

Public Hearing
Tuesday, August 24, 2010
Conditional Use Hearing
500 S 19th Street
Council Chambers

Jeffrey S. Waltman, Sr. Vice President of Council, called the hearing to order at approximately 5:20 p.m.

Purpose

Vice President of Council Waltman announced that the purpose of the hearing is to take testimony on the application to convert this property into a water pumping station for Pennsylvania American Water. He explained that the City of Reading is divided into zoning districts which regulate the use of property. Certain types of uses may impact surrounding properties or their neighborhoods. Each zone is designated with certain permitted, conditional and prohibited uses for the land. The purpose of a "conditional use permit" is to allow for special consideration of certain specified uses which may or may not be compatible with an area depending on the specifics of the particular project.

The City uses the Conditional Use Public Hearing to evaluate whether a proposed use is appropriate for a particular property and neighborhood. This building was converted to a pumping station by owner, Pennsylvania American Water. The building is zoned R-3. City Council and staff will evaluate such items as building placement and size, characteristic of the use, traffic generation, noise, hours of operation, adequacy of parking, circulation, proposed merchandise, landscaping and overall compatibility of the use with adjoining properties and other related development impacts and may impose conditions to assure compatibility with neighboring businesses or residences.

Attendance

Vice President of Council Waltman
Councilor Marmarou
Councilor Reed
Councilor Sterner
Councilor Goodman-Hinnershitz
City Clerk Linda Kelleher
Legal Specialist Mayfield
Zoning Administrator Guckin
City Planner Miller
Legal Counsel for Pennsylvan American Water, J. Reichlen

Craig Darosh, representing Pennsylvania Water
Gary Reeser, representing Entech Engineering

Council Vice President Waltman explained the format of the hearing and asked the Legal Specialist to conduct the hearing.

Legal Specialist Mayfield explained the process for the hearing. The court reporter administered the oath to all representatives intending to testify.

Testimony from Applicant

Attorney Reichlen stated that he is representing Pennsylvania American Water who applied for a Conditional Use permit for a pumping station at 501 South 19th Street. He introduced representatives from Pennsylvania American Water and Entech Engineering. He entered the agenda with all attachments into the record as A1.

Mr. Darosh, project manager from Pennsylvania American Water, explained his duties and stated that all information contained on the application form is true and correct. He explained that the old church building was converted to a pumping station to distribute water to areas in eastern Berks County. The water is purchased from RAWA. He stated that this is an unmanned facility monitored by the SCADA system. Staff visits the building approximately two (2) times per week. There is one off-street parking space available. He stated that the façade of the existing structure matches the surrounding properties. He stated that there have been no complaints from the neighbors over the past 10 years.

Legal Specialist Mayfield inquired if the application was made under the previous zoning code or the one enacted at the end of July 2010. Attorney Reichlen stated that the application was made under the old code; however, the requirements in the new code are unchanged.

Councilor Goodman-Hinnershitz inquired about when the conversion of the property occurred and if a conditional use permit was required when the building was converted. Mr. Darosh stated that the building was converted in 1998 by Citizens Water Company and that a conditional use permit was required; however, he stated that he did not work for the company at the time and did not know why the proper steps were not taken. He stated that at the time Citizens was working with RAWA and suggested that RAWA failed to inform Citizens of the need for a zoning permit. He explained that Citizens eventually merged with Pennsylvania American and the property changed ownership.

Councilor Goodman-Hinnershitz inquired about the potential dangers to the surrounding community caused by the chemicals. Attorney Reich stated that there are no potential liabilities as far as he knows. Mr. Darosh stated that the County Emergency Management System would oversee any potential liability and handle any emergency situation. He noted that the facility is code compliant.

Councilor Goodman-Hinnershitz inquired if this type of facility is normally located in residential areas. Mr. Darosh stated that it is not unusual for these facilities to be located in residential neighborhoods.

Councilor Marmarou inquired about revisions to the exterior of the property. Mr. Darosh stated that he is unsure about what alterations were made to the exterior of the facility, other than a new roof. He added that a building permit for the replacement of the roof was obtained.

Legal Specialist Mayfield called Mr. Darosh and Attorney Reichlen back to the statement that the building is code compliant and asked Mr. Darosh to identify the code he is referring to. Attorney Reichlen stated that they were referring to the Building or Trades Code.

Legal Specialist Mayfield inquired if Pennsylvania American Water is seeking a conditional use permit to resolve the lack of a permit since the facility began operating in 1999 or if they are seeking a permit for a new or expanded use. Attorney Reichlen stated that the permit is to cover both needs, as the facility output is expected to increase.

Legal Specialist Mayfield asked Attorney Reichlen if the building was compliant with the City's Fire Code. Attorney Reichlen stated that a list of required improvements was received from the Fire Marshall and that Pennsylvania American agreed to make the required changes after the conditional use permit is approved. Mr. Reeser stated that he has reviewed all City Codes as they apply to the facility. He expressed the belief that the building, as is, is in acceptable condition but noted that additional work is needed. He stated that an inspection will be scheduled after the conditional use permit is obtained.

Legal Specialist Mayfield inquired if the building is certified under the current Fire Code. Mr. Reichlen stated that he is unsure but noted Pennsylvania American's willingness to address the required issues after the conditional use permit is approved.

Legal Specialist Mayfield stated that when she prepared for this hearing, she learned

from the Fire Marshall that the building is not currently certified under the City's codes. She noted that a letter from the Fire Marshall was issued to Pennsylvania American. She suggested to Council that they add the need to become compliant as a condition. Attorney Reichlen agreed to the addition of this condition. Mr. Reeser stated that he reviewed the letter in question and noted that the building did meet the previous codes.

Councilor Goodman-Hinnershitz requested a copy of the letter from the Fire Marshall.

Legal Specialist Mayfield requested copies of the permits pulled by Pennsylvania American since they took ownership of the building. Mr. Darosh stated that the permits are on file with the Trades Office.

Legal Specialist Mayfield requested information on the licensure of Pennsylvania American employees. Attorney Reichlen stated that this information is available on the Pennsylvania American website. He said that he will provide the requested information.

Legal Specialist Mayfield noted the need for Pennsylvania American to comply with Zoning Code Section 27-1203 (6) as follows:

- D. Approved fencing and other security devices shall be provided.
- E. A buffer strip 10 feet in width and screening are provided and shall be continually maintained in accordance with Part 14 of this Chapter.

Mr. Reeser stated the configuration of the property and location of the building may make it difficult to meet these requirements. He stated that there is currently a low timber fence along the rear of the property. The fence was installed by the person who resides at the property behind the building. He noted that the fence is in disrepair. Legal Specialist Mayfield noted the existence of the fence depicted on the photographs attached with the agenda materials. Mr. Reeser stated that there is no room for additional buffering.

Attorney Reichlen noted the great pains taken by Pennsylvania American to make sure the property appears similar in appearance to the other properties in the neighborhood.

Legal Specialist Mayfield inquired about the security provided for the building. Mr. Darosh stated that security is provided by the SCADA system.

Council Vice President Waltman inquired if the modification to the SCADA system will be required due to the expansion of the facility. Mr. Darosh stated that minor

adjustments will be needed.

Council Vice President Waltman inquired if the use of fencing is standard at other facilities. Mr. Darosh reported that most other facilities area is surrounded by chain link fences; however, a similar fence was not installed here due to the character of the neighborhood. He stated that a fence is not needed in this location.

Legal Specialist Mayfield inquired about Pennsylvania American's willingness to comply with the Trades and Fire regulations. Mr. Darosh stated that Pennsylvania American will comply after the conditional use permit is approved.

Legal Specialist Mayfield inquired about the additional regulations imposed on water utility companies. Mr. Darosh stated that the company must also comply with PUC and DEP regulations.

Councilor Reed suggested also adding conditions for additional landscape screening such as shrubbery.

Councilor Goodman-Hinnershitz noted that a Met Ed facility is also located near this building and is enclosed by a chain link fence.

Councilor Marmarou excused himself from the hearing due to another appointment.

City Testimony

Zoning Administrator Guckin stated that she recommends approving this "middle impact" use with the conditions noted. She added that she has not obtained complaints about this facility from the neighboring properties. She also suggested that Pennsylvania American be a good neighbor and make the repairs to the existing fencing.

Legal Specialist Mayfield noted her concern that the building does not meet the City's setback requirements. Mr. Reeser expressed the belief that the building qualifies as a pre-existing nonconforming use and will not need to obtain a variance for the setbacks.

City Planner Miller stated that the Planning Commission reviewed the application at their July 27th meeting and recommends the approval of the conditional use permit. He stated that the Planning Commission had no concerns about the buffering.

Legal Specialist Mayfield entered the following additional exhibits in to the record:

- C 1 proof of advertisement
- C 2 Letter from the City Fire Marshall to Pennsylvania American
- C 3 documentation of the certification/licensure of Pennsylvania American employees
- C 4– the letters submitted to the City and County Planning Commissions
- C 5- the response letter from the County Planning Commission
- C 6 – the response letters from the City Planning Commission in the form of Resolution 36-2010 and 29-2010
- C 7 – transmission letters to the Reading Public Library, Berks County Law Library and Reading Eagle

Public Comment

Council Vice President Waltman opened the floor for public comment. No one was registered to speak and no one came forward to offer testimony in support or oppose the application made by Pennsylvania American.

Councilor Goodman-Hinnershitz stated that this public utility provides a good public safety balance for the neighborhood.

Council Vice President Waltman closed the Public Comment period.

Decision

Council Vice President Waltman announced that Council expects to announce its decision on this application at their September 13th regular meeting of Council by either approving or rejecting a resolution

Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to adjourn the hearing.

Respectfully submitted by Linda A. Kelleher CMC, City Clerk