

## **BOROUGH OF OGDENSBURG LAND USE BOARD MINUTES**

**MEETING DATE:**           **March 10, 2009**

**CALL TO ORDER:**           The meeting of the Ogdensburg Land Use Board was called to order at 7:00 PM.

### **PLEDGE OF ALLEGIANCE**

### **STATEMENT OF COMPLIANCE:**

The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 5, 2009.

**ROLL-CALL:**                   **Present:** Andrews, Armstrong, Dolan, Fahrenfeld, Fierro, Sund, Telischak, Wood, Fitzgibbons, and McGuire.  
   **Absent:** Kibildis and Sekelsky  
   **Professionals:** Buczynski, Leo and Suljic

**A. APPROVAL OF MINUTES:** A motion was made to approve the minutes from the January 13<sup>th</sup>, 2009 meeting by Vito Telischak, seconded by Patricia Dolan with all in favor. A motion to approve the February 10<sup>th</sup>, 2009 meeting minutes was made by Eric Wood, seconded by John Fierro with all in favor.

**B. CORRESPONDENCE:** No comments.

### **C. OLD BUSINESS/NEW BUSINESS**

- 1. JBL-RAL, LLC**  
**Block 35, Lot 15**  
**LU 07-006 A**  
*Amended Preliminary and Final Major Subdivision*

Mr. Rubin, applicant's attorney, had two questions regarding the resolution. The first question pertained to Condition #8 which states that the subdivision will expire two years from the date of memorialization. Applicant will be permitted to request an extension if construction does not commence within this time period. The other concern was Paragraph #21 which only gives applicant six months to complete conditions without a specific time limit. Joann Tracy of JBL-RAL explained that the principals of the firm did not feel this was a sufficient amount of time to obtain all of the permits, etc. including the DEP water extension. Board members agreed that Paragraph #21 will be revised to indicate a period of two years.

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Joann Tracy was asked if the subdivision would be affected by Proposition 114. Ms. Tracy requested Mr. Beardslee inquire regarding this matter. Subdivision has been approved prior to the regulation and is located in the Planning Area. Applicant will obtain a clarification on these issues.

A motion to open the meeting to the public was made by Steven Sund, seconded by John Fierro with all in favor. There being no comments from the public, a motion to close the meeting to the public was made by Bill Andrews, seconded by Patricia Dolan with all in favor.

A motion to memorialize the JBL-RAL, LLC resolution for an Amended Preliminary Major and Final Major Subdivision was made by Patrick Fitzgibbons, seconded by John Fierro with Andrews, Dolan, Fahrenfeld, Sund, Telischak, and Armstrong in favor.

### **2. New Cingular Wireless PCS, LLC**

**Application #LU-08-002**

**Block 30, Lot 11.08**

**230 Passaic Ave.**

*“C” and “D” Variance Approval and Site Plan Approval in order to place nine (9) Antennas on an existing structure*

It was noted that Councilman Eric Wood had left the meeting and no members from the Borough Council were in attendance. Attorney Ursula Leo stated that the applicant appeared before the Board at the June 10<sup>th</sup>, July 8<sup>th</sup>, August 12<sup>th</sup> and October 15<sup>th</sup>, 2008 meetings. The vote taken at the October meeting resulted in a 4 to 3 vote. Mr. Quinn was asked to come back for a reconsideration.

Christopher Quinn, Attorney at Day Pitney, LLP represents Cingular Wireless, also known as AT&T. Applicant is requesting a D3 Conditional Use Variance to install nine (9) antennas at a centerline 85 feet, maximum 88 feet high on the existing structure located at Block 30 Lot 11.08, 230 Passaic Avenue. Property is in the IC Zone, Industrial/Commercial Zone. The applicant is also requesting a Minor Site Plan approval and a very small Bulk Variance for the height of the fence. The ordinance conditionally permits this use on the site of the Sterling Hill Mine Museum.

1. Use methods to conceal the antenna installation;
2. The height permitted in the zone is 30 feet but the height of the structure is 98 feet and is a non-conforming structure.

The ordinance encourages antennas to be co-located. T-Mobile has six previously approved antennas on the tower. Attorney Quinn stated that he has contacted the T-Mobile people involved with this site to obtain an update on what has developed with the other antennas because that was a concern of the Board. Exhibit A-15 was submitted containing the e-mails between Attorney Quinn and Chris Hill of T-Mobile/Omnipoint. Their antennas were too high and they have agreed to reduce the height, have obtained construction permits to do the work and have secured their

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contractor. As per their Construction Manager, they should start in the middle of the month and be finished in a week or two.

Cingular previously submitted an alternate site location analysis. The structure at the Sterling Mine is several hundred feet from any residential property line. Motion to approve the application ultimately failed and a resolution has not been adopted. Since October, the applicant has been working with T-Mobile and the landlord. The landlord is in the process of receiving bids for maintenance of the structure. Applicant will work with the Board Engineer to repair and replace the fencing.

According to Robert W. Toms, P.E., Structural Engineer of the MTM Design Group, the power equipment will be installed outside the existing fence but will be enclosed with fencing. The west side gate at the tower will have combination locks. The antennas will be installed as follows: 3 west, 3 east and 3 on the north side of the structure.

Repeater would be installed 20-30' high on the telephone pole. The importance of having coverage at Heater's Pond was discussed.

Attorney Leo informed the Board that this location was in litigation in 2006 and gave a recap of the legal requirements of the applicant.

A motion to approve the "D" Variance was made by John Fierro, second by Vito Telischak with Andrews, Dolan, Fahrenfeld, Armstrong in favor and Sund opposed.

A motion to approve the "C" Variance was made by Vito Telischak, second by John Fierro with Andrews, Dolan, Fahrenfeld, Armstrong in favor and Sund opposed.

A motion to approve the Minor Site Plan was made by Patricia Dolan, second by Vito Telischak with Andrews, Fahrenfeld, Fierro, Armstrong in favor and Sund opposed.

### **D. CHAIRMAN'S AGENDA**

#### **1. Land Development Ordinances**

Chairman Armstrong notified the Board that he gave Attorney Leo his notes, some of them from 1991. Patricia Dolan, John Fierro, Chairman Armstrong and Mr. Podlas were working on the ordinance changes. The Governing Body had Mr. Ursin draw up a resolution combining the Zoning and Planning Boards. The Land Use Board will write the Land Development Ordinances and will submit same for the Borough Council to approve and adopt. The Board would like to have the LDO's in electronic form and discussed methods and costs to achieve this.

#### **2. Highlands Council Presentation**

Eileen Swan attended the Borough Council Meeting last night and gave a presentation on Plan Conformance. The pros and cons of opting in were discussed.

3. New Jersey Planning Officials  
Chairman Armstrong distributed membership cards to all of the Land Use Board Members.

**E. OPEN TO PUBLIC**

A motion to open the meeting to the public was made by John Fierro, second by Bill Andrews with all in favor. Toni Erb of 26 Edison Avenue inquired about the sidewalks and the location of same. The Borough received a grant in the amount of \$23,000 for a feasibility study for the Safe Passage to Schools. The sidewalks would be located on Main St. and Kennedy and Passaic Avenues. Ms. Erb wanted to know if speed bumps can be installed on Edison Avenue and was told that would have to be presented to the Council. It was also noted that the Spring Street subdivision is subject to DEP regulations. A motion to close the meeting to the public was made by Vito Telischak, second by John Fierro with all in favor.

**F. BILLS AND VOUCHERS**

Dated 1/31/09 from CMX re: JBL-RAL, LLC	\$312.50
Dated 1/31/09 from CMX re: Land Use Board	\$437.50
Dated 2/26/09 from Laddey, Clark & Ryan re: JBL-RAL, LLC	\$624.00
Dated 2/26/09 from Laddey, Clark & Ryan re: General	\$495.00
Dated 2/26/09 from Laddey, Clark & Ryan re: COAH	\$ 45.00

A motion to approve the Bills and Vouchers was made by John Fierro, second by Bill Andrews with Dolan, Fahrenfeld, Sund, Telischak, Fitzgibbons, McGuire and Armstrong in favor and Wood abstaining.

**G. ADJOURN**

A motion to adjourn the meeting was made by Ken Fahrenfeld, second by Eric Wood with all in favor.

Respectfully Submitted by:

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Blanche Stuckey  
Land Use Board Secretary

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Date of Approval