

**Borough of Kutztown
Planning Commission
Minutes of February 13, 2017**

A regular meeting of the Planning Commission was held on Monday, February 13, 2017, at the Kutztown Municipal Building, 45 Railroad Street.

The meeting was called to order at 7:00 p.m. by Ms. Lisa Ladd-Kidder, Chairperson. Members present were: Ms. Lisa Ladd-Kidder, Mr. Tim Haring, Mr. Frederick Engelhardt, Ms. Karen Feridun, Mrs. Pat Snyder and Mr. Allan Oberholtzer. Also present: Mr. Dan Eslinger, Director of Community Development, Ms. Carolann Moody, Recording Secretary. Public Attendance: Mr. Carl Lobb.

Public Comment on Non-Agenda Items

There were no comments.

Comments from Planning Commission Members

Ms. Ladd-Kidder mentioned that she received a letter from Dr. Chris Habeck stating that he has decided to resign from the Planning Commission due to scheduling conflicts. She expressed her regret stating that Dr. Habeck was very welcome and appreciated.

Ms. Ladd-Kidder added that because there was a lot on this agenda, if everyone was in agreement, an election to fill Dr. Habeck's Vice-Chair position would take place at the March meeting. All members were in agreement.

Ms. Ladd-Kidder also said that she received confirmation from Ms. Gina Wiand regarding the request the Planning Commission made several months ago to remove Map 7, for security reasons, from the online copy of the Comprehensive Plan. Map 7 addresses water service areas and wellheads. The map is available in the office by request.

Approval of Minutes

The January 9, 2017 Planning Commission minutes were reviewed by members. Motion by Mrs. Snyder and seconded by Mr. Haring to approve the January 9, 2017 minutes as written. The motion was passed by unanimous vote.

New Business/Action Items

● **Information on Land Use Conference at Albright on March 4, 2017**

Ms. Ladd-Kidder said that she had sent out information regarding the conference at Albright on March 4, 2017. She said that a discussion of the "wireless communication facilities" issue is

part of the day long Land Use Conference. Ms. Ladd-Kidder mentioned that she and Ms. Feridun will be attending. She offered to help any other members with the registration process. Mr. Engelhardt and Mrs. Snyder expressed interest and will get in contact with Ms. Ladd-Kidder. Mr. Eslinger reminded the Committee that the Borough will reimburse members for the conference registration fee. Members attending the conference should submit their receipts to Mr. Eslinger.

Old Business/Updates

- **Update on Legislative Actions/Borough Letter by Karen**

Ms. Feridun stated that she contacted the offices of both the PA House and the PA Senate levels to ask if they had heard anything about a bill to exempt local control from the placement of mini-cell technology. The staffs responded that they were not aware of such a bill, but that they are now alerted. When Ms. Feridun spoke with Mark Rozzi's legislative staff, they offered to write legislation for him to introduce that would thwart any attempts to pass a bill to exempt local control.

Ms. Feridun also called the Legislative Affairs office of the Association of Boroughs. The head of this office talked to her. He said that he didn't think that pre-emptive legislation was the right approach. He liked her idea of calling a public hearing regarding the PUC, which has been granting public utility status to these different private (for-profit) communications companies. He mentioned to her that there is a public comment period with the FCC regarding a petition filed by Mobilite LLC to set federal regulations to exempt the siting of distributed antenna systems from local control. He sent her the information on the FCC Public Notice and the extended deadline of March 8, 2017.

Ms. Feridun stated that she felt the Planning Commission should make a recommendation to Borough Council that they submit a formal comment to the FCC on this issue prior to the deadline of March 8, 2017. She offered to work on a draft of a comment letter to the FCC during the discussion of the zoning ordinance amendment.

After review and discussion of the zoning ordinance amendment, motion by Mr. Haring seconded by Mr. Englehardt to recommend to Borough Council that a formal comment letter to the FCC regarding the Mobilite petition be submitted prior to March 8, 2017. Ms. Feridun's "sample comment letter" would be included in the recommendation due to the short time frame. The motion passed by unanimous vote.

- **Review of Zoning Ordinance Amendment**

Ms. Ladd-Kidder opened the discussion of the of the sample draft of an amendment for the Borough's Zoning Ordinance regarding "Wireless Communication". Mr. Eslinger mentioned that he spoke with Mr. Mooney regarding the draft ordinance and that in order for Mr. Mooney to complete the draft, he needs to know what zones are to be included. He also said that he will invite Mr. Mooney to the March Planning Commission meeting. Ms. Ladd-Kidder said that as they review the draft ordinance, they will also make a list of questions for Mr. Mooney.

Members reviewed the draft ordinance paying special attention to areas that they felt needed clarification. As the members began to ask questions, Mr. Eslinger stated that he hope to work with a consultant, who has expertise in the planning area to clarify some of his own questions. He added that he plans to mention this at the upcoming Community Development/Public Safety Committee, and to ask for their permission to work with HRG Engineering on a project level to complete the draft ordinance. (HRG Engineering is not the Borough's engineering firm. However, HRG Engineering has expertise in this field.) Mr. Eslinger said that he would like to sit down with HRG and figure out what zones to put in the ordinance amendment. He wants to come back to the Planning Commission and show them why the zoning selections make sense.

Mrs. Snyder asked for clarification on where the new ordinance would apply in a right-of-way (ROW) and where it would apply outside of a right-of-way. And, she asked if the conditions were not written in for a certain zone, then would those zones be excluded. Mr. Eslinger commented that the zoning ordinance must be specific on where these small cell antennas would be allowed. He said that if the Borough does not clearly address the allowances/restrictions for our different zones, then the communication companies may be able to put the DAS structure anywhere they want.

According to Mr. Eslinger, zoning ordinances are written to allow for certain projects/activities in some zones, to set specific conditions for certain projects/activities in other zones, and to prohibit certain projects/activities in other zones. Mr. Eslinger said that he needs the expertise of an engineer to guide him with the specific choices for the zoning ordinance. He said there are certain places that at some point the antennas will be permitted by right, such as the heavy industrial zone, where there are no houses. He said that at in the ordinance where it says "conditional approval", the conditions can be restrictive. Ms. Ladd-Kidder said that Mr. Eslinger's idea of seeking assistance from a consultant to examine the various zoning questions will be very helpful to the Planning Commission.

Mr. Eslinger said that the zoning ordinance does a good job of prohibiting these DAS structures in the front facades of residential properties. There are certain antennas that these companies want to attach to existing structures, not just put up a new tower. In that scenario, they would need to provide the Borough with documentation such as an engineer's report deeming it safe to locate the antenna on an existing structure. However, the ordinance does say specifically that these antennas may not be located on a residential structure.

Mr. Eslinger stated that he will also discuss with the consultant the section regarding the time line for plan approvals. He said that is very important for the Borough to comply with the time frame set by the FCC for consideration of submitted plans.

As Planning Commission members continued to review the draft ordinance, Ms. Ladd-Kidder mentioned that she wanted to add the safety hazard of "fire" under 461(c). She said that there have been recorded incidents of fire/explosions in the base units by the small cell towers.

Members also discussed the allowable lengths (heights) for the antennas, depreciation of property values, if the antennas would be placed in residential areas where there are no telephone poles, and what would happen to the antennas if the telephone poles were removed due to the possibility of a solar/renewable energy ordinance where the poles would be obsolete. Mr. Eslinger did mention that there are provisions in the ordinance that not allow the antennas in areas where the utilities are underground.

Mr. Eslinger told the Planning Commission members that he will reach out to the HRG consultant and to Mr. Mooney to decide who should attend the March meeting to review the draft ordinance and answer any questions they may have.

Off Agenda

There was nothing Off Agenda

Adjournment

With no further business to discuss a motion was made by Mr. Haring and seconded by Mr. Oberholtzer to adjourn the meeting. The motion carried and the meeting was adjourned at 8:28 p.m.

Respectfully submitted,

Ms. Carolann Moody
Recording Secretary