

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 04-08D/02-45**  
**Z.C. Case No. 04-08D/02-45**  
**Cellco Partnership d/b/a Verizon Wireless**  
**(PUD Modification of Consequence @ Square 5868S)**  
**July 30, 2018**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on July 30, 2018. At that meeting, the Commission approved the application of Cellco Partnership d/b/a Verizon Wireless (“Applicant”) for a modification of consequence to Z.C. Order 04-08/02-45 (“Order”). The property that is the subject of this modification comprises Lot 0805 in Square 5868S (the “Property”). The modification request was pursuant to § 703 of the Commission’s Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”). As set forth below, the Commission hereby approves the application.

**Application, Parties, and Public Meeting**

1. By Z.C. Order No. 02-45, dated May 1, 2003, and effective as of November 28, 2003, the Commission approved the application of the D.C. Department of Mental Health for first-stage review and approval of a Planned Unit Development (“PUD”) and related map amendment to permit St. Elizabeths Hospital to develop a new mental health hospital, parking, landscaping, stormwater controls, and related facilities within an SP-1 Zone District. At the time of first-stage approval, the subject property consisted of approximately 49.4 acres of land area located on an irregularly shaped parcel in the southeast portion of the East Campus of St. Elizabeths Hospital.
2. By Z.C. Order No. 04-08A, dated September 13, 2004, and effective as of December 24, 2004, the Commission approved a minor modification to the first-stage PUD in order to add an additional 5.19 acres to the PUD site.
3. By Z.C. Order No. 04-08, dated January 13, 2005, and effective as of April 22, 2005, the Commission granted second-stage approval for the PUD and related map amendment
4. By Z.C. Order No. 04-08B, dated May 10, 2010, and effective as of June 25, 2010, the Commission approved a minor modification to the PUD in order to remove 3.3 acres from the PUD site to permit construction of a new water tower.
5. By Z.C. Order 04-08C, dated June 10, 2013, and effective July 5, 2013, the Commission approved a minor modification to the PUD to remove 13.935 acres from the PUD Site.
6. On May 2, 2018, the Applicant submitted an application for a modification of consequence to allow a temporary Cell on Wheels (“COW”) for a period of 2 years on the Property. The application sought to locate a COW of 150 feet in height on the Property in order to maintain antenna coverage at the St. Elizabeths campus and

surrounding area following the demolition of an existing water tower on the St. Elizabeths campus and attendant removal of 12 antennas from the water tower. The application sought relief for a special exception to approve the COW, pursuant to Subtitle C §1312 and 1313. The Applicant included a set of plans depicting the proposed location of the COW, and coverage maps with the application (Ex. 1, 2D, 2E.).

7. On May 21, 2018, the Applicant submitted a supplemental letter providing additional information about the proposed COW, in response to discussions the Applicant had with the Office of Planning. The Applicant sought flexibility from Subtitle C §1313.8 to locate the COW 37'4" from the nearest lot line on the southern border of the St. Elizabeths hospital cemetery, rather than 50 feet (1/3 of the total height of the COW) from the nearest lot line. This requested flexibility would allow the Applicant to preserve a reasonable distance between the proposed COW and the St. Elizabeths hospital buildings. (Exhibits 6 and 7).
8. The Office of Planning ("OP") submitted a report dated June 1, 2018, recommending approval of the modification of consequence to allow the placement of the COW within the Property, and approval of the special exception to allow a monopole in the MU-4 Zone. OP further found that the application could appropriately be considered a modification of consequence (Ex. 8).
9. At a June 11, 2018 public meeting, the Commission determined that the application was properly a modification of consequence within the meaning of 11-Z DCMR §§ 703.3 and 703.4, and that no public hearing was necessary pursuant Subtitle Z § 703.1. The Commission further requested that the Applicant provide additional information with respect to permanent locations for the COW, involvement of the Advisory Neighborhood Commission ("ANC") 8C, parties to the original PUD, and site restoration. (Transcript of June 11, 2018 Zoning Commission Public Meeting pp.6-11).
10. On June 25, 2018, the Applicant submitted a response to the questions raised by the Commission at the June 11, 2018 public meeting, including confirmation that ANC 8C was the only party to the original PUD, details of the Applicant's repeated outreach efforts to ANC 8C and ANC 8E, details regarding the demolition of the existing water tower on which the Applicant's antennas were located, an evaluation of potential permanent locations for the installation of the Applicant's antennas, including a map of potential sites, a proposed maintenance plan for the COW site, and photographs of the current site. (Exhibits 9-9D3).
11. No opposition to the modification application was filed in the record of this case.
12. At the Commission's July 30, 2018 public meeting, Office of Zoning Staff noted that the Chair of ANC 8C contacted the Office of Zoning to confirm that ANC 8C voted in support of the Modification of Consequence, but did not have a written report of its approval. (Transcript of July 30, 2018 Zoning Commission Public Meeting p.14).
13. At the Commission's July 30, 2018 public meeting, the Commission discussed the support of continuation of cell phone coverage to Anacostia and the Department of

Homeland Security and approved the Modification of Consequence by a vote of 5-0-0. (Transcript of July 30, 2018 Zoning Commission Public Meeting pp.14-17).

### **CONCLUSIONS OF LAW**

Section 703 of Subtitle Z of the 2016 Zoning Regulations establishes the standards and requirements for approval of modifications of consequence, without a public hearing. Section 703.4 notes that examples of modifications of consequence:

[i]nclude, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission.

The Commission determines that the use of the consent calendar process outlined in Section 703 of Subtitle Z of the 2016 Zoning Regulations, and the determination that this application is a modification of consequence, is entirely appropriate for this application. The Commission finds that the proposed modification and special exception are entirely consistent with the Zoning Commission's previous approval set forth in the Order. The Applicant is proposing only a temporary COW which will address an immediate need to maintain service. The proposed COW essentially relocates the antennas from the existing water tower to a temporary COW on open space within the Property to accommodate the demolition of the water tower. The relocation of the antennas onto a temporary COW falls within the types of modifications that are categorized as Modifications of Consequence.

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A)(2001) to give "great weight" to the issues and concerns of the affected ANCs. As is reflected in the Findings of Fact, ANC 8C voted to support the application. The Commission is required give great weight to the recommendations of OP (See D.C. Official Code § 6-623.04 (2001)). The Commission concurs with OP's recommendation to approve this modification of consequence and special exception application. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence and special exception to the PUD project approved in Z.C. Case No. 04-08/02-45, as previously modified, to allow a temporary COW of approximately 150 feet in height to be located on the Property for a term of two years. All other provisions and conditions of Z.C. Order Nos. 02-45, 04-08, 04-08A/02-45, 04-08B, 04-08/02-45, and 04-08C/02-45 remain unchanged and in effect.

On July 30, 2018, upon the motion of Chairman Hood, as seconded by Vice Chair Miller, the Zoning Commission took **FINAL ACTION** and **APPROVED** the application at its public

meeting by a vote of 5-0-0 (Chair Anthony Hood, Vice Chair Robert Miller, Commissioners Turnbull, May, and Shapiro in support).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become effective upon publication in the *D.C. Register*; that is on \_\_\_\_\_.