

**BEFORE THE BOARD OF SUPERVISORS OF
EAST FALLOWFIELD TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA**

In Re:

**Application of Cricket Communications, Inc.
for Conditional Use Approval** : **No. C - 3 - 08**

DECISION AND ORDER

AND NOW, this 23rd day of September, 2008, the Board of Supervisors of East Fallowfield Township hereby grants, subject to the conditions specified hereinbelow, the application of Cricket Communications, Inc. for conditional use approval pursuant to Sections 1733, 1902, 1903 and 1904 of the East Fallowfield Township Zoning Ordinance of 2002 (the “Zoning Ordinance”) to allow the co-location of antennas on the existing wireless communications monopole facility and the installation of radio-related equipment on the ground within the presently fenced area on the property located at 805 Fairview Road, and enters the following factual findings, conclusions and discussions of reasoning in support of the grant of the Application.

I. Background of the Application

By application received June 19, 2008 (“Application”), Cricket Communications, Inc. (“Applicant”) requested approval by the Board of Supervisors of East Fallowfield Township (“Board” and the “Township” respectively) for conditional use approval to allow the co-location of antennas on the existing wireless communications monopole facility and the installation of radio-related equipment on the ground within the presently fenced area on the property located at 805 Fairview Road. The property consists of approximately 4.5 acres and is located within the RA Rural Agricultural Zoning District. The property is also known as UPI (tax parcel) no. 47-8-27, and is legally owned by Richard A. and Carolyn D. Vermeil.

Notice of the scheduling of a public hearing for July 22, 2008, was published in the Daily Local News, a newspaper of general circulation in the Township, on July 9 and July 15, 2008.

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and the public hearing was originally opened pursuant to public notice on July 22, 2008. The hearing was then continued without any testimony provided to August 26, 2008. At the conclusion of the hearing on August 26, 2008, the record was closed. The Applicant's case in support of the Application was presented to the Board through the testimony of V.G. Duavall, Jr., P.E., tower and site designer, of LFC, Inc.; Afework Kassaye, network designer, of Cricket Communications, Inc.; Manfred Galonska for site acquisition, of CLS Group; together with the presentation of certain documentary exhibits. George Asimos, Esquire of Saul Ewing, LLP, represented the Applicant; its Solicitor, Vincent M. Pompo, Esquire of Lamb McErlane PC, represented the Board.

The record in this matter consists of the transcribed notes of testimony taken at the public hearing conducted on July 22, 2008 and August 26, 2008, together with the documentary exhibits marked for identification and admitted into the record by the Board. This Decision and Order is promulgated pursuant to Zoning Ordinance §§1902 & 1903.B. and the enabling provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, as amended, 53 P.S. §10101 et seq.

II. Findings of Fact

1. During the public hearing, the following exhibits were presented into the record:
 - B-1 - Public Notice;
 - B-2 - Proof of Publication;
 - B-3 - Letter from Vincent M. Pompo, Esq. to the Daily Local News dated July 7, 2008;
 - B-4 - Proof of posting of the property;
 - B-5 - Copy of the East Fallowfield Township Zoning Ordinance;
 - B-6 - Letter from Chris Della Penna, P.E. dated July 11, 2008;
 - B-7 - East Fallowfield Township Planning Commission recommendations to the Board of Supervisors;
 - B-8 - Notification letters sent to adjacent property owners;

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- B-9 - Declaration of Covenants dated December 2, 1998 and recorded in the Recorder of Deeds Office of Chester County in Book 4510 at page 0605;
- A-1 - 1998 Conditional Use Order;
- A-2 - Application;
- A-3 - Vermeil deed to the property;
- A-4 - Lease documentation and attachments;
- A-5 - Environmental Impact Assessment prepared by Progressive Environmental Services dated June 17, 2008;
- A-6 - Aerial Photograph;
- A-7 - Site Plan drawing no. Z-1, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-8 - Site Plan drawing no. Z-2, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-9 - Site Plan drawing no. Z-3, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-10 - Site Plan drawing no. Z-4, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-11 - Site Plan drawing no. Z-5, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-12 - Site Plan drawing no. Z-6, prepared by LFC, Inc. dated November 15, 2007 and last revised June 19, 2008;
- A-13 - Structural Analysis Report, prepared by Tower Engineering Professionals, Inc. dated September 13, 2007;
- A-14 - FCC license of Cricket Communications, Inc.;
- A-15 - Propagation map;
- A-16 - Radio frequency emissions report prepared by Kenneth R. Foster & Associates dated July 10, 2008.

2. The Applicant is Cricket Communications, Inc., the licensee of the property located in the Township of East Fallowfield at 805 Fairview Road (the "Property").

3. The Property consists of 4.5 total acres, and is located within the RA Rural Agricultural Zoning District.

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4. The Property is currently developed with an existing wireless communications monopole facility, secured by a fence, and served by a gravel driveway (the "Existing Facility").

5. Sprint Spectrum, L.P. was granted Conditional Use approval for the Existing Facility under a 1998 Decision Order.

6. The Applicant plans to co-locate wireless communication antennas on the existing monopole tower and to install two radio-related equipment cabinets on a 4' x 8' concrete pad located within the fenced in yard.

7. The Applicant is the lessee of a 10' x 15' area within the fenced yard.

8. The proposed antennas shall be at a maximum height of 130 feet.

9. The Applicant is licensed by the FCC to provide the wireless communication services.

10. The proposed antennas' radiofrequency emissions will be within the Federal Communication Commission guidelines.

11. The co-location of the proposed antennas negates the need for erecting an antenna support structure in another location.

12. No building shall be constructed on the site.

13. While performing site visits, the Applicant or its agents park along Fairview Road. Once the Applicant receives Conditional Use approval, the Applicant and its agents will have the right to park their construction/maintenance vehicles within the fenced in yard.

14. There is sufficient off-street parking for maintenance vehicles.

15. The Applicant did not submit a proposed maintenance schedule for its facilities.

16. By the instant Application, the Applicant seeks to obtain conditional use approval to allow the co-location of antennas on the existing wireless communications monopole facility and the installation of radio-related equipment on the ground within the presently fenced area Property to be used for a day care facility.

III. Conclusions of Law

1. The Board has jurisdiction of this Application for conditional use approval.

2. Approval of the Application as conditioned hereinbelow is consistent with the evidence of record and the criteria and standards specified in Sections 1733, 1903, and 1904 of the Zoning Ordinance.

IV. Order

The Board finds and concludes that the Applicant will have met the requirements of the Zoning Ordinance for conditional use approval, if, and only if, the Application is amended and supplemented in accordance with the conditions specified hereinbelow. In granting the Application, the Board has relied upon the testimony, plans and exhibits presented by the Applicant in this proceeding and said testimony, plans, exhibits and documentary evidence are hereby incorporated as additional conditions of approval, the Applicant being strictly bound by all the representations made in the testimony, plans, and exhibits and documentary evidence.

The following conditions are imposed and attached pursuant to Section 603 (c)(2) of the Municipalities Planning Code and Zoning Ordinance Section 1902.E. and 1903.B. Any violation of the conditions during or following construction will be treated as a violation of the Zoning Ordinance. For the purpose of this Decision and Order, and specifically the following conditions,

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the term "Applicant" shall include the Applicant's successors and assigns and interests with respect to the Property and the Application:

1. Any material deviation or change from the testimony, plans and exhibits presented on behalf of the Applicant, or from this decision and any conditions imposed hereby shall require an amendment to this decision and order by the Board of Supervisors following proper application and hearing.
2. By January 31st of each subsequent year after this Decision and Order, the Applicant, as an operator of a wireless communication facility, shall submit to the Township an annual inspection report and pay the established registration fee as required under §1773.AA of the Zoning Ordinance.
3. No building permit shall be issued until the Applicant obtains a letter from the Township Engineer, stating his satisfaction with the Structural Analysis Report.
4. Prior to the use and occupancy of the site, the Applicant shall pave the initial 25' of the gravel driveway beginning at the road right-of-way, to the satisfaction of the Township Engineer.
5. No building permit shall be issued until the Applicant has submitted a proposed maintenance plan as required by §1733.U of the Zoning Ordinance, to the satisfaction of the Township.
6. No building permit shall be issued until the Applicant has submitted a set of the latest revised plans with signatures, certifications, and/or seals, to the satisfaction of the Township Engineer.
7. No building permit shall be issued until the Applicant submits appropriate easements or other recordable documentations that memorializes the Applicants rights and


obligations to the shared driveway, parking spaces, and facility, including but not limited to maintenance responsibilities, to the satisfaction of the Township Solicitor.

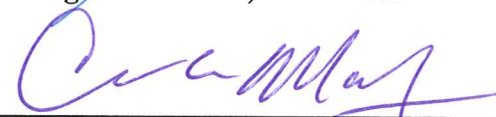
8. The Applicant shall execute and provide to the Township a recordable, notarized copy of a memorandum containing a metes and bounds description of the Property in question and stipulating the terms and conditions of this approval and shall consent to the recording by the Township in the office of the Recorder of Deeds of Chester County within sixty (60) days following the date of this Decision and Order.

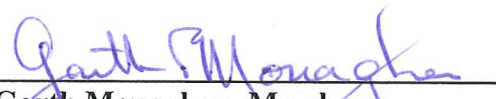
9. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.

ADOPTED and ORDERED this 23rd day of September, 2008.

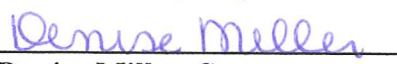
**BOARD OF SUPERVISORS
EAST FALLOWFIELD TOWNSHIP**


George Broadbent, Chairman


Christopher Makely, Vice-Chairman


Garth Monaghan, Member

ATTEST:


Denise Miller, Secretary