

**EAST GOSHEN TOWNSHIP
PLANNING COMMISSION
Workshop Meeting Agenda
Wednesday, August 3, 2016
7:00 PM**

- A. Call to Order / Pledge of Allegiance and Moment of Silence
- B. Chairman will ask if anyone is going to record the meeting
- C. Review of Tracking Log / Determine need for Workshop Meeting**
- D. Public Comment on Non-Agenda Items
- E. Approval of Minutes**
 - 1. July 6, 2016**
- F. Subdivision and Land Development Applications**
 - 1. 1420 E. Strasburg Rd. (Brakman Property, SD/LD)**
 - a. Planning Period Extension**
- G. Conditional Uses and Variances**
 - 1. 907 Madison Dr. (McNeely, Dimensional Variance)**
- H. Ordinance Amendments**
 - 1. DAS Systems / ZO Amendment - Presentation by Kristin Camp Esq. and Kim Venzie, Esq.**
- I. Old Business
 - 1. Zoning Ordinance Review (Materials Distributed in June)
 - a. §240-22 Signs
 - b. §240-23 General regulations
- J. New Business
- K. 2016 Goals**
 - 1. Objective 6.2 / 2015 Comp Plan / TCDI Grant Submission**
Grant Was Awarded to East Goshen for Paoli Pike Corridor Plan
- L. Any Other Matter
- M. Liaison Reports
- N. Correspondence

Newsletter Deadlines for 2016:

Fall: August 1, 2016 to be delivered the 3rd week of September

Bold Items indicate new information to review.

East Goshen Township Planning Commission
Application Tracking Log

Application Name	Application (CU,LD,O, SD,V, SE, CA	Type (Sk, P, F)	Date Filed	Start Date	Date to Township Engineer	Date to CCPC	Date to Abutting Prop. / ABC's	Extension	PC NLT Action Date	BOS NLT Action Date	Hearing Date	Drop Dead date	Comments
907 Madison Dr	V	sk	7/20/16	7/20/16	na	NA	7/28/16		8/3/16	8/16/16	9/15/16	9/18/16	
1420 E. Strasburg Rd. / Brakman-Gunnison	SD/LD	P/F	5/18/16	6/1/16	5/19/16	5/19/16	5/20/16	1	10/5/16	10/18/16	NA	10/29/16	
Bold = New Application or PC action required													

Draft
EAST GOSHEN TOWNSHIP
PLANNING COMMISSION MEETING
July 6, 2016

The East Goshen Township Planning Commission held a regularly scheduled meeting on Wednesday, July 6, 2016 at 7:00 p.m. at the East Goshen Township building. Members present were: Vice Chairman Lori Kier, Jim McRee, Dan Daley, Monica Close and Brad Giresi. Also present was Mark Gordon, Zoning Officer and Janet Emanuel, Township Supervisor.

COMMON ACRONYMS:

<i>BOS – Board of Supervisors</i>	<i>CPTF – Comprehensive Plan Task Force</i>
<i>BC – Brandywine Conservancy</i>	<i>CVS – Community Visioning Session</i>
<i>CB – Conservancy Board</i>	<i>SWM – Storm Water Management</i>
<i>CCPC – Chester Co Planning Commission</i>	

A. FORMAL MEETING – 7:00

1. Lori called the meeting to order at 7:00 pm. She led the Pledge of Allegiance and a moment of silence to remember our troops.
2. Lori asked if anyone would be recording the meeting and if there were any public comments about non-agenda items. There was no response.
3. Lori reviewed the Tracking Log and determined no need for a workshop
4. Lori noted that the minutes of the June 1, 2016 meeting were approved as amended.

B. SUBDIVISION & LAND DEVELOPMENT

1. 1420 E Strasburg Road (Subdivision/Land Development) – Mark Gordon provided copies of the review letters from the Township Engineer and Chester Co. Planning Commission. Mark reported that there was an on site meeting to discuss sewer, storm water management and tree plan.

PUBLIC COMMENT:

1. James Seeley, 47 Lochwood Lane – He mentioned the term “civil action” regarding failure of the rain gardens and asked for clarification. Mark commented that if the homeowners don’t maintain the rain gardens, the Township could compel them to do it or the Township could do it and charge the homeowners. Mr. Seeley mentioned the 18 degree slope. He doesn’t feel rain gardens are appropriate. He feels only 1 new home should be built. Mrs. Seeley mentioned the current driveway and utility pole at Lochwood that blocks the sight of those pulling out. Mark reported that they met with PennDOT who told them how much they need to cut back the bank of the hill and a utility pole must be moved. This all needs to be done before construction can start.
2. Mr. & Mrs. Troltenier, 49 Lochwood Lane – They asked where the water runoff would go. Mark explained that there will be basins at the new homes which should slowly run off to the creek. The post development rates of flow must be equal to the pre-development rates. The three homeowners will have a Storm Water Operation Maintenance Agreement which is part of the deeds for the properties and will pass on to subsequent owners. The Township will do an inspection every 2 years.

C. OLD BUSINESS

1. DAS Ordinance - Mark reported that he received a notice from an attorney warning that there are companies in the area already who want to do this. Mark was contacted by and met with representatives from Crown Castle. They want to work with the Township on this endeavor. They can put 3 clients on a pole. Mark mentioned that Andy Rowe will be at the Planning Commission meeting on August 3, 2016.
2. Sign Ordinance – Tabled until the next meeting. The Commission members have copies of the existing ordinance. Mark asked them to read it and prepare any comments.

1 **E. LIAISON REPORTS**

2 1. Board of Supervisors – Janet reported that they have been working on the two dams and
3 explained their decision. Mark commented that the homeowners in Milltown are encouraged to form a
4 committed to be involved in the partial breach of the dam.
5

6 **F. ANY OTHER MATTER**

7 1. Mark mentioned that he, Monica, and Lori attended a conference on redevelopment of
8 commercial areas.
9

10
11 **G. ADJOURNMENT**

12 There being no further business, Dan Daley moved to adjourn the meeting. Brad seconded the
13 motion. The meeting adjourned at 9:30 pm. The next regular meeting will be held Wednesday,
14 August 3, 2016 at 7:00 pm.
15

16
17 Respectfully submitted, _____
18 *Ruth Kiefer, Recording Secretary*

BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP

CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

Date: July 26, 2016

Plan: Brakman Subdivision

East Goshen Township Board of Supervisors
1580 Paoli Pike
West Chester PA 19380

Re: Application Review Period Extension

Dear Board of Supervisors,

In regard to the above noted plan I authorize the Township a 60 day extension to the application review period. I understand that this extension doesn't mean that the application referenced will be approved within this period; it solely allows East Goshen Township additional time to review the application.

Applicant (Print): JB Brandolini for Gunnison Development Co. LLC.

Applicant (Sign): 

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171

Fax: 610-692-8950

E-mail: mgordon@eastgoshe.org

Date: 7/26/2016

To: Planning Commission

From: Mark Gordon, Township Zoning Officer 

Re: 907 Madison Drive Dimensional Variance Request

Dear Commissioners,

The owners of 907 Madison Dr. have submitted a ZHB application for a dimensional variance from the side yard setback to facilitate the construction of a garage addition to their home. The property is located in the R-2 Zoning District and the side yard setback for structures in the R-2 is 20 feet.

The applicant is requesting a 9.9 foot side yard setback for a proposed garage addition to their home. That equates to 10.1 feet of relief from the required 20 foot side yard setback.

I have included photographs that I took today of the property. The home has an existing attached 2-Car Garage and significant landscape screening in the side yard adjacent to the proposed garage addition.

Staff is of the opinion that supporting this variance request will not significantly alter the character of the neighborhood, there does not appear to be any hardship to warrant the requested relief and similar variance requests in this neighborhood have been denied in the past. It is also unclear how the driveway will be configured to permit vehicles using this new garage addition to safely back out of the garage and turn around so that they can safely enter Madison drive.

This is a judgement call and I have drafted motions for your consideration.

DRAFT MOTION TO TAKE NO POSITION:

Mr. Chairman, I move that we recommend that the Board of Supervisors take no position on this variance application.

DRAFT MOTION TO OPPOSE:

Mr. Chairman, I move that we recommend that the Board of Supervisors oppose the variance request because there is no hardship to warrant the relief requested.





BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP
CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

FYI

July 26, 2016

Dear Property Owner:

The purpose of this letter is to inform you that David and Lia McNeely, owners of 907 Madison Drive, Malvern, PA 19355, have submitted a Zoning Hearing Board application seeking dimensional relief from the side yard setback requirement of the Township Zoning Ordinance; §240-9.G. The applicant is proposing to construct an garage addition on their property and is requesting 10.1 feet of relief from the 20 foot side yard setback requirement.

Pursuant to Township policy, property owners within 1000 feet of the subject property are notified of zoning variance applications.

The meeting dates and times scheduled for the review and discussion of this application are outlined below and subject to change without further notice to surrounding property owners.

August 3, 2016 - Planning Commission - 7:00 PM

August 16, 2016 - Board of Supervisors - 7:00 PM

September 15, 2016 - Zoning Hearing Board (Zoning Hearing) - 7:30 PM

All meetings are held at the Township Building and are open to the public. The application is available for public review at the Township building during normal business hours. Please give me a call if you have any questions or need additional information.

Sincerely,



Mark A. Gordon
Township Zoning Officer

Cc: All Township Authorities, Boards and Commissions

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 7/27/2016
To: Planning Commission
From: Mark Gordon, Township Zoning Officer 
Re: DAS Ordinance

Dear Commissioners,

The Township Staff has worked with The Cohen Law Group and Unruh Turner Burke and Frees, P.C. to develop a Zoning Ordinance amendment to regulate DAS Communication Systems. DAS (Distributed Antenna Systems) are employed by communications companies to expand their digital communication footprint in communities, primarily to improve their wireless data capabilities. This issue was identified by the COG and East Goshen participated in this endeavor to develop regulations to protect our property owners from the impacts of these facilities.

The Township Solicitor Kristin Camp and Kim Venzie, (author of the draft ordinance) will be in attendance at your meeting on August 3 to discuss the ordinance and incorporate any comments you have.

Staff Recommendation:

Staff recommends that the identified changes to the ordinance be incorporated into the appropriate format and the ordinance be submitted to the CCPC for review and comment.

Draft Motion:

Mr. Chairman, I move that staff incorporate the changes discussed to the Wireless Communications Ordinance Amendment and submit the ordinance to the CCPC for review and comment.



Keeping your community safe.



Today, nearly 40% of households rely exclusively on wireless phones¹—a number that's growing every year. That increased adoption of wireless devices has important implications for public safety, but only if the services work. Here are a few reasons it's important to make sure your community is equipped with the infrastructure that will enable its most essential wireless services.

89%

OF PUBLIC SAFETY
DECISION MAKERS
say that wireless data
is just as important
as voice.²

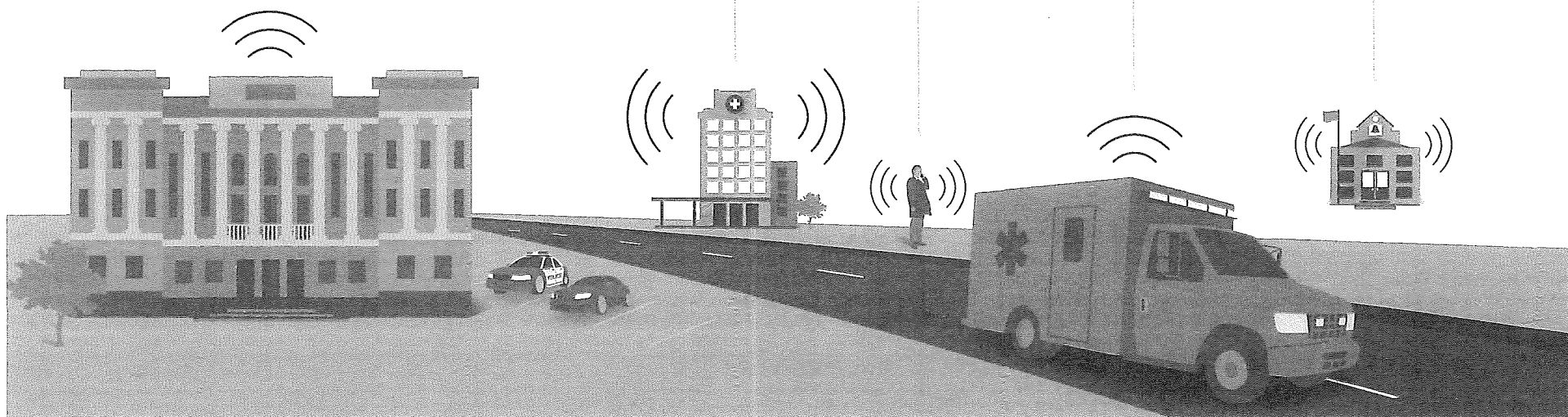
Remote monitoring
of patients **REDUCES**
READMISSIONS
BY UP TO
44%

70%

OF ALL
911 CALLS
originate from
wireless devices.³

ACCESS TO VOICE,
VIDEO, AND DATA
helps first responders
perform more
effectively.⁴

NEARLY
50%
OF SCHOOL
ADMINISTRATORS
prioritize mobile
access when
updating emergency
response plans.⁵



¹"Annual Wireless Industry Survey," CTIA, 2014. ²"Building Safer, More Resilient Communities in a New Era of LMR Intelligence," Motorola, 2014. ³"Telemonitoring reduces readmissions 44 percent in 4-year, 500-patient study," MobiHealthNews, 2014. ⁴"Wireless 911 services," Federal Communications Commission, 2013. ⁵"Urban Security," Cisco, 2014. ⁶"Study Shows Mobile-Enabled Emergency Plans Are a Top Safety Priority for Schools," CampusSafety, 2014.

Your wireless world.

©2015 Crown Castle

TOWERS

Wireless carriers install equipment on tall towers. When this is done, a tower can provide wireless voice and data services to a large geographic area.

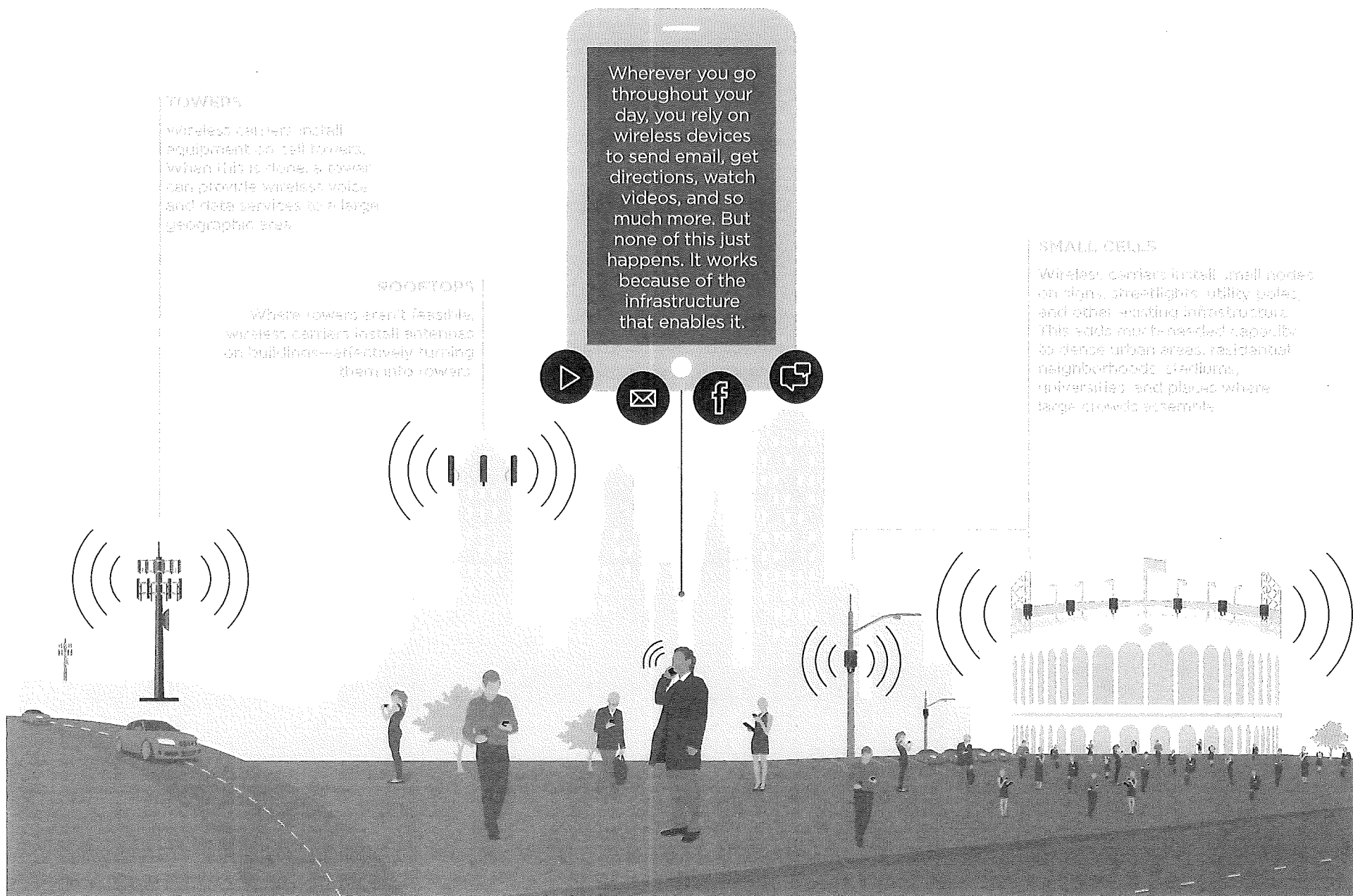
ROOFTOPS

Where towers aren't feasible, wireless carriers install antennas on buildings—effectively turning them into towers.

Wherever you go throughout your day, you rely on wireless devices to send email, get directions, watch videos, and so much more. But none of this just happens. It works because of the infrastructure that enables it.

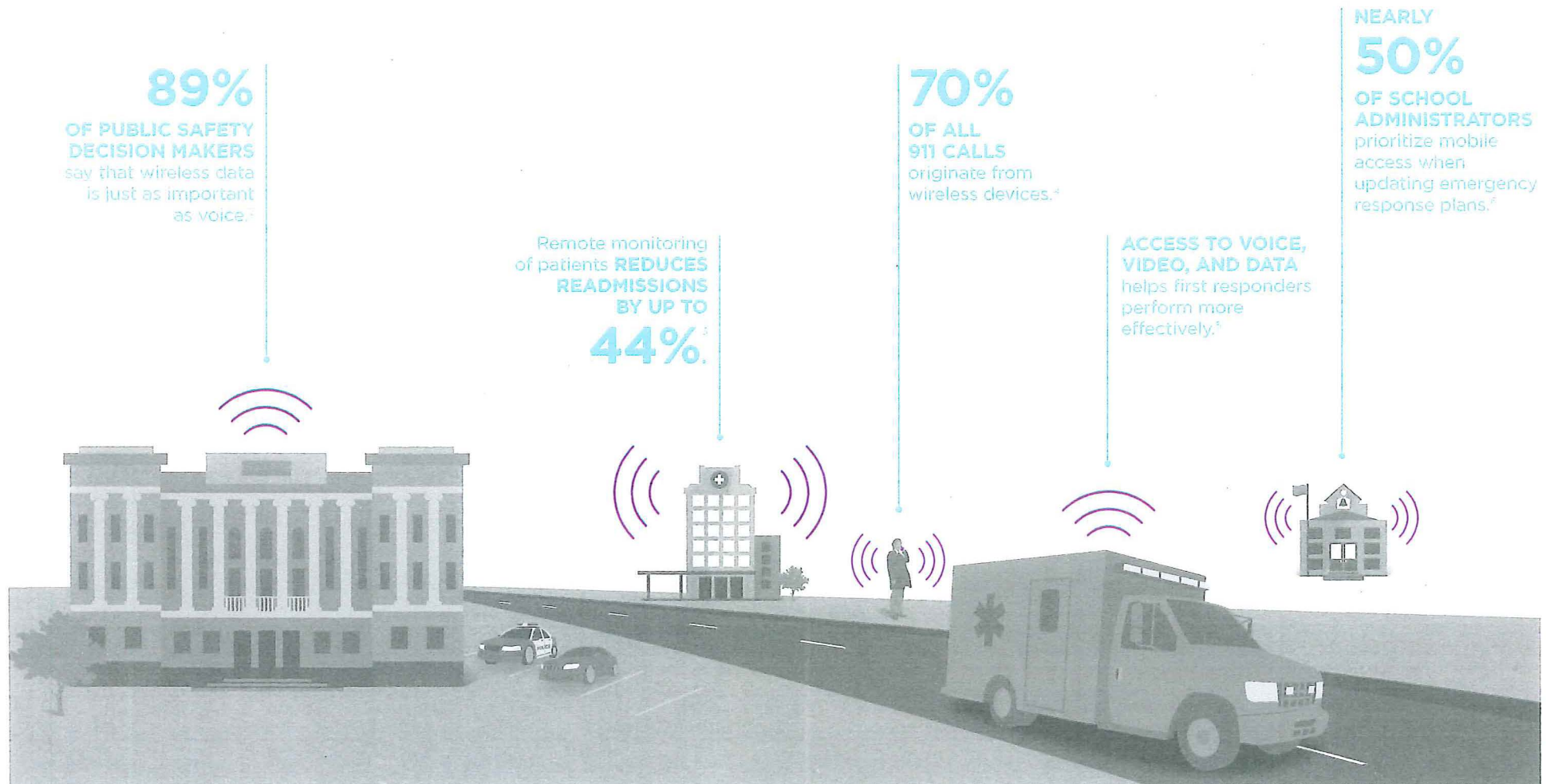
SMALL CELLS

Wireless carriers install small nodes on signs, streetlights, utility poles, and other existing infrastructure. This adds much-needed capacity to dense urban areas, residential neighborhoods, stadiums, universities, and places where large crowds assemble.



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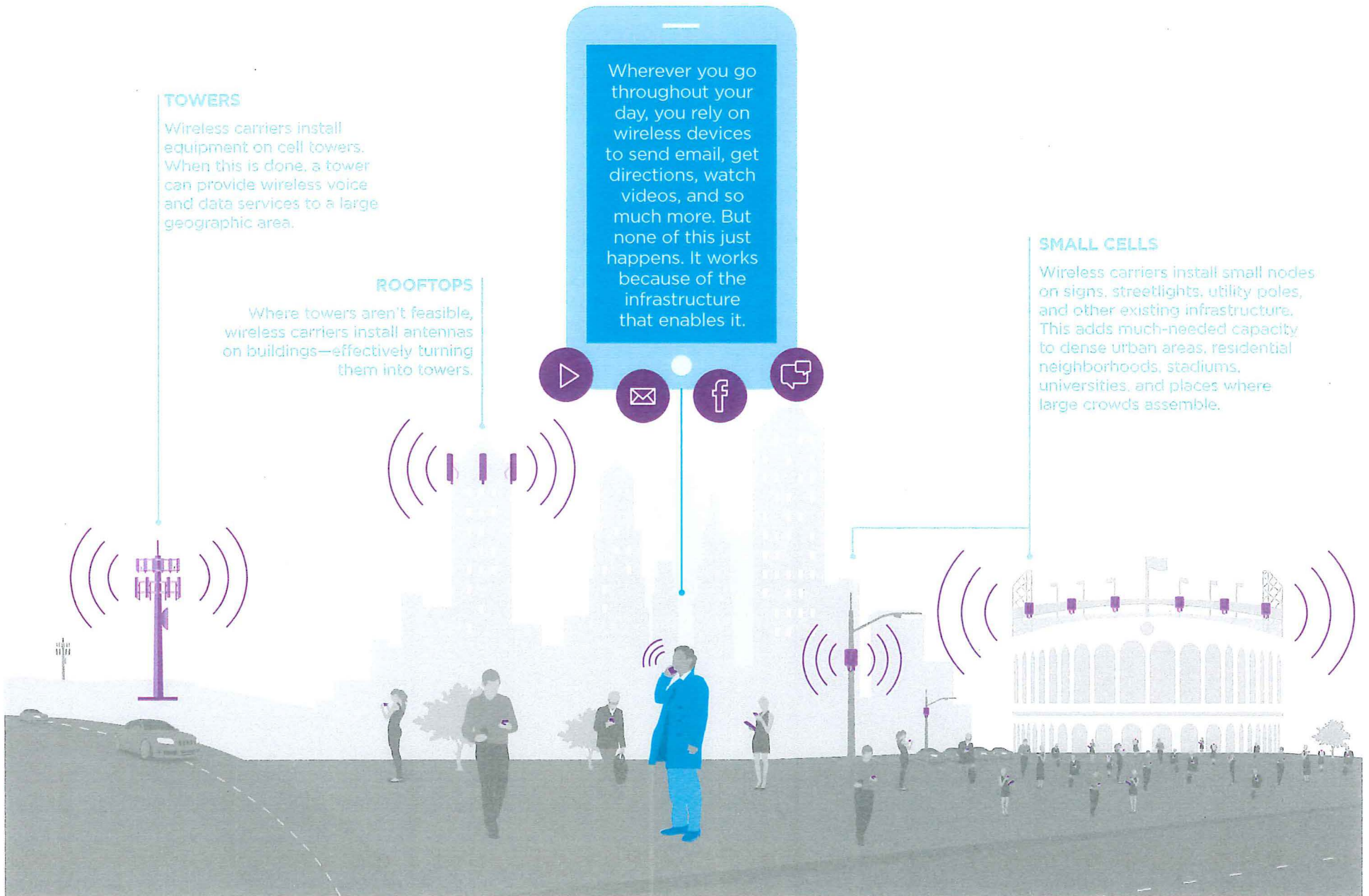
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BOARD OF SUPERVISORS

EAST GOSHEN TOWNSHIP

CHESTER COUNTY

1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

May 16, 2016

Rosemary Chiavetta
Secretary
Pennsylvania Public Utilities Commission
Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: *Comments by East Goshen Township in PUC Proceeding Related to
Certification of DAS Providers, Doc. No. M-2016-2517831***

Dear Ms. Chiavetta:

The Pennsylvania Public Utilities Commission ("Commission") is seeking comments on whether it should continue to grant utility status, through the issuance of Certificates of Public Convenience ("CPC's"), to providers of distributed antenna systems ("DAS"). Our understanding is that the statewide municipal associations have submitted comments on behalf of all Pennsylvania municipalities that address this matter; however, East Goshen Township would also like to add its own comments on this important issue.

We would request that the Commission discontinue the practice of granting CPC's to DAS providers for the following reason. A DAS is not a "public utility" as defined in 66 Pa.C.S. §102 the PA Public Utilities Code, which reads a follow:

2) (iv) Any person or corporation, not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service.

Accordingly East Goshen Township recommends that the Commission end its practice of granting CPC's to DAS providers.

Sincerely yours,



Louis F, Smith, Jr
Township Manager

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 28, 2016

Commissioners Present:

Gladys M. Brown, Chairman
Andrew G. Place, Vice Chairman
Pamela A. Witmer
John F. Coleman, Jr.
Robert F. Powelson

Review of Issues Relating to Commission
Certification of Distributed Antennae
System Providers in Pennsylvania

Docket No. M-2016-2517831

ORDER

BY THE COMMISSION:

In reviewing the applications and relevant certification requests for competitive telecommunications carriers that seek to offer their services in Pennsylvania, certain questions have arisen, about the operations of distributed antennae systems (DAS), the relevant regulatory oversight of the Commission under applicable Pennsylvania and federal law, and other attendant issues. Accordingly, the Commission is initiating a formal proceeding in order to examine the relevant issues in accordance with this Order and attached Appendix A.

Background

The Commission regulates the entry of telecommunications carriers offering public utility service in Pennsylvania through the adjudication of applications for a certificate of public convenience (CPC). These applications are filed pursuant to Section 1101 of the Public Utility Code (Code).¹ In fact, a telecommunications carrier that is a public utility

¹ 66 Pa. C.S. § 1101.

as defined by Pennsylvania law cannot operate lawfully in Pennsylvania without a CPC from the Commission.

Additionally, the Commission has implemented and enforces the mandates of the federal Telecommunications Act of 1996 (TA-96). The relevant certification process was established so as to not present any barrier to entry and to not "prohibit or have the effect of prohibiting the ability of any entity to provide any *interstate or intrastate* telecommunications service." 47 U.S.C. § 253(a) (emphasis added). This process has been refined through subsequent case adjudications, court appeals, and other proceedings including various mergers.²

To date, the Commission has issued CPCs to several telecommunications carriers that provide DAS service in Pennsylvania. DAS carriers gather, transport, and deliver wireless traffic³ through a distributed antenna service network in combination with other network facilities and equipment. DAS carriers often provide wholesale

² See generally *In re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996), 1996 WL 482990; (Order on Reconsideration entered September 9, 1996), 26 Pa. B. 4588 (1996), 1996 WL 482990 (collectively *Implementation Orders*); *Application of Intrado Communications, Inc. for Approval to Offer, Render, Furnish or Supply Telecommunications Services as a Competitive Local Exchange Carrier to the Public in the Service Territories of Verizon Pennsylvania Inc.; Verizon North Inc.; The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania*, Docket Nos. A-2008-2027726, A-2008-2027733, A-2008-2027713 (Order entered August 1, 2008) (CLEC supplying alternative 911/E911 connectivity services is entitled to rights and responsibilities of Sec. 251 and 252 of TA-96, 47 U.S.C. §§ 251 and 252); *Application of Comcast Business Communications, LLC d/b/a Comcast Long Distance for Expanded Authority to Offer, Render, Furnish or Supply Telecommunications Services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania, et al.*, Docket Nos. A-2008-2029089 *et al.* (Order entered September 29, 2008); *Final Order Regarding the Commission's Plan to Implement A One-Year Timeframe for Inactive Telecommunications Carriers To Provide Service On An Annual Basis Within the Commonwealth of Pennsylvania*, Docket Nos. M-2011-2273119 and M-00960799 (Order entered July 19, 2012); *Proposed Modifications to the Application Form for Approval of Authority to Offer, Render, Furnish, or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania*, Docket No. M-00960799 (Final Order entered May 22, 2014); *Application of Momentum Telecom, Inc. for approval of the Abandonment or Discontinuance of Competitive Local Exchange Carrier and Interexchange Carrier Reseller Services to the Public in the Commonwealth of Pennsylvania*, Docket No. A-2014-2450071 (Order entered May 20, 2015).

³ The traffic typically consists of commingled transmissions of voice, data, and video traffic, including Internet traffic.

radio frequency and landline transport and backhaul services to commercial mobile radio service (CMRS)⁴ providers that offer wireless services to retail end-users. Essentially, DAS carriers collect traffic from the CMRS provider's end-user customers and deliver it to the CMRS provider's network. DAS providers in Pennsylvania typically have applied for and been certificated as Competitive Access Providers (CAPs).⁵

More recently, the Commission approved the application of SQF, LLC (SQF) to operate as a CAP in Pennsylvania.⁶ SQF is a DAS provider and was granted authority to provide both interstate and intrastate wholesale services in Pennsylvania.

In supporting the Commission's decision to certificate SQF in Pennsylvania, the written statement of Commissioner John F. Coleman, Jr. noted that SQF's application was unopposed and noted that by granting the application, the Commission was treating SQF like the other DAS providers that have come before the Commission requesting a CPC. Commissioner Coleman's statement in SQF also noted that there is a legitimate question as to whether the Commission can certificate DAS providers. Specifically, Commissioner Coleman questioned whether a DAS provider is a "public utility" as defined by Pennsylvania law that can be certificated or whether a DAS provider is expressly excluded from the definition of "public utility" and, thus, cannot be certificated

⁴ CMRS is a defined term in the federal Communications Act but not in the Pennsylvania Public Utility Code (Code). However, we view CMRS as synonymous with "mobile domestic cellular radio telecommunications service," which is the term used in the Code to describe wireless service.

⁵ In the Commission's application form for a CPC, CAP service is referred to as a "dedicated point-to-point or multipoint service; voice or data." Besides CAPs and Incumbent Local Exchange Carriers, the Commission also certificates Competitive Local Exchange Carriers (both resellers and facilities-based carriers) and interexchange carriers (both resellers and facilities-based carriers).

⁶ *Application of SQF, LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania*, Docket No. A-2015-2490501 (Order entered November 19, 2015) (<http://www.puc.state.pa.us/pcdocs/1395676.docx>). See also the Statement of Vice Chairman John F. Coleman, Jr. (<http://www.puc.state.pa.us/pcdocs/1392246.pdf>) and the Dissenting Statement of Commissioner Robert F. Powelson (<http://www.puc.state.pa.us/pcdocs/1392235.pdf>).

under state law. This statement also questioned whether the Commission is required under federal law to certificate a DAS provider, including whether denying a CPC to an otherwise fit DAS provider prohibits or has the effect of prohibiting DAS service in Pennsylvania in violation of federal law.⁷

Furthermore, the DAS applications for authority that the Commission previously granted were all uncontested. This means that the legal and factual issues surrounding whether to certificate DAS providers have yet to be fully and openly vetted in an on-the-record proceeding before the Commission.

Discussion

For the reasons expressed above, the Commission is initiating a formal proceeding to examine the issues surrounding Commission certification of DAS providers in Pennsylvania. The issues to be examined include, among other things: (1) whether DAS providers are public utilities under Pennsylvania law that can be certificated;⁸ (2) whether the Commission should or is required to certificate these carriers in furtherance of federal law; (3) whether DAS service is an interstate service, intrastate service, or both; and (4) whether a CPC is needed to confer property rights to DAS providers to site the facilities/equipment used to provide DAS service, including access to rights-of-way and eminent domain. Our examination also includes other aspects of our regulatory oversight for DAS providers, such as tariffs and complaints, and any other considerations that an interested party believes should be examined.

⁷ See 47 U.S.C. § 253(a).

⁸ The Commission has held that the provision of wholesale services can fall within the definition of public utility services, which is evident with the existence of numerous certificated utilities currently offering wholesale services in Pennsylvania. See generally *Application of Core Communications, Inc. for Authority to amend its existing Certificate of Public Convenience and Necessity and to expand Core's Pennsylvania operations to include the provision of competitive residential and business local exchange telecommunications services throughout the Commonwealth of Pennsylvania*, Docket Nos. A-310922F0002AmA & AmB (Order entered December 4, 2006), *aff'd*, *Rural Telephone Co. Coalition v. Pa. PUC*, 941 A.2d 751 (Pa. Cmwlth. 2008). Thus, a retail service component is not a requirement to be a public utility in Pennsylvania.

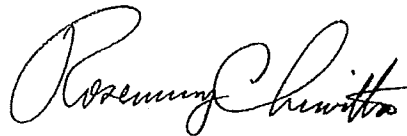
Therefore, we are opening a proceeding and issuing the information requests in Appendix A for comments and reply comments. The Law Bureau, with assistance from the Bureau of Technical Utility Services, shall review the comments and reply comments, and all the information provided therein, and shall present an order to the Commission for consideration. The order shall summarize the information and present any recommendations for Commission action, subject to and in compliance with due process.⁹ This process helps ensure that no individual DAS provider is singled out and that all DAS providers are treated in a competitively-neutral manner regarding their certification status. Lastly, commenters are welcome to provide any additional input on issues not otherwise specifically presented in Appendix A that a commenter believes is relevant to the Commission's examination here, **THEREFORE**,

⁹ We note that any potential fines, penalties, or other remedial action against DAS providers that currently are certificated in Pennsylvania is not within the scope of this proceeding.

IT IS ORDERED:

1. That a formal proceeding to examine the issues surrounding certification of DAS providers in Pennsylvania is initiated.
2. That the Order, including Appendix A to this Motion, shall be published in the *Pennsylvania Bulletin*.
3. That Comments shall be due within forty-five (45) days following publication in the *Pennsylvania Bulletin*, with reply comments due twenty-five (25) days after comments are due.
4. That the Law Bureau, with assistance from the Bureau of Technical Utility Services, shall review the comments, reply comments and all the information provided therein, and shall present an order to the Commission for consideration.

BY THE COMMISSION

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: January 28, 2016

ORDER ENTERED: February 23, 2016

APPENDIX A

Interested parties are asked to respond to the following questions. Comments and replies should be written in plain English. Particularly with technical issues, explanations should be sufficiently detailed to adequately explain the relevant concepts but should be written in a manner that allows individuals with nontechnical backgrounds to comprehend. Comments and replies should also include proper citations to the relevant legal authority, where appropriate. Commenters should reference their responses so as to correspond with the specific questions posed. However, a party is free to address any additional matters it believes are relevant to the Commission's examination here.

1. What is Distributed Antenna System (DAS) service?
 - a. Explain what DAS service is, including the following: (i) the network components used to provide DAS service; (ii) the demarcation point between a DAS provider's network and the provider's network that it serves, as determined in legal agreements or otherwise; and (iii) how traffic is collected, transported, and delivered over a DAS network, including any protocol conversions that occur along the transmission path of the traffic.
2. Whether a DAS provider is a "public utility" as defined by Pennsylvania law that can be certificated by the Commission.
 - a. Does a DAS provider meet the definition of "public utility" under Section 102(1)(vi) of the Public Utility Code (Code)¹ or is a DAS provider expressly excluded from the definition of "public utility" under Section 102(2)(iv) of the Code?
 - b. Is granting public utility status to DAS providers consistent with Commission precedent, including Commission certification of carriers that provide wholesale intrastate telecommunications service in Pennsylvania to retail Internet Service Providers² and retail Voice over Internet Protocol Providers³?

¹ 66 Pa. C.S. §§ 101, *et seq.*

² See *Application of Core Communications, Inc. for Authority to amend its existing Certificate of Public Convenience and Necessity and to expand Core's Pennsylvania operations to include the provision of competitive residential and business local exchange telecommunications services throughout the Commonwealth of Pennsylvania*, Docket Nos. A-310922F0002AmA & AmB (Order entered December 4, 2006), *aff'd*, *Rural Telephone Co. Coalition v. Pa. PUC*, 941 A.2d 751 (Pa. Cmwlth. 2008).

³ See *Application of Sprint Communications Company, L.P. for Approval of the Right to Offer, Render, Furnish or Supply Telecommunications services as a Competitive Local Exchange Carrier to the Public in the Service Territories of Alltel Pennsylvania, Inc., Commonwealth Telephone Company and Palmerton Telephone Company*, Docket Nos. A-310183F0002AMA-AMC (Order entered December 1, 2006).

3. Whether the operations of a DAS provider can be certificated in Pennsylvania.
 - a. Is DAS service in Pennsylvania interstate service, intrastate service or both?
 - b. What is the legal and/or factual basis, if any, for the Commission to certificate a DAS provider in Pennsylvania that is engaged in the provision of interstate services only?
 - c. In reference to 3.b., please address the statutory definition of a "public utility" under Section 102(1) of the Code ("Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for: . .") in conjunction with Sections 102(1)(vi), 102(2)(iv), and 3012 ("[t]elecommunications service") of the Code and whether these sources provide a basis for Commission certification.
 - d. Is the Commission preempted from certificating a DAS provider engaged in the provision of interstate service only under Section 104 of the Code and applicable federal law, including Section 152(a) of the Communications Act of 1934⁴ and related case law?
4. Whether the Commission is required by federal law to certificate a DAS provider seeking a Certificate of Public Convenience (CPC) in Pennsylvania.
 - a. Does denying a CPC to a DAS provider prohibit or have the effect of prohibiting DAS service in Pennsylvania in violation of Section 253(a) of the Telecommunications Act of 1996 (TA-96)?
 - b. Does denying a CPC to a DAS provider violate Section 253(b) of TA-96, which preserves state authority to impose requirements, on a competitively-neutral basis, related to intrastate telecommunications services?
 - c. Does denying a CPC to a DAS provider violate any other federal statutory provision, any decision of the Federal Communications Commission, and/or any federal court decision?

⁴ 47 U.S.C. § 152(a).

5. Separation of DAS provider operations.
 - a. If the antenna equipment of a DAS provider used to collect wireless traffic is owned and/or operated by a separate legal entity (e.g., a subsidiary or affiliate) than the owner and/or operator of the wireline facilities/equipment used to perform the transport function, how, if at all, would this impact whether the owner and operator of the wireline transport function is a "public utility" under Pennsylvania law? Would such an arrangement facilitate the Commission's certification process for such providers?
 - b. What are the potential advantages and disadvantages with such an approach?
6. Whether public utility status is needed for a DAS provider to site its facilities/equipment used to provide service in Pennsylvania.
 - a. Explain how, if at all, the following rights under federal and/or state law are impacted if a DAS provider is not a public utility under Pennsylvania law: (i) the right of a DAS provider to access public rights-of-way to install its own poles/structures in Pennsylvania, to attach its own facilities/equipment to poles/structures owned by other entities in Pennsylvania, or to access their conduits; (ii) the right of a DAS provider to attach its own facilities/equipment to poles/structures in Pennsylvania owned by other, non-governmental entities, including public utilities, and/or access their conduits; and (iii) the right of a DAS provider to attach facilities/equipment to state or local government-owned poles/structures in Pennsylvania.
 - b. When DAS providers attach facilities/equipment to poles/structures or access conduits owned by non-governmental entities in Pennsylvania, including public utilities, is it the practice of the pole/structure owners to require the DAS provider to obtain a CPC from the Commission prior to allowing the attachment? If so, what is the legal basis for this practice?
 - c. Explain what impact, if any, conferring public utility status to DAS providers has on the property rights of state and/or local governments and/or private property owners in Pennsylvania
7. What is the business value of a CPC to a DAS provider?
 - a. Is it the practice of a customer or potential customer in Pennsylvania to require a DAS provider to obtain a CPC from the Commission prior to entering into a business relationship with the DAS provider? If so, what is the legal basis for this practice?

- b. Even if not required by customers or potential customers, is having a CPC from the Commission something that wholesale or retail customers or potential customers in Pennsylvania prefer prior to entering into a business relationship with a DAS provider? If so, why?
 - c. How do other state commissions deal with the applications and certifications of DAS providers?
- 8. DAS providers and wholesale interconnection/collocation.
 - a. Explain whether DAS providers interconnect with the Public Switched Telephone Network (PSTN).
 - b. To the extent DAS providers interconnect with the PSTN, explain whether they enter into wholesale interconnection and/or collocation agreements with Incumbent Local Exchange Carriers (ILECs) pursuant to Section 252 of TA-96⁵ or obtain interconnection through commercial agreements with ILECs that are not approved by the Commission.
 - c. To the extent DAS providers interconnect with the PSTN, explain whether their wholesale interconnection and/or collocation agreements with ILECs utilize or potentially can utilize unbundled network elements or UNEs.
 - d. To the extent a DAS provider seeks to enter into a wholesale interconnection and/or collocation agreement with an ILEC that is subject to Commission approval, explain whether the failure to obtain a CPC from the Commission impedes or otherwise affects the commencement of negotiations with the ILEC for wholesale interconnection/collocation.
 - e. To the extent a DAS provider seeks to enter into a wholesale interconnection and/or collocation agreement with an ILEC that is subject to Commission approval, explain whether failing to obtain a CPC from the Commission impedes or otherwise affects the ability of the provider to timely and effectively obtain wholesale interconnection/collocation and hence, amounts to a barrier to entry under Section 253(a) of TA-96.

⁵ 47 U.S.C. §§ 201, *et seq.*

9. DAS providers and E911/911 Service.
 - a. Explain whether DAS providers transport or otherwise handle wireless 911/E911 call and data traffic⁶ where such traffic eventually needs to timely and reliably reach the appropriate public safety answering point or PSAP.
10. Assuming DAS providers are public utilities under Pennsylvania law, what services and rate elements should be included in a DAS provider's intrastate tariff with the Commission?
11. Assuming DAS providers are public utilities under Pennsylvania law, does the Commission have jurisdiction under Section 1501 of the Code or other applicable law to adjudicate informal and/or formal complaints filed at the Commission against DAS providers, including complaints involving the siting of DAS facilities/equipment?
12. Provide non-proprietary physical network diagram(s) of typical DAS provider network(s). Such diagram(s) should include appropriate legends, explain any technical terminology abbreviations, depict traffic flows, and depict interconnection and/or collocation arrangements with other telecommunications carriers or communications providers.

⁶ Potentially handled by next generation 911 (NG911) systems and network configurations.

TOWNSHIP^[u1] OF EAST GOSHEN
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF EAST GOSHEN, CHESTER COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE ZONING ORDINANCE OF EAST GOSHEN TOWNSHIP, AS CODIFIED AT CHAPTER 240 OF THE EAST GOSHEN TOWNSHIP CODE; PROVIDING FOR PURPOSES AND FINDINGS OF FACT RELATED TO THE ADOPTION OF THE AMENDMENT; PROVIDING FOR ADDITIONAL DEFINITIONS; ESTABLISHING CERTAIN GENERAL AND SPECIFIC STANDARDS RELATING TO THE LOCATION, PLACEMENT, CONSTRUCTION AND MAINTENANCE OF WIRELESS COMMUNICATIONS FACILITIES WITHIN THE PUBLIC ROAD RIGHTS-OF-WAY; PROVIDING FOR THE ENFORCEMENT OF SAID REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it, and it is hereby ORDAINED by the Board of Supervisors of the Township of East Goshen, Chester County, Commonwealth of Pennsylvania, and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION I. Purposes and Findings of Fact.

- A. The purpose of this Ordinance is to maintain uniform standards for the siting, design, permitting, maintenance, and use of antennae and non-traditional wireless communications towers in East Goshen Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this Ordinance, the Township intends to:
- a. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
 - b. Establish procedures for the design, siting, construction, installation, maintenance and removal of wireless communications facilities in the Township, including facilities both inside and outside the public road rights-of-ways;

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- c. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable wi-fi and other wireless communications facilities;
- d. Treat each communications services provider in a nondiscriminatory and competitively neutral manner in exercising the Township's authority; and
- e. Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

SECTION II. Definitions.

Section 240-6 of the East Goshen Township Zoning Ordinance is hereby amended to include the following definitions to the "Definitions" section in Part B:

1. *Abandon* or *Abandonment* – The permanent cessation of all uses of a wireless communications facility or a commercial communications antenna.
2. *Distributed Antenna Systems (DAS)*— A network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.
3. *Emergency*— A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Rights-of-Way to be unusable and result in loss of the services provided.
4. *FCC*— Federal Communications Commission.
5. *Monopole*— A wireless communications facility or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances.
6. *Related Equipment*— Any piece of equipment related to, incident to, or necessary for, the operation of a Wireless Communications Facility, either Tower or Antenna. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.
7. *Stealth Technology*—Camouflaging methods applied to wireless communications facilities and antennae which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae, building-mounted Antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

8. *Substantially Change*—(1) Any increase in the height of a Wireless Support Structure by more than 10%, or by the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth herein if necessary to avoid interference with existing Antennae; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than 10% of its originally approved height or by the height of one additional Antenna array.
9. *Wireless*—transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

SECTION III. Amendment

Section 240-31.C.(3)(h) of the East Goshen Township Zoning Ordinance is hereby amended to include Section IV as subsection [4] and section V as subsection [5] following the current subsection [3] for wireless communication facilities standards.

SECTION IV. Commercial Communications Antennae in the Public Road Rights-of-Ways

[4.] Commercial communications antennae in the public rights-of-way.

- a. Standards for commercial communications antennae erected in the public rights-of-way. All applicants seeking to construct, erect, or relocate a commercial communications antenna shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application, unless the proposed facility falls under the provisions of the Pennsylvania Wireless Broadband Colocation Act.
- b. Conditional use application. A conditional use application shall be completed by any applicant desiring to place a commercial communications antenna in the public road right-of-ways ("ROW"). The application shall be submitted to the Township Zoning Office and shall demonstrate that the proposed facility meets all of the following specifications:
 - a. Co-location, Location and Siting.
 - i. Co-location. Commercial communications antennae in the-ROW shall be ~~co-~~located on existing ~~poles, such as existing~~ utility poles that already act as standard antennae support structures. ~~or light poles.~~ If

co-location is not technologically feasible, the Applicant shall locate its commercial communications antennae on existing poles that do not already act as standard antenna support structures.

ii. Location. Commercial communications antennae in the ROW are permitted in all zoning districts ~~es~~—subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.

iii. Siting.

1. Prohibited on Certain Structures. Commercial communications antennae shall not be located on any building in the ROW, single-family detached residences, single-family attached residences, or any residential accessory structure.

~~2. Historic Buildings. No commercial communications antenna may be located on a building or structure in an historic district that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of historical significance.~~

iv. Design regulations.

1. Antenna installations located above the surface grade in the ~~public~~ ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

2. Antennae and all support equipment shall be treated to match the supporting structure. Facilities and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

3. Equipment location. Commercial communications antennae and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or

motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:

- a. Ground-mounted equipment and electrical meter cabinets shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
- b. Any proposed underground vault related to commercial communications antennae shall be reviewed and approved by the Township.
- v. Public safety communications. The applicant shall submit proof that the proposed antenna will not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- c. Relocation or Removal. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of an antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - i. The construction, repair, maintenance or installation of any Township or other public improvement in the ROW Right of Way; or
 - ii. The operations of the Township or other governmental entity in the ROW Right of Way; or
 - iii. Vacation of a street or road; or the release of a utility easement; or
 - iv. An Emergency as determined by the Township.
- d. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a commercial communications antenna, the applicant shall provide to the Township financial security sufficient to guarantee the removal of the proposed antenna. Said financial security shall remain in place until the antenna is removed.
- e. Standard of care. Any commercial communications antenna shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes,

including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. All antennae shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

- f. Wind. Any commercial communications antennae shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E Code, as amended).
- g. Maintenance. The commercial communications antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- h. Radio Frequency Emissions. No commercial communications antenna may, by itself or in conjunction with other antennae, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- i. Abandonment. In the event that use of a commercial communications antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned antennae or shall be removed as follows:
 - i. All abandoned or unused antennae and accessory facilities shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the Township.
 - ii. If the antenna is not removed within two (2) months of the cessation of operations at a site, or within any longer period approved by the Township, the antenna and any related equipment may be removed by the Township and the cost of removal assessed against the owner of the antenna.
- j. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all commercial communications antennae in the ROW based on public safety, traffic management,

physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

- k. Insurance. Each Person that owns or operates a commercial communications antenna shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the commercial communications antenna.
- l. Indemnification. Each Person that owns or operates a commercial communications antenna shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the commercial communications antenna. Each Person that owns or operates a commercial communications antenna shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a commercial communications antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- m. Co-locations and modifications that fall within the provisions of the Pennsylvania Wireless Broadband Collocation Act.
 - a. Section 4 (a-d) shall not apply to facilities which are governed by the Pennsylvania Wireless Broadband Collocation Act. To the extent permitted by law, the remaining provisions in Section 4 (e-l) shall apply to co-location applicants desiring to place new antennae on existing wireless communications facilities, as well as those applicants desiring to modify existing facilities. Any applicant proposing the colocation or modification of a commercial communications antenna shall submit a building permit to the Township Zoning Office.
 - b. Timing. Within thirty (30) calendar days of the date that an application for a Commercial communications antenna is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to

complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety (90) day review period.

Section V. Wireless Communications Facilities in the Public Road Rights-of-Way

[5]. Wireless communications facilities in the public rights-of-way

- a. Standards for wireless communications facilities erected in the public rights-of-way. All applicants seeking to construct, erect, or relocate a wireless communications facility shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application.
- b. Conditional use application. A conditional use application shall be completed by any applicant desiring to erect a wireless communications facilities in the public ROW. The application shall be submitted to the Township Zoning Office and shall demonstrate that the proposed facility meets all of the following specifications:
 - i. Location and Height.
 1. Maximum Height. Wireless communications facilities greater than forty-five (45) feet in height shall be prohibited in the public rights-of-way.
 2. Height Extensions. Any height extensions (not co-locations) to an existing wireless communications facility shall require prior approval of the Township, and shall not increase the overall height of the facility to more than forty-five (45) feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
 3. Location.
 - a. Wireless communications facilities forty-five (45) feet or shorter in height shall be permitted in the Township in the ROWpublic rights-of-way, but only in areas in which utilities are located underground, and more specifically permitted only upon the of the following roadseorridors:
 - i. West Chester Pike.

- ii. Boot Road, between Paoli Pike and Greenhill Road
- iii. Paoli Pike.
- iv. North Chester Road (Rt. 352).
- v. Line Road.

Suggest limiting it to the state road only?

~~b. Historic Districts. No wireless communications facility may be located in a district, or in the front façade of a building, which is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.~~

ii. Design Regulations.

1. Stealth Technology. The wireless communications facility shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the applicant shall be subject to the approval of the Township.
2. Other antennae. Any proposed wireless communications facility shall be designed structurally, electrically, and in all respects to accommodate both the applicant's wireless communications antennae and comparable antennae for future users.
3. Aviation Safety. Commercial communications antennae shall comply with all federal and state laws and regulations concerning aviation safety.
4. Signs. The proposed facility shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
5. Lighting. No wireless communications facility shall be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

6. Radio Frequency Emissions. No wireless communications facility may, by itself or in conjunction with other facilities in its respective vicinity, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
7. Wind. All wireless communications facilities shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended).

iii. Gap in Coverage.

1. An applicant for a wireless communications facility must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of facility being proposed is the least intrusive means by which to fill that gap in wireless coverage.
2. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of wireless communications facilities in the ROW.

iv. Co-location and Strategic Siting.

1. Co-location. An application for a new wireless communications facility shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed facility cannot be accommodated on an existing or approved structure or building.
 - a. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter ($\frac{1}{4}$) of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:
 - i. The proposed Antenna and Related Equipment would exceed the structural capacity of the existing

building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.

- ii. The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
 - iii. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - iv. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- b. Strategic Siting. Wireless communications facilities, ~~accessory structures~~, and Related Equipment shall not interfere with, displace, damage or destroy, any other facilities, including but not limited to, sewers, gas or water mains, pipes, cables, or conduits.
- v. Equipment Location. The applicant shall at all times comply with and abide by all applicable regulations governing wireless communications facilities. Accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- 1. In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - 2. Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - 3. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - 4. Any graffiti on the wireless communications facility or on any accessory equipment shall be removed at the sole expense of the

owner within ten (10) business days of notice of the existence of the graffiti.

5. Any underground vaults related to wireless communications facility shall be reviewed and approved by the Township.

vi. Written Commitment. As a condition of approval for all wireless communications facilities in the ROW, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennae on its wireless communications facilities where technically and economically feasible. The owner of a wireless communications facility shall not install any additional antennae without obtaining the prior written approval of the Township, so long as such antennae do not fall within the categories of permitted modifications or co-locations in the Wireless Broadband Collocation Act.

vii. Miscellaneous Information.

1. ~~Highway Occupancy Permit/Traffic Plan.~~ The applicant shall obtain and provide the Township with a copy of the Highway Occupancy Permit from either Penn DOT or the Township as applicable. ~~provide a traffic plan for and potential disruption caused by its installation of a wireless communications facility in the ROW.~~

2. ~~Restoration Cost.~~ If appropriate, the applicant shall provide an estimate of cost of restoration to the ROW by disturbances caused by its installation of a wireless communications facility.

3. ~~Timetable.~~ The applicant shall provide to the Township a timetable for construction of the project, or each phase of thereof.

4. ~~Plans and Drawings.~~ The applicant shall provide detailed drawing and plans, including a written description of the size and dimensions, of any proposed facility. All plans and drawings for a wireless communications facility shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

5. ~~2.~~ FCC License. If applicable, the applicant shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of any facilities located in the Township.

~~e. Notice to Neighboring Property Owners.~~

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~~i. Upon submission of an application for a wireless communications facility, and scheduling of the required conditional use hearing, the applicant shall mail notice to all owners of every property within five hundred (450) feet of the proposed facility.~~

~~ii. The applicant shall provide proof of the notification to the Township within ten (10) business days of completion of such mailing.~~

~~d. Restoration.~~

~~i.viii.~~ Restoration. After completion of any maintenance, placement, installation, or removal of any wireless communications facility in the ROW, the owner of such facility shall, at its own expense, restore the ROW to its original condition within twenty-five (25) days, or such longer period as may reasonably be required. ~~Additionally:~~

~~1. For one year following the completion of such work, the owner of such facilities shall guarantee its work and correct, at its own expense, any restoration work that does not satisfy the construction standards under the Township Code.~~

~~2. The owner of the wireless communications facility shall exercise due care in such restoration of the ROW and shall take all reasonable steps to safeguard work site areas.~~

~~e.~~ Standard of care. All wireless communications facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any facilities shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

~~f.c.~~ Maintenance Standards. The following maintenance requirements shall apply: all wireless communications facilities shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair; such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents; all maintenance

activities shall utilize nothing less than the best available technology for preventing failures and accidents.

~~g.d.~~ Time, Place and Manner. The installation shall be in accordance with the requirements of the Highway Occupancy Permit issued for the facility. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all wireless communications facilities in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.

~~h.e.~~ Reservation of Rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any wireless communications facility for numerous factors, which include but are not limited to, visual impact, design, and safety standards.

~~i.f.~~ Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of wireless communications facility in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any wireless communications facility when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- i. The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
- ii. The operations of the Township or other governmental entity in the right-of-way;
- iii. Vacation of a street or road or the release of a utility easement; or
- iv. An Emergency as determined by the Township.

h. Notice of Transfer, Sale or Assignment. If the owner of a wireless telecommunications facility in the ROW sells, transfers or assigns those facilities to another party, the transferee, buyer or assignee shall be obligated to comply with the regulations set forth in this Ordinance. Notice of the transfer, sale or assignment shall be provided to the Township within fifteen (15) days of the effective date of the transfer, sale or assignment. Such notice shall include the contact information for the transferee, buyer or assignee.

- i. Insurance. Each Person that owns or operates a wireless communications facility forty-five (45) feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each facility.
- j. Indemnification. Each Person that owns or operates a wireless communications facility shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the facility. Each Person that owns or operates a wireless communications facility shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of facility. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- k. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a wireless communications facility, the applicant shall provide to the Township financial security sufficient to guarantee the removal of the proposed wireless communications facility. Said financial security shall remain in place until the facility is removed.

SECTION VI. Miscellaneous

- a. Police Powers. The Township, by granting any permit or taking any other action pursuant to this Chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- b. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this Chapter invalid.
- c. Effective Date. This Ordinance shall become effective thirty (30) days after enactment by the Board of Supervisors of East Goshen Township.

ENACTED AND ORDAINED this ____ day of _____, 2014.

ATTEST:

EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS:

Secretary

Chairman



THE COUNTY OF CHESTER



COMMISSIONERS

Terence Farrell
Kathi Cozzone
Michelle Kichline

Brian N. O'Leary, AICP
Executive Director

PLANNING COMMISSION

Government Service Center, Suite 270
601 Westtown Road
P.O. Box 2747
West Chester, PA 19380-0990
(610) 344-6285 Fax: (610) 344-6515

March 1, 2016

Adam Knox
Planning Commission Vice Chairman
East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Re: Chester County Planning Commission Services and Projects

Dear Adam,

As the new executive director of the Chester County Planning Commission, I've been very impressed with the strong role of planning in shaping the county's beautiful landscapes, walkable towns, and vibrant employment centers. The planning commission is working hard to keep Chester County's high quality of place, and we wanted to make you aware of some of our services and upcoming projects.

Services: We have many services that might be useful to your municipality:

- Vision Partnership Program – this grant program provides assistance to municipalities for preparing comprehensive plans, ordinances, revitalization plans, and other special studies.
- Data, Maps, and Best Practices – our website, www.chesco.org/planning, is full of demographic and mapping resources, as well as toolboxes and best practices for planning.
- Transportation Services – our transportation division coordinates transportation projects and funding across the county.
- Sketch Plan and Review Services – in addition to our normal subdivision and development reviews, we conduct reviews of sketch plans, working with the municipality and developer, at no charge.
- Planning Advice – if you have a general or technical planning question, we'd be glad to answer it. Feel free to give us a call or to invite us to one of your meetings.

Comprehensive Plan Update: Our biggest upcoming project is the **update of Landscapes2**, the county's comprehensive plan. We'll send out more information about this update in the late spring and will be seeking your input once we begin in the fall.

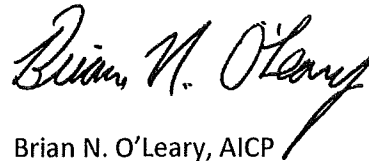
Major Planning Commission Projects: In 2016, we are preparing or conducting:

- A study on reinventing the county's commercial landscapes, particularly office and retail areas,
- Outreach meetings on our new multi-modal handbook, which looks at transportation choices,
- Housing case studies showing how affordable housing can fit into the community,
- A trail extension study for the Chester Valley trail,
- Plans for preserving and interpreting the Brandywine Battlefield, and
- Additional pipeline information resources for county residents.

We're interested in hearing your concerns and thoughts about planning in the county. Feel free to contact us at any time, and we are always available to meet with you to discuss our projects and services. I can be reached at 610-344-6285 or boleary@chesco.org.

147

Sincerely,



Brian N. O'Leary, AICP
Executive Director

BNO/bac