Planning Commission Meeting
November 18, 2009
Verbatim Excerpt

2232-D08-19 – T-MOBILE NORTHEAST LLC
SE 2009-DR-005 – T-MOBILE NORTHEAST LLC

Decision Only During Commission Matters
(Public Hearing on November 5, 2009)

Commissioner Donahue: Thank you, Mr. Chairman. A couple of weeks ago, we had the public hearing on SE 2009-DR-005, concurrent with 2232-D08-19. Had the public hearing, closed the public hearing, kept the record open, deferred decision until this evening. And I will make a motion on those two in just a couple of minutes, but a couple of comments first. The Special Exception and 2232 applications before us this evening propose a 10-foot extension of a 100-foot high utility transmission pole at the intersection of Georgetown Pike and Dolley Madison Boulevard in the Dranesville District. The pole at this location was originally 90 feet tall, extended to 100 feet in 2004, and would stretch to 110 feet, a 22 percent increase beyond its original size under the applicant's proposal. To approve this application, this Planning Commission, pursuant to *Virginia Code* 15.2-2232, must determine that the character, extent, and location of the proposed facility conforms to the Comprehensive Plan and to our County Zoning Ordinance Section 9-006, requiring the subject of the special examination be in harmony with the adopted Comprehensive Plan and not adversely affect the use of neighboring properties. To satisfy the character requirement of the relevant Plan text, a public facility should have no significant, adverse visual impact on the character of residential areas, and the selected site should provide the greatest opportunity to diminish visual impacts of the proposed facility. It should be designed to mitigate visual presence and prominence, concealing its intended purpose in a manner consistent with the character of the surrounding community. The proposed facility will be located in an area characterized by stable residential neighborhoods. At 110 feet, it will immediately rise to be the tallest structure in the area, fully 16 percent higher than the next tallest facility, and 34 percent taller than the average height in this utility corridor. Equally important, this tallest facility will be substantially thicker and wider at its zenith and include attachments, which will be further detracting. As such, it will not easily blend with the existing pattern in the corridor. It will be clearly visible from even more numerous residential and recreational locations than is presently the case, including parts of Dunaway Court, Georgetown Pike, Potomac School Road, and Perry William Drive. For vehicles moving southeast on Route 123 and for many of the aforementioned residences, it towers above tree cover from a half-mile away and will be even more dominant as its height increases. Finally, Mr. Chairman, General Guidelines Objective 42, Policy e, of the Policy Plan, states that "collocation should be denied in favor of a single-use structure when a collocation structure for multiple service providers is not desirable or feasible due to visual impact concerns." Mr. Chairman, I would submit the visual impact of this application on the surrounding residential area is both significant and adverse, and that the applicant has failed to design and locate this facility to have the least visual presence on the community. Its 110-foot height is above the tree canopy, unmatched by any other pole in the area, and at skirt that maximum elevation draws immediate, undesirable, visible attention. And there's no means readily apparent by which the applicant can eliminate these fatal flaws to the application, by way of disguise or concealment contemplated by the Plan text. Therefore, Mr.

Chairman, for the reasons that I have stated, I conclude that the subject proposal fails to satisfy the criteria of location, character, and extent as specified in *Virginia Code* Section 15.2-2232, as amended, and I MOVE THAT THE PLANNING COMMISSION DENY THE PROPOSAL BY FINDING THE SUBJECT APPLICATION 2232-D08-19, AS AMENDED, NOT SUBSTANTIALLY IN ACCORD WITH PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN. And Mr. Chairman, I also MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS, FOR THE SAME REASONS, DENY SE 2009-DR-005.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. I think we should treat each one individually for reiteration of the motion because we have to do a 2232 we approve and the Board is doing the SE. I have some discussion. I've already talked to Mr. Donahue about this. I'm not going to be able to support the motion. I heard the arguments articulated by the Doctor -- and I'm sorry I can't think of his last name, who represented the Evermay community. And I thought his reasoning was not exactly what I would call the reasoning that I think we should be considering in light of Mr. Donahue's motion. I think, quite frankly, that this application is what the doctor ordered, and the doctor in this case is the Comprehensive Plan and the Zoning Ordinance, which states that this is the kind of facility that meets, and with this 10-foot extension, is the kind of facility that we need to be unobtrusive as possible that would create the right kind of telecommunications system that we need in this area, and that would not force us into eventually looking at a monopole, which would be more obtrusive to this neighborhood. I know each case has to be judged on an individual basis, and I'm not for the "Christmas tree" approach that we keep loading up towers or any kinds of structure. There is a time when you have to call it "quits." But a 10-foot extension on an already existing transmission pole that runs down, basically, down that street on an easement that is really visually obtrusive in of itself and those -- those poles furnish electricity to these homes in Evermay is not at all obtrusive. This is going to be a simple pole and there are four, I believe, panels on that that are going to be painted the same color as the pole. And this is what we call for. Collocation on a facility like this is exactly what we -- what we call for, and what's called for in the Plan and in the Zoning Ordinance. Parenthetically, the only reason this has a Special Exception and 2232 is not because of what they're putting on the pole, but it's because of the width of the easement and that calls for a public hearing on the 2232 and on the Special Exception. So, I understand that your constituents are upset with this extension. I don't think it's visually obtrusive at all. I think it serves the purpose of what we established in the Comprehensive Plan and the Zoning Ordinance. So, I'm just -- I'm just going to abstain. Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. I was not present for that hearing. However, there's nothing new to what the application was all about. Nobody's going to sit here and say, "Monopoles are beautiful." You know, they're not. But they're a utility pole like any other utility pole. And if you want the utilities, you have to sometimes put up with things that you don't like. I -- I -- when this issue first came up, like 9, 10 years ago when we started being inundated with applications, I really took the time to see what was in our neighborhoods. And I

think there's so many things that are in our neighborhood that we just go by everyday and we don't realize that they're even there. I've had discussions with constituents in Mason District when there's a monopole in their area and they go, "Well, this is the first one for Mason District because I've never see one here." Well, they were less than a mile from two other monopoles. I mean, it's not pretty. It serves a purpose. We would hope it would get better. I do like it when we can stick it in a steeple or put some branches on it. Or, maybe something else. How about an owl? One of the applicant's representatives came here with an owl. Good idea. But, because I was not here, I will abstain. Otherwise, I probably would have disagreed with the motion.

Chairman Murphy: Further discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Thank you. I also was not here for the public hearing and I will be abstaining. Thank you.

Chairman Murphy: All right.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Oh yes, I wanted to ask Commissioner Donahue, if he would. In the staff report, it says that T-mobile states that privately and other publicly owned sites were considered as alternate locations for the facility, but that the owners of those properties were not interested in leasing property for telecommunications use. But I thought I saw an e-mail or something from you that there was a school site or something that you were considering as an alternate site?

Commissioner Donahue: There are two sites. And the reason I didn't include that in my comments is I guess the way I interpret these applications, which is the first step, I'm not sure it's a comparative situation. In other words, I'm not sure one can or should deny an application of this type because there might be, according to Comprehensive Plan wording, because there might be a better site nearby. In this case, I think there are two potential better sites nearby, quite frankly. And I wish the applicant, frankly, had taken more time to look into them although one of them would be difficult because it's in a park and it would cause the applicant some problems. But the point is, as I read the Plan and as I read the wording, and I studied it more on this one than I have ever before, obviously. The question is visual impact. That's why I would disagree somewhat with, in all due respect, with Commissioner Hall, you just kind of have to take these things and go with them, I don't think that's what the wording of the text says. I think if the visual impact is significant enough, and the problem is we're in subjective area here, okay. But if the visual impact is serious enough, I think on that basis they can be denied. And I think when

you can see a pole like this from half a mile away on 123, as I explained, and you can see no other pole from that point, because this one sits already above the tree canopy and it is going to sit higher above the tree canopy when the 10 feet is put on, I think that's enough visual impact that we can consider a denial. In addition to that, it does stand out in the corridor. It is the tallest pole. It is the thickest on top. When you look from Potomac School Road and you look north, that's the one that jumps out at you. There's no question about it. So, it's for those reasons that I think it's a denial and again, I'm not sure how appropriate it is although I appreciate your comments, I'm not sure how appropriate it is to do this in a comparative fashion. I think you got to find whether the visual impact of this pole is enough to deny it and I recommend it is.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Yes, Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, I understand that we're looking at the general or approximate location, character, and extent. This is not a matter of precision. But given that there are possible alternative sites and that these might provide a cure for this problem, I intend to support this motion, thinking that they'll be back with a better configuration. They need to be above the tree canopy or they can't reliably transmit, so I'm not -- I think that just has to happen. The question is can it happen better in another place? Thank you, Mr. Chairman.

Chairman Murphy: Yes, and as I mentioned and I've gotten taken to task for saying this, but I don't care, I get taken to task quite frequently.

Commissioner Hall: So, what's new?

Chairman Murphy: Yes, but -- you know, the Evermay community is an affluent community and I would imagine that per capita there are a large number of cell phones, and even with the Doctor, probably a couple pagers, at least most doctors carry a couple. And wherever there are these facilities in the County, there is a visual impact. There's no question about it. But this is a low-intensity visual impact, as far as I'm concerned. So, these folks that have all the cell phones that we're purchasing all across the County from all the different suppliers now, all the different systems we have, you know, they're picking up their signals from maybe towers in -- that are more obtrusive in the Springfield District and in the Lee District. And so, they're getting their signals okay; they just don't want to help out in an area where they're setting up a network that can help everyone else. So, you know, put your cell phones away and let's move on. And is there further discussion of the motion? All those in favor of the motion to approve [sic] 2232 --

Commissioner Harsel: No, no, no. To deny.

Chairman Murphy: To deny, excuse me. All those in favor of the motion to deny 2232 -- I got carried away by my own argument. All those in favor of the motion to deny 2232-D08-19, say aye.

Commissioners Donahue, Flanagan, Harsel, Lawrence, and Litzenberger: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioners Lusk, Hall, Alcorn, Murphy, and Hart: Abstain.

Chairman Murphy: Mr. Lusk, Ms. Hall, Mr. Alcorn, Mr. Murphy, Mr. Hart abstain.

Commissioner Donahue: Thank you, Mr. Chairman. If I can make a couple of extra --?

Chairman Murphy: Let me go with the SE. I didn't do them together.

Commissioner Donahue: I'm sorry.

Chairman Murphy: Are all those in favor of the motion to recommend to the Board of Supervisors that it deny -- got it right this time -- SE 2009-DR-005, say aye.

Commissioners Donahue, Flanagan, Harsel, Lawrence, and Litzenberger: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioners Lusk, Hall, Alcorn, Murphy, and Hart: Abstain.

Chairman Murphy: Same abstentions. Okay. The part right? Okay. Thank you very much.

Commissioner Donahue: Mr. Chairman?

Chairman Murphy: There will be a chapter two on this, I have a feeling.

Commissioner Lawrence: Oh, yes.

Commissioner Donahue: Could be. Could be.

Chairman Murphy: Maybe a chapter three.

Commissioner Donahue: Could be.

Chairman Murphy: All right.

Commissioner Donahue: If I could just --

Chairman Murphy: Yes, I'm sorry. Go ahead.

Commissioner Donahue: -- thank some of the folks involved, Mr. Jillson and Ms. Lin just did wonderful work on this application. And I much appreciated the discussions we had, not always in agreement obviously with the applicant. I learned an awful lot during this application and in addition to that, I really do feel that the folks from the community itself that stated their feelings and opinions, I appreciated that as well. So, thank you, Mr. Chairman.

Chairman Murphy: All right. Thank you very much.

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(The motions carried by votes of 5-0-5 with Commissioners Alcorn, Hall, Hart, Lusk, and Murphy abstaining; Commissioner Sargeant not present for the votes; Commissioner de la Fe absent from the meeting.)

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