new pole would be approximately 10 feet from the original tower. He said that they would update the final "as-built". The original tower was designed under the NESC2002 version. Mr. Pazden said that the new 2007 code increased the safety factors significantly. He discussed the strength of the pole and factors that went into design. Mr. Quinn said to Mr. Pazden, referring to Mr. Herits board engineer's letter that they would demonstrate compliance with regard all previous approvals and Mr. Pazden said yes. Mr. Quinn said that referring to that letter's reference to compliance with the noise ordinance after operational, they would certainly comply by testing noise levels and Mr. Pazden said yes. Mr. Quinn said that was the extent of testimony from Mr. Pazden and the Chair opened up questions from the board to Mr. Pazden. Mr. Boyd said that for the record, he was a former employee of Dewberry-Goodkind. Mrs. Beck-Clemens said that she was a stockholder of AT&T, and said that she would recuse herself from this application according to the law. Mrs. Beck-Clemens stepped down. Mr. Haveson asked if putting the antennas would improve coverage. Mr. Pazden said that it would nominally improve coverage, but it was not the driving force of this application. Chairman Speeney said that for the record, Mrs. Beck-Clemens has recused herself from this application, and Mr. Hartman would become a voting member of the board. Mr. Herits asked what the height of the existing tower was. Mr. Pazden answered 138 feet. Mr. Herits asked with regard to radio frequency if there would be a change. Mr. Pazden said it would be slightly less due to the fact that the antennas were further from the ground. He said that it was compliant before and would have slightly less exposure now. Chairman Speeney opened up to questions for the public and hearing no one

come forward, closed the public portion. Mr. Quinn said that he had nothing further. He asked if he could go through the review letter. Chairman Speeney said yes. Mr. Quinn went through board engineer Tom Herits review letter from Maser Construction dated March 7th, 2012.

Condition number one asked why the tower had to be replaced and Mr. Quinn said that Mr. Pazden had explained that.

Condition number two referred to all conditions with regard to noise shall be complied with, with the exception of the antennas and the changes in this application all conditions would be complied with. Mr. Quinn agreed.

Condition number three is that the fencing around the compound has increased slightly in size to accommodate with the cabinets are outside the enclosure. Mr. Quinn said that the size still complies with the ordinance.

Condition number 4 asked the applicant to submit a noise report to comply with the ordinance, and Mr. Quinn said that none of the equipment has changed and they have to supply that report as a condition of approval from the previous approval once they are ready for operation. Mr. Linnus said that they have to comply with that noise ordinance prior to a C.O. And Mr. Quinn agreed.

Condition number five asked the applicant to confirm the structural sufficiency of the pole and Mr. Quinn said that Mr. Pazden testified to that and could add additional information if the board wanted. Mr. Quinn said there was also a question as to whether or not the analysis was done to include the AT&T antennas on it and Mr. Pazden said yes and submitted a letter from the utility company dated March 19th, 2012 stating that the tower has been designed to accommodate the antennas.

Condition number six asked the owner of the pole to provide a letter of commitment allowing them to place the antennas on this pole. The applicant has submitted a letter basically stating that the applicant has no objections to the placement of other antennas collocating on this pole. Mr. Linnus asked if Mr. Quinn was saying that the owner of the pole has refused to give the applicant a letter of commitment? Mr. Quinn said that this is not a requirement and Mr. Linnus said that he knows it is not a requirement and asked if the owner was not willing to write this letter. Mr. Quinn said that he has no knowledge as to whether or not the owner of the property is willing to submit such a letter. He said that the owner of the property designed this pole to accommodate up to three carriers. Mr. Linnus referred to 28-507-11 of the ordinance which referred to a binding or irrevocable letter of commitment by the applicant from the owner. Mr. Quinn said yes, for proposed collocation towers. Mr. Quinn said that this tower is a high voltage utility structure, which is different from the tower described in the ordinance requirement and said that technically, they are two different structures.

Condition number 7 talked about the maintenance requirements in section 28-26e4. Mr. Quinn said that these requirements are in prior conditions of approval.

Condition number 8 talked about how this project does not trigger a waiver from storm-water management and this project only disturbs an additional area of approximately 20 sq. feet and does not require additional land disturbance. Chairman Speeney asked if there were any other questions from the board. Mayor Mobus asked if the applicant contacted the Somerset County Planning Board. Mr. Quinn said that yes, and the application was currently under review and they were asked to provide additional information on the plan of the driveway that was previously approved and they are providing that. Mayor Mobus said that the letter he has from the Somerset County Planning Board is dated April 23rd, 2008 and makes reference to Washington Valley Road in Bridgewater. Mr. Quinn said that it looks like they used a form letter and that was a mistake. He said that this site was previously approved by the county in 2007 and they filed an application dated February 10th, 2012 which was submitted with the application. Chairman Speeney said that one condition of approval would be that the applicant seek and obtain approvals from the County Planning Board. Mr. Quinn agreed.

Mr. Quinn asked if the board would be willing to allow the applicant to submit a letter be processed by the construction official and be allowed to file for a building permit at their own risk while obtaining all other requirements. He explained that during peak hours of air conditioning use there could be power outages during construction of this facility. Chairman Speeney asked if Mr. Herits had any comments relative to his letter, and Mr. Herits said no. Chairman Speeney opened up questions to the public. Hearing none, asked for a motion to close the public portion. That motion was made by Mr. Haveson, seconded by Mrs. Schaefer and the public portion was closed by voice vote. Chairman Speeney opened up discussion from the board. Chairman Speeney said that the application seeks many waivers. Chairman Speeney suggested to the board that any approval grants these waivers. Chairman Speeney sought a motion to approve PB12-01 granting all waivers and conditions set forth in prior resolutions for New Cingular Wireless, PCS, LLC (AT&T) at 799 Mountain Blvd. Block 202 lot 7.01. That motion was made by Mr. Boyd, seconded by Mrs. Schaefer. Chairman Speeney asked for a discussion. The Chair stated that he felt that this was an application that must be approved based upon the prior approvals and that the applicant is putting up antennas and not a utility pole. He suggested the board vote in the affirmative. Mr. Linnus said that the board cannot dictate to the Construction Official what he can or cannot do. First this must go to the Zoning Officer and then to the Construction Official.

Hearing no more discussion, the Chair asked for a roll call vote and the vote was as follows:

Speeney (yes) Schaefer (yes) Haveson (yes) Ellis (yes) Pennett (yes)

Boyd (yes) Mobus (yes) Pote (yes) Hartmann(yes)

The motion carried and the application was approved.

Mr. Linnus asked for an at risk letter.

Chairman Speeney said that the resolution would be memorialized next month. He said that Mr. Quinn would get a copy ahead of time. Mr. Linnus agreed to send Mr. Quinn a draft.

Chairman Speeney asked Mrs. Beck-Clemens to give an Open Space Advisory Committee update. Mrs. Beck-Clemens said she was the Chair of this committee and that Mrs. Schaefer was also on the committee. She gave their meeting dates and gave an overview and invited all to offer their ideas. The Ness property is being cleaned up. Chairman Speeney asked if this committee was going to plan to update the open space plan and Mrs. Beck-Clemens said they are thinking about it, but do want to update the properties. Chairman Speeney said that the Open Space Plan is part of the Master Plan. The library was discussed, and Mr. Herits cautioned that since the town has taken green acres money, those properties must stay open space and if you want to use one of these properties to put a library for example, you would have to find equivalent land to be open space in it's place.

Chairman Speeney asked Mayor Mobus to give a quick rundown of the Somerset County Business Partnership meeting and he said that there were approximately 90 people in attendance. Strategies and infrastructure were discussed and Mr. Ellis who also attended said there were more governing officials there than there were business people. He said a report would be coming out. There were breakdown committees. Mayor Mobus said that he and the Chair authored a letter to a handful of Watchung's main property owners notifying them of the meeting. He said that the County had sent out four letters to Watchung business owners and a few emails, but the list needs to be updated. There is another meeting on the 27th of the Business Partnership.

Jane Rosenblatt of New Brunswick came to the microphone. She said she was a student at Rutgers who asked if the Open Space meeting was online. Mrs. Beck-Clemens said yes. She thanked the board. Hearing no other comments, the Chair adjourned the meeting until the next regular meeting of April 17th, 2012.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carolyn Taylor". The signature is written in black ink and is positioned above the printed name and title.

Carolyn Taylor
Planning Board Clerk