



Legislation Details (With Text)

**File #:** 21-0303      **Version:** 1      **Name:** UP 21-00016 4 N Curry Street Communication Tower  
**Type:** Use Permits      **Status:** Passed  
**File created:** 10/29/2021      **In control:** City Council Legislative Session  
**On agenda:** 11/10/2021      **Final action:** 11/10/2021

**Title:** Use Permit Application by Cellco Partnership (d/b/a Verizon Wireless) to Permit a Commercial Communication Tower at 4 North Curry Street [LRSN 12001849]

**Sponsors:**

**Indexes:** , , Community Recreational Enhancements, Recreation

**Code sections:**

**Attachments:** 1. Conditions, 2. Application, 3. Applicant Photo Simulations, 4. Additional Applicant Material A, 5. Additional Applicant Material B, 6. Staff Report, 7. Presentation, 8. Presentation - Legal

Date	Ver.	Action By	Action	Result
11/10/2021	1	City Council Legislative Session	approved	Pass

Use Permit Application by Cellco Partnership (d/b/a Verizon Wireless) to Permit a Commercial Communication Tower at 4 North Curry Street [LRSN 12001849]

**Background Statement:**

This is a request to permit the construction and operation of a commercial communication tower, on a portion of property located at 4 North Curry Street [LRSN 12001849]. The location is the site of the Phoebus Recreation Association baseball fields, north of St. Mary Star of the Sea and east of Mellen Street. This commercial communication tower will not replace the current use of the property, and will be accessory to the recreation facility. The property is currently zoned One Family Residential (R-11) District, which allows for a commercial communication tower with a use permit.

The applicant is proposing a commercial communication tower that can accommodate a minimum of two (2) users. The proposed tower would be a monopole constructed of galvanized steel and will replace an existing wooden light pole at the baseball fields. The proposed tower will be fitted with stadium lights in the same manner as the existing pole. The tower has an overall height of 134', which includes the lightning rod. The tower itself will not be fenced-in. The compound, which contains the ground mounted equipment, is approximately 70' from the base of the communication tower. The compound will be enclosed by a six (6) foot tall, black vinyl coated chain-link fence and will be screened by vegetation.

The Hampton Community Plan (2006, as amended) recommends mixed-use for this area. This property is also within the Phoebus Master Plan (2007, as amended) Initiative Area 4: Railroad Right-of-Way. This initiative area recommends maintaining and potentially expanding the recreational fields.

Members of the public spoke at the public hearing. One member spoke in favor of the application, highlighting the financial benefit to the baseball league. Nine members of the public spoke against the application. The comments against the application generally pertained to the site's proximity to

the Phoebus historic district, height compared to scale of the neighborhood, health concerns, and questioning the benefit to the neighborhood.

At Planning Commission, staff recommended a change to the conditions as originally published in order to allow 24 months for construction of the tower to commence. This deviates from Section 14-12 of the Zoning Ordinance, which generally provides 12 months to obtain a building permit for other uses governed by use permits. However, section 15.2-2316.4:2(A)(10) of the Code of Virginia prohibits localities from requiring a period shorter than two years to "diligently pursue completion" of construction of a wireless facility. This Virginia Code requirement supersedes the City's zoning ordinance in this case. The conditions in the City Council package include this change.

**Recommendations:**

Staff Recommendation:

Approval with ten (10) conditions.

Planning Commission Recommendation:

Approval with ten (10) conditions.