

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

NEXTEL WIP LEASE CORP., Applicant
JAMES W. AND HELEN H. BROWN, Property Owner

Site Plan Review
For the installation of two PCS antennas and associated equipment
Application # PC-02-21

Background

This matter came before the Town of Charlotte Planning Commission on an application of Nextel WIP Lease Corp. (“The Applicant”) for Site Plan Review for the installation of twelve (12) panel antennas and associated equipment on and adjacent to an existing silo located on property owned by James W. and Helen H. Brown at 1783 Greenbush Road.

Application

The application consists of:

1. A Site Plan Review application form, a list of adjoining property owners, and appropriate fee.
2. A written narrative addressing Section 9.6.2 of the Charlotte Zoning Bylaws.
3. A plan by Erdman Anthony entitled “Mt. Philo, Site No. VT-010P, Town of Charlotte, Chittenden County, VT”; sheet 1 dated 12/03/01, last revised 1/18/02; sheet 2 dated 12/03/01, last revised 4/10/02; sheet 3 dated 12/03/01, last revised 1/18/02; sheet 4 dated 12/03/01, last revised 4/11/02.
4. A twelve page plan for the proposed equipment shelter by United Structures Inc. entitled “Nextel Partners, Modular Equipment Shelter” dated 8/22/01.
5. A narrative by Ermand, Anthony and Associates, Inc. entitled “62’ Silo Communication Facility” with page heading “Visual Report—Proposed Mount Philo Communication Facility—Nextel Partners, Inc.” dated December 2001.
6. A plan by Erdman Anthony Consulting Engineers entitled “Nextel Partners, Inc. Communication Facility, Mt. Philo VT—010P, Town of Charlotte, Vermont, View Shed Map”, no date.
7. A plan entitled “Mt. Philo Communications Facility, Greenbush Road, Charlotte, Vermont, Photograph Location Map”, no date or author.
8. Three sets of photographs by Erdman Anthony & Associates showing the site with existing and proposed views (no date).
9. Four photographs of the proposed equipment shelter, no author or date.
10. A plan entitled “VT-010P Mt. Philo Proposed Site, Active Cells”; no author or date.
11. A plan entitled “Neighbors of the Proposed Site, Active Cells”; no author or date.
12. A plan entitled “Proposed Site and Neighbors”; no author or date.
13. A letter to the Charlotte Zoning Administrator from Peter P. Coppola, Nextel Partners, Inc. dated January 28, 2002.
14. A sheet entitled “Nextel Partners, Calculational Method of Evaluation As Outlined in

- FCC OET 65 Edition 97-01”, no date.
15. A sheet by Erdman Anthony entitled “Nextel Partners, Inc., Mt Philo Communication Facility, Mt. Philo, Town of Charlotte, Vermont, Silo/Antenna Mounting Analysis”, dated April 11, 2002.
 16. A plan by Erdman Anthony entitled “Silo Foundation, Section & Details” dated 2/22/02, no revisions.
 17. A specification sheet from Decibel Products, a Division of Allen Telecom, entitled “DB844H80(E)-XY”, no date.
 18. A map including the USGS quadrangle showing the location of the proposed facility.
 19. A report by Jaworski Geotech, Inc. entitled NEPA Threshold Screening Report dated February 13, 2002.
 20. A report by Jaworski Geotech, Inc. entitled Environmental Site Assessment dated January 2, 2002.
 21. A sheet entitled “License Information” for Nextel WIP Expansion Two, Inc.
 22. A copy of a document entitled “Communication Site Lease Agreement (Silo)”, executed by James and Helen Brown (individually) on 12/13/01 and Nextel WIP Lease Corp. on 1/4/02.
 23. Seven photographs of the site, no author or date.

Public Hearing

A public hearing was opened for this application on August 15, 2002 and continued on September 19, 2002. The hearing was closed on September 19, 2002. A balloon test was conducted on September 19, 2002, and a site visit was conducted by the Planning Commission during the balloon test at 6:00 PM on September 19, 2002.

The following were present on August 15th:

- X Representing the applicant: Steven Elsbree
- X Adjoining property owners: Pete Rosenfeld, Diane Rosenfeld, Jonathan Freese, Mac Keyser

The following were present on September 19th:

- X Representing the applicant: Steven Elsbree
- X Adjoining property owners: Pete Rosenfeld, Diane Rosenfeld, Tom Henneberger
- X Other persons: Sharon Balaban

Regulations in Effect

Town Plan as amended March 2002
 Zoning Bylaws as amended March 2002
 Subdivision Bylaws as amended March 1995

Findings

1. The property involved with this application is an approximately 41-acre parcel of land located at 1783 Greenbush Road (the “Property”). The Property is located at a transition from a residential neighborhood (to the south and east) to a rural-residential area (to the north and west). Immediately adjoining the Property (within 1500 feet of the proposed antennas) are sixteen (16) occupied residential dwelling units, not including the dwelling

unit located on the Property. (Application submittal #3 sheet 2, and other sources). The Property is located in the Rural Zoning District.

2. The Property is improved with a residence, several outbuildings, and two silos. The antennas are proposed to be located on the westerly silo. This silo is less than 300 feet from the westerly, northerly and southerly property boundaries. (Application submittal #3 sheet 3).
3. The silos are not currently used for agricultural purposes. (Testimony of Steven Elsbree).
4. The silo where the antennas are proposed to be located is currently approximately forty-seven (47) feet in height. The applicant proposes to increase the height of the silo to sixty-two (62) feet in height for the purpose of supporting the proposed antennas. (Application submittal #3, sheet 4).
5. During the construction and installation phase, the temporary means of access is proposed to be south of the existing garage. However after construction and installation is complete, the permanent means of access is proposed to be the existing driveway to the north of the garage. The construction access will be discontinued and reseeded. (Testimony of Steven Elsbree).
6. If preferred by the Planning Commission, proposed fencing will not be installed around the facility. (Testimony of Steven Elsbree).
7. One new utility pole is proposed to be installed on the east side of the Greenbush Road right-of-way, resulting in overhead power lines crossing Greenbush. (Testimony of Steven Elsbree). Power lines are proposed to be underground from the new power pole to the equipment shelter. (Testimony of Steven Elsbree).
8. Air conditioning units are proposed to be located on the south side of the equipment shelter. (Application submittal #3 sheet 3, and testimony of Steven Elsbree).
9. If preferred by the Planning Commission, proposed landscaping will not be installed near Greenbush Road, but will be installed to the south of the equipment shelter. (Testimony of Steven Elsbree).
10. The Applicant will need a Conditional Use Permit from the Charlotte Zoning Board of Adjustment for the proposed use.
11. The coverage propagation information submitted by the Applicant in support of the Conditional Use Permit was engineered specifically and exclusively for the proposed silo height of sixty-two (62) feet. (Testimony of Steven Elsbree).
12. The Town Plan indicates Greenbush Road in the vicinity of the proposed facility as a “Most Scenic Road” (Map 13).

Conclusions of Law

This application was reviewed under Chapter VI, Section 6.5 and Chapter IX, Sections 9.6.2 and 9.8 of the Charlotte Zoning Bylaws. In Chapter IX, Section 9.6.2 provides Site Plan Review application requirements for telecommunication towers and facilities, and Section 9.8 provides general project requirements and standards. Conclusions regarding the compliance of the application with the standards set forth in Sections 6.5.D. and 9.8 are provided below.

Section 6.5.D.

1. Route 7 Access:

This standard is not applicable.

2. Maximum safety of vehicular circulation between the site and road network:

The proposed permanent driveway (following construction and installation) is the existing driveway to the north of the garage. This standard is met.

3. Adequacy of circulation, parking and loading facilities:

The Applicant is not proposing, and there is not a need for, additional parking or loading facilities. This standard is met.

4. Adequacy of landscaping and screening:

The Applicant proposes to provide screening landscaping to the south of the equipment shelter, and will eliminate proposed landscaping near Greenbush Road. This standard is met.

5. Adequacy of recognition of historic structures:

This standard is not applicable.

6. The overall aesthetics of the development and structures:

The Property is not currently used for agricultural purposes and the silo is not currently being used as a silo. The proposed enlarging of the silo for use as an Antenna Support Structure diminishes the relationship of the structure and its context, ie: agriculture, and increases the disharmony of the proposed facility and its surroundings. The proposed facility, particularly the proposed enlarged silo, will have an adverse impact on the scenic qualities of the surrounding area.

7. Adequacy of recognition of important natural features:

There do not appear to be important natural features (other than scenic and historic resources) in the immediate vicinity of the proposed facility. This standard is not applicable.

8. Adequacy of water supply and sewage treatment and disposal:

The proposed facility will not require the use of water or involve surface-water or ground-water emissions; nor will the proposed facility require wastewater treatment or disposal. This standard is not applicable.

Section 9.8

A. Access Roads and Utilities:

- X The proposed driveway to the north of the garage will follow the contour of the land. This standard is met.
- X The Applicant is proposing to install an additional utility pole to bring power overhead from the west side of Greenbush Road to the Property. The additional utility pole and power line over Greenbush Road will negatively impact the scenic, historic, village-residential and rural-residential qualities of the area.

B. Landscaping/Screening:

Landscaping is proposed to the south of the equipment shelter. The proposed disturbance to existing topography for the installation of equipment will be revegetated. This standard is met.

C. Fencing and Signs:

The Applicant is willing to install or not install fencing, as preferred by the Planning Commission. The applicant is willing to install required signs. This standard is met.

D. Building Design:

The application indicates the proposed equipment shelter is over sixteen (16) feet in height.

The large size of the equipment shelter, which is taller than the twelve (12) foot height this standard allows, will reinforce the commercial nature of the proposed use, and will detract from the residential qualities of the neighborhood.

E. Height of Towers:

The Applicant has not submitted information indicating that the proposed increase in height of the silo is necessary to provide adequate coverage for the proposed telecommunication facility. Coverage information was not submitted for lower silo heights.

F. Visual Impact:

The proposed added height of the silo, in addition to the equipment proposed to be located on and adjacent to the silo, will be visually disruptive, and will not blend into the surrounding environment. The Property is located on a Most Scenic Road, as designated by the Town Plan (Map 13).

G. Zoning Compliance:

The Property meets the minimum size requirement and other regulations for the zoning district. This standard is met.

H. Setback Requirements:

The proposed facility does not meet the required setbacks to property boundaries or to occupied residential dwellings. To construct and operate the proposed facility, the applicant will need appropriate approvals from the Charlotte Zoning Board of Adjustment.

Decision

Based on these Findings, the Planning Commission denies Site Plan Review application PC-02-21.

You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the signing of this Decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members present on August 15, 2002: Jeff McDonald, Jim Donovan, Josie Leavitt, and Gene Diou

Members present on September 19, 2002: Jeff McDonald, Al Moraska, Dave Brown, Josie Leavitt, Gordon Troy and Gene Diou

Vote of Members:

Signed:_____ For / Against Date Signed:_____

Signed: _____ For / Against Date Signed: _____

Signed: _____ For / Against Date Signed: _____

Signed: _____ For / Against Date Signed: _____

Date Mailed: