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Return To: Same as above

Parcel Nos. 18-5-118.1 and 18-5-128

**EAST COVENTRY TOWNSHIP
CHESTER COUNTY**

RESOLUTION NO. 2019-05

A RESOLUTION OF THE BOARD OF SUPERVISORS OF EAST COVENTRY TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA GRANTING APPROVAL OF A PRELIMINARY/FINAL LAND DEVELOPMENT PLAN SUBMITTED BY SBA TOWERS, LLC FOR CONSTRUCTION OF A CELL TOWER ON A PORTION OF THE PROPERTY LOCATED AT 86 BAPTIST CHURCH ROAD IN EAST COVENTRY TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA.

WHEREAS, SBA Towers, LLC (the “Applicant”), by and through its attorney, Richard Lemanowicz, Esquire, has submitted an application to the Township for approval of Preliminary/Final Land Development Plans to construct a 130-foot mono-pine cell tower and related facilities, equipment and improvements (collectively, the “Cell Tower”) on a portion of the parcel of land containing approximately 6.57 acres located at 86 Baptist Church Road, Parkerford, Pennsylvania 19457 (the “Property”), which is situate in East Coventry Township, Chester County, Pennsylvania (the “Township”); and

WHEREAS, the Cell Tower is more particularly shown on plans consisting of thirty seven (37) sheets, with plan sheets 1 through 30 and 33 through 37 prepared by The Crossroads Group, LLC, dated May 16, 2016 or later, and plan sheets 31 and 32 prepared by Seidel Planning

& Design, dated September 24, 2018, all with a final revision date of October 29, 2018 (the "Plans"); and

WHEREAS, a schedule of the individual sheets, drawing titles and original and last revision dates for each sheet comprising the Plans is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, the Plans have been reviewed by the Chester County Planning Commission, the Township Planning Commission, the Township Engineer, the Township Planner, the Township Traffic Engineer, the Township Zoning Officer, the Township Solicitor and other Township advisors, and have been found acceptable subject as herein below provided.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of East Coventry Township, Chester County, Pennsylvania, as follows:

SECTION A. AUTHORITY; SHORT TITLE; DEFINITIONS.

1. This Resolution is adopted pursuant to and in accordance with the Subdivision and Land Development Ordinance of 2011 (Ordinance No. 179) enacted August 8, 2011, as amended through Ordinance No. 215 enacted August 14, 2017 (collectively, the "SALDO"), as set forth in Chapter 22 (Subdivision and Land Development) of the Code of Ordinances of the Township of East Coventry.

2. This Resolution shall be known and may be cited as the "Resolution for Preliminary/Final Land Development Approval for the SBA Cell Tower at 86 Baptist Church Road."

3. Except as may be otherwise provided herein and/or if the context clearly indicates otherwise, all words and phrases appearing in this Resolution, which also appear in the SALDO, shall have the same meanings in this Resolution as in the SALDO.

SECTION B. WAIVERS.

1. The Board of Supervisors hereby waives strict compliance with the following provisions of the SALDO, on and subject to the terms and conditions set forth in this Resolution:

a. SALDO §304.1.A, which permits an applicant to submit a preliminary/final plan for a minor subdivision plan, in order to permit the Plans to be submitted for concurrent review as preliminary/final plans.

b. SALDO §403.2.A, which requires that a tract proposed for land development have direct access to a public street that meets the standards of SALDO §406.1, to permit indirect access ten (10) feet in width via the adjacent church property, as shown on the Plans.

c. SALDO §419.2, which requires that all parking areas be paved and curbed in compliance with specifications for local streets, to permit the driveway and parking area to be unpaved and uncurbed, provided the materials used shall be acceptable to the Township Engineer and shall be noted on the Plans.

SECTION C. CONDITIONS OF PRELIMINARY/FINAL PLAN APPROVAL. Approval of the Plans is hereby granted subject to the satisfaction of the following conditions:

1. The following revisions shall be made to the Plans prior to recording:

a. Revise the plant schedule on Sheet 31 to replace Winterberry Holly with an approved species identified in Appendix 22-B of the SALDO to satisfy the evergreen shrub requirement.

b. Revise Construction Requirements Note 4 on Sheet 4 to state that the following testing shall be performed by a qualified and independent third party special inspector:

(i) concrete compressive testing; (ii) soil bearing capacity; (iii) concrete slump; (iv) the

suitability and placement of concrete reinforcement steel; (v) the suitability of structural steel (if any); and (vi) the strength of all structural steel welds or high strength bolted connections. The form and substance of the revised note language shall be acceptable to the Township Zoning Officer.

c. Recalculate and identify on the Plans the minimum sight distance utilizing the full stopping distance over the approach grade.

d. Revise the sight distance measurements shown on Sheet 10 so they are measured from the centerline of the driveway, with the available sight distance for left-turn traffic entering the northern site driveway looking ahead (*i.e.*, to the north along Baptist Church Road) being measured from a point 35 feet south of the centerline of the northern Church driveway and the available sight distance for left-turn traffic entering the northern site driveway looking behind (*i.e.*, to the south along Baptist Church Road) being measured from a point 45 feet south of the centerline of the northern Church driveway.

e. Provide a Hidden Driveway (W11-103) sign along southbound Baptist Church Road. The location of the sign shall be acceptable to the Township Traffic Engineer.

f. Revise Note 13 on Sheet 1 to refer to the revised date of the Geotechnical Investigation Report once said report has been revised in accordance with Condition No. 4 of this Resolution. The Plans shall be revised, if recommended by the Township Engineer, to comply with the findings and recommendations of the revised Geotechnical Investigation Report.

g. Add the following language verbatim to Sheet 2 to identify the applicable ordinances and documents governing the Plans as required by SALDO §304.3.A(8):

(i) Chapter 27 of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 217 (the "Zoning Ordinance" or "ZO").

(ii) Chapter 22 of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 215 (the "SALDO").

(iii) Chapter 9, Part 1 "Stormwater Management" of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 209 (the "SWMO").

(iv) Chapter 18, Part 3 of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 169 (the "Public Sanitary Sewer Ordinance").

(v) Technical Specifications for Construction of Sanitary Sewers and Appurtenances bearing a revision date of March 10, 2008 (the "Sewer Specs"), adopted via enactment of Ordinance No. 144 dated April 14, 2008 and effective April 19, 2008.

(vi) Chapter 21, Part 1 of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 195 (the "Driveway Ordinance").

(vii) Chapter 21, Part 3 of the East Coventry Township Code of Ordinances, as amended through Ordinance No. 209 (the "Public Improvements Specifications").

(viii) Roadway Classifications adopted and effective July 19, 2004 via Resolution No. 2004-25.

h. Revise the Waiver Request Matrix on Sheet 1 to add SALDO §403.2.A. All portions of the Waiver Request Matrix shall be completed in accordance with SALDO §305.3.B(1)(d).

i. Revise the acknowledgement for Parkerford Baptist Church on Sheet 1 to indicate its entity classification if required by the Office of the Chester County Recorder of Deeds (the "Recorder's Office") to record the Plans.

j. Remove the reference to "driveway mix" on Sheet 25 appearing adjacent to the Ernst mix ERNMX-156.

k. Revise Sheet 11 to add the statement and signature block required by East Coventry Township Stormwater Management Ordinance (the "SWMO") §142.1.A.(3), which shall be signed by the Applicant.

l. Revise the project bench mark elevation identified in Survey Note 3 on Sheets 5 and 8 so they are consistent as required by SWMO §142.1.B.(8)(i).

m. Add the elevation of the infiltration tests to the Plans in accordance with SWMO §142.1.B.(8)(k).

n. Revise the infiltration basin total drainage area loading ratio so it is consistent with the BMP Manual guideline of 8:1 in accordance with SWMO §142.1.E.

o. Revise General Note 12 on Sheet 31 to state as follows:

All plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least eighteen (18) months from the date of completion of all improvements or shall be replaced by equivalent improvements.

p. Revise General Note 18 on Sheet 1 to add the words "Long Term Maintenance Plan and the" before the words "BMP Agreement".

2. The Applicant shall demonstrate compliance, as determined by the Township Zoning Officer, with the electrical disturbance requirements of ZO §27-1330.1.B, ZO §27-2003.1.H, and ZO §27-2003.1.I at the time an electrical permit application is submitted to the Township.

3. The Applicant's engineer shall verify the height of the typical service vehicle expected to visit the Property and confirm, in form and substance satisfactory to the Township Traffic Engineer, that the typical service vehicle will be visible to approaching northbound Baptist Church Road vehicles and will satisfy applicable sight distance requirements.

4. The Applicant's Engineer shall revise the Geotechnical Investigation Report to refer to the specific standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, and identify to the satisfaction of the Township Engineer how each such standard is met.

5. The Applicant's engineer shall review and revise, if appropriate, the anti-seep collar dimensions and off set distances from the outlet structure to ensure that the collars have a minimum of six (6) inches of soil cover as required by SWMO §121.12.

6. Prior to the Township releasing the final plans for recording, the Applicant shall either (i) obtain special exception approval from the Zoning Hearing Board to build the Cell Tower on the Property (which is a land-locked interior parcel) as required by ZO §27-1321.1, with access taken from Parcel No. 18-5-128, or (ii) obtain an amendment to ZO §27-1321.1, in form and substance satisfactory to the Board of Supervisors upon advice of the Township Solicitor, eliminating the application of ZO §27-1321.1 to wireless communications facilities structures and related equipment when constructed on existing interior lots, provided the dimensional access requirements described in ZO §27-1321.1 are satisfied or the proposed access is otherwise acceptable to the Township. The Applicant understands, acknowledges and agrees that the Board of Supervisors is under no legal obligation to amend the ZO.

7. The Applicant shall provide the following documentation to the Township, in form and substance satisfactory to the Township, the Township Engineer, the Township Zoning Officer and/or the Township Solicitor, as appropriate, prior to the Township releasing the final plans for recording:

a. Documentation (i) establishing the relationship between the Applicant and SBA Towers IX, LLC, (ii) demonstrating that the Applicant has the authority to exercise the

option pursuant to the Option & Land Lease dated September 15, 2010, and (iii) evidencing that the option has been exercised by the Applicant, its successors or assigns.

b. One or more easement agreements from Parkerford Baptist Church (the “Owner”), in form and substance satisfactory to the Township upon advice of the Township Solicitor, granting the following to the Applicant, its employees, contractors, agents, consultants, successors and assigns:

(i) A 20’ wide access and utility easement on a portion of the Property located outside the leased premises and on a portion of Parcel No. 18-5-128 (the “Adjacent Property”), as shown on the Plans, to provide access to and from the Cell Tower and Baptist Church Road as required by ZO §27-1401.4.C(2), and to permit the installation, maintenance, repair, replacement and removal of the utility pole to be installed within the easement area, as depicted on the Plans;

(ii) A 10’ wide landscape buffer easement on the Property located adjacent to the equipment compound but outside the boundaries of the leased premises, as shown on the Plans;

(iii) A stormwater management easement for the stormwater management facilities to be installed on a portion of the Property located outside the leased premises, as shown on the Plans;

(iv) A parking easement for the gravel parking/turnaround area located adjacent to the leased premises, as shown on the Plans; and

(v) A temporary construction easement for the storage of topsoil on the Property during construction of the Cell Tower.

c. One or more permanent easement agreements from the Owner and the Applicant granting to the Township, its employees, agents, consultants and contractors, (i) a blanket easement over the Property and an access easement over a portion of the Adjacent Property to inspect, maintain, repair and replace all storm water management facilities installed on the Property in accordance with ZO §27-1401.4.C(2), and (ii) a blanket easement over the Property and an access easement over a portion of the Adjacent Property to inspect, maintain, repair, replace and/or remove the Cell Tower, landscaping and other improvements installed on the Property by the Applicant, its successors or assigns, when authorized pursuant to Township ordinances or applicable federal, state or local law, in the event the Applicant, its successors or assigns, fails to do so.

d. A current certificate of insurance that satisfies each of the requirements of ZO §27-2003.1.X.

e. A letter addressed to the Township, duly executed by the Applicant, committing to allow a minimum of three (3) other service providers to co-locate wireless communications facilities on the Cell Tower in accordance with ZO §2004-1.G.

f. Documentation evidencing the due authorization and execution by the individuals signing the final plans on behalf of the Owner and the Applicant.

g. An indemnification agreement in favor of the Township that satisfies the requirements of ZO §27-2003.1.P.

h. A bond or other financial security to the Township, satisfactory in form and substance to the Township Solicitor, in the minimum amount of \$100,000 as required by ZO §27-2003.1.R.

i. A copy of the Applicant's current license issued by the Federal Communications Commission to operate a Cell Tower on the Property, including the name, address and emergency telephone number for the operator of the Cell Tower as required by ZO §2003.1.W.

j. A copy of all required franchises, if any, to construct and operate the Cell Tower as required by ZO §27-2003.1.T.

8. All signature blocks and certifications on the final plans shall be fully executed and notarized, as appropriate, prior to the Township releasing the final plans for recording at the Applicant's expense at the Recorder's Office in accordance with SALDO §305.3.B(1)(g) and SALDO §307.2.

9. Parkerford Baptist Church, as the owner of the Property, shall sign the final plans to indicate its consent before they are released for recording as required by ZO §27-1402.1.A and the Recorder's Office.

10. The final plans shall be signed and sealed by the professional land surveyor and/or professional engineer responsible for their preparation prior to the Township releasing the final plans for recording.

11. No construction on the Property shall begin until all post-approval land development requirements of the SALDO have been completed to the satisfaction of the Township Manager, the Township Engineer, the Township Traffic Engineer and the Township Solicitor, as applicable, and all building, electrical, zoning and drainage permits and approvals have been obtained.

12. A Land Development Agreement, including financial security provisions, and a Memorandum of Land Development Agreement, each in form and substance acceptable to the

Township Solicitor, shall be prepared by the Township Solicitor and executed by the Applicant before the Board of Supervisors signs the final plans and releases same for recording in accordance with SALDO §309.

13. The Applicant shall submit an improvements cost estimate to the Township for review and approval by the Township Engineer and the Township Planner in accordance with SALDO §310.6. The improvements cost estimate shall include all costs associated with all public improvements for the project, and the financial security provided by the Applicant shall be based upon all project costs.

14. As a condition of final plan approval and prior to the Township releasing the final plans for recording, legal descriptions for all easement areas shall be provided to the Township Engineer for review and approval as required by SALDO §305.3.B.(1)(g). Signed originals of all legal descriptions approved by the Township Engineer and plot plans, if required by the Recorder's Office, shall be provided to the Township Solicitor for attachment to the appropriate legal instruments and recorded at the Applicant's expense concurrently with the recording of the final plans in accordance with SALDO §22-305.3.B.(1)(a).

15. The Applicant shall post financial security, as described in the Land Development Agreement, with the Township to cover the cost of construction of all improvements on the Plans in accordance with SALDO §310 and §601.3.

16. A Stormwater Best Management Practices (BMPs) and Conveyances Operation and Maintenance Agreement (the "BMP Agreement"), in form and substance acceptable to the Township Solicitor and the Township Engineer, shall be prepared by the Township Solicitor or the Township Engineer after receipt of the Applicant's drainage permit application. The BMP Agreement shall be recorded at the Applicant's expense in the Recorder's Office in accordance

with SWMO §142.F(2) and §173 and a copy of the recording receipt shall be provided to the Township before any work associated with the Cell Tower or the Property may commence. The Township shall be provided with a copy of the fully recorded BMP Agreement before the drainage permit is closed out, and the drainage permit shall be closed out before a final certificate of occupancy is issued by the Township. The BMP Agreement shall grant and convey in perpetuity to the Township, its contractors, agents, successors and assigns, a blanket access and maintenance easement to enter upon any portion of the Property and a portion of the Adjacent Property for purposes of inspecting, maintaining, repairing and replacing the stormwater management facilities, as identified on the Plans, in the event that the Applicant, its successors or assigns, fails to do so.

17. Prior to the Township releasing the final plans for recording, the Applicant shall pay and/or reimburse the Township for all fees, charges and costs of the Township, the Township Engineer, the Township Planner, the Township Traffic Engineer, the Township Zoning Officer, the Township Solicitor and other Township consultants, relating to the preparation and/or review of the Plans, the legal descriptions, and any other documentation required by this Resolution to be delivered prior to recording the final plans.

18. All recording costs and applicable taxes and fees, if any, shall be paid by the Applicant.

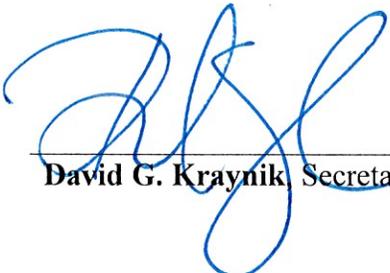
19. Consistent with Section 509(b) of the Pennsylvania Municipalities Planning Code (as amended), the completion of all conditions and the payment of all applicable fees must be accomplished within ninety (90) days of the date of this Resolution unless a written extension is granted by the Township. Until the conditions have been satisfied and the applicable fees have been paid, the final plans shall not be signed nor recorded. In the event that the conditions have

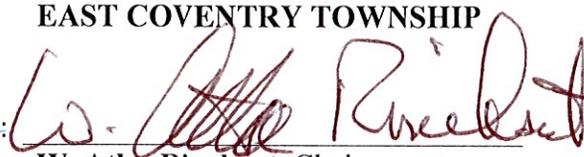
not been satisfied and the fees have not been paid within ninety (90) days of the date of this Resolution, or any written extension thereof, this contingent land development approval shall expire and be deemed to have been revoked.

20. Under the provisions of the Pennsylvania Municipalities Planning Code, the Applicant has the right to accept or reject conditions imposed by the Board of Supervisors upon preliminary/final approval. The Applicant shall signify its acceptance of the conditions contained herein by signing a copy of this Resolution and returning it to the Township within thirty (30) days of the date of this Resolution. In the event execution of this Resolution is not delivered to the Township office by 12:00 p.m. on March 13, 2019, or if the Township receives written notice of an appeal or rejection of any of the conditions set forth herein within thirty (30) days from the date of this Resolution, this approval and the waivers granted in Section B of this Resolution (which waivers are granted contingent upon the acceptance of the conditions set forth herein) shall be deemed to be automatically rescinded and revoked and the application shall be considered denied based upon the failure to fully comply with the conditions set forth in this Section C, all as authorized by Section 508 of the Pennsylvania Municipalities Planning Code.

SECTION D. EFFECTIVE DATE. This Resolution shall be effective immediately upon the adoption hereof.

APPROVED at the public meeting of the East Coventry Township Board of Supervisors held on February 11, 2019.

Attest:  **David G. Kraynik, Secretary**

By:  **W. Atlee Rinehart, Chairman**

EAST COVENTRY TOWNSHIP

By signing below, the Applicant accepts and consents to all of the terms and conditions of approval contained in the foregoing Resolution Granting Preliminary/Final Minor Subdivision Approval.

APPLICANT:

SBA TOWERS, LLC

Date: _____

By: 
Name: RICHARD J. LEMAUOWICZ, Esq.
Title: ATTORNEY FOR APPLICANT

EXHIBIT "A"
ENUMERATION OF THE APPROVED LAND DEVELOPMENT PLANS
FOR 86 BAPTIST CHURCH ROAD

SHEET NO.	SHEET TITLE	ORIGINAL DATE	LAST REVISED DATE
T-1 (1 OF 37)	COVER	05/16/16	10/29/18
T-2 (2 OF 37)	GENERAL NOTES	05/16/16	10/29/18
T-3 (3 OF 37)	LEGEND	05/16/16	10/29/18
T-4 (4 OF 37)	GENERAL NOTES	05/16/16	10/29/18
S-1 (5 OF 37)	OVERALL SURVEY PLAN	05/16/16	10/29/18
S-2 (6 OF 37)	SURVEY PLAN	05/16/16	10/29/18
S-3 (7 OF 37)	SURVEY PLAN	05/16/16	10/29/18
S-4 (8 OF 37)	SURVEY PLAN - LEGALS	05/16/16	10/29/18
S-5 (9 OF 37)	SURVEY PLAN - EXCEPTIONS	05/16/16	10/29/18
C-1 (10 OF 37)	OVERALL SITE PLAN	05/16/16	10/29/18
C-2 (11 OF 37)	SITE GRADING PLAN (1)	05/16/16	10/29/18
C-3 (12 OF 37)	SITE GRADING PLAN (2)	05/16/16	10/29/18
C-4 (13 OF 37)	ENLARGED SITE PLAN	05/16/16	10/29/18
C-5 (14 OF 37)	TOWER ELEVATION PLAN	05/16/16	10/29/18
C-6 (15 OF 37)	CONSTRUCTION DETAILS - SITE	05/16/16	10/29/18
C-7 (16 OF 37)	CONSTRUCTION DETAILS - FENCE (1)	05/16/16	10/29/18
C-8 (17 OF 37)	CONSTRUCTION DETAILS - FENCE (2)	05/16/16	10/29/18
C-9 (18 OF 37)	CONSTRUCTION DETAILS - STORM	05/16/16	10/29/18
E-1 (19 OF 37)	UTILITY SITE PLAN (1)	05/16/16	10/29/18
E-2 (20 OF 37)	UTILITY & TELCO H-FRAME DETAIL	05/16/16	10/29/18
E-3 (21 OF 37)	ELEC. SINGLE LINE DETAIL	05/16/16	10/29/18
EG-1 (22 OF 37)	GROUNDING PLAN - DETAIL	05/16/16	10/29/18
EG-2 (23 OF 37)	GROUNDING DETAIL (1)	05/16/16	10/29/18
EG-3 (24 OF 37)	GROUNDING DETAIL (2)	05/16/16	10/29/18
ES-1 (25 OF 37)	EROSION & SEDIMENTATION CONTROL PLAN (1)	05/16/16	10/29/18
ES-2 (26 OF 37)	EROSION & SEDIMENTATION CONTROL NOTES	05/16/16	10/29/18
ES-3 (27 OF 37)	CONSTRUCTION DETAILS - E&S (1)	05/16/16	10/29/18
DS-1 (28 OF 37)	PRE-DEVELOPMENT DRAINAGE SHEDS	05/16/16	10/29/18
DS-2 (29 OF 37)	POST-DEVELOPMENT DRAINAGE SHEDS	05/16/16	10/29/18
RC-1 (30 OF 37)	RESOURCE CONSERVATION IMPACT & SITE ANALYSIS PLAN	11/21/16	11/21/16
L-1 (31 OF 37)	OVERALL LANDSCAPE PLAN	09/24/18	10/29/18
L-2 (32 OF 37)	LANDSCAPE SPECIFICATIONS/LONG TERM MAINTENANCE	09/24/18	10/29/18
Z-1 (33 OF 37)	OVERALL ZONING PLAN*	05/16/16	12/02/16
Z-2 (34 OF 37)	ENLARGED ZONING PLAN*	05/16/16	12/02/16

Z-3 (35 OF 37)	ZONING ELEVATION PLAN*	05/16/16	12/02/16
C-10 (36 OF 37)	CONSTRUCTION DETAILS - VZW PAD*	05/16/16	12/02/16
EG-4 (37 OF 37)	VZW PAD GROUNDING DETAIL*	05/16/16	12/02/16

* PLAN SHEETS USED AT JULY 10, 2017 CONDITIONAL USE HEARING