

The Easton Planning Commission met on Wednesday, October 5, 2011 in the 6th Floor Council Chambers, Easton City Hall. The meeting was called to order at 6:30 p.m. by Charles Elliott. Present: Charles Elliott, Robert Sun, James Bloom, William Heilman, Dennis Lieb, Ronald Shipman and Bonnie Winfield. Also in attendance were staff members Brian Gish, Chief Planner; Carl Manges, City Planner; and Tina Woolverton, Secretary. Solicitor Joel Scheer was also present.

The agenda was approved with the change of item #7 (introduction of solar ordinance) becoming item #5 and all other items being renumbered accordingly.

A motion to approve the minutes of the September 21, 2011 meeting was made by Mr. Lieb, seconded by Mr. Heilman, approved by all.

**Privilege of the Floor.** None

**Introduction of Solar Ordinance.** Mr. Gish said the EAC and Vice Mayor Warner brought to attention the need for an alternate energy practices ordinance. Ms. Warner was present and explained the purpose of the ordinance is to protect solar rights but regulate appropriate placement, especially as the technology grows and is more widely used. Mr. Elliott added the ordinance treats the installations as an accessory use. Ms. Warner said an application form is being developed. Mr. Shipman asked who would first review the application. Ms. Warner replied it would go to Zoning. Mr. Shipman asked who was drafting the ordinance. Ms. Warner replied it was herself, Ms. Bradley and Mr. Dohe. Mr. Sun questioned the paragraph on design and installation stating the installation can not be visible from the street. Mr. Gish said that is correct. Mr. Sun questioned whether adjacent property owners would have any consideration. Mr. Scheer questioned if there was a basis to integrate the solar ordinance into the HDC. Mr. Gish said the draft being presented to the Planning Commission is still in the early stages and input is welcome once the Commission has more time to review the document.

**311 Paxinosa Road Cell Tower.** Mr. Gish said the applicant, Pegasus Tower Company, LLC, has proposed to construct a 195' Communications Tower (Monopole) at 311 E. Paxinosa Road. The property is owned by the City of Easton, and the applicant is proposing to lease the land for the installation and operation of the Communications Tower.

Current designs are for an 80' x 80' area surrounding the Communications Tower that will be surrounded by an 8' chain link fence to protect the communication facilities equipment. Four carriers are associated with the proposed Communications Tower, each proposing to utilize twelve 7' x 14" panel antennas. The carrier's equipment cabinets are proposed to be located on the ground within the fenced area on 10' x 20' and 10' x 16' concrete pads. Landscaping in the form of 15 eight-foot Blue Spruce evergreen trees are being proposed to be located on the site. These trees will be located along the eastern property line to provide a buffer between the Communications Tower and residential property.

The site is located in the College Hill Zoning District where the Communications Facilities are permitted by Special Exception. However, the parcel on which the Communications Tower is being proposed is classified as a Block A, and communications equipment buildings and communications antennas shall not be located on any parcel classified as Block Class A in the College Hill Zoning District. A variance is required from the Zoning Hearing Board for the Communications Tower to be located on a Block Class A parcel as well as a variance for antennas that are not stealth in nature. An existing Communications Tower is on this property currently, and it is located

approximately 150' east of the proposed Communications Tower. 311 E. Paxinosa Road is within the College Hill National Register District.

Mr. Gish said documentation stating the proposed Communications Tower will meet or exceed industry standards defined by TIA/EIA-222-G, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" was submitted by a Pennsylvania registered engineer. Nello Corporation performed the structural evaluation on the Communications Tower, and based on their calculations the proposed tower will be designed using the following wind conditions: a 90-mph 3-second-gust wind speed with no ice, and a 40-mph 3-second-gust wind speed with 1" radial ice. The EIA Standard specifies 90 mph as the wind speed required for Northampton County, Pennsylvania. The 40 mph 3-second –gust wind speed refers to a wind measured at 33 feet above the ground.

Mr. Gish said the applicant has established an effort to co-locate on the existing tower. However, in establishing that the existing tower did not have sufficient structural capacity to handle additional carriers, the applicant exposed the potential failure of the existing tower. Such an incident would have the potential to affect neighboring properties and the new proposed tower.

Mr. Elliot asked if there was a sense of how the monopole could be made stealth. Mr. Gish said it would not be practical in this application. Mr. Shipman commented the last time the proposal was before the Planning Commission there was concern over screening. Attorney Mike Grab, representing Pegasus Tower, was present. He provided supplemental information showing additional screening for Mr. Walter's property, along with the structural analysis of the adjacent tower. Mr. Mario Calabretta, engineer for Pegasus Tower said the existing tower has a diminished reserve capacity, and is not tall enough for current technology. He added the only practical solution is to build a new tower. Mr. Grab explained the degree of overstressing of the existing tower, as shown in the structural analysis as 376%, is partly due to recent code changes in steel structures which have become more stringent.

Mr. Sun asked if Pegasus had the discretion to design a tower to withstand greater wind speed and loads. Mr. Grab said that technically they could.

Mr. Calabretta distributed copies of photos taken from a balloon tests to show the visual impact the tower would have.

Mr. Grab said staff had suggested that the existing tower owners co-locate to the new tower, but he pointed out that Service Electric has their own lease agreements both with the City and with the other carriers currently on their tower. Mr. Grab said Pegasus would be willing to build a tower to allow for co-location, but they could not make Service Electric choose to do so. Mr. Scheer said the Planning Commission could not combine two issues, the new tower and the old failing tower.

Mr. Thomas Walters of 403 East Paxinosa Road said he has lived adjacent to the property since 1985 and the existing tower has had continual additions without notification.

Mr. James Shelton, a radio frequency engineer, explained Pegasus needs a higher frequency band and a taller height than the existing tower can provide. Mr. Calabretta reiterated the over-stressing of the current tower was primarily due to the change in codes for steel structures. Mr. Grab added the large lot with mature vegetation and significant utility infrastructure was an appropriate location for the proposed tower.

Mr. Sun questioned the wind and ice condition calculations. He asked if a 3-second – gust wind speed refers to a wind measured at 33 feet above the ground what the impact of the same wind gust would be at additional heights. Mr. Calabretta explained the wind calculations were measured at a certain height, and then fed into a formula to determine impact. Mr. Lieb asked for an explanation of the decimal in the stress ratio for ice. Mr. Calabretta explained it is the percentage of the load calculation the ice will consume.

Attorney Theresa Hogan was present and representing four property owners, including herself. She said the problem that needs to be solved is caused by the City of Easton and adversely impacts the neighborhood. She added the City has not done the right thing and that Pegasus has picked a bad site. She said Federal law requires the need to show gaps in service and questioned if the applicant has proven the proposal is for the least intrusive site. She said she feels the applicant has chosen a bad site and laid the decision on the lap of the Planning Commission. She said the Community deserves better.

A motion to accept the resolution recommending denial to the Zoning Hearing Board was made by Mr. Sun, seconded by Mr. Lieb. No other commissioners voted in favor of the resolution for denial, so the motion did not carry.

A motion to approve the resolution recommending approval to the Zoning Hearing Board was made by Mr. Shipman. There was no second and the motion failed.

A motion to accept the revised resolution recommending approval to the Zoning Hearing Board was made by Mr. Bloom, seconded by Mr. Shipman, approved by Ms. Winfield, Mr. Heilman and Mr. Elliott. Mr. Sun and Mr. Lieb voted against the resolution recommending approval to the Zoning Hearing Board. Majority ruled in favor and the recommendation was made to the Zoning Hearing Board for approval of the Special Exception.

**Special Exception – 1325 Lynn Street.** Mr. Gish said the applicant, Hans-Christian Ertl, desires to bring an existing C-10 Auto Parts and Accessories (auto repair shop) use in a 24,000 square-foot portion of a building located at 1325 E. Lynn Street into compliance with zoning regulations. The building as a whole has a floor area of just over 63,000 square feet, and has four (4) areas in which businesses can operate. Out of the four (4) areas of this building, one (1) is vacant, and three (3) are currently used for servicing vehicles, ranging from detailing to repairs. The applicant has been operating an auto repair shop from this location since 2004.

Mr. Gish said at the time the applicant began this business, the land was in the Industrial General Limited (I-GL) Zoning District, where the use was permitted by right. Under the current ordinance, adopted in 2008, the property is located in the River Corridor and Other Green Areas Zoning District; Flood Hazard Overlay District; Block Class A, where the proposed Auto Parts and Accessories use is not a permitted use. He said for this use to continue legally, a Use Variance shall be required from the Easton Zoning Hearing Board. According to the Federal Emergency Management Agency Flood Insurance Rate Map 42095C0286 D, 1325 E. Lynn Street is located in a FEMA defined 100-year floodplain. This application also requires Special Exception approval for development in the floodplain from the Easton Zoning Hearing Board.

There have been four flood events since this business has been in operation, though only one of which, in 2006, where flood waters entered the building. The applicant has provided staff with an evacuation plan in the event of a Flood Warning or Emergency. At any given time, there are approximately 15-20 cars being repaired at the

shop. In the event of a Flood Warning, up to twelve (12) vehicles will be moved to the applicant's personal property located at 114 E. Wilkes Barre Street. The remaining vehicles will be temporarily relocated to the applicant's neighboring properties at 120-126 E. Wilkes Barre Street, and 102 E. Cooper Street. Mr. Gish said the applicant has provided signed documentation from these neighboring property owners indicating permission has been granted to allow the applicant to park the remaining vehicles on their properties during flood events.

The applicant owns both a one-car and two-car trailer, along with an enclosed utility trailer to allow for a much faster and efficient evacuation procedure. According to the applicant, the business's two employees require approximately 20 minutes to load and evacuate two trailer-loads of vehicles, for a total of three (3) vehicles moved per trip. With an inventory of up to 20 cars, that would take 2 hours and 20 minutes.

Mr. Gish said materials such as oil and coolant have not been kept in large quantities at the site, and the applicant does not intend to do so in the future. In the past, these fluids have been ordered and delivered only as needed, to ensure that they are not constantly stored at the site. According to the applicant, up to 6 gallons of coolant and 10 gallons of oil may be on the premises at any given time. Waste oil and coolant have been stored in three 55 gallon drums, which are emptied on a regular basis by International Petroleum Corp. of Delaware. Should the applicant be unable to schedule a waste fluid removal prior to evacuation, the applicant will load the sealed drums onto the utility trailer, and disposed of these fluids immediately at Recycle Oil Company, located on 25th Street in Easton, PA. Small quantities of paints and cleaners are also kept on the site. In the event of a flood warning, all these materials are boxed, and removed from the facility and out of floodplain. All equipment capable of being moved such as the tire changer, heater/air conditioning units, generator, tool boxes, etc. will be loaded onto the applicant's utility trailer and moved to the primary evacuation site. Any equipment that cannot be physically removed during a flood event, due to size or permanent installation, will be sandbagged, and sealed as best as possible. During future operation, the applicant shall not exceed the amounts of fluids, oils, waste materials, and materials included in this paragraph, all fluids, oils and aforementioned evacuation procedures shall be maintained.

The hours of operation are from Monday to Friday 9am – 6pm, and there are currently 2 full-time employees at this business.

The applicant was present for questions. Mr. Lieb asked what the purpose was of the applicant coming before the Planning Commission at this time. Mr. Gish said the applicant seeks to bring the operation into compliance. Mr. Bloom asked if the evacuation plan requirement would carry forward if the business changed hands. Mr. Gish said the use would continue under that provision. Mr. Elliott asked if the other businesses at the site all pre-date the current ordinance. Mr. Manges said they did. Mr. Elliott asked if the others were not required to have evacuation procedures in place. Mr. Gish replied that was correct. Mr. Lieb asked if the evacuation spaces were all off street. Mr. Gish said they are. A motion to approve the resolution recommending approval to the Zoning Hearing Board was made by Mr. Lieb, seconded by Mr. Bloom, approved by all.

**Introduction revised sign ordinance.** Mr. Gish said staff had been working on this revision for almost a year, with the intent to create a new zone (Expressway Transitional Zone) where billboards will be allowed. He added the regulations are fairly strict and put billboards where they should be, along highways. Mr. Elliott questioned why the zone map showed the zone in a city park. Mr. Gish explained the PHMC requires that any

municipal zoning ordinance account for all conceivable uses within its boundaries and that the existing ordinance did not allow for billboards within the city. The corner of Hackett Park where the use will be permitted is along Route 22 and is not visible from the recreational areas of the park. Mr. Elliott noted that beyond advertising issues, the zone allows for a wide variety of additional uses that were previously only allowed in the Adaptive Reuse District. .

**EAC Update.** Mr. Elliott said the tree planting event for the Karl Stirner Arts Trail was scheduled for October 15, along with two locations for street trees, at 9<sup>th</sup> Street at the Community Center and at Mauch Chunk Park

As there was no further business, the meeting was adjourned at 10:20 PM.