

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2811

PETITION OF T-MOBILE NORTHEAST AND SUNSHINE FARMS, LLC

OPINION OF THE BOARD

(Opinion Adopted November 9, 2011)

(Effective Date of Opinion: November 17, 2011)

Case No. S-2811 is an application by T-Mobile northeast LLC and Sunshine Farms, LLC, for a special exception, pursuant to Section 59-G-2.58 of the Zoning Ordinance, to construct an unmanned wireless telecommunications facility on a 120-foot tall monopole topped by a 4-foot lightning rod, and an associated equipment area. The subject property is Parcel P253 located at 22611 Georgia Avenue, Brookeville, Maryland, 20833, in the RC Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on September 16, 2011, closed the record in the case on October 13, 2011, and on October 26, 2011, issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception Granted Subject to
 The Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on November 9, 2011. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioners shall be bound by all of the exhibits of record, and by the testimony of their witnesses and the representations of counsel to the extent that such testimony and evidence are identified in the Hearing Examiner's report and in this opinion.
2. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection pursuant to the building permit, the Petitioners must certify to the Department of Permitting Services

that the height and location of the support structure is in conformance with the height and location of the support structure as authorized in the building permit.

3. The telecommunication facility must display a contact information sign, no larger than two square feet, affixed to the outside of the equipment enclosure. This sign must identify the owner and the maintenance service provider and provide the telephone number of a person to contact regarding the installation. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership.
4. There must be no antenna lights or stroboscopic lights unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
5. There must be no outdoor storage of equipment, except equipment specified in the Site Plan.
6. Each owner of the telecommunications facility is responsible for maintaining the facility in a safe condition.
7. The facility shall be available for co-location of up to three carriers.
8. The telecommunications facility must be removed at the cost of the owner of the telecommunications facility when the facility is no longer in use by any telecommunications carrier for more than 12 months.
9. Petitioners must obtain a Hazmat Use Permit for the subject site before commencing operations.
10. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and the entire premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by David K. Perdue, Vice-Chair, seconded by Stanley B. Boyd, with Walter S. Booth and Catherine G. Titus, Chair, in agreement and Carolyn J. Shawaker necessarily absent, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 17th day of November, 2011.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.