

RICHLAND COUNTY BOARD OF ZONING APPEALS

June 1, 2011

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5 *[Present: Joshua McDuffie, Elbert Metze, Elaine Perrine, Sheldon Cooke; Absent:*
6 *Torrey Rush, Susanne Cecere, William Smith]*

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8 Called to order: 1:02 pm
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10 CHAIRMAN MCDUFFIE: - this meeting of the Richland County Board of Zoning
11 Appeals to order. And in accordance with the Freedom of Information Act a copy of the
12 Agenda was sent to radio and TV stations, newspapers, persons requesting notification
13 and posted on the bulletin board located in the lobby of the County Administration
14 building. I now recognize Ms. Amelia Linder attorney we'll give the rules of order.

15 MS. LINDER: Thank you, Mr. Chairman. Welcome to this afternoon's Board of
16 Zoning Appeals meeting. This board is a *quasi* judicial court which means the decisions
17 they make today will be final. If you disagree with the decisions that are made you may
18 appeal that decision to circuit court. The applicant will speak first, they will have to 15
19 minutes to present their case. If there are any opposition folks here they have up to
20 three minutes to speak, and then the applicant can rebut that, they have five minutes to
21 rebut what the opposition says. We'll take the cases in the order that they are presented
22 we have one case on today's Agenda. Please address your remarks to the Board
23 Members not to members of the audience. You will be under oath and the testimony
24 that you give will be recorded. If you have any documents you'd like to submit you may
25 do so and the Board will give the appropriate weight to the evidence that you submit
26 today. If you are unhappy with the court's [sic] decision you have 30 days to file your
27 appeal with the circuit court. We'd ask that if you have a cell phone you turn it off or
28 mute it. Please make sure your name is on a sign up sheet if you wish to speak. And

1 you may come and go quietly as you desire. And if you have any questions, I'll answer
2 your questions. Okay, anyone that's planning to come to the podium to testify needs to
3 stand at this time and take an oath to tell the truth. Okay. Raise your right hand please.
4 Do you swear or affirm that the testimony that you give today shall be the truth, the
5 whole truth, and nothing but the truth so help you God.

6 AUDIENCE: I do.

7 MS. LINDER: Thank you. Mr. Chairman.

8 CHAIRMAN MCDUFFIE: Alright. At this point I'll turn the meeting over to zoning
9 administrator Mr. Geo Price. Geo, if you would please introduce the first case.

10 **CASE NO. 11-06 SE:**

11 MR. PRICE: Excuse me. Alright, the first item on the Agenda is 11-06 special
12 exception. The applicant is Kevin Korigan(?) representing PTA-Flash, Clear Talk.
13 They're doing business as Clear Talk, this makes it easier. The location is 181 Hobart
14 Road, the parcel size is about four acres, although the applicant states they may be
15 subdividing a portion of this for their specific use. Currently the property is vacant. The
16 applicant proposes to erect the 250' telecommunications towers within a 6,055 square
17 foot leased area. The adjacent properties are industrially developed. A railroad line is
18 located east of the subject property and really serves as a buffer between the proposed
19 use and the existing residential. Staff has reviewed all of the criteria for special
20 exceptions. We find that this request meets all of the, the normal special exception
21 requirements and it also meets the additional special exception standards that's found
22 in 26-152(D)(22). Staff recommends that this be approved.

1 CHAIRMAN MCDUFFIE: At this time if we could here from the applicant Mr.
2 Korigan.

3 **TESTIMONY OF MR. WESTON ADAMS:**

4 MR. ADAMS: Weston Adams. Angus, Goudelock & Currie Law Firm here in
5 Columbia. I've got with me Kevin Korigan who is the state manager for Clear Talk, and
6 Rich Newton who is the site acquisition manager for Clear Talk. We are asking for a
7 special exception for a cell tower to be built on Hobart Road in Northern Richland
8 County. This, as general matter Clear Talk operates in nine different states, as a
9 national operation. Note that this application qualifies under both the general special
10 exception criteria and the tower specific special exception criteria, and I'll just walk you
11 through those criteria. First as to vehicle and pedestrian safety, note that the tower is
12 not going to be manned by any personnel and in such will have no impact on vehicle
13 and pediatrician safety. Secondly as to the issues of traffic impact, again, there's not
14 going to be, it's not manned tower, so it's not going to have any impact on traffic. There
15 will be a rare maintenance visit and that is about it, so that shouldn't be an issue as to,
16 as to that. As to adverse impact on the aesthetic character of the neighborhood and as
17 to orientation and spacing of buildings, I would note a couple of things; the whole
18 surrounding neighborhood effectively is heavy industrial, the property to the north is
19 heavy industrial, it's a Ready Mix concrete plant, the property to the east and south are
20 heavy industrial and are undeveloped, and those two properties are owned by the
21 person selling us our property. So effectively the whole area surrounding that is heavy
22 industrial and, and practically speaking it really is kind of a perfect location for a cell
23 tower. I mean, I think we, as a community we'd want to encourage putting cell towers in

1 heavy industrial districts rather than in residential districts. The, you know, as to the
2 other criteria that are applicable, the, the co-location, we attempted to co-locate this
3 antenna on four different towers and none of those met the necessary, either they
4 didn't, they weren't tall enough or they didn't have adequate structural capacity to carry
5 the weight of, of the antenna. So I think on, as to the attempt to co-locate we certainly
6 met that requirement as well. The, now as to the other specific criteria that apply to cell
7 towers in special exceptions, you know, there's a 300' height maximum, this towers only
8 going to be 250' tall, so we clearly meet that, that criterion. As to the requirement having
9 the, the, having to do with lighting, noise, fumes, and obstruction of air flow, you know, a
10 cell tower's not going to have any impact on fumes, noise, or obstruction of air flow.
11 This tower will be lighted because it's 250' tall and the FA requires that we light it, so we
12 don't really have any choice on that matter. But again, I would point back to the fact
13 that this is a heavy industrial district, you know, surrounded by a Ready Mix concrete
14 plant and two other heavy industrial zoned property, and Hobart Road, so I, I don't think
15 the lighting is a problem. And as a practical matter we've forced to light it, per FAA
16 regulations. Going back to the other, the, the specific tower criteria as to the setbacks
17 that are required in a heavy industrial district we've got to have on either side, because
18 all the surrounding properties are heavy industrial, the properties, the setback is to the
19 sides, to the north and south, only have to be zero feet and we've got 22.4' on one side
20 and 22.8' on the other side. And so we meet the zero setback for the sides, the rear
21 setback, you know, has got to be 10' and we've got 12' there as a setback so we meet
22 that requirement. The front setback has got to be 25' and our, our setback there is 52.3'.
23 So I think we satisfy all the setback requirements. Again I went over the, the attempt to

1 co-locate and I can give you a little more detail about them. The forty antenna's that we
2 put up in Columbia, 36 of those, you know, we have co-located so it's by far in a way
3 our preference to co-locate rather than build a new tower. It's pretty rare that we've got
4 to build a new tower and this is one of those cases. You know, as to those four, let me
5 give you just a little more specifics the 10, 810 Farrow Road property is owned by
6 Crown Castle and it would, it simply couldn't hold the weight of another antenna. The
7 wooden monopole tower on SCE&G property and Farrow Road is not tall enough and
8 couldn't carry the weight. The city water tank that we looked up is too short, and then
9 the Crown Castle property to the west of Farrow Road had both structural problems and
10 height problems. We, they, they couldn't put us high enough up the tower to satisfy our
11 needs. To cover the area that we're trying to cover here it's got, we've got to be able to
12 reach, we've got to be up about 250' to really get out and cover the area that we're
13 pushing to cover in that part of Columbia and Richland County. Your ordinance also
14 requires that we effectively promise to, as long as we can contractually negotiate it, to
15 co-locate, or let others co-locate on our tower if the tower is built, and we, we hereby
16 agree to that and I think we've stated that in our application. As to the other
17 requirements in the ordinance, you've got a requirement for a seven foot fence, you
18 know, we, we'll, absolutely we'll meet that. We'll build a seven foot fence that will have a
19 three stranded barbed wire around the top of it. We'll meet the landscaping
20 requirements as mandated by your ordinance. And we won't have any signage on the
21 tower as your ordinance mandates. We will have signage on the gate and on the fence;
22 either federally regulated, mandated signage or emergency contact information but it
23 won't be on the tower. And as to your requirement that we take the tower down within

1 120 days of it not being used anymore, we'll abide by that. So effectively I think those
2 are all the sort of high points in, you know, both the specific tower special exception
3 criteria and in the general special exception criteria, and I'm happy to answer any
4 questions you've got. Mr. Chairman, I would like to make a motion that all the
5 documents that we've submitted to this point be admitted into the Record. Would you
6 grant that motion?

7 CHAIRMAN MCDUFFIE: Absolutely.

8 MR. ADAMS: Okay. And I'm happy to answer any questions you've got.

9 CHAIRMAN MCDUFFIE: Any questions for the applicant at this time?

10 MR. COOKE: I had a question for Staff and it's just a freaky question. With the,
11 as far as the, I don't remember when we've talked about fence height. When we talk
12 about fence height the fence actually, the height of the fence has to be at least seven
13 feet, is that correct? Mr. Price?

14 MR. PRICE: That's a good question.

15 MR. COOKE: That's not including the barbed wire.

16 MR. PRICE: Yeah.

17 MR. ADAMS: And I, we will commit, it will be a seven foot fence and then it will
18 have the barbed wire on top of that. So it effectively, it will be more like a eight to nine
19 foot fence.

20 MR. COOKE: I guess this is just for future references for, for myself and, and the
21 Board. Do we count the barbed wire, we don't ever count the, the fence actually has to
22 be seven feet.

23 MR. PRICE: Yeah, we don't really get into the barbed wire.

1 MR. COOKE: Okay.

2 MR. ADAMS: The ordinance doesn't even require the barbed wire; we're just
3 throwing that in as extra.

4 MR. COOKE: Okay. Sorry about that it was just a little grey area.

5 MR. PRICE: Yeah, we just measure up to seven feet, anything above that it's just
6 bonus.

7 MR. COOKE: Okay.

8 CHAIRMAN MCDUFFIE: Is the, is the planned fencing for this tower, is that
9 wooden fencing, or is it barbed wire, or chain link?

10 MR. ADAMS: I think it would be chain link fencing. So it would have three
11 strands of barbed wire on the top, that's just to keep people of the tower, effectively.

12 CHAIRMAN MCDUFFIE: Are there any landscaping requirements for -

13 MR. PRICE: Yes, Staff typically works with the, the applicants to really ensure
14 that, you know, adequate landscaping is provided around the really kind of, you know,
15 visual affect, mostly.

16 MR. METZE: Very insignificant, just curious. On the curvature there, that, is that,
17 is the tower going to be pretty well centered within block, within the area?

18 MR. ADAMS: It's going to be towards the back side of the property, so.

19 MR. METZE: Not where the road curves around?

20 MR. ADAMS: Well the road, our piece of property if I'm, you know, this is Geo's
21 map but Geo, I think, if I'm looking at this correctly our piece is in blue, circled in blue.

22 MR. PRICE: Yeah, I'll zoom in a little bit.

1 MR. ADAMS: Right and so our, you see that, I'm sorry, no I can explain it. The,
2 that, Rich correct me if I'm wrong on this, but the, the road that sort of bisects the lot,
3 we're going to be right where Geo is pointing, right in there.

4 MR. METZE: Okay.

5 MR. ADAMS: About, about there. It's, it's more than halfway back towards the
6 back side of the lot.

7 MR. METZE: It's reminiscent, so it's going to be about where old center field
8 used to be in that ball field there.

9 MR. ADAMS: Did you play there?

10 MR. METZE: The back stop and everything is still there on that curve.

11 CHAIRMAN MCDUFFIE: You mentioned that a, what is it, Clear Talk?

12 MR. ADAMS: Clear Talk.

13 CHAIRMAN MCDUFFIE: Clear Talk, is, sorry, is co-located on 36 towers
14 already?

15 MR. ADAMS: Yeah, within the Columbia greater area.

16 CHAIRMAN MCDUFFIE: And, and -

17 MR. ADAMS: And various jurisdictions.

18 CHAIRMAN MCDUFFIE: And on the four towers that are not co-located has
19 anyone availed themselves of the opportunity to co-locate on, on your other four
20 towers?

21 MR. KEVIN KORIGAN: I'm Kevin Korigan. We only have one that's just came up
22 in the past six months in West Columbia, Cayce and we have not received an
23 application for co-location yet, but we do market our towers.

1 MR. ADAMS: And we're open, Kevin correct me if I'm wrong, we're open to
2 having people co-locate, it's a good thing for us.

3 MR. KORIGAN: Yeah, absolutely.

4 MR. ADAMS: Right.

5 CHAIRMAN MCDUFFIE: Are there any other questions for either Staff or for the
6 Applicant at this time? Mr. Cooke, would you care to go through the, the Findings of
7 Fact?

8 MR. COOKE: Sure will, Mr. Chairman. Alright, we'll start with number four, which
9 is, will the, proposed tower will have a maximum height of less than 300', and that
10 answer is yes, it will, it's at 250. Four A and 4B do not apply because it's, they're all
11 asking about being, the tower being on a building. Five A, is the based of the proposed
12 tower located at least 250' from a residential, it's actually a non residential so 5B would
13 apply. The proposed tower located at least 50' from an non residential zoning district.
14 Yes, 5C, I'm sorry, 5C applies. It gets kind of tricky here, is there base of the proposed
15 tower located at least 25' from a non residential zoning district with the habitable
16 dwelling front setback and that's yes. Six, has the applicant shown proof of an attempt
17 to co-locate on existing communication towers? Did the applicant show the alternative
18 tower, building or other structures were not available for use within the applicant's tower
19 site search area that was structurally capable for supporting the antenna or meeting the
20 Applicant's necessary height criteria to provide a location free of interference from other
21 communication towers? I think he did show proof that they tried to co-locate. Is the
22 Applicant willing to allow other use to co-locate on the proposed tower in the future,

1 subject to engineering capabilities of the structure? The answer to that question was, I
2 don't remember, it was yes.

3 CHAIRMAN MCDUFFIE: Yes.

4 MR. COOKE: It was yes.

5 MR. ADAMS: Yes, yes, sir.

6 MR. COOKE: Okay, excellent. So far so good. Will the proposed tower meet the
7 illumination requirements of regulatory agencies such as FCC, or the FAA? We said yes
8 to that, also.

9 MR. ADAMS: Yes sir.

10 MR> COOKE: Will the communication tower and associated building be enclosed
11 within at least a seven feet high fence? And that's yes, not including barbed wire. Has
12 the Applicant agreed to landscape communication tower site in accordance with the
13 requirement of section 26-176? And that's also yes. Has the Applicant agreed to place
14 no signage to any portion of the communication tower unless the sign is for purpose of
15 identification, warning, emergencies, functions or contact, or otherwise required by
16 applicable state or federal rule, law or regulations? And that's also yes. Has the
17 Applicant agreed to dismantle and remove the communication tower within 120 days of
18 the date the tower is taken out of service? And I believe the gentleman has agreed to
19 that, that's also yes. Yes. You want me to go back to that one? Just to get it on
20 Record? Okay, let's go back to 7, has the Applicant agreed to have no nighttime strobe
21 lighting incorporated on the tower unless required by the FCC, the FAA, or other
22 regulatory agencies? And the answer to that one is also, yes. So if they ask you to do
23 that. Moving down to number 12, will traffic be impacted by this proposal? No. Will the

1 proposal affect vehicle or pedestrian safety? I'm going to say no. Is there a potential
2 impact of noise, lights, fumes, or obstruction of air flow on the adjoining properties?
3 Also that one's no. Does the proposed communication tower have an adverse impact on
4 the aesthetic character of the environs? No. And is the orientation and spacing of
5 improvements or building appropriate? Yes.

6 CHAIRMAN MCDUFFIE: Alright, at this point would anyone care to make a
7 motion?

8 MR. COOKE: Yes, Mr. Chairman.

9 CHAIRMAN MCDUFFIE: Alright.

10 MR. COOKE: Y'all want to make the motion? Y'all can.

11 MS. PERRINE? No.

12 MR. COOKE: I move that we make a motion to accept 11-06 special exception
13 to be approved.

14 CHAIRMAN MCDUFFIE: Alright, so we have a motion to approve a special
15 exception for 11-06 SE for a communications tower at 181 Hobart Road. Is there
16 second.

17 MS. PERRINE: I second.

18 CHAIRMAN MCDUFFIE: Okay.

19 MR. PRICE: Who seconded?

20 [Inaudible discussion]

21 CHAIRMAN MCDUFFIE: We have a motion and it's been seconded. All in
22 favor?

23 MR. PRICE: All those in favor: Metze, Perrine, McDuffie, Cooke.

1 *[Approved: Metze, Perrine, McDuffie, Cooke: Absent: Rush, Cecere, Smith]*

2 CHAIRMAN MCDUFFIE: Alright, and that would be none opposed at that point.

3 Let's see, you have your special exception and Mr. Price will be in touch.

4 MR. ADAMS: Thank you very much.

5 CHAIRMAN MCDUFFIE: At this point is there any other, is there any other
6 business?

7 MR. PRICE: No sir, not at this time.

8 CHAIRMAN MCDUFFIE: Okay, at that point then I will adjourn the meeting.
9 Thank y'all.

10

11

[Meeting Adjourned at 1:24pm]