

CENTER FOR MUNICIPAL SOLUTIONS

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August 17, 2023
November 29, 2023
January 7, 2024

(via email and regular mail)
(via email and regular mail)
(via email and regular mail)

Michael Beddow
GPD Group
520 S. Main St.
Suite 2531
Akron, OH 44311

Re: Wheeling WV ATT Wheeling College National Rd. NEW

Dear Mr. Beddow,

We have reviewed the materials received by the City on July 21, 2023 by mail. We find these materials to be incomplete and not in conformance with the City of Wheeling, Article 1363 Wireless Telecommunications Towers and Facilities Regulatory Authority. Please see our findings below:

We have reviewed the materials received by the City on November 20, 2023, by mail. We find these materials to be incomplete and not in conformance with the City of Wheeling, Article 1363 Wireless Telecommunications Towers and Facilities Regulatory Authority. Please see our findings below:

We have reviewed the supplemental materials received by the City. Please see our findings below:

1. Per §1363.08.g The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

We have reviewed the Memorandum of Lease dated September 13, 2022, between Double J Realty, LLC (Landlord), and New Cingular Wireless PCS, LLC (Tenant), detailing the property and associated easements. Item 1 states, "Landlord and Tenant entered into a certain Option and Lease Agreement on the 13th day of September 2022, for the purpose of installing, operating and maintaining a communication facility and other improvements." This item is COMPLETE

2. Per §1363.08.j.2. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage.

Your letter states in the second paragraph, "AT&T Mobility is proposing to install a new wireless telecommunications facility to increase capacity/coverage in the area." The narrative further states, "The site is intended to increase capacity around Wheeling College and provide additional coverage in the neighborhoods of Edgewood and Woodsdale. Coverage would be enhanced along WV88 and US40."

In that this is a new facility, requirements for this section are listed in detail in attached exhibits 1-3.

We have reviewed the narrative and representations you have provided with this submission, including propagation maps, Exhibit 2, and the illustration on the capacity relief. We agree with the need for additional capacity, however, the height of the proposed facility will be further discussed in item thirteen (13). The capacity portion of need is COMPLETE

3. Per §1363.08.j.16 The actual intended transmission power stated as the maximum effective radiated (ERP) in watts is required. Please see Exhibit 2.

The actual intended transmission power stated as the maximum effective radiated (ERP) in watts was submitted. This item is COMPLETE.

4. Per §1363.08.j.17 Signed documentation such as the “Checklist to Determine Whether a Facility is Categorically Excluded,” to verify the proposed Wireless Telecommunications Facility will be in full compliance with the current FCC RF Emissions guidelines (NIER) is required. If the site is not categorically excluded, a full RF Emissions study is required. The letter dated 3/25/21 from Joseph Spiecha, RF Engineer for AT&T, describes the RF Emissions policies of AT&T and not an RF Emissions compliance study.

The “Checklist to Determine Whether a Facility is Categorically Excluded,” has been submitted but not signed. A signature on the “Checklist to Determine Whether a Facility is Categorically Excluded” is required. This item is INCOMPLETE.

We have reviewed the signed “Checklist to Determine Whether a Facility is Categorically Excluded,” you submitted. This item is COMPLETE.

5. Per §1363.08.j.20 A copy of the geotechnical sub-surface soils investigation, evaluation report foundation for the proposed Tower site. No geotechnical information for the proposed site has been submitted.

You requested temporary relief to submit a geotechnical sub-surface soils investigation until after an approval contingent on providing the items for which temporary relief is granted. We recommend temporary relief be granted until after Planning Commission review, however, if the Planning Commissions approves the proposal, we recommend that it be contingent on this item being provided and reviewed prior to the issuance of the Special Use Permit. Request for temporary relief is recommended. This item is complete.

6. Per §1363.08.k The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application. The statement in the zoning narrative will not satisfy this requirement.

We have reviewed your letter outlining the proposed tower’s compliance with Federal Aviation Administration Regulation Part 77. This letter dated November 17, 2023, written by you requires your signature. This item is INCOMPLETE.

We have reviewed your signed letter outlining the proposed tower's compliance with Federal Aviation Administration Regulation Part 77. This item is COMPLETE.

7. Per §1363.08.1.1 In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the City by including:

We have reviewed the explanation provided in your submission.

- A. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property. The applicant must notify such property owners in writing and supply the city with copies of such notices.

No towers were located within the one-half mile radius of the proposed wireless telecommunications facility. This item is COMPLETE.

- B. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the applicant's telecommunication facilities on another usable antenna support structures located within a one-half mile radius of the proposed tower site.

No collocation opportunities were located within the one-half mile radius of the proposed wireless telecommunications facility. This item is COMPLETE.

- C. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or co-locate the applicant's telecommunications facilities on towers or usable antenna support structure owned by other persons located within a one-half mile radius of the proposed tower site.

We have reviewed the correspondence between you and Springhill Suites and Augusta Levy Learning Center wherein the properties denied the installation of a roof top wireless telecommunications facility. This item is COMPLETE.

- D. Written technical evidence from an engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within one-half mile radius of the proposed tower site.

There are no collocation opportunities located within the one-half mile radius of the proposed wireless telecommunications facility. This item is COMPLETE.

Copies of written requests and responses for shared use shall be provided to the City in the Application, along with any letters of rejection stating the reason for rejection.

The letter from Springhill Suites declining the roof top application was reviewed and is acceptable. No other information on possible collocation, has been provided.

8. Per §1363.08.1.3 Documentation regarding the feasibility of designing the proposed Tower to accommodate future demand for at least three (3) additional commercial applications using the criteria described in this section is required.

You requested temporary relief from submitting documentation regarding the feasibility of designing the proposed Tower to accommodate future demand for at least three (3) additional commercial applications using the criteria described in this section until after an approval contingent on providing the items for which temporary relief is granted. We recommend temporary relief be granted until after Planning Commission review, however, if the Planning Commissions approves the proposal, we recommend that it be contingent on this item being provided and reviewed prior to the issuance of the Special Use Permit. Request for temporary relief is recommended. This item is complete.

9. Per §1363.08.1.4 A statement of compliance affirming that the proposed new wireless tower, if constructed, shall be inspected within the criteria stated in this section, prior to the issuance of Certificate of Compliance is required.

AT&T has made the required statement of compliance for this item. This item is COMPLETE.

10. Per §1363.08.m The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads. All new or modified towers or other vertical support structures containing wireless antennas shall be designed to an EIA-TIA-222-G Structure Class III standard.

You requested temporary relief from this item until after an approval contingent on providing the items for which temporary relief is granted. We recommend temporary relief be granted until after Planning Commission review, however, if the Planning Commissions approves the proposal, we recommend that it be contingent on this item being provided and reviewed prior to the issuance of the Special Use Permit. Request for temporary relief is recommended. This item is complete.

11. Per §1363.08.q A demonstration in writing/or by drawing how the proposed Wireless Telecommunication Facility, the base and all related equipment and structures will be effectively screened is required. There was no illustration of screening included in the submitted materials.

We have reviewed the construction plans, including the proposed compound, and proposed fencing detail. We recommend that the proposed screening is sufficient; however, this can be discussed at the Planning Commission Meeting for compliance with this Section. This item is COMPLETE

12. Per §1363.09. The location of the proposed Wireless Telecommunications Facility shall be sited and erected in accordance with the priorities 1-8 set forth in this section. If the proposed Wireless Telecommunication facility is not proposed the highest priority, then a detailed explanation must be provided as to why a site of a higher priority was not selected. All portions of this section need to be complied with.

We have reviewed the detailed explanation of why the proposed location was selected as a potential wireless facilities location. The parameters of all potential sites located within a .5-mile radius have been met. This item is COMPLETE.

13. Per §1363.11 Propagation maps for the lowest frequency band at maximum power (from Table 2. Propagation Study Sheet) to be used at this proposed site are required. Propagation studies must include all backup data used to perform the analysis at each

height. Maps must be submitted in 10-foot increments below the proposed height of 85 feet (75 feet, 65 feet, etc.). At each level, a narrative must be submitted describing the area that is no longer covered that is primarily and essentially within the city. Continue to show 10-foot increments until there is a significant change in coverage.

We have reviewed the propagation maps shown at 80 feet and 70 feet, and the accompanying narrative describing the purported loss in coverage. The narrative states “A significant loss in coverage can be seen to the southeast of the proposed site (W047). There is also a loss in coverage to the southwest of the proposed site.” We do not see significant losses in the provided propagation maps. We need additional narrative detailing the purported loss in coverage. We recommend a brief conference call with the individual(s) that we be providing the additional information to make your next submittal complete. This item is INCOMPLETE.

Based on the information that was discussed during the conference call held on December 11, 2023, between CMS, GDP Group and AT&T, there is a ridgeline to the Southeast that is approximately 50 feet higher than the ground elevation that has mature trees 50’ in height. Due to these factors, CMS agrees that 80 feet is an acceptable minimum height for the proposed tower. COMPLETE

14. Per §1363.15 A survey was submitted without measurements to verify the proposed tower has complied with the setback requirement of this section. A survey or lot plan with actual measurements verifying the proposed tower meets the setback requirements of this section is required.

We have reviewed the survey with actual measurements to verify the proposed tower meets the setback requirements that has been submitted. This item is COMPLETE.

15. Per §1363.21 The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower facility with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Special Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit.

You requested temporary relief from providing the \$75,000.00 performance security until after an approval contingent on providing the items for which temporary relief is granted. We recommend temporary relief be granted until after Planning Commission review, however, if the Planning Commissions approves the proposal, we recommend that it be contingent on this item being provided and reviewed prior to the issuance of the Special Use Permit. Request for temporary relief is recommended. This item is complete.

16. Per §1363.23 A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth in this section. Proof of insurance must be submitted.

You requested temporary relief from providing liability insurance per this section until after an approval contingent on providing the items for which temporary relief is granted. We recommend temporary relief be granted until after Planning Commission review, however, if the Planning Commissions approves the proposal, we recommend that it be contingent on this item being provided and reviewed prior to the issuance of the Special Use Permit. Request for temporary relief is recommended. This item is complete.

Due to the number and complexity of the issues listed above, we strongly suggest a conference call, with all individuals that will be providing response(s), to specifically discuss what is required for your next submittal so that it may be complete. Contact Brian Tregoning (p 304.532.5677) to schedule the call.

As stated above for item #13, we recommend a brief conference call with the individual(s) that we be providing the additional information to make your next submittal complete. Until that item is completed we are unable to make our recommendation to the Planning Commission.

In addition, note we recommend that items 5, 8, 10, 15 and 16 are for temporary relief and must be provided and reviewed prior to the issuance of the Special Use Permit, if approved.

Contact Brian Tregoning (p 304.532.5677) to set up the call on item 13.

With the latest submission we recommend that this application be submitted to the Planning Commission for approval. If the Planning Commission approves this application, documentation satisfying the requirements for items 5, 8, 10, 15, and 16, that the applicant has requested relief on, must be submitted to the City and its consultants for approval before the issuance of the building permit.

If there are any questions on the updated recommendation review letter, please call Brian Tregoning (304 532-5677) or me at (518 439-3079).

Sincerely,

R. A. Comi (electronic signature)

Richard A. Comi

CMS

cc: Brenda Delbert (via email)
Brian Tregoning (via email)

Exhibit 1.

Propagation Study Requirements-Coverage Issue

Propagation studies are required with the application to prove the need for any new tower site, or co-location on any existing structure where there is an increase in the height of the structure or any modification where there is an increase in the height of the antenna(s) on the structure. (If service at the site is proposed for the cellular frequency band (800 – 900 MHz), even if the site will also utilize other frequencies, the studies need to be done at the cellular frequency band.) For a new tower or where there would be an increase the height of the existing tower or other structure, two propagation studies are required; one are the proposed height and another set of studies at 10' lower, unless something different is otherwise agreed to at the pre-application meeting. (Along with the lower propagation study should be a narrative that describes why the lower height is not sufficient) If the application is for co-locating on an existing tower or other structure without increasing the height of the existing tower or structure, then propagation studies are only required at the height proposed by the applicant.

Legend: Propagation studies are to include **a legend** on each sheet showing the following at a minimum: 1) a scale of miles or distance of no smaller than 1" to 1/2 mile; and 2) color coded of signal strength designations at **-85 dBm for "residential in-building" service** (except in urban areas where it can be demonstrated that there are several four story or larger buildings in the proposed coverage area). It is preferable that Propagation studies be provided on clear acetate sheets so that they may be overlaid and more easily read individually or in conjunction with each other, as may be necessary for proper analysis.

A **base map** of the community on which to overlay the propagation study is needed that must show and identify the major roads in the intended service area. For any proposed site located less than 2 miles from a community's boundary, the boundary must be shown on the map. *The base map must be the same scale as the overlay propagation maps.*

Note: A signal strength of **-85 dBm for Residential In-Building** service will be considered in the context of the need for the facility and the need for the requested height, unless the facility is intended to serve an urban market.

Note: Propagation studies must be accompanied by **all modeling information used to produce** them (using the provided "Data Sheet for Propagation Study" form), including, but not limited to the ERP (Effective Radiated Power) from the site/facility that is the subject of the application **and all adjacent sites/facilities** and **the cut sheets from all equipment showing the operating characteristics**, such as, for purposes of example:

- The power of the radios stated in watts
- The gains and losses from each component of all equipment

Exhibit 2.

| The Center for Municipal Solutions | | | | | | |
|---|---|-------|---|-----------------------|-----------------------|-----------------------|
| Propagation Study Data Sheet | | | | | | |
| Applicant: | | | Name/title person completing form: | | | |
| Proposed Site Name: | | | Site Address: | | | |
| Instructions: Complete this form, attach radio and antenna spec sheets and include with the RF Propagation Study. All nearby sites (adjacent) providing coverage in and near the proposed site are to be included in the study. Use an additional form if more than 3 sites | | | | | | |
| Line No. | ITEM | UNIT | Proposed site Data | Adjacent site #1 Data | Adjacent site #2 Data | Adjacent site #3 Data |
| | GENERAL INFO: | | | | | |
| #1 | Site Name | | | | | |
| #2 | Site Address | | | | | |
| #3 | Tower or structure height | feet | | | | |
| #4 | Antenna mounting height agl | feet | | | | |
| #5 | Network Technology | | | | | |
| #6 | Operating Frequency | MgHz | | | | |
| #7 | Base Station Manufacturer | | | | | |
| #8 | Base Station Model # | | | | | |
| #9 | Radio Max Power | Watts | | | | |
| #10 | Is pilot channel used for propagation (yes or no) | | | | | |
| #11 | If yes, pilot channel power (min. 20% of power) | Watts | | | | |
| #12 | Convert Power to dBm | dBm | | | | |
| #13 | Losses: | | | | | |
| #14 | Is there a combiner | | | | | |
| #15 | If yes make and model | | | | | |
| #16 | If yes, combiner loss | | | | | |
| #17 | Cable losses: | | | | | |
| #18 | Cable diameter | | | | | |
| #19 | Cable length. From antenna to equipment | | | | | |
| #20 | Cable loss per 100 ft. | | | | | |
| #21 | Calculated loss | | | | | |
| #22 | Connectors | | | | | |
| #24 | Loss per connector | | | | | |
| #25 | Calculated Loss | | | | | |
| #26 | Jumpers: | | | | | |
| #27 | Number of jumpers | | | | | |
| #28 | Loss per jumper | | | | | |
| #29 | Calculated loss | | | | | |
| #30 | Total calculated loss: | | | | | |
| #31 | Gains: | | | | | |
| #32 | Is there an in line amplifier | | | | | |
| #33 | If yes, gain | | | | | |
| #34 | Antenna Mftg. | | | | | |
| #35 | Antenna Model # | | | | | |

| | | | | | | |
|---|--------------------|-------|--|--|--|--|
| #36 | Antenna gain | dB | | | | |
| #37 | Total gain: | dB | | | | |
| #38 | Result: | | | | | |
| #39 | Transmission Power | dBm | | | | |
| #40 | ERP | Watts | | | | |
| To Calculate ERP (Line #40) of an Antenna: | | | | | | |
| Step #1: Insert the radio power in Watts in line 9 and pilot power, if applicable in Line 11. | | | | | | |
| Step #2: Convert the radio power or pilot power, as applicable, into dBm units. Insert the result into Line #12 | | | | | | |
| Step #3: Add all dB losses: Line #16 + Line #21+ Line #25 + Line #29; Insert the result into Line #30 | | | | | | |
| Step #4: Add all dB gains: Line #33 + Line #36; Insert the result into Line #37 | | | | | | |
| Step #5: Add Line #37 to Line #12. Subtract from the result, Line #30. Insert the result into Line #39. | | | | | | |
| Step #6: Convert the number in Line #39 into Watts. Record the result in Line #40. | | | | | | |

Exhibit 3.

Proof of Need for Facility – Capacity Issue

Introduction

The demonstration of need for capacity relief will require the presentation of the data requirements identified below with a narrative. The narrative should present the summary results of the supporting studies and documentation.

To further clarify, an analysis of current and projected usage for each adjacent or adjoining site will be required, by sector, for each existing sector of each/all sites in need of capacity relief, and a description of specifically *how the proposed site will relieve current and projected capacity issues in each sector requiring relief.*

Data must include a description of the capacity design for each sector requiring relief (usage capacity) to include the transmitting base station equipment specifications (cut sheets) in use or proposed for the upgrade and indicating how the equipment in use or as proposed relates to the maximum possible usage capacity for each sector affected by a need for capacity relief.

Usage data should utilize a bouncing busy hour and should be over a period of five (5) consecutive days. The report should show the average bottom-line numbers for those five consecutive days.

The documentation required to support an application for a capacity increase falls into one of two scenarios:

1. A situation in which a sector or sectors are over capacity at the present time, or
2. A situation in which a sector or sectors are anticipated to be over capacity during for the next busy season.

The following site information is required for each scenario:

- 1) What is at capacity, i.e. voice or data?
- 2) Which sector at each site is at capacity?
- 3) What are the number of voice carriers and data carriers per sector at each site?
- 4) How many voice carriers and how many data carriers¹ are there in each necessitating this application?
- 5) Can the number of voice or data carriers be reallocated (to voice or data) to address the capacity issue/need? If not, why not?
- 6) The number of channels/voice radios installed per each affected sector.
- 7) Minimum acceptable Bit Rate.
- 8) The maximum number of channels (amount of capacity) for the affected sectors that can be installed. Radios that can be put at each current site divided by the number of radios per sector.

¹ The number of paths or circuits used for voice or data

- 9) The maximum number of channels (amount of capacity) for the affected sectors that are installed.
- 10) All calculations that are related to the capacity of the voice or data capacity of the affected sectors, e.g. minutes of use, Erlangs, Bit Error Rate, number of data customers per busy hour data.
- 11) Number of anticipated voice users and data users for each type of use per site.
- 12) Any other data that provides documentation as regards the need for increased voice or data capacity relief, such being the obligation of the applicant to provide to enable verification of the need. (This may include a customer limit, design throughput data rates or other criteria prescribed in internal technical documents.)

Data required for each scenario are as follows.

Scenario 1: Sector or sectors currently at or over capacity. (Data needed for the past busy season)

- Data collected over 5 (five) consecutive days for minutes of use for the bouncing busy hour (i.e., highest use hour for each of the 5 days).
- Convert the use data to Erlangs;
- Determine the maximum number of channels/voice radios that could be each in sector(s).
- Determine the capacity of the sector in Erlangs. (2%) blockage.

Scenario 2: Sector or sectors anticipated to be at or over capacity during the next busy season

- Data for the past 2 (two) year's busy seasons to establish a trend of use following the same guidelines as under Scenario 1 (i.e., 5 consecutive days bouncing busy use for each of the last 2 busy seasons) The trend should be straight line.
- Convert the use data to Erlangs.
- Determine the maximum number of channels/voice radios that could be in each sector(s)
- Determine the capacity of the sector in Erlangs. (2%) blockage

Propagation Projections

Propagation projections must be provided depicting existing and proposed coverage at -95dBm in vehicle or -85dBm in building coverage, or for 700 d/B/m service at -95d/B/m for city/suburban in-building coverage and state whether the applicant is designing for in-vehicle or in-building coverage, and how the proposed coverage will overlap existing coverage to relieve existing or projected capacity issues. The maps must indicate the output power level used at the antenna height requested. On a tower, the applicant must show the minimum height necessary to achieve the required capacity relief, i.e. below which the facility will not provide any capacity relief.

Summary Narrative

Present the narrative summary and conclusion for need with reference to the capacity use studies to be presented. The supporting technical data requested shall be accompanied by a written explanation of why a new facility/site is needed is, i.e. why additional capacity cannot be added to the existing facility.