



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

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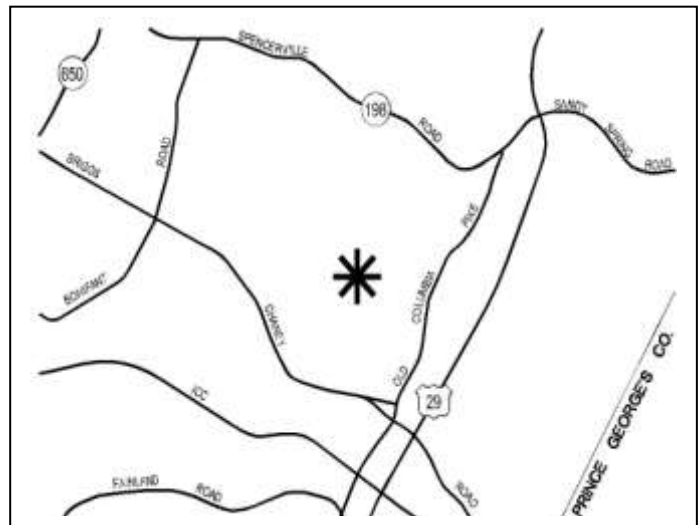
Completed: 12/15/2011

Description

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

Applicants: T-Mobile Northeast LLC, Ralph E. Gibson, and Margaret A. Gibson

- P161 at 2815 Cabin Creek Dr., Burtonsville
- RE-1 Zone, Fairland Area Master Plan, Upper Paint Branch Special Protection Area (SPA), 5.88 acres
- 115-foot tall unipole, wireless telecommunications facility and equipment compound
- Plan submitted December 6, 2011



Summary

Recommendation: approval with conditions

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

- The Application maintains the imperviousness below 8 percent
- The Application complies with the Forest Conservation Law
- The Application protects environmental buffers
- 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 8.0 percent as shown on the *Impervious Surface Plan Portion of the SPA Water Quality Plan*.
2. Prior to the issuance of building permit, enter into an agreement with the Planning Board to limit impervious surfaces to no more than 8.0 percent and demonstrate conformance to impervious surface limits.
3. Conform to the conditions as stated in Montgomery County Department of Permitting Services (DPS) Water Quality Plan approval/reconfirmation letter dated November 30, 2011 (Attachment A).
4. All impervious surfaces constructed as part of this approval, must be removed at the cost of the owner of the telecommunications facility when the telecommunications facility is no longer in use by any telecommunications carrier for more than 12 months.

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 December 8, 2011 (Attachment B).

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, 2 and 3). Total disturbance associated with this project will be approximately 4,701 square feet. The Planning Board's review is for the Special Protection Area (SPA) Combined Preliminary and Final Water Quality Plan. This memorandum covers staff's review and recommendations on the SPA Combined Preliminary and Final Water Quality Plan. The Planning Board's actions on the SPA Water Quality Plan are 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.

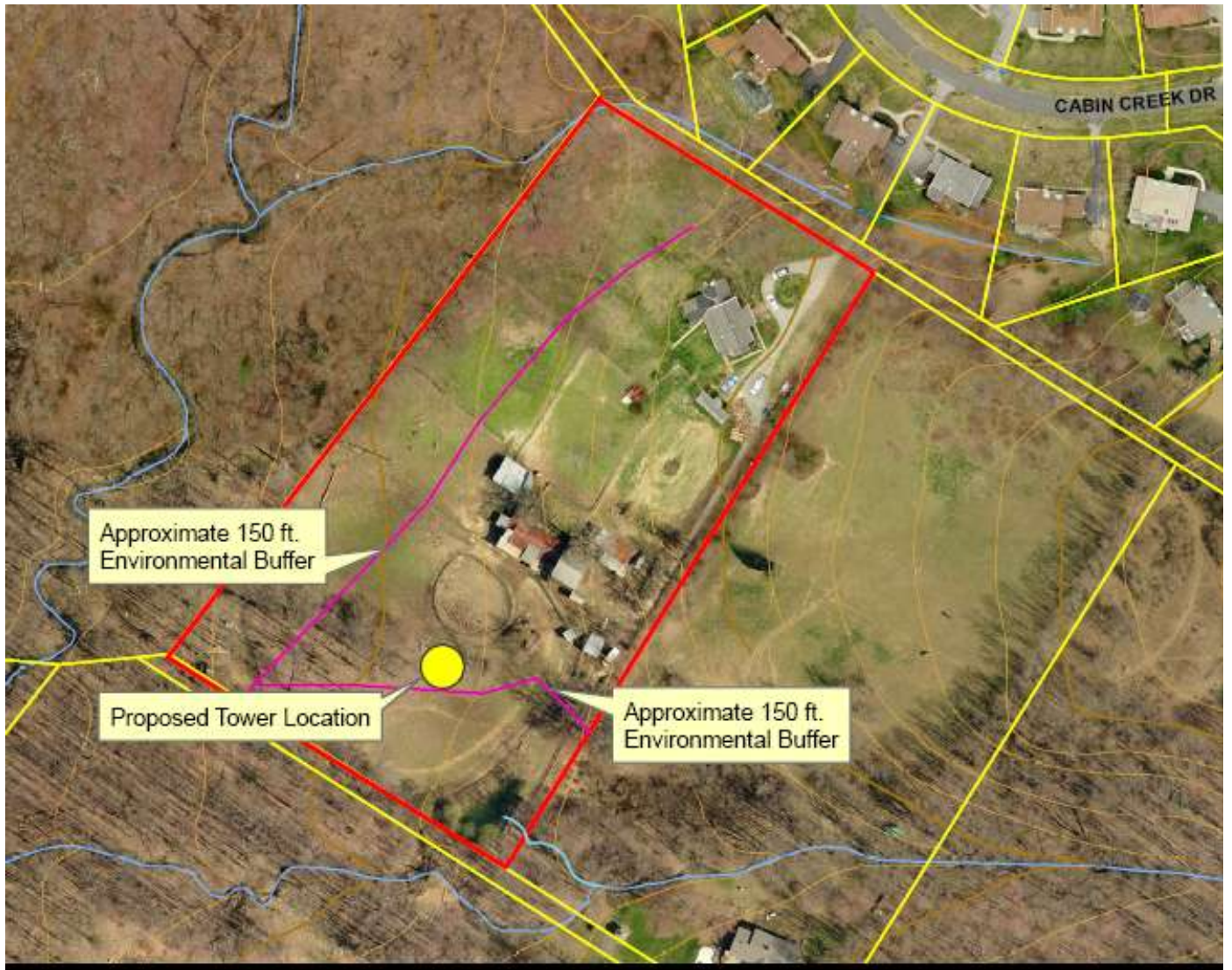


Figure 1. Applicant's Proposal Located on Parcel P161

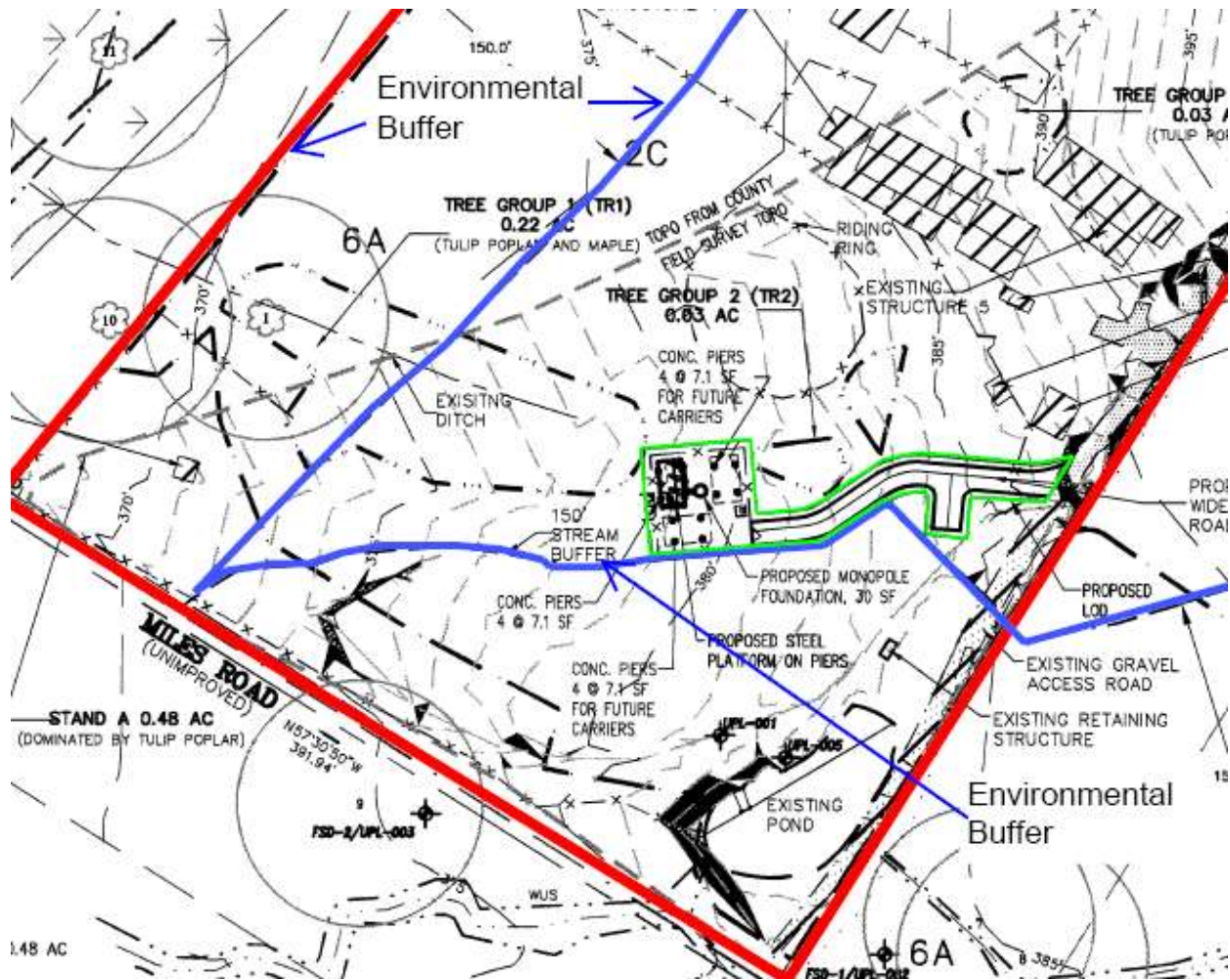


Figure 3. Applicant's Proposal

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 8 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 8 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 8 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 8 percent impervious surface restriction.”

As part of the requirements of the Special Protection Area law, a 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.

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 8 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 1,772 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 18,864 square feet, or about 7.4 percent imperviousness. The proposed project would result in an impervious area that is below 8 percent. Therefore, the project conforms to the Environmental Overlay Zone provisions for imperviousness.

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.

Environmental Buffers

The applicant's proposal is located outside of the environmental buffer areas on the property. Therefore, the project conforms to the SPA provision for environmental buffer protection.

Forest Conservation and Planting Requirements

The proposed project will not result in any forest clearing. 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 December 8, 2011 (Attachment B). The project is in conformance with the Forest Conservation Law.

Montgomery County Department of Permitting Services Special Protection Area Review Elements

In a letter dated, November 30, 2011, the Montgomery County Department of Permitting Services (DPS), in conjunction with the Montgomery County Department of Environmental Protection (DEP), conditionally approved the elements of the SPA Water Quality Plan under its purview with a synopsis provided below (Attachment A).

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 and Final Water Quality Plan with the conditions cited in the staff report.

Attachments:

- A. Montgomery County Department of Permitting Services' approval memo
- B. M-NCPPC Forest Conservation Plan Exemption confirmation memo



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

ATTACHMENT A

December 8, 2011

Ms. Hillorie Morrison
7380 Coca Cola Drive, #106
Hanover, MD 21076

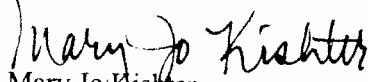
RE: Forest Conservation Plan Exemption Request
WAN291D
Gibson Rawland
42009174E

Dear Ms. Morrison:

The Montgomery County Planning Department has reviewed the above mentioned plan to determine its compliance with Chapter 22A of the Montgomery County Code (Forest Conservation Law). The Planning Department confirms the exemption from submitting a forest conservation plan for the construction of a wireless communications tower. The revised plan, submitted on December 6, 2011, is in compliance with Chapter 22A-5.(q) (3) of the Forest Conservation Law. The exemption covers a special exception application if the total disturbance for the proposed special exception use will not exceed 10,000 square feet, and clearing will not exceed a total of 5000 square feet of forest or include any specimen or champion tree.

The confirmation of this exemption from submitting a forest conservation plan is only applicable to the wireless telecommunications facility. A pre-construction meeting with a forest conservation inspector is required before any land disturbing activities occur on site. If you have any questions concerning this approval, please contact me at (301) 495-4701.

Sincerely,


Mary Jo Kishter
Senior Planner
Planning Area 3

Cc: 42009174E

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Planning Area 3 Team, 301-495-4555, Fax: 301-495-1304
8787 Georgia Avenue, Silver Spring, Maryland 20910
www.MontgomeryPlanning.org

ATTACHMENT B



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

November 30, 2011

Diane R. Schwartz Jones
Director

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

Re: **Preliminary/Final Water Quality Plan
RECONFIRMATION** 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 **and hereby reconfirmed**. 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.

Reconfirmation was required due to revisions in the layout of the project at 2815 Cabin Creek Drive (Gibson Property). The revised plan indicates the proposed disturbed area is still under 5,000 square feet and therefore requires no sediment control permit. Stormwater management is not required for projects that do not require a sediment control permit.

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.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

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. **This project is the subject of the reconfirmation. MNCPPC required slight modifications to the proposed layout which resulted in revised area of disturbance.**

Sediment Control: The total disturbed area and amount of earth movement for each project is below the threshold necessary to require a sediment control permit, therefore so long as the projects proceed within the limits herein established, no sediment control permit is 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 goals that were established at the pre-application meeting are to be met as specified in the Preliminary and Final Water Quality Plan. They are as follows:

1. Minimize the loss of sedimentation from the site during construction.

Monitoring: Stormwater monitoring is not required for this project.

Conditions of Approval: The following conditions apply to this Preliminary/Final Water Quality Plan approval:

1. Each project has proposed to disturb less than 5,000 square feet of area and therefore a sediment control permit is not required. When no sediment control permit is required, stormwater management is not addressed. 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.
2. **This reconfirmation supersedes the original approval letter dated April 11, 2011.**

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:tlc:CN239838

cc: C. Conlon (MNCPPC-DR)
C. Bunnag (MNCPPC-ED)
K. Van Ness (MCDEP)
SM File # 239838

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