

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
<http://www.montgomerycountymd.gov/ozah/index.html>  
Phone: (240) 777-6660; Fax: (240) 777-6665**

**CASE NO. CU-T-17-01 & CASE NO. S-596**

**APPLICATION OF CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS  
AND EAST GATE RECREATION ASSOCIATION, INC.  
FOR A TELECOMMUNICATION TOWER CONDITIONAL USE & REQUEST OF  
EAST GATE RECREATION ASSOCIATION, INC., FOR ADMINISTRATIVE  
MODIFICATION OF SPECIAL EXCEPTION CASE NO. 596**

**NOTICE OF RESCHEDULED HEARING**

Please take notice that the public hearing currently scheduled for Monday, December 19, 2016, on the above-captioned application for a conditional use to permit a telecommunication tower, pursuant to Section 59-3.5.2.C. of the Montgomery County Zoning Ordinance (Zoning Ordinance), has been rescheduled, at the request of Cathy G. Borten, Attorney for the Applicant, Cellco Partnership d/b/a Verizon Wireless (Cellco) and the property owner, East Gate Recreation Association, Inc., (East Gate), to **Monday, January 9, 2017, at 9:30 a.m.**, or as soon thereafter as this matter can be heard. **The public hearing will be held in the Stella B. Werner Council Office Building, Seventh Floor Council Hearing Room, at 100 Maryland Avenue, Rockville, Maryland.**

The subject property is approximately 4.48 acres in size and is owned by East Gate. The property is located at 10200 Gainsborough Road, Potomac, in the R-200 Zone and is identified as Parcel C of Block J, in the East Gate of Potomac Subdivision. There is an existing special exception (S-596) for a community swimming pool and tennis courts on the property granted by the Board of Appeals (Board) in 1978, and modified in 1980 and 1983. Case No. S-596 Exhibits 38 (a)-(b).

Application CU-T-17-01 seeks a conditional use permitting the installation and operation of an 80 foot tall telecommunications tower (with antennas extending to 83 feet in height) and associated ground equipment, to be located on an enclosed leased area of the subject property measuring 35' x 20' (700 square feet). The ground equipment for the telecommunication tower, an unmanned monopole, within the leased area includes, a canopied equipment cabinet and generator, space for Verizon Wireless' MESA/telephone cabinet, and access road. The enclosed lease area will displace four (4) existing parking spaces which will be relocated to an area behind the tennis courts (as shown on the plans submitted with the Application). Exhibits 1-3 and 11(a)-(b).

Because there is an existing special exception (S-596) on the property of the proposed conditional use, that special exception must be modified to allow the proposed conditional use. The owner of the property, East Gate, has applied to the Board for an administrative modification of its

special exception to allow the installation and operation of the telecommunication tower on the subject property. Pursuant to Section 59-A-4.125 of the Zoning Ordinance (2004), the Board referred the request for an administrative modification of special exception S-596 to the Office of Zoning and Administrative Hearings (OZAH) for consideration in connection with the conditional use application CU-T-17-01. Case No. S-596 Exhibits 38 (a)-(b). The two matters are consolidated for the public hearing noticed above. The Hearing Examiner will issue a report and recommendation to the Board in the administrative modification of the existing special exception request at the same time she issues the report and decision in the conditional use application CU-T-17-01.

The Federal Communication Commission (FCC) regulates telecommunication towers and has determined that applications for new telecommunication towers must be processed within 150 days from filing. This timeframe is commonly known as the “shot clock” which can be waived with the consent of the Applicant. *See FCC Declaratory Ruling 09-99 dated November 18, 2009*. In order to reschedule the December 19, 2016, public hearing, Applicant agreed to waive the FCC shot clock from December 19, 2016, to January 9, 2017. Exhibit 69.

Persons or associations that are (1) represented by counsel, (2) intending to appear in organized opposition, **or** (3) intending to introduce expert evidence or testimony **must file a pre-hearing statement** containing the information required by Rules 3.4 and 3.5 of OZAH’s Rules of Procedure (Rules). Filings must include an electronic copy of the statement and all attachments. These Rules may be found on OZAH’s website at <http://www.montgomerycountymd.gov/ozah/>.

The Applicant must submit its pre-hearing statement at least 30 days before the public hearing. Persons or associations in opposition that are required to file a pre-hearing statement must do so no less than 20 days before the public hearing.

In compliance with Maryland requirements regarding the practice of law, groups or associations must have counsel unless their witnesses are members of the group or association who will offer testimony in narrative form (*i.e.*, there is no need for an attorney to conduct a direct examination).

In addition to all other requirements, any party submitting documentary evidence for the record must file electronic copies of their submissions. Amended electronic copies must also be submitted for any amended documents. Electronic copies must be submitted on external storage media, including Compact Discs or DVDs, in Microsoft WORD format for text documents, and in PDF format for plans, photos and other non-text documents.

Nothing in this notice is intended to limit the rights of individual members of the public to testify during the hearing or to submit pertinent written materials at any time while the record remains open for that purpose.

The entire file may be reviewed in the Office of Zoning and Administrative Hearings, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m., prior to the date of the hearing.

If you need services to participate in a public hearing, please contact us as far in advance as possible by calling 240-777-6660 (TTY 240-777-7914) or emailing us at [ozah@montgomerycountymd.gov](mailto:ozah@montgomerycountymd.gov). This document is available in alternative format, such as large print, upon request, via the same phone numbers and email address.

Notices forwarded this 7<sup>th</sup> day of December, 2016 to:

Cellco Partnerships, CU Applicant  
East Gate Recreation Association, Inc., Property Owner  
Cathy G. Borten, Attorney for CU Applicants  
William J. Chen, Jr., Esquire  
Charles Frederick, Esquire, Associate County Attorney  
Diane Schwartz-Jones, Director, Department of Permitting Services  
Barbara Jay, Executive Director, Board of Appeals  
Gwen Wright, Director, Planning Department, MNCPPC  
Phillip Estes, AICP, Planning Department  
Washington Suburban Sanitary Commission  
State Highway Administration  
Abutting and Confronting Property Owners (or a condominium's council of unit owners or renters, if applicable)  
Civic, Renters' and Homeowners' Associations within a half mile of the site  
Any Municipality within a half mile of the site

Office of Zoning and Administrative Hearings



By: \_\_\_\_\_  
Tammy J. CitaraManis  
Hearing Examiner