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June 21, 2021

Sent Via Email and Hand Delivery

Board of Zoning Appeals
City of Westminster
c/o Mr. Andrew Gray
Winchester West
56 West Main Street
Westminster, Maryland 21157

**Re: BZA Case No. 21-04
Prehearing Statement**

Dear Chair and Members of the Board of Zoning Appeals:

On behalf of my client, BGE, please find the Prehearing Statement prepared in accordance with this Board's Rules of Order and Procedure. Four (4) hard copies will be hand delivered to the City offices today.

Thank you for your attention to this matter and please do not hesitate to contact me with any questions or concerns.

Sincerely,

Jennifer R. Busse (electronically signed)

Jennifer R. Busse

cc: *(all via email)*
Constance Pierce, Esq.
Lisa LaMartina
Maurice Noel
Paul Whitley
Rich Dyer
Kyle Polczynski

11805772

PREHEARING STATEMENT for:

**BZA Case No. 21-04
BGE Leidy Road Property**

Applicant Information:

Applicant: BGE
c/o Lisa LaMartina
Sr. Project Manager, Strategic Projects, BSC Digital Grid
Exelon Land Mobile Radio
667-313-8562
Elisa.LaMartina@bge.com

Counsel: Jennifer Busse
WTP
1 W. Pennsylvania Ave., Suite 300
Towson, MD 21204
410-832-2077
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Property Information:

Premises Address: 895 Leidy Road, Westminster, Maryland 21157
Property Owner: BGE
Parcel Identification: 07-001436
Zoning District: B Business Zone

As required, pursuant to Section 8 of the BZA Rules of Order and Procedure, the Applicant, BGE, hereby provides, on the following pages, information to satisfy the following:

- (a) a statement of the grounds upon which the application is based:
- (b) copies of all reports, studies and other documents and plans intended to be introduced at the hearing:
- (c) a summary of expert testimony and credentials which will be proffered at the hearing:
- (d) a list of all witnesses who will testify at the hearing:
- (e) an estimate of time needed for BGE's presentation:

Case No. 21-04
Prehearing Statement

(a) Statement of grounds upon which the application is based:

BGE is the owner of the existing telecommunications tower located along Leidy Road. The existing, approximately 132' tall tower received approval in 2007 from Carroll County prior to the property being annexed into the City of Westminster. The property is located in the B Business Zone, just to the north/northeast of MD Rt. 140 and just to the southeast of Market Street. The area is generally commercial in nature. The tower is located inside the curve of Leidy Road, directly adjacent to a cemetery.

BGE is upgrading its communication network to provide enhanced services to its customers and replace outdated technology. To that end, BGE must replace equipment at its existing Leidy Road tower. The proposed installation of new equipment has triggered the need for zoning relief.

The requests include:

- a special exception to operate a telecommunications facility pursuant to §164-42.V. and subject to the requirements of §164.139.1
- variances from §164-45.B. for the equipment shelter, to permit:
 - a 0' front setback in lieu of the otherwise required 30';
 - a 0' side setback in lieu of the otherwise required 10';
 - a 0' setback from the adjoining residential district in lieu of the otherwise required 30';and
- a variance from §164-139.1 for the unmanned equipment shelter, to permit:
 - 20' height in lieu of the otherwise allowed 12'; and
 - 625 s.f. in area in lieu of the otherwise allowed 560 s.f.

With regard to the special exception request, it should be noted that the tower previously received approval and is currently in operation. The replacement of equipment at the tower will not create any additional adverse impacts. The tower height will not change. The site will continue to be an unmanned facility, and nothing with regard to the tower's operation will change. The use will continue as it has for 14 years.

The necessary equipment replacement involves the antennas and equipment shelter. In order to ensure the safe continuation of operations, a generator is required which necessarily will be installed atop the equipment shelter. To satisfy current safety standards, concrete bollards are required to be placed around the perimeter of the equipment shelter along the curve in Leidy Road.

The equipment shelter/building itself actually does not require variance relief for its height. Due to the limiting physical conditions of the property, the generator must be situated atop the shelter. In the spirit of being as conservative and transparent as possible, the requested variance relief encompasses the total height of the combined equipment.

Similarly, the concrete bollards were included in calculating the setbacks and total square footage involved. The bollards are effectively along the property line and thus generated the request for zero foot setbacks. As shown on the plans, however, the new equipment shelter is very similar in scale to that which is existing. While it is unclear which side of the installation qualifies as the “front” and the “side”, even without considering the bollards, setback variance relief is required for existing conditions in any event. In sum, the existing site constraints create the unique conditions generating the need for the variances.

Case No. 21-04
Prehearing Statement

- (b) Copies of all reports, studies and other documents and plans intended to be introduced at the hearing:

BGE respectfully submits that the materials included in its application, as posted on the BZA's website, comprise all such materials identified at this time for submission at the hearing. BGE respectfully requests the right to submit supplement its submission with related documents prior to the hearing, and/or in response to issues raised by the BZA or others.

Case No. 21-04
Prehearing Statement

(c) Summary of expert testimony and credentials which will be proffered at the hearing:

Maurice Noel:

Mr. Noel will testify on behalf of BGE. His credentials include his extensive experience in the wireless communications field. His testimony will explain why BGE needs to install this equipment at this location. In sum, BGE's Leidy Road tower serves an important role in BGE's existing and future communication network. The tower and its equipment support BGE's existing radio field communication system, and has been incorporated into the design of the replacement radio system. The tower and its equipment support BGE's Distribution Automation (DA) network which allows the automatic restoration of service for customers during electrical outages.

Richard Dyer / Kyle Polczynski:

Both Messers Dyer and Polczynski work at Morris, Ritchie & Associates (MRA), the civil engineering firm working with BGE on this project. Their credentials include their education and professional experience. Together they enjoy over 25 years of experience in the engineering of structural systems, and have worked on hundreds of wireless communication projects. Mr. Dyer has been accepted as an expert witness in his field and has testified before Planning and Zoning Boards in multiple jurisdictions throughout the State of Maryland, including Carroll County.

Messers Dyer and Polczynski will testify on the design specifics of the proposed equipment and testify as to how BGE's proposal satisfies the zoning criteria. In sum, their testimony will explain how the grant of the requested special exception will not adversely affect the general plan for the physical development of the district; and how the existing and continued use of the property will not create any adverse impacts to the residents or workers in the area, or the adjacent properties or general neighborhood.

Their testimony will also explain the unique and extraordinary circumstances which apply to this subject property, how the variances are necessary for the preservation and enjoyment of substantial property rights of others in the area, and how the grant of the variances will not create any detrimental impacts to adjacent properties or materially impair the purpose of the Code or the public interest.

Case No. 21-04
Prehearing Statement

(d) List of witnesses who will testify at the hearing:

- Maurice Noel – Exelon Senior Telecommunications Engineer
- Richard Dyer – Civil Engineer with Morris, Ritchie & Associates (MRA)
- Kyle Polczynski – Structural Design Engineer with MRA

Case No. 21-04
Prehearing Statement

(e) Estimate of time needed for BGE's presentation:

- We anticipate needing 20 minutes for our presentation.