



Preliminary/Final Water Quality Plan No. S-2816, T-Mobile at Gibson Property

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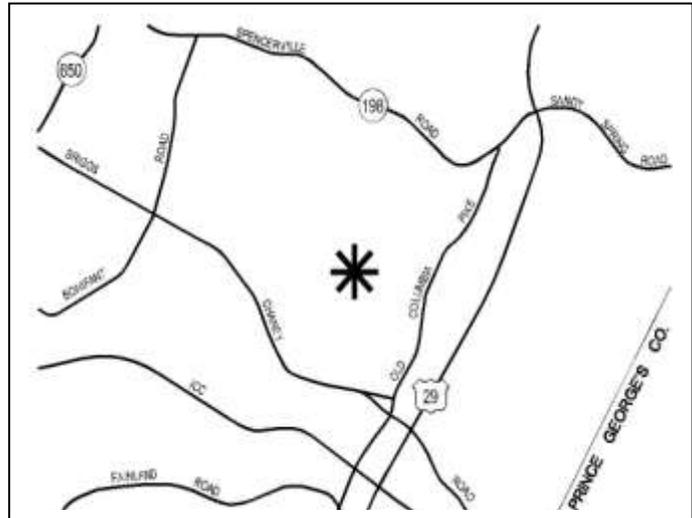


Description

Preliminary/Final Water Quality Plan No. S-2816, T-Mobile at Gibson Property

115-foot tall unipole, wireless telecommunications facility and equipment compound, located on Parcel P161 at 2815 Cabin Creek Drive, Burtonsville, MD, RE-1 Zone, Fairland Area Master Plan and the Upper Paint Branch Special Protection Area (SPA)

Recommendation: approval with conditions



Summary

The applicant proposes to construct a telecommunications facility in the Upper Paint Branch Special Protection Area (SPA). The issues include:

- Revising the Plan to relocate the facility outside the environmental buffer

The application meets the following:

- The Application maintains imperviousness below eight percent
- The Application complies with the Forest Conservation Law
- Montgomery County Department of Permitting Services has approved their portion of the SPA Water Quality Plan

RECOMMENDATION

Staff recommends **approval with the following conditions:**

1. Limit the impervious surfaces within the SPA to no more than eight percent as shown on the *Impervious Surface Plan Portion of the SPA Water Quality Plan*.
2. Submit revised plans to relocate the proposed access driveway, cell tower, and entire compound outside of the environmental buffer.
3. Conform to the conditions as stated in Montgomery County Department of Permitting Services (DPS) Water Quality Plan approval letter dated April 12, 2011 (Attachment 1).
4. Remove the gravel and concrete areas of the compound, including the access driveway and stabilize the area if the unipole is removed.

PROJECT DESCRIPTION

The property is a 5.88-acre parcel (P161) located on 2815 Cabin Creek Drive in Burtonsville, within the Fairland Master Plan Area. The property is zoned RE-1, and it is currently used as a residence and for pasturing horses. In addition to the existing residence, the property is improved with several outbuildings and a driveway. The property is located within the Upper Paint Branch Special Protection Area (SPA) and its Environmental Overlay Zone. Per Chapter 22A-5.(q), this project is exempt from submitting a Forest Conservation Plan as confirmed in a letter from the M-NCPPC staff dated September 28, 2011.

The applicants, T-Mobile Northeast LLC, Ralph E. Gibson, and Margaret A. Gibson, have proposed the construction of a T-Mobile communications tower and associated compound on the property (Figures 1 and 2). Total disturbance associated with this project will be approximately 4,640 square feet. The Planning Board's review is for the Special Protection Area (SPA) Combined Preliminary/Final Water Quality Plan. This memorandum covers staff's review and recommendations on the SPA Combined Preliminary/Final Water Quality Plan. The Planning Board's actions on the SPA Water Quality Plan are regulatory and binding.

Due to recent county policy accommodating a Federal Communications Commission declaratory ruling that accelerates telecommunication facility review periods, the telecommunications tower special exception will not be reviewed by the Planning Board.

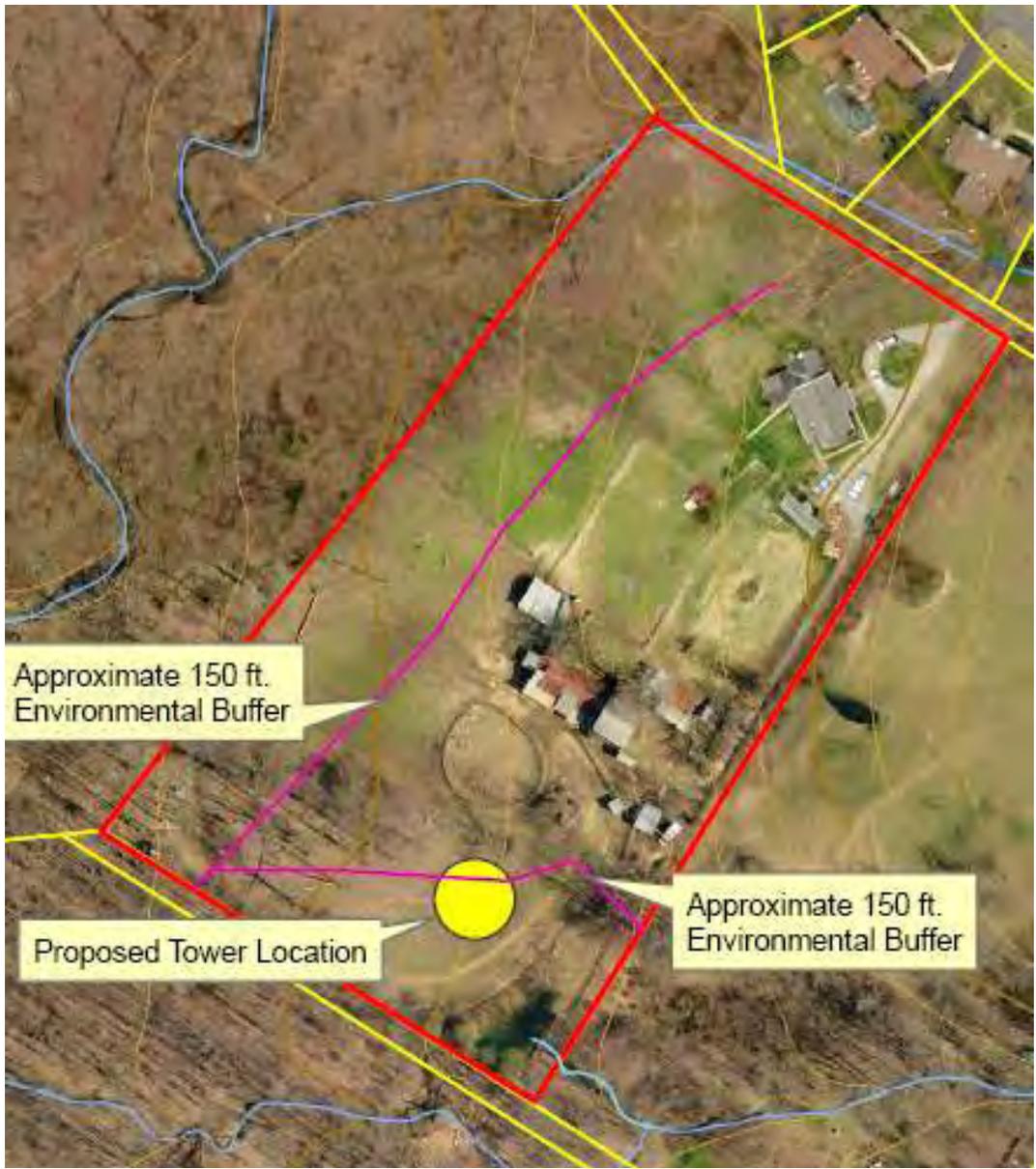


Figure 1. Applicant's Proposal Located within Environmental Buffer on Parcel P161

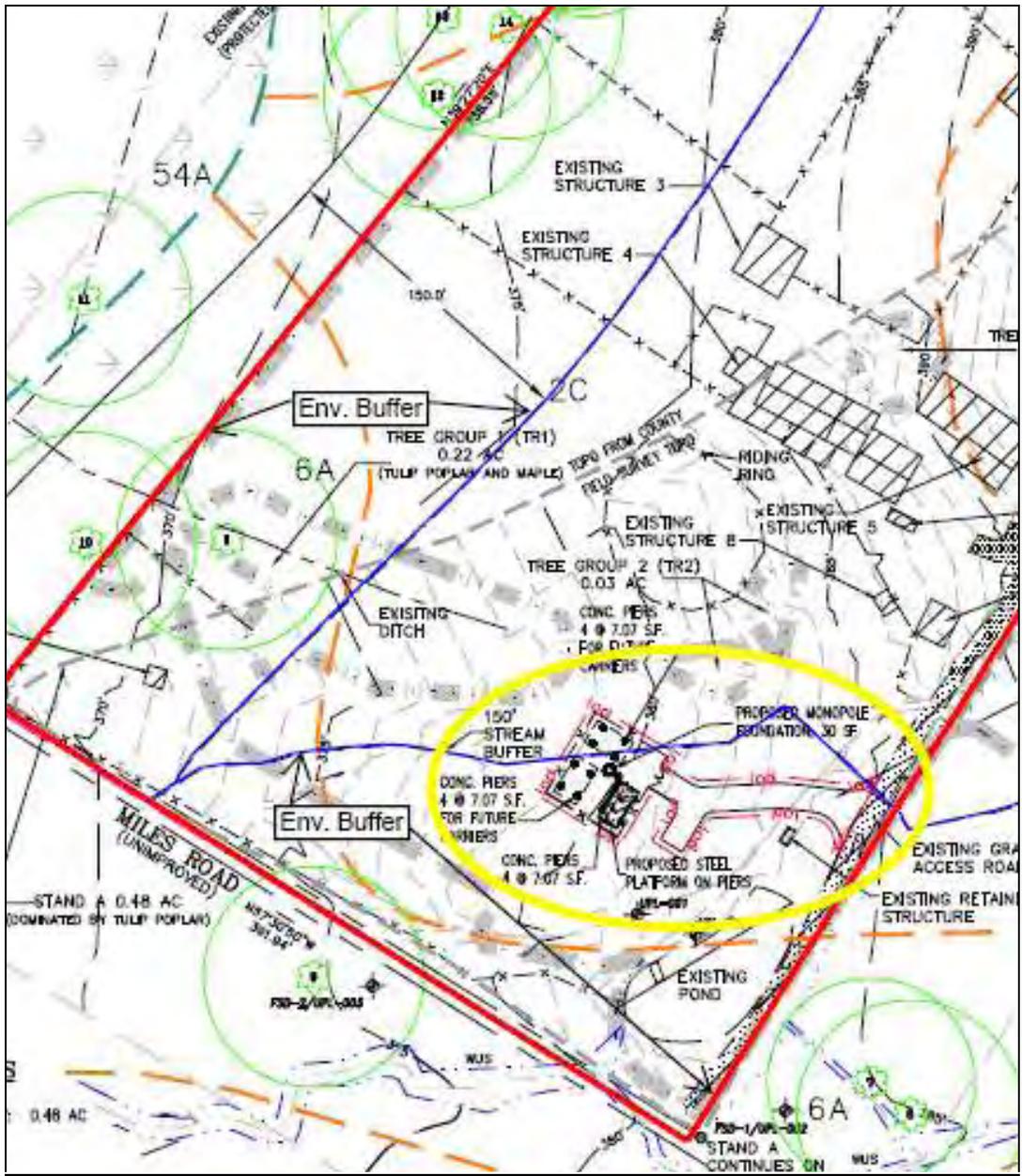


Figure 2. Applicant's Proposal Located within Environmental Buffer

ANALYSIS

Upper Paint Branch Special Protection Area Environmental Overlay Zone

Section 59-C-18.152 of the Environmental Overlay Zone states the restrictions for impervious surfaces for a development application in the SPA:

- Section 59-C-18.152(a)(1) states:

“Any development must not result in more than eight percent impervious surface of the total area under application for development.

(A) Any impervious surface lawfully existing pursuant to a building permit issued before July 31, 2007 that exceeds the eight percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued.

(B) Any impervious surface which results from construction pursuant to a building permit may be constructed or be reconstructed under the development standards in effect on July 31, 2007 if:

 - (i) the building permit application was pending before the Department of Permitting Services on July 31, 2007, or
 - (ii) the building permit is for a lot in a subdivision approved before July 31, 2007, if the subdivision was approved for fewer than 20 housing units.

(C) Any expansion of an impervious surface above the eight percent restriction is not allowed, except in accordance with the waiver provisions of Subsection (a)(2) or as provided under Subsection (a)(1)(D).

(D) Any impervious surface resulting from an addition or accessory structure to an existing one-family residential dwelling must not be counted against any calculation of the eight percent impervious surface restriction.”

As part of the requirements of the Special Protection Area law, an SPA Water Quality Plan should be reviewed in conjunction with a special exception¹. Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality plan. DPS has reviewed and conditionally approved the elements of the Preliminary/Final Water Quality Plan under its purview. The Planning Board responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

¹ Section 19-62 (b) of the Montgomery County Code states that a Water Quality Plan is required when land disturbing activity is proposed and approval of a special exception is required on privately owned property within the SPA.

Staff has reviewed and recommends Planning Board approval with conditions of the elements of the SPA water quality plan under its purview:

Special Protection Area Review

Site Imperviousness

Impervious surface restrictions for development projects in the Upper Paint Branch SPA are set forth in Section 59-C-18.152 of the Environmental Overlay Zone. The Environmental Overlay Zone has an eight percent imperviousness limit for new projects. The existing site has 17,092 square feet of existing impervious surface, or about 6.7 percent imperviousness. These include an existing residence, outbuildings, and a driveway.

The proposed project will add an additional 1,724 square feet of impervious surface for construction of the proposed cell tower compound and the access road. The resulting impervious area on the property is 18,816 square feet, or about 7.4 percent imperviousness. The proposed project would result in an impervious area that is below eight percent. Therefore, the project conforms to the Environmental Overlay Zone provisions for imperviousness.

Environmental Buffers

The proposed telecommunications tower will impact approximately 3,210 square feet of unforested environmental buffer. The access driveway and compound are proposed to be located approximately forty feet inside the environmental buffer. The impacts are the result of the construction of the gravel access road (a portion of which already exists within the buffer), the unipole and associated platform and equipment compound. From the applicant's perspective, this location was determined to be ideal in terms of minimizing visibility from Cabin Creek Drive as required per Section 59-G-2.58(4) of the Montgomery County Zoning Ordinance. The property is currently in use as a residence and is used for pasturing and training horses. The applicant's position is that the proposed location of the tower within the environmental buffer will minimize the impact on the existing use. The proposed location enables the property to continue its current use and utilize the existing training ring with minimal disruption to the horses. Access to the tower is off the existing gravel driveway that runs along the eastern property line. The gravel driveway will be extended westward to the location of the tower. The entrance gate to the compound will be five feet wide to prevent vehicle access that may result in compaction of the gravel.

Staff's recommended conditions of approval include the relocation of the proposed access driveway, cell tower, and entire compound outside of the environmental buffer. The access driveway and compound are currently proposed to be located approximately forty feet inside the environmental buffer. Relocating the proposed facility forty feet to the north would still allow the applicants to meet their objectives and requirements for the proposed cell tower use and maintain the current use of the property for pasturing and training horses. Staff finds that the requirements for environmental buffer protection within the SPA can only be satisfied by compliance with this recommendation.

Forest Conservation and Planting Requirements

Per Chapter 22A-5.(q), this project is exempt from submitting a Forest Conservation Plan as confirmed in a letter from the M-NCPPC staff dated September 28, 2011. The proposed project will not result in any forest clearing.

One of the goals for Special Protection Areas as outlined in the *Environmental Guidelines* (Chapter V (C) (2)) is to retain and establish forest cover in all buffers on sites within the SPA. While the cell tower project is exempt from submitting a Forest Conservation Plan and any forest planting requirements, the potential remains for future development activities to be proposed on this property that may require a Forest Conservation Plan. The location of the proposed cell tower within the environmental buffer would preclude the ability of the applicant to meet the requirement of establishing forest cover within the buffer. Staff's recommended conditions of approval would allow the environmental buffer to retain the potential for reforestation in the future.

Montgomery County Department of Permitting Services Special Protection Area Review Elements

The Montgomery County Department of Permitting Services (DPS), in conjunction with the Montgomery County Department of Environmental Protection (DEP), has reviewed and conditionally approved the elements of the SPA Water Quality Plan under its purview with a synopsis provided below (see Attachment 1).

Site Performance Goals

As part of the water quality plan, the following performance goal was established for the site: Minimize the loss of sediment from the site during construction.

Sediment and Erosion Control and Stormwater Management

The total disturbed area and amount of earth movement is below the threshold necessary to require sediment control permits, so no sediment control permits or stormwater management controls are required by DPS.

Monitoring of Best Management Practices

The Montgomery County Department of Environmental Protection (DEP) is not requiring stormwater monitoring for this project as there are no stormwater management controls required.

CONCLUSION

Staff recommends that the Planning Board approve the combined Preliminary/Final Water Quality Plan with the conditions cited in the staff report.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

April 12, 2011

Carla Reid
Director

Ms. Hillorie Morrison
Zoning Manager
Entrex Communication Services
6600 Rockledge Drive, #550
Bethesda, MD 21817

Re: **Preliminary/Final Water Quality Plan**
for T-Mobile Northeast LLC Tower
Projects
SM File #: 239838
Tract Size/Zone: NA
Total Concept Area: 0.26 acres (Total
for three projects)
Lots/Blocks: N/A
Parcel: P880, N806, P161
Watershed: Upper Paint Branch

SPECIAL PROTECTION AREA

Dear Ms. Morrison:

Based on a review by the Department of Permitting Services, the Preliminary/Final Water Quality Plan (PFWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream valley buffer encroachments.

Site Descriptions: There are three project locations for this application.

1. WAN233 - This project is located at 14911 Good Hope Road. This proposal is for the construction of a T-Mobile communications tower and associated foundation. Total disturbance associated with this project will be approximately 2,660 square feet. This site is tributary to the Gum Springs tributary of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.
2. WAN286 - This project is located at 1200 Fairland Road. This proposal is for the construction of a T-Mobile communications tower and associated foundation. Total disturbance associated with this project will be approximately 4,012 square feet. This site is located within the Main Stem of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.
3. WAN291 - This project is located at 2815 Cabin Creek Drive. This proposal is for the construction of a T-Mobile communications tower and associated foundation. Total disturbance associated with this project will be approximately 4,640 square feet. This site is tributary to the Right Fork tributary of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.

Sediment Control: The total disturbed area and amount of earth movement for each project is below the threshold necessary to require sediment control permits. Therefore, as long as the projects proceed within the limits herein established, no sediment control permits are required.

Stormwater Management: Since the total disturbed area for each project is below the threshold necessary to require a sediment control permit, there are no stormwater management requirements.

Performance Goals: The performance goal established at the pre-application meeting is to minimize the loss of sediment from the site during construction. It is to be met as specified in the Preliminary and Final Water Quality Plan.

Monitoring: Stormwater monitoring is not required for this project.

Conditions of Approval: The following condition applies to this Preliminary/Final Water Quality Plan approval:

The proposed amount of land disturbance for each project is less than 5,000 square feet of area. Therefore, sediment control permits are not required. By Code, when a site is exempt from sediment control requirements, it is also exempt from stormwater management requirements. The applicant must, however, strive to avoid offsite sedimentation. If offsite sedimentation occurs, or if the applicant exceeds 5,000 square feet of disturbance on any of the above referenced projects, a sediment control permit will be required and stormwater management will have to be addressed. This will require a formal revision of the Preliminary/Final Water Quality Plan followed by submission of detailed construction plans for review and approval prior to continuance of work on that project.

Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended Water Quality Plan requirements.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at (240) 777-6338.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:lla:CN239838

cc: C. Conlon (MNCPPC-DR)
C. Bunnag (MNCPPC-ED)
R. Gauza (MCDEP)
SM File # 232578

Qn: NA
Ql: NA
Recharge is not provided on-site