

BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE :
PETITION OF Network Towers II, :
LLC :
FOR A : Conditional Use
CONDITIONAL USE FOR A : Application No. CU 25-_____
TELECOMMUNICATIONS :
TOWER :

APPLICANT'S STATEMENT

OF JUSTIFICATION

The Petitioner, Network Towers II, LLC, hereinafter referred to as "Network Towers" seeks a Conditional Use approval pursuant to Montgomery County Zoning Ordinance Sections 59-7.3.1.E (General CU Standards), 59.4 (Development Standards of the Zone), 59.6 (Applicable General Development Standards) and 59.3.5.2.C.2.c. (Specific Telecommunications Tower Standards) and any other relevant laws in order to construct and operate a Telecommunications Tower at 14335 Cape May Road, Silver Spring, MD 20904. (Tax ID Numbers 02257822).

I. INTRODUCTION

Montgomery County Government is the property owner of the 11.73 acre subject property at 14335 Cape May Road, Silver Spring, MD 20904. Montgomery County Government uses the property as a public works location and has leased a small portion (1,584 sq. ft./33 ft x 48 ft) for the tower and ground equipment and an additional 15 ft. x 25 ft (375 sq. ft) for backup power via propane tanks. The site will enable Applicant, Network Towers to locate a telecommunications tower to improve the coverage and services to the area. As the area of

disturbance is well below the 5,000 sq. foot threshold, no stormwater management is necessary for the project. There is also an existing forest conservation plan on the property (#MR2012011) that the County got approved for the property years ago. And it will continue to be complied with via this installation. The County property sits right off the Intercounty Connector (ICC)/Rt. 200 and New Hampshire Avenue/Rt. 655.



Figure 1- Property and area

Network Towers, is a wholly owned subsidiary of Network Building and Consulting, LLC (NB+C) has been in the telecommunication consulting business for over 40 years. Network Towers had been a tower building company in the 1990's prior to selling their tower inventory

in 1999. The tower division restarted in 2020. Network Towers builds most of their towers through Build to Suit arrangements with the major national wireless carriers. In this case Network Towers is constructing, maintaining and owning the proposed tower initially for Verizon. They will serve as the anchor tenant. This facility is vital for Verizon's area-wide telecommunications network for its customers. The site will significantly improve Verizon's wireless network for its customers that live, work and travel in this Silver Spring area for their essential, non-essential and emergency communications¹. AT&T and T-Mobile are both also interested in the site in order to provide enhanced connectivity and wireless services to their customers. In fact, each has provided a letter of intent to collocate on the site when ready (See TOC# 5). The proposed tower will have an overall structure height of 179 feet, which will accommodate Verizon Wireless and at least two (2) other co-locators. Review of the FAA tower lighting criteria shows that the tower will not have to be light. Official FAA confirmation is pending. The overall lease areas include a 33' x 48' fenced ground equipment compound within an existing fully curbed previously graveled area along with an additional 15'x25' lease area for propane tanks to serve as backup power in case of an emergency.

Purpose of Tower/History of the wireless carriers search in this area

The three (3) leading national wireless carriers² have been searching for a location in this area for more than 10 years- without success. In today's society, reliable wireless service is a necessity for residents, students, businesses and emergency personnel. The proposed tower will provide the infrastructure needed for Verizon Wireless, as well as multiple other wireless

¹ 80 percent of an estimated 240M 9-1-1 calls are made from wireless devices annually. And 76 percent of adults live in wireless-only-households. Source- CTIA. <https://www.ctia.org/the-wireless-industry/infographics-library>

² Verizon Wireless, AT&T and T-Mobile

providers, to expand and improve their networks in this area of Montgomery County. This reliable wireless service will enhance and protect the local economy and complement economic development by (1) providing citizens the opportunity to work and shop from home (2) allowing students the ability to utilize the latest online educational opportunities while at home (3) helping nearby businesses to be more effective and efficient in their everyday operations and (4) providing dependable wireless service to citizens travelling and emergency services operating on roadways in the area. This tower will specifically provide the latest wireless technologies to the following:

- Those living in the greater Cloverly, Colesville and Colesville Park area;
- Those travelling on Good Hope Road, Route 200, Route 650, and surrounding neighborhood roads;
- Those working at Wilshire Estates Gracious Retirement Living, Dr. Charles R. Drew Elementary School, Colesville shopping park, and other surrounding businesses;
 - Those visiting- Good Hope Community Center, Wood Park, Good Hope Local Park, and surrounding Montgomery County attractions.

The tower and associated ground equipment will be compatible with the surrounding area for the included but not limited reasons:

- The tower will be strategically sited as far back from the public right-of-way on Cape May Road and adjacent properties as possible to reduce visibility. There are tree stands along 3 sides of the property, as well;
- The tower will be 651' away from Cape May Road;
- The tower will be over 780' from the nearest off-site residential dwelling, which is in excess of 4 times the required setbacks;

- The tower will be made of galvanized steel to match the backdrop of the sky, therefore, reducing visibility, similar to existing light poles on the ICC, on the subject property, in the vicinity and throughout the County;
- The ground equipment will be shielded by an 8' chain link 3 sides. (See Sheet S-1 from TOC #6). The other side will face the neighboring on site County Highway Maintenance property's storage unit;
- The facility will be unmanned and will only be visited approximately once every month or two by technicians for Network Towers and/or the wireless tenants;
- The facility will not be lit (and thus entirely invisible at night) and will not emit any odor, fumes, dust or glare;
- The noises emitted from the ground equipment are not any louder than normal residential HVAC equipment.

II. SUBJECT PROPERTY

Per SDAT records Montgomery County, MD took ownership of the 11.73 acre property at 14335 Cape May Rd., Silver Spring, MD 20904 on April 1, 1981. Per MC Atlas, the property is zoned RE-2C. The Parcel ID is 05-02257822. The property is bordered by Cape May Road to the north, (2) MNCPPC properties to the East and West and MD Route 200-Intercounty Connector to the South. There are large treed areas to the North (on subject property) and East and West of the proposed tower at the vacant M-NCPPC (parks) parkland. The land is improved with a parking lot bordering Cape May Road, a large office building, a vehicle wash, multiple equipment storage garages and canopies, a garage to work on equipment, and a large Salt storage

structure. Please see Figure 1 and attached photos and aerials of the property and area (See TOC #7).

The Applicant reviewed and coordinated site visits with Montgomery County Government personnel to find a location that would shield the location from neighboring properties and also allow for the County to operate the site for its intended use as a maintenance facility for the County's Public Works Department. The chosen location met all required setbacks and utilized an existing graveled and curbed area where the County stored some minor materials. The applicant will utilize existing paved driveways to access the planned tower site. No trees will be removed. See Conditional Use Site Plan

V. Neighborhood

Applicant defines the surrounding neighborhood as residential, public utility, county park land and highway land uses within the recommended neighborhood. See Map below.



Figure 2 – Proposed Neighborhood Map

The surrounding area is predominantly unimproved forested park (M-NCPPC) land to the immediate east and west, the ICC/Rt. 200 to the south and some single family housing to the north and northwest. Across the six lane Rt. 200 to the south is additional unimproved, forested park land, a County property and building and some additional single family residences. The conditional use area elevation is pretty flat with small changes from 477' to 471' the entrance off of Cape May Road down towards the ICC. Additionally, the planned Conditional Use area (ground compounds and to some extent the lower parts of the tower) blend in the area and/or are screened nicely by existing vegetation, trees on site, proposed compound fencing, changes in elevation and significantly to the east and west by the unimproved park land and to the south by the large right

of way of the ICC, along with the jersey walls, existing tall light poles, etc. We will also install any required landscaping and additional screening and/or buffering per Code.

V. DESCRIPTION OF OPERATIONAL FEATURES

A. Business Activities

Network Towers is a tower company that builds telecommunications towers. Said towers generally and in this case are placed inside of a fenced, secured, monitored ground compounds, along with supporting ancillary equipment on a property to host commercial wireless providers (tenants). Those wireless providers install their equipment on the pole and inside the ground compound in order to provide valuable wireless services to the general public and government entities in the area for all of their communication needs including but not limited to essential, non-essential and emergency communications via voice, data, internet, etc.

The proposed telecommunications tower will operate 24/7 as an unmanned facility, providing continuous wireless coverage for residents, businesses, travelers, and emergency responders. Designed as a monopole structure at 179 feet, the tower will include a secured equipment compound housing telecommunications infrastructure, backup power systems, and network components. Power will be supplied by commercial electrical service, with an on-site propane backup generator to ensure uninterrupted operation during outages. Routine maintenance will be conducted periodically by authorized technicians.

The facility will generate minimal noise, comparable to residential HVAC systems, and will not produce emissions or waste. Security measures include a locked perimeter fence with

restricted access. In this case Verizon is the anchor tenant who will be on the top of the tower. Both AT&T and T-Mobile have provided letters of intent regarding a desire to also locate at the facility upon approval. The ground compound will be approximately 1,584 sq. ft. in size via a 33 x 48 foot fenced compound, along with an additional 15 x 25 lease area for backup power via onsite propane tanks. The site, once built, will be visited typically approximately once every six months by Network Towers and the wireless tenants for general maintenance as well as whenever an emergency situation arises (such as a power outage in the area).

B. Staffing

This is an unmanned facility. Thus, no staff are on site on a regular or consistent basis. Instead the site is visited rarely for periodic maintenance and should any emergency situations so require.

C. Hours of Operation

It is an unmanned facility. However, the telecommunications tower operates 24/7 in order to provide reliable wireless telecommunications to the provider's customers. Typical maintenance visits usually occur during regular business days and hours. Any emergency visits occur when required to ensure the site is operational and the wireless services are working properly for customers essential, non-essential and emergency communications.

D. Ground Compound-Structures

Inside of the 1,584 and 375 ft. ground compound and emergency power compound there will be the tower, small cabinets or shelters for the wireless providers ground

equipment, backup power source via propane, fencing to secure the ground compounds and ancillary, supporting equipment for the facility's operations.

E. Trucks and Equipment

Typically, regular maintenance visits will be made about every six (6) months by one or two technicians in an SUV type vehicle by Network Towers and the wireless providers. As well as for any emergency visits. They bring any required tools and equipment with them on these visits. The fenced, secure ground compounds have equipment inside the fenced, leased areas that allow the telecommunications facility to operate and are monitored remotely 24/7.

F. Parking

The Zoning Ordinance contains no parking requirements for a telecommunications tower. See Zoning Ordinance, §59.6.2.4. Here Network Towers is noting on the drawing plans that the County is allowing for two designated 9 x 18 ft parking spots outside the compound area for parking during the rare site visits. Once the telecommunications facility is constructed it is unmanned with the only traffic to the facility for routine maintenance or emergency repair typically about every six (6) month by Network Towers and the wireless provider tenants. As the property is a long established Montgomery County Government public works location, it has ample, existing on-site parking, besides the two designated parking spots, if needed. The tower visitor vehicles will access the site from the same, existing drive off of Cape May Road.

G. Property Access

The proposed area of the conditional use has frontage only on Cape May Road. The applicant has no need or plans to modify the entrance and will utilize the long existing County government property via its drive off the public County road.

V. Master Plan

The property is located within the 1997 Cloverly Master Plan. The master plan emphasizes maintaining the area's suburban and rural character, supporting a mix of residential, agricultural, and limited public uses. The existing use of the property as a county depot aligns with the plan's intent to accommodate necessary public facilities within the community.

The master plan does not contain any specific use recommendations for the property. The master plan acknowledges the need for essential public services to support the community safety and well-being. Proposing a monopole cell tower at this location aims to enhance telecommunications infrastructure, thereby improving emergency response capabilities and overall connectivity for residents.

The property lies within the designated Special Protection Area (SPA). The places importance on environmental preservation, particularly concerning water quality and forest conservation. The proposed cell tower will be designed with 1,800 plus sq. ft ground compounds and a total 4,763 sq. ft. disturbance (parking spots, etc. as noted on drawing plans), adhere to stormwater management requirements, and comply with the approved forest conservation easement No. MR2012011, ensuring that the project's environmental impact is negligible. Consequently, Applicant is confident that the request conforms with the recommendations of the Cloverly Master Plan.

VI. CONFORMANCE WITH NECESSARY FINDINGS

A Telecommunications tower is allowed as a conditional use. The subject property is zoned RE-2C, Residential Detached. In accordance with the Zoning Ordinance, Telecommunications Towers are permitted in the RE-2C, Residential Detached District with an approved Conditional Use application under Section 59. 3.5.2.C.2.c. for Telecommunications Towers and the general Conditional Use code Section 7.3.1, provided the following standards are met:

- A. Conditional Use - Necessary Findings (§59.7.3.1.E.) The general findings necessary to approve a conditional use are found in §59.7.3.1.E of the Zoning Ordinance:*
- B. E. Necessary Findings*
- C. 1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:*
- D. 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 for the subject County property and thus this section is not applicable.

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

This subsection requires the proposed development to meet the standards of the RE-2C (Residential Detached) Zone contained in Article 59-4, the specific use standards

for a Telecommunications Tower contained in Article 59-3, and the applicable development standards contained in Article 59-6. Telecommunication Towers are allowed in the zone via Conditional Use per the County zoning code. The Applicant is confident that each code section is met via its application, expected testimony and/or exhibits at the public hearing.

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

The use does substantially conform with the recommendations of the master plan for the following reasons.

The property is located within the 1997 Cloverly Master Plan. The master plan emphasizes maintaining the area's suburban and rural character, supporting a mix of residential, agricultural, and limited public uses. The existing use of the property as a county depot aligns with the plan's intent to accommodate necessary public facilities within the community.

The master plan does not contain any specific use recommendations for the property. The master plan acknowledges the need for essential public services to support the community safety and well-being. Proposing a monopole cell tower at this location aims to enhance telecommunications infrastructure, thereby improving emergency response capabilities and overall connectivity for residents.

The property lies within the designated Special Protection Area (SPA). The places importance on environmental preservation, particularly concerning water quality and forest conservation. The proposed cell tower will be designed with a minimal additional impervious area of 1,884 plus sq. ft. (0.043 of an acre) of the 11.73 acres/510,958 sq. ft., adhere to

stormwater management requirements as the total limit of disturbance is 4,763 sq. ft., and comply with the approved forest conservation easement No. MR2012011. Thus will all help ensure that the project's environmental impact is negligible, while providing an important benefit to the community via enhanced wireless connectivity and services. Consequently, Applicant is confident that the request conforms with the recommendations of the Cloverly Master Plan.

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

The telecommunications facility will provide enhanced high speed broadband wireless connectivity and services. The telecommunication tower's height, setbacks, design and location, along with existing trees and landscaping will allow the facility to blend appropriately with the surrounding neighborhood. The proposed approach will ensure that the visual impact is minimal, preserving the aesthetic qualities valued by the community while also providing a valuable and essential asset to the neighborhood.

The proposed use will be in harmony with the character of the neighborhood and will not alter the surrounding neighborhood in a manner inconsistent with the Plan. The telecommunications tower will not in any way impair the goals of the Cloverly Master Plan. In fact it will provide a positive impact by providing enhanced wireless connectivity and services for those living, working, and traveling through this area of Silver Spring.

While a tower cannot be fully screened from view above the tops of the surround tree line this site will not have a notable negative impact on the area as it generates negligible traffic, does not require parking, and will not generate material noise, vibrations, smells or similar. It is an unmanned and passive facility. The extensive tree cover in the area, the ICC and the large setbacks will screen the compound from the road and neighbors and help screen parts of the tower.

The tower is setback 651 feet from Cape May Road and 775 feet from the nearest residential dwelling and thus will not materially visually impact the neighborhood. The proposed tower and compound will be surrounded by an existing shrubs and trees to the north on the subject property, east and west (vacant parkland), the six (6) lane ICC highway immediately to the south and existing trees and shrubs as well on the other side of much of the ICC, as well as the fenced compound and significant setbacks to the nearest residences to the north. Therefore, there should have minimal visual impact for a telecommunications tower from the public road. The proposal is harmonious with and will not alter the character of the surrounding neighborhood and will provide a benefit to the neighborhood via enhanced wireless connectivity and services. See the photo simulations of the tower and facility (See TOC #8) as well as the site plan drawings as support (See TOC #6).

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

There was one other conditional uses/special exceptions in the identified neighborhood. It was for Countryside Gardens. However, it was revoked in 2014 (Case No. S-661). While the approval of this one conditional use will now create the total number conditional uses to “one” in the surrounding neighborhood, it will certainly not adversely impact the surrounding area. In fact it a passive, unmanned CU that will reside at a long, established County public works facility this has significant and treed parkland immediately to the east and west, the ICC six (6) land highway to the south, existing trees and shrub on the subject property and will provide important enhanced wireless connectivity and services including for emergency communications from the ICC/Rt. 200³ and surrounding area.

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:

- 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*
- 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*

³ Per Maryland Department of Transportation the ICC/Rt. 200 averages over 65,000 average daily vehicular trips. See. TOC #9

facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and

The site will not require public services other than power and fiber for backhaul. In fact access already exists to and on the long, existing County public works property. The unmanned and unoccupied telecommunication tower will have no material impact on schools, police and fire protection, water, sanitary sewer, and public roads. While Cape May Road is a public road, the use will generate only occasional, approximately every six (6) months, vehicular visits to the site. Thus, the person trip is well below the LATR review.

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.*

Typically, the Inherent aspects of a Telecommunications Tower include the maintenance trips and the height of the Tower. This Application will not be detrimental to the surrounding area. The proposed ground compound and tower will be fully or partially screened by existing trees, extensive vacant treed parkland to the immediate east and west, setbacks and the ICC. Thus, it will have a limited visual impact. Further, the site will not cause any objectionable noise, fumes, or illumination. The proposed use will have no adverse effect on road congestion or

safety since it is an unmanned facility with sparse visits, as it is unmanned. 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 about 1 visit every six (6) months by Network Towers and its tenants on the tower. 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 Property itself does not pose any conditions which would create non-inherent effects and the proposed Tower will be setback 651 feet from the front property line and is screened by the existing, mature forest.

The Conditional Use generates no material traffic and does not have a parking requirement Section 59.6.2.4.B. After construction of the site is complete, there is no material noise, odors, dust, or illumination associated with the Application. Applicant is confident that all requirements and conditions of the use are satisfied and that the site will have no adverse impacts on the health, safety, or welfare of neighboring residents or visitors.

The inherent effects of a telecommunications tower also include maintenance trips and the visual impact of the tower height. The telecommunication tower (monopole here) will be 179 feet high. Applicant concedes that it is nearly impossible to hide any tower in the County, including this one, where the top height is above the existing tree tops. Here, the compound will be screened at ground level by large setbacks, elevation changes, and existing trees and no

lighting will be required per FAA criteria. Further, the street level visual impact is minimized for the same reasons.

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.

This property is located in a Residential Detached zone (RE-2C) and is compatible with the character of the residential neighborhood. It will be sited in a long, established County Government public works maintenance property. And said maintenance facility is surrounded on three sides by vacant, heavily wooded County park land (East and West), the subject property to the north of site and South (with the 6 lane ICC/RT 200 separating the public works property and the wooded park land directly south across the ICC), along with some residences to the north across Cape May Road. The ground compound will be fully screened from the public road and residences as will much of the tower due to the tower location, large setbacks, tall and thick trees, changes in elevation and additional offsite screening. Further, the facility is unmanned, includes no material noises, vibrations or emissions and will have negligible traffic to the site (a visit about every six (6) months by the Applicant and the tower tenants for general maintenance and any emergency situations). Further, the tower will be unlight and thus invisible at night.

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 application is confident that it does satisfy all specific requirements for the conditional use per its application materials and projected live testimony and/or exhibits at the public hearing. And as such the conditional use should be approved, perhaps with typical tower conditions of approval for the CU application.

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.

The CU Application is not an agricultural conditional use. Consequently this section is not applicable.

B. Conditional Use - Use Standards for a Telecommunications Tower (§59.3.5.2.C.2.c.)

The specific use standards for approval of a Telecommunications Tower Conditional use are set out in §59.3.5.2.C.c. of the Zoning Ordinance. The applicable standards are:

C. Telecommunications Tower

2. Use Standards . . .

c. Where a Telecommunications Tower is allowed as a conditional use, it may be permitted by the Hearing Examiner under § 3.5.2.C.2.a, limited use standards, § 7.3.1, Conditional Use, and the following standards:

i. Before the Hearing Examiner approves any conditional use for a Telecommunications Tower, the proposed facility must be reviewed by the Transmission Facility Coordinating Group. The applicant for a conditional use must file a recommendation from the Transmission Facility

Coordinating Group with the Hearing Examiner at least 5 days before the date set for the public hearing. The recommendation must be no more than 90 days old when the conditional use application is accepted.

We contend that this section has and/or will be met. The Applicant received the recommendation of Approval from the TFCG on February 5, 2025 and a copy is filed herein with this CU application submission.

i. A Telecommunications Tower must be set back, as measured from the base of the support structure, as follows:

(a) A Telecommunications Tower is prohibited in any scenic setback indicated in a master plan.

The tower and ground areas are not located in any scenic setback.

(b) In the Agricultural, Rural Residential, and Residential Detached zones, a distance of one foot for every foot of height or 300 feet from an existing dwelling, whichever provides the greater setback.

The proposed tower is located in the RE-2C, Residential Detached, zoning district *and will be* 179 feet high. The tower must meet or exceed the required minimum setback from any dwelling of 300 feet. The closest dwelling is 780 plus feet away, which is greater than twice the required setback and in fact is closer to three times the required distance. Thus, this requirement is met. See Applicant's engineering plans, Overall Site Plan pages (Z-2)(See TOC #6).

(c) In the Employment zones, a distance of one-half foot for every foot of height from the property lines of abutting Commercial/Residential, Employment, or Industrial zoned properties, and one foot for every foot of height from the property lines of abutting Agricultural, Rural Residential, or Residential zoned properties.

The subject Montgomery County Government property is not in an employment zone. This section is not applicable.

(d) The Hearing Examiner may reduce the setback requirement to not less than the building setback for a detached house building type in the applicable zone or to a distance of one foot from an off-site dwelling for every foot of height of the support structure, whichever is greater, if evidence indicates that a reduced setback will allow the support structure to be located on the property in a less visually obtrusive location than locations on-site where all setback requirements can be met after considering the height of the structure, topography, existing vegetation, nearby residential properties, and visibility from the street. A reduced setback may be approved only if there is a location on the property where the setback requirements can be met.

There is no need for or a request for a reduction in setbacks in this Application. The proposed tower is located in the RE-2C, Residential Detached, zoning district and will be 179 feet high. The minimum front, rear and site setbacks are 179 Feet. The proposed tower will be 651 plus feet from the front lot line, 208 plus feet from the rear lot line (backing to the ICC/Rt. 200 6 lane highway), 317 plus feet from the right lot line (east-vacant wooded parkland) and 181 plus ft. from the left lot line (west- vacant wooded parkland). See below chart and Applicant's

engineering plans, Overall Site Plan page (Z-2), (See TOC #6). Consequently, this section is exceeded and thus met.

The tower will meet all required setbacks. The following are the required and proposed setbacks:

Setback	Required	Proposed
Front	179'	651.5'
Right Side	179'	317.4'
Left Side	179'	181.2'
Rear	179'	208.5'
Existing offsite residence	300'	780.2'

iii. The maximum height of a support structure and antenna is 135 feet, unless it can be demonstrated that additional height up to 179 feet is needed for service, collocation, or public safety communication purposes. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection required by the building permit, the applicant must certify to DPS that the height and location of the support structure conforms with the height and location of the support structure on the building permit.

The proposed height of the monopole is 179 feet.

The Site is designed to serve the following:

- Those living in the greater Cloverly, Colesville and Colesville Park area;
- Those travelling on Good Hope Road, Route 200, Route 650, and surrounding neighborhood roads;

- Those working at Wilshire Estates Gracious Retirement Living, Dr. Charles R. Drew Elementary School, Colesville shopping park, and other surrounding businesses;
- Those visiting Peach Good Hope Community Center, Wood Park, Good Hope Local Park, and surrounding Montgomery County attractions.

The attached cellular engineering maps (See TOC #10) shows how these areas are underserving Verizon customers with the current cellular coverage in this area. Reliable coverage is especially important for customers who do not have traditional landline telephones and thus rely totally on cellular service for all communication needs, including 9-1-1⁴. Engineering maps, expected live testimony and the Montgomery County Telecommunications Transmission Facility Committee (TTFC) (aka Tower Committee) all support the need for this additional height permitted under the code where it is demonstrated that the additional height is needed for service, collocation, or public safety communication purposes. In this case the height is needed for both the service and collocation and is demonstrated by the cellular engineering reports the projected live testimony and the independent County Tower Committee's engineering consultant recommending approval and in which they wrote,

“Our review of the application concludes that there is a coverage gap in the area (specially along Route 200) and a new site would be needed to fill the coverage gap. The review included a thorough examination of not only Verizon Wireless's technical evidence but an assessment of existing wireless sites in the area that might offer relief. However, our evaluation found that no other sites were available to provide the needed coverage. In conclusion, we find that the proposed monopole structure will be able to provide sufficient

⁴ 76 percent of adults live in wireless only households in US. 80 percent of estimated 240 million annual calls to 9-1-1 are made from wireless devices. Source CTIA. <https://www.ctia.org/the-wireless-industry/infographics-library>

coverage to mitigate the existing coverage gap. We recommend this application on its merits from an engineering review perspective”

(See TTFC Tower Coordinator Recommendation document, pg. 2, (See TOC #11) and the County’s Tower Committee members who voted unanimously to approve the requested tower location and height based on the engineering need proven.

Engineering propagation maps demonstrating the need for the minimum height of 179 feet for VZW are included with this CU submission. The 179 ft. height will also allow for the future colocation of additional carriers. Please see the letters of interest from both AT&T and T-Mobile (See TOC #5). Additionally, this site and design for additional co-locators will reduce and/ or eliminate the need for future additional sites in this vicinity of Silver Spring.

Applicant has also included multiple support letters from County leaders lending additional evidence to the real-world need and desire for enhanced wireless connectivity for this area.⁵ The code also requires that as a condition of this approval, the Applicant certify that the height and location conform with the building permit before the facility comes online. The Applicant commits it will comply with this requirement.

The proposed height is necessary for Verizon Wireless to achieve their coverage objective for its customers and to provide adequate space for future carriers. As is the case with all carriers, Verizon first looked for a building or other tall structure within the area of need (aka search ring

⁵ SEE TOC #12_attached letters from Senator Cheryl C. Kagan, Montgomery County Councilmember Kristin Mink, City of Gaithersburg Mayor Jud Ashman, and City of Rockville City Manager Jeff Mihelich

vicinity) on which to collocate its antennas. There were no towers, buildings or transmission towers within the search ring that were tall enough, structurally capable, or properly spaced from surrounding existing sites to meet the coverage objective. Please see the submitted VZW propagation maps (See TOC #10) showing the improved coverage this tower would provide. Additionally, T-Mobile and AT&T have future plans of collocating their equipment on the tower and for them to meet their coverage objectives, the proposed height is necessary.

Network Towers and Verizon filed an application to the Montgomery County Tower Committee on 12/17/24. The Tower Coordinator recommended approval in their 1/31/25 report. The application was unanimously approved by the Tower committee at the February 5, 2025 meeting.

Colocation Options:

Verizon and AT&T provided 13 alternate locations that were reviewed and worked on over the last 10+ years to the proposed site. 6 locations were MNCPPC sites, 3 were churches, 1 Montgomery County School property, 1 Maryland Dept of Transportation site and 2 private owners' properties were rejected by the owners or were not feasible technically. (SEE TOC #11).

All 13 locations were reviewed by the tower coordinator and documented. The proposed location of the tower is surrounded by MNCPPC park lands on 2 sides and the ICC Rt. 200 on the south side. (And in fact undeveloped wooded parkland is also south, just across the ICC/Rt. 200).

The Tower Committee also reviewed 15 existing locations within 1 mile of the proposed site. It was determined that either Verizon was already on the existing towers or that the towers would not solve the intended coverage need.

Verizon RF coverage maps:

Verizon provided coverage maps at 134', 154' and 174' Centerline levels of antennas.

134' and 154' clearly showed coverage gaps along the Rt. 200 to the East and the Tower Coordinator agreed with Verizon's assessment. (See TOC #10)

iv. The support structure must be located to minimize its visual impact. Screening under Division 6.5 is not required, however, the Hearing Examiner may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.

Visual impact is typically an important consideration and part of the code for telecommunications facility cases. Here, the proposed facility is strategically sited at the rear of the property, behind the existing Colesville Depot which shields the base of the tower and compound from the ROW. The existing trees and vegetation surrounding and on the parcel provides additional screening from adjacent properties and surrounding roads, as well as the screening to the east and west via the treed, undeveloped parkland. Additionally, the design allows for large setbacks. The monopole is 179 feet high, which is the minimum height at which the proposed site meets Verizon wireless customers connectivity and services needs and allows for future co-location of additional wireless carriers. And, in this case, the Applicant has

submitted significant evidence supporting its need for the 179 ft. tower height and expects live testimony as well as the public hearing. Further, and independently as noted above, the County Tower Committee engineering consultant and members recommended and voted to support the requested location and height as appropriate and needed. Applicant has supplied photo simulations of the tower per the County code and went above and beyond the minimum photo locations and distances. (See TOC #8). Applicant contends that the photo simulations, assisted by the large setbacks, wooded, trees on the North side of the subject property and undeveloped, heavily wooded parkland to the east and west and the ICC/Rt. 200 to the south, show that the structure is located to minimize its visual impact appropriately and per the code. The Tower Coordinator reviewed 18 balloon photo simulations provided by the applicant and concluded in their recommendation report, “that the proposed monopole would have a limited visual impact to the surroundings. Existing trees and foliage will assist in mitigating the visual impact.” (See TOC #8). In the 18 photo simulations the balloon was only visible in 4 of the photos.

v. The property owner must be an applicant for the conditional use for each support structure.

Montgomery County Government is the property owner and a co-applicant with Network Towers. See the attached authorization letter (See TOC #13) from Montgomery County real estate supervisor Greg Ossont.

vi. A modification of a conditional use is only required for a change to any use within the conditional use area directly related to the conditional use approval.

The subject application is for a new use, not a modification, and thus this section is not applicable.

vii. A support structure must be constructed to hold a minimum of 3 wireless communication carriers unless the Hearing Examiner finds:

(a) that collocation at the proposed location is not essential to the public interest; and

(b) that construction of a lower support structure with fewer wireless communication carriers will promote community compatibility.

Verizon Wireless will be the anchor tenant; however, the tower will be constructed to support at least two (2) additional carriers. T-Mobile has interest on collocating its equipment on the tower and AT&T has committed to collocating once the tower is constructed. This tower will be able to accommodate all three of the major national wireless carriers. Please see the submitted Letter of Interest from T-Mobile and Letter of Intent from AT&T (See TOC #5) and See TOC #6, engineering drawings, Tower Elevation page (C-2).

viii. The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with all the carriers. Outdoor storage of equipment or other items is prohibited.

The proposed compound is 33'x48' and has adequate space to accommodate Verizon's equipment as well as 2 future carriers. Verizon's reserved lease area for equipment will be 12.5'x21'. All future carrier equipment will be placed on concrete pads. The facility will also have a separate 15'x25' lease area for Generator propane tanks located to the Northeast of the

compound. These propane tanks will only be used as a back-up power supply in the event of a power outage to this area. The noise emitted from the ground equipment are no louder than normal residential HVAC equipment. Thus, the Network Towers ground Compound has sufficient, designated areas for the equipment sheds or cabinets for at least three wireless providers. Please see the layout engineering drawings in TOC #6, Compound Plan, p. C-1.

ix. The support structure must be removed at the cost of the owner of the Telecommunications Tower when the Telecommunications Tower is no longer in use by any wireless communication carrier for more than 12 months.

Applicant commits to comply with this code section and would certainly accept a condition of approval so requiring compliance that the support structure be removed at the cost of the owner of the Telecommunications Tower when the Telecommunications Tower is no longer in use by any wireless communication carrier for more than 12 months.

x. The support structure must be identified by a sign 2 square feet or smaller, affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Hearing Examiner notified within 10 days of any change in ownership.

Please see the engineering drawings, TOC #6, page S-2 showing the proposed signage. The only signage proposed is what is required by the FCC. Therefore, the Applicant would certainly accept a condition of approval so requiring compliance that the support structure be

identified by a sign two square feet or smaller, affixed to the support structure or any equipment building as well as requiring that the sign be updated, and the Hearing Examiner notified within 10 days of any change in ownership.

xi. Each owner of the Telecommunications Tower is responsible for maintaining the wireless communications tower in a safe condition.

Network Towers II, LLC. will own, construct, and maintain the proposed telecommunications tower and compound. The Applicant is a long established, professional wireless infrastructure development company and has a significant investment in the facility as well as a responsibility to its tenants and landlord. Thus, as with all of its sites the facility will be visited regularly and monitored remotely 24/7. Therefore, the Applicant commits that the facility will be maintained in a safe condition. The applicant would certainly accept a condition of approval to ensure compliance with this code section.

xii. The Hearing Examiner must make a separate, independent finding as to need and location of the facility. The applicant must submit evidence sufficient to demonstrate the need for the proposed facility.

Please see the submitted VZW propagation maps showing the existing and proposed coverage this tower will provide (See TOC #10).

Verizon RF coverage maps:

Verizon provided coverage maps at 134', 154' and 174' Centerline levels of antennas.

The 134' and 154' maps clearly show coverage gaps along Rt. 200 to the East. The County's Tower Review Committee engineering consulting company and the Committee agreed with Verizon's assessment. (See TOC #10). The Tower Committee confirmed that there are coverage gaps- especially along Rt. 200 and its engineering consultants report and recommendation concluded that "we find that the proposed monopole will be able to provide sufficient coverage to mitigate the existing coverage gap. We recommend this application on its merits from an engineering review perspective." (See TOC #6)

As noted in this CU submission exhibits (especially the cellular engineering maps), as well as the projected live testimony and the recommendation by the Tower Committee engineering consulting firm and the members, there is an absolute engineering need for a telecommunications facility at the selected location and at the proposed height, both for wireless service needs and colocation requirements. Additionally, Applicant has supplied information about the history of need for a site in the area, the multiple locations examined and why they were insufficient. Further see the attached support letters (See TOC #12) that provide real world wireless needs from multiple government leaders who have heard from constituents and/or experienced service issues themselves in this area of Silver Spring.

C. Conditional Use –Development Standards of the Zone (Article 59.4)

To approve a conditional use, the Hearing Examiner must find that the Application meets the development standards of the zone where the use will be located – in this case the RE-2C (Residential Detached) Zone. The Development Standards for the RE-2C Zone are contained in: §59.4.4.5.B.

See the specific development standards for this application against the minimum requirements charted below.

RE-2C Zone, Standard Method Development Standards

To view the RE-2C Zone, Standard Method Development Standards table in PDF format,

click [Table 4.4.5B](#)

Development Standards Section 59.4.4.5.B	Permitted/Required	Existing/Proposed
Minimum Lot Area	2 acres	11.73 acres
Minimum Lot Width at Front Building Line	150 ft.	554.5 ft.
Minimum Lot Width at Front Lot Line	25 ft.	75 ft.
Maximum Density	1 unit/2 acres	1 unit/ 11.73 acres
Maximum Lot Coverage	25%	43.65/44.0%
Minimum Front Setback	50 ft. (179 ft. for tower)	651.5 ft.
Minimum Side Setback	17 ft. (179 ft. for tower)	317.4 ft. & 181.2 ft.
Minimum Sum of Side Setbacks	35 ft. (179 ft. for tower)	498.6 ft.
Minimum Rear Setback	35 ft. (179 ft. for tower)	208.5 ft.
Minimum Setback from Dwelling (Section 59.3.5.2)	300 ft. (179 ft. for tower)	780.2 ft.
Maximum Height	50 ft. (135 ft. – 179 ft. for tower)	179 ft.

The Applicant also expects live testimony to address how the proposed development satisfied the development standards. While the maximum lot coverage is noted as up to 25%,

this long, established Government property is at 43.65%. However, this tower project is only adding 1,884 sq. feet of impervious to the property, which is 0.043 of an acre and 0.035 % of the impervious on the property, thus moving the percentage from 43.65 to 44%, which is de minimis and of no material significance while providing essential enhanced wireless connectivity and services to the government property, surrounding community and to the thousands of daily commuters on Rt. 200/ICC. Applicant is confident that the proposed Facility satisfies the development standards in the RE-2C zone, in which the Government is able and has exceeded this one standard on this government owned and operated property and is thus appropriate and permissible, especially since it is de minimus here.

D. Conditional Use - Applicable General Development Standards (Article 59.6)

Article 59.6 sets the general requirements for site access, parking, screening, landscaping, lighting, and signs. Section 59.3.5.2.C.2.c.iv. exempts telecommunications towers – CU Development & Parking from the screening requirements of Article 59-6 and states: “The support structure must be located to minimize its visual impact. Screening under Division 6.5 is not required, however, the Hearing Examiner may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.” Other provisions of Article 59-6 of the Zoning Ordinance, such as parking, site access, and open space do not apply to this facility. Here, the proposed tower and compound are located 651 feet from the public road (Cape May Road) within a County public works property that is surrounded on three sides -north on the subject property, east and west by mature trees on the vacant county parkland and the six lane

ICC/Rt. 200 highway to the South. And the closest residence is 780 feet and screened from the ground compounds. Therefore, additional screening is not necessary here as the compound area is sufficiently screened. Further, since no lighting is proposed (or to be required by FAA) the general development standards are met - "to the extent ... necessary to ensure compatibility," as required by Zoning Ordinance, §59.7.3.1.E.1.b.

VI. CONCLUSION

In summary, this Statement of Justification demonstrates that the proposed conditional use application for a 179 ft. Telecommunications Tower at the Montgomery County Government public works property off of Rt. 200 (Inter County Connector) and Rt. 655 (New Hampshire Ave.) at 14335 Cape May Road in Silver Spring meets the definition for the use, the development standards for the underlying RE-2C zone, satisfies the use standards for a Telecommunications Tower, meets all applicable requirements of the Zoning Ordinance and is consistent with the Master Plan. Thus, it will deliver a compatible land use at this site that will enable a needed and important Telecommunications Tower, with a focus on providing enhanced wireless connectivity and services to this area of the County for those who live, work and travel the area for all of their telecommunications needs, including essential, non-essential and emergency communications.

Respectfully submitted,

MILLER, MILLER & CANBY

By: 

Sean P. Hughes
200-B Monroe Street
Rockville, MD 20850
(301) 762.5212
sphughes@mmcanby.com

Counsel for Applicant, Network Towers