

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 25, 2021 (BOS Mtg. 7/20/21)

**TO:** York County Board of Supervisors

**FROM:** Neil A. Morgan, County Administrator



**SUBJECT:** Application No. UP-966-21, Cellco Partnership

### ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (category 17, no. 7) of the York County Zoning Ordinance, to authorize the establishment of a 199-foot self-supporting telecommunications tower on a 16.8-acre parcel (GPIN F15d-4665-2009) located at 124 West Queens Drive (Route 716). The property is zoned RC (Resource Conservation) and is designated Medium Density Residential in the Comprehensive Plan.

### DESCRIPTION

- Property Owner: York County School Board (applicant is property owner's lessee)
- Location: 124 West Queens Drive (Route 716)
- Area: 2,500 square-foot lease area (50'x50') with access easement on a 16.8-acre parcel
- Frontage: Approximately 780 feet on West Queens Drive and approximately 620 feet on Schooner Boulevard (Route 1385)
- Utilities: Public water and sewer
- Topography: Flat
- 2035 Land Use Map Designation: Medium Density Residential
- Zoning Classification: RC – Resource Conservation
- Existing Development: Queens Lake Middle School and associated athletic facilities
- Surrounding Development:

North: Schooner Boulevard; Creekside Landing common area beyond

East: West Queens Drive; six single-family detached dwellings beyond

South: Seven single-family detached dwellings

West: Queens Lake Middle School athletic fields and Creekside Landing common area

- Proposed Development: Telecommunications tower up to 199 feet in height with associated ground-mounted equipment

### CONSIDERATIONS/CONCLUSIONS

1. The applicant wishes to construct proposed telecommunications tower up to 199 feet in height (195 feet with a 4-foot lightning rod) and lease space on the facility to cellular phone and other communications system clients. Verizon would be the anchor tenant. The property is designated Medium Density Residential in the Comprehensive Plan and is zoned RC (Resource Conservation).
2. According to the applicant's sketch plan, the tower base would be located at the rear of the 17-acre parcel to the northwest and approximately 300 feet from Schooner Boulevard and 320 feet from the nearest home in Creekside Landing. The area between Creekside Landing and the tower is heavily wooded common area for the subdivision. The proposed tower would be designed to accommodate a minimum of three wireless communications providers. Ground-mounted equipment at the base of the tower would be located within a 1,600-square foot fenced area surrounded by ten-foot (10') wide evergreen landscape buffer. The fence height and type have not been indicated by the applicant, and a condition has been included to require an eight foot (8') chain link fence with an opaque material to provide further screening for the site. Additionally, the plan notes that a ball net would be placed around the tower and over the edge of the fence to return any balls that might enter the facility. This is similar to other tower sites at other school locations. In addition, I recommend minimum planting size of six feet (6') for evergreen trees surrounding the fenced compound to facilitate screening of ground-level equipment. The applicant has allowed space for up to three additional future carriers utilizing the facility. Vehicular access to the gated compound area would be via a twelve foot (12') paved access road leading from the northeastern entrance to the school from West Queens Drive.
3. The County's policies regarding the siting of telecommunications towers are spelled out in the Comprehensive Plan, which states that new towers should be permitted "only where a proven need exists and only when all other opportunities, such as co-location on an existing tower or utilization of other existing structures have been exhausted." According to the narrative description and aerial network maps submitted by the applicant, the proposed tower would be intended to fill a gap in service that their other tower sites do not serve. The documents show several towers outside of the proposed tower location but none in the area. The applicant has also submitted documentation of alternative site and co-location opportunities in the vicinity of the subject parcel that were considered but were found to be infeasible (copy attached).

The Comprehensive Plan also states that the County should "[d]iscourage or prohibit telecommunications towers in historic or residential areas except where no other practical option exists." The subject property is located in the residentially zoned area and the school site is surrounded primarily by single-family detached dwellings. With the proposed site location, the tower will be located away from homes and screened from view by mature dense woods, especially near the closest homes in Creekside

Landing. The applicant considered other sites that were nearby but were also residential in nature.

4. In order for the Planning Commission, Board, and staff to evaluate the visibility of the proposed tower from nearby residential areas, the applicant has submitted photo simulations of the proposed tower, which indicate the tower would be visible from properties in the immediate area. The nearest homes are located in the Creekside Landing neighborhood, with the closest home being approximately 320 feet from the proposed tower location.
5. As a condition of approval, the applicant will be required to submit a statement from a registered engineer certifying that NIER (non-ionizing electromagnetic radiation) emitted from the tower will not result in a ground-level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the federal government or the American National Standards Institute.
6. Although the Federal Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers. They can also be overturned if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions. In addition, the act places an obligation upon localities to assist the telecommunications providers in finding a facility somewhere within the footprint (coverage area).

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this application at its May 12 meeting and, subsequent to conducting a public hearing at which one citizen spoke to express concerns about security, potential vandalism, and visibility of the tower, voted 5:0 (Mr. Criner and Ms. Leedom absent) to recommend approval.

#### **COUNTY ADMINISTRATOR RECOMMENDATION**

Although located in a residential area, the proposed tower would not be visually obtrusive, in my opinion, because of its location to the rear of the school site, the dense vegetation in the surrounding area, and the flush nature of the external antenna arrays. In addition, the proposed tower would address the needs of cellular customers located in an area with limited potential for new towers. Lastly, the proposal is consistent with the policies set forth in the Comprehensive Plan pertaining to telecommunications towers. Therefore, based on the considerations and conclusions as noted, I recommend the Board approve the application subject to the conditions set forth in proposed Resolution No. R21-99.

Anderson/3497

Attachments:

- Planning Commission minutes excerpts, May 12, 2021
- Zoning Map
- Narrative
- Sketch Plan
- Photo Simulations
- Aerial Network Map
- FAA Determination
- Email Chain from Dominion Energy
- Citizen Comments
- Proposed Resolution R21-99