

February 3, 2021

City of Minnetonka Council and Planning Commission
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Re: Verizon Wireless Applications for Conditional Use Permits for Six (6) Small Wireless Facilities
Located in City Rights-of-Way

Dear Council Members and Members of the Planning Commission:

Our law firm represents Verizon Wireless in its efforts to improve wireless phone and data service in the City of Minnetonka, which includes the installation of ten (10) small wireless facilities within public rights-of-way in the City during 2021. Pursuant to Section 310.03 of the Minnetonka Telecommunication Ordinance (the "Telecom Ordinance"), four of the sites are permitted uses and six of the sites require conditional use permits. As explained below, the applications comply with the Telecom Ordinance and State and Federal law. Verizon Wireless respectfully requests approval of the applications. Please include this letter as part of the public record.

The proposed sites will directly benefit the residents of the City of Minnetonka. Verizon Wireless only installs facilities in locations in which there is a demand. When Verizon Wireless first installed macro (large tower) sites in Minnetonka over 30 years ago, the facilities met the demand for mobile phones that were primarily used while traveling outside of one's home. Now, for most people, the only phone(s) in a residence are mobile phones.¹ As we all know, we use our phone and other wireless devices for normal calls, 911 calls, on-line shopping, virtual doctor visits, e-mails, navigation, video conferencing and many other applications.

To meet this demand, installations in single-family neighborhoods are necessary because small cell facilities must be deployed in relatively close proximity to the end customer, which are City residents. As explained in the Affidavit of Chad Loecker, RF Engineer for Verizon Wireless, the proposed small wireless facilities will utilize low-power radios that broadcast signals approximately 500 to 1000 feet in each direction.

The applications comply with the Telecom Ordinance and State and Federal law. In 2017, the Minnesota Legislature amended Minnesota Statutes sections 237.162 and 237.163 to provide for the safe, efficient, and convenient deployment of small cells within a municipality's public rights-of-way and to provide that the placement of small wireless facilities and small wireless poles are a permitted use in a public right-of-way except that a City may require a conditional use permit to install a new small wireless pole in a district zoned for single-family residential use. The City's Telecom Ordinance is consistent with this State mandate.

¹ In the last six months of 2019, 61.3% of adults and 70.3% of children lived in wireless-only households. For those in the 25-34 age group, over 80% live in wireless-only households. See *September 2020 report from the Centers for Disease Control and Prevention, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2019 at p. 1, available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202009-508.pdf>.*

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When Verizon Wireless was designing the installations for the 10 small wireless facilities planned for 2021, it first looked at the availability and capacity of existing structures in the needed service areas, and 3 out of the 10 will be installed on Xcel utility poles. An example of one of these installations is the Equestrian SC1 4 site located on Orchard Road. Verizon Wireless also determined whether there were non-residentially zoned areas that could be utilized, and the Tonka SC 10 pole will be located in a business district on the corner of Excelsior Blvd. and Baker Rd, adjacent to a gas station and U-Haul center. Again, these four sites are permitted uses pursuant to the Telecom Ordinance and State law, and Verizon Wireless has applied for and/or received the applicable right-of-way permit for each site.

For the six CUP application sites, however, an existing structure was not available, and the sites had to be located in the needed service areas, which are single-family residential areas. Verizon Wireless also determined whether any of the six sites could be located on collector or arterial streets as required by the City's Telecom Ordinance, and half of the sites (Tonka SC7, Tonka SC8 and Tonka SC 13) are located on or adjacent to collector or arterial streets.

Regarding the particular aesthetics of the six sites, the City Code provides that the poles be constructed of steel or aluminum and be the same color as neighboring similar structures. Verizon Wireless's design team colored two of the poles brown, and the other four are grey. Verizon Wireless is willing to change the colors as a condition of the CUPs.

Finally, although the proposed small cell sites will be an integral part of Verizon Wireless's improved communications network that it has been constructing in Minnetonka for over 30 years, both the City Code and State regulations require the sites to be relocated at Verizon Wireless's expense when it is necessary to prevent interference in connection with: (1) a present or future local government use of the right-of-way for a public project; (2) the public health or safety; or (3) the safety and convenience of travel over the right-of-way.

Conclusion. Verizon Wireless respectfully requests approval of the six CUP applications.² Verizon Wireless representatives and I will attend the Planning Commission and City Council meetings to answer any questions related to the applications. Verizon Wireless looks forward to improving its phone service in Minnetonka.

Sincerely,



Anthony A. Dorland
Attorney at Law
(612) 877-5258
Anthony.Dorland@lawmoss.com

² Pursuant to federal law, the City has 90 days to review an application to deploy a small wireless facility using a new structure, and an applicant must be notified of material incompleteness on or before the 10th day after submission. 47 CFR Section 1.6003.

AFFIDAVIT OF CHAD LOECKER

My name is Chad Loecker, and I am currently employed as a Radiofrequency Engineer for Verizon Wireless. My office address is 4002 S 149th Circle, Omaha, NE 68137.

I can affirmatively state and testify to the following:

1. I am the Radiofrequency Engineer responsible for designing certain portions of Verizon Wireless's communications network in Minnetonka, Minnesota. To this extent, I am familiar with our wireless network within the City of Minnetonka.
2. In order to provide improved wireless phone and data service within the City, we are planning to install ten (10) small wireless facilities within rights-of-way in the City. The general location and description of each facility is identified on the attached **Exhibit A**.
3. Verizon Wireless's proposed small wireless facilities will utilize low-power radios that broadcast signals approximately 500-1000 feet in each direction depending on nearby topography, vegetation, and improvements. In addition, the signal generated by these small wireless facilities does not travel well through buildings or dense foliage. For these reasons, Verizon must place the small wireless facilities in close proximity to the needed service area. Please note that these facilities are not speculative — each of the ten (10) sites will meet a current need for improved service in the service area.
4. Consistent with Section 310.03 of the Minnetonka Telecommunication Ordinance (the "Telecom Ordinance"), the small cell facilities will operate within low band blocks 200-806, 824-849 and 869-894 or high band blocks 1710-1730, 1900-1910, 1980-1990 and 2110-2130.
5. In choosing the specific location within the right-of-way for each site, Verizon Wireless determines whether there are nearby utility poles that can be utilized, instead of installing a new pole. For three (3) of the ten sites, we are able to collocate the small wireless equipment on Xcel Energy utility poles. I understand that these installations are permitted uses pursuant to State law and the City's Telecom Ordinance, subject to obtaining the appropriate right-of-way permit. An example of one of these installations is attached as **Exhibit B**. Although we will be obtaining electric service from Xcel for the other seven (7) sites, Xcel will not allow collocations on any other utility poles due to safety considerations and lack of capacity.
6. Consistent with the City's Telecom Ordinance, we determined whether there are non-residentially zoned areas that can be used instead of installing a new small cell pole in a right-of-way adjacent to residentially-zoned properties. The Tonka SC 10 pole will be located in a business district on the corner of Excelsior Blvd. and Baker Rd, adjacent to a gas station and U-Haul center. The other nine sites, however, are servicing residential areas, and there are no non-residentially zoned areas available that will meet our service objectives for these residential areas.
7. Consistent with the City's Telecom Ordinance, we also determined whether the new small cell poles could be located within the rights-of-way of collector or arterial streets, and 6 of the 10 sites will be located within the rights-of-way of collector or arterial

streets. The nearest collector or arterial street to the Blaise SC3 and SC4 sites in the northwest part of the City is Wayzata Blvd. East, and a site that far north would not meet our need to improve service in the residential areas to the south. Oakland Road is the nearest collector or arterial street to the Equestrian SC 1 2 site, but it is located too far north and west to meet our service objectives. Finally, the Tonka SC8 site is located on the corner of Deerwood and Baker Rd., which is a collector street. Moving the site farther north on Baker would not provide the needed service for the residential areas to the south, and moving the site further south on Baker would bring it too close to the Tonka SC 10 site.

Further affiant sayeth not.



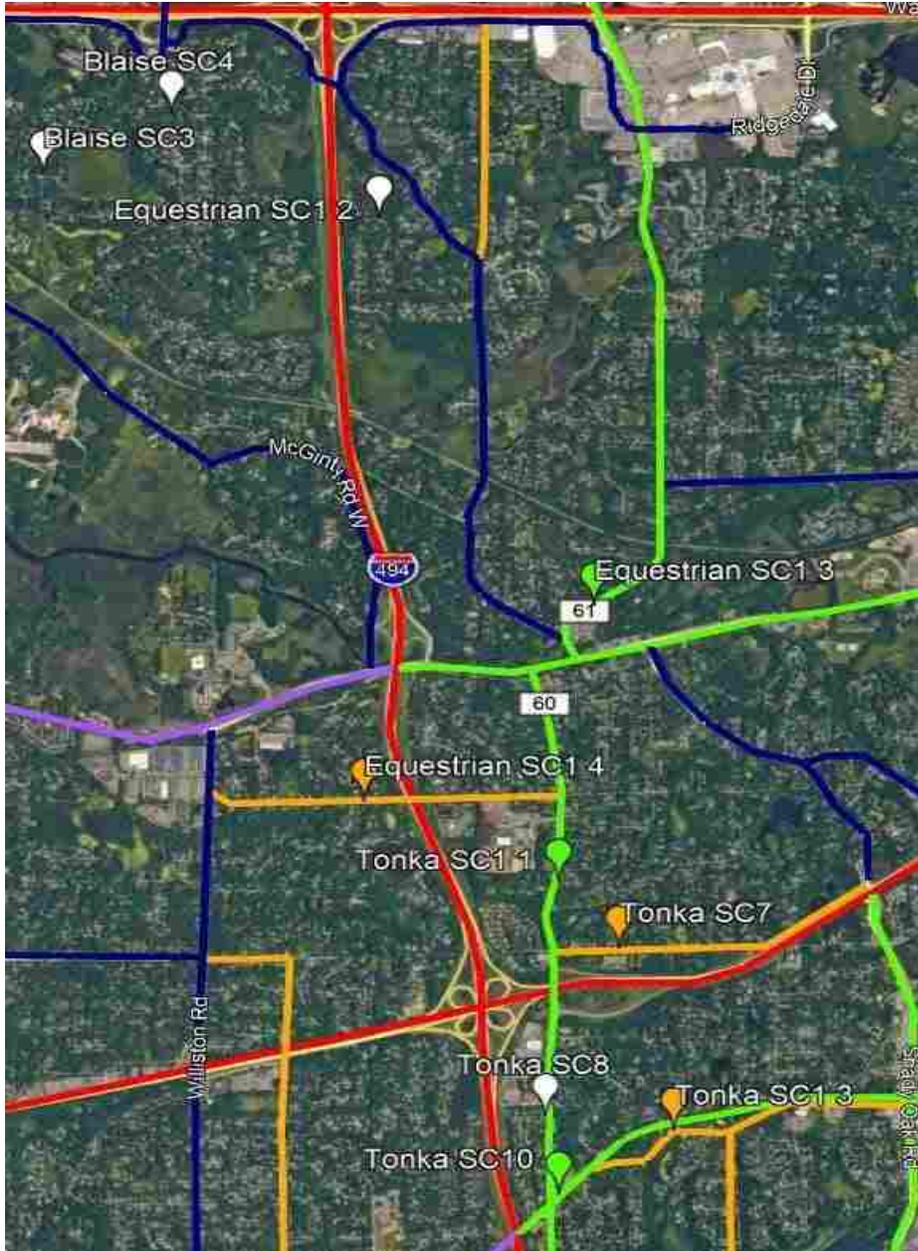
STATE OF Nebraska)
)
COUNTY OF Deer)

The foregoing instrument was acknowledged before me this 1st day of February, 2021, by Chad Leeder, Radiofrequency Engineer for Verizon Wireless.

State of Nebraska – General Notary
DREW R. BEERS
My Commission Expires
March 16, 2024

Drew R. Beers
Notary Public, Drew R. Beers
My Commission Expires: 3-16-2024
County Deer, State of Nebraska
Acting in Deer County, Nebraska

EXHIBIT A



Site Name	Zoning	Location	Description
Blaise SC4	CUP	Linner Rd.	VZW pole in City ROW
Blaise SC3	CUP	Holdridge Dr.	VZW pole in City ROW
Equestrian SC1 2	CUP	Indian Rd. W.	VZW pole in City ROW
Equestrian SC1 3	P	Plymouth Rd, collector	Xcel pole in County ROW
Equestrian SC1 4	P	Orchard Rd, collector	Xcel pole in City ROW
Tonka SC1 1	P	Baker Rd, collector	Xcel pole in County ROW
Tonka SC7	CUP	Lake St. Extension, collector	VZW pole in City ROW
Tonka SC8	CUP	Deerwood and Baker Rd	VZW pole in City ROW
Tonka SC 1 3	CUP	Pioneer Rd, collector	VZW pole in City ROW
Tonka SC 10	P	Excelsior/Baker business district	VZW pole in County ROW

EXHIBIT B



A PHOTOGRAPH BEFORE SIMULATION

B PHOTOGRAPH AFTER SIMULATION

CONSULTANT:

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 Consulting Engineers, Inc.
 2101 HIGHWAY 13 W
 BURNSVILLE, MN 55337
 952.885.1032 VOICE
 952.405.6088 FAX
 www.edgeconsul.com

CLIENT:

verizon
 10851 BUSH LAKE RD
 BLOOMINGTON, MN 55458
 952.286.4694 VOICE

PHOTO SIMULATION
 EQUIS TRAIL, MINNESOTA
 MINNETONKA, MINNESOTA

I HEREBY CERTIFY THAT THIS PLAN SET WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION OTHER THAN THE EXCEPTIONS NOTED IN THE SHEET INDEX AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

PROJECT NO.:	20181826497
LOCATION CODE:	499013
REVISION DATE:	12/25/2020
STRUCTURAL ANALYSIS:	
DATE:	DESCRIPTION:
NA	NA

SUBMITTAL:		
INT. DATE:	DESCRIPTION:	
JDM	01/20/2021	PHOTOSIM

CHECKED BY:	OGD
PLOT DATE:	1/20/2021
PROJECT NUMBER:	20160
SET TYPE:	FINAL

SHEET NUMBER **T-901**

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