

Montgomery County Office of Zoning & Administrative Hearings
Case No.
Statement of Justification

Overview

This statement is made in support of Telecom Capital Group’s (“TCG” or, together with the Owner, Mrs. Breland, the “Applicant”) application for a conditional use permit (“CUP” or the “Application”) to allow for a 160’ monopole and ancillary 100’ x 100’ equipment compound (the “Site”) in the Agricultural Zone at 22900 Old Hundred Road in Barnesville, Maryland (the “Property”) pursuant to Section 59-3.1.6 of the Montgomery County Zoning Ordinance. The Site will house Verizon Wireless (“VZW”) at a centerline height of 136’ and will have available space for five (5) additional future wireless carriers.

Applicant and Carrier

TCG is a Calvert County based infrastructure provider that has constructed and maintained telecommunications facilities since 1994. Tenants on TCG sites include all of the major wireless carriers – VZW, T-Mobile and AT&T. TCG sites also incorporate space for local utilities and emergency response services.

Verizon Wireless holds a license issued by the Federal Communications Commission (“FCC”) to provide personal communication service (“PCS”) and Broadband service respectfully, throughout the greater Baltimore-Washington, DC metropolitan areas, including all sections of Montgomery County. TCG on behalf of VZW now seeks approval of this CUP to construct and operate the proposed unmanned wireless telecommunications facility in accordance with the terms, obligations and responsibilities of said license. VZW will lease space on the Site and within the equipment compound.

TCG is leasing space on the property from Mrs. Breland in order to install the proposed Site. TCG will, in turn, be leasing space on the proposed Site to VZW for the carrier’s provision of wireless service in this area of Montgomery County, Maryland. Space has been allocated on the Site for future collocating carriers. Construction will begin upon issuance of building permits and will take approximately 90 days.

Additional information including dimensions of the specific antenna and equipment to be installed at the proposed Site are included on the drawings dated 5-27-21 and on the specification sheets included with this application and reviewed by the Transmission Facility Coordinating Group (“TFCG”).

Need for facility

The proposed Site is a vital component of VZW's area-wide wireless telecommunications network. Because wireless communications facilities operate at low power levels, wireless service providers such as VZW must locate antenna sites according to a network design based on interconnecting cells (coverage areas) so that a wireless call can be seamlessly handed off from one wireless communications facility to the next as a user travels throughout and lives in the area. Without a sufficient number of wireless communications facilities, calls will drop and disconnect as the user approaches the outer limits of a cell, or the cell they are utilizing becomes overrun by other users. In order to achieve maximum efficiency from each wireless communications facility in the network, the carrier attempts to locate wireless communications facilities at optimum locations within each cell so that it can attain the broadest pattern of signal distribution and the widest possible spacing between its wireless communications facilities.

The location of the proposed Site will significantly improve VZW's area wide coverage, and provide coverage on Old Hundred Road, Comus Road, Barnesville Road and Beallsville Road and all business and residences in the vicinity. The proposed Site will, to the highest degree, enhance citizens' and visitors' wireless networks as they work, travel and live in and around Barnesville.

The proposed Site will ensure that VZW can deploy their wireless services and provide seamless and improved coverage of its network. In order to fulfill its service requirements, both coverage and capacity, and to provide in-building coverage, VZW needs to locate a new telecommunications facility in this area. Seamless coverage areas for wireless communication are necessary for public convenience and service. Additionally, availability of wireless communications benefits the public safety and welfare by facilitating communication with police, fire and rescue operations in times of emergency. The propagation maps submitted with this Application illustrate the gaps in coverage in VZW's network in this area that would be closed with the proposed Site.

In its evaluation of the need for service in the area and in completing an examination of possible site locations, TCG and VZW have selected the Property as an appropriate location for its Site, due to the lack of alternative locations in the applicable search ring.

A macro site is proposed here instead of a distributed antenna system or DAS network due to the coverage area targeted. DAS networks are best implemented in public rights-of-way where there is consistent existing infrastructure at regularly spaced intervals to allow for the transfer of signal propagation from one node to the next. Each node can transmit no more than one half of a mile and a central hub base station is still required. DAS nodes also require the permission of the infrastructure's owner (typically a utility company) as well as the installation of miles of fiber optic cable. In addition, DAS networks provide what may best be described as a linear solution to coverage problems. While a DAS network may enhance coverage, it would not be able to provide the coverage desired to penetrate into the residential neighborhoods and homes within the target area. Similarly, small cell solutions are not an alternative at the subject site as they cannot handle the capacity of a

macro site and are limited in the number of frequencies and carriers that can use them. The 160' monopole proposed is the shortest possible height at which the proposed Site can close the identified gap in coverage.

Surrounding Context

The properties bordering the Property are also zoned Agricultural. The major roads surrounding the proposed installation are Old Hundred Road, Comus Road, Barnesville Road and Beallsville Road. The Applicant has provided photo simulations of the proposed Site as part of this Application.

Operation of Site

The Site will be in continuous operation 24 hours per day. It will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the Property. The Site will not have any lighting. The Site will be unmanned and will not create any significant impact on traffic to the surrounding area. After the initial construction of the Site, the only visits to the site will be for emergency repairs or regularly scheduled maintenance visits of 1-2 times per month. The Site will not require any water or sewer service; electric and telephone service is already on site. There will be no special requirements for other public facilities or services. The Site will not cause any interference with other wireless signals or electronic devices in the surrounding homes, schools or churches.

Compliance with Montgomery County Zoning Ordinance – Section 59-3.5.2(C)(2)(c)

- i. The Applicant has included the TFCG recommendation dated 4/6/22.
- ii. The monopole meets all setbacks – 259' (E), 1186' (W), 202.7' (N), 183' (S), 408.7' from the closest dwelling, and 201.8' from the closest road.
- iii. The monopole is proposed to be 160' in height in order to provide VZW the minimum height necessary to accomplish the signal improvement required to serve the target area. The Site is designed to serve Barnesville, Old Hundred Road, Comus Road, Barnesville Road and Beallsville Road. Propagation demonstrating the need for the minimum height of 136' for VZW are included with this Application. The proposed height will also allow for the collocation of additional carriers and reduce and/ or eliminate the need for additional sites in the area.
- iv. The Site has been located within an area of significant existing vegetative screen to minimize visual impacts and eliminate or reduce the need for a landscape buffer.
- v. Mrs. Breland is an Applicant.
- vi. N/A
- vii. The Site is designed to accommodate five (5) carriers.
- viii. The equipment compound can accommodate VZW and up to four (4) additional, future, collocating carriers.

- ix. The Applicant agrees to remove the Site if out of service for more than 12 months.
- x. The required signage will be posted.
- xi. The Site will be maintained by the Applicant in a safe condition.
- xii. The Applicant has provided a description of the target area as well as supporting propagation maps.

Compliance with Montgomery County Zoning Ordinance – Section 59-7.3.1(B)

- (1)(a). The Owner is an Applicant and TCG is authorized by the Owner to apply for the CUP.
- (2). The Applicant has included items (a) through (m)
- (3). The Application has been submitted to the Planning Director.

Compliance with Montgomery County Zoning Ordinance – Section 59-7.3.1(E)

The Application meets all of the required necessary findings as set forth below.

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:

a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;

There are no previous approvals on the subject site with which this CUP needs to comply.

b. satisfies the requirements of the zone, use standards under Article [59-3](#), and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article [59-6](#);

The Site is allowed as a conditional use in the Agricultural Zone.

c. substantially conforms with the recommendations of the applicable master plan;

The Site is included within the boundaries of the Preservation of Agriculture & Rural Open Space Functional Master Plan. The proposed use is not in conflict with any recommendations of the Master Plan.

d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;

The Site will not in any way impair the preservation of farmland or open space and will serve those living, working and traveling through this agricultural and rural area.

e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;

The Site will not be detrimental to surrounding properties. The Site will be screened by existing trees, so it will have a limited visual impact, and will not cause any objectionable noise, fumes, or illumination or decrease in the economic value of surrounding properties. The proposed use will have no adverse effect on road congestion or safety, as no on-site personnel are required. Once the telecommunications facility is constructed, the only traffic to the facility would be for routine maintenance or emergency repair, which is expected to be only 1-2 visits per month. There will be no noise generated by this Site. The equipment is located on a secure foundation and the antennas and transmission lines are silent. There will be no offensive odors emitted by the equipment, transmission lines, or antennas. The Site will not cause any vibrations.

The CUP is consistent with the general plan for the physical development of the surrounding area. The proposed Site will not adversely alter the agricultural nature of the area. The CUP is in harmony with the general purpose and intent of the adopted and approved Master Plan for the area and the Zoning Ordinance, as outlined above, and by improving the quality of mobile communication systems in the County and surrounding jurisdictions.

f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:

The Site will not require public services other than power. As described above, the Site will not cause undue harm to the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. Nor will the Site result in an increase in traffic any noise, odors, dust, illumination or need/ lack of parking. Not only will the Site not harm the health, safety or welfare of neighbors, visitors or those working in the area, it will improve emergency response services that serve all of these groups.

i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or

The Site will not require public services other than power. As described above, the Site will not cause undue harm to the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood. Nor will the Site result in an increase in traffic any noise, odors, dust, illumination or need/ lack of parking. Not only will the Site not harm the health, safety or welfare of neighbors, visitors or those working in the area, it will improve emergency response services that serve all of these groups.

ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and

N/A

g. will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;

ii. traffic, noise, odors, dust, illumination, or a lack of parking; or

iii. the health, safety, or welfare of neighboring residents, visitors, or employees.

The Site will not be detrimental to surrounding properties. The Site will be screened by existing trees, so it will have a limited visual impact, and will not cause any objectionable noise, fumes, or illumination or decrease in the economic value of surrounding properties. Non-inherent effects - The proposed use will have no adverse effect on road congestion or safety, as no on-site personnel are required. Once the telecommunications facility is constructed, the only traffic to the facility would be for routine maintenance or emergency repair, which is expected to be only 1-2 visits per month. These vehicles will access the site from a new gravel drive off the existing gravel driveway from Old Hundred Road – a rustic road. There will be no noise generated by this Site. The equipment is located on a secure foundation and the antennas and transmission lines are silent. There will be no offensive odors emitted by the equipment, transmission lines, or antennas. The Site will not cause any vibrations.

The CUP is consistent with the general plan for the physical development of the surrounding area. The proposed Site will not adversely alter the agricultural nature of the area. The CUP is in harmony with the general purpose and intent of the adopted and approved Master Plan for the area and the Zoning Ordinance, as outlined above, and by improving the quality of mobile communication systems in the County and surrounding jurisdictions.

There will be no harmful emissions or any electrical or blanketing interference from the equipment, transmission lines or antennas. The FCC does not permit the use of such facilities where the result will adversely impact television or radio reception, or have adverse impacts on garage door openers or other such devices. The Telecommunications Act of 1996 dismissed the question of environmental effects of radio frequency emissions from local consideration. Section 704(a)(7)(B)(iv) states that so long as the facility complies with the standards of the FCC, that “[n]o state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless services facilities” on this ground. The proposed Site will comply with all FCC radio frequency emission standards; specifically, the maximum permissible exposure (“MPE”) limits set by the FCC.

There will be no adverse impact on the health, safety, security, morals or general welfare of residents, visitors, or workers in the area and no adverse impact to the use, peaceful enjoyment, economic value and/or development of surrounding properties or the general neighborhood. Instead, the general welfare of the citizens and the surrounding properties will benefit from the improved wireless communications provided by VZW. As discussed above, the proposed Site is a low intensity use that does not impose adverse impacts upon surrounding properties.

Public health and safety will benefit in that a number of county agencies, including police, fire and rescue utilize wireless communications in performing their important public service missions. Furthermore, vehicular accidents or crimes can be reported immediately after their occurrence when observed, which results in faster response times, by the police or rescue officials.

2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.

N/A

3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.

The Applicant understands.

4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.

N/A

5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the

population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:

- a. Filling Station;
- b. Light Vehicle Sales and Rental (Outdoor);
- c. Swimming Pool (Community); and
- d. the following Recreation and Entertainment Facility use: swimming pool, commercial.

N/A

6. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:

- a. Funeral Home; Undertaker;
- b. Hotel, Motel;
- c. Shooting Range (Outdoor);
- d. Drive-Thru
- e. Landfill, Incinerator, or Transfer Station; and
- f. a Public Use Helipad, Heliport or a Public Use Helistop.

N/A

Conclusion

For the reasons outlined above, the Applicant respectfully requests that the CUP be approved.