

**RECOMMENDATION ON THE SPECIAL EXCEPTION APPLICATION OF
Hartz /One Aquarium/AT&T - Cell Tower (Special Exception)
File #21-471**

I. INTRODUCTION

An application for one special exception use has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Christopher Quinn, Esq., of Pinilis Halpern, LLP, on behalf of New Cingular Wireless PCS, LLC (AT&T), for the premises located at One Aquarium Drive, Block 23, Lot 1, in the Town of Secaucus, New Jersey. The subject premises are located in the Light Industrial A zone of the Hackensack Meadowlands District (District). The special exception is sought in connection with the applicant's proposal to construct a 123-foot-tall communications transmission tower monopole with associated site improvements on a portion of the subject property.

Specifically, the applicant is requesting special exception approval pursuant to:

1. N.J.A.C. 19:4-5.74(a)5, where communications transmission towers are listed as a special exception use in the Light Industrial A zone.

A public hearing was held via Zoom videoconferencing on Tuesday, May 17, 2022. Notice was given to the public and all interested parties as required by law. The public notice of this hearing was published in The Jersey Journal newspaper. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question is a 3.27-acre triangularly-shaped site fronting along Aquarium Drive, with direct access to the site provided from a driveway along this roadway in the northeasterly portion of the site. The site is currently improved with a warehouse building and associated parking and loading areas. With the exception of a drainage ditch located along the westerly rear property line, no wetlands or environmentally-sensitive conditions are present on the site.

The site is bordered by warehouse development to the north, south, and east, and freight rail lines to the west, which feed into Norfolk Southern's Croxton Yards freight terminal to the south.

The applicant is proposing to construct a telecommunications compound in the southerly area of the subject property, on a vacant, wooded portion of the site. The applicant proposes to install a 123-foot-tall telecommunications tower (with a lightning rod attachment bringing the total height to 128 feet) and associated improvements, including a 13' x 20' equipment platform containing a 9.5-foot-high cabinet, a GPS unit, and two 1.5-ton AC cooling units; a 30-kilowatt standby diesel generator; and perimeter chain-link fencing. The telecommunications compound is proposed to be set back 66.9 feet from the front property line along Aquarium Drive to the east, 74.6 feet from the westerly side property line, and 326.1 feet from the northerly side property line. The communications transmission tower monopole is proposed to be set back 79.1 feet from the Aquarium Drive front lot line. A new curb cut for a 12-foot-wide driveway is proposed along Aquarium Drive to access the proposed telecommunications compound.

As part of this proposal, a special exception use is requested to install the monopole antenna on the subject property, as a communications transmission tower is listed as a special exception use in the Light Industrial A zone.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING

A public hearing was held on Tuesday, May 17, 2022. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, CFM, Supervising Planner; and William Moran, P.E., P.P., AICP, Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	Site plan set, prepared by Colleen Connolly, P.E., Scherer Design Group, LLC, dated January 28, 2021, last revised March 30, 2022, entitled as follows: <ol style="list-style-type: none">1. Dwg. Z1 - "Cover";2. Dwg. Z2 - "200' Radius Map and Property Owners List";3. Dwg. Z3 - "Overall Site Plan";4. Dwg. Z4 - "Partial Site Plan";5. Dwg. Z5 - "Tree Clearing/Grading Plan";6. Dwg. Z6 - "Detailed Site Plan and Notes";7. Dwg. Z7 - "Elevation and Details";8. Dwg. Z8 - "Details";9. Dwg. Z9 - "Antenna Layout and Details";10. Dwg. Z10 - "Equipment Layout";

11. Dwg. Z11 - "Equipment Details";
12. Dwg. Z12 - "Details";
13. Dwg. Z13 - "Details"; and
14. Dwg. Z14 - "Generator Details".

A-2 "Comprehensive Radio Frequency Report", prepared by Daniel Penesso, RF Engineer, on behalf of AT&T, dated April 21, 2022.

A-3 "Antenna Site Conformity, FCC RF Assessment and Report", prepared by Daniel Penesso, Chief Technical Officer, Frequenz, LLC, dated April 21, 2022.

A-4 Photographic Simulations, prepared by Paul N. Ricci, P.P., AICP, RicciPlanning, LLC, dated May 2, 2022.

B. Testimony

Christopher Quinn, Esq., of the firm Pinilis Halpern, LLP, represented the applicant at the hearing. The following three witnesses testified in support of the application:

1. Colleen Connolly, P.E., Scherer Design Group, LLC;
2. Daniel Penesso, RF Engineer, Frequenz, LLC; and
3. Paul Ricci, P.P., AICP, RicciPlanning, LLC.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public provided comment at the public hearing.

IV. RECOMMENDATION

A. Standards for the Granting of a Special Exception from the Provisions of N.J.A.C. 19:4-5.74(a)5, in which communications transmission towers are listed as a special exception use in the Light Industrial A zone.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.13(e) states in part that, *a special exception use shall not be granted unless specific written findings of fact are made based upon the evidence presented that supports the following conclusions:*

1. *The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public;*

The applicant provided testimony demonstrating that the communications transmission tower is required to help address gaps in the area's wireless network coverage, including enhanced service within buildings and vehicles. AT&T was also awarded a block of frequencies within a 700 megahertz frequency band, by the First Responders Network Authority, an independent authority within the U.S. Department of Commerce, to provide services for FirstNet, a national broadband network dedicated to police, fire, and emergency medical services. The proposed 123-foot-high communications transmission tower includes the installation of 16 panel antennas at a height sufficient to close the existing coverage gap in AT&T wireless telecommunication service in the area. The closing of the coverage gap by the installation of the proposed tower and antennas will ensure that area wireless users will have enhanced

cellular services and dedicated emergency channels. Additionally, as future co-location of additional cellular antennas is required by the District zoning regulations, the proposed tower has been designed to allow for future co-location by up to two other carriers.

Therefore, the granting of the requested special exception to permit a communications transmission tower at the subject premises will contribute to and promote the welfare and convenience of the public.

2. *The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood;*

The construction of the proposed 123-foot-high communications transmission tower monopole will not cause substantial injury to other properties in the surrounding neighborhood. The tower, as part of a proposed wireless communications facility, is a benign commercial use that will be located in a relatively isolated part of the site. Surrounding uses consist of warehouse development and freight rail lines.

A potential negative impact created by the installation of the tower would be its visibility to surrounding properties. However, this effect is partially mitigated by the proposed monopole's location within a wooded area. In addition, a proposed eight-foot-high chain link fence will secure the telecommunications compound. It is recommended, as a condition of this approval, that the easterly fence line be slatted with privacy slats to provide improved visual screening of the ground-mounted equipment associated with the monopole.

The public will benefit by the closure of a gap in wireless telecommunications service, particularly in cases where the subject carrier is utilized for emergency services. Additionally, there will be no excessive noise, glare, odor, vibration or noxious characteristics associated with the proposed tower and associated equipment. The only noise emanating from the site will be the occasional operation of the emergency back-up generator needed for maintenance purposes, which will comply with all noise performance standards of the District zoning regulations.

3. *The special exception use will not dominate the immediate neighborhood in a manner that could prevent development and use of neighboring properties in accordance with the applicable regulations, in consideration of the following:*

- i. The location and size of the special exception use;*

The location and size of the proposed 123-foot-high communications transmission tower will not dominate the immediate area or neighborhood as to prevent development in accordance with District zoning regulations. The proposed improvements, including the compound and access driveway, occupy approximately 3,300 square feet, or approximately 2.3 percent, of the existing 3.27-acre site. The applicant's radio-frequency engineer testified that the proposed height of the tower is the minimum height required to address gaps in wireless telecommunications coverage in the area, as demonstrated on the coverage maps in Exhibit A-2. The tower will be installed within a wooded area on the site, and is located in an industrial area, adjacent to active freight rail lines. Photographic simulations were also provided to depict the view of the tower at various locations and distances, demonstrating that the proposed tower will not result in a substantial negative visual impact to the area.

ii. The nature and intensity of the operation of the special exception use;

The proposed monopole and associated telecommunications facility will be unmanned and monitored remotely, only requiring visits by a technician for regular maintenance purposes, approximately once per month. Dedicated parking will be available on site for the visiting technician. This low intensity use will have no detrimental effects to existing operations either on the subject property or on the surrounding properties. Rather, with the pandemic-induced increase in the need for reliable telecommunications associated with remote work environments, the operations of the proposed special exception use will benefit the neighborhood.

iii. The location of the site with respect to access and circulation;

The subject property is developed with a warehouse facility, containing parking and loading areas in the northerly portion of the site. The applicant proposes to install a new curb cut along Aquarium Drive to provide for a dedicated 12-foot-wide access driveway for the telecommunications facility, which will be fenced and gated for security purposes. The proposed access and circulation is sufficient to accommodate the proposed use, which is an unmanned facility visited for maintenance purposes approximately once per month by a technician utilizing a pick-up or SUV passenger vehicle. This vehicle size will be sufficiently accommodated within the proposed 12' x 20' parking space. The emergency back-up generator will also require occasional refueling by a small truck, which can maneuver within the

available area on the site. The minor increase in intensity on the subject premises by the installation of the monopole tower and associated unmanned wireless telecommunications facility will not burden or create a dominating effect on the existing warehouse on the site, nor to other properties in the surrounding area. Neighboring properties will not be impeded in their ability to function in accordance with the applicable zoning regulations.

*iv. The location, nature, and height of structures, walls and fences on the site;
and*

The location, nature and height of the communications transmission tower and associated improvements on the site will not dominate the surrounding area. The proposed telecommunications compound is located within an industrial area, and adjacent to active freight rail lines. The monopole is proposed to be set back a distance of 79.1 feet from the Aquarium Drive front lot line. The telecommunications equipment at the base of the monopole will not be visible from most points since it is located within a wooded area of the property, with removal of existing vegetation limited to the extent needed to construct the telecommunications compound and to provide adequate sight lines at the proposed driveway. The compound will be surrounded by an 8-foot-high chain link fence, and, with the recommended condition in Criterion 2 above to screen the easterly fence line with privacy slats, the view of the proposed improvements in the telecommunications compound will be screened from neighboring properties and motorists along Aquarium Drive to the extent possible. The communications transmission tower will be the most visible component of the

facility; however, the applicant has provided photographic simulations in Exhibit A-4 demonstrating that the visual impact of the tower will not cause substantial detriment to the neighborhood. The applicant's radio-frequency engineer attested that the proposed height of the tower is the minimum height necessary to address the gaps in wireless telecommunications coverage in the area, as depicted in Exhibit A-2.

v. The nature and extent of landscaping and screening on the site.

The southerly portion of the site, where the communications transmission tower and associated equipment are proposed, is currently vacant, wooded land. The existing vegetation will be removed only to the extent necessary to construct the proposed improvements and to provide adequate sight lines at the proposed driveway. Sufficient vegetation will remain to screen the equipment at the base of the monopole from public view. A recommended condition of this report in Criterion 2, to add privacy slats to the chain link fence along the easterly fence line, will provide further screening of these utility improvements from public view.

4. Adequate utilities, drainage and other necessary facilities have been or will be provided;

The proposed communications transmission tower shall not require any water or sewer utility service. A 30-kilowatt emergency back-up generator will be provided. The electric and telephone services required by the facility are available in the vicinity. Proposed connections to the existing infrastructure include proposed overhead wires from an

existing utility pole, which will run across Aquarium Drive, to a proposed utility pole located just within the site. From there, the utility line would run underground from the on-site pole near the site's Aquarium Drive frontage to the proposed telecommunications compound. However, District zoning regulations at N.J.A.C. 19:4-8.15(b) require that utility lines be placed underground wherever technologically possible. Therefore, it is a recommended condition of this report that proposed above-ground utility lines shall be located underground, unless technological reasons are provided to the NJSEA Chief Engineer for review and approval.

The proposed tower and associated equipment will not impact the existing stormwater drainage infrastructure or conditions on the property in a negative manner. The existing drainage ditch on the site is subject to the NJSEA's waterway buffer requirement in accordance with N.J.A.C. 19:4-8.7, in addition to a 50-foot-wide buffer by the New Jersey Department of Environmental Protection (NJDEP), which is being provided on the site.

5. *Adequate access roads and drive aisles have been or will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion;*

Adequate site access and circulation for the proposed communications transmission tower and associated equipment is provided within the site. The impact to traffic in the surrounding area will be insignificant. Traffic generated by the unmanned facility would be comprised of one monthly site visit for facility maintenance purposes, as well as occasional refueling of the proposed emergency generator. The

surrounding roadways are capable of handling the minimal traffic generated by the proposed use.

6. *The special exception use will not have a substantial adverse environmental impact.*

The proposed communications transmission tower monopole and telecommunications facility will not cause any adverse environmental impacts. The proposed site plan indicates that more than 40 percent of the property will remain as open space. Existing trees and vegetation on the site are proposed to be removed only to the extent necessary to construct the proposed improvements. Proposed equipment will be elevated a minimum of one foot above the established FEMA base flood elevation of 8 feet (NAVD88). The emergency back-up generator will comply with all noise performance standards, and the monopole will be fabricated from galvanized material, which will not result in reflective glare. District environmental performance standards will be met for noise, vibration, glare, air emissions, and hazardous or radioactive materials. No wetlands or environmentally sensitive areas will be disturbed, and all existing drainage patterns are proposed to be maintained.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Special Exception from the Provisions of N.J.A.C. 19:4-5.74(a)5, in which communications transmission towers are listed as a special exception use in the Light Industrial A zone.

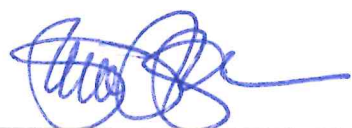
Based on the record in this matter, the application for one special exception to permit a communications transmission tower on the subject property is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITIONS:

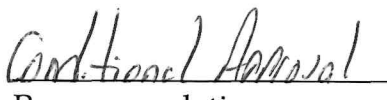
1. The easterly fence line shall be slatted with privacy slats to provide improved visual screening of the ground-mounted equipment associated with the communications transmission tower monopole.
2. The proposed above-ground utility lines shall be located underground in accordance with N.J.A.C. 19:4-8.15(b), unless sufficient technological justification for above-ground wires is provided to the NJSEA Chief Engineer for review and approval.

CONDITIONAL APPROVAL 7/19/2022

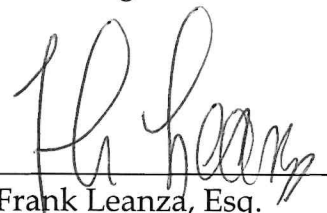
Recommendation on
Special Exception Request

Date


Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer


Recommendation on
Special Exception Request


Date


Frank Leanza, Esq.
Senior Vice President
Chief of Legal & Regulatory Affairs