

February 5, 2018

Via IZIS

Frederick L. Hill, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, N.W., Second Floor
Washington, D.C. 20001

Re: Board of Zoning Adjustment Order No. 19415 (Pending) – Request for Modification of Consequence to Amend Condition

Dear Chairman Hill and Members of the Board:

On behalf of Verizon Wireless (the “**Applicant**”), the Applicant for a temporary Cell on Wheels (“**COW**”) at Randall Recreation Center adjacent to South Capitol Street, S.W. (Lot 800, in Square 643E) (the “**Property**”), we hereby submit this application to request Modification of Consequence to modify a condition of approval of BZA Order No. 19415 (“**Order**”)¹. A copy of the draft Order is attached hereto as Exhibit A. This request is made pursuant to Subtitle Y § 703.6 of the Zoning Regulations. Enclosed with this letter are a Fee Calculator Form and application form. A check for the applicable filing fee of \$676.00 was previously submitted. A request to withdraw the previously submitted time extension is being simultaneously filed with this motion.

I. SUMMARY

In BZA Order No. 19415, the Board granted a special exception under the antennas, towers and monopole requirements of 11-C DCMR § 1313 to build a temporary Cell on Wheels on Square 643E, Lot 800. In the Order, the Board’s approval of the COW is temporary with the condition that the COW be located the Property only until March 15, 2018. The Property is the location of the Randall Recreation Center adjacent to South Capitol Street, S.W.

Since the approval of the COW, the Applicant has diligently searched for a new permanent location. Ultimately, in May, 2016, they identified a suitable location at the Capitol Park Plaza Apartments at 101 G Street, S.W. and have entered into lease negotiations. Permits to construct the new facility were filed on November 7, 2017 as AN1800019 and the permit plans are attached as Exhibit B. Although the permit is expected to be issued in February, final construction of the new site will take approximately six (6) months after permit issuance (August 2018). The Applicant anticipates the new site will be in operation by Fall of 2018. At that time, the temporary COW will be removed from its current location and the site restored as necessary.

II. APPLICANT’S REQUEST

¹ The Board’s decision was on March 8, 2017; the final written Order is still pending.

The Board's approval will expire on March 15, 2018 under the conditions of the Order. With this letter, we request that the Board modify that condition to extend the approval by a period of six (6) months until September 15, 2018.

III. BZA STANDARD FOR APPROVING A MODIFICATION OF CONSEQUENCE TO MODIFY A CONDITION IN THE ORDER

Subtitle Y § 703 establishes the standards and requirements for approval of a Modification of Consequence, which does not require a public hearing. As defined in Subtitle Y § 703.4 a modification of consequence is "a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Consistent with the requirements of Subtitle Y § 703.6 for an application for a Modification of Consequence, the Applicant provides the following information with this request:

- (a) A completed application form and filing fee check for \$676.00 (26% of original amount);
- (b) The nature of, reason(s), and grounds for the technical correction, minor modification, or modification of consequence. This information is provided below in Section IV;
- (c) A copy of any Board final order, map, plan or other section or relief proposed to be modified or corrected. A copy of the draft BZA Order No. 19415 is attached hereto as Exhibit A; and
- (d) Proof of service to all parties. A Certificate of Service is attached to this application.

IV. MODIFICATION OF CONSEQUENCE TO MODIFY A CONDITION IN THE ORDER

The Applicant is seeking a Modification of Consequence from the BZA as the result of a unique confluence of factors that slightly delayed the relocation of the COW to a new permanent location. Once the COW was approved, the Applicant intensified its search for a new permanent rooftop location. The Applicant explored the following sites: CSX property on the east side of South Capitol Street, District Owned property near K and Half St. After this intensive search, the Applicant identified Capitol Park Plaza Apartments as the most appropriate location for the permanent installation. Unfortunately due to the length of time for the search, lease negotiations, (both of which went beyond the Applicant's control) plan preparation and permit filing and actual construction, some additional time is needed.

As demonstrated by the number of sites noted above that the Applicant reviewed in its efforts to begin construction promptly at the new location once it was identified, the Applicant acted in good faith and made diligent efforts to move forward with a new permanent location. As noted above, the permit application and plans for the new site are currently in permit review and the building permit is expected shortly.

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Due to the above factors, the Applicant could not have proceeded to the new permanent site prior to March 15, 2018 and therefore the Applicant requests a modification of the condition to approve the COW to be located on the Property until September 15, 2018.

V. SERVICE ON PARTY

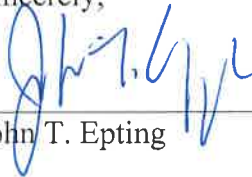
In the instant case, this extension request is being served simultaneously on all parties to the original application for BZA Case No. 19415, which includes the Office of Planning, ANC 6D, and Brian Friedman.

VI. CONCLUSION

As noted above, the Applicant's affirmative and timely efforts to seek and find a new permanent location, and then proceed with permitting, demonstrates good cause for this Modification of Consequence to modify the condition of the Order to extend the approval by a period of six (6) months.

We would be happy to produce any other information or evidence in support of the above letter and greatly appreciate your consideration of this matter.

Sincerely,



John T. Epting

Certificate of Service

I certify that on February 5, 2018, I delivered a copy of the foregoing document via hand delivery or U.S. mail to the addresses listed below.



John T. Epting

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