3180

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - 200' past the NE/end of Brightfield Road, 1080' NE of Falls Road, 220' SW of I-83
9th Election District
4th Councilmanic District

John A. Hatfield, Jr. and
Elizabeth S. Proutt - Petitioners*

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 96-360-XA

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property located 200 feet northeast of the end of Brightfield Road, just west of the Jones Falls Expressway (I-83) and Baltimore Beltway (I-695) interchange at Falls Road. The Petitions were filed by the owners of the property, John A. Hatfield, Jr. and Elizabeth S. Proutt, and the Contract Lessee, Washington/Baltimore Cellular Limited Partnership, (dba) Cellular One Washington/Baltimore, by Michael Maus, Real Estate Director, through their attorney, Karl J. Nelson, Esquire. The Petitioners request a special exception to permit a wireless transmitting and receiving facility in a D.R. 1 zone, and variance relief from Section 502.7.C.3 of the Baltimore County Zoning Regulations (B.C.Z.R. to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and to permit a wireless transmitting and receiving facility on a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were representatives of Cellular One, the Contract Lessee, representatives of Nextel,

ORDER RECEIVED FOR FILING
Date 5/31/96
By

and representatives of Bell Atlantic Nynex Mobile. The Petitioners were represented by Karl J. Nelson, Esquire. Appearing as Protestants in the matter were Mr. & Mrs. Wesley Lidie, adjacent property owners, and Sarah Lord, a representative of the Ruxton-Riderwood-Falls Road Scenic Route Group.

Testimony and evidence offered revealed that the subject property consists of 3.0 acres, more or less, zoned D.R. 1 and is located at the terminus of Brightfield Road, just west of the intersection of I-695 and I-83 in Brooklandville. The Petitioners are desirous of erecting a wireless transmitting and receiving facility on the subject property in the location shown on Petitioner's Exhibit 1, and utilizing the proposed monopole along with Nextel and Bell Atlantic Nynex Mobile. However, due to the size and topography of the land, the proposed facility will be located 65 feet from the western property line and 190 feet from the southern property line. Due to the height and location of the proposed monopole, the requested variances are necessary in order to proceed as proposed. Pursuant to Section 502.7.C.2 of the B.C.Z.R., the setbacks from the nearest property line must be twice the height of the proposed monopole, or a minimum of 350 feet. Furthermore, Section 502.7.C.3 requires that monopoles be located on a parcel not less than 5 acres in area.

Testimony and evidence offered in support of the relief requested revealed that the Petitioners and the other two companies have been looking in this area for some time for a suitable location for the proposed facility. Testimony indicated that as cellular phones become more popular with the general public, the need to increase the capacity of the transmitting and receiving devices increases daily. In the instant case, however, the location for the proposed monopole is limited due to the existence of

ORDER RECEIVED FOR FILING
Date 5/31/96
By

MICROFILMED

a 100-year flood plain which traverses the property. Furthermore, there is a 66-foot Baltimore Gas & Electric Company right-of-way and overhead transmission lines that traverse this property which further restrict the potential location of this monopole.

As noted above, Mr. & Mrs. Lidie, appeared in opposition to the relief requested. They are opposed to the Petitioners' request in that they believe the subject site is not large enough to accommodate the proposed tower and they are very much concerned that the Petitioners fail to meet the 350-foot setback required. The Lidie's believe that the subject property should remain in its natural state and do not want to see this type of development on this site.

Also appearing in opposition to the relief requested was Sarah Lord, a representative of the Ruxton-Riderwood-Falls Road Scenic Route Group. Ms. Lord testified that their Board voted to oppose the tower and the variances requested, which they believe to be extremely excessive.

As noted above, the Petitioners and two other companies wish to co-locate their antennae on the proposed monopole. In my opinion, this represents an efficiency of effort wherein only one monopole will be constructed to accommodate three separate companies' antennae and reduces the visual impact that three separate monopoles would create. However, after carefully reviewing all of the testimony and evidence offered both for and against the relief requested, I find that the Petitioners have failed to satisfy the burdens imposed upon them in order for the special exception and variances to be granted. It is apparent that the subject property is not an appropriate candidate upon which to locate a tower 175 feet in height. Furthermore, the tower is proposed to be located a short distance of 65 feet from the western property line. The County Council

ORDER RECEIVED FOR FILING
Date 5/30/96
By

MICROFILMED

determined, pursuant to its legislation, that such towers should maintain a distance of at least twice their height, or a minimum of 350 feet. In my opinion, the relief requested does not meet the requirements set forth in Section 502.1 of the B.C.Z.R. and would be detrimental to the health, safety and general welfare of the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special exception and variance relief must be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of May, 1996 that the Petition for Special Exception to permit a wireless transmitting and receiving facility in a D.R. 1 zone, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and from Section 502.7.C.3 of the B.C.Z.R. to permit a wireless transmitting and receiving facility of a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petitioner's have thirty (30) days from the date of this Order in which to file an appeal of this decision.

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 5/30/96
By BJS

IN THE MATTER OF THE APPLICATION OF JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT - PETITIONERS FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED 200' PAST THE N/END OF BRIGHTFIELD ROAD, 1080' NE OF FALLS ROAD, 220' SW OF INTERSTATE 83 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 96-360-XA

* * * * * * * * *

O P I N I O N

This case comes on appeal from the Zoning Commissioner's Order of May 30, 1996, in which a Petition for Special Exception and Petition for Variances were denied. The special exception is for a wireless transmitting and receiving monopole structure in a D.R. 1 zone. The variances are for minimum lot area and for setbacks required. This case was heard de novo in two days of testimony. Appearing on behalf of Petitioners /Appellants was Karl J. Nelson, Esquire. Protestants, Wesley A. Lidie, Sr., and Sarah Lord, appeared pro se. People's Counsel for Baltimore County also participated in the proceedings. Following the conclusion of the hearing, memoranda were submitted by all parties. The Board deliberated the matter in open deliberations in accordance with the open meetings law.

Testifying for Petitioners /Appellants was Robert E. Morelock, registered landscape architect and project manager for Daft-McCune-Walker, Inc.; George Meeker, a real estate consultant for B & E Associates; Jim Jimreivat, a senior radio frequency engineer for Cellular One; Ronald Lipman, a real estate appraiser and consultant with Lipman, Frizzell & Mitchell, LLC; and George Gavrelis, an

MICROFILMED

expert planner with Daft-McCune-Walker, Inc.

Mr. Morelock, the project engineer for this case, provided some background and information concerning existing conditions through aerial photography and a site constraints map (see Appellant's Exhibit #2). He testified that the instant site is in the D.R. 1 zone which allows erection of a monopole structure such as that which is proposed by special exception. Before this Board, Petitioners have proposed a location on the site which is somewhat different from that which was before the Zoning Commissioner, improving the setbacks and lowering the height required to meet the needs of the Petitioner. The setback variances are now 90 feet from the western boundary of the site in lieu of the required 330 feet for the proposed monopole; 230 feet from the northern and eastern boundaries in lieu of the required 330 feet; and 220 feet from the southern boundary in lieu of the required 330 feet. The required setback of 330 feet is determined by doubling the proposed height of the monopole as stipulated in Baltimore County Zoning Regulations Section 502.7. The area variance required is to allow the structure to be built on the instant 3-acre site in lieu of the minimum lot size of 5 acres in the residential zone.

Mr. Morelock testified that there was no location on the site which meets all setbacks. He also testified that the site is severely constrained. It is traversed by a BGE right-of-way for high tension power lines existing above the site, suspended by 130-foot lattice structures. A portion of the Jones Falls flows through the site, with a perpetual stream location easement, as

MICROFILMED

well as a Baltimore County utility easement. What remains from a roughly 3-acre site after all of the constraints for easements is approximately 0.27 acre available for use. Immediately to the west of the instant site are mature woods, 50 feet of which is in a flood plain and which is not developable as the associated density units on that parcel have been moved to land to the south of Brightfield Road. Further, after takings by the State Highway Administration due to the construction of Interstate 695 and the associated relocation of the Jones Falls, the instant site is a remainder of the original parcel which still rests outside the Baltimore Beltway.

Mr. Morelock stated that the new proposed location for the monopole and the requested variance relief is the least relief necessary for the proposed monopole. Mr. Morelock went on to explain what has come to be known as a "balloon test" which was performed by Daft-McCune-Walker, Inc., in the company of BGE representatives to determine visibility of the proposed monopole on the instant site. Rather than review each of the findings, Mr. Morelock's testimony could be characterized as indicating that the proposed monopole would be only momentarily visible from various points around the area. That visibility test was performed in conjunction with analysis of possible impact on the area along with that which is indicated in the Environmental Impact Statement (EIS). While the EIS does not contain information on the impact to historic districts, he acknowledged on cross-examination that the location of the proposed monopole lies roughly 630 feet from the

Greenspring Valley National Register Historic District to the north and approximately 1,700 feet from the Rockland National Register Historic District, as well as approximately 800 feet from the Cloisters Museum. This Board notes that that particular issue relates to BCZR Section 502.7a, which is not a matter for this Board to determine since BCZR Section 502.7b.1 stipulates that, because this proposed monopole is less than 350 feet above grade, BCZR Section 502.7a does not apply.

Mr. George Meeker described the due diligence search performed for Cellular One as required by BCZR Section 502.7.C.1. In short, Mr. Meeker's testimony indicates that due to location, economy, elevation, engineering, or technological feasibility issues, no other appropriate location was available when he performed his location search.

The testimony from Mr. Jim Jimreivat provided technological information to assist the Board in understanding the requirements for such towers, as well as buttressing technological arguments relative to alternate sites in the search area considered by Mr. Meeker. Further, Mr. Jimreivat, as a representative of Cellular One, testified that they will comply with all engineering standards; that they will not interfere with other transmissions; that after the initial construction the site will be visited only for emergencies and regular maintenance; that the facility will be monitored for fire; that Cellular One will remove the monopole if the use is terminated; and that the monopole will not be lighted. Particularly interesting and instructive to the Board was Mr.

Jimreivat's description of the "line of sight" technology which is the Cellular communications technology. It is precisely this line of sight necessity which results in the need for such facilities to be visible to commuters who utilize cellular communications. The intersection of Interstate 83 and Interstate 695, two of the most heavily travelled highways in the interstate system within the State of Maryland, is by no surprise an area quite under-served in cellular capacity and coverage, resulting in call blockage and interruption. The height and location of such facilities must be engineered very closely based on existing conditions to range, road directions and expected volume such that proposed facilities such as the instant site are required to maintain coverage and capacity. He testified about the engineering difficulties of alternate sites, including the Valley Inn parking lot across Interstate 695, summing up that anything north of Interstate 695, so close to a nearby ridge line in the terrain, simply will not suffice for their engineering requirements.

Ronald Lipman testified to the issue of impacts to real estate values resulting from the construction of the proposed monopole. The essence of Mr. Lipman's expert opinion is that the proposed monopole, due largely to its remoteness from most neighboring properties and due to existing numerous impacts on neighboring properties, such as Interstate 695, Interstate 83, the BGE high tension lines and associated lattice structures, as well as telephone poles, already have had such an impact on the area that this structure will have no impact. Mr. Lipman also provided a

MICROFILMED

study in which he considered the effects of such monopoles in similar areas in Montgomery County, Maryland, where he found no impact on property values. He opined that the instant site is the ideal location for a cellular tower as its impact, being mostly visibility, is limited chiefly to the site of Protestant, Mr. Lidie.

Mr. George Gavrelis testified to the issues related to special exception and variances. He opined that the impact of the site constraints, the nearly unusable nature of the site due to not just the improvements and easements on the site but the construction of Interstate 695 and so forth, have placed an inordinate burden on the instant site, the likes of which he has seen nowhere else. He opined that the construction of the monopole would provide no detriment to the health, safety and welfare of the locality, that it would not tend to create congestion in roads, streets, alleys; that it presents no hazard from fire or panic; that it would not interfere with adequate light and air, nor provisions for other public services; that it is consistent with the spirit and intent of the zoning regulations; and that it is consistent with the impervious surface and vegetative retention provisions of the zoning regulations that are not required in a D.R. zone. Cross-examination also indicated that the monopole will not contribute to any deterioration of the nearby flood plain. The Petitioners rested their case-in-chief with the conclusion of Mr. Gavrelis' testimony.

Appearing in opposition to the proposed monopole was Gordon

MICROFILMED

Brock Johnson, a nearby resident; Wesley A. Lidie, Sr., a neighbor to the instant site and party in this case; Ms. Ruth Mascari, Executive Director of the Landmarks Preservation Commission; Sarah Lord, representative of the Ruxton-Riderwood-Lake Roland Association; Pamela Slinghoff, a resident of neighboring Brightwood complex; Edith Hoyt Garrett, a nearby resident; Thomas Mylander Bruggman, representative and president of the Rockland Home Improvement Association; and Josephine Johnson, a nearby resident to the instant site.

The thrust of all protestants' witnesses is their concern for the impact to the area and its historic districts. All were concerned about the aesthetic impact and the cumulative intrusion of yet another technological advancement in older areas. Speaking personally, Ms. Lord opined that the "Bare Hills" monopole "...in our view that's where such monopoles belong...." Ms. Garrett stated her belief in the process executed before this Board, her skepticism of the need for variances, and her question of the long-term need of such proposed facilities.

Ms. Johnson called the placement of the proposed monopole an unnecessary use of the land. On cross examination, Ms. Mascari opined that an historic "corridor" extends all the way to the end of Falls Road in the northern reaches of Baltimore County which, in her view, should result in avoidance of any adverse impact created by such improvements. On redirect, she stated that any visual change to an historic area is a "blow" to historicity.

This case was well-tried by all parties. Petitioners seek to

MICROFILMED

erect a cellular communications tower which becomes part and parcel to a system of communications cell sites throughout the area. People's Counsel argues that the mere existence of other cell sites in the area creates a need for special exception and variance on this site, which is self-imposed and should have been foreseen by Petitioners in order to avoid such a condition. The impact of People's Counsel's argument is on the issues of whether a variance can be granted from area and setback requirements for the proposed monopole on the instant site, assuming one gets to the issue of practical difficulty or unreasonable hardship. In examining variances, the burden rests with the Petitioner to prove that special circumstances exist that are peculiar to the land which is the subject of the variance request, and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship. Here Petitioner proposes a monopole on a site which Mr. Gavrelis, an expert planner, has characterized as having conditions like he has seen nowhere else in the County. The mere fact that the property is bounded by the intersection of two major interstate highways, as well as a major natural feature in the Jones Falls, leaves one to consider what similar properties could exist County-wide, to say nothing of the surrounding area. When one then adds to the mix the perpetual stream easement as well as the utility easement and overhead structures with the BGE power lines, this Board finds the uniqueness test easily satisfied.

As to the question of compliance with the zoning regulations

resulting in practical difficulty or unreasonable hardship, this Board first notes that the 0.27 acre remaining usable of a 3-acre parcel separated and left nearly landlocked as a result of the construction of Interstate 83 and Interstate 695 renders the property nearly useless. People's Counsel argues two things on this point: (1) that the property owners were compensated by the State during the taking of property bisecting their properties (the Valley Inn to the north and the instant site to the south of I-695), and that such compensation addresses any hardship resulting from the taking; and (2) that the property owners still have 0.27 acre upon which they may construct a dwelling. This Board disagrees with the view of People's Counsel in this regard.

The taking of the property to construct the interstate highways was done at a time before the environmental and technological advances had been realized in the past two decades. We note that the State did not take the instant site; therefore, the instant site impacts were not compensated. In order for us to believe that the instant site impacts have been compensated, this Board believes this owner would not be in its possession. Over the years, the various easements have impacted this site to the point where it is unusable for nearly all uses. To that end, we do not find that speculative construction of a residence on a site bounded by two interstate highways and high tension power lines is one which would bear much fruit for a potential developer. Rather, this Petitioner has an opportunity for maximum and best use on a property which still has some practical use such as what is

MICROFILMED

proposed. Denial of such possible use results in practical difficulty or unreasonable hardship. The variances themselves are created by the need for setbacks as calculated by the formula found in BCZR Section 502.7.C.2. When considering the impacts with the granting of such variances, the Board looks to the way in which special exception requirements under BCZR 502.7.C are interwoven with conditions in the instant site.

People's Counsel alleges that the mere fact that Cellular One has constructed other cellular sites in the area creates a self-imposed hardship in this case. This Board points to BCZR Section 502.7.C.1 when considering the due diligence search requirements for alternate locations from locations proposed in the D.R. zone. In that section, the County Council has included language in the regulations which recognizes location, economic, elevation, engineering or technologic feasibility in the location of alternate sites. This Board's view is that the County Council recognizes that cellular communication providers do not possess the crystal ball which allows them to see years, even decades, into the future in determining service coverage requirements for every space in the County. This site is no exception. It is that very nature of the special exception requirements that points to the recognition of practical difficulty in denying a variance. This Petitioner is fortunate to have proximity to the interstate highways, an undevelopable site to the west, and limited neighboring development to the south. Therefore, the impact of granting the variance on such a site is minimal which this Board finds to be in strict

MICROFILMED

harmony with the spirit and intent of the area regulations and is without injury to public health, safety and general welfare.

On that point, Protestants argue that the historicity of the nearby historic districts will be irreparably damaged by the erection of the monopole. This Board points to the fact that the County Council has already determined that the proximity to the associated districts in this case is not a factor due to the height of the proposed monopole and its resultant standards to be met for special exception under 502.7.B, et seq. For all of the above reasons, the variances for the proposed monopole, as requested, shall be granted and will so order.

The requirements for special exception are found in BCZR Section 502. The Baltimore County Council has determined that uses permitted by special exception are already determined to be appropriate uses of the land, recognizing that certain inherent qualities of the proposed uses warrant special consideration before granting their use.

BCZR Section 502.1 enumerates those issues which must be addressed by this Board with the burden resting upon the Petitioner. This Board has already found that the monopole is not detrimental to the health, safety or general welfare of the locality involved. As indicated by the testimony of Mr. Gavrelis, as well as other Petitioners' witnesses, but for the period in which construction of the monopole takes place, the instant site will be visited only for the purpose of making repairs and scheduled maintenance visits. Therefore, it is inconceivable that

this use would create any congestion in roads, streets, and alleys.

This monopole structure is required, pursuant to BCZR Section 502.7.C, to pass rather rigorous engineering standards. Therefore, in the light of unrebutted testimony that the proposed monopole represents no danger to the surrounding area, this Board finds no potential hazard from fire, panic or other dangers.

Because of the limited area to be utilized by the monopole structure and maintenance sheds, this Board finds that the proposed use will not tend to overcrowd the land or cause undue concentration of population. Since this is a wholly private utilitarian use, the proposed use will not interfere with adequate provisions for schools, parks, water, sewerage or other public requirements, conveniences or improvements.

The monopole will be a very narrow structure and will cast its shadow purely on land to the west, north and east currently covered by the interstate highway system and densely wooded non-density parcels; therefore, the proposed use will not interfere with adequate light and air.

Due to the fact that this property, despite its density residential zoning classification, is essentially unusable in the absence of such a utilitarian purpose, this Board finds that the proposed use is wholly consistent with the property's zoning classification and with the spirit and intent of the zoning regulations allowing for low density, maximum and best use for otherwise unusable property.

Finally, as to the requirements under BCZR 502.1, the limit of

disturbance to the instant site will be so small that we find the use to be consistent with the impervious surface and vegetative retention provisions of the zoning regulations.

In addition to the special exception requirements under BCZR 502.1, wireless transmitting and receiving facilities still must meet the strict engineering and other requirements found under BCZR Section 502.7.C. The Board has unrebutted testimony that all ten requirements are or will be met as applicable. In accordance with BCZR Section 502.7.C.11, the Board had unrebutted testimony from Mr. Lipman that the monopole will not result in a substantial adverse impact on surrounding property values, park lands, or open space. Protestant Mr. Lidie is the nearest property owner who can claim such impact. The Board has ample testimony from both sides as to the impacts on Mr. Lidie's property; Mr. Lidie's property is impacted nearly to the same extent as the instant site from the effects of the interstate highways and the environmental issues. Mr. Lidie's property will not be adversely impacted by the erection of the monopole.

Protestants argue that the visual impact that such a monopole presents is an undue impact on the enjoyment of open space and historicity of the area. This Board notes that it is literally impossible to create a structure which is completely invisible. This Board also notes and reiterates a part of what has been stated above, that the technology of cellular communications is one of line of sight. The County Council has determined that such facilities are to be provided; due to the line of site needs, the

MICROFILMED

working portion of such facilities must be visible. Therefore, one is left with the question of the extent of effort put forth by Petitioners in mitigating visual impact on open space. This Petitioner is creating a monopole structure, not a lattice type nor guyed structure, both of which create substantially greater visual impact on the landscape. Therefore, this Board finds that there will not be substantial adverse impact on parks and open space.

One of the key tests in examining petitions for special exception according to case law, Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), and Mossburg v. Montgomery County, 107 Md.App. 1 (1995), is the issue of whether the proposed use has a greater impact from the instant site than elsewhere in the zone. This Board finds that the Petitioner has identified a site, "down in a hole," which is probably the best possible location for such a facility regardless of the zoning classification. Other sites identified in the area, both by Petitioner's experts in their due diligence search as well as that which was brought in argument by Protestants and People's Counsel, are locations which would result in greater impact on the surrounding respective locations than the instant site on its surrounding vicinity. Therefore, one of the key tests under Maryland case law has been thoroughly satisfied.

For all of the above reasons, this Board shall grant the special exception for the wireless transmitting and receiving facility, and will so order.

O R D E R

THEREFORE, IT IS THIS 30th **day of April, 1997 by the County**

MICROFILMED

Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to permit a wireless transmitting and receiving facility (monopole structure) in a D.R. 1 zone be and the same is hereby **GRANTED**; and it is further

ORDERED that the Petition for Variances to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and to permit a wireless transmitting and receiving facility on a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres be and the same is **GRANTED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert O. Schuetz, Chairman

S. Diane Levero

Lawrence M. Stahl

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 30, 1997

Karl J. Nelson, Esquire
KRAMON AND GRAHAM
1 South Street
Suite 2600
Baltimore, MD 21202

RE: Case No. 96-360-XA
John A. Hatfield, Jr., et al

Dear Mr. Nelson:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,
Charlotte E. Radcliffe for
Kathleen C. Bianco, Administrator
County Board of Appeals

encl.

cc: John Hatfield /Elizabeth Proutt
Michael Maus, Cellular One
Robert Morelock /Daft-McCune-Walker
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
Laurie Long
Paul Dorf
People's Counsel for Baltimore County
Pat Keller
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Barnhart, Co Atty

Printed with Soybean Ink on Recycled Paper

BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS

In the Matter of:	*	
John A. Hatfield and Elizabeth S. Proutt	*	Case No. 96-360-XA
Petitioners	*	

* * * * * * *

BRIEF OF WASHINGTON/BALTIMORE CELLULAR LIMITED PARTNERSHIP IN SUPPORT OF ITS PETITION FOR SPECIAL EXCEPTION AND VARIANCES

I. INTRODUCTION

In this case, the Washington/Baltimore Cellular Limited Partnership, trading as "Cellular One," seeks to locate a wireless transmitting and receiving facility on a unique parcel in central Baltimore County. A vast area surrounding the proposed site is currently experiencing poor cellular service due to the area's challenging topography and the explosion of cellular popularity. By erecting the proposed facility, Cellular One will provide a unique solution to the problem because the facility will be utilized by three cellular carriers, thereby helping to ease the proliferation of such structures.

The proposed facility requires a special exception for the use and variances of the set back and minimum lot size requirements. Despite the generalized concerns of several local residents who appeared to protest the facility, wireless transmitting and receiving facilities are permitted in residential zones by special exception. Thus, the legislative policy considerations associated with such a siting—indeed the very issue of whether such facilities "belong" in residential areas—have been addressed and resolved by the County Council. The only issue in this case is whether Cellular One has met the applicable special exception and variance requirements set forth in the Baltimore County Zoning Regulations ("BCZRs") and interpreted

MICROFILMED

by Maryland's Court of Appeals. Cellular One clearly has done so. Accordingly, Cellular One's petitions for relief should be granted.

II. THE SITE

The parcel in question ("the Site") is irregularly shaped and is dominated by its location at the confluence of two major interstate highways, and the presence of a high tension electrical tower supporting power lines. It is not, as several protestants seemed to assert, an idyllic woodland. Rather, it is a virtually undevelopable parcel sandwiched between two noisy highways.

The Site is a three acre parcel located off of Brightfield Road and owned by John A. Hatfield. It is unique and ideal from both land planning and radio frequency engineering perspectives. The Site was once part of a larger parcel that stretched across Interstate 695 to the north and included the Valley Inn. Due to various State condemnations for highway construction, the Site was separated from the Valley Inn parcel by I-695 and reduced in size to its current three acres.[1] See the attached Exhibit A, an extract of hearing transcript volume I at 49-50.

The Site is zoned D.R.1. It is bounded on the north and on the east by an entrance ramp to Interstate 83. Indeed, it sits virtually at the intersection of I-695 and I-83. To the west of the Site is a fifty acre wooded parcel owned by the neighboring Brightwood Community ("Brightwood Parcel B"). Brightwood Parcel B cannot be developed because it was stripped of

---

[1] Peoples' Counsel attempted to argue at various points during the proceedings that the subject parcel remains as part of the Valley Inn parcel because the two are listed together on tax maps. Quite obviously, the presence of I-695 as a barrier between the two properties renders the argument moot. Indeed, Peoples' Counsel's assertion to Robert Morelock that he should "assume" that a pedestrian could walk across I-695 from one parcel to the other illustrates the ludicrousness of the argument. Ex. A at 111.

MICROFILMED

density during the development of the Brightwood project. Further, much of Parcel B is encumbered by the Jones Falls flood plain. Ex. A at 45-46. To the south of the Site is a parcel owned by Wesley A. Lidie. The Lidie parcel is improved by a small residential dwelling.

The Site is encumbered by numerous impediments to development. These impediments are graphically illustrated by Appellant's Exhibit No. 2. Of the Site's three acres, 1.64 acres are consumed by the D.R.1 residential set back requirements. 1.87 acres of the property are encumbered by the Jones Falls and its associated flood plain, with an additional .30 acres consumed by the mandatory 20' flood plain buffer. The entire northwest quadrant of the property, 1.31 acres, is subject to a perpetual stream relocation easement imposed by the State Highway Administration. A Baltimore County sanitary sewer line easement consumes .69 acres of the Site. A wooded area consumes 1.38 acres of the Site.

Dominating the Site is a 66' wide BGE utility easement that runs the full length of the Site from south to north. The BGE easement, which is cleared of all significant vegetation, is improved by a 130' tall, lattice-type high tension tower. The BGE tower supports high tension electrical lines that run the length of the easement.

Although several of the aforementioned constraints overlap, they combine to render all but .27 of the Site's three acres undevelopable.

Cellular One proposes to erect a 165' freestanding monopole which will support three antenna arrays. A monopole is a pencil shaped structure that is not supported by any sort of guidewires.[2] The site will be equipped with three antenna arrays because it will be used by Bell Atlantic Nynex Mobile and Nextel Communications, in addition to Cellular One. Ex. A at 34.

---

[2] Photographs of a monopole are included with Appellant's Exhibit 9.

As shown on the site plan submitted as Appellant's Exhibit 3, each user will have a small equipment building within the compound.

III. THE PROBLEM

The undisputed testimony of Cellular One's Senior Radio Frequency ("RF") Engineer, Jim Jimreivat, was that a critical service need has existed in the area for years. Despite Mr. Jimreivat's best efforts over a period of years to find a way to provide acceptable cellular service to the area without constructing some sort of freestanding structure, no viable alternative is available. See Exhibit B, an extract of hearing transcript volume II at 49-50.

The area of insufficient service is depicted by the Proposed JFX Site Location Map introduced as Appellant's Exhibit 4A and 4B. Ex. B at 19 and 24. A reduced copy of this map is attached hereto as Exhibit C. Included in the area are heavily traveled portions of I-695 and I-83, as well as parts of Falls Road, Joppa Road, Thornton Road and Old Court Road. As these are areas of extremely heavy automobile traffic, they are, consequently, areas of extremely heavy cellular telephone use. Ex. B at 14. The service problems extend to the secondary roads and residences in the area, affecting residents and commuters alike. Ex. B at 14.

Cellular customers currently face a myriad of problems when attempting to make and continue calls in the area, including static, interference, the cessation or "dropping" of existing calls and the inability even to access the system ("blocking"). Ex. B at 14, 15 and 22-23. The status of service is so problematic that during peak user times 10%-30% of Cellular One's customers are unable to access the system. Ex. B at 16. The area is "[t]he top area of need" for the "greater Baltimore area." Ex. B at 15. This need is echoed by Cellular One's customers, who register more complaints about service in the area than anywhere else in the Baltimore region. Ex. B at 21.

The service deficiencies stem from two separate but related sources: the absence of sufficient coverage and the absence of sufficient capacity. The coverage problem exists because the existing cell sites surrounding the area cannot project sufficient signal strength into the area to allow for adequate service. Ex. B at 17-23. Cellular technology requires a line of sight between cellular antennae and mobile users. Ex. B at 13. Accordingly, the technology is extremely sensitive to topography. If a ridge runs through an area, as in this case, a carrier must find a way to establish a line of sight between its antennae and its customers' mobile units that is not blocked by the ridge. It is particularly difficult for cellular carriers to project signal into those portions of I-695 immediately west of I-83 because the roadway in that area rests in a "valley" that lies below ridges to its north and south. Ex. A at 89; Ex. B at 26.[3]

With respect to capacity, as Mr. Jimreivat explained, Cellular One's entire system operates on the limited number of frequencies assigned to the company by the Federal Communications Commission ("FCC"). Ex. B at 10. Each frequency can handle only one call at a time. Ex. B at 10. In order to operate a viable network, cellular carriers must "reuse" these frequencies repeatedly to gain capacity. Frequencies are reused by creating a network of relatively small, low-powered sites that do not interfere with each other. Ex. B at 10-11. Each site provides service to a discrete area. If the sites are properly located and integrated, one frequency can be used by numerous callers at various locations throughout the network without interference. Ex. B at 10-12. In light of the explosion of cellular popularity, the existing facilities simply lack the capacity to process the number of calls being carried on in the area. Ex. B at 23.

---

[3] This area of low-lying roadway, and the surrounding ridges, are graphically depicted in Appellant's Exhibit 7H.

MICROFILMED

IV. THE SOLUTION

It is clear from the foregoing that the area provides a number of difficulties from an RF engineering standpoint. Cellular One's engineers have been tasked to develop a solution that will provide both sufficient coverage and capacity to an area that possesses challenging topography. They have crafted a solution that will provide the most minimal conceivable impact on the surrounding area.

Using computer modeling tools, Mr. Jimreivat was able to determine where a site would need to be located in order to resolve the current problems. Ex. B at 30-32. The computer model accounted for all of the local features, including topography. Ex. B at 30-32. The result of the computer modeling was plotted on a map of the overall area and is depicted on Exhibit C (Appellant's Exhibits 4A/4B) as the area within the orange dotted lines.

An area of potential site location is known in the industry as a "search area." Mr. Jimreivat's testimony that the solution to the current coverage and capacity problems can be resolved only by placing a cell site within the search area depicted on Exhibit C was undisputed.[4] Cellular One's real estate department explored the search area and located several potential site locations. These site candidates, including ultimately, the Site, were presented to Mr. Jimreivat for RF analysis. Mr. Jimreivat determined that a cell site on the Hatfield property, with an antenna height of 165' above ground level, would resolve both the existing coverage and capacity deficiencies. The proposed facility will have sufficient elevation to provide adequate signal strength throughout the area. More particularly, given the Site's location just to the east of the high ridge delineating the southern end of the Greenspring Valley, the proposed cell site will be

[4] Mr. Jimreivat also testified that the problems could not be rectified by modifying existing sites due to topographical limitations and the possibility of interference among and between existing sites. Ex. B at 21-22.

MICROFILMED

able to "see" into the low-lying portion of I-695 just to the west of I-83. Ex. A at 81; Appellant's Exhibit 7H. Further, the proposed site will triple the network's capacity in the area. Ex. B at 25-27.

V. LEGAL ISSUES

The Board finds itself at the nexus of several bodies of law. Quite clearly, the Board must look to the BCZRs. The BCZRs, themselves, must be viewed in the context of the Court of Appeals' limitations on the County's zoning powers as embodied in cases such as Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981). In Schultz, the Court of Appeals held that "the appropriate standard to be used in determining whether a request for special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Id. at 23 (emphasis supplied). Thus, the Board should look not to the drawbacks inherent in cell sites generally, but rather, to the drawbacks associated with the location of such a facility at this particular location.

The Board can deny Cellular One's requested special exception only if it finds that the proposed facility will somehow be more onerous because of its particular location than it would otherwise be elsewhere in the area. The record will not support such a finding. To the contrary, the evidence demonstrates that the Site is the least onerous location for such a facility. It requires a mere monopole, rather than a lattice tower. The monopole itself will be only 165' in height. It is located on a property that does not have residential neighbors on three sides despite the fact that the entire surrounding area is zoned residential. Indeed, the Site is bounded on two sides by highways and on a third side by an undevelopable and heavily wooded parcel. The

Site's location away from dense residential areas minimizes its effect on the surrounding area. Further, the tremendous natural screening provided by the woods in the area will render the Site virtually invisible to most of the community. It is difficult to imagine how such a site could be less onerous in a residential neighborhood.

A new layer of applicable legal authority recently was added when Congress enacted the Telecommunications Act of 1996. While the Act does not "limit or affect the authority of a State or local government . . . over decisions regarding the placement, construction, and modification of personal wireless service facilities," such enforcement "shall not prohibit or have the effect of prohibiting the provision of personal wireless services."[5] Thus, while Baltimore County retains the right to place reasonable restrictions on the placement of cell sites, the restrictions cannot act to deprive an area of cellular service.[6]

VI. THE SPECIAL EXCEPTION REQUIREMENTS

"Wireless transmitting and receiving structures" are permitted by special exception in D.R.1 zones by operation of BCZR § 1B01.1.C.20. Thus, they are subject to the general special exception requirements set forth in § 502.1 et seq. Additionally they are subject to the more specific requisites of § 502.7. Cellular One has met all of the applicable special exception requirements.

---

[5] The Act provides that the term "personal wireless services" includes "commercial mobile services" such as Cellular One's network.

[6] Indeed, the Act provides cellular carriers with the extraordinary remedy of "commenc[ing] an action in any court of competent jurisdiction" within thirty days of a zoning decision that acts to "prohibit the provision of personal wireless services."

A. Specific Tower Requirements

Section 502.7 sets forth the specific special exception requirements applicable to wireless transmitting and receiving facilities to be located in residential zones. It is important to note that such facilities are permitted in residential zones if the various requisites are met. Accordingly, the protestants' argument that the proposed facility is somehow "inappropriate" in a D.R.1 zone is rebutted by the clear language of the BCZRs.

1. Diligent Search[7]

Section 502.7.C.1 provides as follows:

> Petitioner shall have the burden of establishing that it has made a diligent search for a location within a business, office or industrial zone, or for mounting on any existing structure over fifty (50) feet in height and that, due to valid considerations, including, but not limited to: location, economic, elevation, engineering or technologic feasibility, no appropriate location is available.

It is important to distinguish what § 502.7.C.1 requires from what it does not require. Section 502.7.C.1 requires only two things. A petitioner must first show that it diligently searched for a location within a non-residential zone or on an existing structure over 50' in height. It must also show that some "valid considerations, including, but not limited to" those set forth above render any non-residential properties or existing structures inappropriate. The petitioner need not demonstrate that the proposed location is the best or only conceivable

[7] Section 502.7.A is facially inapplicable to this case because it "does not apply to a wireless transmitting or receiving facility which is . . . [n]ot higher than three hundred fifty feet above grade level." § 502.7.B.

MICROFILMED

location for the facility. The petitioner need not demonstrate that one residential parcel is somehow "better" or more appropriate than another.[8]

The search area map was given to Cellular One's real estate consultant, George Meeker, in November of 1994. Ex. A at 195. Mr. Meeker drove the area to locate all tall existing structures. He located seven sites with buildings of some size as well as the only non-residentially zoned parcel in the search area, Greenspring Station. All of these sites were considered and rejected by Cellular One for the reasons described below. Mr. Meeker's search did not end until late 1995, when he located the Site, which was approved by Cellular One's engineering department. Ex. A at 195.

2. There are no appropriate non-residential parcels in the area

The only non-residentially zoned property in the search area is the Greenspring Station, which is a retail and business area to the extreme north of the search area.[9] Indeed, most of the property is located outside of the search area. A high ridge with elevations of 500' above sea level runs between Greenspring Station and the troublesome service area of I-695 west of I-83. See Ex. B at 59-60; Ex. C. Greenspring Station itself is at an elevation of approximately 300'-320' above sea level. Ex. B at 56; Ex. C. In light of these height disparities

---

[8] At the close of the hearing, Peoples' Counsel submitted certain documents purporting to evidence the legislative history of the special exception requirements specific to cell sites. The language of § 502.7 is clear and unambiguous on its face. At no point did counsel argue that the statutory language is ambiguous. See Buckman, supra at 523 ("when there is no ambiguity or obscurity in the language of a statute, there is no need to look elsewhere to determine the intent of the legislative body). See also Crawley v. General Motors Corp., 70 Md. Ap 100, 105-106, 519 A.2d 1348 (1987) (if the language of a statute is clear, "the inquiry ends" and a court should not review committee reports, etc. in the absence of ambiguity). Even if the Board determines to look at the purported committee reports, etc., such reports do not in any way alter Cellular One's entitlement to the requested special exception and variances.

[9] Greenspring Station is shown on Ex. C as search area candidate number 1.

MODIFIED

and the essential "line of sight" nature of the technology, any structure constructed on the Greenspring Station property would need to be at least 250'-275' above ground level in order to function.[10] Ex. B at 34.

A communications tower in excess of 250' in height is significantly more onerous than a 165' monopole. A tower over 250' would be a three or four legged "lattice" structure, lighted and probably painted red and white to comply with Federal Aviation Administration guidelines. Ex. B at 35. Cellular One rightfully rejected the notion of constructing a 250'+, three-to-four sided, lighted, red and white lattice tower in the gateway to the Greenspring Valley. The need for such a large structure demonstrates that the site is inappropriate due to its location, low elevation and the technologic and engineering difficulties associated therewith.

Moreover, even if the site was otherwise appropriate, Cellular One cannot locate any tower on the property by operation of the Zoning Commissioner's order in Case No. 87-177-XSPHA, in the record as Appellant's Exhibit No. 5. The order provides:

> Cellular One shall not propose any other communication tower within the area of concern defined by [the] Valleys Planning Council, i.e, within the geographical area bounded by the Baltimore-Harrisburg Expressway on the east, the Western Maryland Railroad on the west, the south side of the Green Spring Valley ridge line on the south, and on the north, generally, by an arc between Glyndon on the west and the interchange of the Harrisburg Expressway and Belfast Road on the east."

Quite clearly, Greenspring Station is located squarely in the "no tower zone" imposed by Case No. 87-177-XSPHA. Ex. A at 62.

---

[10] As explained below, the approximate 50' height of the existing buildings at Greenspring Station renders them far too short to accommodate building or roof-mounted antennae.

3. There are no existing structures in the area upon which a cell site can be mounted

The entire area, not merely the search area, is comprised almost exclusively of residential uses. Not surprisingly, therefore, there are few structures of any significant height in the area. In fact, with the exception of several BGE high power towers, there were no structures identified at the hearing in excess of 50'-60' in height. Given the elevation requirements discussed above, none of the existing structures in the area are of sufficient height to support a viable cell site.

a. Greenspring Station

Greenspring Station is improved by several buildings of approximately five stories. Ex. A at 179. These buildings, approximately 60' in height, are nowhere near tall enough to provide coverage to the area, particularly beyond the 500' ridge to the southwest. Ex. B at 34. Rather, as explained above, any antennae mounted at the site would require an above ground elevation of at least 250'-275'. Ex. B at 34. Moreover, the site is within the "no tower zone." Ex. A at 62.

b. The SHA Brooklandville Office

Just south of Green Spring Station is the State Highway Administration's Brooklandville facility.[11] This facility is improved by one or two story buildings. Ex. B at 36. Its existing structures are not tall enough to accommodate a cell site, requiring instead the construction of a 250'-275' lighted lattice tower. Ex. B at 36-37. Accordingly, the site's elevation and location, as well as the technologic/engineering

[11] The facility is shown on Ex. C as search area candidate number 2.

impossibility of simply mounting a cell site on the existing structures, render the SHA Brooklandville office infeasible.

Cellular One is under no obligation to demonstrate why it did not attempt to build a freestanding structure at the SHA Brooklandville office because the parcel, like the Site, is zoned residential. Section 502.7.C.1 requires only a diligent search for non-residential properties and existing structures. The statute does not require a petitioner to demonstrate that one residential lot is somehow a "better" location for a freestanding facility than another. Even so, it is clear that the Site is a better overall location.

The SHA Brooklandville office presents the same location, elevation, engineering and technologic drawbacks as Green Spring Station itself, including the need for a 250'-275,' multi-sided, lighted, red and white, lattice tower. Obviously, such a facility would create a significantly greater visual impact than a 165' monopole tucked away on an undeveloped parcel between two major highways. Further, the SHA Brooklandville office is not a viable candidate because it is located within the "no tower zone." Ex. A at 62.

c. Valley Presbyterian Church

The Valley Presbyterian Church is a relatively large church located just to the northeast of where Joppa Road crosses I-695.[12] The highest point on the property is the church's steeple, which extends approximately sixty feet above the ground. Ex. A at 179. At such a low height, the steeple would not be able to provide adequate coverage to the area. Ex. B at 37. Rather, any antennae located at the site would need to be approximately 165' above ground level to provide sufficient coverage. Ex. B at 39. As the existing structures at the site are

[12] Valley Presbyterian Church is shown on Ex. C as search area candidate number 3.

MICROFILMED

far too short to support a viable cell site, the site was rejected for legitimate location, elevation, engineering and technologic concerns.

Like the Site, the Valley Presbyterian Church property is zoned residential. Although Cellular One need not demonstrate the Site's overall superiority, it is undeniable. First, Valley is in the "no tower zone." Ex. A at 62. Further, any freestanding facility at the church would be similar in size and shape to the proposed monopole. Ex. B at 39. It would be significantly more visible, however, as the church occupies a large, cleared lot. Unlike the Site, which is as remote as a site can be in such a highly developed area, the church is in the immediate vicinity of high density residential housing. Finally and definitively, the church board had no interest in allowing its property to be used as a cell site. Ex. A at 180-181.

d. Trinity Assembly of God

The Trinity Assembly of God facility is located on Joppa Road directly across I-695 from Valley.[13] The factors mitigating against its use are virtually identical to those referenced above for Valley. The tallest structure on the Trinity premises is the church steeple, which is approximately 60' above ground level. Ex. A at 181. As with Valley, the steeple is too short for the location of antennae. Ex. B at 39. In fact, Cellular One has placed a "mini site" on the church steeple that does not provide adequate coverage to the area. Ex. B at 38-39. Given its low elevation and power, the mini site "provides extremely limited coverage [and] some capacity." Ex. B at 39. In order to provide the area with sufficient coverage and capacity, the Trinity site would require a freestanding structure of approximately 165'. Ex. B at 39.

---

[13] The Trinity Assembly of God property is shown on Ex. C as search area candidate number 4.

IMAGE ENHANCED

Like Valley, the Trinity property is zoned residential and its merits relative to the Site are legally irrelevant.. As with Valley, a freestanding structure at Trinity would be far more visible than the proposed monopole and closer to densely populated residential areas.[14]

e. Hunt's Church

Hunt's Church is located at the intersection of Joppa and Old Court roads. Ex. C. Like Valley and Trinity, it is located in the midst of dense residential housing and is zoned residential. Unlike Valley and Trinity, however, Hunt's Church is located on a small lot. Although Cellular One's real estate personnel looked at Hunt's Church, they determined that it simply did not have enough property to accommodate a cell site. Ex. A at 181-182. Even if the site was physically capable of housing the necessary equipment, the existing structures were far too short for a viable cell site. Ex. B at 40. A cell site at Hunt's Church would need to be approximately 165' above ground level. Ex. B at 40. Thus, even if the site could accommodate a cell site, it would be subject to the same drawbacks as both the Valley Presbyterian and Trinity sites.

f. Brooklandville Fire Station

Located on Falls Road just south of Old Court Road, the Brooklandville Fire Station is improved by a one or two story building and a short pole.[15] Ex. B 41. Neither structure is of sufficient height to support a viable cell site. Ex. B at 41.

---

[14] Counsel's suggestion that perhaps Trinity's residential neighbors might welcome a monopole in their neighborhood was, at best, imaginative, particularly in light of the fact that the local community association recently appealed the church's efforts to obtain a variance for a sign all the way to the Court of Appeals. Ex. A at 199-200.

[15] The Brooklandville Fire Station is shown on Ex. C as search area candidate number 6.

Additionally, the property is zoned residential and is located within the Rockland Historic District.

In order to function, the site would require a freestanding structure. Ex. B at 41. Even if such a structure could be erected, the site is inappropriate from location, elevation, engineering and technologic standpoints because it is beyond the search area's southern boundary. Ex. B at 41. Accordingly, a cell site there would not provide sufficient coverage to the northern portion of the problem area, thereby creating the need for at least one more cell site in the area. Ex. B at 41-43. Further, such a site would overlap with Cellular One's facility in the Bare Hills area to the south, causing unnecessary duplication of coverage and even interference with the Bare Hills site. Ex. B at 43. Finally, the fire station itself is located in the Rockland Historic District and a freestanding structure there would be highly visible from most, if not all, of the nearby historic properties.

g. The Cloisters

The Cloisters is a historic mansion located to the north of the Site almost at the top of the 500' ridge marking the Greenspring Valley's southern border.[16] Ex. C. The property is zoned residential. It is improved by a two-three story mansion. The mansion itself is too short to accommodate a cell site. Ex. B at 44. The site is, therefore, infeasible for legitimate location, elevation, engineering and technologic reasons.

To provide adequate coverage, Cellular One would require a freestanding facility of 80'-100 in order to clear the trees on the ridge. Ex. B at 44. Even if such a structure could be built, its location on the highest point of land in the area would create interference problems with Cellular One's other sites. Ex. B at 44-45. Further, any such

[16] The Cloisters is shown on Ex. C as search area candidate number 7.

structure would be significantly more visible than the proposed site, given the Cloisters' elevation of approximately 500.'

A hypothetical Cloisters site is no more than an interesting thought. The property was bequeathed to Baltimore City subject to strict deed restrictions limiting its use. Ex. A at 137 and 182-183. Further, the property is a historic site. Finally, the property is within the "no tower zone." Ex. A at 62.

h. Other Existing Structures

In addition to the structures discussed above, Cellular One also assessed the viability of locating a cell site at either the Brightwood facility or on one of the existing BGE transmission towers in the area. Neither option was viable.

Brightwood is a residentially zoned retirement community located immediately to the southeast of the Site. It consists primarily of single family homes with one or more low-rise buildings. Ex. A at 75-76. None of these buildings approaches the 165' height necessary for a cell site in the immediate area. Ex. B at 45-46. Any freestanding facility located on the Brightwood facility would actually be closer to Falls Road and, therefore, more visible from local residences.

The overall area is laced with BGE transmission towers. The tallest of these structures is approximately 130' in height. Again, such a structure falls well below the height required to locate a successful cell site. Ex. B at 46. In fact, of all the candidate sites, none would function at an above ground elevation below 165' due to the local topography.

Simply put, there are no existing structures in the area upon which Cellular One can mount equipment and solve the coverage and capacity problems. Ex. B at 46-47. Notably, Mr. Jimreivat's testimony on this issue was undisputed. Further, neither the

UNOFFICIAL

protestants nor Peoples' Counsel suggested any other existing structures that should have been considered; a testament to the thoroughness of Cellular One's diligent search.

3. Setbacks and five acre requirements

Subsections 502.7.C.2 and 3 provide for specific setback requirements and a minimum five acre lot size, respectively. These requirements cannot be met at the Site and are the subject of the variance requests discussed below. Section 502.7.C specifically contemplates that its subsections will require variances, stating that "nothing herein shall be deemed to prohibit the granting, where appropriate, or [sic.] variances from [502.7.C]'s requirements... ." [17]

4. Additional specific requirements

Subsections 502.7.C.4-9 set forth additional requirements that can be addressed as a group for the sake of economy.

a. Will the site be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high?

Yes. Ex. A at 38.

b. Has a landscape plan been submitted?

Yes. Ex. A at 84.

c. Will the site meet applicable federal standards and guidelines relating to radiation emissions?[18]

---

[17] It is significant that the statute itself contemplates the need for variances. Indeed, George Gavrelis, an acknowledged expert in planning issues with over twenty-five years of experience in the field, testified that he was unaware of similar language appearing anywhere else in the BCZRs. Ex. B at 139.

[18] Congress has delegated the task of regulating emissions to the FCC by operation of the Telecommunications Act of 1996. The Act forbids local zoning authorities from denying a cellular zoning application on the basis of health concerns if the FCC guidelines are met. Mr. Jimreivat testified that the site would comply with all applicable guidelines.

RECEIVED

Yes. Ex. B at 47.

d. Will the structure be removed when the use is terminated?

Yes. Ex. B at 48.

e. Will Cellular One produce a structural engineer's certificate in compliance with § 502.7.C.8 every five years and otherwise comply with the section?

Yes. Ex. B at 48.

f. Will the site be lighted in any fashion?

No. Ex. B at 48-49.

5. Environmental impact statement

Daft, McCune, Walker ("DMW") prepared, and Cellular One submitted as Appellant's Exhibit 6, an environmental impact statement in conformity with § 502.7.C.10. As required, the statement addresses the issues set forth in BCZR § 101's definition of "environmental impact statement." The document speaks for itself and amply demonstrates that the proposed facility will have no impact, much less a "substantial impact," on the surrounding environment.

Peoples' Counsel attempted to argue that DMW failed to consider the proposed facility's impact on the area's historic structures in the environmental impact statement.[19] Historic issues are discussed in detail below and will not be repeated here in the interest of economy. It should be observed that the necessary contents of an environmental

[19] As explained below, the historical issues raised by the protestants amount to a tempest in a teapot. DMW did extensive testing to determine the potential visibility of the site from a number of areas, including the local historic districts. Thus, historical impact, in the form of visibility, was considered and determined to be negligible. The protestants presented no evidence to contradict DMW's findings with respect to visibility except unsupported assertions of belief that the monopole "might" be visible from certain locations.

impact statement are prescribed by §101. Section 101 does not require a discussion of historic issues. Rather, it is concerned with truly "environmental" matters, such as physical impact on plant and animal life, etc. The interaction of historical concerns with cellular site location is specifically covered in and governed by §§ 502.7.A and B. These sections limit cell site location with respect to historic areas. By operation of § 502.7.B.1, however, the limitations apply only when the proposed structure exceeds 350' above ground level. This legislative determination cannot be undermined by an overexpansive reading of the "environmental impact" standards set forth in § 502.7.C.10. Indeed, expanding § 502.7.C.10 to include historical concerns would render § 502.7.A mere surplusage, a practice that violates basic tenets of statutory construction. Montgomery County v. Buckman, 333 Md. 516, 524, 636 A.2d 448 (1994).

6. Property value issues

Section 502.7.C.11 specifically requires a consideration of whether a proposed cell site will have "a substantial adverse impact on surrounding property values . . . ." At the hearing, Cellular One presented the testimony of the area's most well known real estate valuation expert, M. Ronald Lipman. Mr. Lipman's methodology and findings are set forth in his report, which was introduced as Appellant's Exhibit 8. Exhibit 8 also contains Mr. Lipman's resume. Clearly, the value of Mr. Lipman's expertise has been recognized by numerous judicial and administrative bodies. His client list is a virtual "who's who" of Maryland, and indeed national, business leaders.

To analyze the property value impact of the proposed site, Mr Lipman looked for an area with comparable property values and similar cellular installations. He found a perfect fit in Potomac, Maryland, an extremely affluent suburb of Washington, D.C. with a similar "general character" to Ruxton and even greater property values. Ex. B at 92. As Mr.

Lipman explained, "I chose Potomac because I perceived the subject location to be of high prestige and of particularly high prices and there wasn't another place I could go in Baltimore County to replicate that." Ex. B at 110-111.

The Potomac area has two monopoles similar in size and configuration to the proposed installation. Comparing sales of single family units within 1,000' of the Potomac monopoles[20] to sales of single family units more than 1,000' from the poles (nearly 400 overall), Mr. Lipman found absolutely no statistical difference in the sales prices between the two groups. Ex. B at 95. In other words, the units closer to the poles had identical property values to similar units further away.

Applying the results of the Potomac study and his intimate knowledge of the greater Ruxton area to the instant case, Mr. Lipman determined that the construction "of a 165' monopole [at that site] will have absolutely no impact on property values in the neighborhood." Ex. B at 98. Mr. Lipman further explained that residential real estate consumers already are accustomed to an environment that includes similar structures that are often more visible, such as brown wooden telephone poles. Ex. B at 93-94, and 107.

Anticipating the concerns of the Site's closest residential neighbor, Mr. Lipman specifically addressed the property value issues applicable to the adjacent Lidie property. Mr. Lidie's property line is approximately 220' from the base of the proposed monopole. Ex. A at 35 and 37. Mr. Lidie's house sits an additional 50'-60' back from the property line. Ex. A at 39. The Lidie property is significantly burdened by existing factors which hold its value well

[20] Several of the units "were located literally the next lot adjacent to the monopole site." Ex. B at 124.

MICROFILMED

below those of other properties in the area. Addressing those burdens and the impact of the proposed monopole, Mr. Lipman testified as follows:

> Mr. Lidie, respectfully Mr. Lidie, you are located now in an area that has already been impacted by the Jones Fall Expressway to your immediate east, the ramp from the Baltimore Beltway to the north, a [66] foot power line easement running along the north/south [axis] just west of you which supports a 130 foot lattice work or, if you will, erector set transmission line.
>
> You enter your property off Brightwood Road from Falls Road at which point my photo suggests you look at 35 or 40 foot brown wood telephone and electric poles which are not attractive.
>
> You are already visually impacted. This [proposed facility] will have no — this will bring nothing new to the table in terms of the way the market will perceive your property when it goes to value it, if you decide to sell it.

Ex. B at 99-100.[21]

7. Parklands and open space

The proposed facility will not be near or on any parklands or open space. To the extent that any such uses exist in the area, the extremely minimal visibility of the proposed facility, as discussed above, would create no impact. See also Ex. B at 150-151.

B. General Requirements

The requisites of many of the general requirements are addressed in the discussion of the more specific requirements above. For the sake of brevity, Cellular One will incorporate prior arguments and evidence where appropriate.

---

[21] Mr. Lipman could have added Mr. Lidie's own admission that he can see (and hear) both I-695 and I-83 from his property, as well as road signs on both interstates and two of the BGE lattice towers. Ex. A at 147-148, and 167.

UNOFFICIAL

1. The Proposed Cell Site Will Not Be Detrimental to the Health, Safety, or General Welfare of the Locality

As discussed above, the site will have no impact on the health, safety or welfare of the overall area. Further, it will not affect, substantially or otherwise, surrounding property values. Rather, it will be a low impact use.

Indeed, the only imaginable impact associated with such a site stems from its visibility. DMW has conducted a thorough investigation of the site's potential visual impact. The unimpeachable result of this investigation was that the site will have virtually no visual impact on the surrounding area.

The highest point of the monopole will be 165' above ground level. To measure the visual impact of a structure with such height, DMW performed a "balloon test" at the subject site on November 24, 1996. Ex. A at 66. Mr. Morelock explained the basic nature of the balloon test as follows:

> We have the tower location marked on the ground and we raised the balloon from that point to the specified height, and then we drove the area on other roads to see where we can see the balloon from and that gives us a very good idea of the places that the tower will be visible from.

Ex. A at 66.

The balloon itself is approximately 9-10 feet in diameter and is red. Ex. A at 66-67. On the date in question, the bottom of the balloon was flown at a height of 165' "so the bottom of the balloon would be at the top of the tower." Ex. A at 67. As the balloon test took place well into the fall, the surrounding foliage provided the least possible screening of the

balloon. Further, there was no wind on that day and the balloon flew at the full height of 165'. Ex. A at 66-67.[22]

After the balloon was flown, Mr. Morelock drove the entire area around the site and took pictures from locations where the balloon was visible. Ex. A at 68. Those locations were plotted with dots on the aerial photograph introduced as Appellant's Exhibit 1. Areas from which the balloon was not visible were omitted. Ex. A at 68-69.[23]

Mr. Morelock testified that, as a general proposition, the balloon was visible only from areas where significant vegetation already had been cleared away. Ex. A at 72-73. For example, the balloon was visible from the 66' wide BGE high tension tower right-of-way running through the Ruxton area. Ex. A at 69. Of course, all of the BGE transmission towers are visible as well from the right-of-way. Ex. A at 69. The facility also will be visible from some locations on I-83 and/or I-695. Ex. A at 69.

With respect to the residential areas, however, the site will be visible only from a small number of specific areas where a sight line has been cleared through the existing vegetation. As Appellant's Exhibit A demonstrates, the balloon was visible for a short period of time when Mr. Morelock was traveling southbound on Falls Road just north of the Valley Inn. The site was visible because of the "view corridor" created by the BGE right-of-way. The view is only momentary. Ex. A at 73. The balloon was visible again for a short period further south on Falls Road where it crosses I-695. Ex. A at 73. As depicted in Appellant's

---

[22] As Mr. Morelock testified, the test would not have taken place on November 24, 1996 if there had been wind because of the site's "proximity to the high tension lines." Ex. A at 67.

[23] Obviously, no one can definitively identify each location from which the cell site might be visible. The intent of the DMW test was to establish the potential visibility of the site from the public roads. Ex. A at 69.

Exhibit B, the balloon was visible approximately 800' away while Mr. Morelock was passing over I-695. Ex. A at 74. The view was ended by the woods on Brightwood Parcel B as soon as Mr. Morelock reached the other side of the bridge. Ex. A at 74.

Appellant's Exhibit 7C demonstrates that the balloon was visible from the intersection of Falls Road and Brightfield Road. Ex. A at 74. At that location, the balloon was approximately 1,000' from the roadway. Again the visibility was limited only to the area of Brightfield Road and existed solely because "the trees have been taken out because of the road construction, so there is a view corridor back to where the proposed cell site will be." Ex. A at 74.

Mr. Morelock continued driving south on Falls Road. Once he was beyond the intersection of Brightfield and Falls roads, the balloon was not visible at any point all the way down to the Rockland area at the intersection of Old Court and Falls Roads. Turning around and heading north from Rockland, the first time Mr. Morelock was able to see the balloon was immediately prior to the intersection of Falls and Brightfield Roads for the same reasons set forth above. Ex. A at 75. At no time was Mr. Morelock able to see the balloon from, or even near, the Rockland historic area, either northbound or southbound on Falls Road. Ex. A at 75.

Having covered the western side of the Site, Mr. Morelock evaluated the view from the north by traveling east on Joppa Road. As Appellant's Exhibit 7D demonstrates, the balloon was visible from the SHA offices located at the intersection of Joppa and Falls Roads because the SHA facility is located on and around the BGE right-of-way. Ex. A at 76. The SHA Brooklandville facility is approximately 3,900' from the proposed site. Continuing east on Joppa Road, the only place Mr. Morelock could see the balloon was from the Joppa Road bridge over I-

MICROFILMED

695. Ex. A at 77. At no other place along Joppa Road was Mr. Morelock able to see the balloon. Ex. A at 77.

To obtain a view from the east, Mr. Morelock turned off of Joppa Road onto Old Court Road heading in the direction of Ruxton Road. Appellant's Exhibit 7F demonstrates an area where vegetation was cut out for road construction from which the balloon could be seen. Ex. A at 78. Next Mr. Morelock went into the Ruxton Hill development in the same general area to determine whether the balloon could be seen from there. Generally, the balloon was invisible from the neighborhood but for a view at the end of a cul-de-sac on Rockland View Court, approximately 1,700' away from the proposed site. Ex. A at 79. It should be noted that the balloon could be seen at this point only by looking across Old Court Road, the Jones Falls Expressway, and the JFX entrance ramp from Ruxton Road. Ex. A at 79. Mr. Morelock continued onto Ruxton Road where the balloon was visible for a brief moment intertwined with the BGE power lines. Ex. A at 79. See also Appellant's Exhibit 7G.

As People's Counsel pointed out, Mr. Morelock did not ascend to the second story of every residence in the area to determine the visibility from each such structure. It is fair to say, however, that the balloon test provided an accurate depiction of the overall visibility of the proposed monopole from the various residential areas surrounding the Site. Simply put, except for a handful of locations from which the top of the monopole will be visible due to the elimination of vegetation, the proposed tower will be virtually invisible to most of its neighbors. The protestants provided no evidence to contradict DMW's findings. To the contrary, the protestants testified only about their concerns that the monopole might be visible from certain locations. Tellingly, not one of the protestants testified that he or she observed the red balloon flying on November 24, 1996.

MICROFILMED

2. The Site will not create congestion

The proposed cell site will be unmanned. It will be visited approximately once monthly by a technician. Ex. B at 84. Accordingly, the site will create no roadway congestion.

3. The Site will not create a fire hazard or other danger

Cell sites pose no fire danger. Ex. B at 48. Even so, they are monitored electronically for heat build-up Ex. B at 48. Further, the site will not emit any energy in excess of federally-established guidelines. Ex. B at 47. Thus, there is no basis to label the proposed site as a hazard of any kind.

4. The Site will not create population burdens

As explained above, the cell site will be unmanned. It will not cause overcrowding or undue concentration of population.

5. The Site will not burden public facilities

The cell site "has no need of any utilities, except electricity and telephone service." Ex. A at 84. Further, the Site is unmanned and will have no impact on schools, etc.

6. The Site will not interfere with adequate light and air

The only portion of the proposed installation that will be visible to anyone will be the very top of the monopole. The monopole is a slender structure. It simply will not have any impact on the "adequate light and air" in the area.

7. The Site will not be inconsistent with the property's zoning classification or otherwise with the spirit and intent of the zoning regulations

Cell sites are allowed as special exception uses in DR zones. Accordingly, the County Council has made the legislative determination that they are "consistent with the property zoning classification." Given the amount of residential zoning in Baltimore County, a finding that the placement of a cell site in a residential area is somehow inconsistent with the residential zoning classification would render significant portions of the County simply inaccessible to cellular carriers and their customers. Again, such an interpretation would run afoul of the Telecommunications Act. Further, in the case of cell sites, the BCZRs specifically address the steps a cellular carrier must take to properly locate a cell site in a residential area. Clearly, therefore, as the particular use is contemplated and regulated by the BCZRs, it is within the spirit and intent of the regulations.

As a further and final matter, the particular siting of this cellular facility will have virtually no impact on the surrounding residential area. It is, indeed, difficult to imagine a more benign special exception use. In light of the Court of Appeals' Schultz v. Pritz decision discussed above, it is clear that Cellular One's proposal meets the Court's definition of an acceptable special exception use. Thus, in light of the factors discussed in the Schultz v. Pritz case, the proposed facility is in harmony with the BCZRs.[24]

8. The Site will not be inconsistent with the impermeable surface and vegetative retention provisions of the BCZRs

Simply put, the Site will create no impermeable surface issues. Ex. A at 84.

---

[24] A further discussion of the "spirit and intent" issue is set forth below with respect to the requested variances.

VII. VARIANCE ISSUES

The proposed installation will require two types of variances. First, § 502.7.C.2 requires that the monopole must be set back from the nearest property line a distance equal to two times the monopole's height. In this case, the monopole's 165' height requires a set back of 330.' The proposed monopole will be 90' from the nearest property line, the uninhabited and undevelopable Brightwood Parcel B. Additionally, § 502.7.C.3 requires a minimum lot size of five acres. The Site is a three acre parcel. Cellular One has requested variances from these requirements.

Before turning to the specific variance requirements, it is important to note that § 502.7.C affirmatively contemplates the appropriateness of variances for cellular installations in residential areas. As the section states, "nothing [t]herein shall be deemed to prohibit the granting, where appropriate, or [sic.] variances from such requirements" set forth in 502.7.C's subsections, including subsections 2 and 3. Thus, the County Council recognized that the specific cell site-related requirements, including set backs and lot size, could be varianced. As Mr. Gavrelis testified, § 502.7.C appears to be the only portion of the BCZRs mandating set backs and similar requirements that specifically contemplates the need for variances. Ex. B at 139. Accordingly, the argument raised by several of the protestants that the variance requests, themselves, were somehow contrary to the spirit and intent of the BCZRs is contrary to the very language of § 502.7.C.

The appropriate variance standards are set forth in BCZR 307.1. The section provides the Board with the power to grant variances in situations "where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where compliance with the [BCZRs] would result in practical difficulty or

MICROFILMED

unreasonable hardship" Further, "any such variance shall be granted only if in strict harmony with the spirit and intent of [the requirement to be varianced], and only in such manner as to grant relief without injury to public health, safety, and general welfare."

A. Special Circumstances Peculiar to the Site

The Site is truly unique in both the colloquial and legal senses of the word. It is irregularly shaped. Its unusual configuration resulted from various State takings for highway construction. It sits at the intersection of two major interstate highways. It is bounded on the west by an undevelopable, uninhabited wooded parcel that has been stripped of its density.

The site is burdened by at least the following encumbrances to development:

- 1.87 acres is consumed by the Jones Falls and its associated flood plain
- .3 acres is consumed by the mandatory 20' flood plain buffer
- .31 acres is consumed by a perpetual stream location easement imposed by the State Highway Administration
- 1.64 acres is consumed by the D.R. residential setback requires
- .69 acres is consumed by a Baltimore County sewer line easement
- 1.3 acres is consumed by a wooded area

The Site is further encumbered by a 66' wide BGE utility easement that runs the full length of the Site from south to north, which is cleared of all significant vegetation and is improved by a 130' tall, "erector set"-type high tension tower with associated power lines.

When all of these restrictions are factored together, only .27 acres of the total Site is available for development. It is in this small area that the proposed Cell site will be located.

RECEIVED

It is difficult to conceive of a property more unique in size, shape or encumbrances. Indeed, as Mr. Gavrelis testified, the Site "has an extraordinary set of limitations affecting how development can occur on it." Mr. Gavrelis continued: "[i]t is unique and different from any other property in the area." Ex. B at 142. In fact, the Site is a literal textbook example of a property that meets the legal definition of "uniqueness" which is embodied in the "special circumstances" test in the BCZRs.[25]

B. Strict Compliance Will Result in Practical Difficulty or Unreasonable Hardship

Given the encumbrances described above, the Site's location at the nexus of two major interstate highways, the looming possibility of additional State takings and all of the other factors that make the Site highly unusual, it is virtually undevelopable for any purpose other than that proposed by Cellular One. Accordingly, if the Board refuses to grant the requested variances, it will leave Mr. Hatfield with a property that effectively has no value. Such a result would be particularly onerous in light of the fact that the property's current unique configuration was created by State takings over which Mr. Hatfield had no control.[26]

Further, as Mr. Gavrelis testified, "strict compliance with the regulations would, in effect, prevent the use of this property for an otherwise permitted special exception

---

[25] Clearly, the uniqueness of the Site itself complies with the Court of Special Appeals' standard as set forth in Cromwell v. Ward, 102 Md. Ap 691, 651 A.2d 424 (1995).

[26] Peoples' Counsel attempted to argue at the hearing that the hardship arising from the State's takings was somehow self-inflicted because Mr. Hatfield may have been compensated by the State for the takings. This argument is patently ludicrous. Under Maryland law, self-inflicted hardship is defined as hardship which is "the result of the applicant's own actions." Cromwell v. Ward, 102 Md. App. 691, 721, 651 A.2d 424 (1995). The State took Mr. Hatfield's property by virtue of its sovereign power of eminent domain. If the State compensated Mr. Hatfield, it was because the Constitution required it to do so. That such takings could be considered Mr. Hatfield's "own actions" defies logic.

RECEIVED

use." Such a result would prevent Cellular One from utilizing the property for use that is necessary and beneficial to all of the citizens of Baltimore County and specifically contemplated by the BCZRs. Such practical difficulty would be compounded by the fact that the site is "the only site south of the Baltimore Beltway that seems to be available in the first place." Ex. B at 144.

C. The Site is Within the Spirit and Intent of the BCZRs

As Mr. Gavrelis testified, BCZR 502.7.C specifically contemplates the likelihood that variances will be required in residential cellular applications. Accordingly, since the zoning regulations themselves contemplate the need for such variances, it is clear that the requested variances are within the spirit and intent of the BCZRs.

Moreover, it is clear from all of the testimony in this case that the site in question will be the least onerous place for such a facility to be located in the greater Ruxton area. It effectively has no neighbors on three sides. It has only one adjoining residential neighbor, whose property line is at least 220' from the proposed monopole and is screened by a significant stand of trees. The Lidie property is, itself, already sufficiently encumbered by natural and man-made features that the addition of the proposed monopole will have no impact on it. It is certainly within the spirit and intent of the application BCZRs that the monopole will be placed in the least onerous location within the necessary service area.[27]

[27] It should be noted that, in light of the numerous constraints present at the Site, the facility cannot be reconfigured to reduce the requested variances. Ex. A at 50-51.

D. The Site Will Cause No Injury to Public Health, Safety, and General Welfare.

Health, safety and welfare issues have been discussed above at length. It is clear that the site simply will have no impact whatsoever on the health, safety and welfare of local residents.

VIII. PROTESTANTS' ISSUES

Most of the protestants' testimony concerned the visual impact of the Site and issues relating thereto. As visual impact, and impact generally, have been discussed above in great detail, the arguments will not be reiterated here. The only significant issue of protestants' concerns not raised above involves historical considerations.

The protestants repeatedly raised the "historical character" of the area as a basis for their opposition. Indeed, Peoples' Counsel presented the testimony of Ruth Mascari, the chairperson of the Landmarks Commission, to testify about the area's historical significance. There is, undoubtedly, much historical value to the area. There is also no evidence to support a finding that the area's historical value will be impacted by the proposed site. Again, the Board should bear in mind that the proposed cell site will be virtually invisible from most of the nearby residential areas. Further, the Site itself is directly adjacent to both I-695 and I-83. The monopole will stand within a stone's throw from a significantly more onerous BGE electrical tower. It is difficult to imagine how a virtually invisible monopole located mere feet from two major interstate highways could ruin the historical character of the surrounding area.

As an initial matter, it must be observed that the proposed cell site will not be located in any governmentally-recognized historic district. The only such districts in the area are the Greenspring Valley district to the north and the Rockland district to the south. Accordingly,

MICROFILMED

there is no legal basis for challenging the site's location due to historical factors. The legal issues associated with siting a cellular facility near historic areas are addressed in § 502.7.A. That subsection limits the placement of such facilities near certain designated historic areas, including the Greenspring Valley historic district. By operation of 502.7.B.1, however, "[p]aragraph 502.7.A does not apply to a [cell site] which is ... [n]ot higher than fifty feet above grade level." The protestants cannot override the legislative consideration of historical issues by trying to characterize historical concerns as being significant under the BCZRs' more generalized "health, safety and welfare" type of requirements. The same is true of Peoples' Counsel's efforts to rehabilitate the issues as somehow being "environmental." The County Council has enacted specific zoning regulations governing the placement of cell sites near historical districts. It is "a cardinal rule of statutory construction that specific terms prevail over the general language of a statute." DeJarnette v. Federal Kemper Ins. Co., 299 Md. 708, 718, 475 A.2d 454 (1984). Further, no statutory construction should be adopted which renders a statutory provision a nullity. Buckman, supra at 523-524.

As an additional matter, the protestants' definition of "historical" is so broad that, if adopted, it would effectively eliminate cellular carriers' ability to provide service to vast areas of the County. Ms. Mascari testified that all of Falls Road, from Old Court Road north to its terminus at Middletown Road, is a "historic corridor." Ex. B at 195. She further testified that no cellular facility should be constructed anywhere where it could be visible from a historic structure or a historic site. Ex. B at 196. This is particularly telling because Ms. Mascari's definition of historic structure/site is extremely broad. In fact, she testified that the entire area has historical significance because a Confederate raiding party once passed through the area and "may" have stopped there. Ex. B at 187. She went even further by asserting that any area of

MORTLED

organized troop movement would be "historically significant." Ex. B at 199-200. Given the number of historic structures and historic sites, by Ms. Mascari's definition, strewn throughout Baltimore County and indeed throughout Maryland, an adoption of her opinions on tower siting would leave whole regions without cellular coverage and certainly run afoul of the Telecommunications Act.

Ms. Mascari's definition of adverse impact also was extremely broad. She testified, for example that any "20th century intrusion" into a historic area, including the construction of a new home, would have a "negative impact" on the historic area. Ex. B at 198. She also testified that a cellular structure could negatively impact an area even if it could not be seen from the area. When asked whether such a structure could negatively impact an area "possibly if it can't be seen," Ms. Mascari replied: "It may have other acrutirments [accroutrements] we don't like." Ex. B at 202.[28]

Finally, the only empirical evidence presented to the Board as to the monopole's visibility, the balloon test, demonstrated that the monopole will be largely invisible throughout the area and will have no impact on the area's two recognized historic districts. With respect to Rockland, Mr. Morelock testified that the balloon was not visible from the Rockland area. Ex. A at 75. As for the Greenspring Valley district, Mr. Morelock testified that visibility north of I-695, the district's southern border, was limited to the Valley Inn parking lot, and the Falls Road bridge over I-695, and the SHA Brooklandville facility. Ex. A at 72-73. These areas are already exposed to the sights and sounds of both I-695 and I-83. Further, they have view corridors

[28] In fairness to Ms. Mascari and her views on historical impact, it should be noted that she was not present for the balloon test evidence. Accordingly, she based her opinions on her best guess as to the monopole's visibility. She was unaware, for example, that the monopole would not be visible from Rockland because of the local topography.

created by the BGE power towers and lines. Concerning the Valley Inn itself, it cannot be overlooked that the property is owned by Mr. Hatfield, who owns the Site.

IX. CONCLUSION

For the foregoing reasons, Cellular One respectfully requests that its petitions for special exception and variances be granted.

Respectfully submitted,

Karl J. Nelson
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202-3201
(410) 752-6030

Counsel for Appellant, Washington/Baltimore
Cellular Limited Partnership

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 1997, copies of the foregoing Brief of Washington/Baltimore Cellular Limited Partnership in Support of Its Petition for Special Exception and Variances were mailed, first class, postage prepaid to:

Peter Max Zimmerman, Esquire
People's Counsel
Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

and

Mr. Wesley A. Lidie, Sr.
516 Brightfield Road
Baltimore, Maryland 21022

Karl J. Nelson

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

January 29, 1997

HAND-DELIVERED

Robert O. Schuetz, Chairman
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: John A. Hatfield, Jr. and
Elizabeth S. Proutt--Petitioners
Case No. 96-360-XA

Dear Mr. Schuetz:

Enclosed please find the original and three copies of the Brief of Washington/ Baltimore Cellular Limited Partnership in Support of Its Petition for Special Exception and Variances to be filed in the above-referenced appeal.

Thank you for your attention to this matter. Do not hesitate to contact me should you have any questions.

Very truly yours,

Karl J. Nelson

KJN:jes

Enclosures

cc: Mr. Wesley A. Lidie, Sr. (w/encl.)
Peter Max Zimmerman, Esquire (w/encl.)

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE

220' PAST N/E END OF BRIGHTFIELD ROAD
1080' FEET NE OF FALLS ROAD
220' SW OF I-83

JOHN A. HATFIELD, JR. AND
ELIZABETH PROUTT - PETITIONERS

BEFORE THE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

CASE NO: 96-360-XA

PEOPLE'S COUNSEL'S POST-HEARING MEMORANDUM

Statement of the Case

John A. Hatfield, Jr. and Elizabeth Proutt, property owners, petitioned for a special exception and for variances to minimum 5-acre lot size and to residential property line setback (twice the height of the facility) standards for a wireless transmitting and receiving facility. The location is Brooklandville, east of Falls Road and just inside the beltway at the I-83 intersection. The petition also lists Washington/Baltimore Cellular Limited Partnership dba "Cellular One Washington/Baltimore" under the line "Contract purchaser/lessee."

On May 30, 1996, the Deputy Zoning Commissioner denied the petition. Upon a de novo appeal (Charter Sec. 603, Code Sec. 26-132), the County Board of Appeals held two days of hearing, received testimony and documentary exhibits, and requested memoranda.

Along with People's Counsel, there appeared testifying in opposition two community associations --- Ruxton-Riderwood-Lake Roland and Rockland --- a number of individual homeowners --- Wesley Lidie, Thomas Bruggman, Pamela Slingluff of Brightwood, members of the Johnson family (descendants of the founder of the historic Johnson estate), Sara Lord,Edith Garrett --- and Ruth Mascari, expert on historic preservation.

Questions Presented

The Petitioners

1. Are the property owners in a legitimate position to request zoning relief?

2. What is Cellular One's interest in the property? Is it in a legitimate position to request zoning relief?

Zoning Variances

3. Whether the property fails the variance test of "uniqueness?"

4. Whether the property fails the "practical difficulty" test?

5. Whether any alleged practical difficulty is self-inflicted?

Special Exception

6. Whether the proposal particularly affects adversely the residential enjoyment of the adjoining property owners --- the Lidies and the residents of Brightwood?

7. Whether the proposal is an unnecessary and unwarranted additional intrusion in an outstanding historic area?

Summing Up

8. Whether the choice of a search area lacking suitable commercial sites or sites of suitable size acceptable to Cellular One is a matter of business planning and convenience subversive of the legislative intent; and whether the reasoning in Evans v. Shore Communications compels denial of the petitions?

MICROFILMED

Statement of Facts

Despite the length and detail of the testimony and exhibits, the facts are relatively simple.

The Property

The property is a polygon of 3.0 acres, partly wooded and on a slight incline. It is northeast of the end of Brightfield Road, a local road running east from Falls Road, the main north-south collector road in the area. Immediately to the south/southeast are the homestead of Wesley Lidie and Brightwood, including housing for the elderly and a convalescent home.

The north boundary is the beltway ramp, which curves south and east along the ramp to I-83. The Jones Falls runs just inside the east boundary. There was evidence of recreational and walking use, and county plans for a linear path in the immediate area.

To the west is an open area owned by the Brightwood elderly housing and nursing home development, including a swimming facility.

The Johnson Estate; Brooklandville; Rockland

Neighborhood witnesses identified the neighborhood as an area of 500-600 acres known historically as the Johnson estate, from which parcels were sold over the years. It is now generally known as Brooklandville. The area further south is also known for the former site of the Rockland Mill, and the historic buildings clustered near the intersection of Falls and Old Court Roads. These form the center of the Rockland National Register Historic District. See PC Exh. 3.

The Valley Inn, The Railroad Station; The Cloisters

Across the beltway to the north is the Valley Inn restaurant. It lies on the east side of Falls Road, at the east end of the Greenspring Valley Historic District. See PC Exh. 2, 9.

UNCONTROLLED

The petitioners (Hatfield/Proutt) own this parcel also. It was joined to the subject property before the beltway was constructed in the 1960s. They also own the property across from the Valley Inn, at the northwest corner of the T-intersection between Falls Road and Hilltop Road. This is occupied by the old railroad station, now in residential use. It adjoins the Cloisters, another historic property, owned by Baltimore City. The State Department of Assesments and Taxation map and computer printouts show the petitioners' and surrounding parcels. See PC Exh. 4-7.

Land Use and Zoning

The predominant land use in the entire area is residential, of low density. There are single-family homes up and down Falls Road, west along Hilltop Road (and on both sides of the beltway). There are other single-family home communities across interstate-83 to the east.

The Brightwood residential community and nursing home is the most substantial residential development in the immediate neighborhood. There are modest offices in restored historic buildings at the Falls/Old Court intersection. The Valley Inn, as noted, is just to the north.

The main zoning in the area is DR-1 (maximum one unit per acre). Even the Valley Inn is on land zoned residential. Upon favorable assumptions, it appears as a nonconforming use.

At the hearing were introduced 1992 comprehensive maps for Brooklandville and Rockland. PC Exh. 2,3. The 1996 maps are now available and are transmitted along with this memorandum. There do not appear to be any changes which affect this case.

History of Property; Easements

There was a good deal of discussion about easements. The gas and electric company has a 1964 right of way, 66 feet wide, running north-south in the area and through the subject property.

One of its series of 125-30 feet high transmission towers is on the property.

There are also listed easements to the State for the highway, and to the county near the stream and floodplain area.

There is in evidence the 1984 deed of inheritance, which reflects the BGE and State acquisitions in the 1960s. (PC Exh. 8).

The important thing to understand is that the BGE and County easements have no bearing on the special exception and variances. They affect neither the lot size nor the setback problems.

To be sure, when the beltway was constructed, it left the predecessors of Hatfield/Proutt with the Valley Inn and other property to the north, and the subject 3-acre property to the south. For this condemnation action, the owners received just compensation. That is reflected on page 2 of the Deed, referring to the Inquisition in the case of State Roads Commission v. John A. Hatfield and Elizabeth A. Hatfield.

The net result is that the family has owned and used the Valley Inn for many years. It also appears that they have owned and enjoyed the old railroad station property. There has never been any effort to develop the subject property for residential use, but there is no evidence to bar such development.

The Position of the Petitioners

The Petitioners Hatfield and Proutt never testified. There is no evidence of any hardship or difficulty on their part. They, and their family, have owned and enjoyed for many years this and a number of nearby properties in the area, without complaint.

Indeed, this case was presented entirely from the point of view of Cellular One. Yet

no one from management testified to any financial hardship or loss. No one even testified to any proposed relationship between Cellular One and the property owners. There was no contract or lease introduced.

Rather, Cellular One presented its senior communications engineer. He claimed that during rush hour about 10-30% of cellular telephone calls were hindered or blocked for a 2-3 mile stretch of the beltway and its environs. Part of this, he admitted, was due to the expansion of Cellular One's business.

However, the "gap" was partly a function of the company's placement of existing towers at other locations. The engineer admitted that compliance with the zoning law had never been in the company's guidelines for setting up the system. Having been with the company for about 3 years, he could not provide details as to early planning of the system or the number of facilities in the County. Nor did he comment on the expected effect of the beltway widening in process.

More about the Property; Comparison with Other Properties

The subject property is one of many residential properties in the Brooklandville/Rockland area. Its topography is unremarkable. Like many others, it is near the Jones Falls. Like many others, it has a BGE right of way running through it.

Its most important feature in this case is its size: 3 acres. But there is nothing remarkable about this. Some properties are bigger, and some smaller. Any property in this area under 5 acres is unable to meet the basic requirement. Indeed, a property of 3 acres is not large enough to come close to meeting residential setback requirements of 330 feet for a facility 165 feet in height. That was demonstrated graphically, by review of the site plan, during George Gavrelis' testimony.

MICROFILMED

The "Search" Area

Cellular One outlined a search area of roughly a square mile. But for a part of the Greenspring Station shopping center at the north edge of the search area, the entire area is zoned residential. There are several churches and public buildings in the area. There is also the Valley Inn, on land zoned residential.

In a nutshell, Cellular One identified, but then excluded, a number of other possible sites, including the Greenspring Station. Most were excluded for engineering reasons. But the reasons for excluding the Valley Presbyterian Church and Trinity Assembly of God were less clear. Both of these appeared to be larger than the subject property.

The main thing, however, is that Cellular One chose a search area which was virtually entirely residential. This contributed to its inability to comply with the law.

Adverse Effect on Nearby Residences

The most immediate adverse effect --- both visually and as to character of the neighborhood --- is to the Lidie property and to the residents of Brightwood. No amount of obfuscation can avoid this problem. The tower will be right next to these properties, immediately to the south. Moreover, the open space area of Brightwood, immediately to the west, is available for various uses and should not be disregarded.

In addition, the tower constitutes an additional intrusion, a commercial one, into a very beautiful residential community. The existence of interstate highway and electric transmission systems should not divert attention from this major new tower at the high 165' elevation. Indeed, it is the high "line of sight" elevation, necessary to Cellular One's business, which poses problems.

MICROFILMED

Nor should anyone be deluded by the incomplete and self-serving "balloon test" performed by Cellular One's consultants. The testimony of the citizens revealed the tower will not simply fade into the woodwork. They know their neighborhood better than the balloon men.

Similarly, the general appraisal testimony of Ronald Lippman should not be used to squash the testimony of solvent citizens and taxpayers. They live in the community and can legitimately testify to the adverse effect on their quality of life and property enjoyment. Lippman might not notice a tower in his neighborhood; but in Brooklandville and Rockland, the citizens pay attention to these things. That is one of the reasons their neighborhood endures.

Interestingly, one of the neighbors, also a customer of Cellular One, testified that she often uses her cellular phone during rush hour, and with never a problem. This raised the inference that the proposed tower is just another component of an ever-expanding business empire.

Historic Area Impact

Ruth Mascari gave uncontradicted testimony to the adverse impact of additional intrusion in this unique historic area. When pressed as to the unusual qualities of this neighborhood, she observed that it includes two national register historic districts (Rockland, Greenspring), a number of registered landmarks or other sites of historic value (the Johnson mansion, the Valley Inn, the Cloisters, the Rockland Mill houses, the old railroad station), and some Civil War activity.

While there may be other historic areas in Baltimore County, there were none identified with this combination of qualities. Of the residential areas around the entire beltway, Ms. Mascari stated that this area and Lutherville stand out above all other neighborhoods.

Once again, it was not a sufficient answer to Ms. Mascari's evidence that the area already experiences some of the intrusions of modern life. Each additional intrusion has an insidious negative impact on historic quality.

Note on the Amendment

At the CBA hearing, the Petitioners modified their proposal. They relocated the proposed tower to the very edge of the floodplain and reduced it from 175' to 165' in height.

There remained the necessity for the special exception and variances, despite the rearrangement of distances to various property lines.

Because of the lateness of the modification, there was no further review by the Zoning Advisory Committee under the aegis of Zoning Commissioner Rule 2. In particular, Robert Bowling of PDM had no opportunity to amplify his April 5, 1996 comment on floodplain and wetland protection. The matter of staff review remains incomplete.

Argument

Legislation on Wireless Transmitting and Receiving Structures

The Baltimore County Zoning Regulations provide comprehensively for wireless transmitting or receiving structures in many zones. In 1986, the County Council enacted Bill 64, with major amendments. PC Exh. 17

Bill 64 began by adding stricter provisions for special exceptions in the resource conservation, density residential, and residential-office zones. BCZR 502.7C. It included the minimum acreage and setback provisions which Petitioners seek to vary in this case. At the same time, it exempted structures mounted on any existing structure over 50 feet in height from

compliance with some of these new requirements. It also exempted from 502.7C gas and electric and local telephone public utility structures under some circumstances.

Then, the Bill added BCZR 426, providing by right for such structures to a maximum height of 200 feet in O-2 (office park), O-T (office and technology), and business and manufacturing zones, but subject to a minimum setback of 200 feet from any residential or R-O (residential-office) zone boundary.

Following that, the Bill comprehensively amended provisions allowing the structures in the office, business, and manufacturing zones. In general, it designated structures in office, business, and manufacturing zones not permitted by right under BCZR 426 as special exception uses.

Legislative Purpose and History: Principles of Statutory Construction

Bill 64-86 highlighted and strengthened the protection afforded to residential communities. The background and purpose of this important statute is important to this case. It evolved from Council Resolution 13-85 dated January 21, 1985 (see PC Exh. 15), an Office of Planning and Zoning Report dated August 5, 1985; and a parallel Office of Law Report dated August 28, 1985.

"The history of a legislative enactment often sheds light upon its intent and may be of aid in construing its terms." Truitt v. Board of Public Works 243 Md. 375 (1966); Pressman v. Barnes 209 Md. 544, 558-59 (1956). The Court of Appeals said in Rentals Unlimited v. Admin. 286 Md. 104 (1979); North Charles Gen'l Hospital v. Employment Security Admin. 286 Md. 115 (1979), and Dep't of State Planning v. Mayor & City Council 288 Md. 9 (1980):

> "The cardinal rule of statutory construction is to ascertain and effectuate the actual intent of the Legislature. In determining this legislative intent, a court must read the language of the statute in context and in elation to all of its provisions. In addition, it may consider the statute's legislative history and must consider its purpose."

MICROFILMED

In Kaczarowski v. Mayor & City Council 309 Md. 505, 514-15 (1987), Judge William Adkins treated the subject extensively:

> "The aim or policy of the legislation, against which we measure the words used, is 'not drawn...out of the air; it is evinced in the language of the statute as read in the light of other external manifestations of that purpose....' "
>
> "When we pursue the context of statutory language, we are not limited to the words of the statute...We may and often do consider other 'external manifestations' or 'persuasive evidence,' including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which becomes the context within which we read the particular language before us in a given case."
>
> "Although we did not describe any of the statutes involved in that case [State v. One 1983 Chevrolet] as ambiguous or uncertain, we did search for legislative purpose or meaning....We identified that scheme or purpose after an extensive review of Ch. 549, Acts of 1984, which had effected major changes in Art. 27, Sec. 297. That context includes, among other things, a bill request form..., prior legislation..., a legislative committee report..., a bill title..., related statutes..., and amendments to the bill....See also Ogrinz v. James...., in which we considered legislative history (a committee report) to assist in construing legislation that we did not identify as ambiguous or of uncertain meaning."

The Court repeated this approach in Wynn v. State 313 Md. 533 (1988). From another perspective, Chief Judge Murphy wrote in Condon v. State 332 Md. 481 (1993): "It often is necessary to look at the development of a statute to discern legislative intent that may not be as clear upon initial examination of the current language of the statute."

Accordingly, it is necessary to examine history to elevate our understanding of Bill 64-86. This inquiry is the more relevant because the basic standards applicable to both special exceptions and variances involve consideration of the spirit and intent of the relevant statute. See BCZR 502.1, 307.1.

UNOFFICIAL

History of Bill 64-86

Before 1986, radio and television towers were already subject to special exceptions in most zones, under the basic Section 502.1. In 1984, the Council had added Bill 117, setting new minimum requirements for towers over 350 feet high near designated historic districts. BCZR 502.7 A, B. But this was not enough. In January, 1985, the Council passed a resolution to consider more legislation on this controversial subject.

The OPZ Report (PC Exh. 15) studied and reviewed impartially the land use issues relevant to the growing cellular telephone business. It recognized concerns of the industry and residents. It recognized the issues as shared in common with other areas around the country.

It also reported that "Representatives of the cellular telephone industry indicate that three or four more towers may be needed in the County to adequately serve the metropolitan area." P. 5 Thus, the Report did not anticipate a flood of new towers.

At the same time, it focused on the "visual impact of towers in residential areas...(as) a major concern." Ibid. Considering the needs of all parties, OPZ wrote at page 6 of its Report:

> "At some point the development of new communications systems may require the use of land in residential zones. This land may be acquired subject to local regulations which are designed to lessen the visual impact and other inconvenieces that a tower might create...."
>
> "It is quite understandable that most people do not want a transmission tower near their home. The setback requirements in most Residential zones would permit a tower to be located undesirably close to a dwelling....Ibid.
>
> "An amendment to the Zoning Regulations to permit towers by right under specified conditions in certain Office, Business and Manufacturing zones, along with more stringent special exception requirements in Resident zone would create a situation where non-residential zones would become more attractive location for towers. Permitting certain towers by right in non-residential zones would provide an incentive to seek sites in these zones....Additional regulations to protect residential areas which abut such zones could also be included." Ibid.

RECEIVED

"In order...to minimize adverse visual effects of wireless transmitting and receiving structures in certain residential zones add stricter controls to the special exception requirements as shown below."

The OPZ report then proceeded with recommended amendments. These included a proposal that the setback to the property line shall be 3 times the height of the structure. (Proposed BCZR 502.7C1, page 7). There was no recommendation to require a search for a nonresidential site. Nor was there a minimum acreage recommendation for the residentially zoned sites. The rest of the proposal essentially contains what ended up in Bill 64-86.

The Office of Law Report (PC Exh. 16) was a rewrite of the OPZ Report.

The Council, however, made significant amendments to Bill 64-86. These focused on special exception restrictions in residential zones. The Council initiated the requirement to search for nonresidential sites. (BCZR 502.7C1, as enacted). Then, it replaced the 3:1 setback distance:height of structure ratio with a 2:1 ratio (502.7C2). It balanced this reduction with a new minimum acreage requirement of 5 acres. (502.7C3). The Council probably realized that a 3:1 setback might actually require much larger minimum acreages. Consider that a tower 165 feet high would require a setback of about 500 feet from the nearest property line, and thus a property 1000 feet in diameter, 1 million square feet in area (over 23 acres). The net result nevertheless was to impose strict but reasonable setback and minimum acreage standards. In addition, the Council added a requirement that the CBA consider adverse impact on property values, park land, and open space. 502.7C11. These new standards have been intact since 1986, over and above the usual 502.1 standards. The rest of Bill 64-86 appears to track the OPZ proposal.

With this background, we turn to the specific points of argument.

I. The Property Owners Are Not in A Legitimate Position to Request Zoning Relief

The property owners (Hatfield/Proutt) never testified. They have never suggested any genuine hardship, difficulty, or other sort of oppression which would warrant zoning relief. It is to be remembered that the original idea of such zoning relief was to mitigate the complaints of property owners unreasonably denied the use of their property. See Euclid v. Ambler Realty Co. 272 U.S. 365, 383 (1926); see McLean v. Soley 270 Md. 208, 214-15, standard 2.

Here, the owners have enjoyed the Valley Inn property, the subject property, and the adjacent properties on both sides of Falls Road. Their predecessors had to be compensated in the 1960s by the State Roads Commission, and the Baltimore Gas & Electric Company for the main easements reviewed in this case.

There has never been, nor could there be, a legitimate complaint that a part of their holdings is no longer as valuable as it was. Indeed, there is no evidence that the owners of the Valley Inn ever sought to establish a separate residence on this part of their property.

The reality is that Cellular One happened to come along. This could provide an additional, undefined source of income. For the owners, this case is a convenience, a stroke of fortune. But they are not in a legitimate position to request variance relief.

II. Cellular One Has Not Established Sufficient Interest to Request Zoning Relief

For reasons to be discussed below, Cellular One's service needs are not a basis for a finding of practical difficulty. But before that question is reached, the CBA must address Cellular One's interest in this case.

There is neither a purchase contract nor lease in evidence. Cellular One has come in, and

MICROFILMED

its consultants have testified, as if there were an interest; but none has been proven. It has long been held that a sufficient and actual interest in the outcome of a controversy is a prerequisite to jurisdiction, also called "standing." Curley v. Wolf 173 Md. 393 (1938); Webb v.Baltimore Commercial Bank 181 Md. 572, 577 (1943). In zoning cases, this translates to whether a party has a sufficient property interest. Southland Hills v. Raine 220 Md. 213 (1959); Kreatchman v. Ramsburg 224 Md. 209 (1961); Kennerly v. Mayor & City Council 247 Md. 601 (1967).

While anyone who identifies himself as having an interest in an administrative proceeding may be considered a party, it is a mystery as to how Cellular One has shown a sufficient interest to warrant zoning relief on the merits. It is an entity doing business in the cellular telephone industry; but there is no proven connection or interest in the property at Brightfield Road.

* * *

The Merits of the Zoning Issues

The Umerley Case Comparison

The present case resembles Umerley v. Baltimore County 108 Md. App. 497 (1996). It involved a proposed trucking facility special exception in the Nottingham area on property zoned industrial (M.L., manufacturing light). The case turned on variances, mainly the request for setback variances inside the minimum distances required to the residential zone line on Philadelphia Road and to wetlands. The site lay on the south side of the Philadelphia Road corridor, and faced protected residentially zoned land across the road. Like Falls Road, Philadelphia Road carried two lanes of traffic, but with heavier truck traffic. Indeed, Brooklandville and Rockland have a greater predominance of residential characteristics.

MICROFILMED

As in the present case with the Jones Falls and the highway, the Umerley site was constrained in the rear. It backed up to the Baltimore & Ohio Railroad track, which paralleled Philadelphia Road. But this geographic limitation and the consequent inability to comply with setback requirements did not justify a finding of uniqueness.

Nor did the argument that the trucking operation contributed substantially to the area's economy and employment. 108 Md. App., 506-09. Moreover, the Umerley court relied on North v. St. Mary's County 99 Md. App. 512 (1994) in finding that even environmental constraints would not justify a finding of uniqueness in a area which generally is sensitive.

Thus, with similar issues as to geography, economics, and the relevance of the North case, the CSA reversed the CBA majority's approval of similar setbacks in order to implement the legislative intent to protect residential zones. There is nothing in the present record to warrant a different conclusion.

Moreover, the Umerley case concluded with a harsher result. The trucking company had to move its operation. Here, the property owners have, in context, enjoyed their restaurant business and residence for many years; and Cellular One must simply make some other arrangements for its burgeoning business (which the government, in any event, subsidizes indirectly by highway improvements).

In a nutshell, the Umerley case by itself compels denial of the variances and special exception here. It should not go unmentioned that the lone, and correct, CBA dissenting opinion in the Umerley was authored by panel member Diane S. Levero.

The Zoning Variance: Uniqueness Which Results in Practical Difficulty

In Maryland, "variance" normally refers to deviation from height and area (not use) limits. To obtain a variance, BCZR Sec. 307.1 requires "...special circumstances or conditions...peculiar to the land or structure... and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship."

The first step, peculiarity or "uniqueness," is explained in Cromwell v. Ward 102 Md. App. 691 (1995). It refers to the characteristic of the property rather than of the owner.

The second step, effectively "practical difficulty", is defined generally in McLean v. Soley 270 Md. at 214-15:

> "1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restriction unnecessarily burdensome.
>
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
>
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Zoning variances usually pertain to uses permitted by right, like the apartment development in McLean or single house in Cromwell. Even so, Cromwell found existing only five reported appellate cases approving zoning variances in the history of Maryland zoning.

III. The Subject Property is Not "Unique"

The subject property is one of a number of residentially zoned properties along the Jones Falls, in an area traversed by a BGE transmission line. It is next to the highway, but so are others.

In any event, the aspect of the property which prevents the tower is simply the size of the property and its proximity to other residential properties, not the public works or easements.

Incidentally, there has been no claim that the property owner is unable construct a residence on the property. The area proposed for the tower and maintenance buildings contains ample room to construct a residence; and there is evidence of other residences nearby.

On the subject of environmental contraints, it is established that a property owner on the Chesapeake Bay cannot claim uniqueness when it coexists with many other properties on the Bay. See Chester Haven Beach L.P. v. Board of Appeals of Queen Anne's County, supra, 103 Md. App. 324 (1995); North, supra. The variance ordinance at issue in North is comparable to BCZR 307.1 on the matter of uniqueness, and was authoritative in Cromwell. The Umerley case cited both North and Chester Haven.

There are always differences in degrees between properties, and their site constraints, but such differences do not translate to "uniqueness." The subject property is simply one of many residential properties in the middle of a residential area. It is too small to comply with explicit legal requirements. If this is a basis for a variance, then it mocks the intent of the Council.

IV. There is No Basis for a Finding of "Practical Difficulty"

The last of the three tests of "practical difficulty" under McLean is whether or not "the spirit of the ordiance will be observed..." This brings into play the legislative purpose, and the history already reviewed.

After careful consideration, the County Council struck a balance in allocating the zones in which to locate towers, and the applicable restrictions. It set specific restrictions in residential

MICROFILMED

zones in order to carry out the essential purpose to protect citizens residing in the area. The minimum setback and acreage requirments form a buffer. The proposed variances entirely subvert this legislative purpose.

Cellular One has presented its case, however, from the point of view of economics, or service. But this is not a relevant field of inquiry. To be sure, there is a comment in the case of Loyola Loan Ass'n v. Buschman 227 Md. 243 (1961) about a building's "uneconomic size." But other cases have superseded this casual comment.

Several Baltimore City cases rejected or doubted the relevance of even financial hardship, both before and after Loyola. Easter v. Mayor & City Council 195 Md. 395 (1950), front yard setback exception (area variance); City of Baltimore v. Polakoff 233 Md. 1 (1963); Burns v. Mayor & City Council 251 Md. 554 (1968). These led, in turn, to another important Baltimore County area variance case.

In Daihl v. County Board of Appeals 258 Md. 157 (1970), the Court addressed another request for variances involving setbacks from a residential zone:

> "We cannot overlook the fact that in the instant case there are substantial residential properties within the immediate area. The appellant Becky resides 350 feet from Lots 10 through 19. The appellant Daihl is constructing a $33,000 home, 186 feet from lots 10 through 19. Appellant Young resides on Lot 26. The evidence is such as would lead a reasonable man to the belief that the granting of these variances may well affect the ambiance of the residentially zoned properties which lie in the immediate area. For this reason we are of the opinion that the granting of these variances would be in disharmony with the 'spirit and intent' * * *of * * * the regulations * * * .'
>
> The 'difficulties' and 'hardships' to which the Board referred, although not spelled out, obviously were thought to be of such a nature that, if not overcome, would have resulted in the petitioners sustaining some financial hardship in their efforts to develop the property and in their future use of it. In Easter v. Mayor & City Council of Baltimore 195 Md. 395....(1950), we said: 'The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements....

MICROFILMED

> In that same opinion, Judge Henderson, later Chief Judge, also stated: ' * * * but we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan.' See also Burns v. Mayor & City Council....., and City of Baltimore v. Polakoff..... As we view the law, we think the granting of the variances by the Board was arbitrary and capricious." 265 A.2d, at 232.

Similarly, Cromwell v. Ward quoted Xanthos v. Board of Adjustment 685 P.2d 1032, 1036-37 (Utah 1984), involving frontage and setback issues:

> "Hardship is not demonstrated by economic loss alone. It must be tied to special circumstances, none of which has been proven here. Every person requesting a variance can indicate some economic loss. To allow a variance anytime economic loss is alleged would make a mockery of the zoning program." 102 Md. App, at 715-16.

In this context, the Cromwell court described Loyola as among several cases which "...appear to be somewhat at odds with accepted Maryland law." 102 Md. App., at 711-12.

Whether or not Loyola was anomalous when decided, its comment on economics is no longer the law in Maryland. Variances do not rest on the hazards of markets or service areas.

Here, Cellular One's case for hardship or difficulty rested on its desire to eliminate a fractional percentage of "blocks" to telephone calls in part of its service area. In effect, Cellular One placed the expansion and perfection of its commercial empire above the public interest reflected in the legislative judgment.

In any event, there was no proof that Cellular One had lost any customers or money. Even were economics relevant to this case, it would be to no avail. The appellate courts have consistently rejected generalized claims of economic problems in zoning cases. Howard County v. Dorsey 292 Md. 351 (1982); Boyce v. Sembly 25 Md. App. 43 (1975); Coppolino v. County Board of Appeals 23 Md. App. 358 (1974); Stratakis v. Beauchamp 268 Md. 643 (1973).

V. Cellular One Is Barred by the Doctrine of Self-Inflicted Hardship

The Petitioners have presented the case from the point of view of Cellular One. But Cellular One is coming onto the property, and must take it subject to the applicable zoning limits.

Any alleged hardship or difficulty is self-inflicted, as a matter of law. The Cromwell court devoted an entire section to the subject, ending with this statement:

> "We hold that pracitcal difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted." 102 Md. App. at 722.

Cromwell was another area variance case, in nearby Ruxton.

Here, Cellular One has been involved in Baltimore County since the early 1980s. It has been aware of legislative developments. It has had the opportunity to plan its system. By all accounts, it has grown and been successful.

It cannot escape the above doctrine as it now carves out a search area and chooses a residential property which falls far short of meeting the legislative standards. There is no genuine hardship or difficulty. But if there were, it is classically self-inflicted.

The Special Exception

The special exception is a conditional use. Rockville Feed & Fuel Co. v. Gaithersburg 257 Md. 183 (1970); Schultz v. Pritts 291 Md. 1, 21 (1991). The CBA must examine specifically the impact of the use at the particular location in light of the purpose of the property's zoning classification and the spirit and the intent of the regulations. 502.1g. Here, there is the paramount purpose of Bill 64-86 to protect residential properties from the intrusion of nearby towers.

In Board of County Commissioners v. Holbrook 314 Md. 210, 217-18 (1988), Judge Harry Cole summed up the test of Schultz v. Pritts with this:

"...where the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone, the application should be denied."

In Holbrook, a mobile home was visible to a residence 80 to 150 feet away. This contrasted with "countless locations...within the zone" which would not present such problems of proximity and close visibility. 314 Md., at 220. For this reason alone, the special exception was properly denied. That the location was most convenient to the petitioner did not warrant approval.

There were no variances involved in Holbrook. It should be remembered that where special exceptions, as conditional uses, are combined with variances, the Court of Special Appeals advises that "the presumption that a conditional use is permitted may well fall by the wayside." Chester Haven 103 Md. App., at 336; Umerley 108 Md. App., at 510-11.

While BCZR 502.7C notes the potential for variances which meet the standards of BCZR 307.1, the equivalent situation existed in Umerley by implication or reference. Contrary to Mr. Gavrelis' suggestion, this clause does not create or reinstate any favorable presumption for towers in residential zones which fail to satisfy area standards.

VI. There Is Evidence of Particular Adverse Effects to Adjoining Properties

Here, the location adjoins the Lidie homestead and the Brightwood residential facility and property. The area east of Falls Road is in the interior of a residential neighborhood. The testimony of Mr. Lidie and Ms. Slingluff to the adverse effect on enjoyment and value of their properties is entitled to respect. The proximity of the existing BGE transmission tower and the highway system does not invite or justify a new intrusion at a greater height.

MICROFILMED

The interior residential character of the location resembles to some extent the interior location in Lutherville which contributed to denial of the special exception in People's Counsel v. Mangione 85 Md. App. 738 (1991). Here, there are countless residential locations on main roads. There are countless locations which are larger in acreage. Indeed, the Valley Presbyterian Church and the Trinity Assembly of God appear to be among them and, so far as the evidence shows, could accommodate a tower. The Valley Inn itself is a commercial location on the main road. Cellular One did not include it in its study, although its engineer doubted its workability when questioned. It may just be that the Petitioners (Hatfield/Proutt)did not want a tower on their main property.

Based on all of this, there is ample evidence to deny the special exception even if no variances were required.

VII. The Proposed Tower is an Additional Intrusion into a Historic Area

Ruth Mascari gave uncontradicted testimony to the unique historic qualities of the area. Several of the citizens added evidence on the Johnson Estate, the Rockland district, and the still semirural ambiance and charm of the neighborhood. She explained that while other historic areas exist in the county, this one has extraordinary features.

To be sure, BCZR 502.7A, which sets minimum distances from listed historic districts, applies only to towers over 350 feet in height; so there is no absolute violation. But the public safety, health and welfare standard under BCZR 502.1a still encompasses historic impact considerations. See Faulkner v. Town of Chestertown 290 Md. 214 (1981). In reviewing the integral nature of historic area zoning, the Court quoted from City of New Orleans v. Pergament

MICROFILMED

5 So.2d 129 (1941):

> "Preventing or prohibiting eyesores in such a locality [the French and Spanish Quarter] is within the police power and within the scope of this municipal ordinance."

Like the French and Spanish Quarter in New Orleans or the Nantucket Historic District referred to in Opinions of the Justices 128 N.E.2d 557 (1955), the Rockland and Greenspring Valley Historic Districts are valuable assets to the citizens there and to Baltimore County. The historic impact of a proposed special exception, albeit from an adjacent area outside the district boundary, is an appropriate subject of review. This is particularly true where evidence shows the historic aspects of Rockland extend well beyond the designated boundaries and onto the Johnson estate.

The additional historic impact is a factor weighing against approval. It is another incremental and insidious intrusion to a community attempting to preserve its quality of life. The Petitioners never considered it, as their own environmental impact study shows.

Summing Up

VIII. The Petitioners' Site Selection is a Matter of Business Convenience; The Reasoning of Evans v. Shore Communications Compels Denial

Despite the length and detail of Petitioners' presentation of their service needs, search area, and site selection, their case comes down to the subordination of everything else to the commercial expansion of Cellular One's business and profits. Any problems which led them to choose this site were of their own making.

The Court of Special Appeals just issued its opinion on zoning of a communications tower in Talbot County. Evans v. Shore Communications 112 Md. App. 284 (1996). It reinforces our earlier observations on self-inflicted practical difficulty or hardship, and the artificial character of its business needs and search area.

The decision involves a request for a special exception for a tower, and a height variance to go from 200 feet to 300 feet in a rural zone. There are substantial differences between the Talbot County ordinance and the Baltimore County ordinance. There are also significant differences between the facts pertinent to the special exception in Evans and those in the present case. For example, the site in Evans was over five acres, not so close to residences, and not in a historic area. But there is an aspect of the variance case which parallels the present case. That is the presentation of the company of its service area needs as a basis for a finding of uniqueness related to hardship.

> Judge Arrie Davis wrote, 112 Md. App., at 309:
>
> "In this case, the first prong of the variance process, as the parties and the Board have recognized, is whether peculiar circumstances surround the property. The Board found that the variance request is based on special circumstances that were created by the actions of SCI, not by the property itself. In other words, the second 'special condition and circumstance' claimed by SCI - the needs of its subscribers - are not peculiar to the land, but created by SCI. We agree. The customer requirements cited by SCI as support for its argument serve to illustrate that fact. The needs of SCI's customers have nothing to do with the peculiarity of the property in question. Thus, any hardship claimed by SCI - the second prong of the test - is self-inflicted, and thus not a ground for a variance. Ad & Soil, Inc., ..., Cromwell...."

The citation to Cromwell confirms the logic that application of the BCZR 307.1 test of uniqueness resulting in practical difficulty, compels the same result on the variances here. In other words, the company's service needs are insufficient to establish the premise of a relationship of uniqueness either to "difficulty" or "hardship". On this issue, Evans controls.

Moreover, as noted, the direct linkage between the variances and the special exception requirements under BCZR 502.7C bring into play Chester Haven, Umerley, and the idea that the special exception, as a conditional use, must meet the enumerated conditions. In this case, unlike

Evans, the the special exception and variances are so intertwined as not to be severable. They fall together.

In an interesting article on the op-ed page of the December 29, 1996 New York Times, Michael J. Sandel, a Professor of Government at Harvard University, wrote:

> "When corporations use their power to extract tax reductions, zoning changes and environmental concessions, they disempower communities more profoundly than any Federal mandate ever did."

There is a clash here between commercial interests and community values. The public interest --- the public safety, health, and welfare --- embodies community values. The County Council has set standards to protect these values. Where a property owner or business organization fails to meet the standards, it may not override them based on commercial need. As Sara Lord directly said when questioned about her community's position on the tower in the Bare Hills area, the community accepts it because it is in a commercial area and meets the legislative standards. The community is realistic. But where the request fails the law, it is unsatisfactory. This case is a fundamental test of the implementation of Bill 64-86. We trust the County Board of Appeals to apply the law of special exceptions and variances to deny this petition.

Respectfully Submitted,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. DeMilio
Deputy People's Counsel
400 Washington Avenue
Towson, Maryland 21204
410 887-2188

MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 1997, a copy of the foregoing People's Counsel's Post-Hearing Memorandum was mailed to Karl J. Nelson, Esq., Kramon & Graham, 1 South Street, Suite 2600, Baltimore, MD 21202, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

MICROFILMED

685 A.2d 454

Robert S. EVANS

v.

SHORE COMMUNICATIONS, INC., et al.

No. 907, Sept. Term, 1996.

Court of Special Appeals of Maryland.

Nov. 27, 1996.

Applicant appealed decision of county board of appeals denying special exception and variance for construction of antenna tower. The Circuit Court, Talbot County, William S. Horne, J., reversed in part and affirmed in part. Both parties appealed. The Court of Special Appeals, Davis, J., held that: (1) board's decision denying special exception was based upon consideration of improper factors, and (2) board's denial of variance was not arbitrary or capricious.

Affirmed and remanded with instructions.

1. Zoning and Planning ⇐503

Decision of county board of appeals to deny special exception for construction of antenna tower was improperly based on proliferation of towers in area as use regulation already delineated that additional towers could not be located within three-mile radius of existing tower and board only had authority to determine whether neighborhood would be adversely affected and whether use was in harmony with comprehensive plan. Talbot County, Md., Zoning Ordinance § 19.14(a), (b)(4).

2. Zoning and Planning ⇐745.1

Court of Special Appeals must review action of county board of appeals in same manner in which trial court conducted its review of board's decision denying special exception to zoning ordinance.

MICROFILMED

3. Zoning and Planning ⇐481

"Special exception" is valid zoning mechanism that delegates only limited authority to administrative board to determine use to be permissible in absence of any fact or circumstances that negate presumption.

4. Zoning and Planning ⇐481

County council, by designating use as special exception, determines that use is generally compatible with other uses in zone.

5. Zoning and Planning ⇐503

County board of appeals improperly denied special exception for construction of antenna tower even assuming that tower would result in adverse impact on surrounding properties, where board failed to make finding that adverse effects would be greater in proposed location than they would generally be elsewhere within areas of county where towers may be established. Talbot County, Md., Zoning Ordinance § 19.14(b)(4).

6. Zoning and Planning ⇐503

Conclusion by county board of appeals that construction of antenna tower would be unique to pattern of developed land use in area and detrimental to nearby residents' use and enjoyment of rural character of their property did not justify denial of special exception for tower where board failed to state how tower would undermine rural character of neighborhood. Talbot County, Md., Zoning Ordinance § 19.14(a), (b)(4).

7. Zoning and Planning ⇐503

Decision of county board of appeals to deny variance for construction of 300-foot antenna tower was not arbitrary or capricious despite claim by applicant that property was uniquely suited as location for multiuser tower where special circumstances supporting location of tower on property were created by actions of applicant, not by property itself. Talbot County, Md., Zoning Ordinance § 19.14(b)(3).

a whole.'" *Moseman v. County Council of Prince George's County*, 99 Md.App. 258, 262, 636 A.2d 499, *cert. denied*, 335 Md. 229, 643 A.2d 383 (1994) (citations omitted). "In determining whether there was substantial evidence to support the agency's decision, if there was evidence from which a reasonable person could come to different conclusions, this Court will not substitute its judgment for that of the administrative agency, even if we might have reached a different conclusion independently." *Id.*

Section 19.14(b)(3) contains the provisions governing variances in Talbot County. It reads, in pertinent part:

> Variances
>
> (i) Purpose. A variance from the quantitative numerical requirements of this Ordinance may be granted by the Board of Appeals in specific cases if such a variance would not be contrary to the public health, safety, or welfare, and if there are special conditions such as site features or other circumstances not created by the property owner, and if a literal enforcement of the provisions of this Ordinance would result in undue hardship to the property owner. A variance from the qualitative policy requirements of this Ordinance may not be requested.
>
> (ii) An application for a variance . . . must demonstrate that the criteria set forth in [a] through [e] below, have been met.
>
> [a] Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of this Ordinance would result in unwarranted hardship to the property owner;
>
> [b] A literal interpretation of this Ordinance will deprive the property owner of rights commonly enjoyed by other property owners in the same zone;
>
> [c] The granting of a variance will not confer upon the property owner any special privilege that would be denied by this Ordinance to other owners of lands or structures within the same zone; and

> [d] The variance request is not based on conditions or circumstances which are the result of actions by the property owner nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

SCI contends that the Board of Appeals acted arbitrarily in two conclusions made during the hearing. First, SCI directs our attention to Paragraph 13 of the Board's findings, which appeared as follows:

> 13. The Board finds there are no special conditions and circumstances which are peculiar to the land and structure such that a literal enforcement of the provisions of the ordinance would result in unwarranted hardship to the property owners (or the Applicant). The justification provided for the variance is that it would allow additional competition in the cellular telephone industry and the decrease the [sic] need for additional towers in the surrounding areas. The Board cannot find a hardship thus created for the property owner (or the Applicant).

SCI contends that the "circumstances peculiar to this property" are that the property is "uniquely suited as a location for a tower bearing a 100' extension" for three reasons. First, the land is located just outside the three-mile radius of another tower north of the site. Second, the property is the only property in the vicinity that will accommodate the networking requirements of the three users who have subscribed for space on the tower. Third, the property is one of the highest elevations in the general vicinity, which will allow the height of the tower to be less than if it were on a lower elevation. Thus, says SCI, the land is uniquely ideal for a multi-user, 300' tower in that part of the county. As a result, the Board imposed an unwarranted hardship by denying the variance, because SCI will lose the opportunity to construct a tower that will be tall enough to accommodate the needs of the three subscribers and the prospective subscribers who will want to complete their own networks in the future by locating on the proposed tower.

We do not think the Board acted in an arbitrary or capricious manner. Its factual conclusions were supported by substantial evidence and the conclusion it reached is certainly fairly debatable. SCI's recitation of the "peculiar circumstances" of the land neglects several important considerations. The first factor cited by SCI, the proximity of other towers to the subject property is, without more, not dispositive. All land located 360 degrees just outside a three-mile radius of an existing tower—any tower in the zoning district—would satisfy this "circumstance."

[8–10] The last factor is similarly irrelevant; it amounts to an argument that the Board should have granted a variance for a 300' tower so that SCI would not need a taller tower. This seems to us akin to a builder asking the building inspector for relief from safety regulations in one instance so that he will not have to violate more safety regulations later. A variance administrative proceeding, like a special exception proceeding, involves a particular applicant's request for administrative authorization to engage in a *specific* activity at a *specific* location; it "determines the rights and obligations of the applicant with respect to the utilization of a parcel of property owned by him, and the effects of that utilization upon certain others who may be aggrieved." *Mossburg*, 329 Md. at 506, 620 A.2d 886. Thus, they are adjudicatory, rather than legislative, proceedings. *Id.* One logical extension of this principle is that variances cannot be granted to stem future variance requests, nor may deviations from zoning restrictions find their justification in hypothetical situations. The fact remains that the proposed tower *is* 300' tall, well above the regular permitted height, regardless of the height of an alternate tower on another piece of land.

[11, 12] Moreover, while SCI unfortunately may have painted itself into a corner when it entered into a lease agreement for the property for the purpose of constructing the proposed tower, "the variance that is desired (and the difficulties that would exist if it is not granted) cannot be the source of the first prong of the variance process. . . .". *Cromwell v. Ward*, 102 Md.App. 691, 695, 651 A.2d 424 (1995). As stated in *Kennerly v. Baltimore*, 247 Md. 601, 233 A.2d 800 (1967):

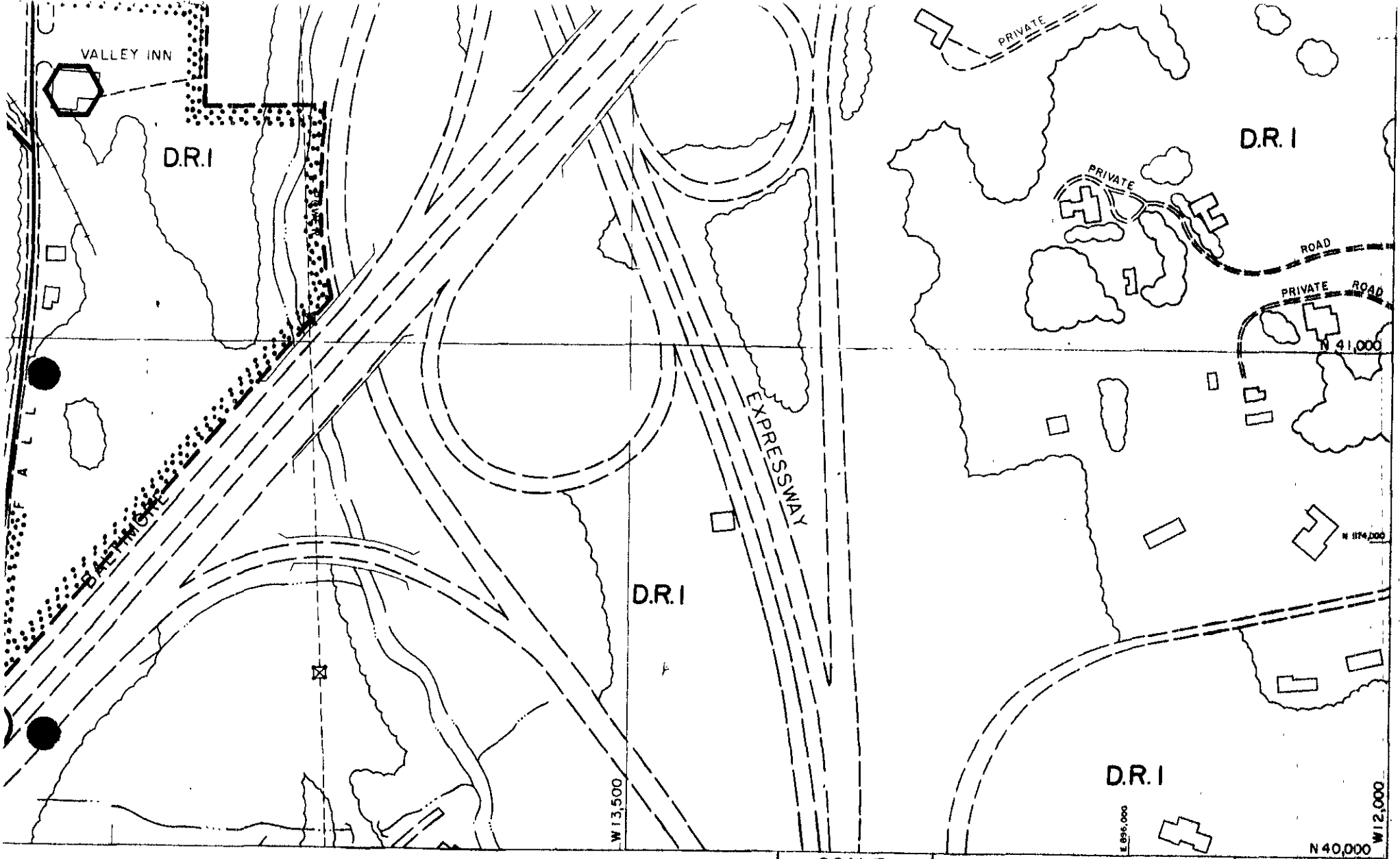
> To grant a variance the Board must find from the evidence more than that the building allowed would be suitable or desirable or could do no harm or *would be convenient for or profitable to its owner.* The Board must find there was proof of "urgent necessity, hardship peculiar to the particular property . . ."

Id. at 606–07, 233 A.2d 800 (emphasis added). The burden on the petitioner is indeed heavy, and springs from a recognition that variances permit uses that are prohibited and presumed to be in conflict with the ordinance. *North v. St. Mary's County*, 99 Md.App. 502, 510, 638 A.2d 1175, *cert. denied sub nom. Enoch v. North*, 336 Md. 224, 647 A.2d 444 (1994).

[13] In this case, the first prong of the variance process, as the parties and the Board have recognized, is whether peculiar circumstances surround the property. The Board found that the variance request is based on special circumstances that were created by the actions of SCI, not by the property itself. In other words, the second "special condition and circumstance" claimed by SCI—the needs of its subscribers—are not peculiar to the land, but created by SCI. We agree. The customer requirements cited by SCI as support for its argument serve to illustrate that fact. The needs of SCI's customers have nothing to do with the peculiarity of the property in question. Thus, any hardship claimed by SCI—the second prong of the test—is self-inflicted, and thus not a ground for a variance. *Ad+Soil, Inc.*, 307 Md. at 340, 513 A.2d 893; *Cromwell*, 102 Md.App. at 721–22, 651 A.2d 424.

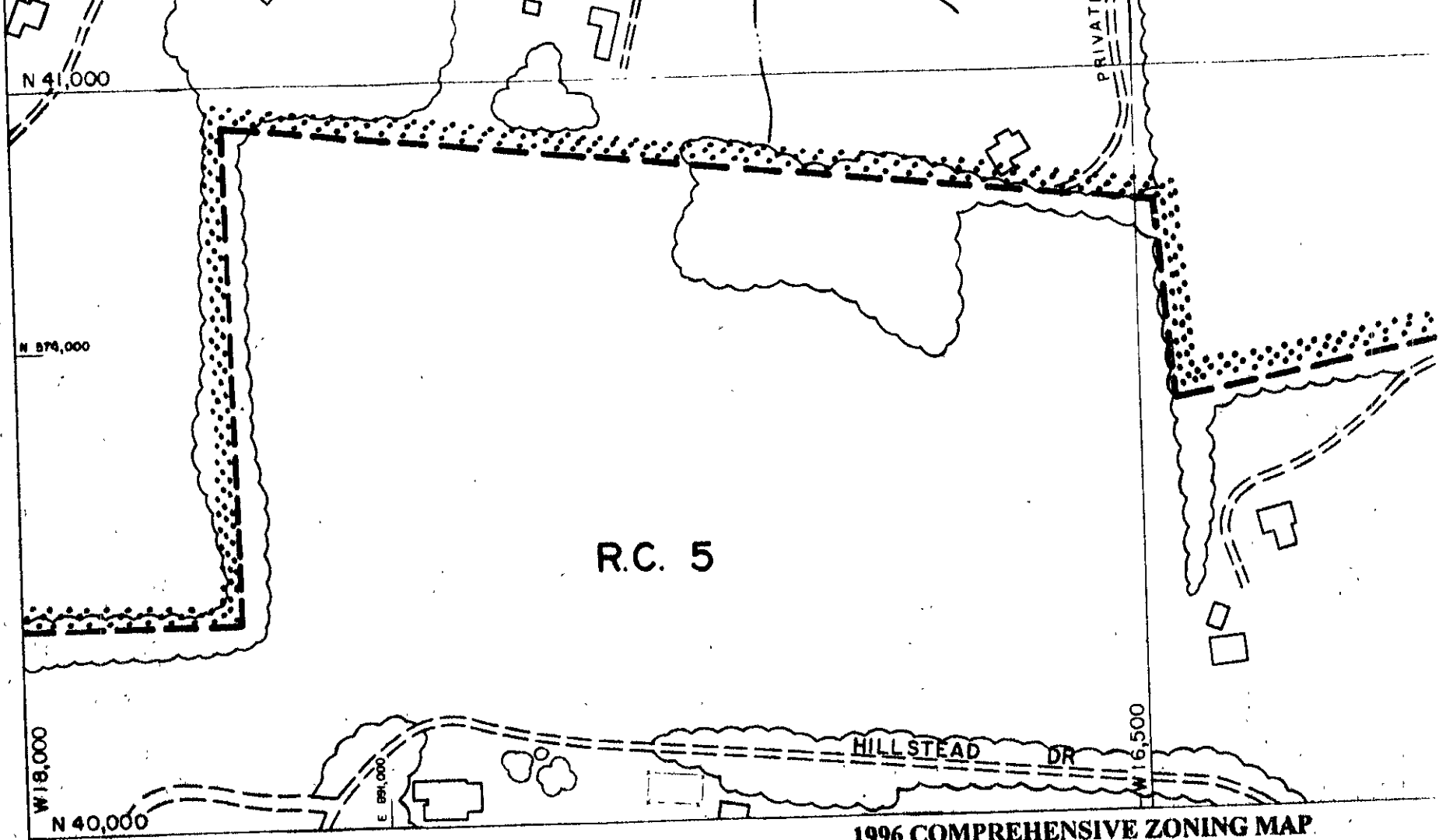
[14] Because the requirements of § 19.14(b)(3) are conjunctive rather than disjunctive, then, strictly speaking, we need not address SCI's remaining contentions.[3] Since, howev-

3. *See Cromwell supra*, n. 1, p. 695, 651 A.2d 424, for the applications of "practical difficulty" and "unreasonable hardship" when they are stat-



UNTY AND ZONING NG MAP

SCALE	LOCATION	SHEET
1" = 200'±	BROOKLANDVILLE	N. W. 11-C
DATE OF PHOTOGRAPHY JANUARY 1986		



S - SW S - SE

O - NW O - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz

Chairman, County Council

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

May 30, 1996

Karl J. Nelson, Esquire
Kramon & Graham
1 South Street, Suite 2600
Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
200' past the NE/end of Brightfield Road, 1,080 NE of Falls Road
9th Election District - 4th Councilmanic District
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioners
Case No. 96-360-XA

Dear Mr. Nelson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr./Mrs. Wesley Lidie, 520 Brightfield Road, Brooklandville, Md. 21033

Ms. Sarah Lord, 6134 Barrel Road, Baltimore, Md. 21209

People's Counsel

File

Printed with Soybean Ink
on Recycled Paper

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Rd. ("JFX" Site), 9th Election District, 4th Councilmanic Legal Owners: John A. Hatfield, Jr. and Elizabeth S. Proutt Contract Purchaser/Lessee: Washington/ Baltimore Cellular Ltd. Partnership Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 96-360-XA

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 1996, a copy of the foregoing Entry of Appearance was mailed to Karl J. Nelson, Kramon & Graham, 1 South Street, Suite 2600, Baltimore, MD 21202, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

MICROFILMED

APPEAL

Petition(s) for Special Exception and Variance
200' past the NE/end of Brightfield Rd.,
1080' NE of Falls Rd., 220' SW of I-83
(JFX Site)
9th Election District - 4th Councilmanic District
Case No. 96-360-XA
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioner(s)

✓ Petition(s) for Special Exception and Variance

✓ Description of Property
CERTIFICATE OF POSTING
✓ Certificate of Publication

✓ Entry of Appearance of People's Counsel

✓ Zoning Plans Advisory Committee Comments

✓ Petitioner(s) and Citizen(s) Sign-In Sheets

Petitioner's Exhibits: ✓ 1 - Plan to accompany Special Exception and Variance
✓ 2 - Proposed JFX Site Location Map
✓ 2A - Proposed JFX Site Plan
✓ 3 - Photograph of Existing Entrance to Site } OVERSIZED - IN CASE FILE
✓ 4 - Photograph of Approx. 300 Feet from Site
✓ 5 - Photograph of Approx. 500 Feet from Site
✓ 6 - Photograph of Approx. 1300 Feet from Site
✓ 7 - Environmental Impact Statement
✓ 8 - Proposed Monopole Site

✓ Three Correspondences of opposition

✓ Two Miscellaneous Correspondences

✓ Deputy Zoning Commissioner's Order dated May 30, 1996 (Denied)

✓ Notice of Appeal received on June 27, 1996 from Karl J. Nelson, Esquire on behalf of John A. Hatfield, Jr. and Elizabeth S. Proutt

✓E

*cc: Karl J. Nelson, Esquire, Kramon and Graham, 1 South Street, Suite 2600, 21202
John A. Hatfield and Elizabeth S. Proutt, P.O. Box 711, 21022
Mr. Robert Morelock, 200 E. Pennsylvania Avenue, 21286
Mr. Michael Maus, 7150 Standard Drive, Hanover, MD 21076 (REAL ESTATE DIRECTOR CELLULAR ONE)
Mr. and Mrs. Wesley A. Lidie, Sr., 521 Brightfield Rd., Brooklandville, MD 21022
Ms. Sarah Lord, 6134 Barroll Road, 21209
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

Laurie Long
P. O. Box 204
Riderwood, MD 21139
(Interested Party)

358

ORIGINAL SIGNATURES THIS FORM.

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at Old Court Rd & Brightfield Rd
1080' Northeast of Falls Rd.

96-360-XA

which is presently zoned DR 1

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a wireless transmitting and receiving facility in a DR 1 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
(Type or Print Name)

Signature MICHAEL ~~MAUS~~ MAUS REAL ESTATE DIRECTOR (CELL.ONE)

7150 Standard Dr.
Address

Hanover MD 21076
City State Zipcode

Attorney for Petitioner:

Karl J. Nelson
Kramon & Graham
(Type or Print Name)

Signature

1 South Street, Suite 2600 347-7434
Address Phone No.

Baltimore MD 21202
City State Zipcode

Legal Owner(s):

John A. Hatfield, Jr.
(Type or Print Name)

Signature

Elizabeth S. Proutt
(Type or Print Name)

Signature

P. O. Box 711
Address Phone No.

Brooklandville MD 21022
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser, or representative to be contacted.

Robert Morelock, Daft-McCune-Walker, Inc.
Name

200 E. Pennsylvania Ave.
Towson, MD 21286 296-3333
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2HRS
unavailable for Hearing

the following dates _____ Next Two Months

ALL ✓ OTHER

REVIEWED BY: _____ DATE 3/21/96

ORDER RECEIVED FOR FILING
Date 3/21/96
By

Zoning Administration & Development Management

358

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at Old Court Rd & Brightfield Rd
1080' Northeast of Falls Rd.

96-360-XA

which is presently zoned DR 1

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section (s)

§ 502.7.C.2 to permit a 175' high monopole within 65' of the nearest property line in lieu of the required 350'
§ 502.7.C.3 to permit a wireless transmitting & receiving facility on a 3.0± acre lot in lieu of the required 5 acres

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
(Type or Print Name)

Signature MICHAEL MAUS, REAL ESTATE DIR.

7150 Standard Drive
Address

Hanover MD 21076
City State Zipcode

Attorney for Petitioner:

Karl J. Nelson
Kramon & Graham
(Type or Print Name)

Signature

1 South Street, Suite 2600 347-7434
Address Phone No.

Baltimore MD 21202
City State Zipcode

Legal Owner(s):

John A. Hatfield, Jr.
(Type or Print Name)

Signature

Elizabeth S. Proutt
(Type or Print Name)

Signature

P.O. Box 711
Address Phone No.

Brooklandville MD 21022
City State Zipcode

Name, Address and phone number of representative to be contacted.

Robert Morelock
c/o Daft-McCune-Walker, Inc.
Name

200 E. Pennsylvania Ave. 296-3333
Address Phone No.

Towson, Md 21286

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

unavailable for Hearing

the following dates _____ **Next Two Months**

ALL _____ **OTHER** _____

REVIEWED BY: _____ **DATE** _____

ORDER RECEIVED FOR FILING
Date 5/30/96
By

Zoning Administration & Development Management

Description

to Accompany Petition for Zoning Variance

and Special Exception

3.0-Acre Parcel 96-360-XA

Hatfield Property

Ninth Election District, Baltimore County, Maryland

DMW

Daft·McCune·Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333
Fax 296 4705

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals

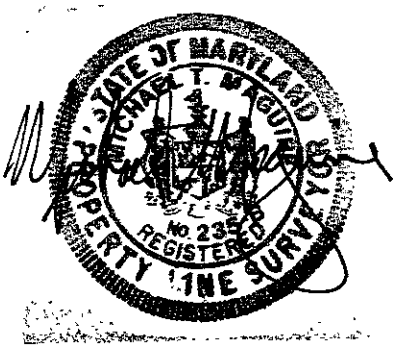
Beginning for the same on or near the centerline of Brightfield Road, variable width, (also known as, now or formerly, Old Court Road) at a point distant 1080 feet, more or less, as measured northeasterly along said centerline from its intersection with the centerline of Falls Road, thence leaving said point of beginning and running for the two following courses and distances, viz: (1) North 28 degrees 11 minutes 57 seconds West 443.85 feet, and thence (2) Northwesterly by a line curving to the right with a radius of 4550.39 feet for a distance of 61.11 feet (the arc of said curve being subtended by a chord bearing North 27 degrees 48 minutes 52 seconds West 61.11 feet) to intersect the south side of Ramp "G" of the I-695 Baltimore Beltway, thence binding thereon the four following courses and distances, viz: (3) North 41 degrees 46 minutes 49 seconds East 100.84 feet, thence (4) North 77 degrees 16 minutes 04 seconds East 12.36 feet, thence (5) South 85 degrees 23 minutes 33 seconds East 211.34 feet, and thence (6) South 56 degrees 32 minutes 11 seconds East 103.51 feet to intersect the west side of I-83, Jones Falls Expressway, thence binding thereon the two following courses and distances, viz: (7) South 08 degrees 32 minutes 56 seconds East 122.00 feet, and thence (8) South 01 degree 52 minutes 28 seconds East 179.52 feet, thence leaving said expressway (9) Southwesterly 220 feet, more or less, to the point of beginning; containing 3.0 acres of land, more or less.

96-360-XA

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

January 17, 1996

Project No. 95057 (L95057)



MICROFILMED

JUL-10-'96 WED 15:24 ID:ZADM TEL NO:410-887-5708 #928 P21

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

96-360-XA

District 9th Date of Posting 4-5

Posted for: APRIL 24, 1996 HEARING

Petitioner: HATFIELD/CELLULAR ONE

Location of property: (JFX SITE) Brightfield Rd, NE of Falls

Location of Signs:

Remarks:

Posted by [signature] Date of return:

Signature

Number of Signs: 1

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-360-XA
(Item 358)
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road ("JFX" Site)
9th Election District
4th Councilmanic
Legal Owner(s):
John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee:
Washington/Baltimore Cellular Limited Partnership; DBA Cellular One Washington/Baltimore

Special Exception: for a wireless transmitting and receiving facility. **Variance:** to permit a 175 foot high monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acre lot in lieu of the required 5 acres.

Hearing: Wednesday, April 24, 1996 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.
(2) For information concerning the File and/or Hearing, Please Call 887-3391.

4/049 April 4 C41957

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/4, 1996

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/4, 1996.

THE JEFFERSONIAN,

A. Henrikson

LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FI[illegible]CE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 216812
ITEM # 1.0 BY JLL

DATE 3/21/96 9th 35th ACCOUNT R001-6150

AMOUNT $ 585.00

RECEIVED FROM: CELL ONE + DMW

SPX 050 300.00
VAR 030 250.00

FOR: 1 SIGN FOR PART 080 35.00

MICROFILMED

03A91#0002MICHRC 4585.00
BA C010:59AM03-21-96

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BALTIMOR[illegible]NTY, MARYLAND
OFFICE OF F[illegible]ANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 216249

DATE 6/27/96 ACCOUNT A-001-6150

AMOUNT $ 460.00

RECEIVED FROM: Kaufman & Graham, P.A.

Special Exception 250.
Variance 175
FOR: Sign 35
$460

03A91#0275MICHRC $460.00
MICROFILMED BA C002:41PM06-27-96

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BYE

CERTIFICATE OF POSTING

96-360-XA

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 9th

Date of Posting 7/19/96

Posted for: Appeal

Petitioner: John A. Hatfield Jr. & Elva Prout

Location of property: NE/cor Bridgefield Rd.

Location of Signs: Facing roadway on property being appealed

Remarks:

Posted by [signature] Signature

Date of return: 7/26/96

Number of Signs: 2

BALTIMORE C[illegible]TY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. [illegible]

DATE 6/27/96 ACCOUNT A-001-6150

AMOUNT $ 460.00

RECEIVED FROM: Kramon & Graham, P.A.

FOR: Special Exception 250.
Variance 175
Sign 35
460

03A91#0275MICHRC $460.00
SA C002:41PM06-27-96

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

BYE

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be accessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 358 Petitioner: WASHINGTON/BALTO. CELLULAR LTD. PRTNRSHP. T/A CELLULAR ONE

Location: 1080' N.E. of FALLS RD. ON OLD COURT RD & BRIGHTFIELD RD.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: DMW, INC., ATTN: ROBERT MORELOCK

ADDRESS: 200 E. PENNSYLVANIA AVE.
TOWSON, MD 21286

PHONE NUMBER: 296-3333

MICROFILMED

Printed with Soybean Ink on Recycled Paper

TO: PUTUXENT PUBLISHING COMPANY
April 4, 1996 Issue - Jeffersonian

Please foward billing to:

Daft-McCune-Walker, Inc.
Robert Morelock
200 E. Pennsylvania Avenue
Towson MD 21286
296-3333

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-360-XA (Item 358)
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road ("JFX" Site)
9th Election District - 4th Councilmanic
Legal Owner: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular Limited Partnership; DBA Cellular One Washington/Baltimore

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a 175 foot high monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acre lot in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 24, 1996 at 9:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MISCELLANEOUS

#171

Owner: Ronald F. White

BEING KNOWN & DESIGNATED AS LOT 19, BLOCK K, ON PLAT OF SECTION TWO RANDALLWOOD, RECORDED IN PLAT BOOK G.L.B. 22/9.

NOTE: Plat for Zoning Variance

i) the plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing;

ii) the plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements; and

iii) the plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.

Not within Critical Area

No prior Zoning Hearings

THE PROPERTY SHOWN HEREON DOES NOT LIE WITHIN THE BOUNDARIES OF ANY FLOOD ZONE AS DESIGNATED ON THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 240010 0360 B DATED MAR. 2, 1981.

Accuracy of setbacks and improvements shown hereon to the APPARENT property lines are plus or minus 2 feet.

REG. NO. 449

W.T. SADLER
SURVEYORS

152 WESTMINSTER ROAD
REISTERSTOWN, MD
21136
(410) 526-5618

STATE OF MARYLAND — JAMES CARROLL SADLER — No. 449 — REGISTERED PROPERTY LINE SURVEYOR

LOCATION DRAWING

3821 BROWNHILL ROAD
BALTIMORE COUNTY, MD.

SCALE	DATE	APP NO.	JOB NO.
1"=20'	5-12-1995		J-7376

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 29, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-360-XA (Item 358)
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road ("JFX" Site)
9th Election District - 4th Councilmanic
Legal Owner: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular Limited Partnership; DBA Cellular One Washington/Baltimore

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a 175 foot high monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acre lot in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 24, 1996 at 9:00 a.m. in Room 106, County Office Building.

Arnold Jablon
Director

cc: John Hatfield, Jr. and Elizabeth S Proutt
Robert Morelock/Daft-McCune-Walker, Inc.
Michael Maus/Cellular One
Karl J. Nelson, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 24, 1996

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-360-XA

JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT -Petitioners
200' past the NE/end of Brightfield Road, 1080' NE of Falls Road, 220' SW of I-83
9th Election District
4th Councilmanic District

SE -Wireless transmitting and receiving facility in D.R. 1 zone; VAR -175' monopole within 65' of nearest property line in lieu of required 350'; and to permit transmitting and receiving facility on 3 acres in lieu of required 5 acres.

5/30/96 -Z.C.'s Order in which Petition for Special Exception and Petition for Variances were DENIED.

ASSIGNED FOR: WEDNESDAY, DECEMBER 11, 1996 at 10:00 a.m.

cc: Karl J. Nelson, Esquire — Counsel for Appellants /Petitioners
John A. Hatfield and Elizabeth Proutt — Appellants /Petitioners
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore — Contract Purchaser/Lessee
Robert Morelock /Daft-McCune-Walker, Inc.

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Legal Administrator

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 12, 1996

NOTICE OF ASSIGNMENT /Day #2

CASE #: 96-360-XA

IN MATTER OF: JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT -Petitioners Brightfield Road /Falls Road /I-83 9th E; 4th C

ASSIGNED FOR: THURSDAY, JANUARY 9, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Petitioners: Karl J. Nelson, Esq.
Appellants /Petitioners : J. Hatfield /E. Proutt
Contract Purchaser /Lessee : Michael Maus, Cellular One
Daft-McCune-Walker, Inc. : Robert Morelock

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

MICROFILMED

Printed with Soybean Ink on Recycled Paper

Case No. 96-360-XA

John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioners (Cellular One Washington/Baltimore)

NE/end of Brightfield Road, 1080' NE of Falls Road, 200' SW of I-83

9th Election District Appealed: 6/27/96

318C

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 17, 1996

Mr. Karl J. Nelson, Esquire
Kramon & Graham
1 South Street
Suite 2600
Baltimore, MD 21202

DO APPEAL
K = BIANCO + CALL
6-9-97
MICHAEL

RE: Item No.: 358 -XA
Case No.: 96-360-XA
Petitioner: John A. Hatfield, Jr.
& Elizabeth S. Proutt

Dear Mr. Nelson:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on April 5, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED

Printed with Soybean Ink
on Recycled Paper

B A L T I M O R E C O U N T Y, M A R Y L A N D

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: April 5, 1996

FROM: Robert W. Bowling, Chief
Development Plans Review Division
Department of Permits & Development Management

SUBJECT: Zoning Advisory Committee Meeting
For April 8, 1996
Item No. 358

The Development Plans Review Division has reviewed the subject zoning item. Per Baltimore County Development Regulations adopted February, 1992; Section 26-276 Floodplain and wetland protection, "No construction in or alteration of any floodplain may be permitted, except the installation of any pond, culvert, bridge, street, utility or drainage facility that the County finds not detrimental to floodplain management programs". See "BRIGHTWOOD" floodplain study on file in Development Plans Review Division.

RWB:HJO:jrb

cc: File

ZONE5F

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

April 1, 1996

FROM: Robert A. Wirth RAW/sp
DEPRM

SUBJECT: Zoning Item #358 - Hatfield Property
Old Court Rd. & Brightfield Road
Zoning Advisory Committee Meeting of April 1, 1996

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

A Forest Buffer must be established from the Jones Falls and its floodplain.

RAW:VK:sp

HATFIELD/DEPRM/TXTSBP

Baltimore County Government
Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 04/02/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF APR. 01, 1996

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:351, 352, 354, 355, 356, 357, 358, 359, 360 AND 361.

RECEIVED
1996

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed with Soybean Ink on Recycled Paper

MICROFILMED

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

3-29-96

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 358 (JLL)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

MICROFILMED

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: March 28, 1996

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 352, 354, 356, 357, 358, 359, 360, and 361

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey Long

Division Chief: Gary L. Kerns

PK/JL

ITEM352A/PZONE/ZAC1

PETITION PROBLEMS

#353 --- JJS

1. Need original signature for legal owner.
2. Need original signature for contract purchaser.

#354 --- JRA

1. Receipt not given to petitioner - still in folder.

#356 --- JJS

1. No telephone number for legal owner.
2. Only 1 receipt for item #356 & 357.

#357 --- JJS

1. No telephone number for legal owner.
2. Only 1 receipt for item #357 & 356.

#358 --- JLL

1. No telephone number for legal owner.

#360 --- JJS

1. No zoning classification on petition form.

#361 --- JJS

1. No zoning classification on petition form.

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: March 21, 1996

TO: Hearing Officer

FROM: John L. Lewis
Planner II
Zoning Review, PDM

SUBJECT: Item #358
Old Court Road & Brightfield Road

1. Applicant was advised he needs DRC status as soon as possible.
2. The BG&E property was stated to be an easement, not owned in fee.
3. Applicant affirmed environmental impact statement will be presented at the hearing.
4. Applicant only wants one sign. If not sufficient, I advised it was at his own risk.

JLL:scj

MICROFILMED

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: R. Schuetz
L. Stahl
D. Levero

DATE: January 31, 1997

FROM: Kathi

SUBJECT: Case No. 96-360-XA /John A. Hatfield, Jr., and Elizabeth S. Proutt /Post-Hearing Memorandums

The subject matter is scheduled for deliberation on Wednesday, February 26, 1997 at 9:30 a.m., notice having been sent on January 10th. As requested by the Board at the conclusion of the hearing on January 9th, the following Memorandums were filed by Counsel and Protestants, copies of which are provided herewith for each panel member's review:

1. Protestants' closing memorandum by way of letter dated January 15, 1997 from Wesley A. Lidie, Sr.

2. People's Counsel's Post-Hearing Memorandum filed by Peter Max Zimmerman and Carole S. Demilio.

3. Brief of Washington/Baltimore Cellular Limited Partnership in Support of its Petition for Special Exception and Variances.

Should you have any questions regarding the above, or need any additional information, please call me.

kathi

Attachments

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits & Development Management

DATE: August 18, 1997

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 96-360-XA
JOHN A. HATFIELD, JR. AND
ELIZABETH S. PROUTT
9th E; 4th C

As no further appeals have been taken regarding the subject case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 96-360-XA and Large exhibits)

MICROFILMED

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

96 JUL -9 AM 9:16

July 8, 1996

Ms. Sarah Lord
6134 Barroll Road
Baltimore, MD 21209

Mr. and Mrs. Wesley A. Lidie, Sr.
521 Brightfield Road
Brooklandville, MD 21022

RE: Petition(s) for Special Exception and Variance
200' past the NE/end of Brightfield Rd, 1080' NE of Falls Rd, 220' SW of I-83, (JFX Site)
9th Election District
4th Councilmanic District
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioner(s)
Case No. 96-360-XA

Dear Ms. Lord and Mr. and Mrs. Lidie:

Please be advised that an appeal of the above-referenced case was filed in this office on June 27, 1996 by Karl J. Nelson, Esquire on behalf of John A. Hatfield and Elizabeth S. Proutt. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

/s/

ARNOLD JABLON
Director

AJ:rye

cc: People's Counsel

Printed with Soybean Ink on Recycled Paper

APPEAL

Petition(s) for Special Exception and Variance
200' past the NE/end of Brightfield Rd.,
1080' NE of Falls Rd., 220' SW of I-83
(JFX Site)
9th Election District - 4th Councilmanic District
Case No. 96-360-XA
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioner(s)

Petition(s) for Special Exception and Variance

Description of Property

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Petitioner(s) and Citizen(s) Sign-In Sheets

Petitioner's Exhibits:
1 - Plan to accompany Special Exception and Variance
2 - Proposed JFX Site Location Map
2A - Proposed JFX Site Plan
3 - Photograph of Existing Entrance to Site
4 - Photograph of Approx. 300 Feet from Site
5 - Photograph of Approx. 500 Feet from Site
6 - Photograph of Approx. 1300 Feet from Site
7 - Environmental Impact Statement
8 - Proposed Monopole Site

Three Correspondences of opposition

Two Miscellaneous Correspondences

Deputy Zoning Commissioner's Order dated May 30, 1996 (Denied)

Notice of Appeal received on June 27, 1996 from Karl J. Nelson, Esquire on behalf of John A. Hatfield, Jr. and Elizabeth S. Proutt

cc: Karl J. Nelson, Esquire, Kramon and Graham, 1 South Street, Suite 2600, 21202
John A. Hatfield and Elizabeth S. Proutt, P.O. Box 711, 21022
Mr. Robert Morelock, 200 E. Pennsylvania Avenue, 21286
Mr. Michael Maus, 7150 Standard Drive, Hanover, MD 21076
Mr. and Mrs. Wesley A. Lidie, Sr., 521 Brightfield Rd., Brooklandville, MD 21022
Ms. Sarah Lord, 6134 Barroll Road, 21209
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

MICROFILMED

9/24/95 -Notice of Assignment for hearing scheduled for Wednesday, December 11, 1996 at 10:00 a.m. sent to following:

Karl J. Nelson, Esquire
John A. Hatfield and Elizabeth Proutt
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore
Robert Morelock /Daft-McCune-Walker, Inc.
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/11/96 -Day 1 of hearing concluded; continued to January 9, 1997 at 10:00 a.m. for continuation and Day #2 (calendars verified by parties and Board). Notice to be sent.

12/12/96 -Notice of Assignment /Day #2 sent to parties with copy to R.L.M..

1/09/97 -Hearing concluded before Board (R.L.M.); Closing memos due from parties Monday, January 27, 1997; deliberation to be scheduled and notice sent.

1/10/97 -Notice of Deliberation sent to parties (w/copy to R.L.M.); scheduled for Wednesday, February 26, 1997 at 9:30 a.m.

MICROFILMED

9/24/95 -Notice of Assignment for hearing scheduled for Wednesday, December 11, 1996 at 10:00 a.m. sent to following:

Karl J. Nelson, Esquire
John A. Hatfield and Elizabeth Proutt
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore
Robert Morelock /Daft-McCune-Walker, Inc.
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/11/96 -Day 1 of hearing concluded; continued to January 9, 1997 at 10:00 a.m. for continuation and Day #2 (calendars verified by parties and Board). Notice to be sent.

12/12/96 -Notice of Assignment /Day #2 sent to parties with copy to R.L.M..

1/09/97 -Hearing concluded before Board (R.L.M.); Closing memos due from parties Monday, ~~January~~ 27, 1997 EXT. TO 1/29/97
Nelson 1/29
Zimmerman 1/29
Protestants 1/24
Deliberation to be scheduled and notice sent.

1/10/97 -Notice of Deliberation sent to parties (w/copy to R.L.M.); scheduled for Wednesday, February 26, 1997 at 9:30 a.m.

1/23/97 -Letter from K. Nelson to R. Schuetz confirming grant of request to file brief on 1/29/97; C. Peatt unable to complete transcript by 1/20/97 as requested; extension granted by ROS.

1/24/97 -Closing memo filed by Wesley A. Lidie, Sr. /Protestant

---

1/24/97 -Letter to Mr. Nelson confirming 1/29/97 by close of business as due date; copy to Mr. Lidie and PMZ with copy of Mr. Nelson's letter.

1/31/97 -Copies of above referenced memos sent to R.L.M. this date.

2/26/97 SE & Var Granted; Order to be issued.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 24, 1997

Karl J. Nelson, Esquire
KRAMON & GRAHAM, P.A.
Commerce Place
One South Street, Suite 2600
Baltimore, MD 21202-3201

RE: Case No. 96-360-XA
John A. Hatfield, Jr. and
Elizabeth S. Proutt -Petitioners

Dear Mr. Nelson:

This office is in receipt of your letter of January 23, 1997 regarding the extension of time granted for the filing of Briefs in the subject matter.

This letter will confirm that the subject file has been noted, and said Briefs are now due by the close of business on Wednesday, January 29, 1997, allowing an additional two days for filing.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Legal Administrator

cc: Peter Max Zimmerman
People's Counsel for Baltimore County
Wesley A. Lidie, Sr.

Printed with Soybean Ink
on Recycled Paper

RE: PETITION FOR SPECIAL EXCEPTION PETITION FOR VARIANCE 200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road 9th Election District, 4th Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
Legal Owners: John A. Hatfield, Jr. and Elizabeth S. Proutt Contract Purchaser/Lessee: Washington/Baltimore Cellular L.P., DBA Cellular One Petitioners	*	CASE NO.: 96-360-XA

* * * * * * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to personally appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday, January 9, 1996, at 10:00 a.m. in Room 48 Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

WITNESS: RUTH MASCARI
17210 Whiteley Road
Monkton, MD 21111

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (___) the Sheriff, (X) Private Process Server, to issue the Summons set forth herein.

Kathleen C. Bianco

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Cost: $_____ }
Summoned: _____, 19___ } SHERIFF OF BALTIMORE COUNTY
Not Served: _____, 19___ }

MICROFILMED

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 10, 1997

NOTICE OF DELIBERATION

Having begun this matter on December 11, 1996 and concluded testimony and evidence on January 9, 1997, deliberation has been scheduled by the Board as follows:

JOHN A. HATFIELD, JR. AND ELIZABETH S. PROUTT -Petitioners
CASE NO. 96-360-XA

DATE AND TIME : Wednesday, February 26, 1997 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Please note: Closing Memorandums are due on Monday, January 27, 1997 (Original and three copies).

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Petitioners: Karl J. Nelson, Esq.
Appellants /Petitioners : J. Hatfield /E. Proutt
Contract Purchaser /Lessee : Michael Maus, Cellular One
Daft-McCune-Walker, Inc. : Robert Morelock

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Copied: R.L.M.

MICROFILMED

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:	John A. Hatfield, Jr., and Elizabeth S. Proutt -Petitioners Case No. 96-360-XA	
DATE	:	Wednesday, February 26, 1997 @ 9:30 a.m.
BOARD /PANEL	:	Robert O. Schuetz, Chairman (ROS) Lawrence M. Stahl (LMS) S. Diane Levero (SDL)
SECRETARY	:	Kathleen C. Bianco Legal Administrator

Those present at this deliberation included Karl J. Nelson, Esquire, Counsel for Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

ROS: Good morning, everyone. We are here this morning to deliberate Case No. 96-360-XA, which is a special exception and variance request for the monopole cellular site on the Hatfield property. I will remind everybody that this particular part of the process is not going to be part of the record per se. Minutes will serve to indicate compliance with the open meetings law. The matter before us is a special exception for a wireless transmitting and receiving facility in a D.R. zone at a site which fails to meet the 5-acre minimum, and the siting of which fails to meet the setback requirements prescribed for the transmitting facility. The special exception is required for the lawful use in D.R. 1 zone and need for a special exception.

I've read all my notes again, the file, everything brought into the case by way of evidence, as well as the memorandums that were filed by Petitioners and Protestants and People's Counsel, and there are a few things that I would to make clear first. These kinds of matters, based on what I've seen in case law -- one of the mistakes that the Petitioners in these matters, whether in Baltimore County or another jurisdiction, they believe that their case is essentially limited to matters which are not zoning. All too frequently we get a ton of engineering information which, frankly, is irrelevant, for the most part, in these kinds of proceedings. That's my view. A certain amount of information is necessary to understand predicament and that can come by way of stipulation -- very little information is required there -- only what it is that exists and what they are doing about it. That's all I want to say about that. That does not mean that I believe that insufficient information was provided on zoning matters. Only

RECEIVED

I do not thing it had to be two days' worth.

There is one other matter raised in People's Counsel's Memorandum -- the issue of standing for Cellular One. We may not have evidence of a lease, as raised in your Memorandum, but we do have a statement, first of all, by Cellular One that they have a contractual agreement with Hatfield and Proutt owners, and that is by way of statement and signature of Petitions for Special Exception and Variance. That particular documentation still sits in the file and is part of what we have to look at. In the past, material incorrectly brought on the actual Petition has been the subject of argument, so it is part of the file. It's a properly executed document. At this point, I have to disagree with People's Counsel that these people do in fact have standing, whether it was Cellular One or any other entity, they could still obtain a special exception and move forward and then lease it to whomever at some time in the future. I do not mean to be impolite. It was a well-stated case. The Memorandums were very well written, including that of Mr. Liddie. He made an excellent case. I thought it was a threshold issue to get into that.

On to the merits -- one issue that was raised in Mr. Liddie's testimony, and I starred it in my notes -- that he believes that BCZR 502.7 cannot be varied, and he wants the Board to uphold it. I disagree with Mr. Liddie. I think that 502.7(c) states it clearly - subject to requirements -- and then I would emphasize this -- if granting were appropriate -- it specifically states that it is a proper variance proceeding, when it comes to the matter under 502.7(c). We are here on variances for c(2) and (3) -- acreage and setback requirements.

After the case concluded, I thought -- there is not a better place to put this thing. It is my belief that -- and I don't like cellular phones; I do not use them; I'm a rather private person-- but that has very little to do with it. This particular site is situated such that it's virtually, and I say, virtually, out of view. Yes, there are some people who will drive past it -- I think Falls Road has a speed limit there of 40 -- but the way people drive, it's probably 60. That has an impact on visibility. When one is driving, we drive facing forward. Regarding drive by test with balloon test -- it's a novel approach to prove visibility at this particular proposed structure. Yet another attempt with a similar test -- and it was a good attempt -- but I think it was a little less scientific than what the balloon test did -- provided that bottom of balloon will be at the top of the proposed structure -- if you saw the balloon, then you might see the tip of the proposed structure, but not the entire

structure.

Having said all of that, I can honestly say that I can discount most of the testimony regarding visibility of this issue. It is not visible from Rockland, nor from most of Greenspring Valley. Only when one is traversing the bridge over the beltway, etc. The other side of that is -- there is a certain amount of ugliness that goes with this type of thing, and the County has recognized it must provide for this. We have a BGE high-tension wires supporting structures running all up and down Falls Road; nothing uglier in my view than those things. In this matter, we have a monopole -- less than one-foot in diameter. On a cloudy day, it would probably be invisible. And so, as for the impact that it might have on the visibility, and even the impact on the historical nature of the area, I really don't have any feeling that it would provide a detrimental impact on those issues.

As for the special exception requirements for a wireless transmitting and receiving facility, they must do a diligent search; I am convinced that they did exactly that. One of the things that troubled me by cross-examination was that due diligence should have taken into account the possibility of putting the tower on the parking lot of the Trinity site -- they found it to be an insufficient solution to their situation -- it was investigated. They are using monopole site within the tower of the Trinity Building. But capacity and service has not been able to keep up with demand.

I find that they did complete a due diligence search for other sites outside of residential zone. Most sites are still within the D.R. zone, and all other requirements under c(2) and (3) notwithstanding, I find that they have met the requirements.

As for the property values, I want to make a special note -- Mr. Liddie did make a good case as to the impact on his property. I believe, frankly, I am convinced by testimony from witness who spoke about the value impact on Mr. Liddie's property, and I have to say Mr. Liddie's property has already been adversely impacted about as much as it can be its site constraints, location, and so forth. There will be none on the historical nature of the area because of the standing of this particular pole adjacent to BGE right-of-way. It's going to be almost completely out of view when one is driving along Falls Road. As to the issue of whether or not the ultimate site of the Valley Inn was appropriate and whether or not those two sites constitute one site -- I disagree with People's Counsel in that I think that one test of whether or not they are a contiguous property exclusive of what is on

MICROFILMED

public documents -- there is one test -- you have to be able to walk from one to another; in my view, they are separate entities -- be aware of the fact that the State constructed 695.

Having said all that, I would grant the special exception for the transmitting and receiving facility. As for the variances, we had, I would say, not a lot of testimony but I think sufficient testimony to grant the variances as well. The site is, I think, about as encumbered as any site I have seen in any proceeding before me on the Board.

Regarding the intersection of 83 and 695, there are only so many of those sites County-wise. Taken from that collection of sites, other encumbrances set it apart from any other site in the County, and variance uniqueness test is not a difficult one to get by in this matter.

The other test in this particular case is the one where Petitioner has some problems -- I think this will probably be the second time that I have had to encounter that. "Practical difficulty" and "unreasonable hardship" -- we have unrebutted testimony that we have .27 remaining acre of roughly a 3-acre site -- which is available for development; .27 acre in an area such as this is amazing to me that when the State condemned the property to construct 695, it only condemned that part of I-695 - but that was,what, 1960? Relative issues were different than now.

I don't agree with People's Counsel that they were adequately paid for condemnation of the property because that rendered the rest of the property useless, but for something which would possibly be some utilitarian purpose. Having found that, we do have an opportunity for maximum and best use, and to do otherwise does create practical difficulty or unreasonable hardship. And so, I disagree with People's Counsel also that variances are threshold issue before getting to the special exception. I think they are separate issues -- merits are applied differently, and so I do find that it is practical difficulty or unreasonable hardship for denying the variances.

There are no density issues; no parking issues; and so forth. And so, having found all of that, I feel as though I am constrained to grant the variances -- only the second or third variance I've granted in almost 4 years on the Board. But I did not know I would do that until about 1:30 last night.

Having said all that, I would grant the variances and the special exception brought by Cellular One and the Hatfields

MICROFILMED

and Proutts.

SDL: I too went through a lot with this case; one where I wavered back and forth. The memorandums were good; cases were well presented; testimony was informing. I'm going to address the variances first. I agree that the issue of hardship cannot turn on the hardship suffered by Cellular One...I drove out to the property; I couldn't go on it. However, my impression was that this parcel would qualify as unique. There are 3 acres zoned D.R. 1 which, under ordinary circumstances, would permit three homes. Because of easements and constraints, .27 acre is buildable; only one home.

People's Counsel says that nothing bars building a residence. I cannot imagine anyone building any home on that property that would be at all economically feasible, given the location; abutting 695 and 83; and the presence of BGE tower and power lines. It would be foolhardy to put up home. I would never recover money.

It's a 3-acre property that, for all practical purposes, cannot be used. It strikes me as unique and a hardship not to Contract Purchaser, Cellular One, but to the owners, and not self-inflicted. People's Counsel points out that the owners inherited three properties, including that of Valley Inn. The idea of properties being owned by the same party being adjacent implies they can be used jointly. There is no way that two parcels divided by an interstate can be used in conjunction with each other. One may as well be in Towson and one in Dundalk. They were passed down through the family in the same deed. I think what the owners end up with here is a 3-acre residential parcel virtually unusable.

Balanced against the property owner's interest are those impacted by the construction of the pole. Testimony of real estate appraiser was convincing regarding property values; but don't think addition of a monopole would affect property owners; may affect enjoyment. A number of witnesses said it would. Most said it would detract from the historical ambience of the area.

I'm still wavering on the variances, but they could be granted.

Turning to the special exception, I don't quite agree with Rob. Regarding special exception, the Petitioner has complied with 502.7 except acreage and setback, and also with 502.1, except possibly the spirit and intent requirements. The difficulty is with Schultz v. Pritts. In that case, the Court of Appeals has held that the standard for granting is whether

the proposed use at that location would have adverse effects beyond those associated with the use elsewhere in the zone. I drove through Rockland. It's an amazing neighborhood; a unique neighborhood for Baltimore County. Historicity spills over on to the subject site. There are houses there that are clearly historic.... If a monopole is going to have an adverse effect, this is the neighborhood where it will do it. The balloon test was an attempt to see the effect of visibility. Rob does not think it would be that visible. I, myself, question whether something this high -- 35 feet above the BGE tower -- whether it will be visible or not. Looked at the trees between the Liddie site and the proposed site. Of course, it's wintertime -- not much foliage. I don't think they offered much of a screen. Whether it's feasible from Rockland or Falls Road -- that's what concerns me. The residents are overestimating the impact on the historical ambience of their area. I think it's disturbed every time a car goes by.

But going back to Schultz v. Pritts, if it does not have an undue effect on this neighborhood, it would have none on any neighborhood.

I would like to hear what Larry has to say.

LMS: First of all, for the record, we are here in public deliberation. My opinion as to the process is, by my own agreement and commitment to myself, stated as follows.

I don't feel that the open deliberation system, as many of you know, is the best way to go about these things. I have not been happy with it as an attorney or as a Board member since initiation, and suffice it to say that, especially in cases where we have some problem, some difficulty, some "we are not sures" -- it has a tendency to halt the discussion; also has tendency to possibly summarize discussion more than what is helpful to getting a decision. Suffice it to say, let the record reflect the comment, that since it is here, as a creature of not only the legislature but our brothers and sisters above us -- I would suggest to them that they might want to function in the same manner they are requiring us to do. I think neither our friends across the street or on Rowe Boulevard would want to do that.

Having said that, for only the second time since I have been on the Board, I took a ride -- I live closer to the area. I drive by the area quite often. I was not quite sure what it was like living near an area of easement, where you have towers, and so forth, after hearing Mr. Liddie's testimony, and reading his Brief. But to the point of discussion, and

while at the same time my mind is saying there is already this, that and something else, it seemed to me, however, that when someone has to live or lives near as much as is in that area, isn't he really entitled to a degree of protection from further encroachment? Do other things around you say to other entities -- this is already there and so we can do more? When someone is already burdened to that degree, is there not a point in time where you say -- okay, enough for this guy? Is everything dumped there because other things are there? I am confused by that thought.

Nobody likes to believe his property is the best place to put everything in the area. It has nothing to do with the value of property, necessarily.

The standing issue concerned me. Just from a procedural point of view, part of the problem when Memorandums are due on the same date is that sometimes issues are raised, and then the other side might have a response, but we do not get that response. I did not have a problem in this case. I feel there is certainly enough in the record to support a standing position. But there might not have been. For further reference, I think that there has got to be some difference in time. It opens an entire "bug-a-boo" regarding a new point raised -- does someone respond to that? If you have raised something that was not raised in the hearing and the other guy gets a chance to respond, you do not get a second bite of the apple. For further reference, there may have been -- we may have been in a position where we may have wanted to hear from someone else about it. In this particular situation, it did not come to that.

We have two issues -- a special exception and variances. As to expert witnesses, while we have sat on cases where technicalities have been very important, there is a point at which I would have accepted a proffer, especially, and this is the point about valuation -- one side presents experts; one side presents people's opinions and arguments. Expert is expert -- if you are on other side of argument where there is an expert, easiest way to get expert questioned is to have experts of your own. We had experts on one side, but it seemed to me that when you have one side with experts who survive cross-examination, I think it may be because examination was lay examination. When left with a situation where only experts are clear and convincing at what they are telling us, I find it difficult not to accept what they say as valid.

The special exception requirements, I think they have established that that exists. I was impressed with the

MICROFILMED

process. and I think, frankly I don't think Cellular One cared where they put it. There was no intent to be in any particular location. Anywhere in that area where it worked would have been fine with them. Logic had to have been -- place most defensible to put it in. I think their testimony reflected that they had logical winnowing process to find a spot meeting the requirements.

There was a lot of discussion in the memorandums regarding statute and variances -- this is one of the few sections in the law that actually says if you need a variance -- nothing in here should bar you from doing that. We got an idea of the philosophical pecking order the council had in mind. I think the mere statement by the council gives you indication that it is an idea that was alien to them. It may occur, may need to occur. The balloon thing -- it may be a valid test; may not be. No expert in site management or engineering saying anything. I did not see anything that tremendously changed the conclusion that he came to after the balloon man testified about what happened.

I came here with the impression -- if you look into it in more detail -- I'm still confused about the special exception only in the sense that the statute --I can be trying to find a way to protect Mr. Liddie's quality of life. If you can put it there -- but by the same token there's one more thing there. I cannot help but be brought back to the fact that the County Council and statute and case law -- including Schultz v. Pritts -- the comment that any adverse effects above and beyond the use irrespective of its location in the zone -- that's very clear. It certainly would not, on the one hand, would not have -- is it a cumulative thing -- is it Mr. Liddie having one more think in front of his house -- is it a worse effect for him than were it to be the only thing? Is it, in fact, no worse there than anywhere else?

I did not see it as a neighborhood problem as much as one property owner. I'm leaning toward granting the special exception. I will leave it for a second and talk about the variances. Believe it or not, I found the variances somewhat easier. Is the property unique? Yes, I think it is. I think when you leave .27 acre as the only part of the property developable for any other purpose, that in and of itself makes it to some degree unique. It's still a 3-acre plot -- this is not in terms of geography as much as a sense of what other entities have visited upon the property. I do not accept the argument that because there was compensation for the taking, that somehow makes it self-inflicted. Because it's State inflicted. Constitutionally, they are required to compensate people.

MICROFILMED

In that sense, it is because that property cannot have anything done with it. A person cannot change things on it as he wanted to do, could not force backward anything visited on his property, but none of his doing. He's stuck with easements and State takings. This made a property different from other parcels. It is unique. Is the inability to economically use a portion or part of property unreasonable hardship? If on one hand we are saying that it is unique because he only has .27 acre left, through no fault of his own -- does he have the right to find a use for that? If he cannot, that constitutes unreasonable hardship under the zoning laws. He has now found a use requiring minimum construction. If the right to use is not inherent, than it may not be an unreasonable hardship. If the property cannot be used, it would seem to be an unconstitutional taking. You still have to have uses that meet whatever criteria for that use -- special exception requirements in this case.

Do you have a right to have a reasonable use of that property, presuming you meet qualifications that the law proposes? I have to say that you do.

Here we have a permitted use -- and the mere act of trying to utilize the property for a use permitted should give you the right to say that being prohibited from making that use on the property visits undue or unreasonable hardship. If you follow that logic, there is unreasonable hardship. And therefore the second prong is met.

History is where you find it. Historical zones, landmarks, properties. I understand the arguments. But, Diane, I think you asked the appropriate question. Would another 35 feet of height affect detrimentally the historicity of the area? No development there; no access roads; and so forth. It is an historical area, but should not be used at the wrong time or too much. May have been an over-reaction as far as that is concerned.

Where does that leave me? It leaves me unhappy for Mr. Liddie. I think the Petitioners have done as much as they could do to pick appropriate site. I'm leaning toward granting both, strongly leading toward it.

SDL: I had a problem with the wording of Schultz v. Pritts.

ROS: I would like to address one thing -- the effect on Mr. Liddie's property, and his enjoyment of that property. I think that what you are raising is an equity issue. This Board is not a body in a position to adjudicate matters of equity. The fact is that no matter where this thing goes,

there will always be someone who will be affected by something, no matter where it goes in the County. Mr. Liddie has to be looked at not in terms of Mr. Liddie, but as Mr. X. I thought Mr. Liddie was a wonderful witness; he wrote a terrific Brief. I cannot think of personalities when looking at this situation. And so, that then takes us to Schultz v. Pritts, which is the test that the Board has to consider. Perhaps I glossed over it -- but when you are thinking about D.R. zone, and particularly D.R. 1, one of the shots taken at the site -- why not on the parking lot of Trinity. It becomes infeasible at any other site. I'm talking about the ability to say this thing -- if you put it anywhere else, it has a greater impact at any other site -- that's what makes me say that I cannot think of a better place. On the Schultz test -- we have the historicity in the area. Does that mean we are constrained to never construct in those areas? To what degree are we going to assign value to elsewhere in the zone? And elsewhere in the zone in this particular case goes from area roughly south of Rockland and to the north of GreenSpring Station. that is a very large area. Is there another site where it will have a more innocuous sighting of a structure such as this. It's being put in a hole.

LMS: They did a good thing by putting it there --

ROS: That's my point. The law amplifies what has been executed in Schultz in an unrelated case. That's why I glossed over Schultz thing. I apologize if I was not clear about that. Taking away the equity issue and taking away the Schultz test, that is why I am compelled to grant this thing.

It took a long time for me to get there. I had feelings for Mr. Liddie and other neighbors -- when I got my degree in architecture, there were lots of credits in historic preservation. I believe we are not impacted in this particular case because of the way this Petitioner has gone about it's business in minimizing the impact.

One other matter you spoke about -- that was the self-inflicted issue. It was also addressed by People's Counsel in Memorandum. I don't think it applies in this matter. It's not self-inflicted as it relates to the uniqueness of the site. I also believe that there are certain realities to life. Cellular One as one of the parties in this case is not the only one doing towers in this County. And Cellular One -- they all share towers -- there are limited sites in a jurisdiction as old as Baltimore County.

In Schultz, the test takes on new meaning in describing what is left for consideration. There are a lot of properties out

there, and cases which this Board has heard -- where what is left there can be taken into consideration when considering the Schultz case. I've concluded this is probably one and only site where this thing ought to go.

SDL: I was wavering -- really questioned whether it would impact historicity -- if you are comfortable with Schultz v. Pritts --

ROS: For the record, this is exactly one of the problems with open deliberation. I do not want to be viewed as the one influencing you at this juncture -- this is the problem with the whole process.

SDL: If it were not for the wording -- I can read it over again. You are already the majority -- it's already been granted. I can only write a dissent. And I don't feel that strongly. I don't really feel it will negatively impact the neighborhood.

ROS: So we are unanimous? Larry, you had one other thing?

LMS: No, you got that.

ROS: That concludes the matter for today. The Board will issue a written Opinion and Order. Any Petition for Judicial Review will go from the date of that Order.

Thank you.

****

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco

MICROFILMED

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P. O. Box 204
Riderwood, MD 21139
Tel. & FAX (410) 337-0792

April 24, 1996

Mr. Lawrence E. Schmidt
Zoning Commissioner
Courthouse, Suite 112
400 Washington Avenue
Towson, MD 21204



RE: Case No. 96-360-XA (Item 358)

Dear Mr. Schmidt:

The Ruxton-Riderwood-Lake Roland Area Improvement Association would like to go on record as being opposed to the above case regarding the request for a special exception.

The association feels that is the variances requesting the 175 foot monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acres lot in lieu of the required 5 acres are excessive and indicate that the chosen location is not conforming to Baltimore County's regulations. If variances of this type continue to be permitted, it will set an unfortunate precedent all over the county. The monopoles from all the different telecommunication companies will be all anyone sees towering along the skyline.

Thank you for your careful consideration to our request.

Very truly yours,

Laurie S. Long

Laurie S. Long
Executive Director

Send Copy of Order

MICROFILMED

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

June 3, 1996

RECEIVED
JUN - 7 1996
ZONING COMMISSIONER

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County
Office of Planning and Zoning
Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Petitions for Special Exception and Variance
200' past the NE/end of Brightfield Road,
1,080 NE of Falls Road
9th Election District--4th Councilmanic District
Petitioners: John A. Hatfield, Jr. and
Elizabeth S. Proutt
Case No. 96-360-XA

Dear Mr. Kotroco:

I am in the process of gathering materials for Cellular One's appeal of your decision in the above-referenced case. At the hearing, a representation was made by Ms. Lord that her community association would be forwarding some materials to you for your review. I have not received copies of any such materials from her. So that I may be in possession of the complete record of the case, please forward copies of any materials/correspondence you received with respect to the above-referenced case from Ruxton-Riderwood-Falls Road Scenic Route Group.

Thank you for your attention to this matter.

Very truly yours,

Karl J. Nelson

KJN:jes

cc: Mr. Michael Maus
Ms. Sarah Lord

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

June 27, 1996

RECEIVED
PDM
By scj

HAND DELIVERY

Mr. Arnold Jablon
Director
Permits and Development Management
111 West Chesapeake Avenue, Room 111
Towson, Maryland 21204

Re: Petitions for Special Exception and Variance
200' past the NE/end of Brightfield Road,
1,080 NE of Falls Road
9th Election District--4th Councilmanic District
Petitioners: John A. Hatfield, Jr. and
Elizabeth S. Proutt
Case No. 96-360-XA

Dear Mr. Jablon:

This letter shall serve as a notice of appeal from the Deputy Zoning Commissioner's decision in the above-referenced case. In that case, Mr. Kotroco denied Washington/Baltimore Cellular Limited Partnership's request for a special exception and variances with respect to a proposed cellular telecommunications facility. Enclosed please find the Appellant's check, made payable to Baltimore County, Maryland, in the amount of $460 to cover the appeals costs for the special exception ($250), the variances ($175), and $35 for a sign.

Thank you for your attention to this matter. Should your office require any additional information, please do not hesitate to contact me.

Very truly yours,

Karl J. Nelson

KJN:jes

Enclosure

cc: Mr. Michael Maus (w/o encl.)

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

January 23, 1997

HAND-DELIVERED

Robert O. Schuetz, Chairman
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: John A. Hatfield, Jr. and
Elizabeth S. Proutt--Petitioners
Case No. 96-360-XA

Dear Mr. Schuetz:

I learned from Ms. Peatt, the court reporter in the above-referenced matter, that the transcript of the second day's proceedings would not be available until Wednesday, January 22. The transcript was originally to have been available by Monday, January 20, 1997. She informed me that she contacted your office and that you have no objection to extending the deadline for Cellular One to file its brief through and including Wednesday, January 29, 1997. I write to confirm the extension. If I have misunderstood or otherwise errantly characterized the situation, please contact me at your earliest convenience.

Very truly yours,

Karl J. Nelson

KJN:jes

cc: Mr. Michael Maus

MICROFILMED

DMW

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333 FAX 410 296 4705
E-mail: dmw@dmw.com

Memorandum

To: Carl Richards, Supervisor
Zoning Review Office
Baltimore County
Permits and Development Management

From: Mitchell J. Kellman
Planning and Zoning Coordinator

Date: February 18, 1998

Re: Cellular One - JFX Site
Building Permit Site Plan
DMW Project No. 95057

This memorandum will summarize our recent conversation regarding the above referenced site. The original approved building permit site plan included connection walls between the modular buildings. On November 26, 1997, the Zoning Commissioner granted a special hearing which determined that the requirements Section 102.2 of the Baltimore County Zoning Regulations (BCZR) shall not be applied separately to multi-users of a single site as a wireless transmitting and receiving facility. By order of this zoning case, the connection walls are no longer required. We are asking that you approve the revised building permit site plans which do not show the walls. We are submitting three copies of the site plan, two for the building permit file and one for the case file of 96-360-XA, which approved the site for the wireless transmitting use.

MJK/mls

cc: Mr. John M. Altmeyer, Supervisor, Code Inspection

MICROFILMED

January 15, 1997

Robert Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Dear Sir:

In regard to the case of John A. Hatfield and Elizabeth S. Proutt #96-360-XA, the following is submitted for your consideration.

1. The variances being applied for by Cellular One do not meet the criteria for the erection a monopole upon the proposed site.
   a. The variance requested is to erect a monopole on a 3 acre plot in lieu of the required 5 acres, a difference of 40% in plot size.
   b. The variance requested is to erect a monopole 65 feet from the nearest private property line in lieu of the required 350 feet, a difference of 81.4% in distance requirements.

2. The proposed monopole site is adjacent to the Rockland Historical District and neighboring to the Greenspring Valley. Both Rockland and the Greenspring Valley harbor historic sites, both architecturally, and by reason of events that took place on the land. Since most of our history is "seen" in architecture or in land, any obstruction to this visual appreciation of either significantly destroys the historicity of a place. A monopole would impair these "sight" lines.
   a. The Cellular One attorneys presented testimony that likened the Rockland Historic District to a Washington D.C. suburban community of equal real estate values. This comparison is invalid because the Rockland Historic District is unique because it is the only continuously lived-in mill town in the United States. It has no counterpart.
   b. The monopole would be situated on or near the railroad that ran from Lake Roland to the Greenspring Valley, a route known to be important in the movement of Civil War troops.
   c. The resident of the Rockland Historic District and other friends of the Falls Road corridor and the Greenspring Valley oppose modern encroachments on this area for several reasons. First, the original 500 acre farm known as the Johnson estate has already suffered the intrusion of a major power line, a sewer line, two major road systems (I-83 and 95) and a fire station. Second, in an effort to preserve the rural heritage of this farm, members of the Johnson family have given considerable acreage to scenic easement. Third, it is in the interest of many residents to leave open land, especially along the Jones Falls streambed for the eventual purpose of a connecting trail system from Lake Roland to the Greenspring Valley. Fourth, the Rockland community has consistently fought the widening of Falls Road because in the event of such a widening, the front porches of the Rockland houses along Falls Road would have to be removed to accommodate the change. Fifth, as a matter of precedent, the Rockland community has fought many proposed variances in zoning in order to stave off further development and to negate modern intrusion.

3. The erection of a monopole could impact the real estate values of the adjacent properties, i.e., the Lidie house and the Brightwood complex. Testimony was given by a Brightwood resident who felt that the pre-existence of a monopole within the sight lines of her home would have discouraged her from buying her present home.

4. The usefulness of a monopole was questionable.
   a. The monopole's presence at this location would give a range of approximately 1.5 miles in a north-south direction and 2 miles in an east-west direction. If one were traveling at 50-60 miles per hour on either I-83 or 695, the phone user would be inconvenienced from making or continuing a call for two minutes, a period of time which is survivable.
   b. Emergency vehicles such as police, fire trucks, hazmat clean-up trucks (state and federal level), and ambulances are dependent on radio waves transmissions as a communications source, not site-to-site transmissions for which monopoles are erected.
   c. The Cellular One attorneys claimed phone service in the range designated by the monopole was 10-30% deficient for customer use, especially during the time period around rush hour. Testimony was given by a Rockland resident who is a Cellular One phone user (she owns three such phones) that despite extensive use of these phones during rush hour especially, she has noticed no apparent disruption of service.

5. The proposed site stands in the 100 year flood plain of the Jones Falls streambed. This could have a potentially detrimental effect environmentally.

As an individual, I ask that the Board uphold the earlier ruling and deny the appeal for exception to the zoning variances. As a community, it is our hope that the Baltimore County Board of Appeals will join us in preserving a valuable historical resource not only for Baltimore County, but also for the nation.

Respectfully submitted,

Wesley A. Lidie, Sr.

cc: Peter Max Zimmerman
People's Counsel
Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

Karl Nelson (for Cellular One)
1 South Street
Suite 2600
Baltimore, MD 21202

MICROFILMED

We, the undersigned, are ~~with~~ against the ~~installment~~ of a mono-pole communications tower on the land north of Meridian at Brightwood, south of the Beltway, east of Falls Rd & west of JFX.

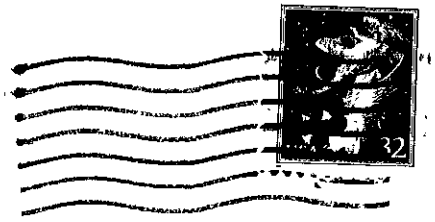
1) Josephine D. Johnson 10145 Falls Rd Brooklandville 296-5428
2) Leslie Bartnick 10131 Falls Rd Brooklandville 313-[illegible]
3) G. Brock Johnson 10129 Falls Rd. " 852-2927
4) Kimberly Johnson 10115 Falls Rd Brooklandville 821-7662
5) [illegible] 10115 Falls Rd [illegible] [illegible]-7662
6. Lloyd Cliffe 6 EBREEZY TREE CT. 628-2767
7. [illegible] 10136 Falls Road Brooklandville 21022
8. [illegible] 10116 Falls Rd Brooklandville Md 21022 828-6508
9 [illegible] 10136 Falls Rd Brooklandville Md 21022 828-6508
10) 2nd C Rdty 1945 Falls Rd Brooklandville 21022 296-5428
11) Ellie Johnson 10214 A Falls Rd Brooklandville 823-6479
12) [illegible] " " " "
13) Robert [illegible] 10216 Falls Rd Brooklandville 823-7987
14) Ann G. Johnson 10214 Falls Road Brooklandville, 21022
15) 16. James Rea Garrett 10220 Falls Rd., Brooklandville, MD 21022, 825-0374
16 Edith Hoyt Garrett 10220 Falls Rd Brooklandville Md 21022-0816
17 Sheila Turman 5809 Ethelbert Ave Balto. MD 21215 542-1185
18. Judith F. Lidice 521 Brightfield Road, Brooklandville, MD 21022 828-7856
19. Corie Kurlin 10131 Falls Road, Brooklandville, MD 21022
20. Wesley A. Lidice - 521 Brightfield Road, Brooklandville md. 828/7856
21 Susan J. Diedrich 10134 Falls Rd Brooklandville Md 821-9174
22 Lore Azola 1097 W. Lake Av. Balto. 21210 377-2044

RECEIVED
MAY - 6 1996
ZONING COMMISSIONER

MICROFILMED

10145 Falls Rd
Brooklandville
21022





Dep. Zoning Commissioner Katroco
Zoning Commissioner
Rm 112
Old Courthouse
Towson, MD 21204

File 96-360-XA

PETITION AGAINST COMMUNICATIONS TOWER

We, the undersigned, as residents of Brightwood, oppose the construction of a communications tower on the proposed Hatfield property which is adjacent to our community.

RECEIVED
JUN - 7 1996
ZONING COMMISSIONER

Grace E. Howes
Mr & Mrs John West
~~Leonard B Temple~~
~~Thomas W Wise~~
Elizabeth A. Bennett
Elizabeth R Whitman
Pamela Slingluff
~~Marie Lewis~~
Philip W Chase Jr.
Joan W. Deady
Jeff Brown
Jo Kohn

Affects Our Property if we should feet it on our Property. !!! * 12,000/year

I Very Much Wish Yes Full Love

BRIGHTWOOD

SIBYL B. GIBBS
EXECUTIVE DIRECTOR

100 BRIGHTWOOD CLUB DRIVE
LUTHERVILLE, MARYLAND 21093

(410) 339-3200
FAX (410) 339-3217

PETITION AGAINST COMMUNICATIONS TOWER

We, the undersigned, as residents of Brightwood, oppose the construction of a communications tower on the proposed Hatfield property which is adjacent to our community.

Mr. & Mrs. C. Ross French

Mr & Mrs Charles H Haeffner

Eleanor Fenwick

Olivia E. Robinson

Doris and Stine Hearn

Mr. Mrs. geoffrey Creyke

M/M L. C. Threet

Mrs. H. A Feldmann

Mr & Mrs Charles H Haeffner

Dorothy Richardson

Mr & Mrs. Richard D. Bond

Mrs. Warde Allan

Joseph M. Talisferro

Jim Hendricks

Bea Brecht

Eleanor R. Riggs

Leola & Herbert Turk

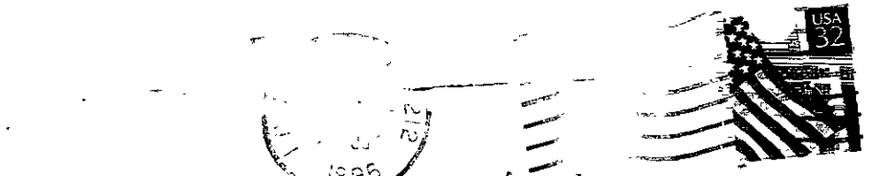
Ruth Elwell

John M Edwards

Katherine Darlington

Angelica P. Allan

Barry Hubbard



The Hon. Lawrence Schmidt
Zoning Commissioner
Old Court House
Towson, MD 21204

21204/4688

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Karl Nelson	One South Street
Jim Jimmeivat	
TIMOTHY E. GAINE · NEXTEL	11710 BELTSVILLE DR STE 400 BELTSVILLE MD 20705
Jeffrey Narbut -	9000 Junction Dr. Annapolis Junction MD. 20701
David W. Reinauer	11 11
George Meeker	131 N. MEADOW 21066
Rob Hoffman	40 Allegheny Ave 21204

Printed with Soybean Ink on Recycled Paper

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Mr. & Mrs. Wesley J. Lidie, Jr.	521 Brightfield Road Brookeville, MD 20833
Sarah F. Ward	6134 Barroll Rd 21209
Rexton Riderwood + Falls Rd Scenic Rt Group	

Market Study:

Proposed Monopole Site
NORTH END OF BRIGHTWOOD ROAD
Brooklandville, Baltimore County, Maryland

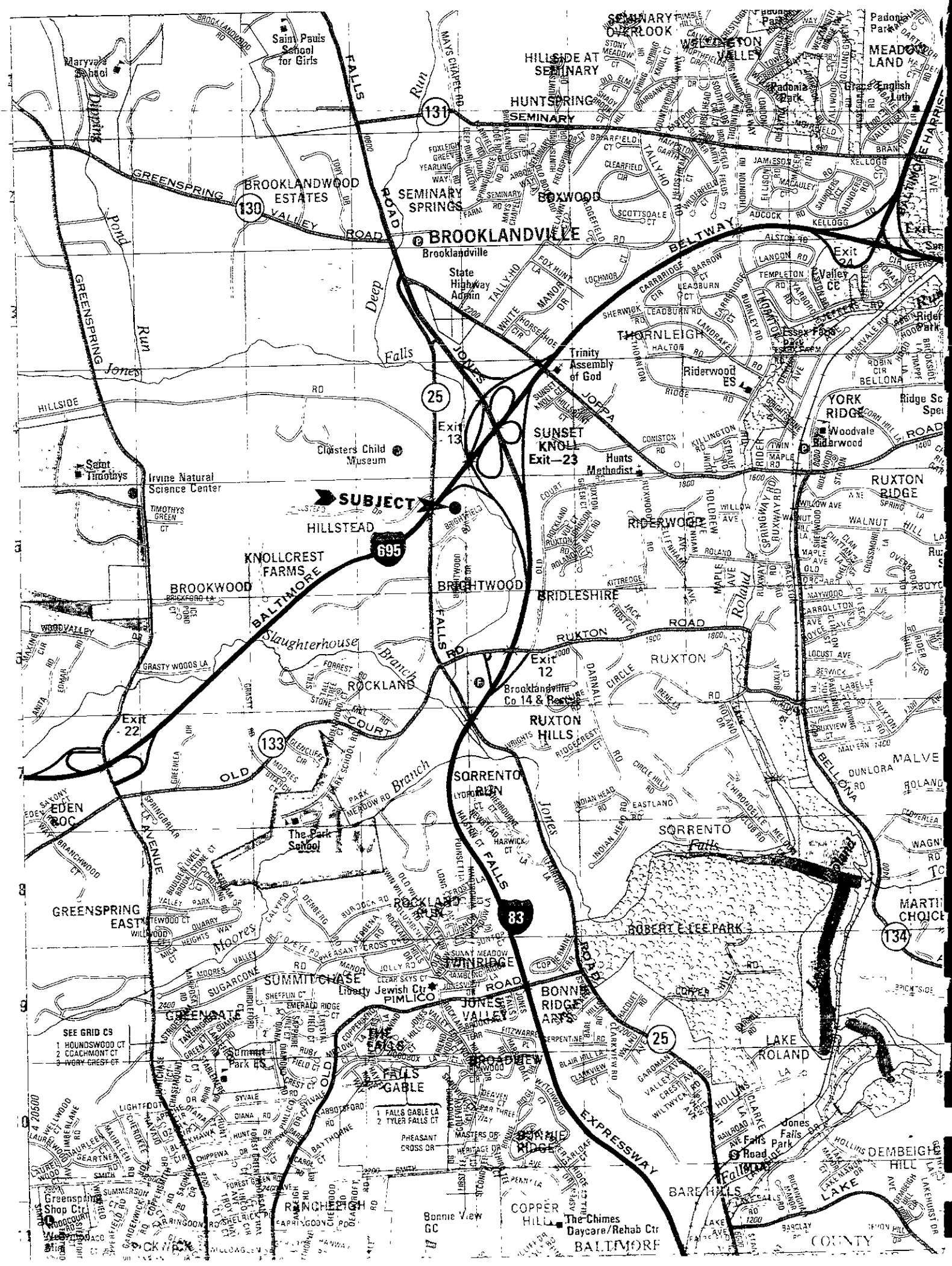
For:
Cellular One Washington/Baltimore

April 22, 1996 Ap. Ex. 8

Copyright © 1996, by
Lipman Frizzell & Mitchell
a Maryland General Partnership

LIPMAN FRIZZELL & MITCHELL
Real Estate Appraisers & Consultants
LF&M Professional Center
1400 Front Avenue - Suite 300
Lutherville, Maryland 21093

LFM-4492J


SUBJECT
Saint Timothys
Irvine Natural Science Center
Closters Child Museum
Trinity Assembly of God
Riderwood ES
Hunts Methodist
Woodvale Riderwood
Brooklandville
Brooklandville Co 14 & Rescue
The Park School
Liberty Jewish Ctr
PIMLICO
Summit Park ES
Greenspring Shop Ctr
Bonnie View GC
The Chimes Daycare/Rehab Ctr
Jones Falls Park Road
Valley CC
Essex Farms Park
Ridge Sc Spec
SEE GRID C8
1 HOUNDSWOOD CT
2 COACHMONT CT
3 IVORY CREST CT
1 FALLS GABLE LA
2 TYLER FALLS CT
Exit 13
Exit 22
Exit 12
Exit 23
Exit 24
Exit 25
BALTIMORE
BELTWAY
EXPRESSWAY
FALLS ROAD
JONES FALLS
GREENSPRING VALLEY ROAD
HILLSIDE ROAD
OLD COURT ROAD
RUXTON ROAD
BELLONA AVENUE
SPRINGBRIAR AVENUE
Deep Run
Pond Run
Dipping Pond Run
Slaughterhouse Branch
Moores Run
Jones Falls
Roland Run
Falls Run
Maryvale School
Saint Pauls School for Girls
SEMINARY OVERLOOK
HILLSIDE AT SEMINARY
HUNTSPRING
SEMINARY SPRINGS
BROOKLANDWOOD ESTATES
BOXWOOD
WOODTON VALLEY
MEADOWLAND
Padonia Park
Grace English Luth
THORNLEIGH
SUNSET KNOLL
YORK RIDGE
RUXTON RIDGE
RIDERWOOD
BRIDLESHIRE
BRIGHTWOOD
HILLSTEAD
KNOLLCREST FARMS
BROOKWOOD
ROCKLANDS
RUXTON HILLS
SORRENTO RUN
SORRENTO Falls
EDEN ROC
GREENSPRING EAST
ROCKLAND BUSK
SUMMIT CHASE
GREENGATE
FALLS GABLE
BROADLEY
BONNIE RIDGE ARMS
JONES VALLEY
LAKE ROLAND
BARE HILLS
COPPER HILL
RANCHLEIGH
DEMBEIGH HILL
MALVE
MARTIN CHOICE
ROBERT E LEE PARK
Timonium
BALTIMORE COUNTY

Lipman Frizzell & Mitchell LLC

REAL ESTATE CONSULTANTS

M. Ronald Lipman, CRE, MAI
George P. Frizzell, CRE, MAI
Ryland L. Mitchell III, CRE, MAI
David H. Brooks, MAI
James C. Feeney, MAI

Calvin V. Thomas, Jr., MAI
Stephen L. Rudow, MAI
Sheldon A. Stern, MAI
Curtis W. Morris

J. Gregory Ciambruschini
Kimo S. Phillips
Janet C. Williams
Deborah M. Ryba, *office manager*

April 22, 1996

Mr. Karl J. Nelson
Kramon & Graham, PA
Commerce Place
One South Street - Suite 2600
Baltimore, Maryland 21202-3201

RE: Proposed Monopole Site
North End of Brightwood Road
Brooklandville, Baltimore County, Maryland

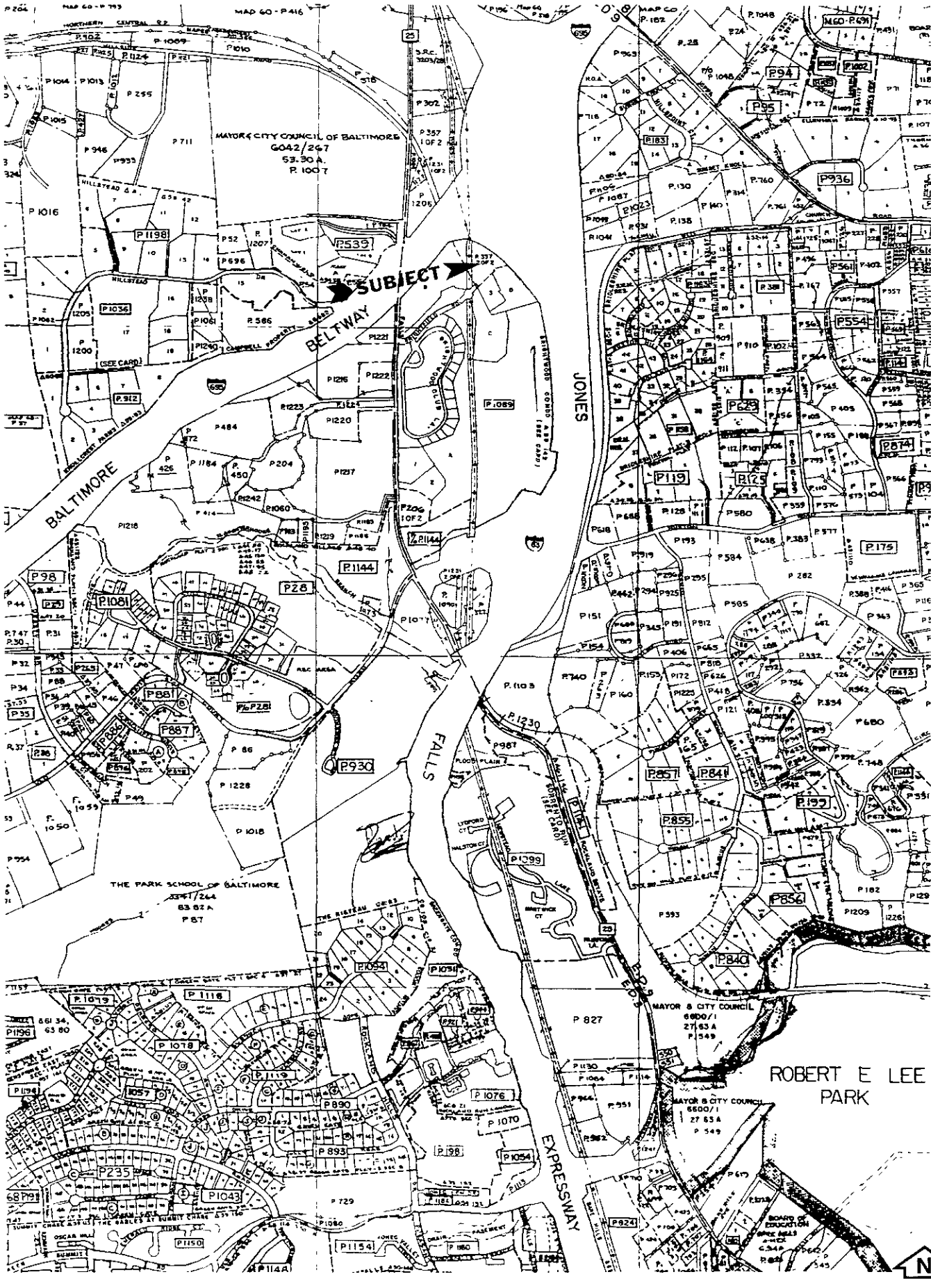
Dear Mr. Nelson:

In accordance with your request that we conduct a study of the above captioned site on which Cellular One proposes to construct a 175 ft. freestanding monopole to be used in connection with the Cellular One, Nextel and Banm communications systems, we herewith submit our report.

Background

In preparation of this study, we inspected the subject site and its immediate surroundings; investigated the market for residential housing in the immediate area; reviewed tax maps prepared by the State Department of Assessments & Taxation, Tax Map Division; studied recent aerial photography of the immediate and general area and a site plan for the proposed monopole and equipment building; visited other monopole sites in Baltimore and Montgomery Counties; and reviewed several studies completed by Lipman Frizzell & Mitchell regarding overhead power transmission lines, underground easements, cellular telephone system towers, and other such uses located adjacent and among residential subdivisions and development parcels. In addition, we have conducted independent statistical research regarding house values in the Falls Road Corridor of Potomac in Montgomery County oriented to existing monopole sites, comparing them with values of homes in the same subdivisions which are some distance from the monopoles.

The subject monopole location is located in the south quadrant of the Baltimore Beltway (I-695) interchange with the Jones Falls Expressway (I-83), in the Brooklandville section of Baltimore


SUBJECT
BELTWAY
BALTIMORE
JONES
FALLS
EXPRESSWAY
MAYOR & CITY COUNCIL OF BALTIMORE
G042/247
53.30 A.
P. 1007
THE PARK SCHOOL OF BALTIMORE
83.62 A
P 87
MAYOR & CITY COUNCIL
6600/1
27.63 A
P 549
ROBERT E LEE
PARK
N

Lipman Frizzell & Mitchell LLC

REAL ESTATE CONSULTANTS

M. Ronald Lipman, CRE, MAI
George P. Frizzell, CRE, MAI
Ryland L. Mitchell III, CRE, MAI
David H. Brooks, MAI
James C. Feeney, MAI

Calvin V. Thomas, Jr., MAI
Stephen L. Rudow, MAI
Sheldon A. Stern, MAI
Curtis W. Morris

J. Gregory Ciambruschini
Kimo S. Phillips
Janet C. Williams
Deborah M. Ryba, *office manager*

April 22, 1996

Mr. Karl J. Nelson
Kramon & Graham, PA
Commerce Place
One South Street - Suite 2600
Baltimore, Maryland 21202-3201

RE: Proposed Monopole Site
North End of Brightwood Road
Brooklandville, Baltimore County, Maryland

Dear Mr. Nelson:

In accordance with your request that we conduct a study of the above captioned site on which Cellular One proposes to construct a 175 ft. freestanding monopole to be used in connection with the Cellular One, Nextel and Banm communications systems, we herewith submit our report.

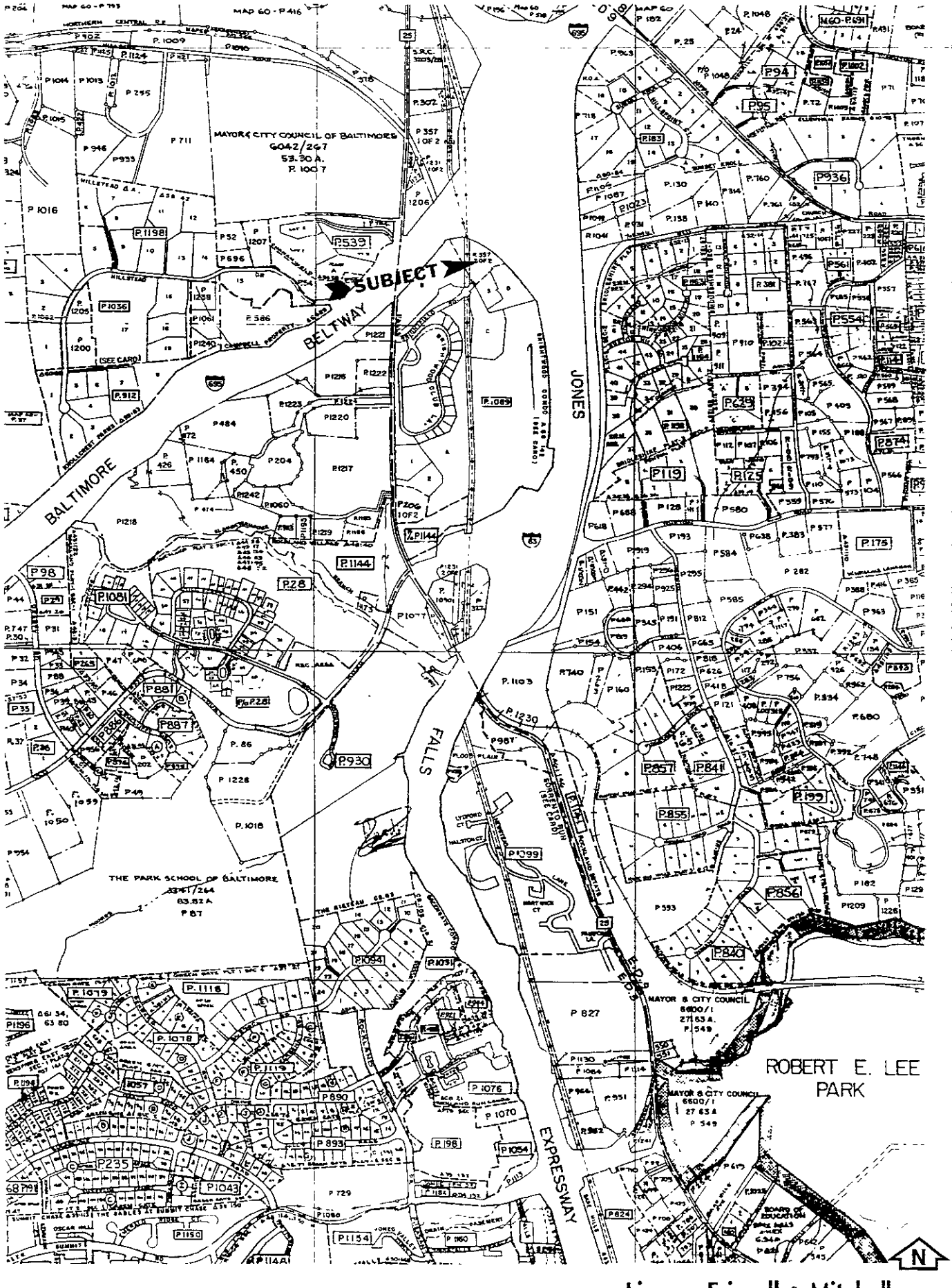
Background

In preparation of this study, we inspected the subject site and its immediate surroundings; investigated the market for residential housing in the immediate area; reviewed tax maps prepared by the State Department of Assessments & Taxation, Tax Map Division; studied recent aerial photography of the immediate and general area and a site plan for the proposed monopole and equipment building; visited other monopole sites in Baltimore and Montgomery Counties; and reviewed several studies completed by Lipman Frizzell & Mitchell regarding overhead power transmission lines, underground easements, cellular telephone system towers, and other such uses located adjacent and among residential subdivisions and development parcels. In addition, we have conducted independent statistical research regarding house values in the Falls Road Corridor of Potomac in Montgomery County oriented to existing monopole sites, comparing them with values of homes in the same subdivisions which are some distance from the monopoles.

The subject monopole location is located in the south quadrant of the Baltimore Beltway (I-695) interchange with the Jones Falls Expressway (I-83), in the Brooklandville section of Baltimore

Baltimore Office
LF&M Professional Center • 1400 Front Ave., Suite 300
Lutherville, MD 21093-5331
(410) 321-0022 • Fax: (410) 296-8589

Washington Office
Second Avenue Plaza • 8607 Second Ave., Suite 402
Silver Spring, MD 20910-3327
(301) 565-3380 • Fax: (301) 587-3033


SUBJECT
BELTWAY
JONES
FALLS
EXPRESSWAY
BALTIMORE
MAYOR & CITY COUNCIL OF BALTIMORE
6042/267
53.30 A.
P. 1007
THE PARK SCHOOL OF BALTIMORE
3347/264
63.82 A
P 87
MAYOR & CITY COUNCIL
6800/1
27.63 A.
P. 549
ROBERT E. LEE
PARK
N

County, Maryland. The general neighborhood is bounded by the Baltimore Beltway on the north, I-83 on the east, Greenspring Avenue on the west and Pimlico Road and Sugarcone Road on the south. To the north of the Beltway are several higher priced residential subdivisions to include Hillstead, Knollcrest Farms, and Brookwood. To the east is Ruxton and Riderwood, older, prestigious communities, while to the south, is a more intensely developed section dominated by the Bonnie View County Club and numerous townhouse and detached subdivisions of middle and upper-middle income housing. Uses in the general neighborhood include the Park School which is centrally located within the boundaries described above, Greenspring East, Summit Chase, Rockland Run, Twin Ridge and Rockland. In the immediate vicinity of the subject is the Brightwood Community, an upper-priced condominium complex for elderly citizens. Adjacent and associated with Brightwood is the Meridian Healthcare Center at Brightwood at the end and south side of Brightfield Road.

Prices of homes within some of the nearby area communities are as follows:

	Approx. Distance to Monopole (Ft.)	Overall Price Range	Typical Price Range
Brightwood (Low-Rise Condos for Elderly)	600	$210,000-$580,000	$350,000-$425,000
Risteau (Mid-Rise Condos)	5,000	$67,000-$200,000	$150,000-$200,000
Hillstead (SFD's on Large Lots)	2,400	$825,000	$500,000-$1,000,000
Ruxton Hills (SFD's on Indiv. Lots)	4,800	$270,000-$350,000	$275,000-$300,000
Bridleshire (SFD's on Indiv. Lots)	1,200	$360,000-$540,000	$500,000's
Rockland (SFD's and Cluster Homes)	3,500	$375,000-$525,000	$400,000-$500,000
Sunset Knoll (SFD's on Large Lots)	1,800	$410,000-$1,200,000	$700,000-$1,000,000

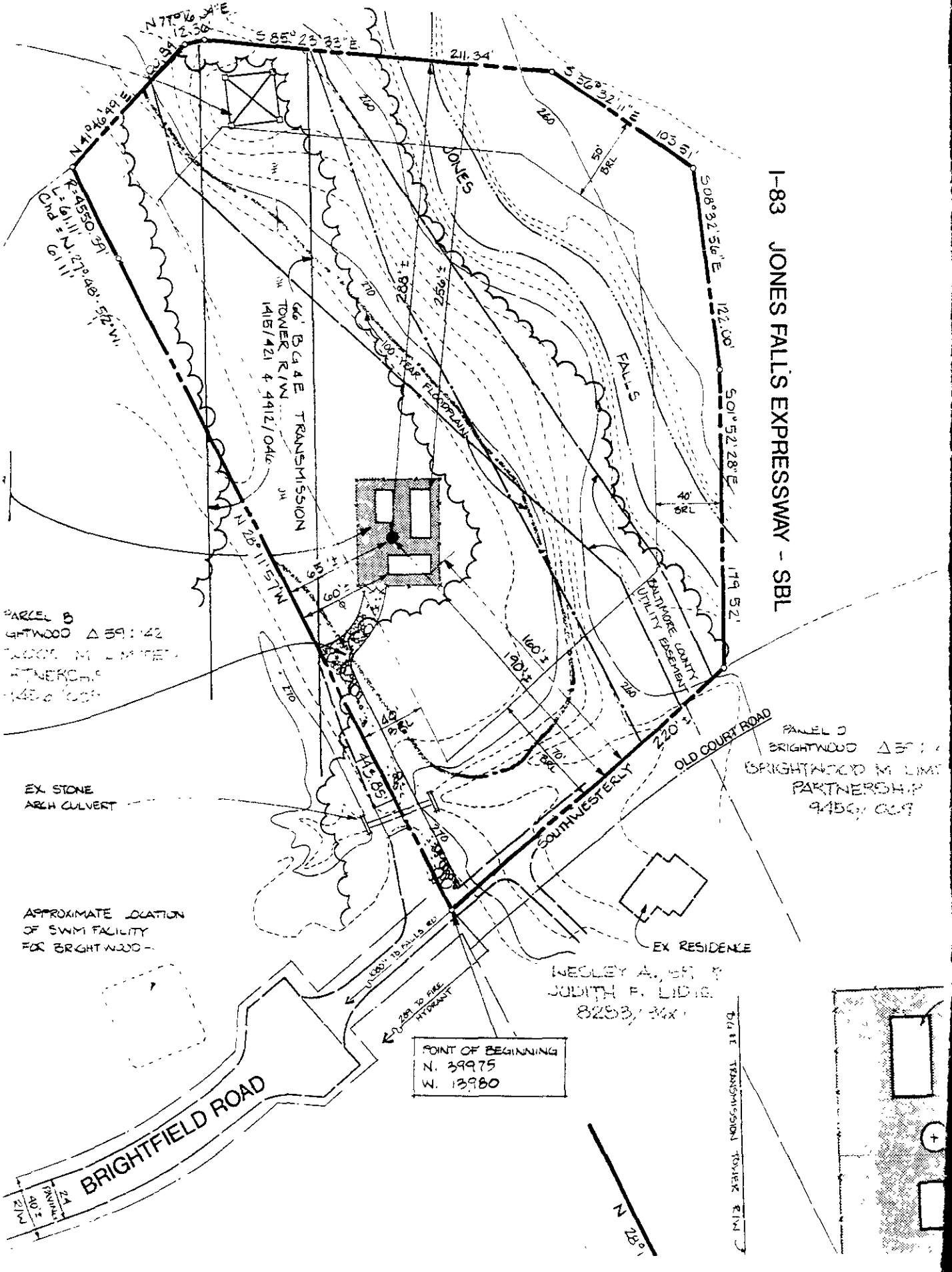
Aerial photography reflects development patterns in the immediate and general vicinity of the subject property, evidencing modern suburban type subdivisions with curvilinear streets generally having access off Falls Road. Pimlico Road, Old Court Road and other neighborhood collector streets.

Tax maps of the area provide detailed subdivision and ownership data in the immediate and general vicinity of the subject indicating that all types of residential development has taken place throughout, to the extent that it is nearly 100% built up, with little or no opportunity for further construction in light of current zoning and land use restrictions.

The immediate vicinity of the subject property represents the southern quadrant of the interchange formed by the Baltimore Beltway and Jones Falls Expressway. The immediate environs include that area in the quadrant bounded by Falls Road on the east and Old Court Road on the south. This "pocket" of land comprises approximately 85 acres, the majority of which, however, is impacted by the Jones Falls stream valley which precludes development on most of this land.

RAMP 'G'

I-695 BALTIMORE BELTWAY



Development that does exist includes the Brightwood Condominium and the associated Meridian Nursing Home located off of Brightfield Road and oriented to Brightwood Club Drive.

Subject Site

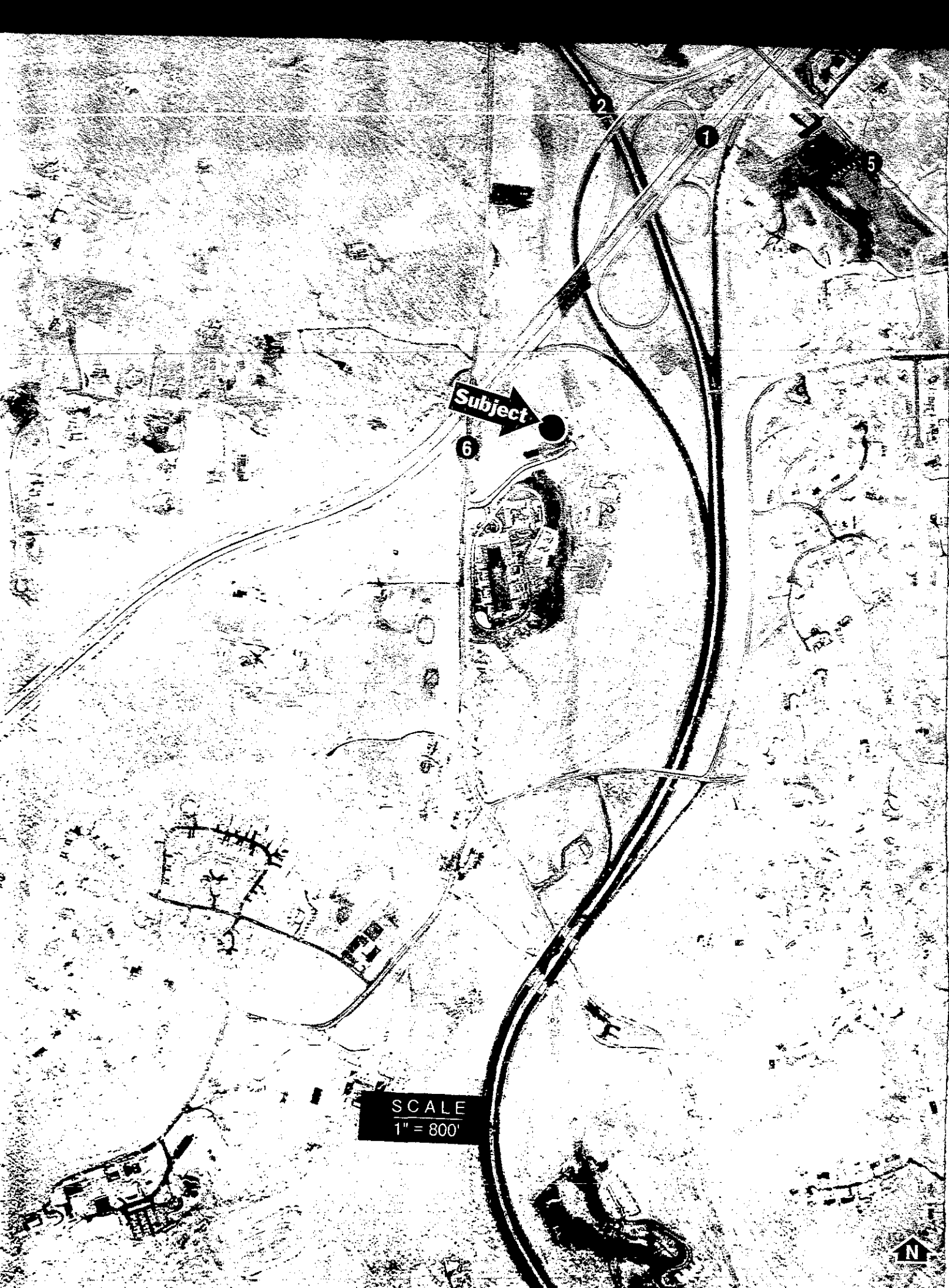
The subject site consists of a 3± acre parcel situate along the south boundary of Ramp G which connects eastbound Beltway traffic to southbound Expressway traffic. The site is provided vehicular access from the north side of Brightfield Road off the east side of Falls Road (MD Route 25). The site is zoned DR-1 and is traversed on a north/south axis by Baltimore Gas Electric overhead transmission lines in a 66 ft. wide right-of-way. At the northern boundary of the site is located a 129 ft. high electrical transmission tower (see photographs). Another tower is located approximately 800 ft. south, adjacent the Meridian Nursing Home, south of Brightfield Road. To the immediate south of the subject site is a modest two story house (see photos) owned by Wesley A. Lidie, Sr. and wife. That property, the most proximate to the subject tower, is situate 190 ft. from it, with the house set back an additional 55 ft., for a total distance of 245 ft. The home sits in a low lying wooded section of its site at an elevation of approximately 263 ft. The tower site sits at an elevation of approximately 272 ft. The Lidie property is assessed as follows by the State Department of Assessments & Taxation:

Land (1 acre)	$75,000
Improvements	51,260
Total	$126,260

Area Landscape

An inspection of the roads network serving the subject neighborhood indicates that, while subdivisions themselves have underground utilities, the collector roads support above-ground telephone and electric poles along their right-of-way lines which are visible to both the traffic traversing those roads and from housing built in the first 300± ft. back from those roads. In terms of scale from point of viewing, these telephone and electric poles of approximately 35 to 40 ft. height loom substantially larger than the proposed 175 ft. monopole from, say, Falls Road. Moreover, the monopole is of a metallic finish while the telephone poles are a dark brown wood.

Perhaps more significant in terms of the subject site and immediate surroundings is the presence of the Baltimore Gas Electric overhead transmission lines which represent an open swath of land supporting relatively high electrical transmission towers (129 ft. closest to the subject monopole site). Each tower supports numerous electric lines and cables and represents an "erector set" type structure which is not attractive. One of these structures is located directly adjacent and in front of the Meridian Nursing Home which is situate approximately 600 ft. south of the proposed monopole site.


2
1
5
Subject
6
SCALE
1" = 800'
N

Proposed Site Improvements

The specific location of the monopole represents a 50 ft. by 65 ft. gravel compound enclosed with 8 ft. high chain link fence with three strand barbed wire top. There are three buildings on the site to include a proposed 10 ft. by 12 ft. by 10 ft. high, unmanned equipment building, a second unmanned equipment building measuring 12 ft. by 30 ft. by 10 ft. high, and a third unmanned equipment building measuring 11 ft. 6 in. by 26 ft. by 10 ft. high. Each of these buildings will provide equipment to the three users of space on the proposed tower to include Nextel, Banm and Cellular One. Access to the site will be via a 12 ft. wide gravel access road running along the subject site's southwesternmost boundary to the point at which it traverses the BG&E right-of-way, at which point the gravel driveway takes a 90 degree turn, providing vehicular access into the gravel compound.

This compound is surrounded on its south and east sides by existing mature trees and is open to the north, and again, treed to its west. This is an excellent choice for a monopole in light of its immediate surroundings and lack of impact on surrounding residential uses.

Statistical Research

As part of our analysis of the proposed monopole, we have visited existing monopole sites similar to the subject, representing suburban sections of Metropolitan areas (three in Montgomery County, one in Baltimore County) wherein housing prices are in the upper income area and wherein the towers tend to be located near institutional type uses. We have studied development patterns surrounding these areas and have noted that house prices and absorption pace do not appear to be in any way impacted.

There are two monopole sites located along the Falls Road Corridor in the Potomac section of Montgomery County between Democracy Boulevard and Tuckerman Lane, a very high income area supporting homes in the $250,000 to $1,000,000+ range. These include 1) the Bullis Prep School site near the intersection of Falls Road and Democracy Boulevard and 2) the Rockville Volunteer Fire Department No. 33 on Falls Road, opposite Marseille Drive. Considering the luxury priced housing surrounding them, and its resultant similarity to housing in the general area of the subject site, we have conducted an in-depth study of area housing prices to determine if proximity to a monopole site has had a negative impact on values. Our efforts were focused on pricing for houses located in proximity to monopoles (i.e. within 1,000 ft.) as contrasted with sales of similar housing more distant therefrom.

In the *Addenda* of this report, we have included a listing of nearly 500 sales located in proximity to and in subdivisions adjacent the two monopole sites located along Falls Road, which have taken place during the 1987 through 1994 timeframe. These sales are summarized below:

Year	No. of Sales	Minimum Sale Price	Maximum Sale Price	Avg. Sales Price
1987	106	$240,000	$1,301,294	$446,228
1988	87	200,000	1,750,000	602,420
1989	47	300,000	2,150,000	689,677
1990	44	250,000	1,925,000	627,046
1991	62	210,000	3,000,000	593,869
1992	44	245,000	1,300,000	526,657
1993	59	265,000	1,725,000	591,217
1994	43	230,000	1,700,000	580,410
Total	492			$582,191 avg.

We also used the data to determine appreciation/depreciation trends over the study period, using matched pairs (sale/resale of same property), the results of which are also included in the *Addenda*. Based on our analysis of these price trends, there was no discernible difference between values of homes in proximity to monopole sites and those more distant therefrom.

Based upon the in-depth statistical investigation described above and by virtue of our experience with monopole sites in prestigious sections of Montgomery County and in Baltimore County, it is our opinion that the proposed monopole and equipment buildings will not impact negatively on the immediate or general surroundings. Moreover, based on our understanding of the type of signals sent by these towers, we do not believe that there will be any health problems associated therewith.

Respectfully submitted,

LIPMAN FRIZZELL & MITCHELL LLC



M. Ronald Lipman, CRE, MAI
Certified General Real Estate Appraiser
License No. 04-1072: State of Maryland

MRL/mag

Appreciation Rate Study
Matched Pair Single Family House Sales 1987-1994
Potomac, Maryland 20854

Subdivision	Address	consid	date	time expired between transfer	annual change
Bedfordshire	11412 Woodington Terrace	$311,000	Oct-87	13 months	0.00%
		$311,000	Nov-88		
Bedfordshire	9405 Woodington Drive	$380,000	Apr-88	39 months	-1.03%
		$367,500	Jul-91		
Bedfordshire	11216 Broad Green Drive	$320,000	Jul-87	47 months	6.03%
		$405,000	Jun-91		
Bedfordshire	11224 Broad Green Drive	$247,500	Sep-87	43 months	15.18%
		$425,000	Apr-91		
Bedfordshire	11432 Bedfordshire Avenue	$323,500	May-92	27 months	0.21%
		$325,000	Aug-94		
Bedfordshire	9917 Bedfordshire Court	$295,000	Jul-88	32 months	4.78%
		$335,000	Mar-91		
Bedfordshire	9908 Colebrook Avenue	$290,000	Aug-90	23 months	7.78%
		$336,500	Jul-92		
Bedfordshire	9713 Eldwick Way	$325,000	Aug-91	30 months	-1.89%
		$310,000	Feb-94		
Bedfordshire	9516 Lost Trail Way	$378,035	Feb-87	77 months	5.50%
		$537,500	Jul-93		
Bedfordshire	9439 Lost Trail Way	$398,900	Mar-88	40 months	1.19%
		$415,000	Jul-91		
Bedfordshire	9422 Lost Trail Way	$329,900	Sep-87	47 months	2.23%
		$360,000	Aug-91		
Bedfordshire	9430 Sunnyfield Court	$420,425	Jul-87	67 months	3.81%
		$520,000	Feb-93		
Bedfordshire	9404 Sunnyfield Court	$457,900	Jan-88	72 months	1.30%
		$495,000	Jan-94		
Kentsdale Estates	8925 Harvest Square Court	$1,301,294	Aug-87	78 months	-0.02%
		$1,300,000	Feb-94		
Kentsdale Estates	8918 Harvest Square Court	$1,333,751	Nov-88	71 months	-5.72%
		$950,000	Oct-94		
Kentsdale Estates	10401 Willowbrook Drive	$1,205,000	Nov-87	61 months	1.49%
		$1,300,000	Dec-92		
Williamsburg Gardens	10620 Oaklyn Drive	$565,000	Mar-88	60 months	-1.47%
		$525,000	Mar-93		
Great Falls Estates	10904 Pleasant Hill Drive	$363,037	Aug-87	45 months	19.86%
		$760,000	May-91		
Great Falls Estates	10801 Pleasant Hill Drive	$760,000	Dec-91	18 months	4.26%
		$810,000	Jun-93		
				average	**3.34%**

1994 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Lot
1	'94	Bedfordshire	11432 Bedfordshire Avenue	$325,000	Aug-94	3	4
2	'94	Bedfordshire	11124 Broad Green Drive	370,000	Jan-94	F	1
3	'94	Bedfordshire	10919 Broad Green Terrace	420,000	Sep-94	D	38
4	'94	Bedfordshire	10124 Colebrook Avenue	332,500	Nov-94	3	28
5	'94	Bedfordshire	21 Eldwick Court	455,000	Jul-94	D	17
6	'94	Bedfordshire	9713 Eldwick Way	310,000	Feb-94	A	37
7	'94	Bedfordshire	9701 Eldwick Way	390,000	Mar-94	A	47
8	'94	Bedfordshire	9709 Eldwick Way	340,000	May-94	A	38
9	'94	Bedfordshire	9525 Fox Hollow Drive	545,000	Sep-94	A	102
10	'94	Bedfordshire	10108 Grayhorse Court	390,000	Aug-94	F	14
11	'94	Bedfordshire	9440 Lost Trail Way	362,000	Jun-94	G	49
12	'94	Bedfordshire	9428 Lost Trail Way	425,000	May-94	G	44
13	**'94**	**Bedfordshire**	**9404 Sunnyfield Court**	**495,000**	**Jan-94**	**G**	**73**
14	'94	Bedfordshire	9828 Wilden Lane	306,000	May-94	C	13
15	'94	Great Falls Estates	10820 Alloway Drive	700,000	Aug-94	H	5
16	'94	Great Falls Estates	10832 Alloway Drive	1,150,000	Dec-94	H	29
17	'94	Great Falls Estates	8817 Belmart Road	750,000	May-94	F	37
18	'94	Great Falls Estates	11005 Cripplegate Road	862,500	Jun-94	E	36
19	'94	Great Falls Estates	10908 Cripplegate Road	825,000	May-94	E	27
20	'94	Great Falls Estates	9010 Falls Road	1,700,000	May-94	G	21
21	'94	Great Falls Estates	10820 Stanmore Drive	736,000	May-94	K	13
22	'94	Great Falls Estates	10821 Stanmore Drive	849,000	Jul-94	M	8
23	'94	Heritage Farm	10104 Donegal Court	460,000	May-94	B	23
24	'94	Heritage Farm	9412 Duxford Court	422,000	Jan-94	B	9
25	'94	Heritage Farm	9600 Falls Bridge Lane	500,000	Mar-94	E	19
26	'94	Heritage Farm	9409 Falls Bridge Lane	450,000	Jul-94	B	16
27	'94	Heritage Farm	9605 Falls Bridge Lane	399,500	Dec-94	C	18
28	'94	Kentsdale Estates	8918 Harvest Square Court	950,000	Oct-94	A	55
29	'94	Kentsdale Estates	8925 Harvest Square Court	1,300,000	Feb-94	A	50
30	'94	Kentsdale Estates	9104 Paytley Bridge Lane	1,500,000	Apr-94	A	38
31	'94	Lake Normandy Estates	11829 Falls Road	277,000	Jun-94	B	44
32	**'94**	**Lake Normandy Estates**	**11601 Falls Road**	**322,394**	**Feb-94**	**A**	**5**
33	'94	Lake Normandy Estates	11614 Karen Drive	328,500	May-94	B	32
34	'94	Pine Knolls	9113 Bells Mill Road	345,000	Oct-94	2	12
35	'94	Pine Knolls	9105 Fall River Lane	502,000	May-94	6	1
36	'94	Pine Knolls	11005 Haislip Court	435,000	Jan-94	3	65
37	'94	Pine Knolls	11004 Haislip Court	360,000	Jul-94	3	14
38	'94	Pine Knolls	9337 Sprinklewood Lane	655,000	Oct-94	7	7
39	'94	Pine Knolls	9327 Sprinklewood Lane	230,000	Feb-94	7	2
40	'94	Pine Knolls	9329 Sprinklewood Road	697,000	Aug-94	7	3
41	'94	Pine Knolls	9330 Sprinklewood Road	676,250	May-94	7	9
42	'94	Pine Knolls	9318 Sprinklewood Road	675,000	Jun-94	7	12
43	'94	Williamsburg Gardens	10404 Holbrook Drive	435,000	Jul-94	A	5
			average price:	**$580,410**			
			minimum:	**$230,000**			
			maximum:	**$1,700,000**			

= Houses within 1000' of existing sites.

1993 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
44	**'93**	**Bedfordshire**	**9430 Sunnyfield Court**	**$520,000**	**Feb-93**	**A**	**63**
45	'93	Bedfordshire	11425 Beechgrove lane	367,000	Mar-93	4	28
46	**'93**	**Bedfordshire**	**9434 Sunnyfield Court**	**535,000**	**May-93**	**A**	**62**
47	'93	Bedfordshire	9540 Fox Hollow Drive	595,000	May-93	A	109
48	'93	Bedfordshire	11100 Colebrook Avenue	405,000	Jun-93	E	4
49	'93	Bedfordshire	11305 Hawhill End	360,000	Jun-93	A	2
50	'93	Bedfordshire	9420 Lost Trail Way	370,000	Jul-93	G	41
51	'93	Bedfordshire	9516 Lost Trail Way	537,500	Jul-93	A	80
52	'93	Bedfordshire	9524 Fox Hollow Drive	570,000	Jul-93	A	113
53	'93	Bedfordshire	9417 Lost Trail Way	395,000	Aug-93	G	24
54	'93	Bedfordshire	10125 Colebrook Avenue	265,000	Sep-93	4	12
55	'93	Bedfordshire	9442 Lost Trail Way	390,000	Sep-93	G	50
56	'93	Bedfordshire	10052 Colebrook Avenue	275,000	Oct-93	3	21
57	'93	Bedfordshire	10929 Colebrook Avenue	390,000	Oct-93	F	53
58	'93	Bedfordshire	10036 Colebrook Avenue	282,500	Oct-93	3	17
59	'93	Bedfordshire	11121 Korman Drive	390,000	Nov-93	E	14
60	'93	Great Falls Estates	10817 Alloway Drive	690,000	Jan-93	K	23
61	'93	Great Falls Estates	8917 Belmart Road	800,000	Jan-93	F	2
62	'93	Great Falls Estates	10825 Alloway Drive	611,625	Feb-93	K	5
63	'93	Great Falls Estates	9201 Belmart Road	743,020	Feb-93	G	6
64	'93	Great Falls Estates	10708 Alloway Drive	1,725,000	May-93	G	39
65	**'93**	**Great Falls Estates**	**9404 Firethorn Court**	**720,000**	**Jun-93**	**K**	**35**
66	'93	Great Falls Estates	10801 Pleasant Hill Drive	810,000	Jun-93	H	22
67	'93	Great Falls Estates	10905 Pleasant Hill Drive	985,000	Jun-93	M	16
68	'93	Great Falls Estates	10841 Stanmore Drive	840,000	Jun-93	M	2
69	'93	Great Falls Estates	10800 Cripplegate Road	800,000	Jul-93	C	1
70	'93	Great Falls Estates	11118 Cripplegate Road	1,400,000	Jul-93	E	52
71	'93	Great Falls Estates	9309 Belmart Road	577,100	Aug-93	J	6
72	'93	Great Falls Estates	8 Stanmore Court	656,000	Aug-93	D	33
73	'93	Great Falls Estates	11100 Gilchrist Court	685,000	Aug-93	F	7
74	'93	Great Falls Estates	8723 Belmart Road	700,000	Oct-93	F	31
75	'93	Great Falls Estates	1 Stanmore Court	915,000	Oct-93	D	16
76	'93	Great Falls Estates	10801 Alloway Drive	910,000	Oct-93	K	1
77	'93	Great Falls Estates	11104 Gilchrist Court	805,000	Nov-93	F	6
78	'93	Great Falls Estates	10810 Alloway Drive	720,000	Nov-93	H	39
79	'93	Great Falls Estates	11100 Cripplegate Road	2,350,000	Dec-93	E	53
80	'93	Heritage Farm	10313 Logan Drive	425,000	May-93	F	4
81	'93	Heritage Farm	9312 Falls Bridge Lane	510,000	Oct-93	E	5
82	'93	Heritage Farm	9716 Brimfield Court	453,000	Nov-93	C	10
83	'93	Heritage Farm	9604 Falls Bridge lane	476,500	Nov-93	E	20
84	'93	Heritage Farms	10204 Garden Way	430,000	Jun-93	G	7
85	'93	Kentsdale Estates	9539 Newbridge Drive	523,750	Aug-93	H	9
86	'93	Kentsdale Estates	10116 Snowhill Lane	629,000	Oct-93	H	2
87	**'93**	**Kentsdale Estates**	**10847 Nantucket Terrace**	**1,125,000**	**Nov-93**	**B**	**19**
88	'93	Lake Normandy Estates	11505 Karen Drive	410,000	Apr-93	B	15
89	'93	Lake Normandy Estates	9132 Marseille Drive	380,000	Jul-93	G	2
90	'93	Lake Normandy Estates	11831 Falls Road	230,000	Oct-93	B	43
91	'93	Lake Normandy Estates	11823 Falls Road	275,000	Oct-93	B	47
92	'93	Lake Normandy Estates	11520 Le Havre Drive	365,000	Nov-93	A	14
93	'93	Lake Normandy Estates	9017 Marseille Drive	375,000	Nov-93	E	67
94	'93	Lake Normandy Estates	11709 Karen Drive	337,750	Dec-93	J	17
95	'93	Pine Knolls	9213 Fall River Lane	650,000	Jun-93	7	13
96	'93	Pine Knolls	11001 Haislip Court	475,000	Jun-93	3	64
97	'93	Pine Knolls	9220 Cranford Drive	690,000	Jul-93	1	7
98	'93	Pine Knolls	9212 Fall River lane	350,000	Aug-93	3	35
99	'93	Pine Knolls	9334 Sprinklewood Lane	650,000	Sep-93	7	8
100	'93	Pine Knolls	9325 Sprinklewood Lane	659,045	Nov-93	7	1
101	'93	Pine Knolls	9221 Fall River lane	642,024	Dec-93	7	15
102	**'93**	**Williamsburg Gardens**	**10620 Oaklyn Drive**	**525,000**	**Mar-93**	**4**	**1**

average price:	**$591,217**
minimum:	**$265,000**
maximum:	**$1,725,000**

Houses within 1000' of existing sites.

1992 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Lot
103	'92	Bedfordshire	11432 Bedfordshire Avenue	$323,500	May-92	3	4
104	'92	Bedfordshire	11617 Bedfordshire Avenue	268,200	Oct-92	1	1
105	'92	Bedfordshire	11440 Beechgrove Lane	305,000	Dec-92	3	55
106	'92	Bedfordshire	11205 Broad Green Drive	395,500	May-92	A	33
107	'92	Bedfordshire	10129 Colebrook Avenue	338,500	May-92	4	13
108	'92	Bedfordshire	9908 Colebrook Avenue	336,500	Jul-92	3	9
109	'92	Bedfordshire	11309 Colebrook Terrace	342,000	Aug-92	3	34
110	'92	Bedfordshire	9423 Lost Trail Way	353,000	Sep-92	G	21
111	'92	Bedfordshire	9709 Wilden Lane	360,000	Apr-92	A	15
112	**'92**	**Bedfordshire**	**9512 Woodington Drive**	**470,000**	**Nov-92**	**A**	**42**
113	**'92**	**Bedfordshire**	**11409 Woodington Terrace**	**410,000**	**Jun-92**	**H**	**5**
114	'92	Great Falls Estates	8900 Bel Air Place	890,000	Jan-92	B	23
115	'92	Great Falls Estates	8806 Bel Air Place	900,000	Apr-92	B	24
116	'92	Great Falls Estates	11101 Bellavista Drive	850,000	Nov-92	G	27
117	**'92**	**Great Falls Estates**	**9304 Belmart Road**	**789,000**	**Mar-92**	**K**	**40**
118	'92	Great Falls Estates	9008 Belmart Road	775,000	Jul-92	B	33
119	'92	Great Falls Estates	10801 Cripplegate Road	700,000	Apr-92	E	51
120	'92	Great Falls Estates	10901 Cripplegate Road	745,000	Aug-92	E	40
121	'92	Great Falls Estates	8600 Nutmeg Court	1,070,800	Jun-92	F	25
122	'92	Heritage Farm	9717 Brimfield Court	480,000	Jul-92	C	6
123	'92	Heritage Farm	9712 Brimfield Court	405,000	May-92	C	11
124	'92	Heritage Farm	10108 Donegal Court	400,000	Sep-92	B	22
125	'92	Heritage Farm	9400 Falls Bridge Lane	570,000	Jul-92	E	9
126	'92	Heritage Farm	9308 Langford Court	455,000	Jun-92	A	7
127	'92	Heritage Farm	9305 Langford Court	420,000	Jun-92	A	2
128	'92	Heritage Farm	10421 Logan Drive	490,000	Nov-92	G	1
129	'92	Kentsdale Estates	9308 Bells Mill Road	640,000	Aug-92	B	47
130	'92	Kentsdale Estates	8938 Harvest Square Court	1,240,000	Sep-92	A	52
131	'92	Kentsdale Estates	9541 Newbridge Drive	535,000	Jul-92	H	10
132	'92	Kentsdale Estates	8604 Snowhill Court	585,000	Jul-92	G	14
133	'92	Kentsdale Estates	10401 Willowbrook Drive	1,300,000	Dec-92	F	2
134	'92	Lake Normandy Estates	9008 Cherbourg Drive	389,000	Jun-92	E	57
135	'92	Lake Normandy Estates	8929 Cherbourg Drive	353,000	Aug-92	F	10
136	'92	Lake Normandy Estates	9101 Fall River Lane	455,000	Jan-92	G	8
137	'92	Lake Normandy Estates	11716 Karen Drive	260,000	Nov-92	B	41
138	'92	Lake Normandy Estates	11500 Karen Drive	414,900	Sep-92	B	18
139	**'92**	**Lake Normandy Estates**	**9210 Marseille Drive**	**245,000**	**Sep-92**	**C**	**5**
140	'92	Lake Normandy Estates	9032 Rouen Lane	399,500	Apr-92	E	11
141	'92	Lake Normandy Estates	9024 Rouen Lane	439,500	Jan-92	E	13
142	'92	Lake Normandy Estates	9007 Shad Lane	405,000	Jan-92	K	22
143	'92	Lake Normandy Estates	9107 Shad Lane	345,000	Jun-92	K	4
144	'92	Pine Knolls	11212 Fall River Court	455,000	Sep-92	6	16
145	'92	Pine Knolls	9233 Fall River Lane	495,000	Jul-92	4	7
146	'92	Pine Knolls	10900 Haislip Court	375,000	Jul-92	2	9

average price:	**$526,657**
minimum:	**$245,000**
maximum:	**$1,300,000**

d = Houses within 1000' of existing sites.

1991 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
147	'91	Bedfordshire	9905 Bedfordshire Court	$295,000	Jan-91	1	26
148	'91	Bedfordshire	9917 Bedfordshire Court	335,000	Mar-91	1	P23
149	'91	Bedfordshire	11141 Broad Green Drive	385,000	May-91	D	24
150	'91	Bedfordshire	11216 Broad Green Drive	405,000	Jun-91	C	4
151	'91	Bedfordshire	11224 Broad Green Drive	425,000	Apr-91	C	2
152	'91	Bedfordshire	11225 Broad Green Drive	410,000	Apr-91	A	28
153	'91	Bedfordshire	10925 Broad Green Terrace	383,000	Mar-91	F	52
154	'91	Bedfordshire	10240 Colebrook Avenue	325,000	Mar-91	3	44
155	'91	Bedfordshire	10140 Colebrook Avenue	335,000	May-91	3	32
156	'91	Bedfordshire	38 Eldwick Court	374,000	Dec-91	D	11
157	'91	Bedfordshire	9713 Eldwick Way	325,000	Aug-91	A	37
158	'91	Bedfordshire	9621 Eldwick Way	800,000	May-91	A	48
159	'91	Bedfordshire	9508 Fox Hollow Drive	487,500	Aug-91	G	54
160	'91	Bedfordshire	11505 Hornfair Court	335,000	Jun-91	1	9
161	'91	Bedfordshire	11509 Hornfair Court	360,000	Apr-91	1	8
162	'91	Bedfordshire	9439 Lost Trail Way	415,000	Jul-91	G	17
163	'91	Bedfordshire	9422 Lost Trail Way	360,000	Aug-91	G	42
164	'91	Bedfordshire	9424 Lost Trail Way	400,000	Sep-91	G	43
165	**'91**	**Bedfordshire**	**9405 Woodington Drive**	**367,500**	**Jul-91**	**H**	**2**
166	'91	Great Falls Estates	10836 Alloway Drive	865,000	Jul-91	H	10
167	'91	Great Falls Estates	8924 Bel Air Place	643,500	Sep-91	B	20
168	'91	Great Falls Estates	8803 Belmart Road	1,937,500	Apr-91	F	49
169	'91	Great Falls Estates	8710 Belmart Road	650,000	Dec-91	B	28
170	'91	Great Falls Estates	8801 Belmart Road	1,375,000	Dec-91	F	50
171	'91	Great Falls Estates	11013 Cripplegate Road	1,276,000	May-91	E	37
172	**'91**	**Great Falls Estates**	**9409 Firethorn Court**	**950,000**	**Aug-91**	**K**	**31**
173	'91	Great Falls Estates	10904 Pleasant Hill Drive	735,000	Sep-91	M	14
174	'91	Great Falls Estates	10801 Pleasant Hill Drive	760,000	Dec-91	H	22
175	'91	Great Falls Estates	10836 Pleasant Hill Drive	3,000,000	Jan-91	D	41
176	'91	Great Falls Estates	14 Stanmore Court	1,180,000	Jun-91	D	14
177	'91	Great Falls Estates	10709 Stanmore Drive	885,000	Dec-91	N	6
178	'91	Great Falls Estates	11025 Stanmore Drive	725,000	Nov-91	D	24
179	'91	Great Falls Estates	10829 Stanmore Drive	728,000	Sep-91	M	5
180	**'91**	**Great Falls Estates**	**10701 Stanmore Drive**	**760,000**	**May-91**	**N**	**8**
181	'91	Great Falls Estates	11009 Stanmore Drive	1,125,000	Mar-91	D	28
182	'91	Heritage Farm	10312 Crown Point Court	535,000	Jun-91	D	3
183	'91	Heritage Farm	10101 Donegal Court	425,000	May-91	B	25
184	'91	Heritage Farm	10117 Donegal Court	490,000	Apr-91	B	29
185	'91	Heritage Farm	9308 Falls Bridge Lane	449,950	Jun-91	E	4
186	'91	Heritage Farm	10201 Garden Way	400,000	Sep-91	F	2
187	'91	Heritage Farm	10105 Newhall Road	460,000	Jun-91	B	13
188	'91	Lake Normandy Estates	9219 Cherbourg Drive	615,000	Jul-91	A	38
189	*'91*	*Lake Normandy Estates*	*9000 Cherbourg Drive*	*371,500*	*Sep-91*	E	59
190	'91	Lake Normandy Estates	9116 Cherbourg Drive	390,000	Oct-91	E	40
191	'91	Lake Normandy Estates	11629 Falls Road	620,000	Apr-91	A	16
192	'91	Lake Normandy Estates	11605 Karen Drive	365,000	Mar-91	K	11
193	'91	Lake Normandy Estates	11510 Karen Drive	270,000	Feb-91	B	23
194	'91	Lake Normandy Estates	11610 Karen Drive	345,000	May-91	B	30
195	'91	Lake Normandy Estates	14 Le Havre Court	500,100	Jul-91	A	33
196	'91	Lake Normandy Estates	11539 Le Havre Drive	520,000	Apr-91	B	82
197	**'91**	**Lake Normandy Estates**	**11505 Le Havre Drive**	**526,000**	**Mar-91**	**A**	**34**
198	'91	Lake Normandy Estates	9009 Rouen Lane	382,500	Jul-91	E	28
199	'91	Lake Normandy Estates	9004 Rouen Lane	422,500	Jul-91	E	18
200	'91	Lake Normandy Estates	9106 Shad Lane	410,000	Apr-91	B	11
201	'91	Pine Knolls	9309 Bells Mill Road	210,000	Feb-91	1	21
202	'91	Pine Knolls	9322 Cranford Drive	610,000	Jun-91	1	23
203	'91	Pine Knolls	11229 Fall River Court	378,300	Jul-91	6	10
204	'91	Pine Knolls	9220 Fall River Lane	452,000	Feb-91	3	35
205	'91	Pine Knolls	9205 Fall River Lane	375,000	May-91	5	5
206	'91	Pine Knolls	9216 Fall River Lane	390,000	Jun-91	3	34
207	'91	Pine Knolls	9228 Fall River Lane	380,000	Jul-91	3	31
208	'91	Pine Knolls	11017 Haislip Court	410,000	Apr-91	3	8

average price:	**$593,869**
minimum:	**$210,000**
maximum:	**$3,000,000**

Houses within 1000' of existing sites.

1990 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
209	'90	Bedfordshire	11305 Bedfordshire Avenue	$352,500	Sep-90	C	11
210	'90	Bedfordshire	11009 Broad Green Drive	450,000	Jun-90	D	36
211	'90	Bedfordshire	10912 Broad Green Terrace	335,000	Oct-90	D	46
212	*'90*	*Bedfordshire*	*10240 Colebrook Avenue*	*417,000*	*Mar-90*	3	44
213	'90	Bedfordshire	10101 Colebrook Avenue	300,000	Jun-90	4	8
214	'90	Bedfordshire	9908 Colebrook Avenue	290,000	Aug-90	3	9
215	'90	Bedfordshire	5 Eldwick Court	353,000	Aug-90	D	21
216	'90	Bedfordshire	11140 Korman Drive	390,000	Feb-90	F	12
217	'90	Bedfordshire	9432 Lost Trail Way	368,000	Nov-90	G	46
218	'90	Bedfordshire	9716 Wilden Lane	400,000	Jan-90	C	22
219	**'90**	**Bedfordshire**	**9521 Woodington Drive**	**560,000**	**Apr-90**	**H**	**17**
220	'90	Great Falls Estates	10809 Alloway Drive	1,170,000	Aug-90	K	P14
221	'90	Great Falls Estates	8915 Bel Air Place	950,000	Jul-90	B	16
222	'90	Great Falls Estates	9206 Belmart Road	770,000	Oct-90	H	P23
223	'90	Great Falls Estates	9207 Belmart Road	1,275,000	May-90	G	5
224	'90	Great Falls Estates	8805 Belmart Road	885,000	Mar-90	F	48
225	'90	Great Falls Estates	11109 Cripplegate Road	1,230,000	Feb-90	E	17
226	'90	Great Falls Estates	10908 Cripplegate Road	969,000	Feb-90	E	27
227	'90	Great Falls Estates	10901 Cripplegate Road	850,000	Aug-90	E	40
228	'90	Great Falls Estates	10905 Pleasant Hill Drive	654,142	Aug-90	M	16
229	'90	Great Falls Estates	10 Stanmore Court	850,000	Aug-90	D	13
230	**'90**	**Great Falls Estates**	**10701 Stanmore Drive**	**978,848**	**Oct-90**	**N**	**8**
231	'90	Great Falls Estates	10849 Stanmore Drive	835,000	Jun-90	M	9
232	'90	Heritage Farm	9721 Brimfield Court	465,000	Jul-90	C	7
233	'90	Heritage Farm	10325 Crown Point Court	365,000	Jan-90	D	13
234	'90	Heritage Farm	9404 Duxford Court	575,000	Jul-90	B	11
235	'90	Heritage Farm	9729 Falls Road	365,000	Oct-90	D	14
236	'90	Heritage Farm	10405 Logan Drive	551,000	Mar-90	G	5
237	'90	Heritage Farm	10105 Logan Drive	435,000	Nov-90	A	10
238	'90	Kenstdale Estates	9613 Newbridge Drive	1,070,000	Aug-90	G	42
239	'90	Kenstdale Estates	9601 Newbridge Drive	1,070,000	Oct-90	G	41
240	'90	Kentsdale Estates	8716 Snowhill Court	672,000	Mar-90	G	3
241	**'90**	**Kentsdale Estates**	**10504 Stapleford Hall Drive**	**1,925,000**	**Oct-90**	**B**	**3**
242	'90	Lake Normandy Estates	9013 Cherbourg Drive	370,000	Jan-90	B	55
243	'90	Lake Normandy Estates	9224 Cherbourg Drive	426,000	Oct-90	D	12
244	'90	Lake Normandy Estates	11613 Karen Drive	300,000	May-90	K	15
245	'90	Lake Normandy Estates	11304 Rouen Lane	417,500	Jun-90	D	21
246	'90	Lake Normandy Estates	8902 Tuckerman Lane	250,000	Apr-90	J	10
247	'90	Lake Normandy Estates	8906 Tuckerman Lane	264,000	Feb-90	J	8
248	'90	Pine Knolls	10905 Bolton Drive	370,000	Nov-90	2	16
249	'90	Pine Knolls	9320 Cranford Drive	637,013	Dec-90	1	24
250	'90	Williamsburg Gardens	10317 Holbrook Drive	290,000	Jul-90	C	1
251	**'90**	**Williamsburg Gardens**	**10617 Oaklyn Drive**	**575,000**	**Oct-90**	**3**	**8**
252	**'90**	**Williamsburg Gardens**	**10613 Oaklyn Drive**	**565,000**	**Oct-90**	**3**	**9**

average price:	**$627,046**
minimum:	***$250,000***
maximum:	**$1,925,000**

d = Houses within 1000' of existing sites.

1989 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivison	Address	Consid	Date	Location Block	Lot
253	'89	Bedfordshire	11601 Bedfordshire Avenue	$330,000	Nov-89	1	5
254	'89	Bedfordshire	11513 Bedfordshire Avenue	499,000	Aug-89	1	17
255	'89	Bedfordshire	11453 Beechgrove Lane	317,500	Jan-89	V	9
256	'89	Bedfordshire	10901 Broad Green Terrace	470,000	Jul-89	D	42
257	'89	Bedfordshire	10040 Colebrook Avenue	300,000	Sep-89	3	18
258	'89	Bedfordshire	10037 Colebrook Avenue	324,500	Mar-89	4	3
259	'89	Bedfordshire	13 Colebrook Court	338,000	Oct-89	3	62
260	'89	Bedfordshire	9621 Eldwick Way	975,000	Apr-89	A	48
261	'89	Bedfordshire	11517 Hornfair Court	409,000	May-89	1	6
262	'89	Bedfordshire	11520 Hornfair Court	300,000	Dec-89	1	P16
263	'89	Bedfordshire	9824 Korman Court	415,000	Oct-89	F	33
264	'89	Bedfordshire	9801 Korman Court	400,000	Apr-89	F	40
265	**'89**	**Bedfordshire**	**9513 Lost Trail Way**	**572,000**	**Sep-89**	**A**	**70**
266	'89	Bedfordshire	11605 Sansbury Court	320,000	Oct-89	2	12
267	**'89**	**Bedfordshire**	**9435 Sunnyfield Court**	**601,000**	**Oct-89**	**A**	**116**
268	**'89**	**Bedfordshire**	**9400 Sunnyfield Court**	**570,000**	**Sep-89**	**G**	**13**
269	'89	Bedfordshire	9824 Wilden Lane	328,600	Mar-89	C	14
270	'89	Great Falls Estates	9705 Corral Drive	790,550	Aug-89	N	2
271	'89	Great Falls Estates	10808 Cripplegate Road	700,000	Dec-89	E	31
272	'89	Great Falls Estates	11114 Cripplegate Road	1,560,000	Apr-89	E	45
273	'89	Great Falls Estates	9010 Falls Road	2,150,000	Nov-89	G	21
274	'89	Great Falls Estates	10845 Pleasant Hill Drive	975,000	Dec-89	H	32
275	'89	Great Falls Estates	10807 Pleasant Hill Drive	1,450,000	Feb-89	H	35
276	'89	Great Falls Estates	11501 Skipwith Lane	1,000,000	Apr-89	C	8
277	'89	Great Falls Estates	14 Stanmore Court	1,500,000	Apr-89	D	14
278	**'89**	**Great Falls Estates**	**10701 Stanmore Drive**	**1,300,000**	**Oct-89**	**N**	**8**
279	'89	Heritage Farm	9716 Brimfield Court	494,900	Jun-89	C	10
280	'89	Heritage Farm	9709 Brimfield Court	532,500	Feb-89	C	4
281	'89	Heritage Farm	9720 Brimfield Court	515,000	Mar-89	C	9
282	'89	Heritage Farm	10309 Crown Point Court	425,000	Mar-89	D	9
283	'89	Heritage Farm	10204 Garden Way	488,250	Mar-89	G	P7
284	'89	Heritage Farm	9309 Langford Court	500,000	Jul-89	A	3
285	'89	Kentsdale Estates	8922 Harvest Square Court	1,274,000	Jan-89	A	58
286	'89	Kentsdale Estates	8930 Harvest Square Court	1,272,456	May-89	A	59
287	'89	Kentsdale Estates	8909 Harvest Square Court	675,000	Dec-89	F	8
288	'89	Kentsdale Estates	10009 Kentsdale Drive	350,000	Feb-89	G	43
289	'89	Kentsdale Estates	17 Nantucket Court	500,000	Mar-89	B	45
290	'89	Kentsdale Estates	8709 Snowhill Court	690,000	Dec-89	G	22
291	'89	Kentsdale Estates	10410 Willowbrook Drive	1,143,440	May-89	A	56
292	'89	Lake Normandy Estates	2 Cherbourg Court	340,000	Jul-89	E	49
293	'89	Lake Normandy Estates	11625 Falls Road	792,500	Apr-89	A	18
294	'89	Lake Normandy Estates	11633 Falls Road	717,281	Sep-89	A	17
295	'89	Lake Normandy Estates	11703 Judy Place	459,000	Oct-89	K	17
296	'89	Lake Normandy Estates	11524 Le Havre Drive	430,000	Jun-89	A	13
297	'89	Pine Knolls	10900 Bolton Drive	865,329	Dec-89	1	P13
298	'89	Williamsburg Gardens	10301 Garden Way	460,000	Jul-89	1	P9
299	**'89**	**Williamsburg Gardens**	**10605 Oaklyn Drive**	**595,000**	**Apr-89**	**3**	**11**

average price:	**$689,677**
minimum:	**$300,000**
maximum:	**$2,150,000**

d = Houses within 1000' of existing sites.

1988 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
300	'88	Bedfordshire	11423 Bedfordshire Avenue	$335,000	Aug-88	1	38
301	'88	Bedfordshire	11504 Bedfordshire Avenue	300,000	Mar-88	3	6
302	'88	Bedfordshire	9917 Bedfordshire Court	295,000	Jul-88	1	P23
303	'88	Bedfordshire	9908 Bedfordshire Court	372,500	Jul-88	1	30
304	'88	Bedfordshire	11409 Beechgrove Lane	295,000	May-88	4	24
305	'88	Bedfordshire	11312 Berger Terrace	270,000	Jan-88	B	15
306	'88	Bedfordshire	11133 Broad Green Drive	327,500	Sep-88	D	26
307	'88	Bedfordshire	10212 Colebrook Avenue	280,000	Mar-88	3	65
308	'88	Bedfordshire	10016 Colebrook Avenue	357,000	Dec-88	3	12
309	'88	Bedfordshire	10029 Colebrook Avenue	285,000	Mar-88	4	1
310	'88	Bedfordshire	11309 Colebrook Terrace	302,000	Jul-88	3	34
311	'88	Bedfordshire	11301 Colebrook Terrace	373,000	Dec-88	3	36
312	'88	Bedfordshire	10005 Crestleigh Lane	330,000	Jul-88	2	25
313	'88	Bedfordshire	26 Eldwick Court	293,000	Apr-88	D	8
314	'88	Bedfordshire	2 Eldwick Way	282,500	May-88	D	2
315	'88	Bedfordshire	9617 Eldwick Way	625,000	Jan-88	A	52
316	'88	Bedfordshire	9416 Fox Hollow Drive	550,000	Jul-88	A	87
317	'88	Bedfordshire	9537 Fox Hollow Drive	545,278	Apr-88	A	105
318	'88	Bedfordshire	9536 Fox Hollow Drive	489,900	Feb-88	A	110
319	'88	Bedfordshire	9544 Fox Hollow Drive	449,900	Mar-88	A	108
320	'88	Bedfordshire	9404 Fox Hollow Drive	520,000	Jul-88	A	90
321	'88	Bedfordshire	10101 Grayhorse Court	415,000	Aug-88	F	17
322	'88	Bedfordshire	11500 Hornfair Court	318,500	Apr-88	1	11
323	'88	Bedfordshire	11516 Hornfair Court	287,500	Jan-88	1	15
324	'88	Bedfordshire	9437 Lost Trail Way	401,497	Jan-88	G	18
325	'88	Bedfordshire	9439 Lost Trail Way	398,900	Mar-88	G	17
326	'88	Bedfordshire	9427 Lost Trail Way	387,900	Jan-88	G	19
327	'88	Bedfordshire	11608 Sansbury Court	295,000	Jul-88	2	16
328	**'88**	**Bedfordshire**	**9413 Sunnyfield Court**	**439,900**	**Jan-88**	**G**	**9**
329	**'88**	**Bedfordshire**	**9404 Sunnyfield Court**	**457,900**	**Jan-88**	**G**	**73**
330	**'88**	**Bedfordshire**	**9434 Sunnyfield Court**	**625,000**	**Oct-88**	**A**	**62**
331	**'88**	**Bedfordshire**	**9409 Sunnyfield Court**	**438,703**	**Mar-88**	**G**	**10**
332	**'88**	**Bedfordshire**	**9400 Sunnyfield Court**	**449,900**	**Mar-88**	**G**	**13**
333	**'88**	**Bedfordshire**	**9408 Sunnyfield Court**	**489,154**	**Mar-88**	**G**	**74**
334	'88	Bedfordshire	9405 Sunnymeade Court	449,900	Mar-88	G	11
335	**'88**	**Bedfordshire**	**9412 Woodington Drive**	**425,000**	**Dec-88**	**G**	**1**
336	**'88**	**Bedfordshire**	**9405 Woodington Terrace**	**380,000**	**Apr-88**	**H**	**2**
337	**'88**	**Bedfordshire**	**11412 Woodington Terrace**	**311,000**	**Nov-88**	**H**	**6**
338	'88	Great Falls Estates	10709 Alloway Drive	570,000	Jan-88	J	3
339	'88	Great Falls Estates	10709 Alloway Drive	265,000	Aug-88	J	3
340	'88	Great Falls Estates	8806 Bel Air Place	1,250,000	Oct-88	B	24
341	'88	Great Falls Estates	8801 Belmart Road	1,124,000	Jul-88	F	51
342	'88	Great Falls Estates	8900 Belmart Road	778,000	Jul-88	B	7
343	'88	Great Falls Estates	8924 Belmart Road	735,000	Apr-88	B	3
344	'88	Great Falls Estates	9005 Brickyard Road	940,000	Aug-88	G	19
345	'88	Great Falls Estates	11013 Cripplegate Road	1,050,000	Feb-88	E	37
346	'88	Great Falls Estates	10803 Cripplegate Road	480,000	Jul-88	E	42
347	'88	Great Falls Estates	8810 Falls Road	560,000	Jun-88	F	10
348	'88	Great Falls Estates	10836 Pleasant Hill Drive	1,750,000	Nov-88	D	41
349	'88	Great Falls Estates	11505 Skipwith Lane	960,000	Oct-88	C	27
350	'88	Great Falls Estates	22 Stanmore Court	1,490,000	Nov-88	D	38
351	'88	Great Falls Estates	11 Stanmore Court	955,000	Jul-88	D	15
352	'88	Great Falls Estates	10713 Stanmore Drive	1,150,000	Feb-88	N	5
353	'88	Heritage Farm	9720 Brimfield Court	415,000	Nov-88	C	9
354	'88	Heritage Farm	10312 Crown Point Court	365,000	Aug-88	D	3
355	'88	Heritage Farm	10304 Crown Point Court	450,000	Mar-88	D	5
356	'88	Heritage Farm	10113 Donegal Court	385,000	Aug-88	B	28

ontinued

357	'88	Heritage Farm	9408	Duxford Court	475,000	Jul-88	B	10
358	'88	Heritage Farm	9520	Falls Bridge Lane	420,000	Mar-88	E	18
359	'88	Heritage Farm	9601	Falls Bridge Lane	385,000	Jun-88	C	17
360	'88	Heritage Farm	9301	Langford Court	470,000	Oct-88	A	1
361	'88	Kentsdale Estates	8918	Harvest Square Court	1,333,751	Nov-88	A	55
362	'88	Kentsdale Estates	8926	Harvest Square Court	1,264,813	Sep-88	A	54
363	'88	Kentsdale Estates	8929	Harvest Square Court	1,458,000	Aug-88	A	51
364	'88	Kentsdale Estates	8934	Harvest Square Court	1,281,285	Dec-88	A	53
365	'88	Kentsdale Estates	8900	Harvest Square Court	1,375,000	Apr-88	F	5
366	'88	Kentsdale Estates	8933	Harvest Square Court	1,132,082	Jan-88	A	52
367	'88	Kentsdale Estates	8913	Harvest Square Court	1,230,000	Nov-88	A	47
368	'88	Kentsdale Estates	10846	Nantucket Terrace	915,000	Jun-88	B	15
369	**'88**	**Kentsdale Estates**	**10810**	**Nantucket Terrace**	**1,204,000**	**Nov-88**	**B**	**34**
370	'88	Kentsdale Estates	8712	Snowhill Court	582,000	Jun-88	G	4
371	**'88**	**Kentsdale Estates**	**9**	**Stapleford Hall Court**	**1,350,000**	**Sep-88**	**B**	**10**
372	'88	Kentsdale Estates	10608	Stapleford Hall Drive	200,000	Aug-88	B	13
373	'88	Kentsdale Estates	10608	Willowbrook Drive	1,600,000	Jun-88	C	29
374	'88	Lake Normandy Estates	11625	Falls Road	740,000	Aug-88	A	18
375	'88	Lake Normandy Estates	11705	Karen Drive	270,000	Feb-88	J	15
376	'88	Lake Normandy Estates	11704	Karen Drive	255,000	Feb-88	B	35
377	'88	Lake Normandy Estates	11523	Le Harve Drive	387,000	Aug-88	B	61
378	**'88**	**Lake Normandy Estates**	**11508**	**Le Havre Drive**	**330,000**	**Jun-88**	**A**	**11**
379	**'88**	**Lake Normandy Estates**	**9311**	**Marseille Drive**	**655,000**	**Jul-88**	**A**	**35**
380	'88	Lake Normandy Estates	9201	Marseille Drive	439,000	Jul-88	D	9
381	'88	Lake Normandy Estates	8918	Tuckerman Lane	215,000	Sep-88	J	2
382	'88	Pine Knolls	10900	Bolton Drive	230,000	Sep-88	1	P13
383	'88	Pine Knolls	9220	Cranford Drive	650,000	Aug-88	1	7
384	'88	Williamsburg Gardens	10404	Holbrook Drive	265,000	Aug-88	A	5
385	**'88**	**Williamsburg Gardens**	**10620**	**Oaklyn Drive**	**565,000**	**Mar-88**	**4**	**1**
386	**'88**	**Williamsburg Gardens**	**10605**	**Oaklyn Drive**	**213,303**	**Nov-88**	**3**	**11**

average price:	**$602,420**
minimum:	**$200,000**
maximum:	**$1,750,000**

ld = Houses within 1000' of existing sites.

1987 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
387	'87	Bedfordshire	9932 Bedfordshire Court	$317,000	Sep-87	1	36
388	'87	Bedfordshire	11412 Beechgrove Lane	249,000	Mar-87	3	49
389	'87	Bedfordshire	11306 Berger Terrace	248,000	Jul-87	B	16
390	'87	Bedfordshire	11301 Berger Terrace	275,000	Jul-87	B	11
391	'87	Bedfordshire	11013 Broad Green Drive	322,000	Sep-87	D	35
392	'87	Bedfordshire	11216 Broad Green Drive	320,000	Jul-87	C	4
393	'87	Bedfordshire	11224 Broad Green Drive	247,500	Sep-87	C	2
394	'87	Bedfordshire	10940 Broad Green Terrace	455,000	Jul-87	F	58
395	'87	Bedfordshire	10108 Colebrook Avenue	300,000	Dec-87	3	24
396	'87	Bedfordshire	10124 Colebrook Avenue	315,000	Jul-87	3	28
397	'87	Bedfordshire	9720 Eldwick Way	280,000	Aug-87	D	22
398	'87	Bedfordshire	9540 Fox Hollow Drive	539,900	Nov-87	A	107
399	'87	Bedfordshire	9548 Fox Hollow Drive	515,000	Sep-87	A	107
400	'87	Bedfordshire	10101 Grayhorse Court	300,000	Aug-87	F	17
401	**'87**	**Bedfordshire**	**11401 Grundy Court**	**300,000**	**Sep-87**	**H**	**11**
402	'87	Bedfordshire	11228 Korman Drive	359,900	Nov-87	F	24
403	'87	Bedfordshire	11208 Korman Drive	275,000	Jul-87	F	19
404	'87	Bedfordshire	11136 Korman Drive	240,000	Apr-87	F	11
405	'87	Bedfordshire	9420 Lost Trail Way	336,510	Aug-87	G	41
406	'87	Bedfordshire	9516 Lost Trail Way	378,035	Feb-87	A	80
407	'87	Bedfordshire	9422 Lost Trail Way	329,900	Sep-87	G	42
408	'87	Bedfordshire	9438 Lost Trail Way	354,900	Jul-87	G	48
409	'87	Bedfordshire	9421 Lost Trail Way	339,900	Nov-87	G	22
410	'87	Bedfordshire	9417 Lost Trail Way	362,400	Sep-87	G	24
411	'87	Bedfordshire	9419 Lost Trail Way	339,900	Dec-87	G	23
412	**'87**	**Bedfordshire**	**9517 Lost Trail Way**	**435,000**	**Dec-87**	**A**	**71**
413	'87	Bedfordshire	9533 Lost Trail Way	387,350	Feb-87	A	75
414	'87	Bedfordshire	9521 Lost Trail Way	351,970	Apr-87	A	72
415	'87	Bedfordshire	9440 Lost Trail Way	325,200	Mar-87	G	49
416	'87	Bedfordshire	9524 Lost Trail Way	339,900	Feb-87	A	78
417	'87	Bedfordshire	9520 Lost Trail Way	408,143	Feb-87	A	79
418	'87	Bedfordshire	9528 Lost Trail Way	417,140	Feb-87	A	77
419	'87	Bedfordshire	9441 Lost Trail Way	399,900	Nov-87	G	16
420	'87	Bedfordshire	9537 Lost Trail Way	365,248	Feb-87	A	76
421	'87	Bedfordshire	9512 Lost Trail Way	350,000	Mar-87	A	81
422	'87	Bedfordshire	9529 Lost Trail Way	390,986	Mar-87	A	74
423	**'87**	**Bedfordshire**	**9434 Sunnyfield Court**	**471,677**	**Jul-87**	**A**	**62**
424	**'87**	**Bedfordshire**	**9430 Sunnyfield Court**	**420,425**	**Jul-87**	**A**	**63**
425	'87	Bedfordshire	9450 Sunnyfield Court	380,330	Aug-87	A	58
426	**'87**	**Bedfordshire**	**9421 Sunnyfield Court**	**466,216**	**Dec-87**	**G**	**7**
427	**'87**	**Bedfordshire**	**9441 Sunnyfield Court**	**428,900**	**Sep-87**	**A**	**119**
428	**'87**	**Bedfordshire**	**9426 Sunnyfield Court**	**402,871**	**Jul-87**	**A**	**64**
429	**'87**	**Bedfordshire**	**9451 Sunnyfield Court**	**465,725**	**Sep-87**	**A**	**57**
430	**'87**	**Bedfordshire**	**9417 Sunnyfield Court**	**473,031**	**Dec-87**	**G**	**8**
431	**'87**	**Bedfordshire**	**9446 Sunnyfield Court**	**515,000**	**Nov-87**	**A**	**59**
432	**'87**	**Bedfordshire**	**9439 Sunnyfield Court**	**423,353**	**Oct-87**	**A**	**117**
433	**'87**	**Bedfordshire**	**9435 Sunnyfield Court**	**397,900**	**Oct-87**	**A**	**116**
434	**'87**	**Bedfordshire**	**9431 Sunnyfield Court**	**433,900**	**Oct-87**	**A**	**115**
435	**'87**	**Bedfordshire**	**9443 Sunnyfield Court**	**443,537**	**Sep-87**	**A**	**118**
436	**'87**	**Bedfordshire**	**9446 Sunnyfield Court**	**419,900**	**Aug-87**	**A**	**59**
437	**'87**	**Bedfordshire**	**9442 Sunnyfield Court**	**426,830**	**Aug-87**	**A**	**60**
438	**'87**	**Bedfordshire**	**11412 Woodington Terrace**	**311,000**	**Oct-87**	**H**	**6**

ontinued

439	'87	Great Falls Estates	10832	Alloway Drive	800,000	Sep-87	H	29
440	'87	Great Falls Estates	10809	Alloway Drive	950,000	Sep-87	K	14
441	'87	Great Falls Estates	8729	Belmart Road	400,000	Jan-87	F	30
442	'87	Great Falls Estates	9119	Belmart Road	725,000	Aug-87	G	7
443	**'87**	**Great Falls Estates**	**9400**	**Firethorn Court**	**570,000**	**Sep-87**	**K**	**34**
444	'87	Great Falls Estates	10904	Pleasant Hill Drive	363,037	Aug-87	M	14
445	'87	Great Falls Estates	11412	Skipwith Lane	839,000	Nov-87	C	22
446	'87	Great Falls Estates	11509	Skipwith Lane	925,000	Oct-87	C	12
447	'87	Great Falls Estates	10725	Stanmore Drive	475,000	Oct-87	N	1
448	'87	Great Falls Estates	10817	Stanmore Drive	505,000	Jan-87	M	7
449	'87	Heritage Farm	10313	Crown Point Court	315,000	Oct-87	D	1
450	'87	Heritage Farm	9500	Falls Bridge Lane	335,100	Jul-87	E	13
451	'87	Heritage Farm	9800	Hall Road	539,000	Mar-87	C	28
452	'87	Kentsdale Estates	10124	Snowhill Lane	419,950	Oct-87	H	13
453	'87	Kentsdale Estates	8925	Harvest Square Court	1,301,294	Aug-87	A	50
454	'87	Kentsdale Estates	8938	Harvest Square Court	882,791	Aug-87	A	60
455	'87	Kentsdale Estates	9935	Kenstdale Drive	429,950	Oct-87	H	10
456	'87	Kentsdale Estates	9931	Kentsdale Drive	453,550	Aug-87	H	9
457	'87	Kentsdale Estates	9943	Kentsdale Drive	429,950	Sep-87	H	12
458	**'87**	**Kentsdale Estates**	**10837**	**Nantucket Terrace**	**739,000**	**Jul-87**	**B**	**20**
459	'87	Kentsdale Estates	10838	Nantucket Terrace	499,500	Feb-87	E	2
460	'87	Kentsdale Estates	8605	Snowhill Court	429,950	Aug-87	G	17
461	'87	Kentsdale Estates	8616	Snowhill Court	425,000	Mar-87	G	11
462	'87	Kentsdale Estates	8612	Snowhill Court	430,000	Jul-87	G	12
463	'87	Kentsdale Estates	8621	Snowhill Court	405,000	Feb-87	G	19
464	'87	Kentsdale Estates	8620	Snowhill Court	439,950	Feb-87	G	10
465	'87	Kentsdale Estates	8725	Snowhill Court	419,950	Sep-87	H	8
466	'87	Kentsdale Estates	8624	Snowhill Court	439,950	Feb-87	G	9
467	'87	Kentsdale Estates	8708	Snowhill Court	409,000	Jan-87	G	5
468	'87	Kentsdale Estates	8713	Snowhill Court	419,950	Jan-87	G	23
469	'87	Kentsdale Estates	8717	Snowhill Court	424,950	Aug-87	M	6
470	'87	Kentsdale Estates	10116	Snowhill Lane	448,225	Nov-87	H	2
471	'87	Kentsdale Estates	10120	Snowhill Lane	479,950	Nov-87	H	13
472	'87	Kentsdale Estates	10112	Snowhill Lane	429,950	Sep-87	H	3
473	'87	Kentsdale Estates	10105	Snowhill Lane	406,500	Mar-87	G	24
474	'87	Kentsdale Estates	10504	Willowbrook Drive	965,000	Jan-87	C	24
475	'87	Kentsdale Estates	10500	Willowbrook Drive	1,050,000	Jul-87	C	23
476	'87	Kentsdale Estates	10401	Willowbrook Drive	1,205,000	Nov-87	F	2
477	'87	Lake Normandy Estates	9	Cherbourg Court	275,000	Jul-87	E	52
478	'87	Lake Normandy Estates	8905	Cherbourg Drive	355,000	Apr-87	F	14
479	'87	Lake Normandy Estates	9223	Cherbourg Drive	600,000	Dec-87	A	37
480	'87	Lake Normandy Estates	9102	Fall River Lane	355,000	Aug-87	H	10
481	**'87**	**Lake Normandy Estates**	**11701**	**Falls Road**	**326,000**	**Oct-87**	**AOL**	**D**
482	'87	Lake Normandy Estates	11610	Karen Drive	284,500	Jan-87	B	30
483	'87	Lake Normandy Estates	9017	Marseille Drive	349,950	Aug-87	E	67
484	'87	Lake Normandy Estates	9017	Rouen Lane	317,500	Aug-87	E	30
485	'87	Pine Knolls	9113	Cranford Drive	312,500	Mar-87	3	18
486	'87	Pine Knolls	9320	Cranford Drive	400,000	Dec-87	1	2&3
487	'87	Pine Knolls	11212	Fall River Court	324,000	Mar-87	6	16
488	'87	Pine Knolls	9224	Fall River Lane	448,000	Dec-87	3	32
489	'87	Pine Knolls	9216	Fall River Lane	392,000	Sep-87	3	34
490	'87	Pine Knolls	11001	Haislip Court	354,000	Mar-87	3	64
491	'87	Pine Knolls	11017	Haislip Court	380,000	Oct-87	3	8
492	'87	Pine Knolls	9216	Sprinklewood Lane	350,000	Aug-87	3	38

average price:	**$446,228**
minimum:	**$240,000**
maximum:	**$1,301,294**

d = Houses within 1000' of existing sites.

MONOPOLE SITE

FALLS ROAD MD. RTE. 25

DETAIL A
SCALE: 1" = 50'

BRIGHTWOOD CLUB LANE (PRIVATE)

LOT 1
AREA TO EX SHA R/W : 953 AC ±
AREA TO PROP SHA R/W : 884 AC ±

LOT 2
AREA TO EX SHA R/W : 661 AC±
AREA TO PROP SHA R/W : 676 AC±

PARCEL A
PART 1

PARCEL C
AREA = 3.741 AC±

LOT 3
AREA = 1.00 AC±

PARCEL B
AREA TO EX SHA R/W : 6.693 AC±
AREA TO PROP SHA R/W : 6.693 AC±

PARCEL D
AREA = 2.610 AC±

BALTIMORE I-695 BELTWAY

SUBJECT TOWER

JOHNSON ROCKLAND LIMITED PARTNERSHIP
ENK, JR 8822/0114

THE CLUB
THE LAWN
THE SQUARE
THE CRESCENT

BRIGHTFIELD ROAD

(SEE DETAIL A)

STORM WATER MANAGEMENT EASEMENT
AREA = 2.005 AC±

100 YEAR FLOOD PLAIN LIMITS
DRAINAGE & UTILITY EASEMENT

100 YEAR FLOOD PLAIN LIMITS
DRAINAGE & UTILITY EASEMENT
AREA WITHIN PARCEL A
PART 1, PARCEL C, PARCEL D,
LOTS, AND LOTS
28 226 AC±

JONES FALLS
SHA PLAT 16795
16796
16761

EXPRESSWAY I-83

CURVE DATA

NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD
1	23° 44' 05"	3044.65'	1260.99'	639.67'	S 03° 25' 09" E 1252.00'
2	03° 36' 32"	3124.65'	197.89'	98.87'	S 10° 10' 09" W 197.66'
3	01° 31' 46"	4550.39'	121.53'	60.77'	S 27° 28' 39" E 121.53'
4	45° 39' 24"	160.00'	127.50'	67.35'	N 66° 43' 43" E 124.15'
5	45° 39' 24"	110.00'	87.65'	46.30'	N 66° 43' 43" E 85.35'
6	22° 30' 45"	280.00'	110.02'	55.75'	N 57° 09' 24" E 109.31'
7	22° 30' 45"	320.00'	125.73'	63.69'	N 57° 09' 24" E 124.93'
8	20° 05' 12"	320.00'	112.18'	56.67'	N 58° 22' 11" E 111.61'
9	20° 05' 12"	280.00'	98.16'	49.59'	N 58° 22' 11" E 97.66'
10	12° 56' 56"	500.00'	113.00'	56.74'	N 54° 48' 03" E 112.76'

THE APPROVAL OF THIS PLAT IS BASED UPON A REASONABLE EXPECTA... WATER SERVICE WHICH IS PLANNED FOR THIS ... SEWER SERVICE WHICH IS PLANNED FOR THIS ... PLANNED WATER AND SEWER FACILITIES ARE E... WILL BE ADEQUATE TO SERVE THE PROPOSED DEVELOP...

VICINITY MAP
SCALE: 1" = 2000'

59 142
SITE
I-695
BALTIMORE BELTWAY
FALLS ROAD
JOPPA ROAD
EXPRESSWAY

LEGEND

BOUNDARIES OVERALL SUBDIVISION
BOUNDARIES PARCEL BOUNDARIES
BOUNDARIES EXISTING EASEMENTS
BOUNDARIES PROPOSED EASEMENTS
BOUNDARIES 100 YEAR FLOOD PLAIN LIMITS (UNDEVELOPED)
BOUNDARIES BUILDING & RANGE NO.'S
BOUNDARIES CURVE DATA
BOUNDARIES COORDINATES
INDICATES LAND TO BE ACQUIRED FROM SHA
INDICATES LAND TO BE CONVEYED TO SHA

COORDINATE TABLE

NO	NORTH	WEST
1	37865.54	14469.01
2	37866.07	14459.08
3	38053.19	14427.81
4	38136.57	14572.48
5	38188.21	14738.72
6	38170.11	14749.77
7	38219.31	14760.84
8	38186.24	14816.09
9	38345.01	14402.40
10	38234.32	14301.09
11	38179.83	14298.88
12	38525.06	14527.48
13	38520.03	14707.40
14	38520.25	14747.43
15	38653.13	14786.46
16	38833.35	14756.46
17	38246.23	14773.11
18	38243.15	14783.06
19	38284.43	14781.54
20	38378.54	14857.87
21	38416.02	14736.18
22	38813.86	14755.58
23	38813.71	14745.63
24	38538.21	14745.50
25	38538.86	14744.31
26	38821.61	14734.42
27	38636.15	14725.12
28	38636.33	14643.50
29	38432.86	14745.38
30	38440.83	14743.56
31	38440.11	14724.40
32	38490.06	14723.04
33	38490.81	14742.21
34	38498.00	14748.46
35	38485.15	14806.71
36	38321.05	14843.50
37	38538.33	14540.57
38	38587.05	14569.21
39	38672.09	14422.95
40	38700.81	14450.62
41	38731.37	14331.14
42	38786.58	14366.88
43	38784.58	14384.64
44	38821.78	14211.36
45	38843.12	14101.21
46	38823.00	14128.62
47	38850.29	14088.51
48	38898.45	14113.11
49	38854.92	14056.25
50	38882.88	14028.66
51	38901.56	14043.45
52	38921.97	14063.67
53	38942.64	14080.05
54	38914.67	14111.47
55	40484.63	14283.12
56	40473.88	14246.80
57	40348.86	14183.72
58	39486.43	13950.98
59	38952.22	13871.32
60	38601.94	13819.80
61	38730.85	13675.80
62	38705.80	13651.40
63	40030.02	13884.13
64	40063.01	13791.99
65	40982.84	13852.57
66	40157.88	13648.84
67	39830.44	13363.92
68	38740.96	13714.02
69	38632.43	13696.02
70	38348.02	13718.18
71	38278.79	13801.47
72	38303.67	14008.37
73	38648.23	14002.36
74	38620.63	14048.98
75	38580.67	13996.25
76	38565.82	13210.12
77	38384.21	13243.25
78	38177.72	13272.33
79	38033.75	13462.65
80	38036.85	13752.47
81	37878.98	14012.26
82	37780.94	14015.84
83	37774.48	14062.10
84	38084.26	14070.46
AA	40000.78	13997.84
BB	39974.00	14012.00
CC	39938.20	14102.00
DD	39741.00	14102.00
EE	39937.00	14186.00
FF	39917.00	14216.00
86	39883.00	14345.00
88	39732.00	14427.00
11	39681.00	14341.00
EE	39545.00	14420.00
EE	39545.00	14497.00
83	39781.18	13776.75
84	39781.18	13776.75
87	40231.86	13879.38
101	39742.00	13666.97
102	39742.00	13666.97
103	39933.36	13751.37
104	39921.86	13784.83
105	39921.86	13750.37
106	39857.77	13715.26
53	39942.28	14216.26
54	39942.28	14216.26

TABULATION

EXISTING ZONING = DR-1 *
GROSS AREA FOR DENSITY = ———— 86.870 AC **
DENSITY ALLOWED (TOTAL) = ———— 86.870 AC **
DEDUCT PARCEL C = ———— 3.741 AC
GROSS AREA FOR RESIDENTIAL UNITS = 83.129 AC
DENSITY ALLOWED FOR RESIDENTIAL UNITS = 83
NUMBER OF UNITS PROPOSED = 83
GROSS AREA THIS PLAT = 69.660 AC
NET AREA THIS PLAT = 68.106 AC ***

	TO EX SHA R/W	TO PROP SHA R/W
AREA OF LOT 1	1.444 AC±	1.432 AC±
AREA OF LOT 2	1.953 AC±	1.884 AC±
AREA OF PARCEL A, PART 1	40.402 AC±	40.402 AC±
AREA OF PARCEL B	6.89 AC±	6.693 AC±
AREA OF BRIGHTFIELD RD.	0.931 AC±	0.950 AC±

AREA OF PARCEL A, PART 2 ———— 1.404 AC±
AREA OF PARCEL C ———— 3.741 AC±
AREA OF LOT 3 ———— 1.000 AC±
AREA OF PARCEL D ———— 2.610 AC±

* FROM ZONE REVISED * AREA/UNIT = 1 UNIT ** FROM AREA REMAINING (NET AREA) * DENSITY ΔΔ

** ALLOWABLE AREA FOR DENSITY PURPOSES BASED ON DENSITY CONSOLIDATION PLAT S.M. 58/132 ZONING CASE NO. 88-381

*** AFTER DEDUCTING BRIGHTFIELD ROAD R/W, FALLS ROAD WIDENING & ACCOUNTING FOR PROPOSED LAND TRANSFERS TO & FROM S.H.A.

○○ LOCATIONS TO BE DEFINED ON FUTURE CONDOMINIUM REGIME PLATS.

SEE ROAD CLOSING ORDER (OLD COURT ROAD) DATED 11/21/88 RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN ROAD CLOSING LIBER ___ FOLIO 293

DRAINAGE & UTILITY EASEMENT AREA DEDICATED TO BALTO. CO. BY VIRTUE OF 6421/606 DOES NOT INCLUDE ANY AREA SITUATED UNDER THE EXISTING 2 1/2 STORY STONE AND FRAME DWELLING LOCATED ON LOT 3.

Filed for record
S.M. 59 FOLIO 142
Date FEB 21 1989
Time
Clerk

GENERAL NOTES

ACCORDANCE WITH PROVISIONS OF BALTIMORE COUNTY ZONING ...

CONCERNING THIS PLAT MAY BE OBTAINED FROM THE ZONING AND THE DEPARTMENT OF PUBLIC WORKS.

HEREON MAY BE SUPERCEDED BY A SUBSEQUENT OR

DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY ... PARK, OPEN SPACE OR OTHER PUBLIC AREAS SHOWN ... GUARANTEE INSTALLATION OF STREETS OR UTILITIES

ON IS BASED UPON THE SURVEY BY BOLLEMEIER ... 1984 WITH SUBSEQUENT REVISIONS THROUGH

1 STREAM VALLEY PARK TO BE OWNED TO BALTIMORE ... DRAINAGE & UTILITY EASEMENT SHOWN HEREON ... AREA A.

1) ELEVATIONS SHOWN ON FLOODPLAIN EASEMENT ARE 1' ABOVE 100 YEAR WATER SURFACE.
2) THE OWNER/DEVELOPER WILL COMPLY WITH THE SOIL MANAGEMENT PRACTICES CONTAINED IN THE "HOWARD COUNTY MANAGEMENT PLAN".
3) THE DEDICATION OF THIS PLAT DOES NOT GUARANTEE INSTALLATION OF STREETS OR UTILITIES BY BALTO. COUNTY.
4) PARCEL A, B, C AND LOTS 1 & 2 OWNED BY JONES FALLS VALLEY LIMITED PARTNERSHIP 7374/408 ACCT #16-00-004859
5) PARCEL D & LOT 3 OWNED BY JUDY WILDBERGER 6690/425 ACCT #15-00-006816
6) TRAIL ALIGNMENT SHOWN SCHEMATICALLY. TRAIL MAINTENANCE TO BE ENSURED TO THE STREET R/W FOR LOTS 1,2,+3 ONLY.
7) SHA PLATS - [illegible] TO BE FOR PROPOSED CONDEMNED TO AND FROM SHA.
8) SUBJECT AS APPROPRIATE MANDATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON HAVE BEEN ESTABLISHED AS A COMPROMISE BASED ON AN INTERPRETATION ONLY OF CURRENTLY APPLICABLE REGULATIONS AND FAVORABLE BALTO. COUNTY ACTION. IN PLANNING AND DESIGNING ADDITIONS TO THESE IMPROVEMENTS, THAT MAY INVOLVE THE NON CONFORMANCE OF SUCH TO BE HELD FROM THE STREET R/W OR MAY LEAD TO THE GRANTING OF ADDITIONAL VARIANCE(S) WITHIN THESE STREETS.
9) THIS WETLAND LIMITS AS INDICATED ON THE FINAL DEVELOPMENT PLAN HAVE BEEN DETERMINED FROM FIELD INVESTIGATION BY THE BALTO. COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT TO CONFORM GENERALLY WITH APPROXIMATE LIMITS AS DELINEATED IN THIS AREA SHOWN AS PREPARED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

OWNER/DEVELOPER

JONES FALLS VALLEY LIMITED PARTNERSHIP
PHEASANT HILL CORPORATION, GENERAL PARTNER
CLARK F. MacKENZIE, PRESIDENT
& JUDY WILDBERGER
C/O CLARK F. MacKENZIE, GENERAL PARTNER
2528 WEST JOPPA ROAD SUITE 200
LUTHERVILLE, MARYLAND 21093
(301) 821-8585

BRIGHTWOOD

A RESUBDIVISION OF
A PORTION OF "ROCKLAND ESTATE"
RECORDED IN R.R.G. 30, FOLIO 63
AND
A RESUBDIVISION OF
PARCEL "F" "ROCKLAND ESTATE"
PLAT BOOK R.R.G. 30, FOLIO 63
RECORDED IN E.H.K., JR. 49, FOLIO 40

BALTIMORE CO., MARYLAND ELCTION DISTRICT #9
COUNCILMANIC DISTRICT #4
SCALE: 1" = 100' DECEMBER 15, 1988

NOTE:

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE RIGHT-OF-WAY WIDTHS AND FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

OWNERS CERTIFICATE:

THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT HEREBY CERTIFIES THAT TO THE BEST OF ITS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND 1988 EDITION AS AMENDED HAS BEEN COMPLIED WITH, AND THAT HE IS SAME CONCERNING THE MAKING OF THIS PLAT AND THE SETTING OF THE MARKERS.

ANY RESIDENCE — DATE 1/4/89

BY PHEASANT HILL CORPORATION, GENERAL PARTNER
CLARK F. MacKENZIE, PRESIDENT — DATE 6/13/89

SURVEYORS CERTIFICATE:

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THIS PLAT SURVEY PERFORMED PRIOR TO, IN ACCORDANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY PRIOR AS A BASE CONCERNING THE MARKING OF THE PLAT AND SETTING OF THE MARKERS.

[illegible] NO. — DATE

APPROVED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
Robert W Stanley — 2-2-89
DIRECTOR — DATE

APPROVED BY BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
P D Fields — 2-8-89
DIRECTOR — DATE

APPROVED BY DEPARTMENT OF PUBLIC WORKS
[illegible] — 2-6-89
Dep. DIRECTOR OF PUBLIC WORKS — DATE

GWS

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
TOWSON, MARYLAND 21204
F-788
BEL AIR, MARYLAND 21014

F.W.A. COMPLETED 9/30/2 SOIL
FINAL PLAT CHECKED:
PLANNING
ENGINEERING
HOUSE NOS
COMPUTED BY JDT CHECKED BY
DRAWN BY JDT W.O. NO. 05549

59 142

QUALIFICATIONS OF CONSULTANT - M. RONALD LIPMAN

Member:

Member (CRE): American Society of Real Estate Counselors
Member (MAI): Appraisal Institute (Chapter Pres.-'78 & '79)
Certified General Real Estate Appraiser #04-1072: State of Maryland
Certified General Real Property Appraiser #10136: District of Columbia
General Appraiser #GA 000866 L: Commonwealth of Pennsylvania
Certified General Real Estate Appraiser #4001 002875: Commonwealth of Virginia
Licensed Broker - Maryland Real Estate Commission
Board of Trustees - Mid Atlantic Realty Trust (AMEX), Chairman Investment Committee

Education:

Awarded Masters Degree in Bus. Admin. (Real Estate Major) American Univ., 1964
Awarded Bachelor of Arts Degree (Bus.Admin.Major) Duke University, 1960
Continuously engaged in appraisal since 1961; in consulting since 1970

Teaching Assignments:

Instructor: SREA 101 and 201 Courses, 1971 thru 1980, Loyola & Notre Dame Colleges
Instructor: Annual School of Maryland Assessing Officers, 1969-1973, 1978-1980
Instructor: Condemnation Course IV for Appraisal Institute, Baltimore 1979/80
Instructor: Capitalization Theory & Techniques, for Appraisal Institute, Baltimore, 1981
Instructor: Income Property Valuation for Maryland Tax Court, 1984
Instructor: Md. Chapter, Appraisal Institute - R41-c Seminar, 1985
Instructor: Internal Rate of Return Seminar for Md. Commercial Assessors, 1986
Instructor: Acquisition of Real Estate - John Hopkins University Continuing Studies, 1987
Instructor: The Appraisal of Real Estate, Masters Program - JHU MBA program, 1992

Speaking Engagements/Other:

1995 Howard County Economic Plan - Update Committee
1995 Professional Education Seminar - Baltimore District, Internal Revenue Service
1994 Maryland Real Estate Tax Assessment Seminar - NAIOP
1993/94 - Property Tax Assessment Seminar - Linowes & Blocher
1993/94 - Property Tax Assessment Seminar - Miller Miller & Canby
1993 "Trends in Real Estate Appraising" - Commercial Finance Association
1993 "Appraising Real Estate in Today's Marketplace" - The Rouse Company
1992 "Appraising Real Estate in Today's Marketplace" - MD Association of CPA's
1991 "Appraising in a Recessionary Economy" sponsored by NAIOP & BOMA
1987 "Challenges in the Development Process", Appraisal Institute Regional Conference
1986 "Real Estate in Tax Crisis" sponsored by Walpert, Smullian & Blumenthal, PA
1985 Appraisal Institute Regional Conference
1985 Maryland State Bar Association Real Estate Study Group
1984 "Annual Metropolitan Development Update" sponsored by Daft, McCune & Walker
1980 Appraisal Institute Regional Conference
1980 Mid Year Meeting, Maryland State Bar Association, Baltimore
1977 National Assoc. of Corporate Real Estate Executives-Balto./Wash.Area
1976 U.S. League of Savings Associations Convention, New York
1974 Joint Baltimore/Washington Mortgage Bankers Association Meeting
1973 International Appraisal Conference, SREA, Atlanta, Georgia

Qualified as expert witness before the courts of:

Baltimore City; Baltimore, Anne Arundel, Montgomery, Howard and Cecil Counties; U.S. District Court of Maryland; Federal Bankruptcy Court; Los Angeles County Superior Court; Federal Tax Court; American Arbitration Association, NY

Competency:

Numerous appraisals have been completed for all types of income and owner/user properties including office buildings, apartment complexes, shopping centers and industrial properties in addition to raw land and finished sites for development of these uses and special purpose properties such as mobile home parks, marinas and assisted living facilities.

REPRESENTATIVE CLIENTS OF LIPMAN FRIZZELL & MITCHELL LLC

Developers/Investors/Advisors:

Acacia Realty Advisors
Ackerman & Company
Ahmanson Development
American Trading & Production Corp.
Attman Glazer
Dr. Leonard P. Berger
Boston Real Estate Counsel
Capital Needs Unlimited
Clark Enterprises, Inc.
Constellation Properties
Continental Realty
Dome Corporation
Edward J. DeBartolo Corp.
Edward A. Meyerberg Co.
Federal Realty Investment Trust
Forest City Enterprises
Gulf Stream Properties
Harrison Group
Harvey Companies
Hazel & Thomas
Home Sales/Hill Management
Howard Research & Development
Investment Group Development Corporation
James Keelty & Co.
James F. Knott Development Company
James W. Rouse & Company, Inc.
JBG Properties, Inc.
JHP Development Company
J.P. Morgan Investment
Kenilworth Equities (Robert Morrow)
The David Kornblatt Company
Kravco Company
Land Design & Development Company
LaSalle Advisor Ltd.
Lazard Development
Lee Sammis Associates, Inc.
Legum Development
MacKenzie, O'Conor, Piper & Flynn
Magna Properties
Manekin Corporation
Mid-Atlantic Realty Trust
Meisel & Cohen Props.
Michael T. Rose Associates
MIE Investment Co.
MIG Realty Advisors, Inc.
Monumental Properties, Inc.
MultiEmployee Property Trust
Multi-Properties
Nottingham Properties
Park Tower Developments, Ltd.
Ralph DeChiaro Enterprises
Riparius Development Corporation
Spaulding & Slye
Dr. Lazlow Tauber
Time Group
Town & Country Management
Trammel Crow
United Trust Fund (UTF)
Wallace H. Campbell Real Estate Mgmt.
Winthrop Financial Assocs.

Corporate:

A.S. Abell Co.
Advest
Allied Chemical
Amtrak
American Trading & Production
Baltimore Gas & Electric Co.
Saks 5th Avenue
Bell Atlantic Properties
Bethlehem Steel
Black & Decker
Blue Cross/Blue Shield
C&P Telephone
C.J. Langenfelder & Son, Inc.
Cellular One
Chrysler Realty Corp.
CSX Realty
Environmental Elements
Exxon
Fairlanes
Ford Motor Company
General Electric
Genstar
Giant Food
Hyatt Hotels
IBM
JCPenney
Jos. A. Bank
Kaiser Aluminum
Lord & Taylor
Macy's
Marriott Corporation
Maryland Casualty
Maryland Cup
May Department Stores
Meridian
Merrill Lynch Hubbard
Midas
Midatlantic Toyota
Montgomery Ward
Monumental Insurance
Noxell
Sears Roebuck & Co.
Times Mirror (The Sunpapers)
Toyota
T. Rowe Price
USF&G

Accounting Firms:

Thornton Grant
Coopers & Lybrand
Ellin & Tucker Chartered
Faw Casson & Company
Grabush Newman
Haskins & Sells
Hertzbach, Sapperstein & Sidle, PA
Peat, Marwick & Mitchell
Walpert, Smullian & Blumenthal
Wolpoff & Company

Law Firms:

Adelberg, Rudow, Dorf, Hendler & Sameth
Arent, Fox, Kintner, Plotkin & Kahn
Arnold & Porter
Ballard Spahr
Basik, Bushel & Shelton
Blades & Rosenfeld
Conroy, Ballman & Dameron
Drinker, Biddle & Reath
Fedder & Garten
Gallagher, Evelius & Jones

REPRESENTATIVE CLIENTS OF LIPMAN FRIZZELL & MITCHELL LLC (cont'd)

Ginsburg, Feldman & Bress
Gordon, Feinblatt, Rothman, Hoffberger & Hollander
Hazel & Thomas

Law Firms (cont'd):

Hogan & Hartson
Hunton & Williams
Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A.
Kramon & Graham
Law Offices of Peter G. Angelos, P.C.
Levin & Gann
Linowes & Blocher
McGuire Woods Battle & Boothe
Miles & Stockbridge
Miller, Miller & Canby
Morgan, Lewis & Bockius
Niles, Barton & Wilmer
Nolan, Plumhoff & Williams
Ober, Kaler, Grimes & Shriver
Patton Boggs, L.L.P.
Patterson, Belknap, Webb & Tyler
Piper & Marbury
Royston, Mueller, McLean & Reid
Semmes, Bowen & Semmes
Shapiro & Olander
Shaw, Pittman, Potts & Trowbridge
Shulman Rogers Gandal Pordy & Ecker
Smith, Somerville & Case
Steptoe & Johnson
Tucker, Flyer & Lewis
Venable
Weinberg & Green
Whiteford, Taylor & Preston
Wilkes, Artis, Hedrick & Lane

Lenders/Mortgage Brokers:

American City Mortgage Corp.
American National Savings Assoc.
Baltimore Life Ins. Co.
Bangkok Bank Limited
Bank of Boston
Bank of New England
Canada Life Assurance Co.
Chase Manhattan Bank
Chemical Bank
Chevy Chase Savings & Loan
Citibank Bank
Citizens Bank of Maryland
Citizens Savings Bank
Commercial Bank of Kuwait
Continental Bank
Crestar Bank
Crossland Savings Bank
Eastern Savings Bank
ELG Financial
Equitable Life Assurance
First Union Corp.
First Federal SLA of Annapolis
First Maryland Mortgage Corp.
First National Bank
Household Bank
Legg Mason Real Estate Services
Liberty Federal Savings Bank
Marine Midland Bank
Mercantile Safe Deposit & Trust Co.
Monumental Life Ins. Co.
NationsBank
Principal Financial Group
Provident Bank of Maryland
Prudential Ins. Co. of America
Riggs Bank
Sonneblick-Goldman Corp.
South Charles Realty
Teachers Ins. & Annuity Assn. of America
Towle Financial
Union Dime Savings Bank
Signet Bank
Washington Federal Savings Bank
Wells Fargo Realty Advisors
Woodmen of the World Life Insurance Co.

Institutional:

American University
Archdiocese of Baltimore
Baltimore County General Hospital
Franklin Square Hospital
Greater Baltimore Medical Center (GBMC)
Good Samaritan Hospital
Johns Hopkins Hospital
Johns Hopkins University
North Charles General Hospital
St. Agnes Hospital
Sinai Hospital
Sisters of Notre Dame
Sisters of Charity
United Brotherhood of Carpenters & Joiners
University of Maryland Medical System
University of Maryland Hospital
University of Maryland Foundation

Governmental / Other:

Baltimore City Government
Baltimore Country Club
Baltimore County Revenue Authority
Baltimore Economic Development Corporation (BEDCO)
Blaustein Family Interests
BOMA
Bonnie View Country Club
Burning Tree Golf Club
Center City/Inner Harbor Mgmt., Inc.
Country Club of Maryland
Department of Justice
Federal Deposit Insurance Corp.(FDIC)
Federal Home Loan Bank Board
Harry & Jeanette Weinberg Foundation
Housing & Urban Development (HUD)
Internal Revenue Service
Maryland Industrial Development Financing Authority (MIDFA)
Maryland Insurance Deposit Fund (MIDF)
Maryland Stadium Authority
Mass Transit Administration (MTA)
Montgomery County Government
National Association of Industrial & Office Parks (NAIOP)
Resolution Trust Corporation (RTC)
State Highway Administration (SHA)
Suburban Country Club
U.S. Dept. of Justice
U.S. Dept. of the Navy
U.S. Naval Academy Athletic Associates
U.S. General Services Administration
U.S. Postal Service
Woodmont Country Club

Market Study:

Proposed Monopole Site
NORTH END OF BRIGHTWOOD ROAD
Brooklandville, Baltimore County, Maryland

For:
Cellular One Washington/Baltimore

April 22, 1996

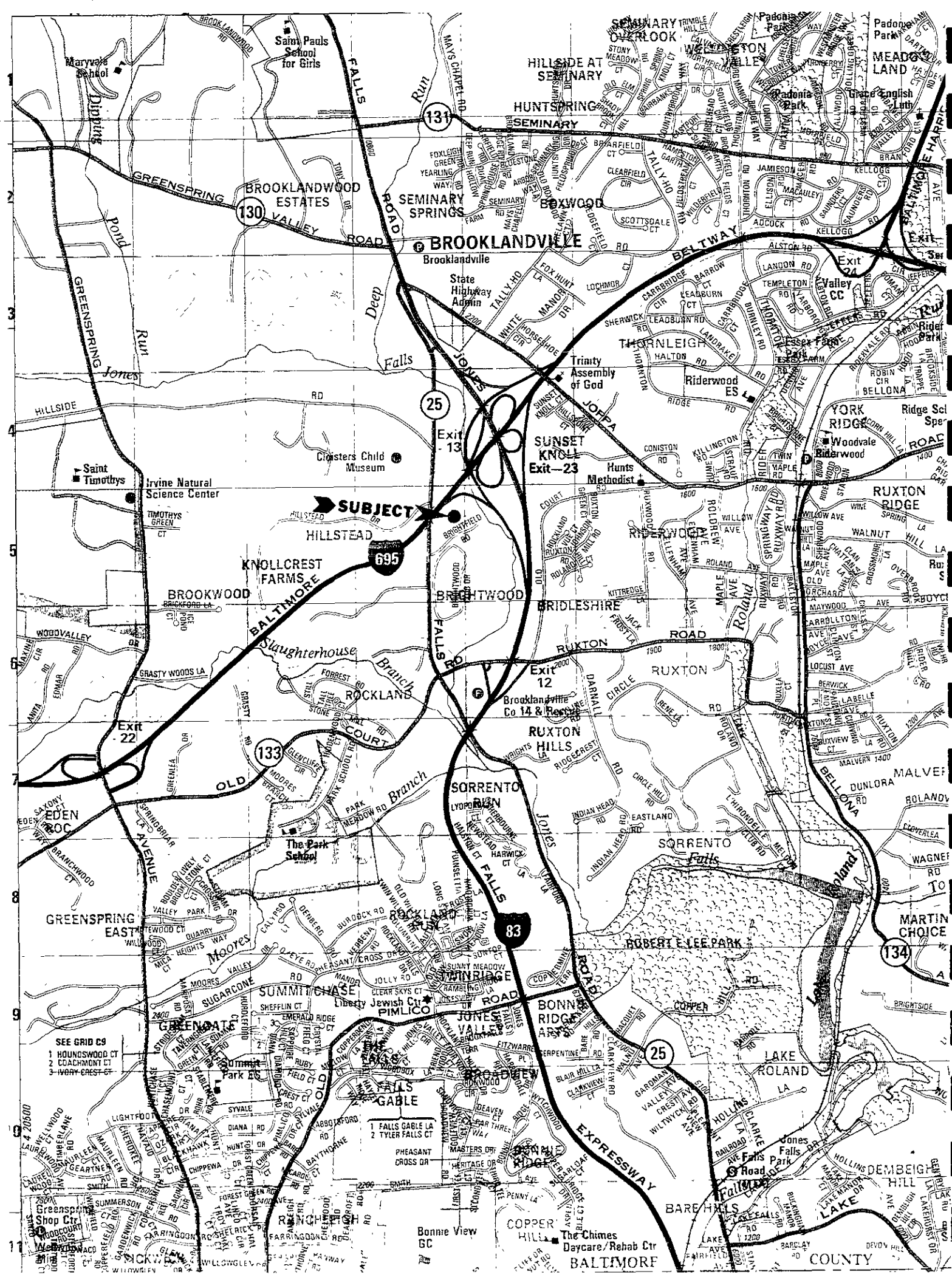
Pet Ex #8

RECEIVED

Copyright © 1996, by
Lipman Frizzell & Mitchell
a Maryland General Partnership

LIPMAN FRIZZELL & MITCHELL
Real Estate Appraisers & Consultants
LF&M Professional Center
1400 Front Avenue - Suite 300
Lutherville, Maryland 21093

LFM-4492J


SUBJECT
Saint Pauls School for Girls
Maryvale School
Dipping Pond Run
Falls Run
Deep Run
Jones Falls
GREENSPRING VALLEY ROAD
BROOKLANDWOOD ESTATES
SEMINARY SPRINGS
SEMINARY OVERLOOK
HILLSIDE AT SEMINARY
HUNTSPRING
SEMINARY
WOODLEIGH
MEADOWLAND
BOXWOOD
BROOKLANDVILLE
Brooklandville
State Highway Admin
Padonia Park
Grace English Luth
Padonia Park
BELTWAY
Exit 24
Valley CC
THORNLEIGH
Essex Farm Park
Riderwood ES
Trinity Assembly of God
Riderwood
YORK RIDGE
Ridge Sch Spec
Woodvale
Riderwood
Exit 23
SUNSET KNOLL
Hunts Methodist
Exit 13
JOPPA
Closters Child Museum
Saint Timothys
Irvine Natural Science Center
HILLSTEAD
KNOLLCREST FARMS
BROOKWOOD
BRIGHTWOOD
BRIDLESHIRE
RIDERWOOD
RUXTON RIDGE
RUXTON
Exit 12
Brooklandville Co 14 & Rescue
RUXTON HILLS
ROCKLAND
Exit 22
OLD COURT ROAD
SORRENTO RUN
SORRENTO Falls
EDEN ROC
The Park School
GREENSPRING EAST
ROCKLAND RUN
ROBERT E LEE PARK
MARTIN CHOICE
SUMMIT CHASE
Liberty Jewish Ctr
PIMLICO
TWINRIDGE
BONNIE RIDGE ARMS
GREENDALE
Summit Park ES
FALLS GABLE
BROADLEW
LAKE ROLAND
Jones Falls Road
Jones Falls Park
DEMBEIGH HILL
BARE HILLS
COPPER HILL
The Chimes Daycare/Rehab Ctr
Bonnie View GC
Greenspring Shop Ctr
RANCHLEIGH
BALTIMORE COUNTY
SEE GRID C9
1 HOUNDSWOOD CT
2 COACHMONT CT
3 IVORY CREST CT
1 FALLS GABLE LA
2 TYLER FALLS CT
131
130
25
695
133
83
134
BALTIMORE EXPRESSWAY
BELLONA
FALLS ROAD
JONES FALLS

Lipman Frizzell & Mitchell LLC

REAL ESTATE CONSULTANTS

M. Ronald Lipman, CRE, MAI
George P. Frizzell, CRE, MAI
Ryland L. Mitchell III, CRE, MAI
David H. Brooks, MAI
James C. Feeney, MAI

Stephen L. Rudow, MAI
Sheldon A. Stern, MAI
Jenifer Y. Stick, MAI
Ilene R. Sheer
Andrew A. Manley
Marilyn Kovaleski

Elizabeth B. Benoit
Curtis W. Morris
J. Gregory Ciambruschini
Kimo S. Phillips
Malcolm Sherman, CRE, *affiliate*
Deborah M. Ryba, *office manager*

April 22, 1996

Mr. Karl J. Nelson
Kramon & Graham, PA
Commerce Place
One South Street - Suite 2600
Baltimore, Maryland 21202-3201

RE: Proposed Monopole Site
North End of Brightwood Road
Brooklandville, Baltimore County, Maryland

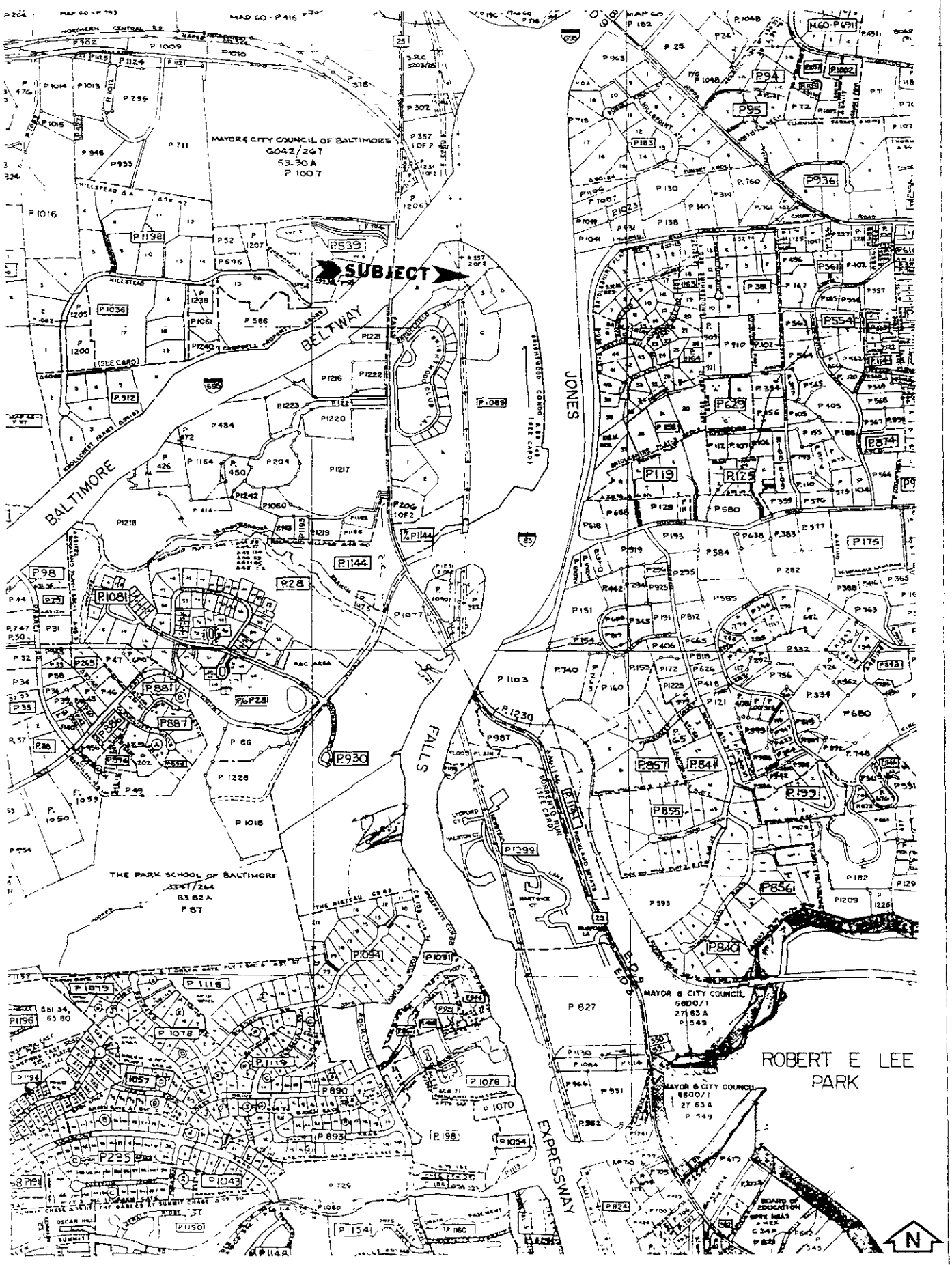
Dear Mr. Nelson:

In accordance with your request that we conduct a study of the above captioned site on which Cellular One proposes to construct a 175 ft. freestanding monopole to be used in connection with the Cellular One, Nextel and Banm communications systems, we herewith submit our report.

Background

In preparation of this study, we inspected the subject site and its immediate surroundings; investigated the market for residential housing in the immediate area; reviewed tax maps prepared by the State Department of Assessments & Taxation, Tax Map Division; studied recent aerial photography of the immediate and general area and a site plan for the proposed monopole and equipment building; visited other monopole sites in Baltimore and Montgomery Counties; and reviewed several studies completed by Lipman Frizzell & Mitchell regarding overhead power transmission lines, underground easements, cellular telephone system towers, and other such uses located adjacent and among residential subdivisions and development parcels. In addition, we have conducted independent statistical research regarding house values in the Falls Road Corridor of Potomac in Montgomery County oriented to existing monopole sites, comparing them with values of homes in the same subdivisions which are some distance from the monopoles.

The subject monopole location is located in the south quadrant of the Baltimore Beltway (I-695) interchange with the Jones Falls Expressway (I-83), in the Brooklandville section of Baltimore


SUBJECT
BELTWAY
BALTIMORE
JONES
FALLS
EXPRESSWAY
MAYOR & CITY COUNCIL OF BALTIMORE
6042/267
53.30 A
P 1007
THE PARK SCHOOL OF BALTIMORE
3347/244
83.62 A
P 67
MAYOR & CITY COUNCIL
6800/1
27.63 A
P 549
ROBERT E LEE
PARK
N

County, Maryland. The general neighborhood is bounded by the Baltimore Beltway on the north, I-83 on the east, Greenspring Avenue on the west and Pimlico Road and Sugarcone Road on the south. To the north of the Beltway are several higher priced residential subdivisions to include Hillstead, Knollcrest Farms, and Brookwood. To the east is Ruxton and Riderwood, older, prestigious communities, while to the south, is a more intensely developed section dominated by the Bonnie View County Club and numerous townhouse and detached subdivisions of middle and upper-middle income housing. Uses in the general neighborhood include the Park School which is centrally located within the boundaries described above, Greenspring East, Summit Chase, Rockland Run, Twin Ridge and Rockland. In the immediate vicinity of the subject is the Brightwood Community, an upper-priced condominium complex for elderly citizens. Adjacent and associated with Brightwood is the Meridian Healthcare Center at Brightwood at the end and south side of Brightfield Road.

Prices of homes within some of the nearby area communities are as follows:

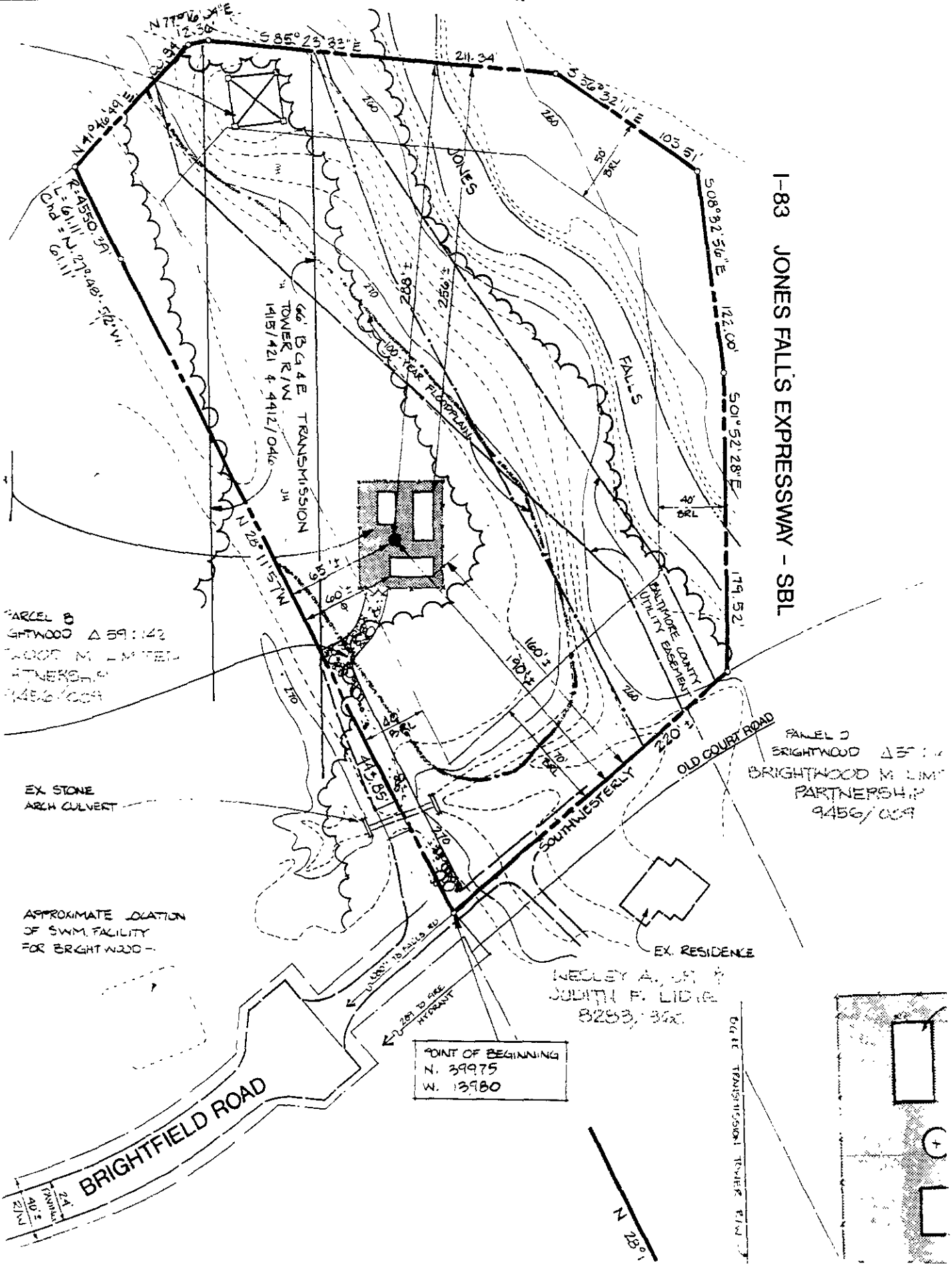
	Approx. Distance to Monopole (Ft.)	Overall Price Range	Typical Price Range
Brightwood (Low-Rise Condos for Elderly)	600	$210,000-$580,000	$350,000-$425,000
Risteau (Mid-Rise Condos)	5,000	$67,000-$200,000	$150,000-$200,000
Hillstead (SFD's on Large Lots)	2,400	$825,000	$500,000-$1,000,000
Ruxton Hills (SFD's on Indiv. Lots)	4,800	$270,000-$350,000	$275,000-$300,000
Bridleshire (SFD's on Indiv. Lots)	1,200	$360,000-$540,000	$500,000's
Rockland (SFD's and Cluster Homes)	3,500	$375,000-$525,000	$400,000-$500,000
Sunset Knoll (SFD's on Large Lots)	1,800	$410,000-$1,200,000	$700,000-$1,000,000

Aerial photography reflects development patterns in the immediate and general vicinity of the subject property, evidencing modern suburban type subdivisions with curvilinear streets generally having access off Falls Road. Pimlico Road, Old Court Road and other neighborhood collector streets.

Tax maps of the area provide detailed subdivision and ownership data in the immediate and general vicinity of the subject indicating that all types of residential development has taken place throughout, to the extent that it is nearly 100% built up, with little or no opportunity for further construction in light of current zoning and land use restrictions.

The immediate vicinity of the subject property represents the southern quadrant of the interchange formed by the Baltimore Beltway and Jones Falls Expressway. The immediate environs include that area in the quadrant bounded by Falls Road on the east and Old Court Road on the south. This "pocket" of land comprises approximately 85 acres, the majority of which, however, is impacted by the Jones Falls stream valley which precludes development on most of this land.

RAMP 'G'
I-695 BALTIMORE BELTWAY



Development that does exist includes the Brightwood Condominium and the associated Meridian Nursing Home located off of Brightfield Road and oriented to Brightwood Club Drive.

Subject Site

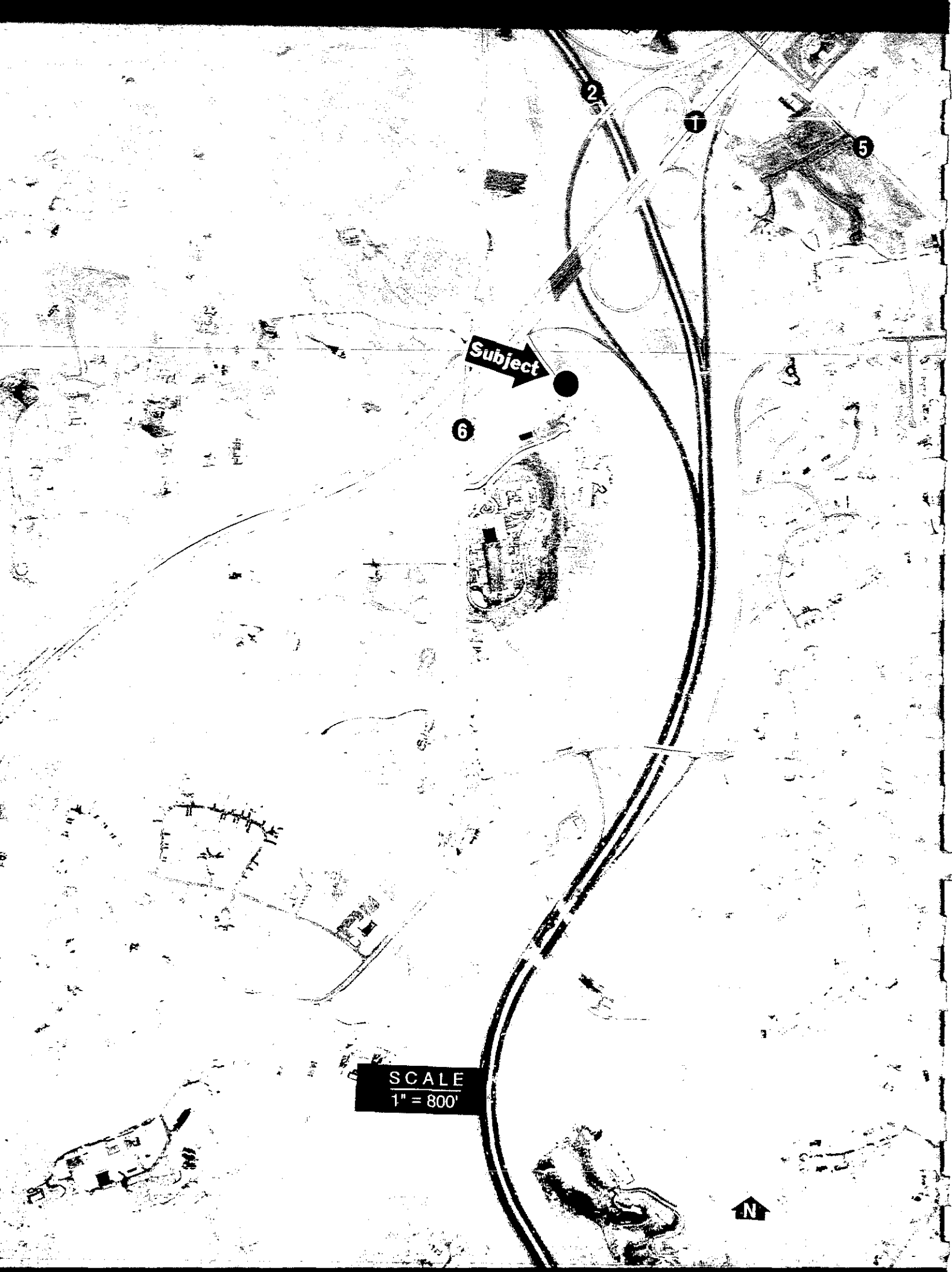
The subject site consists of a 3± acre parcel situate along the south boundary of Ramp G which connects eastbound Beltway traffic to southbound Expressway traffic. The site is provided vehicular access from the north side of Brightfield Road off the east side of Falls Road (MD Route 25). The site is zoned DR-1 and is traversed on a north/south axis by Baltimore Gas Electric overhead transmission lines in a 66 ft. wide right-of-way. At the northern boundary of the site is located a 129 ft. high electrical transmission tower (see photographs). Another tower is located approximately 800 ft. south, adjacent the Meridian Nursing Home, south of Brightfield Road. To the immediate south of the subject site is a modest two story house (see photos) owned by Wesley A. Lidie, Sr. and wife. That property, the most proximate to the subject tower, is situate 190 ft. from it, with the house set back an additional 55 ft., for a total distance of 245 ft. The home sits in a low lying wooded section of its site at an elevation of approximately 263 ft. The tower site sits at an elevation of approximately 272 ft. The Lidie property is assessed as follows by the State Department of Assessments & Taxation:

Land (1 acre)	$75,000
Improvements	51,260
Total	$126,260

Area Landscape

An inspection of the roads network serving the subject neighborhood indicates that, while subdivisions themselves have underground utilities, the collector roads support above-ground telephone and electric poles along their right-of-way lines which are visible to both the traffic traversing those roads and from housing built in the first 300± ft. back from those roads. In terms of scale from point of viewing, these telephone and electric poles of approximately 35 to 40 ft. height loom substantially larger than the proposed 175 ft. monopole from, say, Falls Road. Moreover, the monopole is of a metallic finish while the telephone poles are a dark brown wood.

Perhaps more significant in terms of the subject site and immediate surroundings is the presence of the Baltimore Gas Electric overhead transmission lines which represent an open swath of land supporting relatively high electrical transmission towers (129 ft. closest to the subject monopole site). Each tower supports numerous electric lines and cables and represents an "erector set" type structure which is not attractive. One of these structures is located directly adjacent and in front of the Meridian Nursing Home which is situate approximately 600 ft. south of the proposed monopole site.


2
T
5
Subject
6
SCALE
1" = 800'
N

Proposed Site Improvements

The specific location of the monopole represents a 50 ft. by 65 ft. gravel compound enclosed with 8 ft. high chain link fence with three strand barbed wire top. There are three buildings on the site to include a proposed 10 ft. by 12 ft. by 10 ft. high, unmanned equipment building, a second unmanned equipment building measuring 12 ft. by 30 ft. by 10 ft. high, and a third unmanned equipment building measuring 11 ft. 6 in. by 26 ft. by 10 ft. high. Each of these buildings will provide equipment to the three users of space on the proposed tower to include Nextel, Banm and Cellular One. Access to the site will be via a 12 ft. wide gravel access road running along the subject site's southwesternmost boundary to the point at which it traverses the BG&E right-of-way, at which point the gravel driveway takes a 90 degree turn, providing vehicular access into the gravel compound.

This compound is surrounded on its south and east sides by existing mature trees and is open to the north, and again, treed to its west. This is an excellent choice for a monopole in light of its immediate surroundings and lack of impact on surrounding residential uses.

Statistical Research

As part of our analysis of the proposed monopole, we have visited existing monopole sites similar to the subject, representing suburban sections of Metropolitan areas (three in Montgomery County, one in Baltimore County) wherein housing prices are in the upper income area and wherein the towers tend to be located near institutional type uses. We have studied development patterns surrounding these areas and have noted that house prices and absorption pace do not appear to be in any way impacted.

There are two monopole sites located along the Falls Road Corridor in the Potomac section of Montgomery County between Democracy Boulevard and Tuckerman Lane, a very high income area supporting homes in the $250,000 to $1,000,000+ range. These include 1) the Bullis Prep School site near the intersection of Falls Road and Democracy Boulevard and 2) the Rockville Volunteer Fire Department No. 33 on Falls Road, opposite Marseille Drive. Considering the luxury priced housing surrounding them, and its resultant similarity to housing in the general area of the subject site, we have conducted an in-depth study of area housing prices to determine if proximity to a monopole site has had a negative impact on values. Our efforts were focused on pricing for houses located in proximity to monopoles (i.e. within 1,000 ft.) as contrasted with sales of similar housing more distant therefrom.

In the *Addenda* of this report, we have included a listing of nearly 500 sales located in proximity to and in subdivisions adjacent the two monopole sites located along Falls Road, which have taken place during the 1987 through 1994 timeframe. These sales are summarized below:

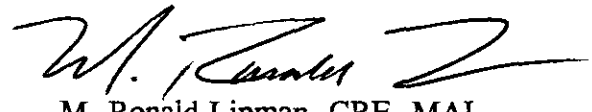
Year	No. of Sales	Minimum Sale Price	Maximum Sale Price	Avg. Sales Price
1987	106	$240,000	$1,301,294	$446,228
1988	87	200,000	1,750,000	602,420
1989	47	300,000	2,150,000	689,677
1990	44	250,000	1,925,000	627,046
1991	62	210,000	3,000,000	593,869
1992	44	245,000	1,300,000	526,657
1993	59	265,000	1,725,000	591,217
1994	43	230,000	1,700,000	580,410
Total	492			$582,191 avg.

We also used the data to determine appreciation/depreciation trends over the study period, using matched pairs (sale/resale of same property), the results of which are also included in the *Addenda*. Based on our analysis of these price trends, there was no discernible difference between values of homes in proximity to monopole sites and those more distant therefrom.

Based upon the in-depth statistical investigation described above and by virtue of our experience with monopole sites in prestigious sections of Montgomery County and in Baltimore County, it is our opinion that the proposed monopole and equipment buildings will not impact negatively on the immediate or general surroundings. Moreover, based on our understanding of the type of signals sent by these towers, we do not believe that there will be any health problems associated therewith.

Respectfully submitted,

LIPMAN FRIZZELL & MITCHELL LLC



M. Ronald Lipman, CRE, MAI
Certified General Real Estate Appraiser
License No. 04-1072: State of Maryland

MRL/mag

Appreciation Rate Study
Matched Pair Single Family House Sales 1987-1994
Potomac, Maryland 20854

Subdivision	Address	consid	date	time expired between transfer	annual change
Bedfordshire	11412 Woodington Terrace	$311,000	Oct-87	13 months	0.00%
		$311,000	Nov-88		
Bedfordshire	9405 Woodington Drive	$380,000	Apr-88	39 months	-1.03%
		$367,500	Jul-91		
Bedfordshire	11216 Broad Green Drive	$320,000	Jul-87	47 months	6.03%
		$405,000	Jun-91		
Bedfordshire	11224 Broad Green Drive	$247,500	Sep-87	43 months	15.18%
		$425,000	Apr-91		
Bedfordshire	11432 Bedfordshire Avenue	$323,500	May-92	27 months	0.21%
		$325,000	Aug-94		
Bedfordshire	9917 Bedfordshire Court	$295,000	Jul-88	32 months	4.78%
		$335,000	Mar-91		
Bedfordshire	9908 Colebrook Avenue	$290,000	Aug-90	23 months	7.78%
		$336,500	Jul-92		
Bedfordshire	9713 Eldwick Way	$325,000	Aug-91	30 months	-1.89%
		$310,000	Feb-94		
Bedfordshire	9516 Lost Trail Way	$378,035	Feb-87	77 months	5 50%
		$537,500	Jul-93		
Bedfordshire	9439 Lost Trail Way	$398,900	Mar-88	40 months	1.19%
		$415,000	Jul-91		
Bedfordshire	9422 Lost Trail Way	$329,900	Sep-87	47 months	2.23%
		$360,000	Aug-91		
Bedfordshire	9430 Sunnyfield Court	$420,425	Jul-87	67 months	3.81%
		$520,000	Feb-93		
Bedfordshire	9404 Sunnyfield Court	$457,900	Jan-88	72 months	1.30%
		$495,000	Jan-94		
Kentsdale Estates	8925 Harvest Square Court	$1,301,294	Aug-87	78 months	-0.02%
		$1,300,000	Feb-94		
Kentsdale Estates	8918 Harvest Square Court	$1,333,751	Nov-88	71 months	-5.72%
		$950,000	Oct-94		
Kentsdale Estates	10401 Willowbrook Drive	$1,205,000	Nov-87	61 months	1.49%
		$1,300,000	Dec-92		
Williamsburg Gardens	10620 Oaklyn Drive	$565,000	Mar-88	60 months	-1.47%
		$525,000	Mar-93		
Great Falls Estates	10904 Pleasant Hill Drive	$363,037	Aug-87	45 months	19.86%
		$760,000	May-91		
Great Falls Estates	10801 Pleasant Hill Drive	$760,000	Dec-91	18 months	4.26%
		$810,000	Jun-93		
				average	**3.34%**

1994 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Lot
1	'94	Bedfordshire	11432 Bedfordshire Avenue	$325,000	Aug-94	3	4
2	'94	Bedfordshire	11124 Broad Green Drive	370,000	Jan-94	F	1
3	'94	Bedfordshire	10919 Broad Green Terrace	420,000	Sep-94	D	38
4	'94	Bedfordshire	10124 Colebrook Avenue	332,500	Nov-94	3	28
5	'94	Bedfordshire	21 Eldwick Court	455,000	Jul-94	D	17
6	'94	Bedfordshire	9713 Eldwick Way	310,000	Feb-94	A	37
7	'94	Bedfordshire	9701 Eldwick Way	390,000	Mar-94	A	47
8	'94	Bedfordshire	9709 Eldwick Way	340,000	May-94	A	38
9	'94	Bedfordshire	9525 Fox Hollow Drive	545,000	Sep-94	A	102
10	'94	Bedfordshire	10108 Grayhorse Court	390,000	Aug-94	F	14
11	'94	Bedfordshire	9440 Lost Trail Way	362,000	Jun-94	G	49
12	'94	Bedfordshire	9428 Lost Trail Way	425,000	May-94	G	44
13	**'94**	**Bedfordshire**	**9404 Sunnyfield Court**	**495,000**	**Jan-94**	**G**	**73**
14	'94	Bedfordshire	9828 Wilden Lane	306,000	May-94	C	13
15	'94	Great Falls Estates	10820 Alloway Drive	700,000	Aug-94	H	5
16	'94	Great Falls Estates	10832 Alloway Drive	1,150,000	Dec-94	H	29
17	'94	Great Falls Estates	8817 Belmart Road	750,000	May-94	F	37
18	'94	Great Falls Estates	11005 Cripplegate Road	862,500	Jun-94	E	36
19	'94	Great Falls Estates	10908 Cripplegate Road	825,000	May-94	E	27
20	'94	Great Falls Estates	9010 Falls Road	1,700,000	May-94	G	21
21	'94	Great Falls Estates	10820 Stanmore Drive	736,000	May-94	K	13
22	'94	Great Falls Estates	10821 Stanmore Drive	849,000	Jul-94	M	8
23	'94	Heritage Farm	10104 Donegal Court	460,000	May-94	B	23
24	'94	Heritage Farm	9412 Duxford Court	422,000	Jan-94	B	9
25	'94	Heritage Farm	9600 Falls Bridge Lane	500,000	Mar-94	E	19
26	'94	Heritage Farm	9409 Falls Bridge Lane	450,000	Jul-94	B	16
27	'94	Heritage Farm	9605 Falls Bridge Lane	399,500	Dec-94	C	18
28	'94	Kentsdale Estates	8918 Harvest Square Court	950,000	Oct-94	A	55
29	'94	Kentsdale Estates	8925 Harvest Square Court	1,300,000	Feb-94	A	50
30	'94	Kentsdale Estates	9104 Paytley Bridge Lane	1,500,000	Apr-94	A	38
31	'94	Lake Normandy Estates	11829 Falls Road	277,000	Jun-94	B	44
32	**'94**	**Lake Normandy Estates**	**11601 Falls Road**	**322,394**	**Feb-94**	**A**	**5**
33	'94	Lake Normandy Estates	11614 Karen Drive	328,500	May-94	B	32
34	'94	Pine Knolls	9113 Bells Mill Road	345,000	Oct-94	2	12
35	'94	Pine Knolls	9105 Fall River Lane	502,000	May-94	6	1
36	'94	Pine Knolls	11005 Haislip Court	435,000	Jan-94	3	65
37	'94	Pine Knolls	11004 Haislip Court	360,000	Jul-94	3	14
38	'94	Pine Knolls	9337 Sprinklewood Lane	655,000	Oct-94	7	7
39	'94	Pine Knolls	9327 Sprinklewood Lane	230,000	Feb-94	7	2
40	'94	Pine Knolls	9329 Sprinklewood Road	697,000	Aug-94	7	3
41	'94	Pine Knolls	9330 Sprinklewood Road	676,250	May-94	7	9
42	'94	Pine Knolls	9318 Sprinklewood Road	675,000	Jun-94	7	12
43	'94	Williamsburg Gardens	10404 Holbrook Drive	435,000	Jul-94	A	5

average price:	**$580,410**
minimum:	**$230,000**
maximum:	**$1,700,000**

Bold = Houses within 1000' of existing sites.

1993 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Lot
44	**'93**	**Bedfordshire**	**9430 Sunnyfield Court**	**$520,000**	**Feb-93**	**A**	**63**
45	'93	Bedfordshire	11425 Beechgrove lane	367,000	Mar-93	4	28
46	**'93**	**Bedfordshire**	**9434 Sunnyfield Court**	**535,000**	**May-93**	**A**	**62**
47	'93	Bedfordshire	9540 Fox Hollow Drive	595,000	May-93	A	109
48	'93	Bedfordshire	11100 Colebrook Avenue	405,000	Jun-93	E	4
49	'93	Bedfordshire	11305 Hawhill End	360,000	Jun-93	A	2
50	'93	Bedfordshire	9420 Lost Trail Way	370,000	Jul-93	G	41
51	'93	Bedfordshire	9516 Lost Trail Way	537,500	Jul-93	A	80
52	'93	Bedfordshire	9524 Fox Hollow Drive	570,000	Jul-93	A	113
53	'93	Bedfordshire	9417 Lost Trail Way	395,000	Aug-93	G	24
54	'93	Bedfordshire	10125 Colebrook Avenue	265,000	Sep-93	4	12
55	'93	Bedfordshire	9442 Lost Trail Way	390,000	Sep-93	G	50
56	'93	Bedfordshire	10052 Colebrook Avenue	275,000	Oct-93	3	21
57	'93	Bedfordshire	10929 Colebrook Avenue	390,000	Oct-93	F	53
58	'93	Bedfordshire	10036 Colebrook Avenue	282,500	Oct-93	3	17
59	'93	Bedfordshire	11121 Korman Drive	390,000	Nov-93	E	14
60	'93	Great Falls Estates	10817 Alloway Drive	690,000	Jan-93	K	23
61	'93	Great Falls Estates	8917 Belmart Road	800,000	Jan-93	F	2
62	'93	Great Falls Estates	10825 Alloway Drive	611,625	Feb-93	K	5
63	'93	Great Falls Estates	9201 Belmart Road	743,020	Feb-93	G	6
64	'93	Great Falls Estates	10708 Alloway Drive	1,725,000	May-93	G	39
65	**'93**	**Great Falls Estates**	**9404 Firethorn Court**	**720,000**	**Jun-93**	**K**	**35**
66	'93	Great Falls Estates	10801 Pleasant Hill Drive	810,000	Jun-93	H	22
67	'93	Great Falls Estates	10905 Pleasant Hill Drive	985,000	Jun-93	M	16
68	'93	Great Falls Estates	10841 Stanmore Drive	840,000	Jun-93	M	2
69	'93	Great Falls Estates	10800 Cripplegate Road	800,000	Jul-93	C	1
70	'93	Great Falls Estates	11118 Cripplegate Road	1,400,000	Jul-93	E	52
71	'93	Great Falls Estates	9309 Belmart Road	577,100	Aug-93	J	6
72	'93	Great Falls Estates	8 Stanmore Court	656,000	Aug-93	D	33
73	'93	Great Falls Estates	11100 Gilchrist Court	685,000	Aug-93	F	7
74	'93	Great Falls Estates	8723 Belmart Road	700,000	Oct-93	F	31
75	'93	Great Falls Estates	1 Stanmore Court	915,000	Oct-93	D	16
76	'93	Great Falls Estates	10801 Alloway Drive	910,000	Oct-93	K	1
77	'93	Great Falls Estates	11104 Gilchrist Court	805,000	Nov-93	F	6
78	'93	Great Falls Estates	10810 Alloway Drive	720,000	Nov-93	H	39
79	'93	Great Falls Estates	11100 Cripplegate Road	2,350,000	Dec-93	E	53
80	'93	Heritage Farm	10313 Logan Drive	425,000	May-93	F	4
81	'93	Heritage Farm	9312 Falls Bridge Lane	510,000	Oct-93	E	5
82	'93	Heritage Farm	9716 Brimfield Court	453,000	Nov-93	C	10
83	'93	Heritage Farm	9604 Falls Bridge lane	476,500	Nov-93	E	20
84	'93	Heritage Farms	10204 Garden Way	430,000	Jun-93	G	7
85	'93	Kentsdale Estates	9539 Newbridge Drive	523,750	Aug-93	H	9
86	'93	Kentsdale Estates	10116 Snowhill Lane	629,000	Oct-93	H	2
87	**'93**	**Kentsdale Estates**	**10847 Nantucket Terrace**	**1,125,000**	**Nov-93**	**B**	**19**
88	'93	Lake Normandy Estates	11505 Karen Drive	410,000	Apr-93	B	15
89	'93	Lake Normandy Estates	9132 Marseille Drive	380,000	Jul-93	G	2
90	'93	Lake Normandy Estates	11831 Falls Road	230,000	Oct-93	B	43
91	'93	Lake Normandy Estates	11823 Falls Road	275,000	Oct-93	B	47
92	'93	Lake Normandy Estates	11520 Le Havre Drive	365,000	Nov-93	A	14
93	'93	Lake Normandy Estates	9017 Marseille Drive	375,000	Nov-93	E	67
94	'93	Lake Normandy Estates	11709 Karen Drive	337,750	Dec-93	J	17
95	'93	Pine Knolls	9213 Fall River Lane	650,000	Jun-93	7	13
96	'93	Pine Knolls	11001 Haislip Court	475,000	Jun-93	3	64
97	'93	Pine Knolls	9220 Cranford Drive	690,000	Jul-93	1	7
98	'93	Pine Knolls	9212 Fall River lane	350,000	Aug-93	3	35
99	'93	Pine Knolls	9334 Sprinklewood Lane	650,000	Sep-93	7	8
100	'93	Pine Knolls	9325 Sprinklewood Lane	659,045	Nov-93	7	1
101	'93	Pine Knolls	9221 Fall River lane	642,024	Dec-93	7	15
102	**'93**	**Williamsburg Gardens**	**10620 Oaklyn Drive**	**525,000**	**Mar-93**	**4**	**1**

average price:	**$591,217**
minimum:	**$265,000**
maximum:	**$1,725,000**

Bold = Houses within 1000' of existing sites.

1992 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
103	'92	Bedfordshire	11432 Bedfordshire Avenue	$323,500	May-92	3	4
104	'92	Bedfordshire	11617 Bedfordshire Avenue	268,200	Oct-92	1	1
105	'92	Bedfordshire	11440 Beechgrove Lane	305,000	Dec-92	3	55
106	'92	Bedfordshire	11205 Broad Green Drive	395,500	May-92	A	33
107	'92	Bedfordshire	10129 Colebrook Avenue	338,500	May-92	4	13
108	'92	Bedfordshire	9908 Colebrook Avenue	336,500	Jul-92	3	9
109	'92	Bedfordshire	11309 Colebrook Terrace	342,000	Aug-92	3	34
110	'92	Bedfordshire	9423 Lost Trail Way	353,000	Sep-92	G	21
111	'92	Bedfordshire	9709 Wilden Lane	360,000	Apr-92	A	15
112	**'92**	**Bedfordshire**	**9512 Woodington Drive**	**470,000**	**Nov-92**	**A**	**42**
113	**'92**	**Bedfordshire**	**11409 Woodington Terrace**	**410,000**	**Jun-92**	**H**	**5**
114	'92	Great Falls Estates	8900 Bel Air Place	890,000	Jan-92	B	23
115	'92	Great Falls Estates	8806 Bel Air Place	900,000	Apr-92	B	24
116	'92	Great Falls Estates	11101 Bellavista Drive	850,000	Nov-92	G	27
117	**'92**	**Great Falls Estates**	**9304 Belmart Road**	**789,000**	**Mar-92**	**K**	**40**
118	'92	Great Falls Estates	9008 Belmart Road	775,000	Jul-92	B	33
119	'92	Great Falls Estates	10801 Cripplegate Road	700,000	Apr-92	E	51
120	'92	Great Falls Estates	10901 Cripplegate Road	745,000	Aug-92	E	40
121	'92	Great Falls Estates	8600 Nutmeg Court	1,070,800	Jun-92	F	25
122	'92	Heritage Farm	9717 Brimfield Court	480,000	Jul-92	C	6
123	'92	Heritage Farm	9712 Brimfield Court	405,000	May-92	C	11
124	'92	Heritage Farm	10108 Donegal Court	400,000	Sep-92	B	22
125	'92	Heritage Farm	9400 Falls Bridge Lane	570,000	Jul-92	E	9
126	'92	Heritage Farm	9308 Langford Court	455,000	Jun-92	A	7
127	'92	Heritage Farm	9305 Langford Court	420,000	Jun-92	A	2
128	'92	Heritage Farm	10421 Logan Drive	490,000	Nov-92	G	1
129	'92	Kentsdale Estates	9308 Bells Mill Road	640,000	Aug-92	B	47
130	'92	Kentsdale Estates	8938 Harvest Square Court	1,240,000	Sep-92	A	52
131	'92	Kentsdale Estates	9541 Newbridge Drive	535,000	Jul-92	H	10
132	'92	Kentsdale Estates	8604 Snowhill Court	585,000	Jul-92	G	14
133	'92	Kentsdale Estates	10401 Willowbrook Drive	1,300,000	Dec-92	F	2
134	'92	Lake Normandy Estates	9008 Cherbourg Drive	389,000	Jun-92	E	57
135	'92	Lake Normandy Estates	8929 Cherbourg Drive	353,000	Aug-92	F	10
136	'92	Lake Normandy Estates	9101 Fall River Lane	455,000	Jan-92	G	8
137	'92	Lake Normandy Estates	11716 Karen Drive	260,000	Nov-92	B	41
138	'92	Lake Normandy Estates	11500 Karen Drive	414,900	Sep-92	B	18
139	**'92**	**Lake Normandy Estates**	**9210 Marseille Drive**	**245,000**	**Sep-92**	**C**	**5**
140	'92	Lake Normandy Estates	9032 Rouen Lane	399,500	Apr-92	E	11
141	'92	Lake Normandy Estates	9024 Rouen Lane	439,500	Jan-92	E	13
142	'92	Lake Normandy Estates	9007 Shad Lane	405,000	Jan-92	K	22
143	'92	Lake Normandy Estates	9107 Shad Lane	345,000	Jun-92	K	4
144	'92	Pine Knolls	11212 Fall River Court	455,000	Sep-92	6	16
145	'92	Pine Knolls	9233 Fall River Lane	495,000	Jul-92	4	7
146	'92	Pine Knolls	10900 Haislip Court	375,000	Jul-92	2	9

average price: **$526,657**
minimum: **$245,000**
maximum: **$1,300,000**

Bold = Houses within 1000' of existing sites.

1991 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
147	'91	Bedfordshire	9905 Bedfordshire Court	$295,000	Jan-91	1	26
148	'91	Bedfordshire	9917 Bedfordshire Court	335,000	Mar-91	1	P23
149	'91	Bedfordshire	11141 Broad Green Drive	385,000	May-91	D	24
150	'91	Bedfordshire	11216 Broad Green Drive	405,000	Jun-91	C	4
151	'91	Bedfordshire	11224 Broad Green Drive	425,000	Apr-91	C	2
152	'91	Bedfordshire	11225 Broad Green Drive	410,000	Apr-91	A	28
153	'91	Bedfordshire	10925 Broad Green Terrace	383,000	Mar-91	F	52
154	'91	Bedfordshire	10240 Colebrook Avenue	325,000	Mar-91	3	44
155	'91	Bedfordshire	10140 Colebrook Avenue	335,000	May-91	3	32
156	'91	Bedfordshire	38 Eldwick Court	374,000	Dec-91	D	11
157	'91	Bedfordshire	9713 Eldwick Way	325,000	Aug-91	A	37
158	'91	Bedfordshire	9621 Eldwick Way	800,000	May-91	A	48
159	'91	Bedfordshire	9508 Fox Hollow Drive	487,500	Aug-91	G	54
160	'91	Bedfordshire	11505 Hornfair Court	335,000	Jun-91	1	9
161	'91	Bedfordshire	11509 Hornfair Court	360,000	Apr-91	1	8
162	'91	Bedfordshire	9439 Lost Trail Way	415,000	Jul-91	G	17
163	'91	Bedfordshire	9422 Lost Trail Way	360,000	Aug-91	G	42
164	'91	Bedfordshire	9424 Lost Trail Way	400,000	Sep-91	G	43
165	**'91**	**Bedfordshire**	**9405 Woodington Drive**	**367,500**	**Jul-91**	**H**	**2**
166	'91	Great Falls Estates	10836 Alloway Drive	865,000	Jul-91	H	10
167	'91	Great Falls Estates	8924 Bel Air Place	643,500	Sep-91	B	20
168	'91	Great Falls Estates	8803 Belmart Road	1,937,500	Apr-91	F	49
169	'91	Great Falls Estates	8710 Belmart Road	650,000	Dec-91	B	28
170	'91	Great Falls Estates	8801 Belmart Road	1,375,000	Dec-91	F	50
171	'91	Great Falls Estates	11013 Cripplegate Road	1,276,000	May-91	E	37
172	**'91**	**Great Falls Estates**	**9409 Firethorn Court**	**950,000**	**Aug-91**	**K**	**31**
173	'91	Great Falls Estates	10904 Pleasant Hill Drive	735,000	Sep-91	M	14
174	'91	Great Falls Estates	10801 Pleasant Hill Drive	760,000	Dec-91	H	22
175	'91	Great Falls Estates	10836 Pleasant Hill Drive	3,000,000	Jan-91	D	41
176	'91	Great Falls Estates	14 Stanmore Court	1,180,000	Jun-91	D	14
177	'91	Great Falls Estates	10709 Stanmore Drive	885,000	Dec-91	N	6
178	'91	Great Falls Estates	11025 Stanmore Drive	725,000	Nov-91	D	24
179	'91	Great Falls Estates	10829 Stanmore Drive	728,000	Sep-91	M	5
180	**'91**	**Great Falls Estates**	**10701 Stanmore Drive**	**760,000**	**May-91**	**N**	**8**
181	'91	Great Falls Estates	11009 Stanmore Drive	1,125,000	Mar-91	D	28
182	'91	Heritage Farm	10312 Crown Point Court	535,000	Jun-91	D	3
183	'91	Heritage Farm	10101 Donegal Court	425,000	May-91	B	25
184	'91	Heritage Farm	10117 Donegal Court	490,000	Apr-91	B	29
185	'91	Heritage Farm	9308 Falls Bridge Lane	449,950	Jun-91	E	4
186	'91	Heritage Farm	10201 Garden Way	400,000	Sep-91	F	2
187	'91	Heritage Farm	10105 Newhall Road	460,000	Jun-91	B	13
188	'91	Lake Normandy Estates	9219 Cherbourg Drive	615,000	Jul-91	A	38
189	'91	Lake Normandy Estates	9000 Cherbourg Drive	371,500	Sep-91	E	59
190	'91	Lake Normandy Estates	9116 Cherbourg Drive	390,000	Oct-91	E	40
191	'91	Lake Normandy Estates	11629 Falls Road	620,000	Apr-91	A	16
192	'91	Lake Normandy Estates	11605 Karen Drive	365,000	Mar-91	K	11
193	'91	Lake Normandy Estates	11510 Karen Drive	270,000	Feb-91	B	23
194	'91	Lake Normandy Estates	11610 Karen Drive	345,000	May-91	B	30
195	'91	Lake Normandy Estates	14 Le Havre Court	500,100	Jul-91	A	33
196	'91	Lake Normandy Estates	11539 Le Havre Drive	520,000	Apr-91	B	82
197	**'91**	**Lake Normandy Estates**	**11505 Le Havre Drive**	**526,000**	**Mar-91**	**A**	**34**
198	'91	Lake Normandy Estates	9009 Rouen Lane	382,500	Jul-91	E	28
199	'91	Lake Normandy Estates	9004 Rouen Lane	422,500	Jul-91	E	18
200	'91	Lake Normandy Estates	9106 Shad Lane	410,000	Apr-91	B	11
201	'91	Pine Knolls	9309 Bells Mill Road	210,000	Feb-91	1	21
202	'91	Pine Knolls	9322 Cranford Drive	610 000	Jun-91	1	23
203	'91	Pine Knolls	11229 Fall River Court	378,300	Jul-91	6	10
204	'91	Pine Knolls	9220 Fall River Lane	452,000	Feb-91	3	35
205	'91	Pine Knolls	9205 Fall River Lane	375,000	May-91	5	5
206	'91	Pine Knolls	9216 Fall River Lane	390,000	Jun-91	3	34
207	'91	Pine Knolls	9228 Fall River Lane	380,000	Jul-91	3	31
208	'91	Pine Knolls	11017 Haislip Court	410,000	Apr-91	3	8

average price:	**$593,869**
minimum:	**$210,000**
maximum:	**$3,000,000**

Bold = Houses within 1000' of existing sites

1990 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
209	'90	Bedfordshire	11305 Bedfordshire Avenue	$352,500	Sep-90	C	11
210	'90	Bedfordshire	11009 Broad Green Drive	450,000	Jun-90	D	36
211	'90	Bedfordshire	10912 Broad Green Terrace	335,000	Oct-90	D	46
212	'90	Bedfordshire	10240 Colebrook Avenue	417,000	Mar-90	3	44
213	'90	Bedfordshire	10101 Colebrook Avenue	300,000	Jun-90	4	8
214	'90	Bedfordshire	9908 Colebrook Avenue	290,000	Aug-90	3	9
215	'90	Bedfordshire	5 Eldwick Court	353,000	Aug-90	D	21
216	'90	Bedfordshire	11140 Korman Drive	390,000	Feb-90	F	12
217	'90	Bedfordshire	9432 Lost Trail Way	368,000	Nov-90	G	46
218	'90	Bedfordshire	9716 Wilden Lane	400,000	Jan-90	C	22
219	**'90**	**Bedfordshire**	**9521 Woodington Drive**	**560,000**	**Apr-90**	**H**	**17**
220	'90	Great Falls Estates	10809 Alloway Drive	1,170,000	Aug-90	K	P14
221	'90	Great Falls Estates	8915 Bel Air Place	950,000	Jul-90	B	16
222	'90	Great Falls Estates	9206 Belmart Road	770,000	Oct-90	H	P23
223	'90	Great Falls Estates	9207 Belmart Road	1,275,000	May-90	G	5
224	'90	Great Falls Estates	8805 Belmart Road	885,000	Mar-90	F	48
225	'90	Great Falls Estates	11109 Cripplegate Road	1,230,000	Feb-90	E	17
226	'90	Great Falls Estates	10908 Cripplegate Road	969,000	Feb-90	E	27
227	'90	Great Falls Estates	10901 Cripplegate Road	850,000	Aug-90	E	40
228	'90	Great Falls Estates	10905 Pleasant Hill Drive	654,142	Aug-90	M	16
229	'90	Great Falls Estates	10 Stanmore Court	850,000	Aug-90	D	13
230	**'90**	**Great Falls Estates**	**10701 Stanmore Drive**	**978,848**	**Oct-90**	**N**	**8**
231	'90	Great Falls Estates	10849 Stanmore Drive	835,000	Jun-90	M	9
232	'90	Heritage Farm	9721 Brimfield Court	465,000	Jul-90	C	7
233	'90	Heritage Farm	10325 Crown Point Court	365,000	Jan-90	D	13
234	'90	Heritage Farm	9404 Duxford Court	575,000	Jul-90	B	11
235	'90	Heritage Farm	9729 Falls Road	365,000	Oct-90	D	14
236	'90	Heritage Farm	10405 Logan Drive	551,000	Mar-90	G	5
237	'90	Heritage Farm	10105 Logan Drive	435,000	Nov-90	A	10
238	'90	Kenstdale Estates	9613 Newbridge Drive	1,070,000	Aug-90	G	42
239	'90	Kenstdale Estates	9601 Newbridge Drive	1,070,000	Oct-90	G	41
240	'90	Kentsdale Estates	8716 Snowhill Court	672,000	Mar-90	G	3
241	**'90**	**Kentsdale Estates**	**10504 Stapleford Hall Drive**	**1,925,000**	**Oct-90**	**B**	**3**
242	'90	Lake Normandy Estates	9013 Cherbourg Drive	370,000	Jan-90	B	55
243	'90	Lake Normandy Estates	9224 Cherbourg Drive	426,000	Oct-90	D	12
244	'90	Lake Normandy Estates	11613 Karen Drive	300,000	May-90	K	15
245	'90	Lake Normandy Estates	11304 Rouen Lane	417,500	Jun-90	D	21
246	'90	Lake Normandy Estates	8902 Tuckerman Lane	250,000	Apr-90	J	10
247	'90	Lake Normandy Estates	8906 Tuckerman Lane	264,000	Feb-90	J	8
248	'90	Pine Knolls	10905 Bolton Drive	370,000	Nov-90	2	16
249	'90	Pine Knolls	9320 Cranford Drive	637,013	Dec-90	1	24
250	'90	Williamsburg Gardens	10317 Holbrook Drive	290,000	Jul-90	C	1
251	**'90**	**Williamsburg Gardens**	**10617 Oaklyn Drive**	**575,000**	**Oct-90**	**3**	**8**
252	**'90**	**Williamsburg Gardens**	**10613 Oaklyn Drive**	**565,000**	**Oct-90**	**3**	**9**

average price:	**$627,046**
minimum:	**$250,000**
maximum:	**$1,925,000**

Bold = Houses within 1000' of existing sites.

1989 Single-Family House Sales

Potomac, Maryland 20854

No.	Year	Subdivison	Address	Consid	Date	Location Block	Location Lot
253	'89	Bedfordshire	11601 Bedfordshire Avenue	$330,000	Nov-89	1	5
254	'89	Bedfordshire	11513 Bedfordshire Avenue	499,000	Aug-89	1	17
255	'89	Bedfordshire	11453 Beechgrove Lane	317,500	Jan-89	V	9
256	'89	Bedfordshire	10901 Broad Green Terrace	470,000	Jul-89	D	42
257	'89	Bedfordshire	10040 Colebrook Avenue	300,000	Sep-89	3	18
258	'89	Bedfordshire	10037 Colebrook Avenue	324,500	Mar-89	4	3
259	'89	Bedfordshire	13 Colebrook Court	338,000	Oct-89	3	62
260	'89	Bedfordshire	9621 Eldwick Way	975,000	Apr-89	A	48
261	'89	Bedfordshire	11517 Hornfair Court	409,000	May-89	1	6
262	'89	Bedfordshire	11520 Hornfair Court	300,000	Dec-89	1	P16
263	'89	Bedfordshire	9824 Korman Court	415,000	Oct-89	F	33
264	'89	Bedfordshire	9801 Korman Court	400,000	Apr-89	F	40
265	**'89**	**Bedfordshire**	**9513 Lost Trail Way**	**572,000**	**Sep-89**	**A**	**70**
266	'89	Bedfordshire	11605 Sansbury Court	320,000	Oct-89	2	12
267	**'89**	**Bedfordshire**	**9435 Sunnyfield Court**	**601,000**	**Oct-89**	**A**	**116**
268	**'89**	**Bedfordshire**	**9400 Sunnyfield Court**	**570,000**	**Sep-89**	**G**	**13**
269	'89	Bedfordshire	9824 Wilden Lane	328,600	Mar-89	C	14
270	'89	Great Falls Estates	9705 Corral Drive	790,550	Aug-89	N	2
271	'89	Great Falls Estates	10808 Cripplegate Road	700,000	Dec-89	E	31
272	'89	Great Falls Estates	11114 Cripplegate Road	1,560,000	Apr-89	E	45
273	'89	Great Falls Estates	9010 Falls Road	2,150,000	Nov-89	G	21
274	'89	Great Falls Estates	10845 Pleasant Hill Drive	975,000	Dec-89	H	32
275	'89	Great Falls Estates	10807 Pleasant Hill Drive	1,450,000	Feb-89	H	35
276	'89	Great Falls Estates	11501 Skipwith Lane	1,000,000	Apr-89	C	8
277	'89	Great Falls Estates	14 Stanmore Court	1,500,000	Apr-89	D	14
278	**'89**	**Great Falls Estates**	**10701 Stanmore Drive**	**1,300,000**	**Oct-89**	**N**	**8**
279	'89	Heritage Farm	9716 Brimfield Court	494,900	Jun-89	C	10
280	'89	Heritage Farm	9709 Brimfield Court	532,500	Feb-89	C	4
281	'89	Heritage Farm	9720 Brimfield Court	515,000	Mar-89	C	9
282	'89	Heritage Farm	10309 Crown Point Court	425,000	Mar-89	D	9
283	'89	Heritage Farm	10204 Garden Way	488,250	Mar-89	G	P7
284	'89	Heritage Farm	9309 Langford Court	500,000	Jul-89	A	3
285	'89	Kentsdale Estates	8922 Harvest Square Court	1,274,000	Jan-89	A	58
286	'89	Kentsdale Estates	8930 Harvest Square Court	1,272,456	May-89	A	59
287	'89	Kentsdale Estates	8909 Harvest Square Court	675,000	Dec-89	F	8
288	'89	Kentsdale Estates	10009 Kentsdale Drive	350,000	Feb-89	G	43
289	'89	Kentsdale Estates	17 Nantucket Court	500,000	Mar-89	B	45
290	'89	Kentsdale Estates	8709 Snowhill Court	690,000	Dec-89	G	22
291	'89	Kentsdale Estates	10410 Willowbrook Drive	1,143,440	May-89	A	56
292	'89	Lake Normandy Estates	2 Cherbourg Court	340,000	Jul-89	E	49
293	'89	Lake Normandy Estates	11625 Falls Road	792,500	Apr-89	A	18
294	'89	Lake Normandy Estates	11633 Falls Road	717,281	Sep-89	A	17
295	'89	Lake Normandy Estates	11703 Judy Place	459,000	Oct-89	K	17
296	'89	Lake Normandy Estates	11524 Le Havre Drive	430,000	Jun-89	A	13
297	'89	Pine Knolls	10900 Bolton Drive	865,329	Dec-89	1	P13
298	'89	Williamsburg Gardens	10301 Garden Way	460,000	Jul-89	1	P9
299	**'89**	**Williamsburg Gardens**	**10605 Oaklyn Drive**	**595,000**	**Apr-89**	**3**	**11**

average price:	**$689,677**
minimum:	**$300,000**
maximum:	**$2,150,000**

Bold = Houses within 1000' of existing sites.

1988 Single-Family House Sales
Potomac, Maryland 20854

No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
300	'88	Bedfordshire	11423 Bedfordshire Avenue	$335,000	Aug-88	1	38
301	'88	Bedfordshire	11504 Bedfordshire Avenue	300,000	Mar-88	3	6
302	'88	Bedfordshire	9917 Bedfordshire Court	295,000	Jul-88	1	P23
303	'88	Bedfordshire	9908 Bedfordshire Court	372,500	Jul-88	1	30
304	'88	Bedfordshire	11409 Beechgrove Lane	295,000	May-88	4	24
305	'88	Bedfordshire	11312 Berger Terrace	270,000	Jan-88	B	15
306	'88	Bedfordshire	11133 Broad Green Drive	327,500	Sep-88	D	26
307	'88	Bedfordshire	10212 Colebrook Avenue	280,000	Mar-88	3	65
308	'88	Bedfordshire	10016 Colebrook Avenue	357,000	Dec-88	3	12
309	'88	Bedfordshire	10029 Colebrook Avenue	285,000	Mar-88	4	1
310	'88	Bedfordshire	11309 Colebrook Terrace	302,000	Jul-88	3	34
311	'88	Bedfordshire	11301 Colebrook Terrace	373,000	Dec-88	3	36
312	'88	Bedfordshire	10005 Crestleigh Lane	330,000	Jul-88	2	25
313	'88	Bedfordshire	26 Eldwick Court	293,000	Apr-88	D	8
314	'88	Bedfordshire	2 Eldwick Way	282,500	May-88	D	2
315	'88	Bedfordshire	9617 Eldwick Way	625,000	Jan-88	A	52
316	'88	Bedfordshire	9416 Fox Hollow Drive	550,000	Jul-88	A	87
317	'88	Bedfordshire	9537 Fox Hollow Drive	545,278	Apr-88	A	105
318	'88	Bedfordshire	9536 Fox Hollow Drive	489,900	Feb-88	A	110
319	'88	Bedfordshire	9544 Fox Hollow Drive	449,900	Mar-88	A	108
320	'88	Bedfordshire	9404 Fox Hollow Drive	520,000	Jul-88	A	90
321	'88	Bedfordshire	10101 Grayhorse Court	415,000	Aug-88	F	17
322	'88	Bedfordshire	11500 Hornfair Court	318,500	Apr-88	1	11
323	'88	Bedfordshire	11516 Hornfair Court	287,500	Jan-88	1	15
324	'88	Bedfordshire	9437 Lost Trail Way	401,497	Jan-88	G	18
325	'88	Bedfordshire	9439 Lost Trail Way	398,900	Mar-88	G	17
326	'88	Bedfordshire	9427 Lost Trail Way	387,900	Jan-88	G	19
327	'88	Bedfordshire	11608 Sansbury Court	295,000	Jul-88	2	16
328	**'88**	**Bedfordshire**	**9413 Sunnyfield Court**	**439,900**	**Jan-88**	**G**	**9**
329	**'88**	**Bedfordshire**	**9404 Sunnyfield Court**	**457,900**	**Jan-88**	**G**	**73**
330	**'88**	**Bedfordshire**	**9434 Sunnyfield Court**	**625,000**	**Oct-88**	**A**	**62**
331	**'88**	**Bedfordshire**	**9409 Sunnyfield Court**	**438,703**	**Mar-88**	**G**	**10**
332	**'88**	**Bedfordshire**	**9400 Sunnyfield Court**	**449,900**	**Mar-88**	**G**	**13**
333	**'88**	**Bedfordshire**	**9408 Sunnyfield Court**	**489,154**	**Mar-88**	**G**	**74**
334	'88	Bedfordshire	9405 Sunnymeade Court	449,900	Mar-88	G	11
335	**'88**	**Bedfordshire**	**9412 Woodington Drive**	**425,000**	**Dec-88**	**G**	**1**
336	**'88**	**Bedfordshire**	**9405 Woodington Terrace**	**380,000**	**Apr-88**	**H**	**2**
337	**'88**	**Bedfordshire**	**11412 Woodington Terrace**	**311,000**	**Nov-88**	**H**	**6**
338	'88	Great Falls Estates	10709 Alloway Drive	570,000	Jan-88	J	3
339	'88	Great Falls Estates	10709 Alloway Drive	265,000	Aug-88	J	3
340	'88	Great Falls Estates	8806 Bel Air Place	1,250,000	Oct-88	B	24
341	'88	Great Falls Estates	8801 Belmart Road	1,124,000	Jul-88	F	51
342	'88	Great Falls Estates	8900 Belmart Road	778,000	Jul-88	B	7
343	'88	Great Falls Estates	8924 Belmart Road	735,000	Apr-88	B	3
344	'88	Great Falls Estates	9005 Brickyard Road	940,000	Aug-88	G	19
345	'88	Great Falls Estates	11013 Cripplegate Road	1,050,000	Feb-88	E	37
346	'88	Great Falls Estates	10803 Cripplegate Road	480,000	Jul-88	E	42
347	'88	Great Falls Estates	8810 Falls Road	560,000	Jun-88	F	10
348	'88	Great Falls Estates	10836 Pleasant Hill Drive	1,750,000	Nov-88	D	41
349	'88	Great Falls Estates	11505 Skipwith Lane	960,000	Oct-88	C	27
350	'88	Great Falls Estates	22 Stanmore Court	1 490,000	Nov-88	D	38
351	'88	Great Falls Estates	11 Stanmore Court	955,000	Jul-88	D	15
352	'88	Great Falls Estates	10713 Stanmore Drive	1,150,000	Feb-88	N	5
353	'88	Heritage Farm	9720 Brimfield Court	415,000	Nov-88	C	9
354	'88	Heritage Farm	10312 Crown Point Court	365,000	Aug-88	D	3
355	'88	Heritage Farm	10304 Crown Point Court	450,000	Mar-88	D	5
356	'88	Heritage Farm	10113 Donegal Court	385,000	Aug-88	B	28

continued

357	'88	Heritage Farm	9408	Duxford Court	475,000	Jul-88	B	10
358	'88	Heritage Farm	9520	Falls Bridge Lane	420,000	Mar-88	E	18
359	'88	Heritage Farm	9601	Falls Bridge Lane	385,000	Jun-88	C	17
360	'88	Heritage Farm	9301	Langford Court	470,000	Oct-88	A	1
361	'88	Kentsdale Estates	8918	Harvest Square Court	1,333,751	Nov-88	A	55
362	'88	Kentsdale Estates	8926	Harvest Square Court	1,264,813	Sep-88	A	54
363	'88	Kentsdale Estates	8929	Harvest Square Court	1,458,000	Aug-88	A	51
364	'88	Kentsdale Estates	8934	Harvest Square Court	1,281,285	Dec-88	A	53
365	'88	Kentsdale Estates	8900	Harvest Square Court	1,375,000	Apr-88	F	5
366	'88	Kentsdale Estates	8933	Harvest Square Court	1,132,082	Jan-88	A	52
367	'88	Kentsdale Estates	8913	Harvest Square Court	1,230,000	Nov-88	A	47
368	'88	Kentsdale Estates	10846	Nantucket Terrace	915,000	Jun-88	B	15
369	**'88**	**Kentsdale Estates**	**10810**	**Nantucket Terrace**	**1,204,000**	**Nov-88**	**B**	**34**
370	'88	Kentsdale Estates	8712	Snowhill Court	582,000	Jun-88	G	4
371	**'88**	**Kentsdale Estates**	**9**	**Stapleford Hall Court**	**1,350,000**	**Sep-88**	**B**	**10**
372	'88	Kentsdale Estates	10608	Stapleford Hall Drive	200,000	Aug-88	B	13
373	'88	Kentsdale Estates	10608	Willowbrook Drive	1,600,000	Jun-88	C	29
374	'88	Lake Normandy Estates	11625	Falls Road	740,000	Aug-88	A	18
375	'88	Lake Normandy Estates	11705	Karen Drive	270,000	Feb-88	J	15
376	'88	Lake Normandy Estates	11704	Karen Drive	255,000	Feb-88	B	35
377	'88	Lake Normandy Estates	11523	Le Harve Drive	387,000	Aug-88	B	61
378	**'88**	**Lake Normandy Estates**	**11508**	**Le Havre Drive**	**330,000**	**Jun-88**	**A**	**11**
379	**'88**	**Lake Normandy Estates**	**9311**	**Marseille Drive**	**655,000**	**Jul-88**	**A**	**35**
380	'88	Lake Normandy Estates	9201	Marseille Drive	439,000	Jul-88	D	9
381	'88	Lake Normandy Estates	8918	Tuckerman Lane	215,000	Sep-88	J	2
382	'88	Pine Knolls	10900	Bolton Drive	230,000	Sep-88	1	P13
383	'88	Pine Knolls	9220	Cranford Drive	650,000	Aug-88	1	7
384	'88	Williamsburg Gardens	10404	Holbrook Drive	265,000	Aug-88	A	5
385	**'88**	**Williamsburg Gardens**	**10620**	**Oaklyn Drive**	**565,000**	**Mar-88**	**4**	**1**
386	**'88**	**Williamsburg Gardens**	**10605**	**Oaklyn Drive**	**213,303**	**Nov-88**	**3**	**11**

average price:	**$602,420**
minimum:	**$200,000**
maximum:	**$1,750,000**

Bold = Houses within 1000' of existing sites.

1987 Single-Family House Sales
Potomac, Maryland 20854

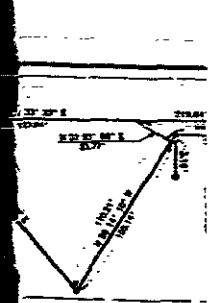
No.	Year	Subdivision	Address	Consid	Date	Location Block	Location Lot
387	'87	Bedfordshire	9932 Bedfordshire Court	$317,000	Sep-87	1	36
388	'87	Bedfordshire	11412 Beechgrove Lane	249,000	Mar-87	3	49
389	'87	Bedfordshire	11306 Berger Terrace	248,000	Jul-87	B	16
390	'87	Bedfordshire	11301 Berger Terrace	275,000	Jul-87	B	11
391	'87	Bedfordshire	11013 Broad Green Drive	322,000	Sep-87	D	35
392	'87	Bedfordshire	11216 Broad Green Drive	320,000	Jul-87	C	4
393	'87	Bedfordshire	11224 Broad Green Drive	247,500	Sep-87	C	2
394	'87	Bedfordshire	10940 Broad Green Terrace	455,000	Jul-87	F	58
395	'87	Bedfordshire	10108 Colebrook Avenue	300,000	Dec-87	3	24
396	'87	Bedfordshire	10124 Colebrook Avenue	315,000	Jul-87	3	28
397	'87	Bedfordshire	9720 Eldwick Way	280,000	Aug-87	D	22
398	'87	Bedfordshire	9540 Fox Hollow Drive	539,900	Nov-87	A	107
399	'87	Bedfordshire	9548 Fox Hollow Drive	515,000	Sep-87	A	107
400	'87	Bedfordshire	10101 Grayhorse Court	300,000	Aug-87	F	17
401	**'87**	**Bedfordshire**	**11401 Grundy Court**	**300,000**	**Sep-87**	**H**	**11**
402	'87	Bedfordshire	11228 Korman Drive	359,900	Nov-87	F	24
403	'87	Bedfordshire	11208 Korman Drive	275,000	Jul-87	F	19
404	'87	Bedfordshire	11136 Korman Drive	240,000	Apr-87	F	11
405	'87	Bedfordshire	9420 Lost Trail Way	336,510	Aug-87	G	41
406	'87	Bedfordshire	9516 Lost Trail Way	378,035	Feb-87	A	80
407	'87	Bedfordshire	9422 Lost Trail Way	329,900	Sep-87	G	42
408	'87	Bedfordshire	9438 Lost Trail Way	354,900	Jul-87	G	48
409	'87	Bedfordshire	9421 Lost Trail Way	339,900	Nov-87	G	22
410	'87	Bedfordshire	9417 Lost Trail Way	362,400	Sep-87	G	24
411	'87	Bedfordshire	9419 Lost Trail Way	339,900	Dec-87	G	23
412	**'87**	**Bedfordshire**	**9517 Lost Trail Way**	**435,000**	**Dec-87**	**A**	**71**
413	'87	Bedfordshire	9533 Lost Trail Way	387,350	Feb-87	A	75
414	'87	Bedfordshire	9521 Lost Trail Way	351,970	Apr-87	A	72
415	'87	Bedfordshire	9440 Lost Trail Way	325,200	Mar-87	G	49
416	'87	Bedfordshire	9524 Lost Trail Way	339,900	Feb-87	A	78
417	'87	Bedfordshire	9520 Lost Trail Way	408,143	Feb-87	A	79
418	'87	Bedfordshire	9528 Lost Trail Way	417,140	Feb-87	A	77
419	'87	Bedfordshire	9441 Lost Trail Way	399,900	Nov-87	G	16
420	'87	Bedfordshire	9537 Lost Trail Way	365,248	Feb-87	A	76
421	'87	Bedfordshire	9512 Lost Trail Way	350,000	Mar-87	A	81
422	'87	Bedfordshire	9529 Lost Trail Way	390,986	Mar-87	A	74
423	**'87**	**Bedfordshire**	**9434 Sunnyfield Court**	**471,677**	**Jul-87**	**A**	**62**
424	**'87**	**Bedfordshire**	**9430 Sunnyfield Court**	**420,425**	**Jul-87**	**A**	**63**
425	'87	Bedfordshire	9450 Sunnyfield Court	380,330	Aug-87	A	58
426	**'87**	**Bedfordshire**	**9421 Sunnyfield Court**	**466,216**	**Dec-87**	**G**	**7**
427	**'87**	**Bedfordshire**	**9441 Sunnyfield Court**	**428,900**	**Sep-87**	**A**	**119**
428	**'87**	**Bedfordshire**	**9426 Sunnyfield Court**	**402,871**	**Jul-87**	**A**	**64**
429	**'87**	**Bedfordshire**	**9451 Sunnyfield Court**	**465,725**	**Sep-87**	**A**	**57**
430	**'87**	**Bedfordshire**	**9417 Sunnyfield Court**	**473,031**	**Dec-87**	**G**	**8**
431	**'87**	**Bedfordshire**	**9446 Sunnyfield Court**	**515,000**	**Nov-87**	**A**	**59**
432	**'87**	**Bedfordshire**	**9439 Sunnyfield Court**	**423,353**	**Oct-87**	**A**	**117**
433	**'87**	**Bedfordshire**	**9435 Sunnyfield Court**	**397,900**	**Oct-87**	**A**	**116**
434	**'87**	**Bedfordshire**	**9431 Sunnyfield Court**	**433,900**	**Oct-87**	**A**	**115**
435	**'87**	**Bedfordshire**	**9443 Sunnyfield Court**	**443,537**	**Sep-87**	**A**	**118**
436	**'87**	**Bedfordshire**	**9446 Sunnyfield Court**	**419,900**	**Aug-87**	**A**	**59**
437	**'87**	**Bedfordshire**	**9442 Sunnyfield Court**	**426,830**	**Aug-87**	**A**	**60**
438	'87	Bedfordshire	11412 Woodington Terrace	311,000	Oct-87	H	6

continued

439	'87	Great Falls Estates	10832	Alloway Drive	800,000	Sep-87	H	29
440	'87	Great Falls Estates	10809	Alloway Drive	950,000	Sep-87	K	14
441	'87	Great Falls Estates	8729	Belmart Road	400,000	Jan-87	F	30
442	'87	Great Falls Estates	9119	Belmart Road	725,000	Aug-87	G	7
443	**'87**	**Great Falls Estates**	**9400**	**Firethorn Court**	**570,000**	**Sep-87**	**K**	**34**
444	'87	Great Falls Estates	10904	Pleasant Hill Drive	363,037	Aug-87	M	14
445	'87	Great Falls Estates	11412	Skipwith Lane	839,000	Nov-87	C	22
446	'87	Great Falls Estates	11509	Skipwith Lane	925,000	Oct-87	C	12
447	'87	Great Falls Estates	10725	Stanmore Drive	475,000	Oct-87	N	1
448	'87	Great Falls Estates	10817	Stanmore Drive	505,000	Jan-87	M	7
449	'87	Heritage Farm	10313	Crown Point Court	315,000	Oct-87	D	1
450	'87	Heritage Farm	9500	Falls Bridge Lane	335,100	Jul-87	E	13
451	'87	Heritage Farm	9800	Hall Road	539,000	Mar-87	C	28
452	'87	Kentsdale Estates	10124	Snowhill Lane	419,950	Oct-87	H	13
453	'87	Kentsdale Estates	8925	Harvest Square Court	1,301,294	Aug-87	A	50
454	'87	Kentsdale Estates	8938	Harvest Square Court	882,791	Aug-87	A	60
455	'87	Kentsdale Estates	9935	Kenstdale Drive	429,950	Oct-87	H	10
456	'87	Kentsdale Estates	9931	Kentsdale Drive	453,550	Aug-87	H	9
457	'87	Kentsdale Estates	9943	Kentsdale Drive	429,950	Sep-87	H	12
458	**'87**	**Kentsdale Estates**	**10837**	**Nantucket Terrace**	**739,000**	**Jul-87**	**B**	**20**
459	'87	Kentsdale Estates	10838	Nantucket Terrace	499,500	Feb-87	E	2
460	'87	Kentsdale Estates	8605	Snowhill Court	429,950	Aug-87	G	17
461	'87	Kentsdale Estates	8616	Snowhill Court	425,000	Mar-87	G	11
462	'87	Kentsdale Estates	8612	Snowhill Court	430,000	Jul-87	G	12
463	'87	Kentsdale Estates	8621	Snowhill Court	405,000	Feb-87	G	19
464	'87	Kentsdale Estates	8620	Snowhill Court	439,950	Feb-87	G	10
465	'87	Kentsdale Estates	8725	Snowhill Court	419,950	Sep-87	H	8
466	'87	Kentsdale Estates	8624	Snowhill Court	439,950	Feb-87	G	9
467	'87	Kentsdale Estates	8708	Snowhill Court	409,000	Jan-87	G	5
468	'87	Kentsdale Estates	8713	Snowhill Court	419,950	Jan-87	G	23
469	'87	Kentsdale Estates	8717	Snowhill Court	424,950	Aug-87	M	6
470	'87	Kentsdale Estates	10116	Snowhill Lane	448,225	Nov-87	H	2
471	'87	Kentsdale Estates	10120	Snowhill Lane	479,950	Nov-87	H	13
472	'87	Kentsdale Estates	10112	Snowhill Lane	429,950	Sep-87	H	3
473	'87	Kentsdale Estates	10105	Snowhill Lane	406,500	Mar-87	G	24
474	'87	Kentsdale Estates	10504	Willowbrook Drive	965,000	Jan-87	C	24
475	'87	Kentsdale Estates	10500	Willowbrook Drive	1,050,000	Jul-87	C	23
476	'87	Kentsdale Estates	10401	Willowbrook Drive	1,205,000	Nov-87	F	2
477	'87	Lake Normandy Estates	9	Cherbourg Court	275,000	Jul-87	E	52
478	'87	Lake Normandy Estates	8905	Cherbourg Drive	355,000	Apr-87	F	14
479	'87	Lake Normandy Estates	9223	Cherbourg Drive	600,000	Dec-87	A	37
480	'87	Lake Normandy Estates	9102	Fall River Lane	355,000	Aug-87	H	10
481	**'87**	**Lake Normandy Estates**	**11701**	**Falls Road**	**326,000**	**Oct-87**	**AOL**	**D**
482	'87	Lake Normandy Estates	11610	Karen Drive	284,500	Jan-87	B	30
483	'87	Lake Normandy Estates	9017	Marseille Drive	349,950	Aug-87	E	67
484	'87	Lake Normandy Estates	9017	Rouen Lane	317,500	Aug-87	E	30
485	'87	Pine Knolls	9113	Cranford Drive	312,500	Mar-87	3	18
486	'87	Pine Knolls	9320	Cranford Drive	400,000	Dec-87	1	2&3
487	'87	Pine Knolls	11212	Fall River Court	324,000	Mar-87	6	16
488	'87	Pine Knolls	9224	Fall River Lane	448,000	Dec-87	3	32
489	'87	Pine Knolls	9216	Fall River Lane	392,000	Sep-87	3	34
490	'87	Pine Knolls	11001	Haislip Court	354,000	Mar-87	3	64
491	'87	Pine Knolls	11017	Haislip Court	380,000	Oct-87	3	8
492	'87	Pine Knolls	9216	Sprinklewood Lane	350,000	Aug-87	3	38

average price:	**$446,228**
minimum:	**$240,000**
maximum:	**$1,301,294**

Bold = Houses within 1000' of existing sites.



DETAIL A

SCALE: 1" = 50'

JOHNSON ROCKLAND
LIMITED PARTNERSHIP
ENC, JR 8622/0114



XTON

RO

ERAL NOTES

QUALIFICATIONS OF CONSULTANT - M. RONALD LIPMAN

Member:

Member (CRE): American Society of Real Estate Counselors
Member (MAI): Appraisal Institute (Chapter Pres.-'78 & '79)
Certified General Real Estate Appraiser #04-1072: State of Maryland
Certified General Real Property Appraiser #10136: District of Columbia
General Appraiser #GA 000866 L: Commonwealth of Pennsylvania
Certified General Real Estate Appraiser #4001 002875: Commonwealth of Virginia
Licensed Broker - Maryland Real Estate Commission
Board of Trustees - Mid Atlantic Realty Trust (AMEX), Chairman Investment Committee

Education:

Awarded Masters Degree in Bus. Admin. (Real Estate Major) American Univ., 1964
Awarded Bachelor of Arts Degree (Bus.Admin.Major) Duke University, 1960
Continuously engaged in appraisal since 1961; in consulting since 1970

Teaching Assignments:

Instructor: SREA 101 and 201 Courses, 1971 thru 1980, Loyola & Notre Dame Colleges
Instructor: Annual School of Maryland Assessing Officers, 1969-1973, 1978-1980
Instructor: Condemnation Course IV for Appraisal Institute, Baltimore 1979/80
Instructor: Capitalization Theory & Techniques, for Appraisal Institute, Baltimore, 1981
Instructor: Income Property Valuation for Maryland Tax Court, 1984
Instructor: Md. Chapter, Appraisal Institute - R41-c Seminar, 1985
Instructor: Internal Rate of Return Seminar for Md. Commercial Assessors, 1986
Instructor: Acquisition of Real Estate - John Hopkins University Continuing Studies, 1987
Instructor: The Appraisal of Real Estate, Masters Program - JHU MBA program, 1992

Speaking Engagements/Other:

1995 Howard County Economic Plan - Update Committee
1995 Professional Education Seminar - Baltimore District, Internal Revenue Service
1994 Maryland Real Estate Tax Assessment Seminar - NAIOP
1993/94 - Property Tax Assessment Seminar - Linowes & Blocher
1993/94 - Property Tax Assessment Seminar - Miller Miller & Canby
1993 "Trends in Real Estate Appraising" - Commercial Finance Association
1993 "Appraising Real Estate in Today's Marketplace" - The Rouse Company
1992 "Appraising Real Estate in Today's Marketplace" - MD Association of CPA's
1991 "Appraising in a Recessionary Economy" sponsored by NAIOP & BOMA
1987 "Challenges in the Development Process", Appraisal Institute Regional Conference
1986 "Real Estate in Tax Crisis" sponsored by Walpert, Smullian & Blumenthal, PA
1985 Appraisal Institute Regional Conference
1985 Maryland State Bar Association Real Estate Study Group
1984 "Annual Metropolitan Development Update" sponsored by Daft, McCune & Walker
1980 Appraisal Institute Regional Conference
1980 Mid Year Meeting, Maryland State Bar Association, Baltimore
1977 National Assoc. of Corporate Real Estate Executives-Balto./Wash.Area
1976 U.S. League of Savings Associations Convention, New York
1974 Joint Baltimore/Washington Mortgage Bankers Association Meeting
1973 International Appraisal Conference, SREA, Atlanta, Georgia

Qualified as expert witness before the courts of:

Baltimore City; Baltimore, Anne Arundel, Montgomery, Howard and Cecil Counties; U.S. District Court of Maryland; Federal Bankruptcy Court; Los Angeles County Superior Court; Federal Tax Court; American Arbitration Association, NY

Competency:

Numerous appraisals have been completed for all types of income and owner/user properties including office buildings, apartment complexes, shopping centers and industrial properties in addition to raw land and finished sites for development of these uses and special purpose properties such as mobile home parks, marinas and assisted living facilities.

REPRESENTATIVE CLIENTS OF LIPMAN FRIZZELL & MITCHELL LLC

Developers/Investors/Advisors:

Acacia Realty Advisors
Ackerman & Company
Ahmanson Development
American Trading & Production Corp.
Attman Glazer
Dr. Leonard P. Berger
Boston Real Estate Counsel
Brantley Development Co.
Capital Needs Unlimited
China/USA Development Corp.
City Wide Management
Clark Enterprises, Inc.
Constellation Properties
Continental Realty
Dome Corporation
Edward J. DeBartolo Corp.
Edward A. Meyerberg Co.
Federal Realty Investment Trust
Forest City Enterprises
Gulf Stream Properties
Harrison Group
Harvey Companies
Home Sales
Howard Research & Dev.
Investment Group Development Corporation
James Keelty & Co.
James F. Knott Development Company
James W. Rouse & Company, Inc.
JBG Properties, Inc.
JHP Development Company
J.P. Morgan Investment
Kenilworth Equities (Robert Morrow)
The David Kornblatt Company
Kravco Company
Land Design & Development Company
LaSalle Advisor Ltd.
Lazard Development
Lee Sammis Associates, Inc.
Legum Development
MacKenzie, O'Conor, Piper & Flynn
Magna Properties
Manekin Corporation
MART
Meisel & Cohen Props.
Michael T. Rose Associates
MIE Investment Co.
Monumental Properties, Inc.
MultiEmployee Property
Multi-Properties Trust
Nottingham Properties
Park Tower Developments, Ltd.
Ralph DeChiaro Enterprises
Riparius Development Corporation
Spaulding & Slye
Stern & Moran Properties
Dr. Lazlow Tauber
Time Group
Town & Country Mgmt.
Trammel Crow
United Trust Fund (UTF)
Wallace H. Campbell Real Estate Mgmt.
Winthrop Financial Assocs.

Corporate:

A.S. Abell Co.
Advest
Allied Chemical
Amtrak
Baltimore Gas & Electric Co.
Saks 5th Avenue
Bell Atlantic Properties
Bethlehem Steel
Black & Decker
Blue Cross/Blue Shield
C&P Telephone
C.J. Langenfelder & Son, Inc.
Cellular One
Chrysler Realty Corp.
CSX Realty
Environmental Elements
Exxon
Fairlanes
Ford Motor Company
General Electric
Genstar
Giant Food
Hyatt Hotels
IBM
JCPenney
Jos. A. Bank
Kaiser Aluminum
Lord & Taylor
Macy's
Marriott Corporation
Maryland Casualty
Maryland Cup
May Department Stores
Meridian
Merrill Lynch Hubbard
Midas
Midatlantic Toyota
Montgomery Ward
Monumental Insurance
Noxell
Sears Roebuck & Co.
Times Mirror (The Sunpapers)
Toyota
T. Rowe Price
USF&G

Accounting Firms:

Thornton Grant
Coopers & Lybrand
Ellin & Tucker Chartered
Faw Casson & Company
Grabush Newman
Haskins & Sells
Hertzbach, Sapperstein & Sidle, PA
Peat, Marwick & Mitchell
Walpert, Smullian & Blumenthal
Wolpoff & Company

Law Firms:

Adelberg, Rudow, Dorf, Hendler & Sameth
Arent, Fox, Kintner, Plotkin & Kahn
Arnold & Porter
Ballard Spahr
Basik, Bushel & Shelton
Blades & Rosenfeld
Conroy, Ballman & Dameron
Drinker, Biddle & Reath

REPRESENTATIVE CLIENTS OF LIPMAN FRIZZELL & MITCHELL LLC (cont'd)

Law Firms (cont'd):

Fedder & Garten
Gallagher, Evelius & Jones
Ginsburg, Feldman & Bress
Goldman, Kohn & Denberg
Gordon, Feinblatt, Rothman, Hoffberger & Hollander
Hazel & Thomas
Hogan & Hartson
Hunton & Williams
Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A.
Kramon & Graham
Levin & Gann
Linowes & Blocher
McGuire Woods Battle & Boothe
Miles & Stockbridge
Miller, Miller & Canby
Morgan, Lewis & Bockius
Niles, Barton & Wilmer
Nolan, Plumhoff & Williams
Ober, Kaler, Grimes & Shriver
Patton Boggs, L.L.P.
Patterson, Belknap, Webb & Tyler
Piper & Marbury
Royston, Mueller, McLean & Reid
Shapiro & Olander
Semmes, Bowen & Semmes
Shaw, Pittman, Potts & Trowbridge
Shulman Rogers Gandal Pordy & Ecker
Smith, Somerville & Case
Steptoe & Johnson
Tucker, Flyer & Lewis
Venable
Weinberg & Green
Whiteford, Taylor & Preston
Wilkes, Artis, Hedrick & Lane

Lenders/Mortgage Brokers:

American City Mortgage Corp.
American National Savings Assoc.
Baltimore Life Ins. Co.
Bangkok Bank Limited
Bank of Boston
Bank of New England
Canada Life Assurance Co.
Chase Manhattan Bank
Chemical Bank
Chevy Chase Savings & Loan
Citibank Bank
Citizens Bank of Maryland
Citizens Savings Bank
Commercial Bank of Kuwait
Continental Bank
Crestar Bank
Crossland Savings Bank
Eastern Savings Bank
ELG Financial
Equitable Life Assurance
First Union Corp.
First Federal SLA of Annapolis
First Maryland Mortgage Corp.
First National Bank
Household Bank
Legg Mason Real Estate Services
Liberty Federal Savings Bank
Marine Midland Bank
Mercantile Safe Deposit & Trust Co.
Monumental Life Ins. Co.
NationsBank
Principal Financial Group
Provident Bank of Maryland
Prudential Ins. Co. of America
Riggs Bank
Sonneblick-Goldman Corp.
South Charles Realty
Teachers Ins. & Annuity Assn. of America
Towle Financial
Union Dime Savings Bank
Signet Bank
Washington Federal Savings Bank
Wells Fargo Realty Advisors
Woodmen of the World Life Insurance Co.

Institutional:

American University
Archdiocese of Baltimore
Baltimore County General Hospital
Franklin Square Hospital
Greater Baltimore Medical Center (GBMC)
Good Samaritan Hospital
Johns Hopkins Hospital
Johns Hopkins University
North Charles General Hospital
St. Agnes Hospital
Sinai Hospital
Sisters of Notre Dame
Sisters of Charity
United Brotherhood of Carpenters & Joiners
University of Maryland
University of Maryland Medical System
University of Maryland Hospital
University of Maryland Foundation

Governmental / Other:

Baltimore City Government
Baltimore Country Club
Baltimore County Revenue Authority
Baltimore Economic Development Corporation (BEDCO)
BOMA
Bonnie View Country Club
Burning Tree Golf Club
Center City/Inner Harbor Mgmt., Inc.
Country Club of Maryland
Department of Justice
Federal Deposit Insurance Corp.(FDIC)
Federal Home Loan Bank Board
Harry & Jeanette Weinberg Foundation
Housing & Urban Development (HUD)
Internal Revenue Service
Maryland Industrial Development Financing Authority (MIDFA)
Maryland Insurance Deposit Fund (MIDF)
Maryland Stadium Authority
Mass Transit Administration (MTA)
Montgomery County Government
National Association of Industrial & Office Parks (NAIOP)
Resolution Trust Corporation (RTC)
State Highway Administration (SHA)
Suburban Country Club
U.S. Dept. of Justice
U.S. Dept. of the Navy
U.S. Naval Academy Athletic Associates
U.S. General Services Administration
U.S. Postal Service
Woodmont Country Club

Pet Ex #7 IMORTIZED

Environmental Impact Statement

Cellular One J.F.X. Site
Baltimore County, Maryland

March 1996

Project No. 95057

Prepared for:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
7150 Standard Drive
Hanover, MD 21076



Prepared by:
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

I. INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared to meet the requirements of section 502.7.C.10 of the Baltimore County Zoning Regulations in support of a Petition for Special Exception for a wireless transmitting and receiving facility. The proposed facility is to be located on the John Hatfield property, a 3.0± acre parcel located off the northwest side of Brightfield Road (formerly Old Court Road) at the interchange of the Baltimore Beltway (I-695) and the Jones Falls Expressway (I-83), near Brooklandville. The subject facility will be operated by a primary lessee, Cellular One Washington/Baltimore and by two additional sub-lessees: Bell Atlantic NYNEX Mobile (BANM) and Nextel Communications of the Mid-Atlantic (Nextel).

II. PROJECT SUMMARY

The proposed project is a cellular communications facility which will consist of a 50' x 65' gravel compound, three equipment buildings, and a 175-foot monopole. Three sets of antennas will be installed on the proposed monopole, and three unmanned equipment buildings will be placed on the site situated in an enclosed gravel compound. The proposed Cellular One building will be approximately 11'-6" x 26'. The proposed BANM building will be approximately 12' x 30', and the proposed Nextel building will be approximately 10' x 12'. All three buildings will be approximately 10' high. The proposed 50' x 65' gravel compound will be enclosed with an eight foot high chain link fence with three strands of barbed wire on top.

The site is currently zoned D.R.1. Adjacent properties include interstate highways to the north, a vacant wooded property with a stormwater management facility to the west, a single-family residential lot southeast of the property, and the *Brightwood* retirement community southwest of the property.

The facility can be constructed at this location with minimal land disturbance to the area. The site will be served by electric and telephone utilities only. No sanitary sewer, water, or natural gas facilities are needed for the operation of the facility. The facility is designed for continuous unmanned operation, but will be visited on a regular periodic basis for routine checks and maintenance as well as for emergency repairs.

III. DISCUSSION OF PROBABLE IMPACTS

Site Clearing and Grading: The site selected for the facility is relatively level and is currently maintained as a grassed meadow. Earthwork necessary to construct the facility is limited to that which is needed to install the 50' x 65' gravel compound containing the equipment buildings and monopole. No environmentally sensitive areas, natural or forested communities will be disturbed for this installation.

Site Drainage and Runoff: New impervious area created by this installation is limited to less than 900 square feet associated with the new concrete pads for the three equipment buildings. The minimal increase in runoff created by the addition of this impervious surface is not anticipated to have any significant effect on the surrounding environs. There are no materials proposed to be used that could cause any chemical contamination of either runoff or ground water.

Wildlife Habitat: The site was visited by an Environmental Specialist on December 4, 1995. No significant plant or wildlife resources were found within the portion of the site selected for the installation of the proposed facility. All of the exterior components for the facility will be structure mounted, so no significant habitats will be disturbed.

There is very little available information on the effect of radio broadcast facilities on free ranging wildlife. However, studies on confined individuals indicate that radio frequency radiation levels must be several orders of magnitude higher than those associated with this type of facility to have any measurable effect. Wildlife studies on the effects of radio frequency radiation emitted by the subject wireless transmitting and receiving facility are unwarranted due to the extremely low power levels of operation.

Noise: Cellular sites with interior equipment such as the subject facility do not generate any audible noise other than the air conditioning units used to cool the equipment buildings. These will generate the same levels of noise generally associated with large residential window air conditioners.

RF Radiation: After numerous studies and hearings, the American National Standards Institute (ANSI) developed and adopted a standard with respect to public exposure to radio frequency radiation. That standard (*ANSI/IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz*) is known as ANSI/IEEE C95.1-1992. This is the current de facto standard used by the radio and telecommunication industries to protect human

health and safety. Based upon the adopted ANSI/IEEE C95.1-1992 standard, there is a vast margin of safety associated with the transmitting and receiving equipment approved by the FCC for wireless communications. The recently passed *Telecommunications Act of 1996* charges the FCC with prescribing and making effective rules regarding the environmental effects of radio frequency emissions. All equipment proposed for the subject wireless transmitting and receiving facility will comply with all currently applicable standards and future government standards and regulations both individually and collectively.

Vehicular Traffic: Equipment inspection visits to cellular facilities are made on a routine but infrequent basis, typically once or twice a month. Technicians are dispatched for emergency repairs as well. The overall traffic amounts to approximately one trip per week per carrier so the projected additional traffic generated by the proposed installation will amount to three trips per week. Given the existing uses on the nearby properties, there will be no appreciable change in traffic volumes or patterns due to the presence of the cell site.

Visual Impact: The facility is to be installed near the intersection of two interstate highways and in close proximity to existing high tension electrical transmission towers approximately 130' high. The selected location has woods nearby on three sides to buffer the ground level visual effect of the facility. The addition of the monopole will not significantly detract from the existing appearance of the site.

IV. ALTERNATIVES TO THE PROPOSED ACTION

Should approval for the proposed project be denied, it would be necessary for Cellular One to seek an alternative site within a quarter to a half mile of the present location. A tower of at least 150 feet or more in height would have to be constructed. Additionally, an alternate location may not provide the coverage needs of the other two carriers proposing to use this facility. Thus it is likely that a second or third facility would have to be constructed to meet their demands. Approval of the proposed plan will eliminate the need for additional facilities required by BANM and Nextel.

V. ASSESSMENT OF LONG-TERM EFFECTS

Based on the above observations, the measurable effect can be reduced to one item: the visibility of the top portion of the facility's monopole and antennas. The visibility of the ground level equipment is greatly

reduced or eliminated by the existing mature trees nearly surrounding the site. Moreover, the facility is to be installed in close proximity to existing high tension electrical transmission towers; therefore, the addition of this facility will not significantly detract from the area's existing appearance.

VI. COMMITMENT OF RESOURCES

The proposed project does not require any unusual materials or resources. Approval of the project will negate the need for a second or third station thereby conserving the land, materials, and energy required to construct them.

VII. CONCLUSIONS

The wireless transmitting and receiving facility consolidates the needs of three wireless carriers at one location, has little or no impact on the environment, and in effect, results in a benefit to the public by providing improved cellular communication services in Baltimore County.

CELLULAR ONE®

Proposed JFX Site Location Map

Showing Diligent Search & Engineering Concerns

Legend

Zoning Classifications

- Residential
- BL, BM, BR
- RO, O1, O2, OT

Site Data

- Limit of Search Area
- Proposed Monopole Site
- Area of Insufficient Coverage (<85 dbm) & Capacity
- Area of Insufficient Capacity

Other County Data

- Major Roads
- Water
- Major Contours

Search Area Site Candidates

1. Greenspring Station
2. SHA Brooklandville Office
3. Valley Presbyterian Church
4. Trinity Assembly of God Church
5. Hunt's Church
6. Brooklandville Fire Station
7. Cloisters Museum Site

Pet Ex 32

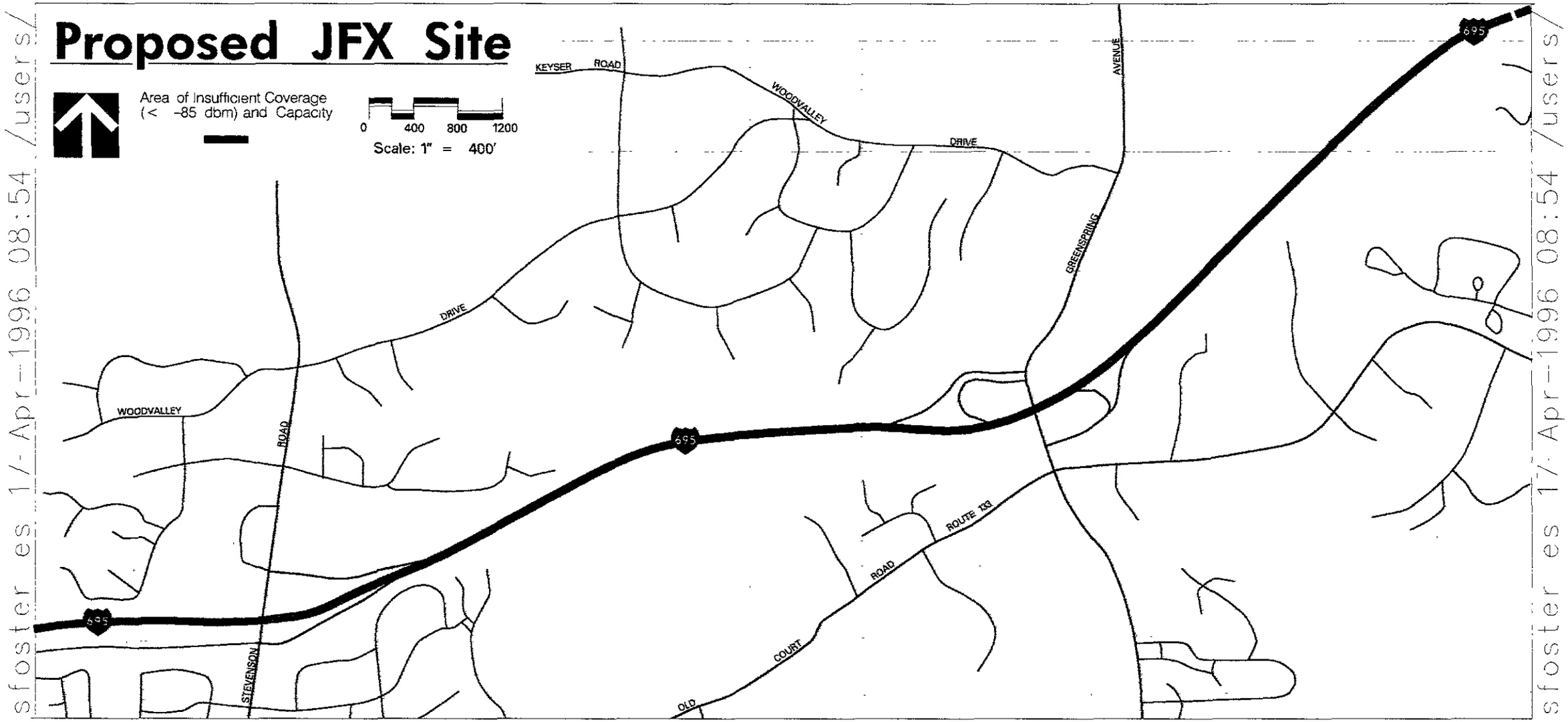
0 400 800 1200 1600 2000

DMW

Daft · McCune · Walker, Inc.

Land Planning • Landscape Architecture • Engineering
Applied Environmental & Computer Sciences

MICROFILMED. Pet Ex 2A



App. #5

IN RE: PETITIONS - SPECIAL EXCEPTION, SPECIAL HEARING, AND VARIANCE SW/S of Greenspring Ave., 1125' SE of the c/l of Ridge Rd. 4th Election District * BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

The Chestnut Ridge Volunteer Fire Company, Petitioner * Case No. 87-177-XSPHA

* * * * * * * * * * *

The Petitioner herein requests a special exception to permit a wireless transmitting and receiving structure; a special hearing to determine whether or not approval should be granted to amend the special exception permitted in Case Nos. 3988 and 77-104-ASPH by reducing the area of the original special exception to 2.17 acres in lieu of the original 2.50 acres; and variances to permit a set-back of 35 feet from the nearest property line in lieu of the required 300 feet and to permit a lot size of 0.229 acres in lieu of the required minimum lot size of 5 acres.

At the onset of the hearing, Counsel for the Petitioner moved to amend the instant Petition to request a variance from Section 1A04.3A of the Baltimore County Zoning Regulations (BCZR) to permit the structure to be 150' in height in lieu of the permitted 35'. That height was indicated on the plan submitted with the original petition. The motion was granted.

On behalf of the Petitioner, the surveyor submitted a modified plan, prepared by Gerhold, Cross & Etzel, revised October 27, 1986 and identified as Petitioner's Exhibit 1, and testified that the Chestnut Ridge Volunteer Fire Company owns and utilizes the front portion of 2.5 acres. The Petitioner intends to provide 10,000 sq.ft. of leased area at the rear property line and a 10-foot access easement to the Washington/Baltimore Cellular One Telephone Company. The National Guard owns and uses 8.6 acres to the north of the property; to the south there is a field and to the west there are woods and a pasture. The site also has woods along the western boundary line as well as along part of the northern property line.

RECEIVED

The real estate manager of Cellular One testified that the company is licensed by the Federal Communications Commission (FCC) and regulated by the Public Utilities Commission. She further stated that the Federal Aviation Administration (FAA) has approved a 150' tower but does not require lighting. Approximately six times a year the Maryland State Police use a portion of the rear of the site for landing Medivac helicopters and have requested a slow-pulse red light during non-sunlight hours to serve as a navigational aid. After engineers for the company provided a search area map for an ideal site for the transmitting and receiving equipment, she established the order of priority for an available site: existing towers, sites used for commercial or industrial purposes, land zoned commercial or industrial, and lastly, land in a low population density area.

The site acquisition agent testified that she made a diligent search within the one mile radius selected for the system to work to its maximum and for the avoidance of additional towers. Two possible sites could not meet the engineering requirements and large areas are owned by few persons and/or governed by local covenants. The only two existing towers are unavailable: one is fully utilized; the other not only is controlled by a competitor, but also is of the type requiring that engineering go into the tower before erection. The subject site is commercial in nature, adjacent to the aforementioned Army site, and was suggested by the Valleys Planning Council.

The engineer for technical operations explained that the proposed location will not only help meet projected growth and marketing demand, but also improve existing telephone service by relieving part of the load on the four surrounding grid towers. Some of the other sites proposed could not have been used without a tower of unusual height. In the site selected, a tower higher than 150 feet would cover more area but would run into interference. On the other hand, nearby trees are 55 to 100 feet tall; therefore, a 150-foot tower is required.

The construction manager testified that Cellular One would have preferred a lattice type tower, but for the sake of aesthetics and visibility, the tower will be a galvanized zinc, self-supporting monopole, painted a light, sky blue. The tower will be set in a hole 30 feet deep in approximately 32 yards of cured concrete. The platform at the top will have a 9-foot wide face. The tower will exceed EIA standards, i.e., it will be built to withstand 100 mile winds and for 40 lb. loading with 1/2 inch of ice. In addition to an employee being on site for 1 to 2 hours every second week and two inspections each year for rust, lightning, bolt conditions, etc., there will be a structural inspection once a year. The 12' x 24' x approximately 10' high building will be a prefabricated structure of steel skin with a tan layer of pressed stone to minimize the noise level. The black vinyl-clad, chain link security fence will be 8 feet high with three strands of barbed wire. Upon cross examination, the construction manager conceded that the barbed wire would be "useless." The monopole will be set in place in one piece within one day. All construction will be completed within five (5) days. Landscaping will be provided and maintained.

The representative for the Fire Company testified that the existing building is a fire station, not a fire hall. On top of the firehouse are a siren and two antennae. The fire Company has approved the installation of landscaping outside the leased area so long as it does not interfere with the helicopter landing site.

A landscape architect and land planner testified that landscaping, a minimum of approximately 14 feet high within 5 years, would screen the operation from all directions except the access road. A neighbor, vice president of the Chestnut Ridge Improvement Association, has agreed to assist in staking the location for plantings.

An environmental planner submitted the Environmental Impact Assessment, prepared by Versar, Inc., Hazard Evaluation Division, and marked Petitioner's Exhibit 6. His testimony indicated that neither the tower nor its light

will have any impact upon migratory birds or wildlife. In his opinion, the proposed landscaping will provide a net benefit to nearby viewers. The fact that buildings, trees and changes in topography obstruct the view of various portions of the tower from all points except a small section of Green Spring Road as well as the tower being a monopole and being painted sky blue, minimizes its visual impact. The tower should have little or no impact on the closest park which is 2 and 1/2 miles away. The emission levels of radio frequency non-ionizing radiation will be several orders of magnitude below accepted safety standards of the American National Standards Institute and Environmental Protection Agency. There are no known health effects from the proposed emission levels.

A real estate appraiser testified that no effect on property values could be anticipated because of the construction of the tower.

The executive director of the Valleys Planning Council requested a landscape plan and implementation of that plan. The vice president of the Chestnut Ridge Improvement Association testified that the Association does not object to the tower so long as the landscaping is installed and maintained in accordance with a plan.

A nearby neighbor protested that the tower is an inappropriate commercial use that may cause property values to suffer.

Pursuant to the advertisement, posting of property and public hearing on this case and after due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, strict compliance with the Baltimore County Zoning Regulations (BCZR) would result in practical difficulty or unreasonable hardship upon the petitioner. The requirements of Sections 1A04.1, 502.1, 502.7 and 307 of the BCZR have been met, and the health, safety and general welfare of the community will not be adversely affected. Therefore, the Special Exception, Special Hearing and Variances requested should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 3rd day of December 1986, that the herein request for a special exception to permit a wireless transmitting and receiving structure at the subject site; a special hearing to amend the special exception granted in Case Nos. 3988 and 77-104-ASPH by reducing the area to 2.17 Acres; and variances to permit a tower of 150' in height, a setback of 35 feet from the nearest property line, and a lot size of 0.229 acres, in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED, subject, however, to the following restrictions:

1) Strict compliance with all requirements of Section 502.7 of the BCZR.

2) The maximum height of the tower shall not exceed 150 feet.

3) The landscaping plan shall provide for screening the tower and building from all directions except the access road to a minimum of 14 feet within 5 years. The landscaping, including that in the vicinity but outside the leased area, shall be maintained.

4) The fence shall be black vinyl-clad, chain link and shall not have barbed wire.

5) There shall be no step bolts on the tower below 20 feet. The tower shall be painted sky blue and repainted as necessary to be maintained in visibly good condition.

6) No lights shall be installed on the tower except as requested by the Maryland State Police and as required by the Federal Aviation Administratio.

7) EIA standards shall be met and exceeded as described above.

8) Cellular One shall not propose any other communication tower within the area of concern defined by Valleys Planning Council, i.e., within the geographical area of approximately 75 square miles, bounded by the Baltimore-Harrisburg Expressway on the east, the Western Maryland Railroad on the west, the Baltimore Beltway on the south, and on the north, generally, by an arc between Glyndon on the west and the interchange of the Harrisburg Expressway and Belfast Road on the east.

Jean M. H. Jung

Deputy Zoning Commissioner
of Baltimore County

IN RE:	PETITIONS - SPECIAL EXCEPTION, SPECIAL HEARING, AND VARIANCE SW/S of Greenspring Ave., 1125' SE of the c/l of Ridge Rd. 4th Election District	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNYY
	The Chestnut Ridge Volunteer Fire Company, Petitioner	*	Case No. 87-177-XSPHA

* * * * * * * * * * * * * * * * * * *

AMENDED ORDER

IT IS HEREBY ORDERED by the Deputy Zoning Commissioner of Baltimore County this 31st day of December, 1986, that the Order dated December 3, 1986, be and the same is hereby amended to delete Restriction Number 8 as set forth in that December 3, 1986 Order in its entirety, and to substitute the following provisions as new Restriction Number 8 in lieu of the original provision:

> "8) Cellular One shall not propose any other communication tower within the area of concern defined by Valleys Planning Council, i.e., within the geographical area bounded by the Baltimore-Harrisburg Expressway on the east, the Western Maryland Railroad on the west, the south side of the Green Spring Valley ridge line on the south, and on the north, generally, by an arc between Glyndon on the west and the interchange of the Harrisburg Expressway and Belfast Road on the east."

IT IS FURTHER ORDERED that all other provisions and restrictions of the December 3, 1986 Order shall remain in full force and effect.

Jean M. H. Jung,
Deputy Zoning Commissioner of
Baltimore County

MR. ZIMMERMAN: No objection, subject to the understanding it doesn't show the precise proposal now and subject, of course, to cross-examination.

THE CHAIRMAN: Of course.

Q. Mr. Morelock, continuing up to the issue of the site, just so the record is clear, Cellular One is leasing space on the site, correct?

A. Yes, sir.

Q. And the intent here is to erect a cellular communications facility?

A. Yes.

Q. How many different cellular carriers will utilize this facility?

A. There is room, from my understanding, that the monopole will have structural capacity for three carriers.

Q. And at this time, those carriers, to the best of your knowledge, would be?

A. Cellular One, Bell Atlantic Nynex Mobile, and Nextel Communications.

Q. What's the zoning of the property currently?

A. The property in its entirety is zoned D.R. 1.

MICROFILMED

Q. Are wireless transmitting and receiving facilities allowed by special exception in D.R. 1 zones?

A. Yes, that's correct.

Q. We have heard a number of references to amendments to the original site plan which basically actually narrowed the requested zoning relief.

Do you have a copy of the amended site plan?

A. Yes, I do. This is the amended site plan. This shows the new configuration of the compound.

In comparing this with the enlargement down below, what you can see is that basically we have taken the compound, turned it 180 degrees and slid it north and somewhat west to get it just a little closer to the Baltimore Gas and Electric right-of-way, which is on the site.

What we have done is we have moved the monopole from the original location. It was approximately 190 feet from this property line, which is shown here. Now the monopole is about 220 feet from that line.

In moving the thing straight north, because this western property line is sort of departing from the

To the north -- to the northern property line which abuts the ramp from the beltway to the JFX, we are asking for relief to allow 230 feet in lieu of the required 330 feet. And the property line to the south which abuts the Lidie property, we are asking for relief to allow 220 feet in lieu of the required 330 feet.

Q. By moving the pole northward approximately thirty feet, you were able to pick up another thirty feet from Mr. Lidie's property on it?

A. That is correct.

Q. Now, before we go any further with the natural characteristics of the site, please explain to the Board what exactly is going to be built there.

A. Okay. The cell site will consist of a 165 foot monopole structure which is schematically shown here on the site plan.

It will have three sets of antennaes on it that are separated by ten to fifteen feet vertically, one set at the very top of the monopole and two platforms mounted to the pole and at lower heights with the three carrier' antenna. One platform will be used for each of the three

carriers.

At the base of the monopole will be three unmanned buildings. Typically, these are modular buildings made out of precast concrete. Many still sit on concrete foundations. And they will surround the pole and be connected to it with what's called an ice bridge that has the cables that lead from the antennaes to the electronic equipment that's in the modular building.

The whole affair will be surrounded by an eight foot high chain link fence with three strands of barbed wire at the top and a locked gate to provide access to the technicians that typically need to come and repair this on an as needed basis, or check on other facilities.

Q. Where does the requirement for an eight-foot high chain link fence come from?

A. That's found in Section 502.7.C.

Q. You mentioned the variances related to the setbacks. Are there any other variances necessitated by this proposal?

A. Yes. The site is three acres, and 502.7.C, in part, requires that these facilities be located on parcels

of five acres or greater.

Q. Now, with respect to the southern property line which is where Mr. Lidie's house is located, you say it's 220 feet from the base of the pole to that property line?

A. Yes, that's correct.

Q. How far back from the property line is that dwelling located?

A. Without scaling it exactly, I would judge that it's at least fifty, perhaps sixty feet away from the property line.

Q. Given the uniqueness of the size and shape of this property, is there anywhere on this property that that monopole and surrounding equipment building compound could be located that a setback variance would not be required?

MR. ZIMMERMAN: Objection to the form of the question, the presumption of uniqueness.

In other words, the question implies some sort of legal conclusion about uniqueness, and that's inappropriate.

MR. NELSON: He's free to cross exmaine him on

the property owned by Brightwood, is that correct?

A. Yes.

Q. What are the first characteristics of that piece of property?

A. This piece of property is -- I would characterize it as passive open space. The site is called Parcel B on another plat of Brightwood. Parcel B is wooded almost in its entirety.

There is also, as I stated before, there's a tributary to the Jones Falls which flows from Falls Road roughly parallel to Brightfield Road here, and as it comes through the property, it itself imposes the one hundred year flood plain.

This Parcel B of Brightwood is consumed, I would say, my guess, about 50 percent of it is in a flood plain, as well as being part of Brightwood.

The developable density for this property has actually been taken off of this particular parcel and has been allocated to the main part of the development

THE CHAIRMAN: Density units?

THE WITNESS: Yes. The density units have been

taken from here and used on the south side of Brightfield Road, in the main portion of Brightfield.

Q. What does that mean in lay terms as to whether or not Parcel B can be developed?

A. It's undevelopable. It cannot have a principle use put on it because the density that ordinarily would have had developable units has been used at another location.

Q. You referenced that Parcel B on Brightwood is largely wooded. Are these tiny trees? Big trees?

A. They are mature woods. The trees have been there for any number of years. And the maximum height, I would say, is about eighty feet.

Q. Let's talk about -- I don't mean to keep jumping around, but I missed a couple things I wanted to bring out. The site in question, is there currently a principle use on that site?

A. No.

Q. And what is the vegetation on the site itself?

A. The vegetation on the site is, as I stated before, the mature woods that are on Parcel B of

Anybody familiar with that area knows there's a tower right in there. And, you know, there's a whole string of these things coming down to the beltway, the lines cross the beltway and go down.

There are towers that are down here right in the vicinity of Ruxton Road as it approaches the beltway overpass, and these lines keep going right on down and basically parallel Falls Road going down into the city.

Q. This may be self-evident, but the area underneath the power lines is cleared out?

A. Yes.

Q. Now, can you tell me something about the history of this parcel, namely, how did it come to be, its particular size and shape?

A. Okay. This is what I would characterize as a remnant parcel. The original parcel that is owned by Mr. Hatfield and Ms. Proutt was originally a very large tract of land. The Valley Inn is located on what had been the northern reaches of this overall parcel.

This piece of land is what's left over after successive takings by the State Highway Administration

both for the beltway and the Jones Falls Expressway.

There was an original taking that established those two highways, and in the ensuing years there have been subsequent takings that have sort of cut away at the edges of the property. And that's why you have this sort of irregular shaped piece, the latest of which was January of 1995, they took a corner out of the property up here in the northwest corner. They also took a piece off of Brightfield Parcel B, and there was, in preparation for the addition of the lane, they are now building on the inner loop of the beltway from Reisterstown Road over to the JFX. Right now, there's a storm water management facility being constructed in this area.

So this property is sort of what's left. It got cut away or separated from the main parcel on the outside of the beltway, and it's been sort of eaten away at the edges ever since the initial construction of the JFX and the beltway.

Q. Given the constraints of the documents you have already described, can the requested variance be reduced any further?

A. No. We have -- in moving and reconfiguring the cell site compound and moving it north, I see no way that we can relocate this thing to reduce the magnitude of the requested variance.

Q. Thank you. I want to shift gears for a second and direct your attention to -- I believe you called it the site location map that your office prepared.

THE CHAIRMAN: That's the one.

Q. Would you, generally speaking, describe for the Board -- what is that, first of all? Let's tell the Board and for the record what the title of that exhibit is.

A. Okay. This is the Proposed JFX Site Location map and showing the diligent search and engineering concerns.

This exhibit shows a number of things. And I would say, first and primarily, it depicts the area that Cellular One has identified as what's called a search area. And there will be further testimony later as to what the search area is.

In a nutshell, it is the area where they have determined that they need to locate somewhere within which they need to locate a site in order to provide the

map depicted were certain sites that Cellular One considered for location purposes, is that correct?

A. Yes.

Q. Those sites are existing structures, correct?

A. That is correct.

Q. Now, I want to talk about some of those. The one listed is Green Spring Station, which is number one. That is, in fact, within the no tower zone, is it not?

A. Yes. Definitively. There's no question about it.

Q. Is the SHA Brooklandville facility in a no tower zone?

A. Yes.

Q. Is the Cloisers facility in a no tower zone?

A. Yes.

Q. Is the Valley Presbyterian Church in a no tower zone?

A. Yes.

Q. I am going to shift gears on you again. You're familiar with the code requirements that the environmental impact statement be prepred and submitted to the Board in

Q. What effort have you and/or DMW made to assess the visibility of this proposed site?

A. We have conducted two major efforts, the first of which is to draw some cross sections we believe are critical to the visibility issue, and we also did a balloon test.

Our office has a balloon that was filled with helium, is about nine, ten feet in diameter. We took it to the site. We used a surveyor's tape to measure a piece of string to make the string the exact height of the tower.

We have the tower location marked on the ground and we raised the balloon from that point to the specified height, and then we drove the area on other roads to see where we can see the balloon from, and that gives us a very good idea of the places that the tower will be visible from.

Q. You may have already said it, but you, in fact, performed such a balloon test at this location?

A. Yes. On November 24, 1996.

Q. And I am sure this is going to come up so I might

as well ask you. Was it at all windy that day?

A. No, there was no wind at all. And had there been any wind, I wouldn't have -- I would have been very reluctant to fly the balloon because of its proximity to the high tension lines.

Fortunately, there was zero wind that day. The balloon stood up vertical the whole time it was in the area.

Q. How high up in the area was the balloon?

A. The string was measured out to be 165 feet, so the bottom of the balloon would be at the top of the tower.

Q. What color is this balloon?

A. The balloon is red.

Q. Were there representatives from Baltimore County Gas and Electric Company present when this test was conducted?

A. Yes.

Q. And as I understand your testimony, after this balloon is flown, what you do is drive around the area to try to assess the potential visibility of the site?

A. Yes.

Q. Did you document that in any fashion?

A. Yes, we did. Our office has a particular camera that we used to take pictures of the site and in driving the area and taking the photos.

We then marked them on those aerial photographs. The yellow dots represent places where we could see the balloon and where we took photos.

Q. Just so I understand your testimony, what you are saying is you drove the area, you would take pictures from the location the balloon was visible?

A. Yes.

Q. And that aerial photo currently in evidence as Appellant Exhibit No. 1 depicts the shots from which you could see the balloon during you drive through the area?

A. Yes.

Q. Did you bring with you photographs that you took from those locations?

A. Yes, I did.

Q. Before we get to those, obviously by omission, to the best of your ability to determine, the areas where

there are no dots are the areas from which it will not be seen?

A. By and large, that is correct.

Q. You obviously cannot state definitively it cannot be seen anywhere else but, generally speaking, this will provide a picture of the visibility?

A. Yes, from the public roads.

Q. Let's establish a couple exceptions to that. There is the utility line, a 66-foot wide right-of-way running through the area, correct?

A. Yes.

Q. And this particular site will be located adjacent to that, correct?

A. Right.

Q. If one wants to go stand under the BG&E power line along that tract, one may well see this facility?

A. Yes. Along with BG&E towers.

Q. And the site will be located directly adjacent to the highway so, presumably, there will be some point along the highway from which it will be visible?

A. Yes.

represent what you witnessed on the day in question?

A. Yes, they do.

MR. NELSON: The appellants would move those photographs as Exhibits 7A through I.

MR. ZIMMERMAN: No objection.

Q. I think the easiest way to do this -- you were there. Simply take me along on the drive, explain what the pictures show you were seeing.

A. The first direction I went ahead is southbound on Falls Road. The first place that you catch a glimpse of it is just north of the Valley Inn.

And I want to preface all this by saying the places were the balloon is visible, in some cases I had to take a red pen and enhance the dot here so that you could actually see where the balloon is.

But the places where the balloon is visible are places also, for one reason or another, that trees have been cleared out of in this general area.

As you can see, there are woods peppered throughout this whole region, and the places where the views open up are places, for one reason or another, as I

said, the woods have been cleared.

In this particular case, we have got the BG&E right-of-way. That is our sort or view corridor or right straight down to the north, and because of the parking lot for the Valley Inn, there's been a large amount of clearing there, so you can sort of see through the trees to this place to the balloon.

But that view as you're traveling is only momentary. In other words, you pass through places where you can see and then you can't see. It is not -- to me, it is not the object of your immediate attention.

The next place where the view opens up is just as you begin to go onto the overpass where Falls Road crosses the beltway. The bridge is now under construction.

Q. Excuse me for interrupting. The preceding photograph you were discussing, you described, was taken north of the Valley Inn, the one that's 7A, correct?

A. Yes.

Q. The one you're about to discuss is 7B, for the record?

A. Yes. So 7B shows the view, and I believe this is

about 800 feet away just as you pass over the beltway.

Now, as soon as you pass over the beltway, you come into this area where the woods are on Parcel B of Brightwood, and suddenly your view is obstructed again by the woods until you get to the intersection of Brightfield Road.

And section 7C, or picture 7C, shows the view from the intersection of Falls Road and Brightfield Road from about a thousand feet away.

And as you're southbound on Falls Road, you really need to look over your shoulder somewhat behind you in order to even see the balloon.

Q. Is that because you're looking down Brightfield Drive?

A. Yes. And once again this is an area where the trees have been taken out because of the road construction, so there's a view corridor back to where the proposed cell site will be. As you travel northbound --

Q. Before you continue with that, if you continue south, past 7C, what are you going to see?

A. You won't see anything unless you don't have your

eyes on the road. You're looking, you know, behind you.

Q. Did you go down as far as, say, Rockland?

A. Yes, we did.

Q. Could you see anything from there?

A. No.

Q. Now, take me north on Falls.

A. Okay. Starting at the intersection of Old Court, Ruxton Road with Falls Road, as you head north on Falls Road, the first glimpse you catch of it is just before you get to the intersection of Brightfield Road.

Those that are familiar with the area know that Brightwood, there's a very steep and very tall bank adjacent to Falls Road that goes up to the main part of Brightwood and that topography itself obscures the view until you are beyond the hill, and you really don't catch a view of the thing until you're nearly at the intersection of Brightfield Road.

Q. Just for the record -- by the way, you have talked a lot about Brightwood. What is Brightwood?

A. Brightwood is a retirement community of primarily single family homes, and I believe there's a congregate

living component, and then there's a nursing home in the rear portion of it.

Q. Please continue.

A. You catch a view of Brightfield Road. Then once again the woods on Brightwood Parcel B obscures the view until you're onto the overpass of the beltway.

And once again, because you're northbound, you've got to look behind you in order to see the thing. So, really, as you travel northbound on Falls Road, the only clear view you have of it is while you're right in the immediate vicinity of Brightfield Road.

Q. When you say "clear view," are you going to see the entire thing?

A. No. Only the top of it. The next drive I want to take you on leading north on Falls Road. We come out at Falls and the top of the JFX and cross over to Joppa Road and we are leading southeast on Joppa road.

Exhibit 7D, this photograph was taken from the State Highway Administration Offices that are at the intersection of Joppa and East Falls Road. Once again I am standing in the BG&E right-of-way, so we have a view

corridor that's been opened up because of the clearing of the trees for the power lines.

This is from about 3900 feet away and I would point out I needed to use a red pen to put a dot on the photo to show where the balloon is, that it was so small. So we catch a view, a distant view, from this point.

Then as we are traveling along Joppa Road, you really can't see it until you get to the Joppa Road overpass, and then as you cross over the overpass, you're about 2700 feet away from the location. And this photo was taken through the chain link fence on the overpass and it shows the location of the balloon.

Q. Which photograph is that?

A. That is 7E. Once you get across the overpass and start to go downhill along Jopopa Road, there aren't any places you can see the thing. You're past, and because of the trees and topography in the area, there are no views from this portion of Joppa Road.

Once I got over to here, I turned and sort of doublebacked on Old Court Road relocated, and the first place that you see it is right at the bend in Old Court

Road.

The photo which is 7F shows there is -- you can see it in the aerial photograph here. There are places where the trees have been removed.

This is actually the old alignment of Old Court Road prior to its realignment by virtue of the JFX construction, so there's a corridor here that has the second growth sort of vegetation in it that I talked about that's growing on the northwest portion of your site.

And because those trees aren't mature, you have another view corridor from here on the bend at Old Court Road that heads over towards the site, and that photo shows the view at that point.

Traveling on around, we went into the Ruxton Hill developement to see if there were places from within that development where you could see it, and Ruxton Hill Road sort of goes uphill and then it falls and goes down beyond a ridge line, a small ridge line that sort of runs north and south here, so none of the back portion of Rockland Hill will be able to see it.

However, there are some places from the end of

the cul-de-sac on Rockland View Court where we're about 1700 feet away from the balloon and there are places where there are open spaces in the vegetation for one reason or another.

There's a stormwater pond, and because this ground sits a little higher than the JFX and where we'll be located, there's a place where you can see the balloon from there.

Once again, that photo, I needed to take my red pen and accentuate the place where the balloon is.

Q. And you're looking across the highway?

A. I'm looking across the highway, looking across Old Court Road at the main portion of the highway and also the ramp from the inner loop of the beltway, to the southbound JFX.

Traveling on around, of course, there's a place here on Ruxton Road where you can see up the BG&E corridor and you can see the balloon in and amongst the power line towers that are between here and Ruxton Road.

Then I went over and came across Old Court Road to get onto the beltway and came eastbound on the beltway.

map where I pointed out that Cellular One has coverage problems where their signal is weak.

If you look at that photograph, you see this portion of the beltway here is in a slot, it's in a groove, and one of the reasons Cellular One has coverage problems is because the beltway sits lower than the land that is on either side of it, and because it's down in this slot, they need a site that can see into that slot.

Because this is, as I understand it, a line of sight technology, basically. And the beauty of this particular site is that if you look at the photograph, you can see the balloon straight ahead, and those antennaes that will look right into this slot where they're having the most severe coverage problems, not withstanding the capacity problems that arise out of the amount of traffic that goes through this interchange of two major highways

This site, better than any other one in the area, looks into that groove where they have a coverage problem.

The last photograph I have, which is Exhibit 7-I, was taken from the adjoining property to the south. I went down the driveway of Mr. Lidie's residence to assess what

A. No. It's an unmanned facility. It's visited once a month for routine inspection on an as-needed emergency basis for repairs.

Q. Will the site create any sort of impermeable surface issues?

A. No.

Q. Will it place any burden on local water, sewer or utility features?

A. It has no need of any utilities, except electricity and telephone service.

Q. Will the landscape plan for the site be supplement as required by the code?

A. Yes. We have incorporated landscape planting into the site plan.

Q. Will the site be lighted in any fashion?

A. No.

MR. NELSON: That's the end of my direct examination of this witness.

I understand that one of the protestants needs to be somewhere and Mr. Zimmerman has asked me if he may interject that gentleman's testimony at this point.

should stay silent. That was all I wanted to say, sir.

Q. What about your own property, in relation to your own property?

A. Well, the house next to me is an historic house and that's a little bit uphill of me, about the same as Brightwood, I say, in terms of the topgraphical level.

MR. ZIMMERMAN: Thank you, Mr. Johnson. I have no further questions.

MR. NELSON: Just a couple. I will make it real brief.

CROSS EXAMINATION

BY MR. NELSON:

Q. Mr. Johnson, as I understand it, your first concern was you're worried that there will be some sort of emergency vehicle traffic generated by this site?

A. There is simply more residents there, that these emergency vehicles are more important than ever. They are not too strained, but they are at capacity.

And with so much technology involved, I thought there might be some complications, which is not desirable.

Q. Would it help to alleviate that concern if I told

is approximately 1400 feet. And to the monopole, about 1600 feet.

Q. What do you know about the Cloisters, of its historic significance?

A. The Cloisters was a very large home that was bequeathed to the city, and it was my understanding that it was given to the city with a number of restrictions, that the city had the Children's Museum in it for a long time.

And, for a number of reasons, not the least of which it doesn't meet ADA disability guidelines, the Cloisters Museum was moved out and the city has been trying to dispose of or otherwise use the property for quite sometime, to no avail, because of the restrictions in the agreement that had been bequeathed to the city in the first place.

Q. How many stories is that mansion?

A. I believe that it depends on where you are on the ground. I think it's anywhere between two and three, and there may be habitable rooms, you know, in the eaves of the roof too.

the highway divides part of --

A. It divides one parcel, and 378 is divided from the others by Falls Road.

Q. So you're assuming that the road, by virtue of the presence of the road, those properties are not adjoining, is that your assumption?

A. Yes.

Q. But other than the presence of that road, there are no other intervening properties, are there?

A. There are some properties that are owned by other parties on the outside of the beltway, on the east side of Falls Road.

Q. I guess what I'm suggesting -- I don't want to belabor this point, but looking at the tax map and the geology, one can walk directly -- assuming one can walk across an interstate -- one can walk directly through all those parcels without necessarily going through somebody else's property?

A. Yes.

Q. We understand the interstate highway divides part of the Hatfield parcel one and two. Okay.

A. No. To the east.

Q. Excuse me. To the east.

A. You go up over a small concrete incline. Then you get on a macadam road and then go over what the old railroad crossing used to be, and you go down, and my house sits to the right.

Q. You have been here today throughout the hearing?

A. Yes, sir.

Q. You also participated at the earlier hearing before the Zoning Commissioner?

A. Yes, sir.

Q. What concerns do you have, first of all, about the visibility question and the impact of the proposed monopole on your property?

A. Well, my biggest concern is the distance from my property to where the monopole is supposed to be erected.

Now, as I said once before, where my house sits, directly in front of my house, I can stand there and I can see all the way out to the inner loop of the beltway.

I can see where the sign is absolutely visible that says "Falls Road Exit." I can see where the traffic

exits, comes off the beltway to come around to pick up the Jones Falls Expressway as it heads southbound.

If you stand on my front porch and you look the right 230 yards, you will see the fence and you will see the Jones Falls Expressway. And you can see the traffic.

So if someone is going to say that if they put the monopole in that proposed site, in that field, that it can't be seen, in my opinion, that's ridiculous.

If you can see that last high tension pole which is almost to the beltway fence, and you put a monopole in closer, and then say that you're not going to be able to see it -- and to give you an example, on the 24th day of November, I think we heard testimony here to the fact that they put a balloon up, Cellular One. And I remember this pretty well.

It was about 9 o'clock in the morning. Anybody that's familiar with that area will know that I live at the end of a dead-end road. We do not have street light. We do not have pavements. We do not have garbage collection or mail delivery.

I travel quite a bit. My wife is alone. I have

that area?

A. Yes.

Q. It is not, for example, down here in what the map designates as Rockland Historic District, is that correct?

Is your house in this rectangle dead center entitled "Rockland National Historic District"?

A. No.

Q. Also, I understand one of the problems you have with this proposed location is that the size of the proposal is less than five acres, is that correct?

A. Yes, sir.

Q. So, for example, if there was a parcel adjoining your property that was more than five acres and all the same issues, you wouldn't mind?

A. I didn't say that.

Q. For example, this Brightwood property right next to yours is more than five acres, isn't it?

A. I don't know how large it is, sir.

Q. Well, for example, if Cellular One put a pole right here near the hammerhead on the Brightwood property, you would be able to see that, right?

Q. In fact, the tallest buildings at the Green Spring Station are what, five stories?

A. Yes.

Q. SHA Brooklandville is what?

A. Two to three.

Q. The Valley Presbyterian Church, the top of the steeple is what, sixty feet?

A. Sixty feet.

Q. Trinity Assembly of God?

A. It's the same, a little bit lower to the ground.

Q. Hunt's Church, that's not massive. How tall?

A. Forty, fifty, maximum.

Q Brooklandville Fire Station, that's a one-story building?

A. A one-story building with a tower that extends probably twenty feet higher than the building.

Q. The Cloisters, we have heard testimony, is a two to three-story mansion?

A. Yes, that's about what it is.

Q. Now, with respect to more particular issues, number one, Green Spring Station, you submitted that site

to the engineering department?

A. Yes.

Q. Did they tell you, "Hey, great, we want to mount antennaes" --

MR. ZIMMERMAN: I am going to object.

Q. What did they tell you about whether or not mounting antennaes on site number one would work?

A. They told me the building was not high enough to meet the need, height-wise.

Q. What about number two, SHA Brooklandville?

A. Same thing, the building, as far as mounting any kind of antennaes, it's too low.

Q. What about the Valley Presbyterian Church at sixty feet?

A. Was not tall enough.

Q. Did you, by the way, talk to them about whether they would be interested in leasing to you?

A. Yes, I talked to them. After one or two meetings, they were not interested in doing --

MR. ZIMMERMAN: Who's "them"?

THE WITNESS: The church board. The first time I

met with the pastor, he said he would review with the church board. They met, and the follow month got back and said they had no interest.

Q. The Valley Presbyterian Church and Trinity, again, did engineering determine sixty feet or whatever was high enough for them to cover this whole area?

A. No.

Q. But they were, in fact, interested in pursuing something?

A. The church was willing to work with us if we could do something on their property.

Q. If Cellular One mounted a mini-site below the steeple of that church?

A. Yes.

Q. Hunt Church, what was the problem with that, over and above the height?

A. It was no property there. It was not high enough. No property as far as, roomwise, to build anything tall there.

Q. You mean it was determined there just wasn't enough room for a site?

A. The other lot itself was too small.

Q. Would this site, even though out of the search area, was that submitted to engineering?

A. That was submitted. Engineering said it was too far south out of the search area from where they were trying to locate.

Q. The Cloisters location here, over and above any engineering concerns, what were the problems associated with that location?

A. Once we found out the history was as Mr. Morelock previously testified, through my research with the deeds and whatever, we found out that was an historical site there, and Cellular One's policy was not to go forward into that location.

Q. You had, in fact, reviewed the deed document transferring that property to the City of Baltimore, did you not?

A. Yes, sir.

Q. And there were deed restrictions?

A. There were deed restrictions on there from the Parkers, what could be done on that 50 acres, how it had

to be laid out, what would happen to it, so on.

Q. Other than the structures that we have talked about and the existing BG&E power lines which Mr. Jim Rainbow is going to discuss from an engineering prospective, were you there to determine any other structures of significant height within the search area?

A. No, sir.

Q. Other than site number one which is the general Green Spring Station that we have discussed, were you able to locate any other nonresidential property in the search area?

A. No, sir.

MR. NELSON: That's all I have of the witness.

THE CHAIRMAN Your witness, Mr. Zimmerman.

CROSS EXAMINATION

BY MR. ZIMMERMAN:

Q. What's the square mileage of your search area, one square mile? Do you know?

A. No, sir.

Q. If I suggested, based on Petitioner Exhibit 4 that north to south, that it's longest diameter is 17

A. Yes.

Q. What was the result of that?

A. They told me that they didn't have the property available. Also in this area I was looking for, there was an expansion.

This was over a year ago. And the program coordinator for the expansion of the beltway between Reisterstown Road, he said a lot of that property had been bought up and they were going to put storm water management, and the location which we were looking for along there, they didn't have property for us available.

Q. When was your search made?

A. Initially, November of 1994, I think, when the map came out from engineering. And my search started around November and proceeded.

Q. When did it end?

A. When we found the location that we are proposing there now, that my diligent search concluded.

Q. When was that?

A. Approximately, I guess, a year ago.

Q. Late in 1995?

THE CHAIRMAN: Overruled.

A. Yes.

Q. How much luck have the folks at Trinity had dealing with the community in the past on special exception with resepct to their church?

A. That Trinity had?

Q. Hadn't they just gone to the Court of Appeals with the local community association just to put a sign up there?

MR. ZIMMERMAN: Objection to the consistent leading questions. Supposed to be direct examination.

THE CHAIRMAN: Overruled.

Q. Had the Trinity Church had problems with the neighborhood association in the past with respect to zoning issues?

MR. ZIMMERMAN: Objection.

THE CHAIRMAN: Overruled. Come on, Mr. Zimmerman.

MR. ZIMMERMAN: I think they are irrelevant.

Q. Have they?

A. Yes, sir.

Q. What was that all about?

A. They did not want -- they had to go to the pastor, to go to Annapolis, to put up an eight foot sign facing the beltway, just to put a sign up.

MR. NELSON: No further questions of the witness.

MR. ZIMMERMAN: No questions.

THE CHAIRMAN: Thank you, sir. You may step down.

We are going to reconvene on January 9th, same time.

(Hearing adjourned.)

* * * * *

The radio, or other frequencies at those stations, cross over the whole city, and in general aren't used in neighboring cities because they would cause interference.

The cellular technology, though, differs from that because we have to use our frequencies in close proximity, and reusing a frequency is, in fact, the basis for cellular design.

The FCC licenses 416 channels to each of the cellular carriers. And in traditional analogue, each channel, each frequency can carry one call, one conversation.

So if we are to follow the model that television or radio stations use, to build one big tall tower, broadcast over a large area, we would only be able to handle 416 conversations at any one movement, maximum.

So the way we are able to have more than 416 conversations simultaneously is to divide the area that we are attempting to cover into smaller service areas, and divide the 416 channels up into smaller groups, placing them into a cell site that covers a small service area,

MICROFILMED

divide up the channels to such a manner that we can reuse those channels in close proximity to each other.

Say on the north side of town, we could have channel number one, and then again be able to reuse that, if it's properly planned, maybe in town or on the south side of town.

And from that physical separation between the cell sites and creating a pattern of this type of reuse, we can gain capacity.

Q. By "capacity," you mean the ability to use more than 416 calls throughout the whole system?

A. Yes, that's right. So the interference that can be caused by reusing these frequencies is controlled by the physical cell location and the height that we are trying to build ought to limit coverage and provide coverage.

So, like I was saying before, dividing these channels, 416 channels, up into groups, placing them into cell sites, we can create sort of a grid type pattern maybe you're familiar with if you have seen cellular pictures or brochures, and reuse those and gain capacity

throughout the system. We use this pattern over and over again.

And another note about what my responsibilities are in making sure this works properly, is that when we build a cell site, if the site is built too tall or on too high of a ground elevation, then it basically sees too far and causes interference somewhere else. It makes it impossible to reuse those frequencies if we end up going too tall.

If we end up going too short, the site doesn't clear local obstructions and we end up causing coverage gaps, not being able to project and provide enough signal strength, and that results in poor quality of calls as well as the need for more cell sites.

If we place these cell sites too close together, then we have a duplicate of coverage and can waste capacity and also cause gaps in our system.

Q. Now, all these things you're describing about the spacing, the potential for interference and topographic concerns and the ability to reuse channels, are those all factors that go into your decision-making processes as an

RF engineer when deciding where to locate sites?

A. Yes, they are.

Q. You talked about topographical concerns. Why would the topography affect the ability of one of these sites to project a signal?

A. The technology itself is basically a line of sight type technology where the radio signals that are broadcast from your cell site basically need to be able to see, more or less, the mobile users themselves, the phones that we are trying to broadcast to, and in the same reverse direction.

Q. When you say the radio frequencies, I am not sure I understand what you mean. You mean, at least hypothetically, the tower and antennae has to see the car driving by?

A. For all intents and purposes, yes, we would have to see the vehicle.

Q. Let's talk about this site in particular. With that as a background, did you participate in the radio frequency design of this particular site?

A. Yes, I was involved in it, yes.

Q. Now, we have heard testimony before that this site is located at basically the confluence of the intersection of I-83 and 695. You are aware of that, are you not?

A. Yes, I am.

Q. Is that, from the prospective of Cellular One's telephone traffic, a high usage area?

A. This is an extremely high usage area. There's a lot of mobile traffic, a lot of car traffic going through this area.

Q. In addition to the roadways that we described, I assume that the cellular radio waves don't somehow confine themselves to the roadway? They cover the whole area?

A. That's correct. There's also residential areas that are deficient in coverage in this area.

Q. Now, if you could, and in whatever terms you're comfortable with, can you describe to the Board the overall status of Cellular One's service in the area we are here to talk about?

A. The service is not adequate. If you're going through this area, you experience, due to lack of signal

strength, and due to the lack of capacity, you experience static going through this area.

You experience potential interference, meaning you can hear somebody else's conversation going through this area. It's possible to even lose your call in mid-conversation or, in addition to that, not even access our system going through this area.

Q. Now, does Cellular One provide mobile communication coverage throughout the greater Baltimore area?

A. Greater Baltimore and Washington area.

Q. Does Cellular One rank the trouble spots it has with respect to the ability to provide service?

A. Yes, it does.

Q. Where does this particular area rank among its list of trouble spots?

A. For the Baltimore county area, this location is the top area of need that we are trying to address.

Q. Is that just in Baltimore County or the greater Baltimore area?

A. For the greater Baltimore area, yes.

Q. Now, you mentioned that a hypothetical person attempting to use a mobile phone in this area could run into a number of problems that you described.

With respect to the actual ability to make a call, have you been able to assemble any data that would quantify how serious this problem is?

A. Yes, we have. We collect data. We have statistical data that we collect. What that reflects is that the cell sites that are attempting to serve this area are all at capacity or over capacity.

Q. What happens when you say at or over capacity? Do you mean at some point in time all the available channels are used?

A. At the times of busy hour traffic, which is the time period where there is the most usage, the cell sites in this area that are tempting to serve this area all block at a range of somewhere as high as ten to thirty percent.

Q. I'm not sure I understand what you mean by that. If I am driving through the area, and you said they were all at capacity -- let's just make up a number. The

capacity is 200 calls and I am the 201st person trying to get on the system. What's going to happen to my phone call?

A. You won't be able to access our system.

Q. How often does that happen on a percentage basis during rush hour?

A. That can be as high as ten to thirty percent for the cell site attempting to serve this area.

Q. You have described together what I understand to be two basic -- well, let me rephrase.

You described what I understand to be two separate sources of service problems that you have described, coverage and capacity, is that correct?

A. That's correct.

Q. Let's break them down because, as I understand, there are different engineering concerns for the two of them.

In very simple lay terms, what is the concept of the coverage of one of these, or the coverage that you have in an area?

A. Coverage is the projection of enough signal from

a cell site so that the mobile can make usable conversation, decode information out of it so that it's clean. So what we strive for, for portable coverage minimum, is a level of oh minus 85 dbm.

Q. That's a strange analogy, but if you were to look at radio frequency dust, is what you're saying about insufficient conversation, there's not enough dust in the area for the phone unit to pick it up?

A. That's one way of looking at it, true.

Q. Now, if you would, there's this drawing up here that's collectively been marked as exhibit, or Appellant's Exhibit 4A and 4B.

Would you demonstrate to the Board, using that exhibit, where in the area that we are talking about here today there are problems of insufficient coverage?

A. This map is up in the proposed area of the location up here. We have this solid red line which reflects 695 and I-83, and what the solid red line represents is the area of insufficient coverage, insufficient areas of signal strength that we are trying to obtain, but this is just a roadway.

We are not trying to just limit our coverage along the roadways. We also have insufficient coverage in the residential areas, the secondary roads, and the communities surrounding this area as well.

Q. So would it be fair to say there are coverage problems throughout the area depicted by that map?

A. Throughout the area from a border of maybe from the edge of this map down to Stevenson Road, south about a mile from the proposed location, and about a mile north from the proposed location.

Q. Now, are you able to actually determine the sufficiency of signal strength in a particular area?

A. Yes, we are.

Q. How do you go about doing that?

A. There's several methods that we use. One is a computer generated model, a model where we input the height of antennae, we input the amount of power we are trying to output, the type of antennae, and it takes into account the ground elevation, the local terrain, lay of the land, and we are able to generate coverage blocks out of this which give us signal levels that a mobile user

would see in attempting to make a call.

Q. Did you use your computer tools to evaluate the coverage in this area?

A. Yes, we did.

Q. What did your computer tools tell you?

A. That this area is, indeed, an area of inadequate coverage.

Q. Correct me if I'm wrong, but those computer tools were what you utilized to generate the coverage portions of this map, correct?

A. That is correct.

Q. Are were there any other tools that you used to determine the adequacy of coverage?

A. We also used statistical data, as I was saying before, to see in general if a call is dropped. A lot of times that is due to insufficient coverage. And the cell sites that are attempting to cover this area currently also drop a high number of -- high number of calls.

And we also gather from statistical data that people can't access the system.

Q What about direct input from your users, your

customers?

A. We also keep a log of customer complaints. We have a system that we call trouble tracker that we input or keep a track of who's calling in and who's complaining, what areas they are complaining about. This is, indeed, a high use area of complaints.

Q. The highest?

A. For the Baltimore area.

Q. Now, anticipating -- based on prior hearings that we have had -- questions that we may get from the other side, you mentioned there are in what I call the greater Towson area, other cell sites, correct?

A. That is right.

Q. Why can't you just turn them up or modify them in such a way to throw enough signal in that area to eliminate this problem?

A. Part of the problem is just the physical terrain and location of the lay of the land that's in this area.

We have sites that are attempting to cover this area that, if we were to turn them up, would not provide the adequate amount of coverage into this area.

And also they would also cause interference, degrading other areas in the local communities.

Q. Now, just to make this clear, the last question I ask you on coverage, I am in my car. I am driving into the area. I enter an area where there is insufficient emission in the area to meet your description of appropriate coverage. What would happen to my phone call?

A. The cellular call, somebody who's on our sustem -- our system is a network of cell sites. So as you're driving away from one site, or if you're up against one of our existing cell sites, you're very close to a cite, so you have a lot of signal strength.

As you're driving away from it, your signal strength starts to degrade and gets lower and lower. And if we have properly engineered our system, there would be another cell cite who would start seeing you stronger and you would hand off into that site.

If that cell is not there, you're still trying to be serviced by this cell which gets degraded more and more, and you could experience some static. And as your signal gets weaker, you're more susceptible to

interference, so you could hear some cross talk. And if the worst case happens, you would drop the call.

Q. As a result of the insufficiency of coverage in that area you have described, are your customers currently suffering those symptoms you just described?

A. From our complaints, yes, we gathered that information.

Q. Now, let's talk about the other problem that you referenced which is, given the nature of the technology, the capacity issues. You did mention about frequency reuse and the limitation of the 400-some channels.

I just want to, without having to go over all this again, to see if I understand, given any area, because of the number of cell cites, you can only handle a certain number of calls at any given time?

A. That's correct.

Q. Given those limitations and the number of sites that are in the area, are there enough sites in this area to handle the number of calls that people are trying to make?

A. There is not.

Q. If you would, again using the map you created with your computer tools, so on, would you show the Board where the capacity problems are?

A. Capacity areas of concern are similar to the coverage problems. They extend, again, from this solid red line from Stevenson Road up to the edge of the map there, north and south into this -- along 83 and Falls Road.

And also in this area of the dotted red lines where traffic tends to slow down, through that area. Those are all areas of capacity problems.

Q. Where are --

A. Again, also in the secondary roads. And if you're trying to drive into your home on a secondary road, you would experience the same capacity issues.

Q. Without rehashing everything we have talked about, I drive into that area in my car and everybody is on the phone. What's likely to happen to me?

A. You're going to get a fast busy signal, not able to access our system.

Q. Are your customers reporting to you what's going on in that area?

A. We get those reports in general through statistical data. In general, if somebody can't access the system, they can't access our system to call and complain.

Q. Now, we have talked about what the problems are. Let's talk about the solution.

The cell site, I'm not going to ask you to go over the physical characteristics of it again. We heard about this 165 foot monopole. How is that going to address the coverage and capacity problems that you just explained to us?

A. A proposed location here at 165 feet will provide an adequate amount of coverage through this area of need, hooking up to our other existing sites that are trying to cover this area from all directions.

Q. What about what is marked as Exhibit 4B, what I kind of refer to as the tail to the main map that you're looking at there, is the site going to provide coverage and capacity down in that area as well?

A. Yes, it will. The site can see down through this area and will cover that area, hook up to our other existing locations.

Q. Mr. Morelock referred to that as well. You referred to seeing down through that area. Are there topographical concerns about that southwestern portion of the beltway depicted on 4B that created engineering difficulties for you?

A. There's a ridge that was talked about previously that's here, and this terrain here is sort of rolling and deviates from along the roadway somewhere around 400 to four-sixty, and in portions drops even lower than that.

So, yes, that's the physical location of the ridge, and the rolling type of area that it is presents some problems for us to cover the area.

Q. With respect to where -- assume we are talking about 695 as it goes through that area depicted in 4B, is that roadway up at the top of the ridge or is it down lower?

A. It's sort of in a valley going through this area. The terrain rises very steeply, north side, and it also has some hills to here and some contours, elevation contours, that reflect it going higher up above 400 feet.

Q. Given what you described as the line of sight

nature of the technolgoy, from an engineering standpoint, you have got to find some way for the antennae to see into that area, so to speak, is that a fair statement?

A. That's correct.

Q. Will this site, based on other topographical concerns and sites, all the things you have discussed, see into that area?

A. Yes, it will.

Q. How is it going to address the capacity issues?

A. It's going to be a whole other cell site. It will basically triple the amount of capacity that is being serviced in that area, in this area right now. And also alleviate the blocking of the neighboring sites.

Q. Now, again anticipating what I think we may hear from some of the other folks, when this site was originally proposed, the total height of the monopole tower was 175 feet, isn't that correct?

A. That is correct.

Q. At what elevation on that 175 foot pole was Cellualar One's installation to be?

A. A hundred sixty-five feet.

Isn't that true?

A. True.

Q. And he testified the orange dotted line area on Appellant Exhibit 4A is the search area that you gave to him, correct?

A. That is correct.

Q. How did you come to -- first of all, what's a "search area" from an engineering prospective?

A. A search area is an area that, or a map per se, we give to our real estate people so that have a general area to go and attempt to find a candidate for us, existing structures, or leasing some space to erect a structure where a site might work out well and meet our needs.

Q. So are you saying that the areas within that orange dotted enclosure are areas where it would be possible a site might meet your needs?

A. That is correct.

Q. How do you create a search area map?

A. We take into account where our existing cells are. Again, our system is a network of cell sites so we

are looking to place a site in a general area that would fit into our network system to minimize the number of poles we are trying to put up.

So we identify areas that are lacking coverage or, if need be, build a site with capacity. This site happens to meet both. So we identified an area and provided some guidance to our real estate department as to where a site could be positioned potentially to meet our needs.

Q. So when you're creating this search area -- I think you have already gone into that. Now, I think you have testified earlier that after you created this search area map based on your engineering concerns, it's given to the real estate department?

A. That's correct.

Q. They bring in actual pieces of property for you to evaluate?

A. That is correct.

Q. How do you go about creating what you call a candidate site?

A. We take the parameters that are given to us in

terms of location, where the candidate is, and if it's an existing structure we usually have some height given to us as well, and enter those parameters into the computer prediction model and run it against the terrain that's existing and take a look at what it's covering, and if it meets our needs or not.

Q. Is the ground elevation of the candidate site one of the factors you're going to consider?

A. That is one of the factors that is inputted into the model, yes.

Q. You just mentioned something that's significant you haven't mentioned before. You said something about the computer model consdering the terrain. What exactly do these computer models consider?

A. The model is an impirical model and it has data that is terrain data that's in there and we, again, put in a "what if" type situation, if we were at this site, if we were at this power, if we were at this location, what would that location cover.

Q. You mean it would be able to determine, based on the topography, what it would be able to see, using that

Q. Why not?

A. Basically the height, which would approximately be around sixty feet at the location here, would not -- would get blocked by the ridge that's here on the -- just south of Hillside Avenue, would not be able to see down into 695 at all.

Q. Well, is that -- let's say, hypothetically speaking, you went to the building management, said we can't go on your building, but we'd like to build a tower somewhere on your property.

Given the topographical concerns you have just talked about, how tall would a structure on that property have to be to do what this site needs to do?

A. A structure, to provide the coverage to those areas, would have to be at least 250 or 275 feet in height.

Q. When a site gets to be that tall, does it remain a monopole?

A. No. Monopoles are generally not constructed over 200 feet. Something of that height would end up being a free standing tower with lattice type supports.

Q. You mean one of those multi-sided things?

A. Yes. Three or four-legged.

Q. And are they the ones with the crosswork metal stuff on them?

A. That's correct.

Q. And are towers of that height typically painted?

A. Typically, structures that are over 200 feet tall, due to the FAA restrictions, need to be painted in or lighted.

Q. Painted in what kind of fashion?

A. FAA regulations paint their -- for ease of sighting for aircrafts, are striped red and white.

Q. So if you were to erect a structure on that parcel, it would have to be at least 250 feet tall, three our four-sided lattice work, painted red and white, and lighted, is that correct?

A. Definitely lighted. And painted is highly likely it would need to be painted.

Q. What about the other things I said, it would need to be that tall, so on?

A. Yes.

Q. Now, the second site that Mr. Meeker talked about is the State Highway Administration Brooklandville Office, which is just south of the Green Spring Station?

A. Right here.

Q. That's marked on 4A as No. 2, is that correct?

A. That is correct.

Q. Did you evaluate, as I understand, their one or two-story buildings there, did you evaluate whether you could simply mount antennaes on existing buildings and meet your needs?

A. Yes, we did.

Q. What did you determine?

A. That the existing structures that are present there don't meet our needs.

Q. Why not?

A. For the same reasons as location number one did not meet our needs. We have a ridge here that we cannot overcome at a structure height of one or two stories.

Q. Assuming you could get permission from the property owner to build some sort of free standing structure there, what would it look like?

A. It would be similar to the structure that we would need to build in location number one.

Q. Same height?

A. Approximately same height, yes.

Q. Similar in the other fashion that you mentioned?

A. That's correct.

Q. The third site listed on that map depicted as number three is the Valley Presbyterian Church. We heard testimony from Mr. Meeker that the highest point of that church was about sixty feet.

Were you able to determine whether or not you could simply mount antennaes on that church and have it meet your needs?

A. Mounting antennaes on this coverage would not provide coverage all the way down through Stevenson Road that we're looking for. It couldn't meet our needs.

Q. But at sixty feet, you wouldn't get a whole lot of coverage anyway, would you?

A. No, we would not.

Q. So would you have to build a structure on that property, a free-standing structure?

A. Yes, we would.

Q. That church is located in the middle of a residential neighborhood, is it not?

A. I believe it is, yes.

Q. It's on a large open space with a big open parking lawn?

A. I'm not familiar with that.

Q. Now, directly across 695 from the Valley Presbyterian Church is the Trinity Assembly of God Church. Correct me if I'm wrong, but there's also a small site in operation at that facility, correct?

A. Yes, there is.

Q. Where is that mounted?

A. That's mounted on the church up close to the cross on top of the road.

Q. Why couldn't that provide all the coverage and capacity you need in the area?

A. It's low in structure. It was when we built it. We were attempting to alleviate some of the problems in that area, trying to do a band-aid type fix. The site is just a mini-cell, so it's limited in the amount of power

it can output.

It's not a full-fleged site, and due to the fact it's low, it provides extremely limited coverage at some capacity.

Q. Is there anything you can put on the Trinity Assembly of God Church to meet your existing coverage and capacity need?

A. No.

Q. If you were to try to place something at that site that would meet your coverage and capacity need, you'd have to build then some sort of free-standing facility, correct?

A. Yes, we would.

Q. The next site that was considered was the -- well, just anticipating what you're going to be asked, how big of a structure would have to be erected on the parking lot to meet your coverage and capacity needs at Trinity?

A. A structure in similar height to the proposed location. Somewhere around 165 feet tall.

Q. How about the Valley Presbyterian Church?

A. Same with the Valley Presbyterian Church.

Q. The next site that Mr. Meeker spoke of listed as No. 5 on that map, the Hunts Church site.

Now, he testified that there wasn't enough room there, but from purely an engineering perspective, were you able to determine whether you could simply mount antennaes on the church itself and meet your coverage and capcity needs?

A. We could not just mount it on the structure or any existing structures there and meet our needs.

Q. So, again, you could have to erect a free-standing structure?

A. Yes.

Q. How big would that have to be?

A. Approximately the similar height tall. That location isn't all that desirable because it's getting too close to some of our other existing sites.

MR. ZIMMERMAN: Which loction?

MR. NELSON: Talking about Hunts Church.

Q. In fact, you were informed by your real estate department the actual physical parcel wasn't big enough to hold your equipment, is that correct?

A. That is correct.

Q. Now, the last site that we'll -- I'm sorry. Number six on the Exhibit 4A that Mr. Meeker turned in is the Brooklandville Fire Station.

A. That's down here on the southern part of the map.

Q. That would appear, just from looking at the map, to be out of the search area. Is that correct?

A. That is correct.

Q. Did you test it anyway?

A. We looked at it, yes.

Q. As I understand, there are small buildings there and a kind of a short pole. Were you able to determine whether you could mount antennaes on anything existing at the Brooklandville Fire Station and meet your coverage and capacity needs?

A. We could not.

Q. Assuming again that the owners of that property would allow to you erect some sort of structure on the property, and assuming you could build such a thing, would that work with your system?

A. If we built, hypothetically, something about

there, we would end up -- that location is not as desirable as the proposed location. It's too far south, again, and it would end up creating some gaps, and a need for other poles would be required.

Q. Let me see if I understand what you just said. What's the significance of it being too far south that create problems with other sites further south?

A. It duplicates some coverage, ends up not meeting our objectives for the area in terms of providing coverage that we are anticipating.

A site down here also has a disadvantage because our cell sites actually have an array of three antennaes, set of antennas, one set that points northward, one set that points southeast, and one set that points southwest.

So a cell light location that's up closer to the intersection ends up taking more advantage of the capacity issues that we are trying to address.

A cell site that's located down here would provide -- make one of those sectors, one of those antennaes pointing in a certain direction cover more area, thus potentially having less capacity.

Q. Is there another site further south than that called the Bare Hills site?

A. We have a site that's just south of this location called Bare Hills.

Q. Would placing a tower of some sort at the Brooklandville Fire Station create problems for the Bare Hill site?

A. We would have duplicate coverage and wouldn't be gaining anything. And we would end up having some type of interference problems throughout our reuse scheme.

Q. You said if you moved this that far south, it would create coverage problems in the north, is that what I'm understanding?

A. It would create some coverage gaps due north and northeast up through here.

Q. What would you need to do to resolve those gaps?

A. We would still need to erect some other type of structure in those areas.

Q. So if you moved it that far south, you'd need two instead of one, is that correct?

A. Potentially more.

Q. Now, the last site that Mr. Meeker referred to is the Cloisters Museum referenced as number seven on Exhibit 4A. Can you point that one out?

A. That sits up on the top of the ridge there.

Q. As we heard in testimony, that's a mansion home of two or three stories. Were you able to determine, based on your modeling, whether you could simply mount some kind of antennaes on that home or anywhere on the property and meet your coverage and capacity needs?

A. Mounting on the structure there, because it's heavily wood, we wouldn't be clearing some of the local obstructions of trees and whatnot of those trees. And a facility there on the structure itself would be hampered by that.

Q. So, again, you would need to build a tower of some variety on that property?

A. We would end up having to build something that cleared trees, cleared the local obstructions, something in the range of eighty to a hundred feet.

And the facility on top of that ridge also poses some interference problems because it sits on such a high

area, were we to erect a structure there, it would provide the coverage that we need, but we might not be able to handle capacity because we wouldn't be able to engineer clean frequencies or reuse our frequencies well in that area.

Q. You testified that that site is right at the top of that ridge, correct?

A. That is correct.

Q. And you would have to, whatever you built there, would have to extend up above the tree line?

A. That is correct.

Q. So whatever you built there would be visible throughout the entire area, correct?

A. I would say so, yes.

Q. Now, in the immediate vicinity of this site itself, even though it's not specifically marked on the map, we heard testimony from Mr. Morelock about a retirement community called Brightwood that consists of a number of individual buildings.

Can you simply mount antennae on any of the Brightwood buildings and meet your coverage and capacity

needs?

A. No. Again, due to the terrain factors in the area, something on Brightwood would not meet our needs.

Q. Why not?

A. It wouldn't provide proper coverage that we are trying to achieve to the north and south, specifically, also down towards the west.

Q. Is that because the buildings aren't tall enough?

A. That's correct.

Q. Finally, we heard testimony that there are a number of BG&E transmission towers in the area. Can you simply throw some antennaes up on one of those?

A. Again, those structures are approximately 130 feet, and locating something on the BG&E structures still is not high enough to meet our needs going to the west.

Q. Based on all the the information that was made available to you by the real estate department, everything you have heard in testimony so far here, are there any existing structures in the area that you're aware of upon which you could simply mount equipment and solve these coverage and capacity problems?

A. There are none that I am aware.

Q. Let me take you through some of the specific portions of the Baltimore County zoning regulations that we need to address.

Will the site as proposed comply with all applicable governmental and industry standards for the emissions of energy?

A. Yes, it will.

Q. Will the site as proposed interfere in any way in any form of communication or media?

A. No, it will not.

Q. Why not?

A. We are assigned a block of frequencies so we specifically have our own set of channels that don't interfere with other frequencies.

Q. Will the site create any sort of automobile traffic?

A. After initial construction, in general, we have maintenance people who would visit for routine maintenance potentially once a month. If the site goes down for some type emergency, they would visit the site.

Q. There are three users, correct?

A. As far as I understand.

Q. They would all have the same maintenance needs you have?

A. I would assume that, yes, they would, yes.

Q. Does the site post any sort of a fire hazard?

A. No, it does not.

Q. Are the sites electronically monitored in any way for fire?

A. We monitor for a number of things, and fire, heat source is one of them.

Q. Will Cellular One agree to take this structure down if and when the use is terminated?

A. We will.

Q. Will Cellular One provide a certification by a professional registered engineer as required by the code indicating the structure meets all safety requirements when that is required by the code?

A. Yes, we will.

Q. I think we discussed, is it going to be lighted in any fashion?

A. No, it will not be.

Q. Just a couple final things. You have been at Cellular One for how long?

A. Over three and a half years.

Q. During that three and a half years you have been at Cellular One, how long has this been a significant trouble spot for Cellular One?

A. It was a trouble spot before I came to Cellular One.

Q. In your capacity as a senior radio frequency engineer during the years you have been work at Cellular One, have you been trying to engineer a solution to the coverage and capacity problems in that area?

A. We have been trying -- we have tried all sorts of things, tried to modify existing sites, looking for a candidate which came about from this search area, the proposed location.

Q. Have you found, based on your years of looking into the coverage and capacity issue, any solution to the coverage and capacity problems other than the erection of a facility of the type we are here to talk about today?

A. We found none that would, except for this facility, that would meet our needs.

MR. NELSON: I don't have any further questions. Your witness.

THE CHAIRMAN: Five minutes. Thank you.

(A recess was taken.)

THE CHAIRMAN: Mr. Zimemrman?

MR. ZIMMERMAN: Yes, sir. Sometime before I begin questioning, I'd like to note Mr. Lidie, who had anticipated being out of the country, is here. He did not go out of the country.

He's also expressed to me an interest in representing himself. And after I conclude with my questioning of this witness, Mr. Lidie indicated he would like potentially to have some questions, so I wanted to alert the Board of that, since I do not represent Mr. Lidie.

THE CHAIRMAN Certainly. Are you ready to proceed?

MR. ZIMMERMAN: I am ready to proceed.

THE CHAIRMAN: Your witness.

runs through the property.

Q. Anyway, there's a downward slope which one would expect from the monopole's precise location down to the stream, correct?

A. That's correct.

Q. All right. The elevation above sea level, now turning to Green Spring station, give us the elevation above sea level of that? Your site number one on Applicant's Exhibit 4A.

MR. NELSON: Do you have the exact one?

A. It's approximately 300, 300 -- less than 320, somewhere in that range.

Q. Between 310 and 320?

A. Somewhere in between.

Q. So it's actually at a higher elevation than the subject site?

A. That's correct.

Q. What about the State Highway Administration Brooklandville Office?

A. It is slightly less than 300 feet.

Q. Again, a higher elevation than the subject site,

MR. NELSON: Objection.

THE CHAIRMAN: Sustained.

Q. The Trinity Assembly of God -- again, a 165 foot monopole could serve your needs, is that correct?

A. That is correct.

Q. And you don't have any information on the size of the Trinity Assembly of God site?

A. I'm not familiar with that.

Q. What about the Valley Inn Restaurant, did it occur to you to look at the Valley Inn parking lot site?

A. It was not a candidate that was brought in for us, although given its physical location to -- with respect to the ridge, I would feel confident in saying it would not meet our needs.

Q. Even though it's at a higher elevation?

A. Than the proposed location?

Q. Right.

A. That's correct.

Q. You didn't test out -- you didn't actually run it through your computer, did you?

A. It was not given to me as a candidate, but given

the fact that the ridge is a 500 foot ridge immediately west of the restaurant, I would safely say it would not cover our objectives.

Q. With a 165 foot tower?

A. With a 165 foot tower.

Q. How much further east or south is the subject site than the Valley inn parking lot?

A. I'm sorry?

Q. What's the distance between the subject site and the Valley Inn parking lot, do you know?

A. I don't know.

Q. It's right across the interstate highway bridge, is it not?

A. As far as I know, yes, it is a relatively short distance.

MR. NILSON: Objection.

Q. 200 feet? You don't know?

A. I don't know.

Q. Can you tell from your exhibit?

A. I could take --

Q. You could scale it?

after our last meeting here, all the water from Falls Road, from I-83, from north of 695, and from Ruxton Road comes right down through that area?

MR. NELSON: Objection.

THE CHAIRMAN: Sustained. This is not the witness to ask that question, Mr. Lidie.

MR. LIDIE: May I ask one more question?

THE CHAIRMAN: Of course.

Q. You're an engineer, sir?

A. I have a Bachelor of Science degree in electrical engineering.

Q. Would you agree with me that water flows downhill?

MR. NELSON: Objection.

THE CHAIRMAN: Overruled.

A. Yes.

MR. LIDIE: Thank you.

THE CHAIRMAN: Mr. Jimreivat, you may step down. Thank you.

Who's your next witness, Mr. Nelson?

MR. NELSON: Mr. Ronald Lipman is going to

therefore, to track actual sales, see the response, or the market response via sales prices of nearly 400 houses located in proximity to and outside proximity to, but within the same subdivision of these two cell sites.

Q. In Potomac?

A. In Potomac. In other words, I was able to replicate the condition that would be extant if you build a tower here, luxury housing in and around a tower site.

Q. What is the general character of the area?

A. The Potomac area, over and above the cost of houses, is similar to the general character of this area.

Q. Meaning predominantly residential?

A. Yes. In fact, the prices are higher there than they are here. Hard to believe, but they are. And the data allowed me -- let me digress one movement.

In reviewing the mid-surroundings of the subject property, obviously I took note of the most proximate housing -- the most proximate house is Mr. Lidie's home -- and of the streetscape, which is the entranceway, if you will, to the Meridian Nursing Home and Brightwood facility that exist adjacent to the proposed site and adjacent to

Mr. Lidie's house.

The importance was significant, if you will, of that streetscape as it relates to the study is that we have all become accustomed, or used to, we take it for granted, that telephone poles and electric poles exist along most of our streets, most of our main streets or collector streets, and those telephone poles are impacted, if you will, on our visual identification with where we are, and we have become used to them.

And I have some photographs which I'd like to show the panel, the Board, later, that demonstrate what that streetscape is on Falls Road right outside the Brightwood entrance, and then once on the Brightwood site, the views of the electrical transmission towers, which also impact dramatically on what the view amenities or the view negatives of that site are.

All of this goes into a macrostudy to determine what the market's reaction to a cell monopole with appropriate mechanics on the top, how it will react in terms of value response.

Will it perceive this tower as negative and

therefore pay less for the real estate in the immediate and general area, or will it more or less "ho-hum," and say, "What else is new? I'm already impacted by overhead power transmission lines of 130 feet in height. I am already seeing the electric and telephone poles along the Fall Road corridor where all this expensive housing is. It's just part of what I'm used to."

And perception is what drives the market price. And the market's perception of communication towers is essentially the same response it has to what it has lived with for years, and that's the existence of telephone poles along almost every artery I am familiar with in this area.

Q. Now, extracting something from that overall group of factors that you considered, namely, the study that you conducted with respect to real estate values in Potomac, what were you able to determine were the impacts of the presence of the two monopoles in the Potomac area on the real estate values of these expensive homes in the area?

A. Let me give you a predicate for the study. First we identified by tax maps, which are the same in

Montgomery County as they are there, the location of the two cell Cellular One towers and three subdivisions which surrounded them and proximate to them, and within those subdivisions which houses were within a thousand feet.

That's what our criteria was. And we compared the price of homes within a thousand feet of the towers with homes in the same subdivision, but outside the 1000 foot demarcation.

We did matched pairs study. We did an appreciation study. And we looked at 392 sales of which fifteen or twenty percent were located within a thousand foot setback, if you will, from the towers.

And the bottom line was we discerned no market reaction to the existence of those towers.

Now, I understand these towers are monopoles, they are not lattice-work erector set types. They are certainly as tall, if not taller, than the tower proposed here. The areas are wooded, generally, as we have here, so that when you're on the ground, often the trees themselves shield you from a longer view.

And, therefore, we have there a replicated

inspections. My knowledge of the existing view impediments, if you will.

The one thing I have not mentioned, and I should have, is this is also a beltway/expressway/oriented site. There are noise problems and there are also visual problems related to the beltway and the expressway, notably the ability to see traffic, ability to see signs, the green and white signs that are built over the north and south and east and westbound lanes of the expressway and beltway, respectively, and these also impact on what people are used to and what people accept and what is the norm.

Based on all that information, I reached the conclusion that the development or construction, if you will, of a 165 foot monopole will have absolutely no impact on property values in the neighborhood.

Q. Seated at the table next to me is Mr. Lidie, who's without question the closest property owner to where the pole will be, and I suspect he's curious about what your opinions are of the potential impact of this site on his particular property.

Do you have any questions to that --

MR. ZIMMERMAN: I am going to object to the inclusion in the questions of about what Mr. Lidie may or may not be suspicious about.

Q. Let me put it --

THE CHAIRMAN: Sustained.

Q. Do you have an opinion about what impact, if any, this proposed site will have on Mr. Lidie's property values?

A. I do.

Q. What is that opinion?

A. No effect.

Q. What's the basis for that opinion?

A. Mr. Lidie, respectfully, Mr. Lidie, you are located now in an area that has already been impacted by the Jones Falls Expressway to your immediate east, the ramp from the Baltimore beltway to the north, a six foot power line easement running along the north/south access just west of you which supports a 130 foot lattice work or, if you will, erector set transmission line.

You enter your property off Brightwood Road from

Falls Road at which point my photo suggests you look at 35 or 40 foot brown wood telephone and electric poles which are not attractive.

You are already visually impacted. This will have no -- this will bring nothing new to the table in terms of the way the market will perceive your property when it goes to value it, if you decide to sell it.

MR. NILSON: I have here what you have described as a board which contains a number of photographs of the area of Mr. Lidie's house and so on.

At this point, I'd like to ask Mr. Zimmerman -- I assume you would like to take a look at this before I ask the witness any questions about it?

MR. ZIMMERMAN: That would be helpful.

THE CHAIRMAN: Do you want to take a few minutes?

MR. ZIMMERMAN: Thank you, Mr. Chairman.

THE CHAIRMAN: Take your time.

Q. Mr. Lipman, with respect to the opinion you rendered as to the area generally and Mr. Lidie's property particularly, I am going to show you what ultimately what I am going to ask be marked as Appellant Exhibit No. 9,

Q. That photograph you're referrring to, where was that taken?

A. It was out on Westminster Pike. And this pole does not set back as far from Falls Road -- from Westminster Pike as the subject is proposed to set back from Falls Road.

Now, on the site, I took a photo, actually two photos from the same location. I have a zoom lens I used, effectively a tepcopic (phonetic) lens, to take that photograph, but this depicts Mr. Lidie's house and lot and this is a closeup of his home.

I am not -- apparently this is an older home and I would call it a modest home which Mr. Lidie lives in and it is, to access it, you esentially go under this site. You drive by and go under the six foot right-of-way with the towers and their lines are quite visible.

MR. NELSON: Thank you. I am going to mark this as Appellant No. 9.

THE CHAIRMAN: Number Nine.

Q. Mr. Lipman, other than those things that you have told us about, do you have any additional opinions about

Q. I mean the acreage on which the monopoles -- lots upon which the monopoles were developed?

A. No, I do not.

Q. Do you know whether they were commercial property?

A. No, they are not commercial. It's all residential.

Q. Well, one was, of course, the fire company?

A. Residential, still residential.

Q. And the other was a school?

A. Yes. Institution.

Q. Can you also assume citizens in Ruxton-Riderwood will react the same as citizens in Potomac?

MR. NELSON: Objection.

THE CHAIRMAN: Sustained.

Q. You're assuming there's no cultural differences that would affect purchasing decisions in Ruxton as opposed to Potomac?

A. I chose Potomac because I perceived the subject location to be of high prestige and of particularly high prices and there wasn't another place I could go in

Baltimore County to replicate that.

I believe that many a person also buying high priced homes, whether they are in Potomac or Ruxton, have the same sensitivity.

Q. Until it's actually done in Baltimore County and we have a study in Baltimore County, we won't know for sure?

MR. NELSON: Objection.

THE CHAIRMAN: Sustained.

Q. All right. The BG&E telephone poles on Falls Road that you have talked about, or you said, I think, were forty to forty-five feet --

A. Thirty-five to forty.

Q. Those are only along the road, correct?

A. Yes.

Q. They are not in the interior where some of the houses are?

A. Talking about Brightwood or other subdivisions?

Q. Within Brightwood, and there's thirty-five to forty -- you don't have a track of thirty-five to forty-five foot poles running within Brightwood?

Q. The monopole is over here?

A. The monopole --

Q. You're looking from the monopole to my house?

A. Towards the woods and the south, southwest and southeast.

Q. What about from -- you're saying that the survey which you did took into consideration 1000 feet, is that correct?

A. All lots within a thousand feet. Some were almost immediately adjacent.

Q. What about from the property line to the base of the monopole, we'll say within 500 feet, did you do anything about that?

A. Yes. As I mentioned, some of the sales that are noted in bold print in the addendum of my report were located literally the next lot adjacent to the monopole site.

Q. How about within 300 feet?

A. I'd say they are closer than that. These lots are such that many of the houses, some of those houses were closer to the the monopole site, and your house is

today, particularly states, does it not, that nothing in 502.7C shall, quote, be deemed to prohibit the granting where appropriate of a variance from such requirements pursuant to Section 307 of these regulations, end quot.

A. It indicates that explicitely.

Q. Are you familiar with anyplace else in the Baltimore County zoning regulations where the enableling regulations such as this specifically contemplates variances?

A. No. To the contrary. There are at least -- there is at least one other section in the regulations that prohibit any variance to that particular portion of the regulations. So this is an extraordinary and an unusual language for the Baltimore County zoning regulations to contain.

Q. Now, let's get right into the meat of the variance issue. Based on your analysis, based on the facts you have heard, based on your expertise and background in the area, what is it about this proposed sighting that, and particularly the parcel, that makes it unique and unusual in such a manner that the zoning

And it's burdened also by a forest cover which prudent in my mind would say that forest cover ought to be retained. It ought not to be disturbed.

When all is said and done, that exhibit indicates that but .27 acres of the total site of three acres is really available for development. That's only nine percent of the site.

And based on my analysis of other properties in this area, it has an extraordinary set of limitations affecting how development can occur on it. It is unique and different from any other property in the area.

And basically applying the standards of the zoning regulations with respect to setbacks and area just don't work. I think it places an inordinate burden on this property if it is to be used for an otherwise permitted wireless and receiving facility.

Q. I think you entered into this a little bit, but to make it clear, part of the burdens on this property, the other unique factors you described, are they shared by most of the properties in the area?

A. No, not in the exact manner they occur on this

otherwise permitted special exception use. It just couldn't comply with that standard. And if all of those standards were to be complied with, it could not function as a site.

Q. Is there any way this site could be configured so the necessary setbacks and acreage requirements would be met?

A. No. As it is, it's the only site south of the Baltimore beltway that seems to be available in the first place.

Q. Are the proposed variances within the spirit and intent of the area regulations?

A. I believe they are, and cite specifically the provisions of Section 502.7C, where variances were anticipated as possible in the regulations, also in the context that a cellular site here is a permitted special exception use, this is, I think, in accordance with the spirit and intent of the Baltimore County regulations.

Q. Let's switch over now to talk about the various special exception requirements. Are you familiar with those portions of the Baltimore County zoning regulations

A. No. Again, this cell site is sort of a provider of services, rather than a consumer of public services.

Q. Will the site -- will there be an impact, in fact, that there is a proposed greenway that would run along the Jones Falls stream?

A. This site is configured so it would not have any impact on a potential greenway here because a greenway essentially is established to the edge of the flood plain, and any requisite buffers or setbacks therefrom, and clearly any development of this cell site, is well beyond where a potential greenway might be, if Baltimore County chose to initiate a greenway acquisition program along Jones Falls.

Q. Will the site as proposed interfere with adequate light and air?

A. No. It's a non-issue.

Q. Will the site as proposed be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the zoning regulations?

A. Not in my opinion, for the reasons stated.

Again, this is a use permitted by special exception. I think it clearly meets all of the requirements for a special exception, and I think eminantly in accordance with the spirit and regulations as they deal with radio transmitting and receiving facilities.

Q. Will the site as proposed by inconsistent with the impermeable surface and vegetative retention policies of the zoning regulations?

A. In a D.R. zone, there is no such requirement. But even so, I think the site plan clearly shows there's but minimal disturbance of the ground by the proposed cell site.

Q. You touched on this with respect to one of the earlier requirements, but do you believe the site will have any substantial or adverse impact on surrounding parkland or open space?

A. No. I believe there's no impact. And as stated, particularly with respect to the greenway, there's no conflict at all between the cell site and a potential greenway here.

Q. Based on your experience -- and I know you have

particular impact on this historic area?

A. I think when you look at the transportation history, the mill village history of Rockland, especially the rural history and the significance of the Green Spring Valley, the National Register District, and with my new research, the concept that, in fact, Harry Gilmore DSA, confederate states, did, in fact, come directly through that area when he left Towson, plus what we know now as Joppa Road to the Old Court Road area, north on Falls Road, directly passed all of these sites with his troops, he then went west to Cataloney and probably stayed at the Craddack barracks.

We have evidence that this is another important link to Civil War history in this research. I do not know -- I wish I could say that he stopped, you know, somewhere there, but I do not know that yet. But it's quite possible that we may uncover that.

Q. Can you put the time and context of Colonial Gilmore?

A. No. He was a major at that time.

Q. Can you put a --

you would designate that whole area as an historic corridor?

A. For purposes of this case.

Q. Generally, is that an historic corridor?

A. Yes, it is.

Q. Then this would be -- you used the term historic site, historic sites littered throughout that whole historic corridor from Old Court Road up to where Falls Road ends in Baltimore County?

A. I wouldn't use the word "littered," but I think one could find them, yes.

Q. Is it your position that any company should not be allowed to build a structure such as this anywhere where it can be visible from what you would call an historic structure or historic site?

A. Well, I tell you, I think I cannot answer your question the way it's phrased because "any" is too broad a word.

Q. Well, the types of buildings that you're talking about here, the Johnson estate, the Stevens-Cockey house, I assume that there are sites such as those all over

Baltimore County, are there not, historic houses, historic farms?

A. They are no sites like -- particularly like those with those historic backgrounds, no.

Q. Are you telling me there are no other historic houses --

A. No, no. I said with this particular historic background.

Q. There are other historic houses throughout Baltimore County, correct?

A. Yes.

Q. Is it your position that a facility like this shouldn't be erected anywhere where it would be visible from such an historic structure?

A. I feel that there should not be an adverse impact, and this is backed up by the Secretary of Interior standards and other regulations, there should not be an adverse impact that can be avoided.

Q. You call the adjacent impact visible?

A. In this particular instance, it's a visual impact.

MR. ZIMMERMAN: Objection. That's argumentive. There was also a lot of testimony as to how incomplete that balloon survey was and how many places were not looked at. It's unfair to, I think, to summarize the testimony in that way.

THE CHAIRMAN: I would agree with you, Mr. Zimmerman, at this point. You have established she was not here and I don't think it's necessarily within her baliwick, Mr. Nelson, to provide background for her to testify.

Q. You indicated you thought any intrusion -- you used the phrase "20th century intrusion into this area would negatively impact its historic significantce," correct?

A. Yes. A 20th century intrusion on an historic fabric is, in fact, a negative impact.

Q. That would include a new home?

A. Possibly.

Q. Now, let's talk about the Civil War history of the area. Is it your position that in any area where any organized troop movement occurred during the Civil War,

that area has historic significance?

A. Once again, you use the word "any." I really don't like to do that. I think we should stick to this particular one.

Q. I don't want to stick to this particular one. I am asking if Colonel Gilmore had also headed across whatever was the beltway in those days and wandered around in Dundalk, let's say, near what is now downtown Dundalk, would that area have Civil War significance?

A. It may very well. It may very well.

Q. So anyplace where that type activity occurred, in your opinion, would be historically significant?

A. If it can be documented and it can be discussed that this is what actually happened there.

Q. As far as troops marching from Maryland, you would agree with me, would you not, when Washington and LaFayette's combined army marched from Cecil County down through the state of Maryland and into Virginia on their way to Yorktown, that was historically significant, was it not?

A. I would say that was significant.

Q. Is it your position that Cellular One cannot build a monopole anywhere along the routes that those armies took?

A. That's not what you asked. You asked if that was an adverse impact.

Q. I am asking you right now, is it your position Cellulal One should not be allowed to build a monopole anywhere along the routes Lafayette and Washington took along the way to Yorktown?

A. I am going to have to answer it has to be looked at for individual research, I am going to have to answer.

Q. You have been to Antitium?

A. Yes.

Q. You are aware it is the best preserved battlefield in the country?

A. I know some people said that.

Q. Are you aware of a giant observation tower in the middle of the Antitium battlefield?

A. Yes.

Q. Does that ruin the significance of the Antitium battlefield?

Q. So it's your position, as I understand it, with respect to the type of historic structures and landmarks you referenced, that we should not be allowed to place a facility anywhere it could be seen from those sites, is that correct?

A. I think that I have already commented on the visual impact, yes,

Q. I just want you to answer my question. Are you saying that given all those places you mentioned, Rockland Mill, the Cloisters, the Johnson estate, the Stevens-Cockey house, on and on, we should not be allowed to build a structure that could be seen from any of those places?

A. I think we should not build a structure which is going to diminish -- in this case talking visually -- but also diminish the historicity of that corridor.

Q. So you're saying possibly if it can't be seen, it --

A. It may have other acrutirments that we don't want.

Q. Other visual landmarks -- are all locations in

PC. #1

DATE: 12/10/96

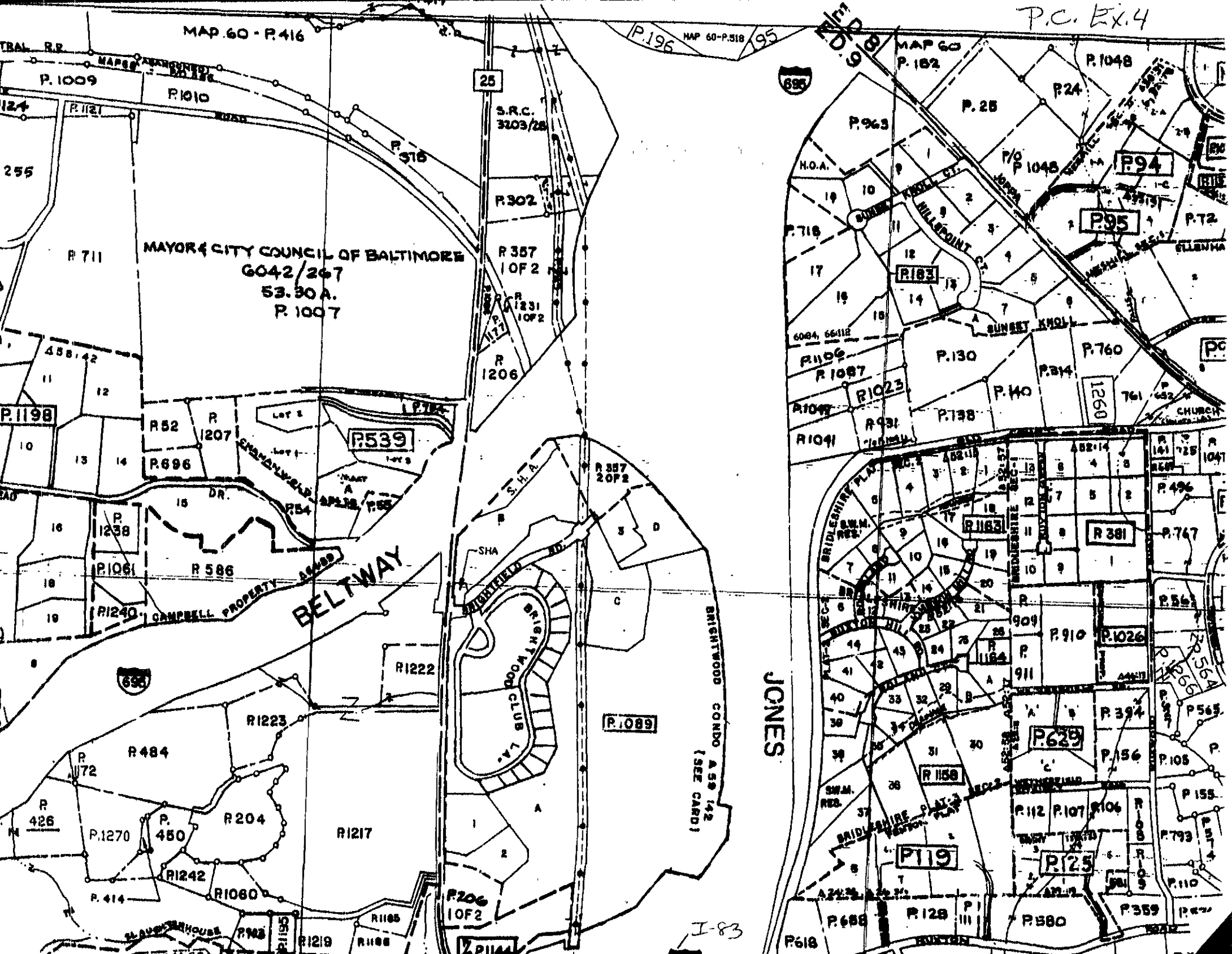
PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 96-360-XA

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	SARAH LORD 6134 BARROLL RD 21209	Ruxton-Riderwood Lake Roland Area Imp. Assoc. Inc.
✓	G. BROCK JOHNSON 10129 FALLS RD. 21022	RUXTON - RIDERWOOD LAKE ROLAND AREA IMPROVEMENT, ASSOC. INC.
✓	Wesley A LITTLE 516 Bright Field Rd 21092	Brooklandville Resident
✓	Josephine D. JOHNSON 10145 FALLS RD 21022	Brooklandville Resident (one of nearest neighbors)
	Susan J. Diedrich 10134 Falls Rd 21022	Brooklandville Resident
	Spencer H. Garrett 10220 Falls Rd 21022	Brooklandville Resident
✓	THOMAS M. BRUCKMAN P.O. BOX 1117 2202 OLD COURT RD. BROOKLANDVILLE, MARYLAND 21022	ROCKLAND HOME OWNER'S ASSOCIATION

P.C. Ex. 4


MAP 60 - P. 416
MAP 60-P.518
P.196
195
P.1009
P.1010
P.1121
25
S.R.C. 3203/28
P.318
P.302
R 357 1 OF 2
MAYOR & CITY COUNCIL OF BALTIMORE
6042/247
53.30 A.
P. 1007
R 711
R 231 1 OF 2
P.177
R 1206
P.1198
R52
R 1207
P.539
P.696
P.54
R 357 2 OF 2
S.H.A.
SHA
R 586
P.1061
P.1240
CAMPBELL PROPERTY
BELTWAY
695
R1222
R1223
R 484
R 72
R 426
P.1270
P. 450
R 204
R1217
R1242
R1060
P. 414
P.206 1 OF 2
R1144
P.1089
BRIGHTWOOD CLUB LA.
BRIGHTWOOD CONDO A 59 142 (SEE CARD)
JONES
I-83
MAP 60
P. 162
P.1048
P.24
P. 25
P.963
H.O.A.
P/O P 1048
P.94
P.95
P.72
P.718
R183
SUNSET KNOLL CT.
HILLSPOINT CT.
SUNSET KNOLL
P.1106
R 1087
P.130
P.760
P.814
R1023
P.140
P.1041
R 931
P.138
1260
761
CHURCH
BRIDLESHIRE PLAT
R 1163
R 381
P.747
P.496
P.909
P.910
P.1026
R 1164
P.911
P.394
P.629
P.156
P.105
R 1158
P.112
P.107
P.106
P.793
P.155
P119
P.125
P.110
P.688
R 128
P.580
P.359
P.618

MAP	GRID	PARCEL
69	2	

COPYRIGHT - MAP DIVISION - 1967,
MD. DEPT. OF ASSESS. & TAX.

P.C. #5

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
OWNER INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908003420

USE: COMMERCIAL

OWNER NAME: HATFIELD JOHN A,JR PRINCIPAL
PROUTT ELIZABETH S,ET AL RESIDENCE
MAILING ADDRESS: P O BX 711 NO
BROOKLANDVILE MD 21022-0711

TRANSFERRED
FROM: HATFIELD JOHN A DATE: 03/19/84 PRICE: $0

DEED REFERENCE: 1) / 6681/ 726
2)

TAX EXEMPT: NO

POTENTIAL TAX LIABILITY
* NONE *

PRESS: (F1) LOCATION INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
LOCATION INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908003420
NAME: HATFIELD JOHN A,JR USE: COMMERCIAL

PREMISE ADDRESS ZONING LEGAL DESCRIPTION
FALLS RD 9.662 AC
ES FALLS RD
AT HILLSIDE RD

MAP	GRID	PARCEL	SUBDIV	SECT	BLOCK	LOT	GROUP
69	2	357				81	

PLAT NO :
PLAT REF:

SPECIAL TAX AREAS -

PRIMARY STRUCTURE DATA		PROPERTY LAND AREA	COUNTY
YEAR BUILT	ENCLOSED AREA		USE
00	8,251 SF	9.66 AC	23

PRESS: (F1) OWNER INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
VALUE INFORMATION BALTIMORE COUNTY

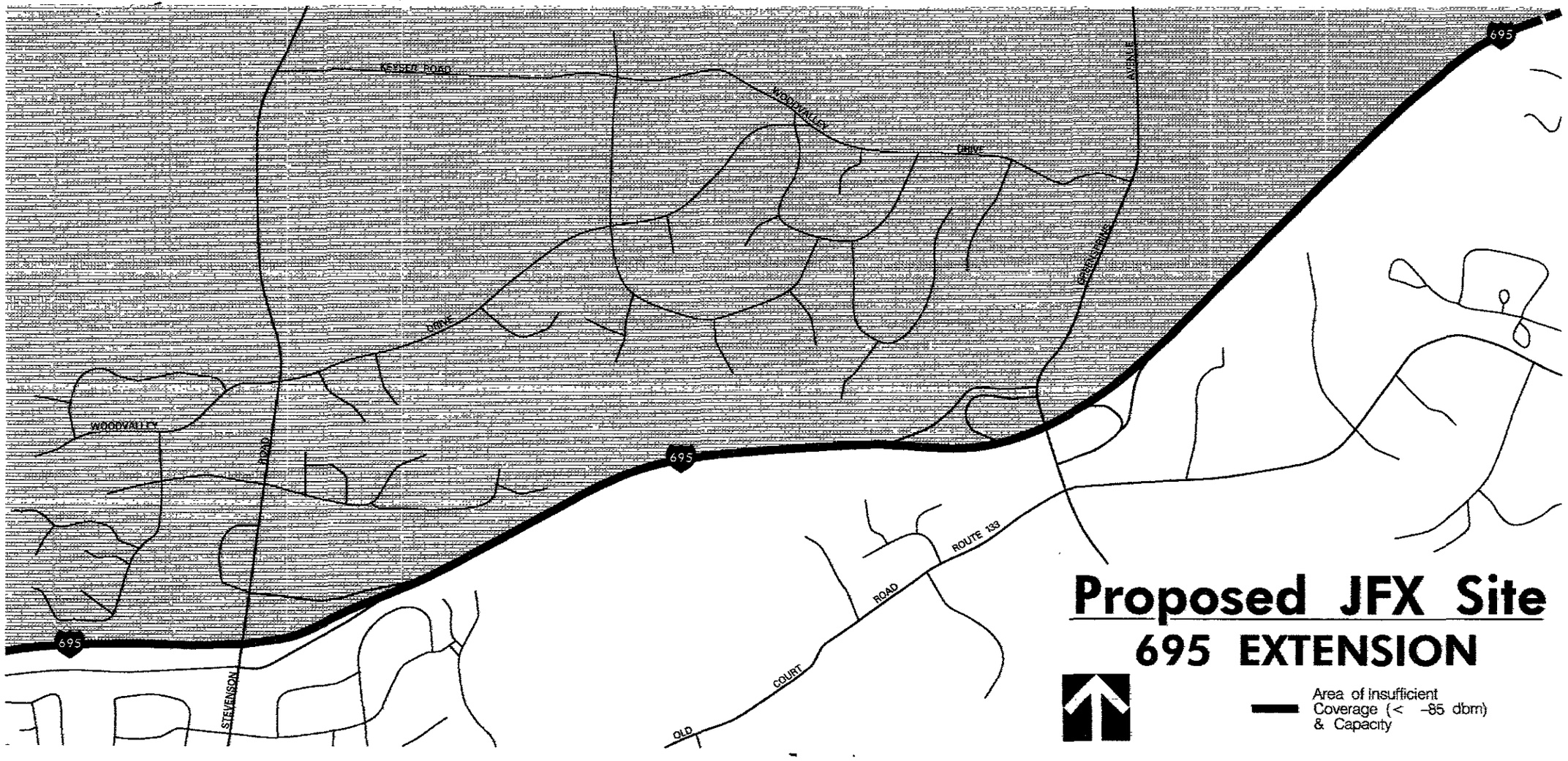
DISTRICT: 09 ACCT NO: 0908003420
NAME: HATFIELD JOHN A,JR USE: COMMERCIAL

	BASE VALUE	CURRENT VALUE AS OF 01/01/96	PHASE-IN VALUE AS OF 07/01/97	PHASE-IN ASSESSMENTS AS OF 07/01/96	AS OF 07/01/97
LAND :	212,660	262,660			
IMPTS :	334,890	367,860			
TOTAL :	547,550	630,520	602,862	230,080	241,140
PREF LAND:	0	0	0	0	0

PARTIAL EXEMPT ASSESSMENTS

	CODE	07/01/96	07/01/97
COUNTY	000	0	0
STATE	000	0	0
MUNICIPAL	000	0	0

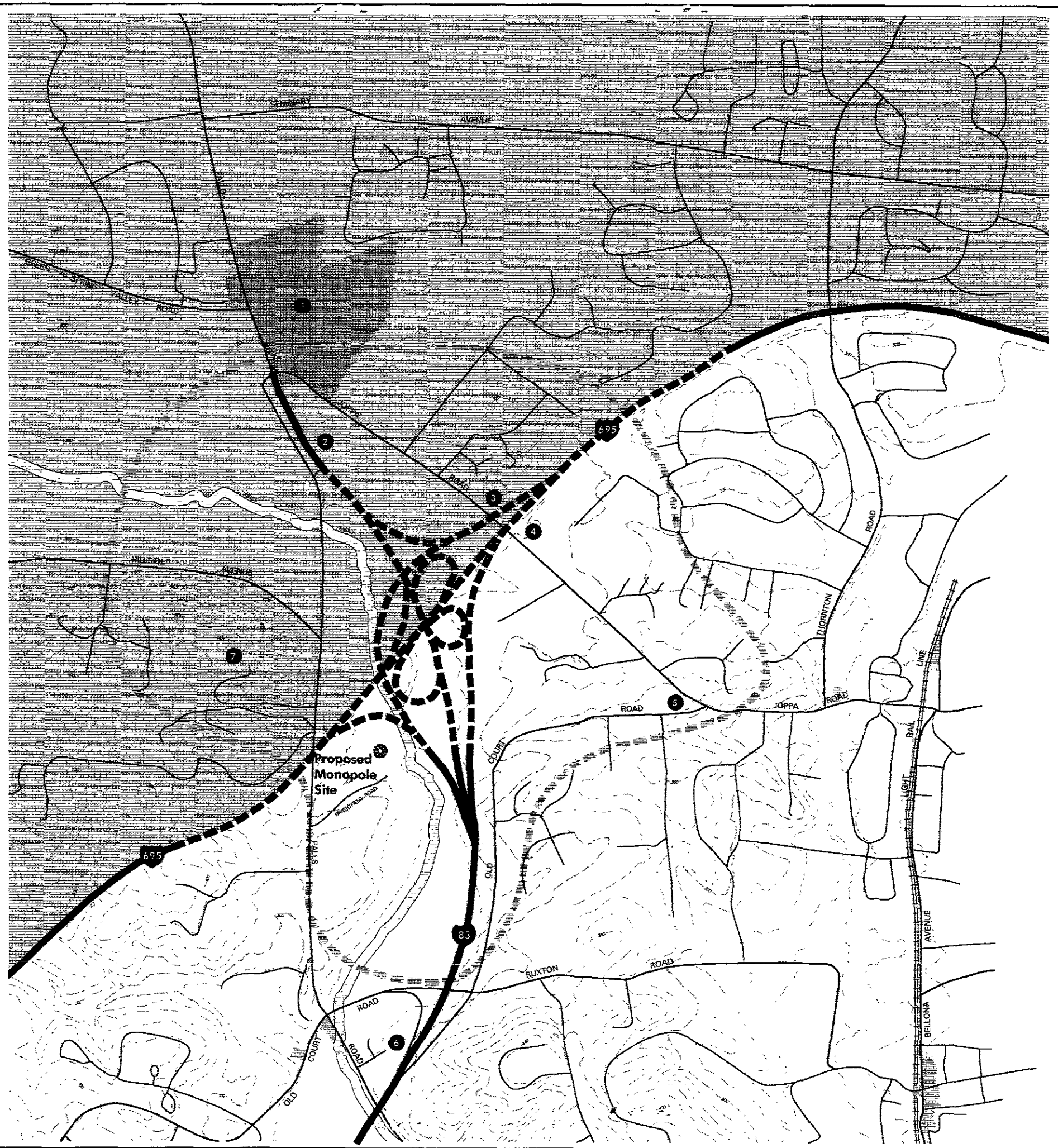
PRESS: (F1) OWNER INFO (F2) LOCATION INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY



Proposed JFX Site
695 EXTENSION

Area of Insufficient Coverage (< -85 dbm) & Capacity

MICROFILMED



CELLULAR ONE®

Proposed JFX Site Location Map

Showing Diligent Search & Engineering Concerns

Legend

Zoning Classifications

- Residential
- BL, BM, BR
- RO, O1, O2, OT
- Exclusion Zone Established by Case #87-177-XSPHA

Site Data

- Limit of Search Area
- Proposed Monopole Site
- Area of Insufficient Coverage (<-85 dbm) & Capacity
- Area of Insufficient Capacity

Other County Data

- Major Roads
- Water
- Major Contours

Search Area Site Candidates

1. Greenspring Station
2. SHA Brooklandville Office
3. *Valley Presbyterian Church*
4. Trinity Assembly of God Church
5. Hunt's Church
6. Brooklandville Fire Station
7. Cloisters Museum Site

MICROFILMED

Scale: 1" = 400'

0 400 800 1200 1600 2000

DMW
Daft · McCune · Walker, Inc.
Land Planning • Landscape Architecture • Engineering
Applied Environmental & Computer Sciences

PC. #1

DATE: 12/10/96

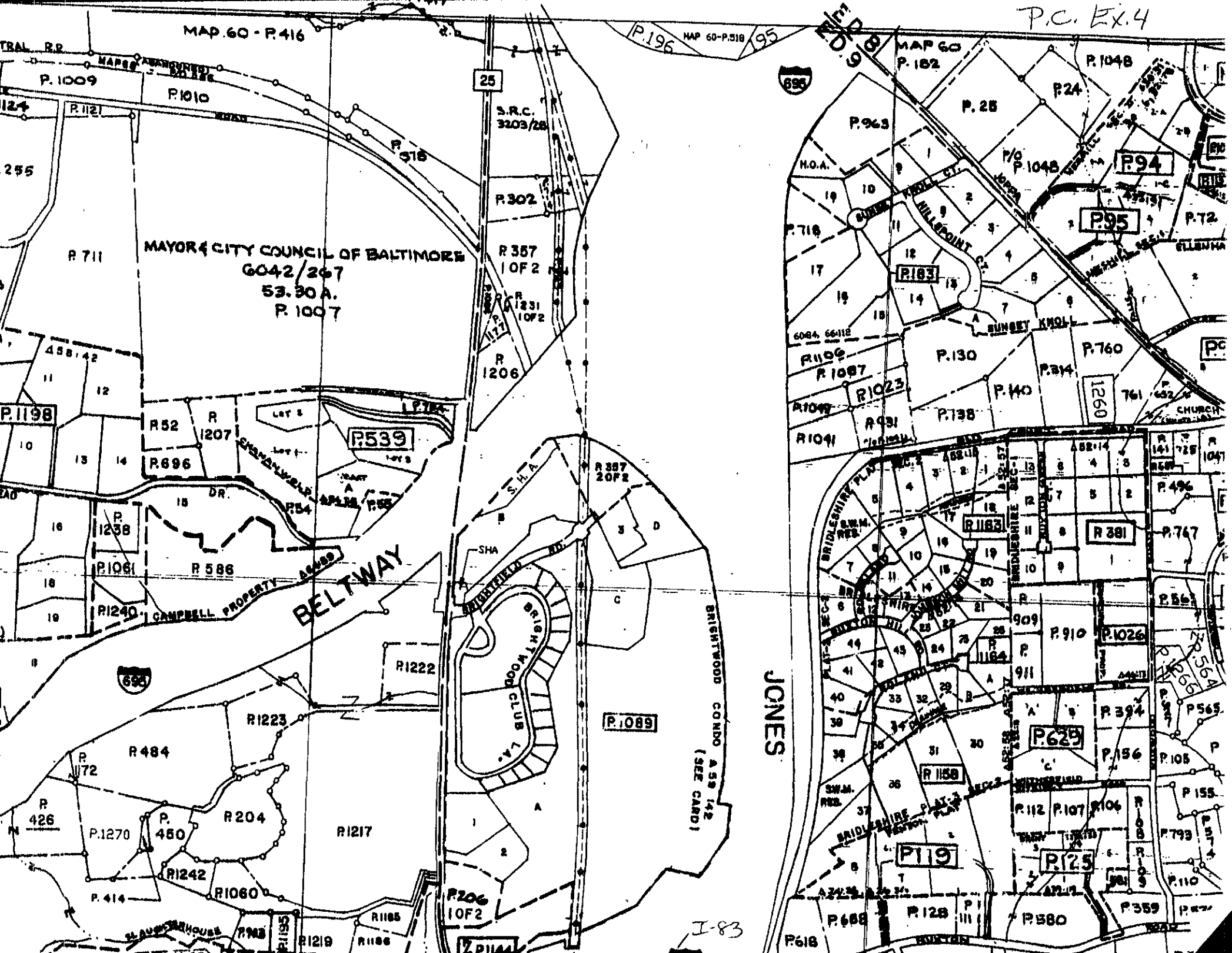
PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 96-360-XA

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	SARAH LORD 6134 BARROLL RD 21209	Ruxton-Riderwood Lake Roland Area Imp. Assoc. Inc.
✓	G. BROCK JOHNSON 10129 FALLS RD. 21022	RUXTON - RIDERWOOD LAKE ROLAND AREA IMPROVEMENT, ASSOC. INC
✓	Wesley A LIDIE 516 Bright Field Rd 21092	Brooklandville Resident
✓	Josephine D. JOHNSON 10145 FALLS RD 21022	Brooklandville Resident (one of nearest neighbors)
	Susan J. Diedrich 10134 Falls Rd 21022	Brooklandville Resident
	Spencer H. Garrett 10220 Falls Rd 21022	Brooklandville Resident
✓	THOMAS M. BRUCKMAN P.O. BOX 1117, 2202 OLD COURT RD. BROOKLANDVILLE, MARYLAND 21022	ROCKLAND HOME OWNER'S ASSOCIATION

P.C. Ex. 4


MAP 60 - P. 416
P. 1009
P. 1010
P. 1121
P. 1124
P. 255
25
S.R.C. 3203/28
P. 578
P. 302
R 357 1 OF 2
R 231 1 OF 2
P. 177
R 1206
MAYOR & CITY COUNCIL OF BALTIMORE
6042/267
53.30 A.
P. 1007
P. 711
P. 1198
R 52
R 1207
P. 696
P. 539
LOT 5
LOT 1
LOT 3
LOT A
P. 54
P. 55
DR.
P. 1258
P. 1061
R 586
P. 1240
CAMPBELL PROPERTY ADDED
BELTWAY
695
R 357 2 OF 2
S.H.A.
SHA
BRIGHTFIELD RD.
BRIGHTWOOD CLUB LA.
BRIGHTWOOD CONDO A 58/142 (SEE CARD)
P. 1089
R 1222
R 1223
R 484
P. 72
P. 426
P. 1270
P. 460
R 204
R 1217
R 1242
R 1060
P. 414
P. 206 1 OF 2
R 1144
R 1219
R 1186
R 1185
P. 963
H.O.A.
P. 1048
P. 28
P. 24
P. 94
P. 95
P. 72
P. 718
P. 183
BUNGEY KNOLL
HILLSPOINT CT.
P. 130
P. 760
P. 314
P. 140
P. 138
R 1106
R 1087
R 1023
R 1041
R 931
1260
761
CHURCH
BRIDLESHIRE PLAT 1
BRIDLESHIRE PLAT 2
BRIDLESHIRE PLAT 3
R 1163
R 381
P. 747
P. 496
P. 909
P. 910
P. 911
P. 1026
P. 1164
P. 625
P. 394
P. 156
P. 565
P. 105
R 1158
P. 112
P. 107
P. 104
P. 793
P. 155
P. 119
R 125
P. 110
P. 359
P. 580
P. 688
R 128
P. 618
JONES
I-83

MAP	GRID	PARCEL
69	2	

COPYRIGHT - MAP DIVISION - 1967,
MD. DEPT. OF ASSESS. & TAX.

FILED

P.C. #5

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
OWNER INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908003420

USE: COMMERCIAL

OWNER NAME: HATFIELD JOHN A,JR
PROUTT ELIZABETH S,ET AL
PRINCIPAL RESIDENCE NO
MAILING ADDRESS: P O BX 711
BROOKLANDVILE MD 21022-0711

TRANSFERRED FROM: HATFIELD JOHN A DATE: 03/19/84 PRICE: $0

DEED REFERENCE: 1) / 6681/ 726
2)

TAX EXEMPT: NO

POTENTIAL TAX LIABILITY

* NONE *

PRESS: <F1> LOCATION INFO <F2> VALUE INFO <F5> RETURN TO LIST SCRN
<F6> SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
LOCATION INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908003420
NAME: HATFIELD JOHN A,JR

USE: COMMERCIAL

PREMISE ADDRESS
FALLS RD

ZONING

LEGAL DESCRIPTION
9.662 AC
ES FALLS RD
AT HILLSIDE RD

MAP	GRID	PARCEL	SUBDIV	SECT	BLOCK	LOT	GROUP
69	2	357				81	

PLAT NO :
PLAT REF:

SPECIAL TAX AREAS -

PRIMARY STRUCTURE DATA		PROPERTY LAND AREA	COUNTY USE
YEAR BUILT	ENCLOSED AREA		
00	8,251 SF	9.66 AC	23

PRESS: (F1) OWNER INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
VALUE INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908003420
NAME: HATFIELD JOHN A,JR USE: COMMERCIAL

	BASE VALUE	CURRENT VALUE AS OF 01/01/96	PHASE-IN VALUE AS OF 07/01/97	PHASE-IN ASSESSMENTS AS OF 07/01/96	PHASE-IN ASSESSMENTS AS OF 07/01/97
LAND :	212,660	262,660			
IMPTS :	334,890	367,860			
TOTAL :	547,550	630,520	602,862	230,080	241,140
PREF LAND:	0	0	0	0	0

PARTIAL EXEMPT ASSESSMENTS

	CODE	07/01/96	07/01/97
COUNTY	000	0	0
STATE	000	0	0
MUNICIPAL	000	0	0

PRESS: (F1) OWNER INFO (F2) LOCATION INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

P.C. #6

ADOPTED

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
OWNER INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908011860

USE: RESIDENTIAL

OWNER NAME: HATFIELD JOHN A,JR
HATFIELD G JANET
MAILING ADDRESS: P O BX 691
BROOKLANDVILE MD 21022-0691

PRINCIPAL RESIDENCE NO

TRANSFERRED FROM:

DEED REFERENCE: 1) / 5017/ 608
2)

TAX EXEMPT: NO

POTENTIAL TAX LIABILITY

* NONE *

PRESS: (F1) LOCATION INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
LOCATION INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908011860
NAME: HATFIELD JOHN A,JR

USE: RESIDENTIAL

PREMISE ADDRESS
FALLS RD

ZONING

LEGAL DESCRIPTION
1.5 AC ES FALLS RD

1320 S JOPPA RD

MAP	GRID	PARCEL	SUBDIV	SECT	BLOCK	LOT	GROUP
69	2	302				81	

PLAT NO :
PLAT REF:

SPECIAL TAX AREAS -

PRIMARY STRUCTURE DATA		PROPERTY LAND AREA	COUNTY
YEAR BUILT	ENCLOSED AREA		USE
0000		1.50 AC	04

PRESS: (F1) OWNER INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
VALUE INFORMATION BALTIMORE COUNTY

DISTRICT: 09 ACCT NO: 0908011860
NAME: HATFIELD JOHN A,JR

USE: RESIDENTIAL

	BASE VALUE	CURRENT VALUE AS OF 01/01/96	PHASE-IN VALUE AS OF 07/01/97	PHASE-IN ASSESSMENTS AS OF 07/01/96	PHASE-IN ASSESSMENTS AS OF 07/01/97
LAND	78,750	78,750			

IMPTS	:	0	0			
TOTAL	:	78,750	78,750	78,750	31,500	31,500
PREF LAND:		0	0	0	0	0

PARTIAL EXEMPT ASSESSMENTS

	CODE	07/01/96	07/01/97
COUNTY	000	0	0
STATE	000	0	0
MUNICIPAL	000	0	0

PRESS: (F1) OWNER INFO (F2) LOCATION INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

P.C. #7

MICROFILMED

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
OWNER INFORMATION BALTIMORE COUNTY

DISTRICT: 03 ACCT NO: 1700004876

USE: RESIDENTIAL

OWNER NAME: HATFIELD JOHN A,JR

PRINCIPAL RESIDENCE YES

MAILING ADDRESS: P O BX 711
BROOKLANDVILE MD 21022-0711

TRANSFERRED
FROM: PARKER DUDREA K DATE: 12/29/75 PRICE: $49,500

DEED REFERENCE: 1) / 5596/ 344
2)

TAX EXEMPT: NO

POTENTIAL TAX LIABILITY

* NONE *

PRESS: (F1) LOCATION INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
LOCATION INFORMATION BALTIMORE COUNTY

DISTRICT: 03 ACCT NO: 1700004876
NAME: HATFIELD JOHN A,JR

USE: RESIDENTIAL

PREMISE ADDRESS
10512 FALLS RD

ZONING

LEGAL DESCRIPTION
2.669 AC ES FALLS RD
60 N HILLSIDE RD

MAP	GRID	PARCEL	SUBDIV	SECT	BLOCK	LOT	GROUP
69	2	378				81	

PLAT NO :
PLAT REF:

SPECIAL TAX AREAS -

PRIMARY STRUCTURE DATA		PROPERTY LAND AREA	COUNTY USE
YEAR BUILT	ENCLOSED AREA		
1901	2,799 SF	2.66 AC	04

PRESS: (F1) OWNER INFO (F2) VALUE INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

M.D.A.T. REAL PROPERTY SYSTEM 12/11/96
VALUE INFORMATION BALTIMORE COUNTY

DISTRICT: 03 ACCT NO: 1700004876
NAME: HATFIELD JOHN A,JR USE: RESIDENTIAL

	BASE VALUE	CURRENT VALUE AS OF 01/01/96	PHASE-IN VALUE AS OF 07/01/97	PHASE-IN ASSESSMENTS AS OF 07/01/96	PHASE-IN ASSESSMENTS AS OF 07/01/97
LAND :	93,350	104,940			
IMPTS :	87,510	80,930			
TOTAL :	180,860	185,870	184,200	73,010	73,680
PREF LAND:	0	0	0	0	0

PARTIAL EXEMPT ASSESSMENTS

	CODE	07/01/96	07/01/97
COUNTY	000	0	0
STATE	000	0	0
MUNICIPAL	000	0	0

PRESS: (F1) OWNER INFO (F2) LOCATION INFO (F5) RETURN TO LIST SCRN
(F6) SELECT NEXT PROPERTY

P.C. #8

DEED — FEE SIMPLE — INDIVIDUAL GRANTOR — LONG FORM

6681 0726

STATE DEPARTMENT OF ASSESSMENTS & TAXATION

AGRICULTURAL TRANSFER TAX NOT APPLICABLE

SIGNATURE _____ DATE _____

CLERK _____ DATE _____

This Deed, MADE THIS 15th day of February

in the year one thousand nine hundred and eighty-four by and between HUGH J. MONAGHAN, II, Personal Representative of the Estate of Elizabeth S. Hatfield, Deceased, party of the first part, Grantor; and JOHN A. HATFIELD, JR., ELIZABETH S. PROUTT, and MARY LOUISE TRIMINGHAM, parties of the second part, Grantees.

The actual consideration paid or to be paid is NONE.

WHEREAS, Elizabeth S. Hatfield departed this life on February 15, 1975, seized and possessed of the property hereinafter described, leaving a Last Will and Testament which is recorded in the Office of the Register of Wills for Baltimore County in Wills Liber No. 146, folio 464-467 and under the terms of which Will, the property hereinafter described was devised and bequeathed unto John A. Hatfield, Jr., Elizabeth S. Proutt, and Mary Louise Trimingham, as Tenants in Common; in accord with the provision set out in said Will and hereafter set out; and

WHEREAS, it is the intention and desire of the party of the first part, Personal Representative as aforesaid, to complete the distribution of the property hereinafter described by granting and conveying title to the parties of the second part hereto, pursuant to the provisions of Estates and Trusts, Title 9, Section 9-105, 1974 Edition of the Annotated Code of Maryland, and any subsequent Amendments thereto, wherefore these presents are executed.

WITNESSETH: That in consideration of the sum of Five Dollars ($5.00) and other valuable considerations, the receipt whereof is hereby acknowleged, the said party of the first part, Personal Representative as aforesaid, pursuant to the distribution made and set forth in the aforesaid Administration Account, does hereby grant and convey to the said John A. Hatfield, Jr., Elizabeth S. Proutt, and Mary Louise Trimingham, as Tenants in Common, in accord with the provisions set out in the Last Will and Testament of Elizabeth S. Hatfield, deceased, their personal representatives and assigns, in fee simple, all that lot of ground situate in the Ninth Election District of Baltimore County, and described as follows, that is to say:

BEGINNING for the same on the east side of Falls Road where the same is intersected by the northeast side of the right of way of the Green Spring Branch of the Northern Central Railway, said place of beginning being at the beginning of the third line of the parcel of land described in a Deed from George Brown and wife to Frances H. Mather dated February 16, 1894, and recorded among the Land Records of Baltimore County in Liver L.M.B. No. 202, folio 503; and running thence binding on the northeast side of said right of way and along said line, south twenty-three and one-half degrees east twelve and eight-tenths perches to intersect the north twenty-four degrees east thirty-two and two-tenths perches line of the parcel of land described in a Deed from Samuel H. Tagart and wife to James Mather and wife dated April 4, 1887, and recorded among the Land Records aforesaid in Liber J.W.S. No. 159 folio 463; and running thence binding on said land reversely, south twenty-four degrees west to the centre line of said right of way of the Green Spring Branch of the Northern Central Railway; thence southeasterly binding on the centre line of said right of way and reversely on the lines of the parcel of land described in said deed from Samuel H. Tagart and wife to James Mather and wife to the southeast side of the county road mentioned in said deed; thence northeasterly binding on the southeast side of said county road to the west side of the Jone's Falls at the end of the south three and one-half degrees west eleven perches line of the parcel of land described in the aforesaid deed from Samuel H. Tagart and wife to James Mather; thence binding on the west side of Jone's Falls and reversely on the outline of said land, north three and one-half degrees east eleven perches north three and one-half degrees west fifteen perches, north

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY, MARYLAND
Per _____
Authorized Signature
Date 3/19/84 Sec. 11-85 H

forty-seven and one-quarter degrees east five and two-tenths perches, north thirteen degrees east four perches, north thirty-seven and one-quarter degrees east twelve and one-half perches, and north thirteen degrees east ten and two-tenths perches; thence leaving said Jone's Falls and still binding reversely on the outlines of said land, south sixty-three degrees west twenty-six and one-half perches to the beginning of said land still binding reversely on the outlines of said land north two degrees east sixty and one-half perches and south eighty-one and one-quarter degrees west nineteen and two-tenths perches to the beginning of the parcel of land described in the hereinbefore mentioned deed from George Brown and wife to Frances H. Mather; thence binding on the first line of said land, south eighty-seven and one-quarter degrees west sixteen and seven-tenths perches to the east side of the Falls Road; thence binding on the east side of Falls Road, south six degrees west sixteen and one-half perches to the place of beginning

Comprising eighteen acres two roods and nine square perches of land, more or less.

SAVING AND EXCEPTING THEREOUT the parcel of land described in a Deed dated December 28, 1964, duly recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4412, folio 46, from John A. Hatfield and Elizabeth S. Hatfield, his wife, to the Baltimore Gas and Electric Company; and

SAVING AND EXCEPTING THEREOUT all that lot or parcel of land containing 7.45 acres, more or less, owned by the State Roads Commission of Maryland. See Inquisition in the cause entitled State Roads Commission of Maryland vs. John A. Hatfield and Elizabeth S. Hatfield, et al., duly recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4314, folio 586.

BEING part of all that lot or parcel of ground which by Deed dated October 1, 1932, and recorded among the Land Records of Baltimore County in Liber L.McL.M. No. 904, folio 115, was granted and conveyed by Elizabeth L. Maginn and James F. H. Maginn, her husband, to John A. Hatfield and Elizabeth S. Hatfield, his wife. The said John S. Hatfield died on January 3, 1965, thereby vesting title in the said Elizabeth S. Hatfield.

SUBJECT, HOWEVER, to the restriction in favor of George Brown, his heirs or assigns, of the right to use in common with the owner the water from the spring covered by the platform of the Western Maryland Railroad at Brooklandville, as reserved in Deed from George Brown and wife to Frances H. Mather, dated February 16, 1894 and recorded in Liber L.M.B. No. 202, folio 503.

C RC/F 17.00
DEED 0
EHK JR T 17.00
#95744 C001 R02 T14:
03/19/

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot *of ground and premises* to the said JOHN A. HATFIELD, JR., ELIZABETH S. PROUTT, and MARY LOUISE TRIMINGHAM, their personal representatives and assigns, in fee simple, provided that as long as the said Bar and Restaurant business as carried on by the said The Valley Inn, Inc. remains located on said land and premises, and fifty-one percent of the stock therein is owned by my said son, then and in that event the said land and improvements thereon shall not be sold without the prior consent of my said son, JOHN A. HATFIELD, JR., provided further that the said Corporation shall pay to each of my said daughters, MARY LOUISE TRIMINGHAM and ELIZABETH SCARBOROUGH PROUTT, the sum of Three Hundred Fifty Dollars ($350.00) per month each as long as said business is carried on upon said land.

~~that the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby granted; that will warrant specially the property hereby granted, and that will execute such further assurances of the same as may be requisite.~~

WITNESS the hand and seal of said grantor, Personal Representative as aforesaid.

Test:

Barbara A Smith

Hugh J Monaghan II (SEAL)
HUGH J. MONAGHAN, II,
Personal Representative

(SEAL)

STATE OF MARYLAND, Baltimore City, to wit:

I HEREBY CERTIFY, That on this 15th day of February, in the year one thousand nine hundred and eighty-four, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared HUGH J. MONAGHAN, II, Personal Representative known to me (or satisfactorily proven) to be the person whose name is/~~are~~ subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Barbara A. Smith
Notary Public

My Commission expires:

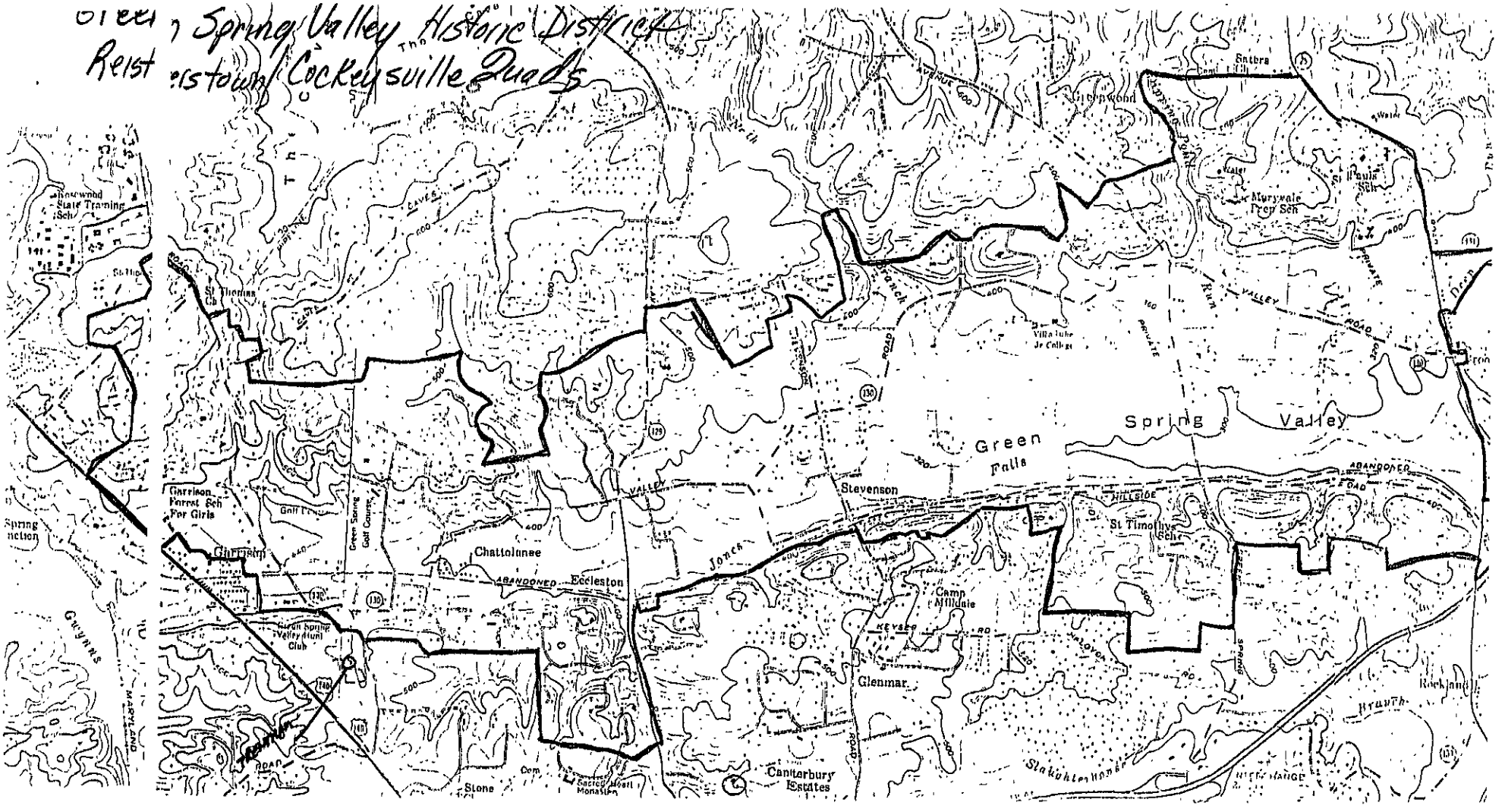
July 1, 1986

Rec'd for record MAR 19 1984 at 2:46 P.M.
Per Elmer H. Kahline, Jr., Clerk
Mail to Monaghan & Train
Receipt No. _____ $ 11.00

PC #9

MICROFILMED

Green Spring Valley Historic District
Relistown, Cockeysville Quads



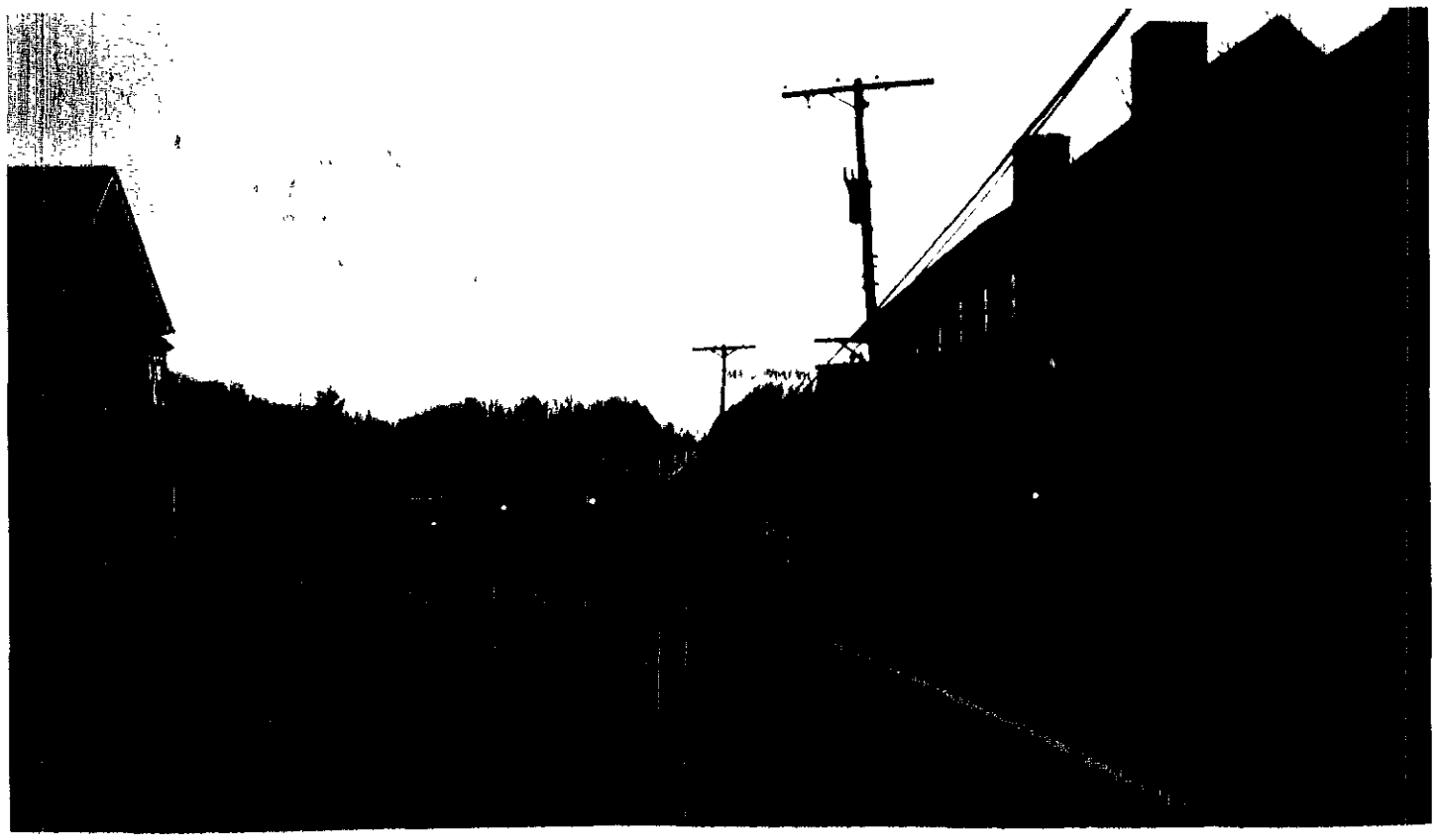
Rockland
Brooklandville, MD

Falls Road and Old Court / Ruxton Roads
south of Brightwood

P.C. Ex. 12

looking south

A



looking north

B

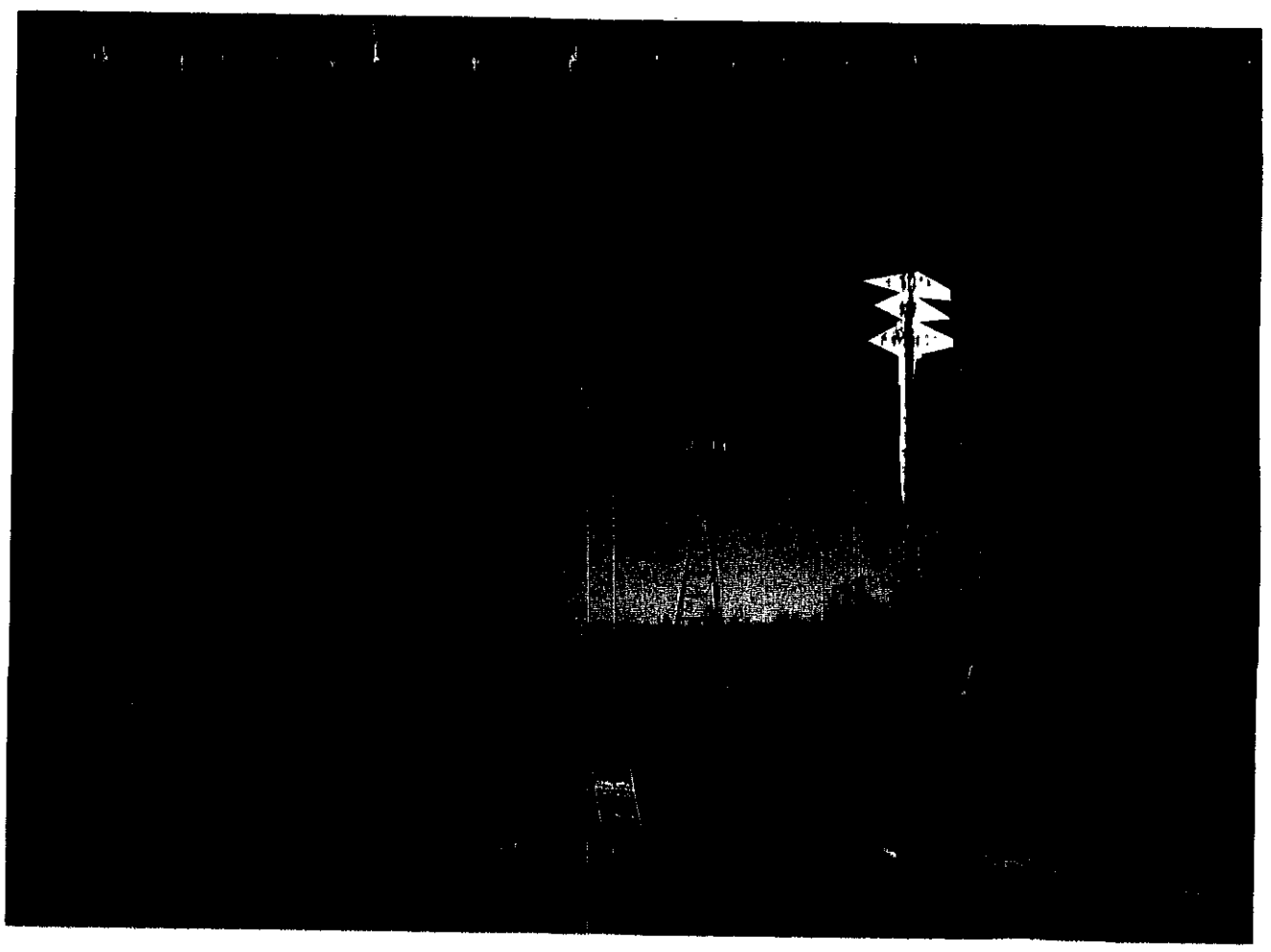


MICROFILMED

Brightwood and BGE tower just south of subject site



C



D

Brightwood

→ To Lidies

Subject site

← to Falls Rd

Meridian

Brightwood

Brightwood

MICROFILMED

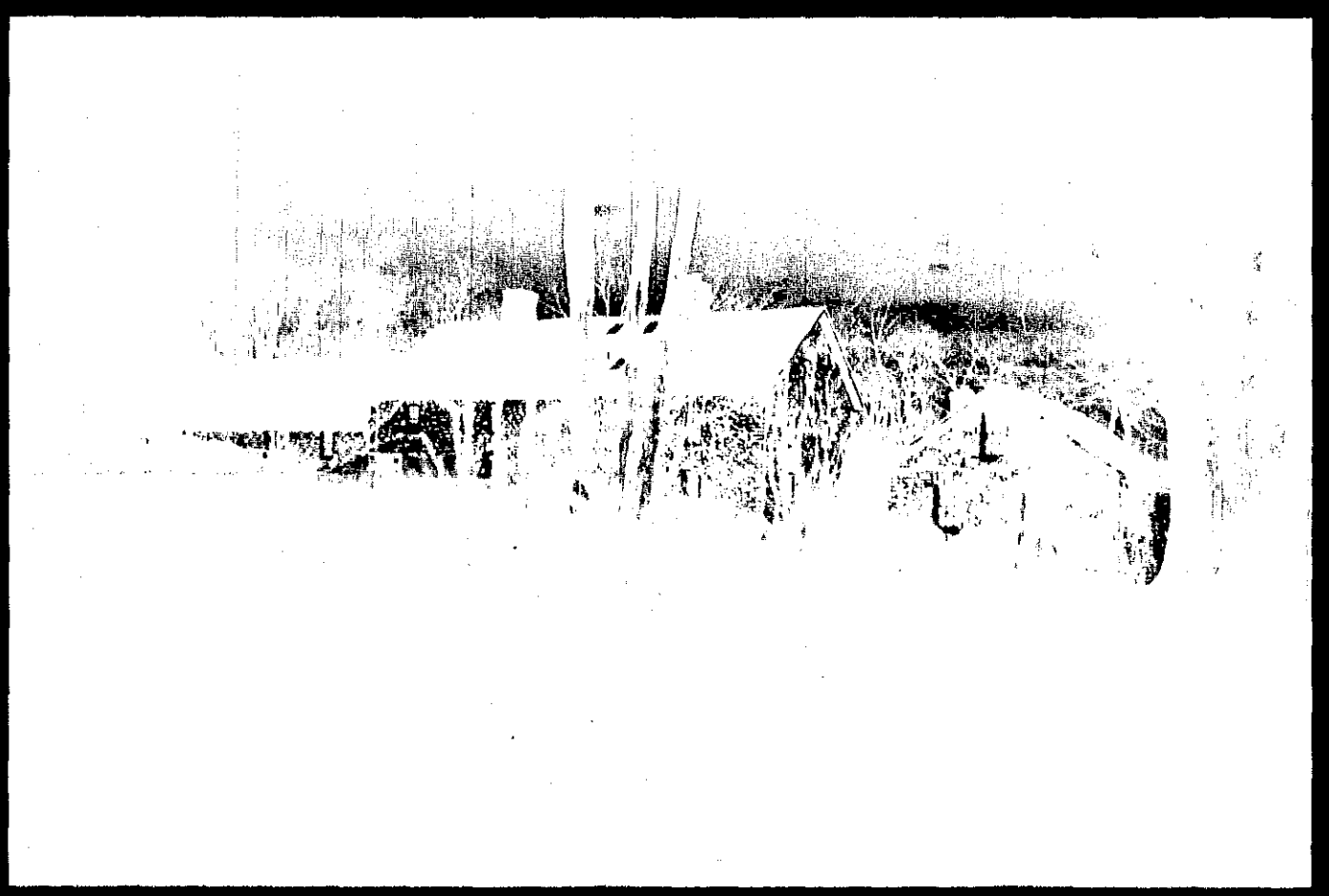
Meridian

West side of Falls Road heading south from Brightwood

E



F



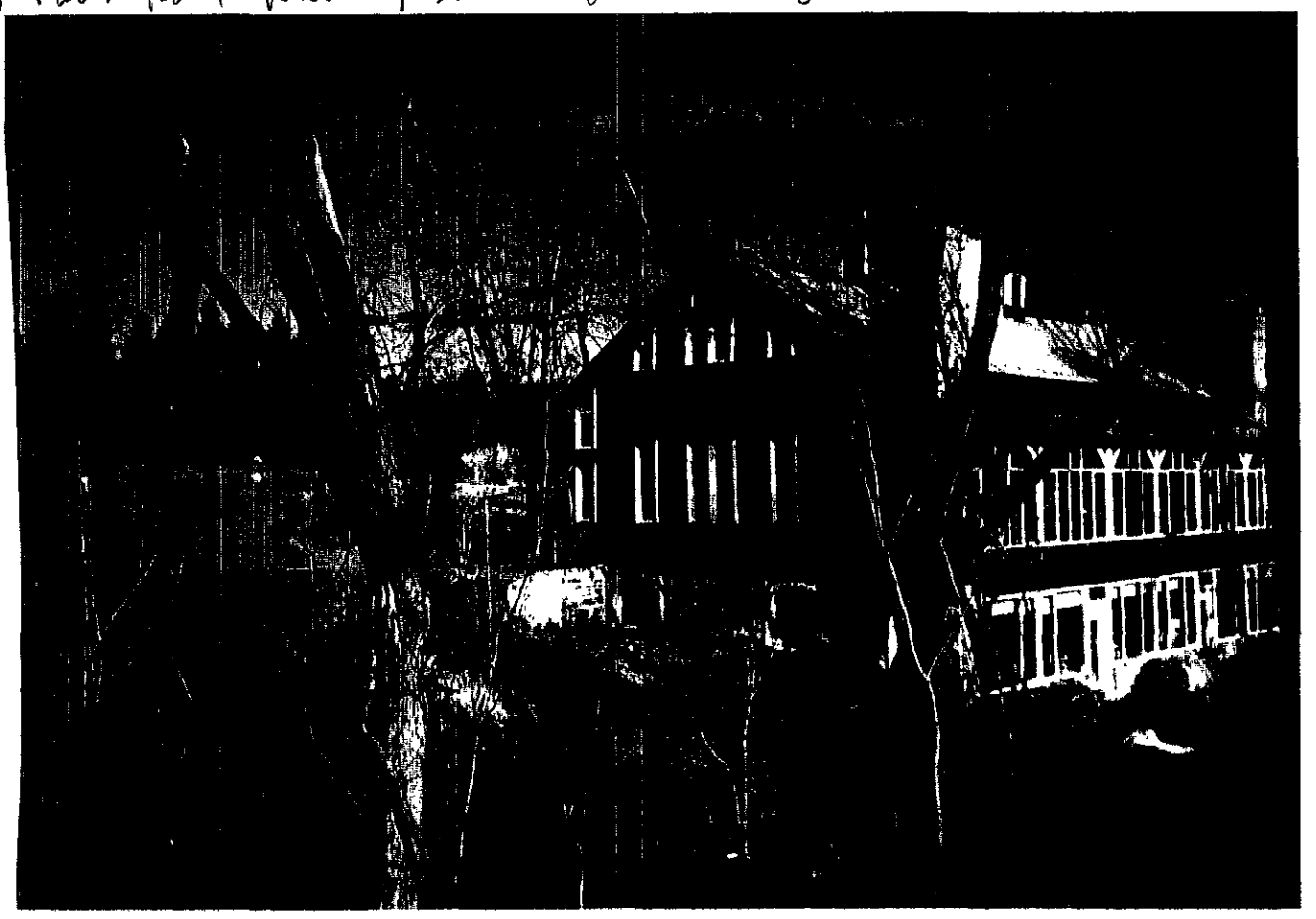
6



MICROFILMED

East side of Falls Road heading south from Brightwood

H



I



J




Dover
Saint Brides Church
Hamilton Stump
A. Hamilton
Mrs Elizabeth Bennett
A. Donnelloon
Swamp
Ashland Iron Co.
Joshua
Mrs. Joshua
Mrs. Mc Elwee
Mrs. Mc Woodward
Mrs. Mc Lisle
SPRINGS
Cudlock
Dr. J. Tasker
Rich. F. Maynard
Chas. H. Harrison
Cookey
Thos. H. Wallace
Wm. De Vries
Alex. Kirkland
James B. Councilman
Thos J. Myer
Pine
James
Howard
Jno. W. Wagner (Occupt)
A. G. Ferguson (Occupt)
Jr. J. Ferguson
Jas. Rigby (Occupt)
Dr. Pundenberg
Thos.
Jno. S.
Gibbons
MOUNT HOPE
HAWTHORNE
Old Baltimore
Old Post Road
Old Kent & Sussex Turnpike
Thos. H Moore
Rudolph Hoole
Jos. Smith Jr.
Jos. C. Rebecca Smith Ave.
Dr. W. C. Hawkins
Jos. Smith's
Mrs. A. C. Schaefer
Jos. Schaefer Shop
Martin
Coleman
Jos. Smith
Wellwood Shop
Matilda West
Jos. Linton
Jno. M. Wyse
Jos. H. Smith
Branch of Jones
Wm. Richards
Jno. Clarke
Williamson
Georges
Weirs
Dr. Kindenberg
Thos. Sunderland
Wm. Hubbard
Jno. S. Gibbons
Jas. Rigby
Dr. Pundenberg
Joshua Barrett
Howard
Jno. W. Wagner
A. G. Ferguson
Jr. J. Ferguson
Thos J. Myer
Pine
James
Alex. Kirkland
James B. Councilman
Chas. H. Harrison
Wm. De Vries
Thos. H. Wallace
Cookey
Rich. F. Maynard
Dr. J. Tasker
Cudlock
Chas. Stewart
Jno. W. Lyons
B. Stephen
Jno. Rogers
Thos. Burkett
B. Blackford
David Vaux
G. Green
Jno. Miller
Jno. Wm. Miller
Mrs. Joshua
Mrs. Mc Elwee
Mrs. Mc Woodward
Mrs. Mc Lisle
Jas. Stevenson
Wm. Foley
Mrs. Hitchcock
Mrs. Hilbrecht
Jno. Wm. Miller
Jno. Wm. Miller
Jno. Wm. Miller

People's Counsel Ex. 11

Ruxton-Riderwood-Lake Roland Area Improvement ASSOCIATION Inc

RESOLVED: That the position of the RRLRA Imp. Inc Association as adopted by the (Board of Directors) ~~(Zoning Committee)~~ on the zoning matter known as:

Brightfield Road cellular tower

is that: To oppose the installation of telecommunication towers which need variances. (April 22, 1996)

AS WITNESS OUR HANDS AND SEAL THIS 9th **day of** January, 1997.

ATTEST: RRLRA Improvement Association Inc

Secretary

President

Ruxton-Riderwood-Lake Roland Area Improvement ASSOCIATION Inc.

RESOLVED: That at the general May 22, 1996 meeting of the RRLRAI Association Inc held on May 22, 1997, it was decided by the Association that responsibility for review and action on all zoning matters for the period May 1996 - May 1997 be placed in the (Board of Directors) (Zoning Committee) consisting of, among other ~~the following~~ members:

SARAH F. LORD

AS WITNESS OUR HANDS AND SEAL THIS 9th day of JANUARY, 19 97.

ATTEST:

RRLRA Imp. Association Inc

Judith M. Wright
Secretary

John E. Parker
President

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors and/or the Zoning Committee) of the Ruxton-Riderwood-Lake Roland Area Improvement Association, Inc.

Sarah F Lord

ATTEST: RRLRA Imp. Association Inc

Judith S M Wright
Secretary

John E Rahne
President

DATE: 9 January 1997

P.C. Ex. 13


26
Joins Map 18
Joins Map 25
Joins Map 34
21093
21208
21210
21212
21215
21286
BALTIMORE
BALTIMORE COUNTY
BROOKLANDVILLE
SEMINARY SPRINGS
BROOKLANDWOOD ESTATES
SEMINARY OVERLOOK
HILLSIDE AT SEMINARY
WELLINGTON VALLEY
MEADOWLAND
COUNTRY CLUB PARK
BOXWOOD
THORNLEIGH
SUNSET KNOLL
YORK RIDGE
RIDERWOOD HILLS
RUXTON RIDGE
THE WILLOWS OF RUXTON
HILLSTEAD
KNOLLCREST FARMS
BROOKWOOD
BRIGHTWOOD
BRIDLESHIRE
RIDERWOOD
ROCKLAND
RUXTON
RUXTON HILLS
FOUR WINDS
MALVERN
SORRENTO
SORRENTO FALLS
ROCKLAND RUN
ROBERT E LEE PARK
MARTINS CHOICE
MURRAY HILL
OAK HILL
SUMMIT CHASE
GREENSPRING
JONES VALLEY
LAKE ROLAND
WOODBROOK
LARKHURST
DEMBEIGH HILL
BARE HILLS
COPPER HILL
THE TERRACES
RANCHLEIGH
CHESWOLDE
MOUNT WASHINGTON
NORTHERN PARKWAY
WASHINGTON HILLS
EDEN ROC
Irvine Natural Science Center
Chesters Child Museum
Hunts Methodist
Brooklandville Co 14
Brooklandville Grist Mill
Brooklandville State Highway Admin
Riderwood ES
Ridge School Spec Ed
Board of Education Admin Office
Valley CC
Loch Raven Park
Exit 13
Exit 14
Exit 22
Exit 23
Exit 25
Exit 12
Deep Run
Jones Falls
Slaughterhouse Branch
Rockland Branch
Greenspring Valley Road
Seminary Road
Joppa Road
Ruxton Road
Old Court Road
Falls Road
Jones Falls Expressway
Baltimore Beltway
Baltimore Harrisburg Expwy
Bellona Avenue
Charles Street Avenue
Roland Avenue
Loch Raven Blvd
Kelly Avenue
Northern Parkway
Towson
Lutherville
Timonium
Pikesville
Owings Mills
Mount Washington
Cross Country Blvd
Greenspring Ave
Valley Road
Pond Run
Hillside Rd
Wagner Rd
Dunlora Rd
Rolandvue Ave
Woodbrook Ln
Lake Ave
Roland Park
Gilman Country Day Sch
St Marys Seminary Sch
Mercy Medical Center
Sinai Hospital
Towson Commons
Towson Square
Towson Manor Park
Towson Catholic HS
Towson Presbyterian Church
Towson Methodist Church
Towson Lutheran Church
Towson Lutheran Church
Towson Presbyterian Church
Towson Presbyterian Church
Towson Presbyterian

P.C. Ex. 14

MICROFILMED

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors) (Zoning Committee) of the ROCKLAND HOMEOWNERS Association.

ROCKLAND HOMEOWNERS

ATTEST: | Association

Secretary

Thomas M. Bruggmon
President

DATE: January 7, 1997

ROCKLAND HOMEOWNER'S ASSOCIATION

RESOLVED: That the position of the ROCKLAND HOMEOWNER'S Association as adopted by the (Board of Directors) (Zoning Committee) on the zoning matter known as:

TOWER OF POWER: MONOPOLE

is that:

WE ARE AGAINST THE MONOPOLE WHERE PROPOSED

AS WITNESS OUR HANDS AND SEAL THIS 7 day of January, 19 97.

ATTEST: ROCKLAND HOMEOWNERS Association

Secretary

Thomas M. Bruggman
President

cy: - Dennis

P.C. #15

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

MICROFILMED

August 5, 1985

The Honorable James T. Smith, Jr., Chairman
Baltimore County Council
Courthouse
Towson, Maryland 21204

Dear Councilman Smith:

I am forwarding to you, per your request, a revised report concerning wireless transmitting and receiving structures. This report discusses the general characteristics of such structures and recommends an "incentive-disincentive" approach as the most appropriate means of zoning regulation. This approach is similar to that considered by the Planning Board at its Ad Hoc Committee meeting of July 18, 1985. As you may know, the Planning Board determined that other alternatives should be investigated prior to their making a decision.

You may want to take notice of Section 22-7 of the County Code, as amended, which states that if within 180 days of the submission of a Council resolution to the Planning Board, the Board has failed to submit a final report to Council, the Council may have the Office of Law prepare an appropriate report. Such report would require a Council public hearing in accordance with Section 22-22 of the County Code.

I, therefore, would suggest that if you decide that the approach suggested by the enclosed report is the desired approach, that the report be reviewed by the Office of Law and an Office of Law report be generated which would be the subject of the required public hearing.

If you wish to discuss this subject further, please contact me.

Sincerely,

Norman E. Gerber

Norman E. Gerber, Director
Office of Planning and Zoning

NEG/KLR/sf

Enclosure (1)

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
RADIO AND TELEVISION TOWERS AND OTHER
WIRELESS TRANSMISSION OR RECEIVING FACILITIES

Published by the Baltimore County Office of Planning and Zoning
Towson, Maryland 21204

Printed by Central Printing Services
Baltimore County Office of Central Services

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING RADIO AND TELEVISION TOWERS AND OTHER WIRELESS TRANSMISSION OR RECEIVING FACILITIES

Discussion

Radio and television antennas and transmission and receiving towers are currently permitted as a principal use by special exception in every zone of the County except M.R., R.A.E. and O.T. zones. According to Subsection 502.1 before any special exception is granted it must appear that the use will not:

a. Be detrimental to the health, safety, or general welfare of the locality involved;

b. Tend to create congestion in roads, streets or alleys therein;

c. Create a potential hazard from fire, panic or other dangers;

d. Tend to overcrowd land and cause undue concentration of population;

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

The design of radio and television antennas and wireless transmitting and receiving towers is dependent upon the number of stations anticipated to use the tower, the type of waves being transmitted and received, the intended operating power, the size of the service area, and the terrain of the surrounding area. The most common types of transmission are land mobile radio, A.M., F.M., television, and fixed-point microwave. Land mobile radio and common carrier systems, (i.e., cellular telephone systems) are the fastest growing segment of the communications industry.

With the exceptions of A.M. and land mobile radio, nearly all radio frequencies require a clear line-of-sight path between transmitter and receiver. This is especially true for fixed-point microwave. Because of the line-of-sight requirement transmission facilities must be elevated sufficiently above the average terrain to beam signals past obstructions. Optimum line of sight path is therefore usually achieved on hilltops or on tall buildings. In areas where few tower sites are available, towers may compete with residential

development for prime hilltop sites. Residents of neighborhoods where towers are proposed argue that towers are unattractive and adversely effect property values. If a tower is to serve several station facilities at a particular height, the tower is likely to be a candelabra structure, such as the WBAL tower on T.V. Hill in Baltimore City. On the other hand, if a tower is anticipated to serve only one or two stations with the receivers and transmitters located vertically along the tower, the tower is likely to be a pencil structure. Both candelabra towers and pencil towers require numerous guy wires for anchoring. Freestanding towers are also common and are frequently shaped similar to the Eiffel Tower. Whether freestanding or not, most large towers are of an open grid, structural steel construction, with lights placed intermittently for sighting by planes.

As previously mentioned, cellular telephone systems is one of the fastest growing segments of the communication industry. Cellular telephone systems are intended to serve the mobile communications demands of a metropolitan region. The Federal Communication Commission (FCC) permits and licenses two systems in any one region. In order to prevent communication gaps, the system consists of an integrated grid network of towers, each interdependent upon others. Thus, when the location of one tower is significantly shifted, one or more towers may also have to be shifted. Because the system specifically addresses mobil communications, it is oriented to the expressways and interstates, their primary demand source. The towers themselves are generally 150 to 200 feet in height when freestanding, and they usually are of a monopole design. The distance between towers can vary significantly dependent upon the height of the tower, demand, and somewhat on terrain or obstructions. Because the number of transmissions a tower can serve at any one moment is limited (technologically) to approximately 100, as demand increases more towers may become necessary. These additional towers will in all likelihood be smaller than those of the initial system.

Proposed transmission towers are also viewed as an undesirable use in residential zones because of a fear of potential health hazards posed by long-term exposure to nonionizing electromagnetic radiation (NIER) emitted by these facilities. NIER sources are those frequencies in the lower two-thirds of the electromagnetic spectrum and include all radio, television and microwave frequencies as well as ordinary household current and radar. NIER is distinquished from ionizing electromagnetic radiation (IER)- cosmic, atomic and X-ray - by its lack of energy to ionize, or alter, the molecular structure of living tissue. Although the short and long-term damage to humans resulting from exposure to even low levels of IER is well documented, potential health hazards associated with NIER exposure is a subject of controversy among health scientists.

The problems discussed above associated with the siting of transmission towers are encountered by many jurisdictions around the country. A survey of 15 jurisdictions was conducted by the American Planning Association in a report on "Regulating Radio and Television Towers" (Bookin and Epstein. PAS Report No. 384 American Planning Assoc. 1984). The survey revealed that nearly all jurisdictions consider transmission facilities as conditional uses. Some jurisdictions allow transmission towers outright in non-residential zones

subject to special lot size, height, security and landscaping requirements. The American Planning Association report also suggested several ways to regulate towers. In communities where there is a shortage of tower sites the report suggested that the community take action to identify and protect sites (i.e., adopt a plan) that may be needed in the future. Other alternatives included a ban on transmission towers or permitting them only when no suitable sites in non-residential areas are available.

A review of the zoning ordinances of several neighboring Maryland counties and found that transmission towers are generally permitted by special exception in certain residential and agricultural zones and by right in certain commercial and industrial zones.

Under the authority of the Federal Communications Act of 1934, as amended, the FCC has developed a comprehensive system to regulate radio and television transmissions and related facilities. The height, operating power and location of transmitting structures are regulated by the FCC with additional requirements of the FAA (and the County's special exception requirements). A local jurisdiction cannot ban all new communications facilities outright or impose a permanent or open-ended moratorium. The FCC has the power to issue construction permits that override such a local prohibition and a ban on towers also may violate First Amendment rights.

In a recent special exception hearing, residents unsuccessfully opposed the construction of a 200 foot tower in their neighborhood (zoned R.C.2). The tower is to be used to provide cellular phone service in Maryland. The residents felt that the tower would block views, adversely affect property values, be struck by lightning, interfere with hot air balloons and with migratory bird patterns, and that radiation from the tower would be harmful to people and animals. The petitioners for the tower have received a license from the FCC and approval by the FAA and the Public Utilities Commission. An environmentalist testified that the tower would be relatively unobstrusive and inoffensive in this wooded area and the effect on the environment and fowl would be negligible. An environmental planner discussed national and international research and American National Standards Institute (ANSI) and Environmental Protection Agency (EPA) guidelines and standards and concluded that the proposed ranges of energy would not present health hazards. Further testimony presented by a land planner/landscape architect indicated that the proposed tower would not be detrimental to the agriculture in the area. The Deputy Zoning Commissioner found that the special exception requirements had been met and granted the special exception subject to the following additional restrictions:

1. The wireless transmitting and receiving facility shall have a maximum height of 200 feet, including all antennae, and a platform no more than 4 feet wide at the top.

2. The tower and accessory building shall be enclosed within a locked, chain-link fence at least 8 feet high.

3. The tower shall be unpainted or painted gray and shall not be lighted nor have strobe lights unless specifically required by FCC or FAA rules and regulations. The color of the fence shall be black or brown.

4. At such time as the use is terminated, the tower shall be removed.

5. All plats required for permits shall be drawn by a Maryland registered professional engineer qualified in structural design. Said engineer shall supervise and certify the tower upon completion before an occupancy use permit can be issued. Every five years, a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure continues to meet all safety requirements. Any upgrading or maintenance required to comply with any changes in the safety requirements, or to maintain the safety thereof, shall be performed prior to the filing of such certification.

6. EPA standards and guidelines relating to radiation emissions shall be met at all times.

7. Antennae, dishes or other wireless transmitting and receiving apparatus on the tower shall be limited to those providing cellular phone service or utilized by Baltimore County.

8. The tower shall be properly grounded to minimize the possibility of fire.

9. A landscape plan, designed to minimize the visual impact of the building and lower portion of the tower, shall be submitted to and approved by the Current Planning and Development Division.

On September 4, 1984 County Council adopted Bill No. 117-84 which addresses wireless transmitting and receiving facilities located near historic districts (see Attachment #2). This Bill does not, however, apply to towers under 350 feet in height. The issue of transmission towers near historic districts is discussed in detail in the Planning Board's final report entitled Proposed Amendments to the Baltimore County Zoning Regulations Concerning Radio and Television Towers and Other Wireless Transmission or Receiving Facilities in Proximity to Historic Buildings or Lands (Legislation Project No. 84-08).

Comments/Recommendations

Radio, television and microwave communications are increasingly important for our security, recreation and economic needs. Unfortunately, the transmission towers and related facilities that are necessary components of these systems may affect safety, health and aesthetics if they are not properly situated. The communications industry is developing at a rapid pace and it is difficult to predict what the land use ramifications will be. Overly restrictive regulations may stand in the way of progress and violate federal statutes, while regulations that are too liberal may result in a proliferation of towers in Residential zones.

Banning towers from Residential zones and restricting such towers to Business and Manufacturing zones is considered inappropriate. There are roughly 7,000 acres of land zoned for business and 24,000 acres for manufacturing while the

total acreage for R.C. and D.R. zones (the only residential zones where towers are permitted) is about 251,000 and 101,000 acres respectively. Business and Manufacturing zones in the County generally fall within the urban and suburban areas. These locations may be suitable for certain types of transmitting and receiving facilities but may be inadequate for other types of wireless transmitting or receiving facilities. Many mobile communications systems (including cellular and paging systems) are oriented towards major highways (e.g., I-695, I-83 and I-95). These highways run through urban, suburban and rural areas. The amount of land zoned for business and manufacturing is small when compared to land zoned for residential use. There is no information available which would indicate how much of the land zoned for business and manufacturing would be suitable for the location of the various types of towers that may be in demand in the future. Representatives from the cellular telephone industry indicate that three or four more towers may be needed in the County to adequately serve the metropolitan area. There may also be a need to locate towers in rural areas to serve I-83 and I-95 in the northern part of the County.

One of the major arguments against towers is that towers may emit harmful radiation. Health scientists, however, have not agreed about the effects of the low levels of radiation emitted by certain types of towers. The visual impact of towers in residential areas is also a major concern. Towers are commonly held to be unattractive to the point of adversely effecting property values. Towers can be accommodated in certain residential areas with additional controls to insure that high standards of safety are met and visual impact is lessened.

Towers under certain circumstances may not be any more compatible in Business and Manufacturing zones than in Residential zones. Many Business and Manufacturing zones are located very close to some rather densely populated residential areas. ~~Towers may be strongly opposed in these areas also.~~

In general, the manner in which towers are permitted (i.e., special exception) in Residential zones is appropriate.

> The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore valid. The special exception use is a valid zoning mechanism that delegates...a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given...are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.
>
> Schultz v. Pritts, 432 A.2d 1319 (1981).

The special exception process provides a means by which a balance of concerns may be struck. When the general special exception requirements do not achieve

the desired end, additional requirements may be adopted to insure the desired result. At some point the development of new communications systems may require the use of land in Residential zones. This land may be acquired subject to local regulations which are designed to lessen the visual impact and other inconveniences that a tower might create or the land might be acquired through federal intervention. A ban on towers in Residential zones may be preempted eventually by federal statutes. Many jurisdictions in Maryland, and in many other states as well, permit towers in certain Residential zones as either a special exception or conditional use. In some cases additional requirements or criteria such as setback, landscaping and safety provisions must also be met before the special exception is granted.

It is quite understandable that most people do not want a transmission tower near their home. The setback requirements in most Residential zones would permit a tower to be located undesirably close to a dwelling. For example, in a Resource Conservation (R.C.) 5 zone a tower would be setback only 50 feet from a property line and no visual buffer is required. It is felt that a more stringent setback should be required in Residential zones in order to insure that a sufficient fall area is provided for towers and also to serve as a "worst case" safety precaution. In addition, the characteristics of a tower and its antennas effect the strength and pattern of emissions. A study of emission levels around the tower should be presented by the petitioner to the Zoning Commissioner. These emission levels should be required to meet the EPA guidelines. The point of maximum emission may not be at the base of the tower but at some point distant from the tower. (In a recent case, this point was approximately equal to seventy percent of the height of the tower.) This together with the issue of long range harm from such emissions, the lack of specific state or federally adopted standards and the significant variations of other published standards and guidelines indicates a need for a minimum setback in Residential zones. Due to the height of most towers, a requirement to completely screen a transmission tower from view would be unreasonable. The petitioner (for a tower by special exception) should, however, be required to screen the tower as much as possible from nearby dwellings. Transmission towers should be fenced in order to prevent these towers from becoming playgrounds for children.

An amendment to the Zoning Regulations to permit towers by right under specified conditions in certain Office, Business and Manufacturing zones, along with more stringent special exception requirements in Residential zones would create a situation where non-residential zones would become more attractive locations for towers. Permitting certain towers by right in non-residential zones would provide an incentive to seek sites in these zones. A petitioner could avoid the costly and time consuming special exception process by locating in a non-residential zone. Additional regulations to protect residential areas which abut such zones could also be included. Therefore, the Baltimore County Zoning Regulations, 1955, as amended, should be further amended as set forth below.

In order to minimize possible harmful effects from radiation emissions and to minimize adverse visual effects of wireless transmitting or receiving structures in certain residential zones add stricter controls to the special exception requirements as shown below.

In Subsection 502.7 (Special exception requirements for certain wireless transmitting and receiving facilities) add Paragraphs 502.7.C and 502.7.D to read as follows:

C. Wireless transmitting or receiving structures in R.C., D.R. or R-O zones shall be subject to the following additional requirements.

1. The setback of such structure from the nearest property line shall equal or exceed three (3) times its height above grade level.

2. The structure shall be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high.

3. A landscape plan, designed to minimize the visual impact of accessory buildings and the lower portion of the structure shall be submitted to and approved by the Director of the Office of Planning and Zoning.

4. Environmental Protection Agency standards and guidelines relating to radiation emissions shall be met at all times.

5. At such time as the use is terminated, the structure shall be removed.

6. Every five years, a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure meets all safety requirements. Any upgrading or maintenance required to comply with any changes in the safety requirements, or to maintain the safety thereof, shall be performed prior to the filing of such certification.

7. No white stroboscopic lights shall be permitted.

8. In order to insure against adverse effects on its surroundings, an environmental impact statement, as defined in Section 101, shall be submitted to the Zoning Commissioner. Such environmental impact statement shall include information on emission levels and shall evaluate the impact of the proposed structure on birds, wildlife, livestock, etc.

D. Exemptions.

1. The provisions of Subparagraphs 502.7.C.1, 2 and 3 shall not apply to roof-mounted wireless transmitting or receiving structures.

2. The provisions of Paragraph 502.7.C shall not apply to wireless transmitting or receiving structures serving gas and electric public utility communication needs except as required by the Zoning Commissioner under the authority of Subsections 502.1 and 502.2.

In order to provide a greater incentive for the location of wireless transmitting or receiving structures in certain non-residential zones, add the following amendments.

Add Section 426 immediately after Section 425 - Alcoholic Beverages License to read as follows:

Section 426 - WIRELESS TRANSMITTING OR RECEIVING STRUCTURES

426.1 Wireless transmitting or receiving structures with a maximum height of 200 feet above grade level including all antennas and platforms shall be permitted by right in O-2 (Office Park) zones, O.T. (Office and Technology) zones, and Business and Manufacturing zones subject to the following restrictions:

A. The structure shall be enclosed within a locked, chain link fence, or comparable wall or structure, at least 8 feet high unless such structure is roof-mounted.

B. The minimum setback from any boundary of a Residential or R-O zone shall be 200 feet.

C. Environmental Protection Agency standards and guidelines relating to radiation emissions shall be met at all times.

426.2 Within O-2, O.T., Business and Manufacturing zones, accessory wireless transmitting or receiving structures shall be permitted by right; however, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.

In Paragraph 204.3.B (certain uses permitted by special exception in O-1 zones) add the following new entry:

3. Wireless transmitting or receiving structures

In Paragraph 205.3.A (certain uses permitted by right in O-2 zones) add the following new entry:

5. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

In Paragraph 205.3.B (certain uses permitted by special exception in O-2 zones) add the following new entry:

4. Wireless transmitting or receiving structures not permitted by Section 426

Revise Paragraph 207.3.A (certain uses permitted by right in O.T. zones) by adding the words that are underlined:

14. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

15. Combinations of the uses listed above

Revise Paragraph 207.3.D (certain uses permitted by special exception in O.T. zones) by adding the words that are underlined:

1. Warehouses as described in A.12 of this subsection may be allowed by special exception providing the warehouse accounts for no more than 60% of the total gross floor area.

2. Wireless transmitting or receiving structures not permitted by Section 426

In Subsection 230.9 (certain uses permitted by right in B.L. zones) add alphabetically the following new entry:

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

Revise Subsection 230.13 (certain uses permitted by special exception in B.L. zones) by adding the words that are underlined:

Wireless transmitting ~~and~~ or receiving structure not permitted by Section 426

Revise Subsections 233.4, 236.4, 248.4.a and 256.4 (certain uses permitted by special exception in B.M., B.R., M.L.R. and M.H. zones) by deleting the words that are lined through and adding the words that are underlined as shown below:

Wireless transmitting ~~and~~ or receiving structure not permitted by Section 426; ~~except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.~~

In Subsection 248.3 (certain uses permitted by right in M.L.R. zones) add the words that are underlined as shown below:

248.3 - Living quarters for watchmen and caretakers and their families living on the premises and engaged in connection with any lawful use in the M.L.R. Zone;

Accessory buildings and uses in connection with living quarters (see above) and as limited by Section 400.

Hotels and motels when within an M.L.R. zone which is part of a contiguous area of 25 acres or more of industrial zoning, and provided that the combined tract areas developed for such uses do not occupy more than 25 percent of the particular contiguous area of industrial zoning in which they are located.

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

In Paragraph 253.1.B (certain transportation, storage or quasi-public uses or utilities permitted by right in M.L. zones) add the following new entry:

19. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

Revise Paragraph 253.2.D. (certain uses permitted by special exception in M.L. zones) by deleting the words that are lined through and adding the words that are underlined as shown below:

2. Wireless transmitting ~~and~~ or receiving structures not permitted by Section 426; ~~except as minor accessory uses or structures (which are permitted without a special exception); provided that, for the purposes of this paragraph, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.~~

In Subsection 256.1 (certain uses permitted by right in M.H. zones) add alphabetically the following new entry:

Wireless transmitting or receiving structures 200 feet or less in height or above grade level (see Section 426)

SUMMARY OF PROPOSED ZONING REGULATIONS FOR PRINCIPAL WIRELESS TRANSMITTING OR RECEIVING STRUCTURES

Zone	Manner Permitted	Conditions	Sections
R.C. and D.R.	Special Exception	3:1 setback; fenced, landscaped, EIS, no strobe lights, 5 yr. inspection; must meet emissions standards.	502.1 and 502.7.C
R.A.E.	Not Permitted	-o-	-o-
R.O.	Special Exception	3:1 setback, fenced, landscaped; EIS, no strobe lights, 5 yr. inspection; must meet EPA emission standards.	502.1 and 502.7.C.
O-1	Special Exception	as determined by Zoning Commissioner following hearing.	502.1
O-2, O.T., Business, M.L.R., M.L. M.H.	By Right	200' max. height; 200' min. setback from residential and R.O. zone; fenced; must meet EPA emissions standards.	426
	Special Exception	all those not covered by above subject to conditions determined by Zoning Commissioner following hearing.	502.1
M.R.	Not Permitted	-o-	-o-

Notes:
1) Section 502.1 refers to the general findings that must be made prior to granting a special exception.
2) All such structures over 350 feet are subject to the additional historical impact review of Section 502.7.
3) Section 502.7.C is a proposed new section.
4) Section 426 is a proposed new section.
5) Exceptions: accessory antennas including those in conjuction with licensed amateur radio operators; Section 502.7.C not applicable to communication towers accessory to Baltimore Gas and Electric operations - such as substations and gas lines.

ATTACHMENT #1

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1985, LEGISLATIVE DAY NO. 2

RESOLUTION NO. 13-85

Mr. James T. Smith, Jr., Councilman

By the County Council, January 21, 1985

A RESOLUTION to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to restrict the location of radio and television towers and other wireless transmitting or receiving facilities to certain zones of the county.

WHEREAS, the Baltimore County Planning Board from time to time consider certain revisions to the Baltimore County Zoning Regulations, and

WHEREAS, the Baltimore County Zoning Regulations currently authorize the placement of radio antennas and wireless transmitting and receiving structures in the residential and resource conservation zones of the County, and

WHEREAS, the Baltimore County Council, pursuant to the recommendation of the Planning Board, enacted Bill No. 117-84 amending the Zoning Regulations in order to restrict the grant of a Special Exception for such structures if such structures are located within a certain distance of Baltimore County Historic Districts or National Historic Districts, and

WHEREAS, the Baltimore County Council deems it appropriate to consider further amendments to the Zoning Regulations in order to restrict the location of such structures to certain zones within Baltimore County.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Baltimore County Planning Board be and it is hereby requested to consider the appropriateness of restricting the location of new radio or television towers or other wireless transmitting or receiving structures to the commercial, industrial and business zones of the County, and

BE IT FURTHER RESOLVED that the Baltimore County Planning Board be and it is hereby requested to report its recommendations to the Baltimore County Council, including any recommendations for amendments to the Baltimore County Zoning Regulations.

ATTACHMENT #2

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1984, Legislative Day No. 16

BILL NO. 117-84

Messrs. Smith & Huddles, Councilmembers

By the County Council, September 4, 1984

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Radio and Television Towers

FOR the purpose of prohibiting the grant of a Special Exception for a wireless transmitting or receiving facility in certain circumstances; and providing exceptions to such prohibitions.

BY adding

Section 502.7
Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning the subject legislation and has held a public hearing thereon, now, therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 502.7 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to follow immediately after Section 502.6, and to read as follows:

Section 502 - Special Exceptions

502.7 Wireless Transmitting and Receiving Facilities.

A. A SPECIAL EXCEPTION MAY NOT BE GRANTED FOR ANY WIRELESS TRANSMITTING OR RECEIVING FACILITY WHICH IS WITHIN ~~TWO MILES~~ ONE AND ONE-HALF MILES OF (1) AN EXISTING DISTRICT ON THE BALTIMORE COUNTY FINAL HISTORIC LANDMARKS LIST, ~~(2) AN EXISTING HISTORICAL DISTRICT ON THE NATIONAL REGISTER OF HISTORIC PLACES, OR (3) LAND UPON WHICH AN EXISTING SCENIC EASEMENT HAS BEEN GRANTED TO THE MARYLAND ENVIRONMENTAL TRUST,~~ "OR (2)

ANY OF THE FOLLOWING HISTORICAL DISTRICTS ON THE NATIONAL REGISTER OF HISTORIC PLACES, NAMELY, OELLA, MY LADY'S MANOR, WESTERN RUN, WORTHINGTON VALLEY, GREENSPRING VALLEY, AND LONG GREEN VALLEY, IF THE HORIZONTAL DISTANCE FROM THE FACILITY TO THE BOUNDARY OR PROPERTY LINE OF ~~THE HISTORIC SITE OR SCENIC EASEMENT~~ SUCH DISTRICT DOES NOT EXCEED TEN TIMES THE HEIGHT OF THE FACILITY ABOVE GRADE, AND UNLESS THE ZONING COMMISSIONER OR THE BOARD OF APPEALS, UPON APPEAL, FINDS THAT THE PROPOSED USE WILL NOT BE DETRIMENTAL TO OR DETRACT FROM THE DOCUMENTED VALUES OF ANY SUCH ~~HISTORICAL~~ DISTRICT ~~OR SCENIC EASEMENT~~ DUE TO THE HEIGHT OF THE PROPOSED STRUCTURE AND ITS PLACEMENT AND VISIBILITY RELATIVE TO ~~THE HISTORIC~~ SUCH DISTRICT ~~OR SCENIC EASEMENT~~.

B. PARAGRAPH 502.7.A. DOES NOT APPLY TO A WIRELESS TRANSMITTING OR RECEIVING FACILITY WHICH IS:

(1) NOT HIGHER THAN ~~TWO HUNDRED~~ THREE HUNDRED FIFTY FEET ABOVE GRADE LEVEL, OR

(2) AUTHORIZED BY GRANT OF SPECIAL EXCEPTION THAT IS FINAL AND UNAPPEALABLE ON THE EFFECTIVE DATE OF THIS ACT. SUCH A FACILITY MAY BE FULLY RESTORED IN ACCORDANCE WITH THE TERMS OF THE SPECIAL EXCEPTION IF IT IS DESTROYED OR DAMAGED TO ANY EXTENT, AND SUCH A FACILITY MAY BE ENLARGED, EXTENDED, OR EXPANDED NOTWITHSTANDING THE PROVISIONS OF SUBSECTION A. ABOVE, SUBJECT TO THE APPROVAL OF THE ZONING COMMISSIONER OR BOARD OF APPEALS.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five days after its enactment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

TABLE 3. REGULATION OF RADIO AND TELEVISION TRANSMISSION TOWERS IN SELECTED U.S. JURISDICTIONS

Topic	Category	Jurisdiction	Comments
Land-Use Status	Permitted in all zones.	Orlando, Fla. King County, Wash.	County considering modification of code, due to potential shortage of sites and growing public opposition.
	Permitted in some zones (primarily commercial/industrial); conditional in others (primarily residential and airport).	*Baltimore, Md.* Birmingham, Ala. Chicago, Ill. Denver, Colo. Kansas City, Mo. Los Angeles, Cal. San Francisco, Cal. Seattle, Wash.	
	Conditional use in all zones.	Multnomah, Co., Ore. Norfolk, Va. Portland, Ore. Raleigh, N.C.	
	Banned outright.	Onondaga, N.Y.	Instituted moratorium on transmission tower construction in 1979; currently under legal challenge.
Special Standards/ Requirements Governing Tower Siting/ Design	None; imposed at discretion of zoning authority.	Baltimore, Md. Birmingham, Ala. Chicago, Ill. Denver, Colo. Los Angeles, Cal. Norfolk, Va. Portland, Ore. San Francisco, Cal. Seattle, Wash.	
	Detailed standards apply.	Multnomah, Co., Ore.	Standards governing height, setbacks, site size, design, landscaping, access, and accessory uses; particularly stringent in residential zones.
		Kansas City, Mo.	Special standards apply only in agricultural and airport zones.
		Raleigh, N.C.	Standards governing height, setbacks, landscaping, security measures, and accessory uses apply in residential and institutional office zones.

Continued

TABLE 3. CONTINUED

Topic	Category	Jurisdiction	Comments
Shortage of Sites	None existing or anticipated.	Birmingham, Ala. Chicago, Ill. Denver, Colo. Kansas City, Mo. Los Angeles, Cal.	Despite hilly terrain, none anticipated; most applications for building-mounted antennas.
		Norfolk, Va. Orlando, Fla. Raleigh, N.C.	Shortage until recently, when zoning code modified to permit towers in rural areas.
	Significant existing or anticipated (due to terrain, conflict with local airports, and/or public opposition).	Baltimore, Md. King County, Wash. Multnomah, Co., Ore. Portland, Ore. San Francisco, Cal. Seattle, Wash.	
Shared Use of Towers	None required.	All jurisdictions except Multnomah County, Ore.	In San Francisco and Los Angeles, voluntary sharing of towers common.
	Required.	Multnomah County, Ore.	Prior to conditional use approval, applicant must demonstrate that reasonable effort has been made to lease space on existing/approved new towers. If approved, applicant must build tower of sufficient strength to accommodate other users.
Regulation of Nonionizing Electromagnetic (NIER) Radiation	Not required.	All jurisdictions except Multnomah County and Portland, Ore.	
	Required.	Portland, Ore.	Advisory standard of 1,000 microwatts per square centimeter (over six-minute period).
		Multnomah, Co., Ore.	Establishes maximum standard of 200 microwatts per square centimeter (over 30-minute period); most stringent in the U.S.; also dictates methods of measuring, reporting, and monitoring emissions.

SOURCE: American Planning Association

ATTACHMENT #4

WIRELESS TRANSMITTING AND RECEIVING STRUCTURES
ADDITIONAL REFERENCE MATERIAL

"Questions and Answers about Biological Effects and Potential Hazards of Radio Frequency Radiation," Federal Communication Commission, Office of Science and Technology, Technical Analysis Division, OST Bulletin No. 56, June 1983.

"Radiation Surveys - Measurement of Leakage Emissions and Potential Exposure Fields," David E. Janes, Jr., Office of Radiation Programs, U.S. Environmental Protection Agency. Presented as part of the Symposium on Health Aspects of Non-ionizing Radiation at the New York Academy of Medicine, April 9 and 10, 1979.

"RF Radiation: Biological Effects," Eric J. Lerner, IEEE Spectrum Special Report, December 1980.

"Regulating Radio and T.V. Towers," Beverly Bookin and Larry Epstein, American Planning Association, Planning Advisory Service Report No. 384, June 1984.

"Application of Zoning Regulations to Radio or Television Facilities," Phillip E. Hassman, 81 ALR 3d 1086.

The Law of Zoning and Planning Arden H. Rathkoff and Daren A. Rathkoff, N.Y.; Clark Boardman Co. Ltd 4th ed. 1985 Ch.31.03.

Petitions for Special Exception:
Case No. 84-284-X (Estate of Bertha S. Brathuhn, Petitioner)
Case No. 85-157-XA (Joseph H. Rosendale, et ux, Petitioners)
Case No. 85-96-XA (Grace L. Standiford - Petitioners)

Table of Cases

Shultz v. Pritts, 432 A.2d 1319 (1981)

Crouther v. Johnson, 235 Md. 379, 170 A.2d 768 (1971)

Mayor and City Council v. Sitnick, 254 Md. 303, 255 A.2d 376 (1969)

Kroeger v. Stahl, 248 F.2d (1957)

Presnell v. Leslie, 3 NY.2d 384, 144 NE.2d (1957)

August 28, 1985

P.C. #16

MICROFILMED

OFFICE OF LAW REPORT
PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING RADIO TOWERS AND TELEVISION TOWERS AND OTHER WIRELESS TRANSMISSION OR RECEIVING FACILITIES

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING RADIO AND TELEVISION TOWERS AND OTHER WIRELESS TRANSMISSION OR RECEIVING FACILITIES

Discussion

Radio and television antennas and transmission and receiving towers are currently permitted as a principal use by special exception in every zone of the County except M.R., R.A.E. and O.T. zones. According to Subsection 502.1 before any special exception is granted it must appear that the use will not:

a. Be detrimental to the health, safety, or general welfare of the locality involved;

b. Tend to create congestion in roads, streets or alleys therein;

c. Create a potential hazard from fire, panic or other dangers;

d. Tend to overcrowd land and cause undue concentration of population;

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air;

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

The design of radio and television antennas and wireless transmitting and receiving towers is dependent upon the number of stations anticipated to use the tower, the type of waves being transmitted and received, the intended operating power, the size of the service area, and the terrain of the surrounding area. The most common types of transmission are land mobile radio, A.M., F.M., television, and fixed-point microwave. Land mobile radio and common carrier systems, (i.e., cellular telephone systems) are the fastest growing segment of the communications industry.

With the exceptions of A.M. and land mobile radio, nearly all radio frequencies require a clear line-of-sight path between transmitter and receiver. This is especially true for fixed-point microwave. Because of the line-of-sight requirement transmission facilities must be elevated sufficiently above the average terrain to beam signals past obstructions. Optimum line of sight path is therefore usually achieved on hilltops or on tall buildings. In areas where few tower sites are available, towers may compete with residential

development for prime hilltop sites. Residents of neighborhoods where towers are proposed argue that towers are unattractive and adversely effect property values. If a tower is to serve several station facilities at a particular height, the tower is likely to be a candelabra structure, such as the WBAL tower on T.V. Hill in Baltimore City. On the other hand, if a tower is anticipated to serve only one or two stations with the receivers and transmitters located vertically along the tower, the tower is likely to be a pencil structure. Both candelabra towers and pencil towers require numerous guy wires for anchoring. Freestanding towers are also common and are frequently shaped similar to the Eiffel Tower. Whether freestanding or not, most large towers are of an open grid, structural steel construction, with lights placed intermittently for sighting by planes.

As previously mentioned, cellular telephone systems is one of the fastest growing segments of the communication industry. Cellular telephone systems are intended to serve the mobile communications demands of a metropolitan region. The Federal Communication Commission (FCC) permits and licenses two systems in any one region. In order to prevent communication gaps, the system consists of an integrated grid network of towers, each interdependent upon others. Thus, when the location of one tower is significantly shifted, one or more towers may also have to be shifted. Because the system specifically addresses mobil communications, it is oriented to the expressways and interstates, their primary demand source. The towers themselves are generally 150 to 200 feet in height when freestanding, and they usually are of a monopole design. The distance between towers can vary significantly dependent upon the height of the tower, demand, and somewhat on terrain or obstructions. Because the number of transmissions a tower can serve at any one moment is limited (technologically) to approximately 100, as demand increases more towers may become necessary. These additional towers will in all likelihood be smaller than those of the initial system.

Proposed transmission towers are also viewed as an undesirable use in residential zones because of a fear of potential health hazards posed by long-term exposure to nonionizing electromagnetic radiation (NIER) emitted by these facilities. NIER sources are those frequencies in the lower two-thirds of the electromagnetic spectrum and include all radio, television and microwave frequencies as well as ordinary household current and radar. NIER is distinquished from ionizing electromagnetic radiation (IER)- cosmic, atomic and X-ray - by its lack of energy to ionize, or alter, the molecular structure of living tissue. Although the short and long-term damage to humans resulting from exposure to even low levels of IER is well documented, potential health hazards associated with NIER exposure is a subject of controversy among health scientists.

The problems discussed above associated with the siting of transmission towers are encountered by many jurisdictions around the country. A survey of 15 jurisdictions was conducted by the American Planning Association in a report on "Regulating Radio and Television Towers" (Bookin and Epstein. PAS Report No. 384 American Planning Assoc. 1984). The survey revealed that nearly all jurisdictions consider transmission facilities as conditional uses. Some jurisdictions allow transmission towers outright in non-residential zones

subject to special lot size, height, security and landscaping requirements. The American Planning Association report also suggested several ways to regulate towers. In communities where there is a shortage of tower sites the report suggested that the community take action to identify and protect sites (i.e., adopt a plan) that may be needed in the future. Other alternatives included a ban on transmission towers or permitting them only when no suitable sites in non-residential areas are available.

A review of the zoning ordinances of several neighboring Maryland counties and found that transmission towers are generally permitted by special exception in certain residential and agricultural zones and by right in certain commercial and industrial zones.

Under the authority of the Federal Communications Act of 1934, as amended, the FCC has developed a comprehensive system to regulate radio and television transmissions and related facilities. The height, operating power and location of transmitting structures are regulated by the FCC with additional requirements of the FAA (and the County's special exception requirements). A local jurisdiction cannot ban all new communications facilities outright or impose a permanent or open-ended moratorium. The FCC has the power to issue construction permits that override such a local prohibition and a ban on towers also may violate First Amendment rights.

In a recent special exception hearing, residents unsuccessfully opposed the construction of a 200 foot tower in their neighborhood (zoned R.C.2). The tower is to be used to provide cellular phone service in Maryland. The residents felt that the tower would block views, adversely affect property values, be struck by lightning, interfere with hot air balloons and with migratory bird patterns, and that radiation from the tower would be harmful to people and animals. The petitioners for the tower have received a license from the FCC and approval by the FAA and the Public Utilities Commission. An environmentalist testified that the tower would be relatively unobstrusive and inoffensive in this wooded area and the effect on the environment and fowl would be negligible. An environmental planner discussed national and international research and American National Standards Institute (ANSI) and Environmental Protection Agency (EPA) guidelines and standards and concluded that the proposed ranges of energy would not present health hazards. Further testimony presented by a land planner/landscape architect indicated that the proposed tower would not be detrimental to the agriculture in the area. The Deputy Zoning Commissioner found that the special exception requirements had been met and granted the special exception subject to the following additional restrictions:

1. The wireless transmitting and receiving facility shall have a maximum height of 200 feet, including all antennae, and a platform no more than 4 feet wide at the top.

2. The tower and accessory building shall be enclosed within a locked, chain-link fence at least 8 feet high.

3. The tower shall be unpainted or painted gray and shall not be lighted nor have strobe lights unless specifically required by FCC or FAA rules and regulations. The color of the fence shall be black or brown.

4. At such time as the use is terminated, the tower shall be removed.

5. All plats required for permits shall be drawn by a Maryland registered professional engineer qualified in structural design. Said engineer shall supervise and certify the tower upon completion before an occupancy use permit can be issued. Every five years, a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure continues to meet all safety requirements. Any upgrading or maintenance required to comply with any changes in the safety requirements, or to maintain the safety thereof, shall be performed prior to the filing of such certification.

6. EPA standards and guidelines relating to radiation emissions shall be met at all times.

7. Antennae, dishes or other wireless transmitting and receiving apparatus on the tower shall be limited to those providing cellular phone service or utilized by Baltimore County.

8. The tower shall be properly grounded to minimize the possibility of fire.

9. A landscape plan, designed to minimize the visual impact of the building and lower portion of the tower, shall be submitted to and approved by the Current Planning and Development Division.

On September 4, 1984 County Council adopted Bill No. 117-84 which addresses wireless transmitting and receiving facilities located near historic districts (see Attachment #2). This Bill does not, however, apply to towers under 350 feet in height. The issue of transmission towers near historic districts is discussed in detail in the Planning Board's final report entitled Proposed Amendments to the Baltimore County Zoning Regulations Concerning Radio and Television Towers and Other Wireless Transmission or Receiving Facilities in Proximity to Historic Buildings or Lands (Legislation Project No. 84-08).

Comments/Recommendations

Radio, television and microwave communications are increasingly important for our security, recreation and economic needs. Unfortunately, the transmission towers and related facilities that are necessary components of these systems may affect safety, health and aesthetics if they are not properly situated. The communications industry is developing at a rapid pace and it is difficult to predict what the land use ramifications will be. Overly restrictive regulations may stand in the way of progress and violate federal statutes, while regulations that are too liberal may result in a proliferation of towers in Residential zones.

Banning towers from Residential zones and restricting such towers to Business and Manufacturing zones is considered inappropriate. There are roughly 7,000 acres of land zoned for business and 24,000 acres for manufacturing while the

total acreage for R.C. and D.R. zones (the only residential zones where towers are permitted) is about 251,000 and 101,000 acres respectively. Business and Manufacturing zones in the County generally fall within the urban and suburban areas. These locations may be suitable for certain types of transmitting and receiving facilities but may be inadequate for other types of wireless transmitting or receiving facilities. Many mobile communications systems (including cellular and paging systems) are oriented towards major highways (e.g., I-695, I-83 and I-95). These highways run through urban, suburban and rural areas. The amount of land zoned for business and manufacturing is small when compared to land zoned for residential use. There is no information available which would indicate how much of the land zoned for business and manufacturing would be suitable for the location of the various types of towers that may be in demand in the future. Representatives from the cellular telephone industry indicate that three or four more towers may be needed in the County to adequately serve the metropolitan area. There may also be a need to locate towers in rural areas to serve I-83 and I-95 in the northern part of the County.

One of the major arguments against towers is that towers may emit harmful radiation. Health scientists, however, have not agreed about the effects of the low levels of radiation emitted by certain types of towers. The visual impact of towers in residential areas is also a major concern. Towers are commonly held to be unattractive to the point of adversely effecting property values. Towers can be accommodated in certain residential areas with additional controls to insure that high standards of safety are met and visual impact is lessened.

Towers under certain circumstances may not be any more compatible in Business and Manufacturing zones than in Residential zones. Many Business and Manufacturing zones are located very close to some rather densely populated residential areas. Towers may be strongly opposed in these areas also.

In general, the manner in which towers are permitted (i.e., special exception) in Residential zones is appropriate.

> The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore valid. The special exception use is a valid zoning mechanism that delegates...a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given...are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.
>
> Schultz v. Pritts, 432 A.2d 1319 (1981).

The special exception process provides a means by which a balance of concerns may be struck. When the general special exception requirements do not achieve

the desired end, additional requirements may be adopted to insure the desired result. At some point the development of new communications systems may require the use of land in Residential zones. This land may be acquired subject to local regulations which are designed to lessen the visual impact and other inconveniences that a tower might create or the land might be acquired through federal intervention. A ban on towers in Residential zones may be preempted eventually by federal statutes. Many jurisdictions in Maryland, and in many other states as well, permit towers in certain Residential zones as either a special exception or conditional use. In some cases additional requirements or criteria such as setback, landscaping and safety provisions must also be met before the special exception is granted.

It is quite understandable that most people do not want a transmission tower near their home. The setback requirements in most Residential zones would permit a tower to be located undesirably close to a dwelling. For example, in a Resource Conservation (R.C.) 5 zone a tower would be setback only 50 feet from a property line and no visual buffer is required. It is felt that a more stringent setback should be required in Residential zones in order to insure that a sufficient fall area is provided for towers and also to serve as a "worst case" safety precaution. In addition, the characteristics of a tower and its antennas effect the strength and pattern of emissions. A study of emission levels around the tower should be presented by the petitioner to the Zoning Commissioner. These emission levels should be required to meet the EPA guidelines. The point of maximum emission may not be at the base of the tower but at some point distant from the tower. (In a recent case, this point was approximately equal to seventy percent of the height of the tower.) This together with the issue of long range harm from such emissions, the lack of specific state or federally adopted standards and the significant variations of other published standards and guidelines indicates a need for a minimum setback in Residential zones. Due to the height of most towers, a requirement to completely screen a transmission tower from view would be unreasonable. The petitioner (for a tower by special exception) should, however, be required to screen the tower as much as possible from nearby dwellings. Transmission towers should be fenced in order to prevent these towers from becoming playgrounds for children.

An amendment to the Zoning Regulations to permit towers by right under specified conditions in certain Office, Business and Manufacturing zones, along with more stringent special exception requirements in Residential zones would create a situation where non-residential zones would become more attractive locations for towers. Permitting certain towers by right in non-residential zones would provide an incentive to seek sites in these zones. A petitioner could avoid the costly and time consuming special exception process by locating in a non-residential zone. Additional regulations to protect residential areas which abut such zones could also be included. Therefore, the Baltimore County Zoning Regulations, 1955, as amended, should be further amended as set forth below.

In order to minimize possible harmful effects from radiation emissions and to minimize adverse visual effects of wireless transmitting or receiving structures in certain residential zones add stricter controls to the special exception requirements as shown below.

In Subsection 502.7 (Special exception requirements for certain wireless transmitting and receiving facilities) add Paragraphs 502.7.C and 502.7.D to read as follows:

C. Wireless transmitting or receiving structures in R.C., D.R. or R-O zones shall be subject to the following additional requirements.

1. The setback of such structure from the nearest property line shall equal or exceed three (3) times its height above grade level.

2. The structure shall be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high.

3. A landscape plan, designed to minimize the visual impact of accessory buildings and the lower portion of the structure shall be submitted to and approved by the Director of the Office of Planning and Zoning.

4. Environmental Protection Agency standards and guidelines relating to radiation emissions shall be met at all times.

5. At such time as the use is terminated, the structure shall be removed.

6. Every five years, a certification by a Maryland registered professional engineer shall be filed with the Department of Permits and Licenses indicating that the aforementioned structure meets all safety requirements. Any upgrading or maintenance required to comply with any changes in the safety requirements, or to maintain the safety thereof, shall be performed prior to the filing of such certification.

7. No white stroboscopic lights shall be permitted.

8. In order to insure against adverse effects on its surroundings, an environmental impact statement, as defined in Section 101, shall be submitted to the Zoning Commissioner. Such environmental impact statement shall include information on emission levels and shall evaluate the impact of the proposed structure on birds, wildlife, livestock, etc.

D. Exemptions.

1. The provisions of Subparagraphs 502.7.C.1, 2 and 3 shall not apply to roof-mounted wireless transmitting or receiving structures.

2. The provisions of Paragraph 502.7.C shall not apply to wireless transmitting or receiving structures serving gas and electric public utility communication needs except as required by the Zoning Commissioner under the authority of Subsections 502.1 and 502.2.

In order to provide a greater incentive for the location of wireless transmitting or receiving structures in certain non-residential zones, add the following amendments.

Add Section 426 immediately after Section 425 - Alcoholic Beverages License to read as follows:

Section 426 - WIRELESS TRANSMITTING OR RECEIVING STRUCTURES

426.1 Wireless transmitting or receiving structures with a maximum height of 200 feet above grade level including all antennas and platforms shall be permitted by right in O-2 (Office Park) zones, O.T. (Office and Technology) zones, and Business and Manufacturing zones subject to the following restrictions:

A. The structure shall be enclosed within a locked, chain link fence, or comparable wall or structure, at least 8 feet high unless such structure is roof-mounted.

B. The minimum setback from any boundary of a Residential or R-O zone shall be 200 feet.

C. Environmental Protection Agency standards and guidelines relating to radiation emissions shall be met at all times.

426.2 Within O-2, O.T., Business and Manufacturing zones, accessory wireless transmitting or receiving structures shall be permitted by right; however, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.

In Paragraph 204.3.B (certain uses permitted by special exception in O-1 zones) add the following new entry:

3. Wireless transmitting or receiving structures

In Paragraph 205.3.A (certain uses permitted by right in O-2 zones) add the following new entry:

5. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

In Paragraph 205.3.B (certain uses permitted by special exception in O-2 zones) add the following new entry:

4. Wireless transmitting or receiving structures not permitted by Section 426

Revise Paragraph 207.3.A (certain uses permitted by right in O.T. zones) by adding the words that are underlined:

14. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

15. Combinations of the uses listed above

Revise Paragraph 207.3.D (certain uses permitted by special exception in O.T. zones) by adding the words that are underlined:

1. Warehouses as described in A.12 of this subsection may be allowed by special exception providing the warehouse accounts for no more than 60% of the total gross floor area.

2. Wireless transmitting or receiving structures not permitted by Section 426

In Subsection 230.9 (certain uses permitted by right in B.L. zones) add alphabetically the following new entry:

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

Revise Subsection 230.13 (certain uses permitted by special exception in B.L. zones) by adding the words that are underlined:

Wireless transmitting ~~and~~ or receiving structure not permitted by Section 426

Revise Subsections 233.4, 236.4, 248.4.a and 256.4 (certain uses permitted by special exception in B.M., B.R., M.L.R. and M.H. zones) by deleting the words that are lined through and adding the words that are underlined as shown below:

Wireless transmitting ~~and~~ or receiving structure not permitted by Section 426; ~~except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.~~

In Subsection 248.3 (certain uses permitted by right in M.L.R. zones) add the words that are underlined as shown below:

248.3 - Living quarters for watchmen and caretakers and their families living on the premises and engaged in connection with any lawful use in the M.L.R. Zone;

Accessory buildings and uses in connection with living quarters (see above) and as limited by Section 400.

Hotels and motels when within an M.L.R. zone which is part of a contiguous area of 25 acres or more of industrial zoning, and provided that the combined tract areas developed for such uses do not occupy more than 25 percent of the particular contiguous area of industrial zoning in which they are located.

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

In Paragraph 253.1.B (certain transportation, storage or quasi-public uses or utilities permitted by right in M.L. zones) add the following new entry:

19. Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

Revise Paragraph 253.2.D. (certain uses permitted by special exception in M.L. zones) by deleting the words that are lined through and adding the words that are underlined as shown below:

2. Wireless transmitting ~~and~~ or receiving structures not permitted by Section 426; ~~except as minor accessory uses or structures (which are permitted without a special exception); provided that, for the purposes of this paragraph, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.~~

In Subsection 256.1 (certain uses permitted by right in M.H. zones) add alphabetically the following new entry:

Wireless transmitting or receiving structures 200 feet or less in height above grade level (see Section 426)

SUMMARY OF PROPOSED ZONING REGULATIONS FOR PRINCIPAL WIRELESS TRANSMITTING OR RECEIVING STRUCTURES

Zone	Manner Permitted	Conditions	Sections
R.C. and D.R.	Special Exception	3:1 setback; fenced, landscaped, EIS, no strobe lights, 5 yr. inspection; must meet emissions standards.	502.1 and 502.7.C
R.A.E.	Not Permitted	-o-	-o-
R.O.	Special Exception	3:1 setback, fenced, landscaped; EIS, no strobe lights, 5 yr. inspection; must meet EPA emission standards.	502.1 and 502.7.C.
O-1	Special Exception	as determined by Zoning Commissioner following hearing.	502.1
O-2, O.T., Business, M.L.R., M.L. M.H.	By Right	200' max. height; 200' min. setback from residential and R.O. zone; fenced; must meet EPA emissions standards.	426
	Special Exception	all those not covered by above subject to conditions determined by Zoning Commissioner following hearing.	502.1
M.R.	Not Permitted	-o-	-o-

Notes: 1) Section 502.1 refers to the general findings that must be made prior to granting a special exception.

2) All such structures over 350 feet are subject to the additional historical impact review of Section 502.7.

3) Section 502.7.C is a proposed new section.

4) Section 426 is a proposed new section.

5) Exceptions: accessory antennas including those in conjuction with licensed amateur radio operators; Section 502.7.C not applicable to communication towers accessory to Baltimore Gas and Electric operations - such as substations and gas lines.

P.C. Ex. 17

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1986, LEGISLATIVE DAY NO. 9

BILL NO. 64-86

MICROFILMED

MESSRS. O'ROURKE & RUPPERSBERGER, COUNCILMEMBERS

BY THE COUNTY COUNCIL, MAY 5, 1986

A BILL

ENTITLED

AN ACT concerning

Wireless Transmitting or Receiving Facilities

FOR the purpose of amending the Baltimore County Zoning Regulations in order to regulate the location of radio and television towers and other wireless transmission or receiving facilities by permitting such facilities by right under specified conditions in certain zones and by special exception in certain zones; and generally relating to the location of wireless transmitting or receiving facilities in Baltimore County and providing exceptions to certain of the regulations.

BY adding

Sections 502.7.C., 502.7.D., 426, 204.3.B.3., 205.3.A.5., 205.3.B.4., 207.3.A.14., and 253.1.B.19

Baltimore County Zoning Regulations, as amended

BY adding

Section 230.9, and 256.1, alphabetically an entry for Wireless transmitting or receiving facilities

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Sections 230.13, 233.4, 236.4, 248.4a, and 256.4, alphabetically the entry for wireless transmitting or receiving facilities

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Sections 207.3.D., 248.3, and 253.2.D.2.

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill
Underlining indicates amendments to bill.

WHEREAS, the Baltimore County Council has received a final report from the Office of Law concerning the subject legislation and has held a public hearing thereon, now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Sections 502.7.C., 502.7.D., 426, 204.3.B.3., 205.3.A.5., 205.3.B.4., 207.3.A.14., and 253.1.B.19, be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

Section 502 - Special Exceptions

502.7 Wireless Transmitting and Receiving Facilities.

C. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES IN R.C., D.R. OR R-O ZONES ARE SUBJECT TO THE FOLLOWING ADDITIONAL REQUIREMENTS; PROVIDED THAT NOTHING HEREIN SHALL BE DEEMED TO PROHIBIT THE GRANTING, WHERE APPROPRIATE, OR VARIANCES FROM SUCH REQUIREMENTS PURSUANT TO SECTION 307 OF THESE REGULATIONS.

1. PETITIONER SHALL HAVE THE BURDEN OF ESTABLISHING THAT IT HAS MADE A DILIGENT SEARCH FOR A LOCATION WITHIN A BUSINESS , OFFICE OR INDUSTRIAL ZONE, OR FOR MOUNTING ON ANY EXISTING STRUCTURE OVER FIFTY (50) FEET IN HEIGHT AND THAT, DUE TO VALID CONSIDERATIONS, INCLUDING BUT NOT LIMITED TO, LOCATION, ECONOMIC, ELEVATION, ENGINEERING OR TECHNOLOGIC FEASIBILITY, NO APPROPRIATE LOCATION IS AVAILABLE.

2. THE SETBACK OF SUCH STRUCTURE FROM THE NEAREST PROPERTY LINE SHALL EQUAL OR EXCEED TWO (2) TIMES ITS HEIGHT ABOVE GRADE LEVEL.

3. THE STRUCTURE SHALL BE LOCATED ON A LOT OF AT LEAST FIVE (5) ACRES.

4. THE STRUCTURE SHALL BE ENCLOSED WITHIN A LOCKED, CHAIN-LINK FENCE, OR COMPARABLE WALL OR STRUCTURE, AT LEAST 8 FEET HIGH.

5. A LANDSCAPE PLAN, DESIGNED TO MINIMIZE THE VISUAL IMPACT OF ACCESSORY BUILDINGS AND THE LOWER PORTION OF THE STRUCTURE SHALL BE SUBMITTED TO AND APPROVED BY THE DIRECTOR OF THE OFFICE OF PLANNING AND ZONING.

6. ENVIRONMENTAL PROTECTION AGENCY STANDARDS AND GUIDELINES RELATING TO RADIATION EMISSIONS SHALL BE MET AT ALL TIMES.

7. WHEN THE USE IS TERMINATED, THE STRUCTURE SHALL BE REMOVED.

8. EVERY FIVE YEARS, OR SOONER IN THE EVENT OF SUBSTANTIAL DAMAGE, A CERTIFICATION BY A PROFESSIONAL ENGINEER REGISTERED IN MARYLAND A CERTIFICATION BY A MARYLAND REGISTERED PROFESSIONAL ENGINEER SHALL BE FILED WITH THE DEPARTMENT OF PERMITS AND LICENSES INDICATING THAT THE AFOREMENTIONED STRUCTURE MEETS ALL SAFETY REQUIREMENTS. ANY UPGRADING OR MAINTENANCE REQUIRED TO COMPLY WITH ANY CHANGES IN THE SAFETY REQUIREMENTS, OR TO MAINTAIN THE SAFETY THEREOF, SHALL BE PERFORMED PRIOR TO THE FILING OF SUCH CERTIFICATION.

9. NO WHITE STROBOSCOPIC LIGHTS ARE PERMITTED.

10. IN ORDER TO INSURE AGAINST ADVERSE EFFECTS ON ITS SURROUNDINGS, AN ENVIRONMENTAL IMPACT STATEMENT, AS DEFINED IN SECTION 101, SHALL BE SUBMITTED TO THE ZONING COMMISSIONER OR, IN THE EVENT OF AN APPEAL, TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY. SUCH ENVIRONMENTAL IMPACT STATEMENT SHALL INCLUDE INFORMATION ON EMISSION LEVELS AND SHALL EVALUATE THE IMPACT OF THE PROPOSED STRUCTURE ON THE ECOSYSTEM; AND BASED ON SUCH ENVIRONMENTAL IMPACT STATEMENT AND OTHER EVIDENCE PRODUCED AT THE HEARING, IT MUST APPEAR THAT THE PROPOSED STRUCTURE WILL NOT HAVE A SUBSTANTIAL ADVERSE IMPACT ON THE ENVIRONMENT.

11. THE ZONING COMMISSIONER OR, IN THE EVENT OF AN APPEAL, THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY SHALL DETERMINE THAT THERE WILL NOT BE A SUBSTANTIAL ADVERSE IMPACT ON SURROUNDING PROPERTY VALUES, PARK LANDS OR OPEN SPACE.

D. EXEMPTIONS.

1. THE PROVISIONS OF SUBPARAGRAPHS 502.7.c.1, 2, 3, 4 AND 5 DO NOT APPLY TO WIRELESS TRANSMITTING OR RECEIVING STRUCTURES THAT ARE MOUNTED ON ANY EXISTING STRUCTURE OVER FIFTY (50) FEET IN HEIGHT.

2. THE PROVISIONS OF PARAGRAPH 502.7.C DO NOT APPLY TO WIRELESS TRANSMITTING OR RECEIVING STRUCTURES SERVING GAS AND ELECTRIC OR LAND-BASED LOCAL TELEPHONE PUBLIC UTILITY COMMUNICATION NEEDS AT EXISTING FACILITIES EXCEPT AS REQUIRED BY THE ZONING COMMISSIONER UNDER THE AUTHORITY OF SUBSECTIONS 502.1 AND 502.2; PROVIDED THAT SUCH PUBLIC UTILITY AFFIRMATIVELY ESTABLISHES THAT THE STRUCTURE AND SERVICE MEETS CRITICAL COMMUNICATION NEEDS FOR PUBLIC SAFETY PURPOSES.

SECTION 426 - WIRELESS TRANSMITTING OR RECEIVING STRUCTURES

426.1 WIRELESS TRANSMITTING OR RECEIVING STRUCTURES WITH A MAXIMUM HEIGHT OF 200 FEET ABOVE GRADE LEVEL, INCLUDING ALL ANTENNAS AND PLATFORMS, ARE PERMITTED BY RIGHT IN O-2 (OFFICE PARK) ZONES, O.T. (OFFICE AND TECHNOLOGY) ZONES, AND BUSINESS AND MANUFACTURING ZONES SUBJECT TO THE FOLLOWING RESTRICTIONS:

A. THE STRUCTURE SHALL BE ENCLOSED WITHIN A LOCKED, CHAIN LINK FENCE, OR COMPARABLE WALL OR STRUCTURE, AT LEAST 8 FEET HIGH UNLESS SUCH STRUCTURE IS ROOF-MOUNTED.

B. THE MINIMUM SETBACK FROM ANY BOUNDARY OF A RESIDENTIAL OR R-O ZONE SHALL BE 200 FEET.

C. ENVIRONMENTAL PROTECTION AGENCY STANDARDS AND GUIDELINES RELATING TO RADIATION EMISSIONS SHALL BE MET AT ALL TIMES.

426.2 WITHIN O-2, O.T., BUSINESS AND MANUFACTURING ZONES, ACCESSORY WIRELESS TRANSMITTING OR RECEIVING STRUCTURES ARE PERMITTED BY RIGHT; HOWEVER, NO EXTERIOR ANTENNA GREATER THAN 50 FEET ABOVE GRADE LEVEL SHALL BE CONSIDERED AS AN ACCESSORY USE OR STRUCTURE.

Section 204 - O-1 (Office Building) Zones.

204.3 - Use Regulations of O-1 Zones.

B. The following uses, only, are allowable by special exception:

3. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES.

Section 205 - O-2 (Office Park) Zones.

205.3 Use Regulations of O-2 Zones.

A. The following uses, only, are permitted as of right.

5. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426).

B. Uses allowable by special exception.

4. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES NOT PERMITTED BY SECTION 426.

Section 207 - O.T. (Office and Technology) Zone.

207.3 Permitted Uses.

A. Principal Uses. The following principal uses are permitted as a matter of right:

14. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426)

[14.] 15. Combinations of the uses listed above.

M.L. Zone - Manufacturing, Light

Section 253 - Use Regulations

253.1 - Uses Permitted as of Right.

B. The following transportation, storage, or quasi-public uses or utilities:

19. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426).

SECTION 2. AND BE IT FURTHER ENACTED, that an entry for Wireless transmitting or receiving facilities be added alphabetically to Sections 230.9, 230.13, and 256.1 of the Baltimore County Zoning Regulations, as amended, to read as follows:

B.L. Zone - Business, Local

Section 230 - Use Regulations

The following uses only are permitted (See Section 230.12):

230.9

WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426)

256.1 - Uses Permitted in M.R. Zone, Section 241.1 and in Section 253.4 of the M.L. Zone:

WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426).

SECTION 3. AND BE IT FURTHER ENACTED, that Sections 230.13, 233.4, 236.4, 248.4a and 256.4 of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-enacted,

with amendments, as to the entry therein respectively for wireless transmitting or receiving facilities, to read as follows:

B.L. Zone - Business, Local

Section 230 - Use Regulations

230.13 - Special Exceptions - The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Wireless transmitting [and] OR receiving structure NOT PERMITTED BY SECTION 426.

B.M. Zone - Business, Major

Section 233 - Use Regulations

The following uses only are permitted (See Section 233.3):

233.4 - Special Exceptions - The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Wireless transmitting [and] OR receiving structure [, except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.] NOT PERMITTED BY SECTION 426.

B.R. Zone - Business, Roadside

Section 236 - Use Regulations

236.4 - Special Exceptions - The following uses when permitted as Special Exceptions (see Sections 270 and 502):

Wireless transmitting [and] OR receiving structure [, except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.] NOT PERMITTED BY SECTION 426.

M.L.R. Zone - Manufacturing, Light, Restricted

Section 248 - Use Regulations

248.4 - Special Exceptions - When permitted as Special Exceptions (see Sections 270 and 502)

a. The following uses:

Wireless transmitting [and] OR receiving structure [, except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.] NOT PERMITTED BY SECTION 426.

M.H. Zone - Manufacturing, Heavy

Section 256 - Use Regulations

256.4 - Special Exceptions - the following uses only when permitted as Special Exceptions (see Sections 270 and 502):

Wireless transmitting [and] OR receiving structure [, except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.] NOT PERMITTED BY SECTION 426.

SECTION 4. AND BE IT FURTHER ENACTED, that Sections 207.3.D., 248.3 and 253.2.D.2. of the Baltimore County Zoning Regulations, as amended, be and they are hereby repealed and re-enacted, with amendments, to read as follows:

Section 207 - O.T. (Office and Technology) Zone

207.3 Permitted Uses.

D. Uses Permitted by Special Exceptions.

1. Warehouses as described in A.12 of this subsection may be allowed by special exception providing the warehouse accounts for no more than 60% of the total gross floor area.

2. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES NOT PERMITTED BY SECTION 426.

248.3 - Living quarters for watchmen and caretakers and their families living on the premises and engaged in connection with any lawful use in the M.L.R. Zone;

Accessory buildings and uses in connection with living quarters (see above) and as limited by Section 400.

Hotels and motels when within an M.L.R. zone which is part of a contiguous area of 25 acres or more of industrial zoning, and provided that the combined tract areas developed for such uses do not occupy more than 25 percent of the particular contiguous area of industrial zoning in which they are located. WIRELESS TRANSMITTING OR RECEIVING STRUCTURES 200 FEET OR LESS IN HEIGHT ABOVE GRADE LEVEL (SEE SECTION 426).

M.L. Zone - Manufacturing, Light

Section 253 - Use Regulations

253.2 Uses Permitted by Special Exception

D. The following miscellaneous uses:

Wireless transmitting [and] OR receiving structure [, except as a minor accessory use or structure (which is permitted without a special exception); provided that, for the purposes of this subsection, no exterior antenna greater than 50 feet above grade level shall be considered as an accessory use or structure.] NOT PERMITTED BY SECTION 426.

SECTION 5. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-five days after its enactment.

P.C. Ex. 18

DATE: 1/9/97

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 96-360-XA
HATFIELD/PROUTT

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Basis of Your Concerns
✓	Wesley A Lidie 2101 Old Court Rd. Brooklandville Md 21022 828/7856	Brooklandville
	G. BROCK JOHNSON 10129 FALLS RD. BROOKLANDVILLE MD. 21022 832-2927	Rockland Community
	ADRIAN H. MERRYMAN 10424 FALLS RD.	BROOKLANDVILLE MD
✓	Edith Hoyt Garrett 825-0394 10220 Falls Road Brooklandville, Md. 21022-0816	Rockland Brooklandville
✓	THOMAS M. BROGGMAN NCC. P.O. BOX 1117, 2202 OLD COURT RD BROOKLANDVILLE, MARYLAND 21022	PRESIDENT - ROCKLAND HOMEOWNERS ASSOCIATION
	FRED PETTY 10145 FALLS RD	ROCKLAND COMMUNITY
✓	JOSEPHINE JOHNSON 10135 FALLS RD	ROCKLAND COMMUNITY
✓	Pamela Slinglutt 616 Brightwood Club Drive	Brightwood + Meridian
	Spencer Garrett 10220 FALLS ROAD	ROCKLAND
✓	SARAH LORD 6134 Barrell Rd 21209	Ruxton - Riderwood Lake Roland Area Imp. Assoc. Inc.
	Alice Slavik 7007 Falls Rd Brooklandville MD 21022	Rockland
	James R. Garrett 10220 Falls Road	Rockland
	Michelle K. Guinee PO Box 1187 10432 Falls Rd Brooklandville MD 21022	Brooklandville

App. #6

MICROFILMED

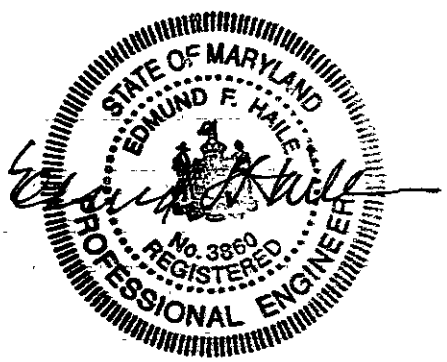
Environmental Impact Statement

Cellular One J.F.X. Site
Baltimore County, Maryland

March 1996

Project No. 95057

Prepared for:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
7150 Standard Drive
Hanover, MD 21076



Prepared by:
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

I. INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared to meet the requirements of section 502.7.C.10 of the Baltimore County Zoning Regulations in support of a Petition for Special Exception for a wireless transmitting and receiving facility. The proposed facility is to be located on the John Hatfield property, a 3.0± acre parcel located off the northwest side of Brightfield Road (formerly Old Court Road) at the interchange of the Baltimore Beltway (I-695) and the Jones Falls Expressway (I-83), near Brooklandville. The subject facility will be operated by a primary lessee, Cellular One Washington/Baltimore and by two additional sub-lessees: Bell Atlantic NYNEX Mobile (BANM) and Nextel Communications of the Mid-Atlantic (Nextel).

II. PROJECT SUMMARY

The proposed project is a cellular communications facility which will consist of a 50' x 65' gravel compound, three equipment buildings, and a 175-foot monopole. Three sets of antennas will be installed on the proposed monopole, and three unmanned equipment buildings will be placed on the site situated in an enclosed gravel compound. The proposed Cellular One building will be approximately 11'-6" x 26'. The proposed BANM building will be approximately 12' x 30', and the proposed Nextel building will be approximately 10' x 12'. All three buildings will be approximately 10' high. The proposed 50' x 65' gravel compound will be enclosed with an eight foot high chain link fence with three strands of barbed wire on top.

The site is currently zoned D.R.1. Adjacent properties include interstate highways to the north, a vacant wooded property with a stormwater management facility to the west, a single-family residential lot southeast of the property, and the *Brightwood* retirement community southwest of the property.

The facility can be constructed at this location with minimal land disturbance to the area. The site will be served by electric and telephone utilities only. No sanitary sewer, water, or natural gas facilities are needed for the operation of the facility. The facility is designed for continuous unmanned operation, but will be visited on a regular periodic basis for routine checks and maintenance as well as for emergency repairs.

III. DISCUSSION OF PROBABLE IMPACTS

Site Clearing and Grading: The site selected for the facility is relatively level and is currently maintained as a grassed meadow. Earthwork necessary to construct the facility is limited to that which is needed to install the 50' x 65' gravel compound containing the equipment buildings and monopole. No environmentally sensitive areas, natural or forested communities will be disturbed for this installation.

Site Drainage and Runoff: New impervious area created by this installation is limited to less than 900 square feet associated with the new concrete pads for the three equipment buildings. The minimal increase in runoff created by the addition of this impervious surface is not anticipated to have any significant effect on the surrounding environs. There are no materials proposed to be used that could cause any chemical contamination of either runoff or ground water.

Wildlife Habitat: The site was visited by an Environmental Specialist on December 4, 1995. No significant plant or wildlife resources were found within the portion of the site selected for the installation of the proposed facility. All of the exterior components for the facility will be structure mounted, so no significant habitats will be disturbed.

There is very little available information on the effect of radio broadcast facilities on free ranging wildlife. However, studies on confined individuals indicate that radio frequency radiation levels must be several orders of magnitude higher than those associated with this type of facility to have any measurable effect. Wildlife studies on the effects of radio frequency radiation emitted by the subject wireless transmitting and receiving facility are unwarranted due to the extremely low power levels of operation.

Noise: Cellular sites with interior equipment such as the subject facility do not generate any audible noise other than the air conditioning units used to cool the equipment buildings. These will generate the same levels of noise generally associated with large residential window air conditioners.

RF Radiation: After numerous studies and hearings, the American National Standards Institute (ANSI) developed and adopted a standard with respect to public exposure to radio frequency radiation. That standard (*ANSI/IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz*) is known as ANSI/IEEE C95.1-1992. This is the current de facto standard used by the radio and telecommunication industries to protect human

health and safety. Based upon the adopted ANSI/IEEE C95.1-1992 standard, there is a vast margin of safety associated with the transmitting and receiving equipment approved by the FCC for wireless communications. The recently passed *Telecommunications Act of 1996* charges the FCC with prescribing and making effective rules regarding the environmental effects of radio frequency emissions. All equipment proposed for the subject wireless transmitting and receiving facility will comply with all currently applicable standards and future government standards and regulations both individually and collectively.

Vehicular Traffic: Equipment inspection visits to cellular facilities are made on a routine but infrequent basis, typically once or twice a month. Technicians are dispatched for emergency repairs as well. The overall traffic amounts to approximately one trip per week per carrier so the projected additional traffic generated by the proposed installation will amount to three trips per week. Given the existing uses on the nearby properties, there will be no appreciable change in traffic volumes or patterns due to the presence of the cell site.

Visual Impact: The facility is to be installed near the intersection of two interstate highways and in close proximity to existing high tension electrical transmission towers approximately 130' high. The selected location has woods nearby on three sides to buffer the ground level visual effect of the facility. The addition of the monopole will not significantly detract from the existing appearance of the site.

IV. ALTERNATIVES TO THE PROPOSED ACTION

Should approval for the proposed project be denied, it would be necessary for Cellular One to seek an alternative site within a quarter to a half mile of the present location. A tower of at least 150 feet or more in height would have to be constructed. Additionally, an alternate location may not provide the coverage needs of the other two carriers proposing to use this facility. Thus it is likely that a second or third facility would have to be constructed to meet their demands. Approval of the proposed plan will eliminate the need for additional facilities required by BANM and Nextel.

V. ASSESSMENT OF LONG-TERM EFFECTS

Based on the above observations, the measurable effect can be reduced to one item: the visibility of the top portion of the facility's monopole and antennas. The visibility of the ground level equipment is greatly

reduced or eliminated by the existing mature trees nearly surrounding the site. Moreover, the facility is to be installed in close proximity to existing high tension electrical transmission towers; therefore, the addition of this facility will not significantly detract from the area's existing appearance.

VI. COMMITMENT OF RESOURCES

The proposed project does not require any unusual materials or resources. Approval of the project will negate the need for a second or third station thereby conserving the land, materials, and energy required to construct them.

VII. CONCLUSIONS

The wireless transmitting and receiving facility consolidates the needs of three wireless carriers at one location, has little or no impact on the environment, and in effect, results in a benefit to the public by providing improved cellular communication services in Baltimore County.

APP. EXHIBIT 7A

MICROFILMED



LOOKING SOUTH FROM FALLS RD. NEAR THE VALLEY INN
APPROX. 1200' AWAY

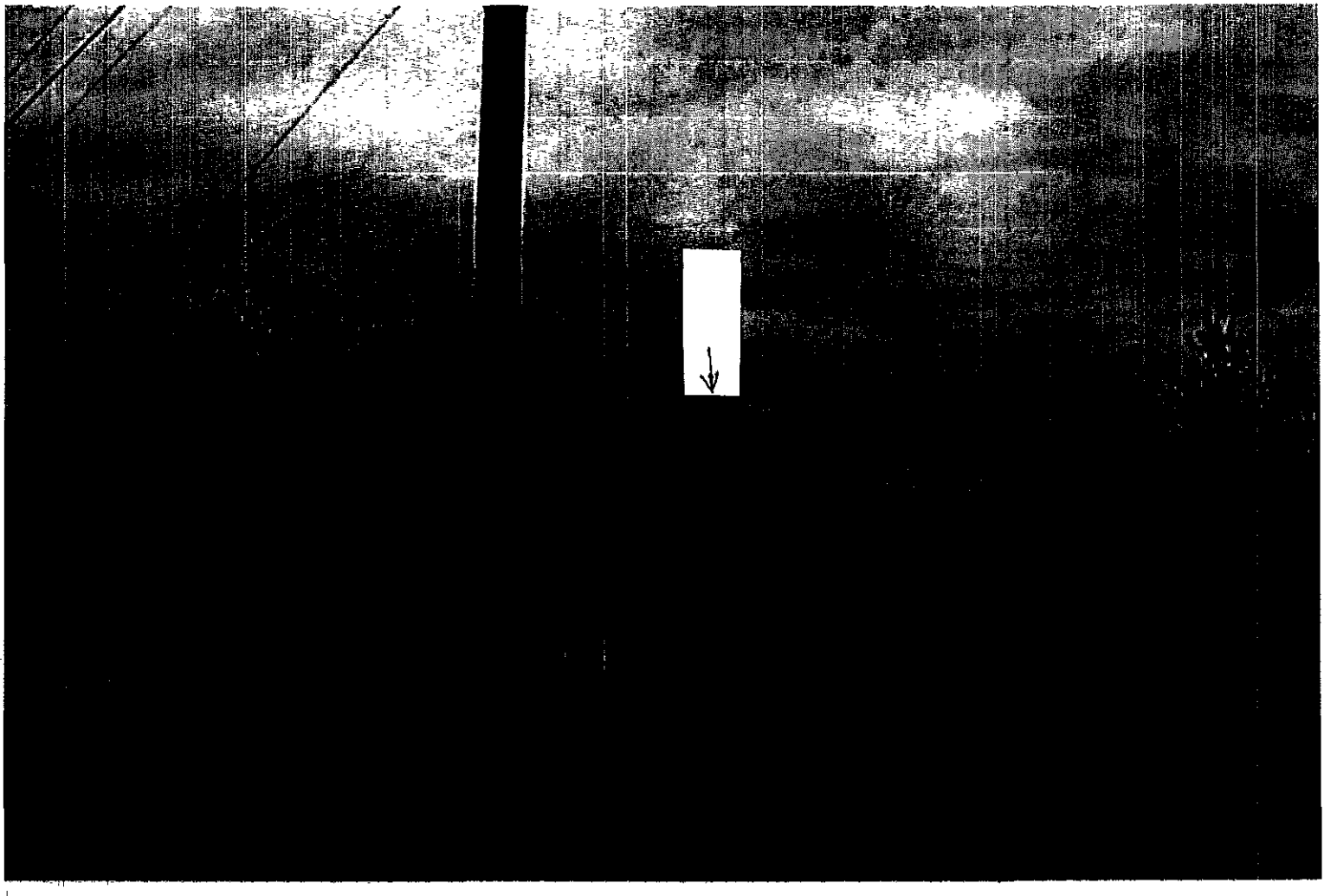
App. 7B



LOOKING SOUTHEAST FROM THE INTERSECTION OF FALLS RD. & HILLSTEAD DRIVE APPROX. 800' AWAY

APP. EXHIBIT 7C

MICROFILMED



LOOKING NORTHEAST FROM INTERSECTION OF FALLS RD. & BRIGHTFIELD ROAD. APPROX. 1000' AWAY.

APP EXHIBIT 7D

MICROFILMED



LOOKING SOUTH FROM M.S.H.A. FACILITY AT INTERSECTION OF JOPPA RD. & FALLS RD. APPROX. 3900' AWAY

APP EXHIBIT 7E



LOOKING SOUTHWEST FROM THE JOPPA RD OVERPASS OF THE BALTO. BELTWAY, I-695, APPROX. 2700' AWAY

APP EXHIBIT 7F

MICROFILMED



LOOKING WEST FROM THE CURVE IN RELOCATED OLD COURT RD. APPROX. 1400' AWAY.

APP EXHIBIT 7G

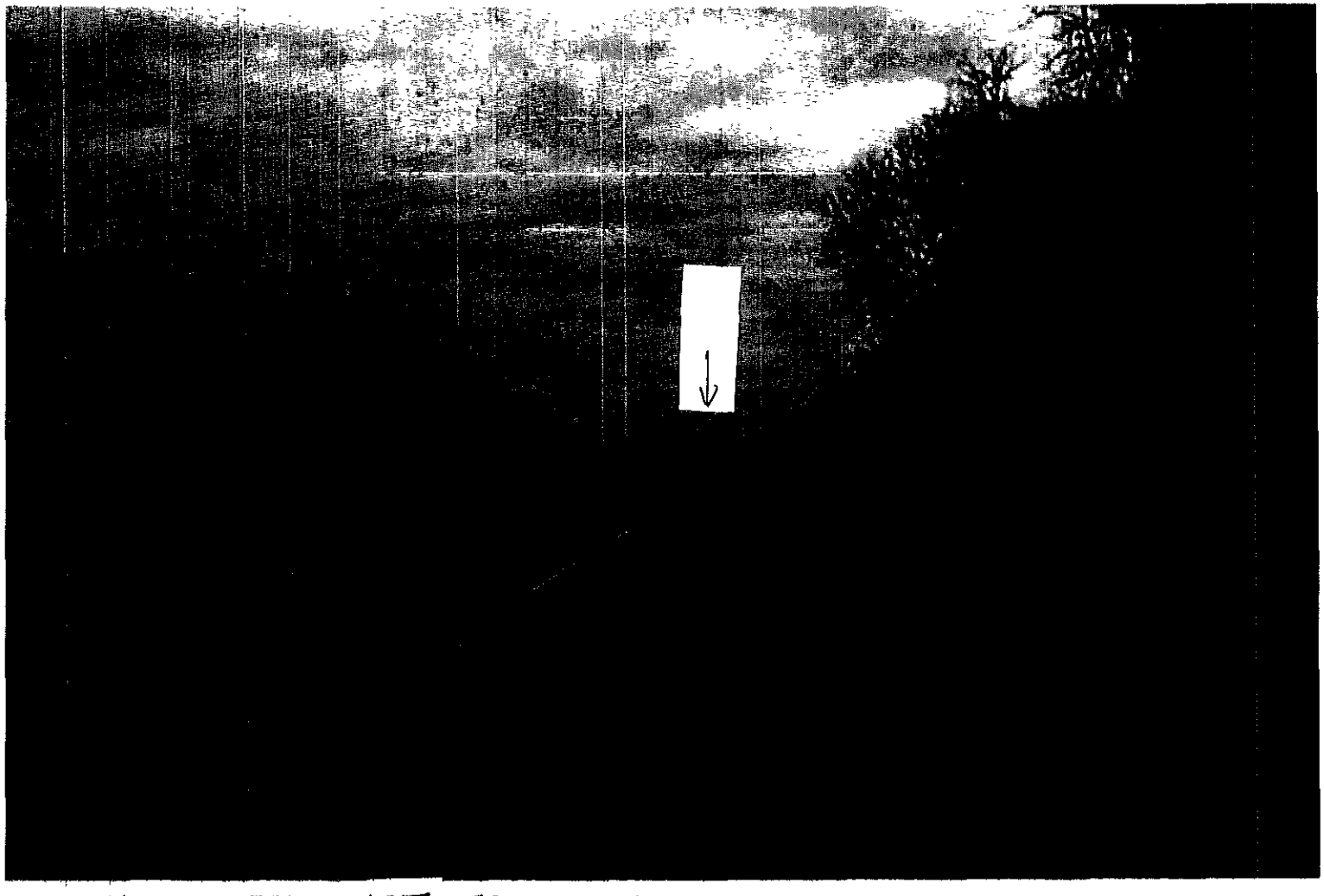
MICROFILMED



LOOKING NORTHWEST FROM THE END OF
ROCKLAND VUE COURT
APPROX. 1700' AWAY

APP EXHIBIT 7H

MICROFILMED



LOOKING NORTHEAST FROM INNER LOOP OF THE BALTO. BELTWAY, I-695, MIDWAY BETWEEN GREENSPRING AVE. & JFX EXITS APPROX. 4000' AWAY.

APP EXHIBIT 7I

AMENDED



LOOKING NORTH FROM ADJOINING PROPERTY, APPROX. 250' AWAY FROM ORIGINAL MONOPOLE LOCATION.

MICROFILMED

Ap. Ex. 10

George E. Gavrelis
Vice President

DMW

Daft·McCune·Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21204
Phone 410 296 3333
Fax 410 296 4705
ggavrelis@dmw.com

A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals



George Gavrelis is DMW's senior specialist in local planning and zoning. With extensive public-sector leadership service, he has complete knowledge of planning and zoning procedures, as well as detailed requirements and standards of zoning and development regulations. His expertise assures that projects comply with applicable standards and move expediently through the approval process.

George is recognized as an expert witness in Baltimore County planning, zoning, and land use issues, and testifies before the Zoning Commissioner, Board of Appeals, and circuit court.

Significant Projects

Towson Commons
Towson, Maryland

Mays Chapel North
Planned Unit Development
Timonium, Maryland

Caves Valley Golf Club
Baltimore County, Maryland

Hayfields
Baltimore County, Maryland

Land Owners Council,
Reciprocal Regional
Development Agreement
Owings Mills Growth Area
Baltimore County, Maryland

New Density
Residential Zones
Baltimore County, Maryland

The Guide Plan for
Baltimore County, Maryland

Professional Background

Daft-McCune-Walker, Inc.
Towson, Maryland
1984 - Present

Private Planning
Consultant
Towson, Maryland
1982 - 1984

Developers General Corp.
Towson, Maryland
1972 - 1982

Office of Planning and
Zoning, Baltimore County,
Maryland
1951 - 1972
Director, 1963 - 1972

Education

M.A. - City Planning
Harvard University
Graduate School of Design

A.B. - Architectural Sciences
Harvard College

Associations

American Institute of
Certified Planners
Charter Member

American Planning Assoc.

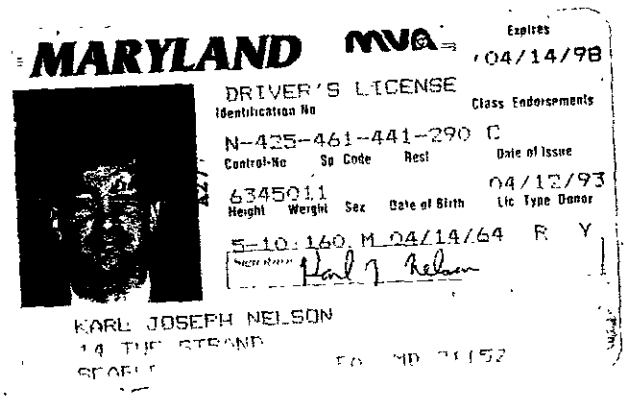
Civic Involvement

The Towson Partnership
Urban Design and Towson
Core Subcommittees

Baltimore County Master
Plan, Strategic Plan 2000
Executive Steering
Committee

Trinity Episcopal Church
Long Range Planning
Committee

1992 Comprehensive
Zoning Map Guidelines
Advisory Group


MARYLAND MVA

Expires 04/14/98

DRIVER'S LICENSE

Identification No

N-425-461-441-290

Control-No Sp Code Rest

Class Endorsements C

Date of Issue 04/12/93

Height Weight Sex Date of Birth Lic Type Donor

6345011

5-10 160 M 04/14/64 R Y

Karl J Nelson

KARL JOSEPH NELSON

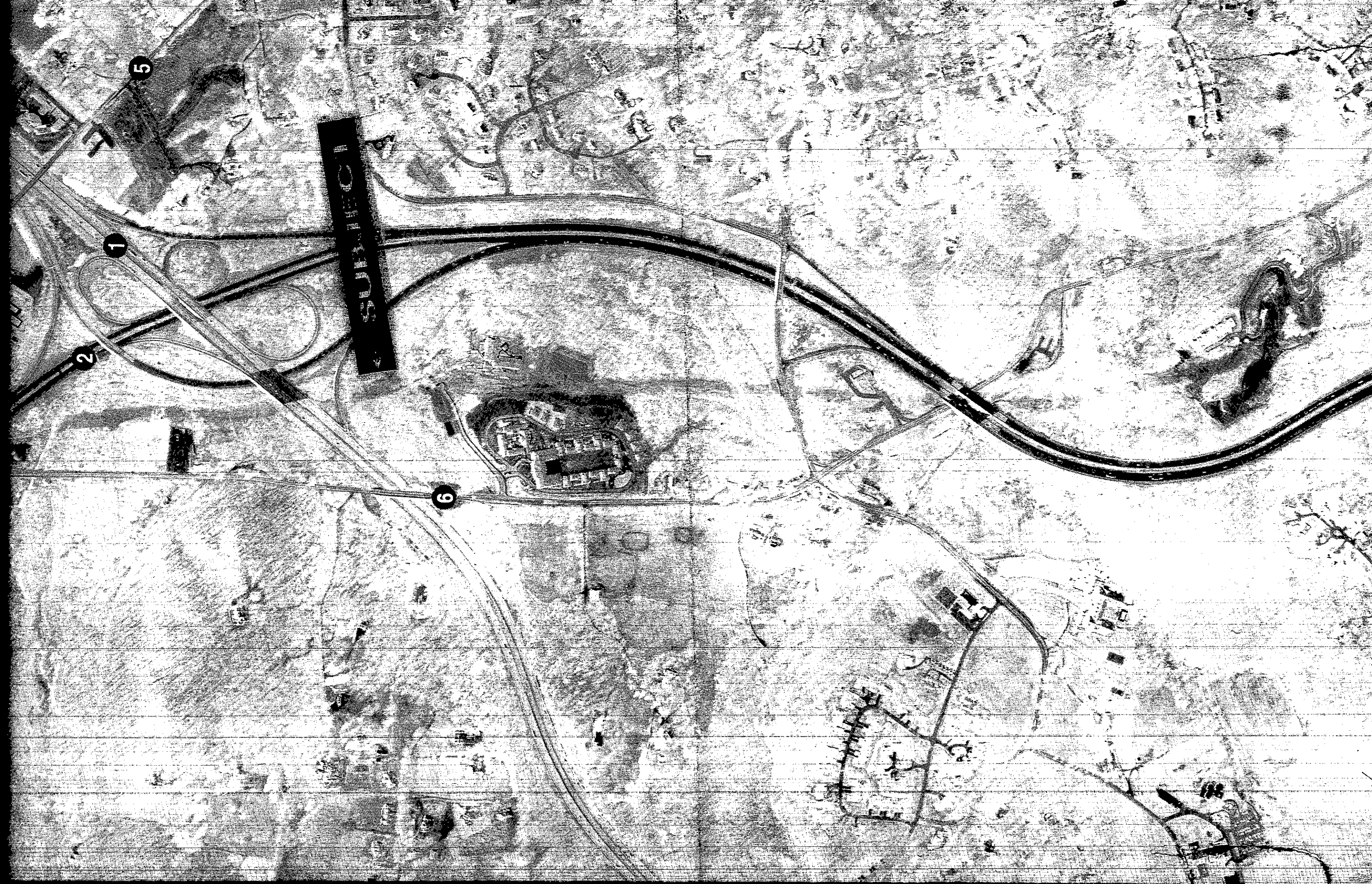
14 TUF STRAND

STORLE [illegible] MD 21152

Hatfield Case No. 96-360-XA Appellant's Ex. #1 + 4A
Taken by Karl Nelson to be used in another case
to be heard this date. #1 (aerial photo - on large board)
#4A ("Proposed JFX Site Location Map")

7/10/97

Karl Joseph Nelson 7/10/97


1
2
5
6

T

DF

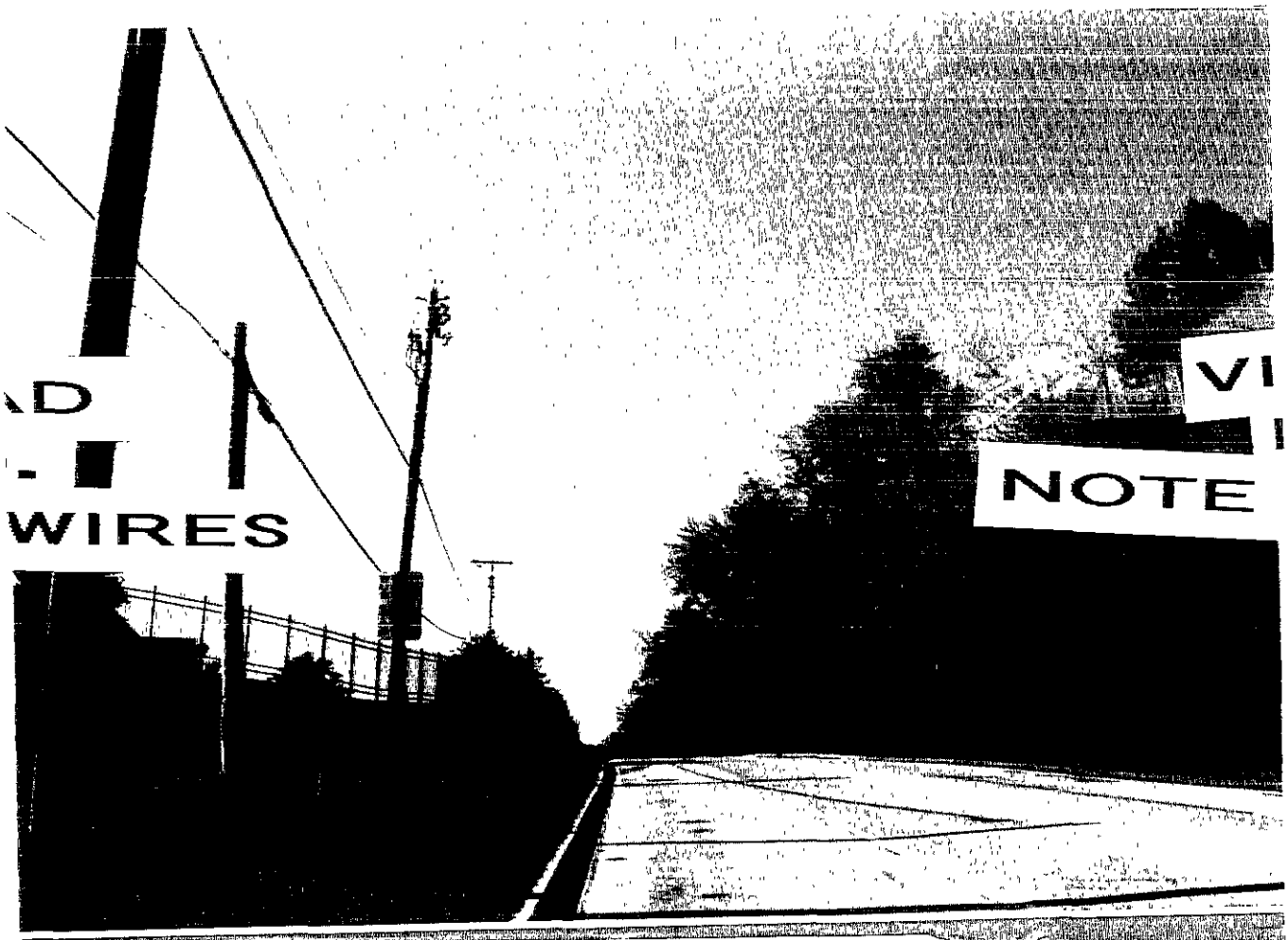




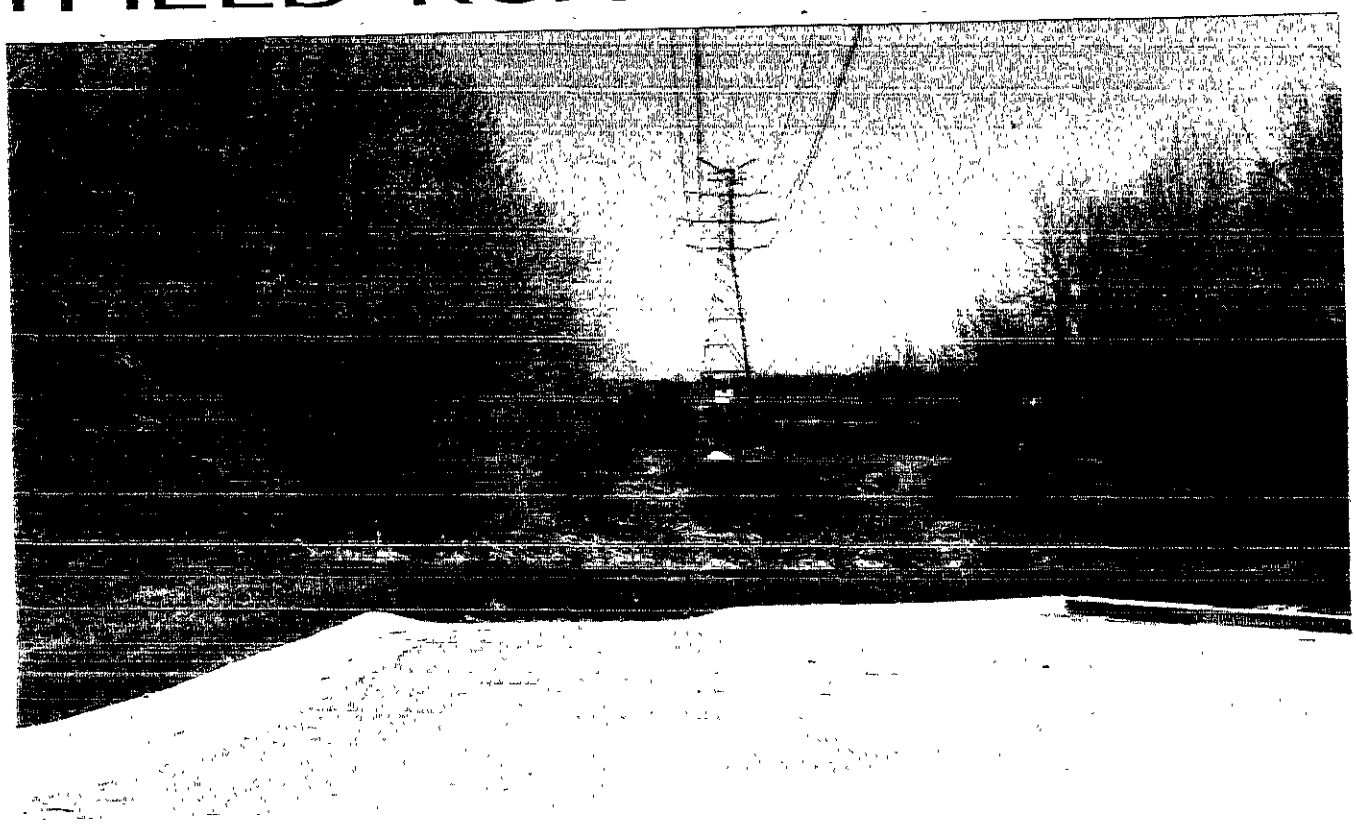





V
FR
NOTE

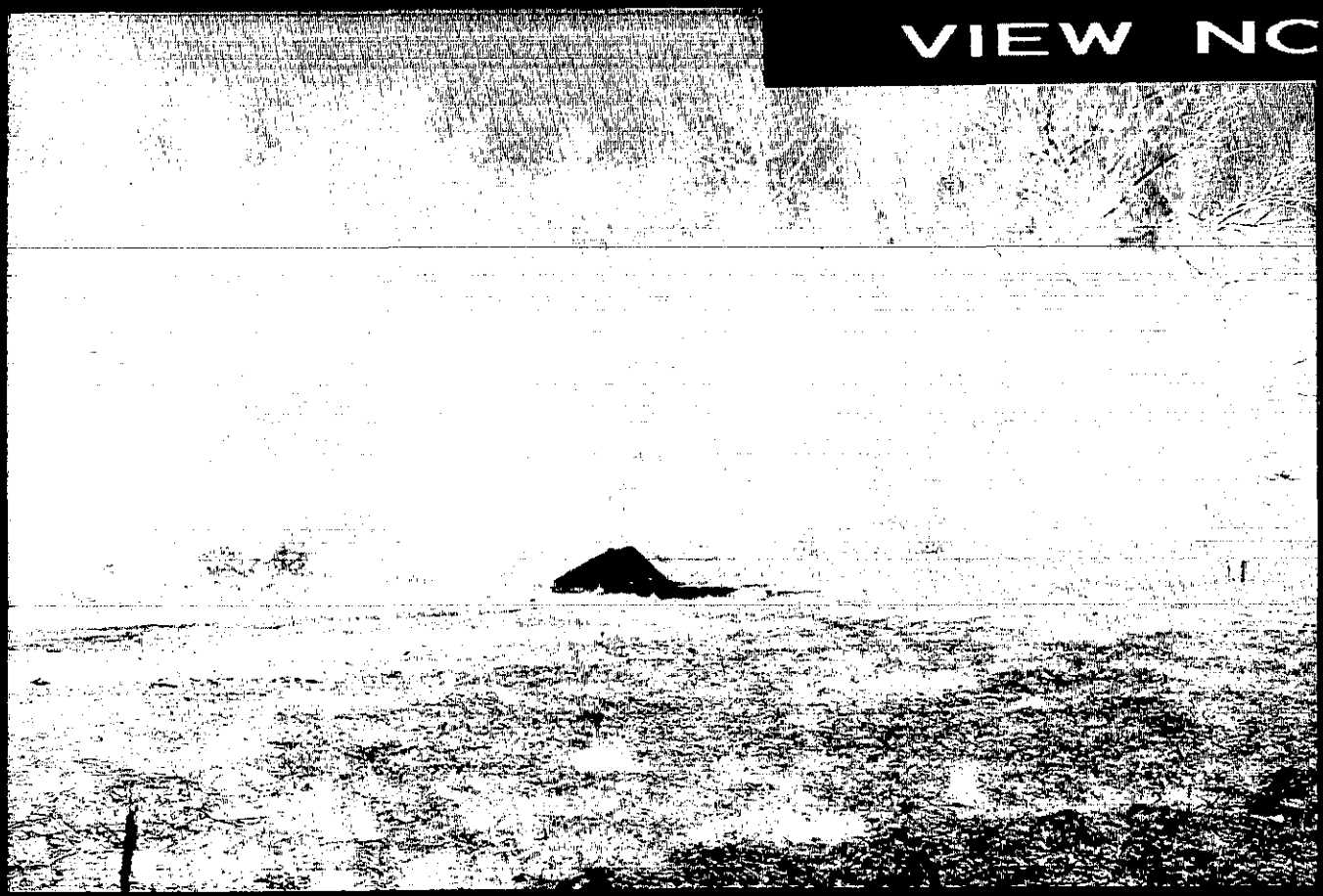


VIEW NORTH FROM
TFIELD ROAD HAMMERHE

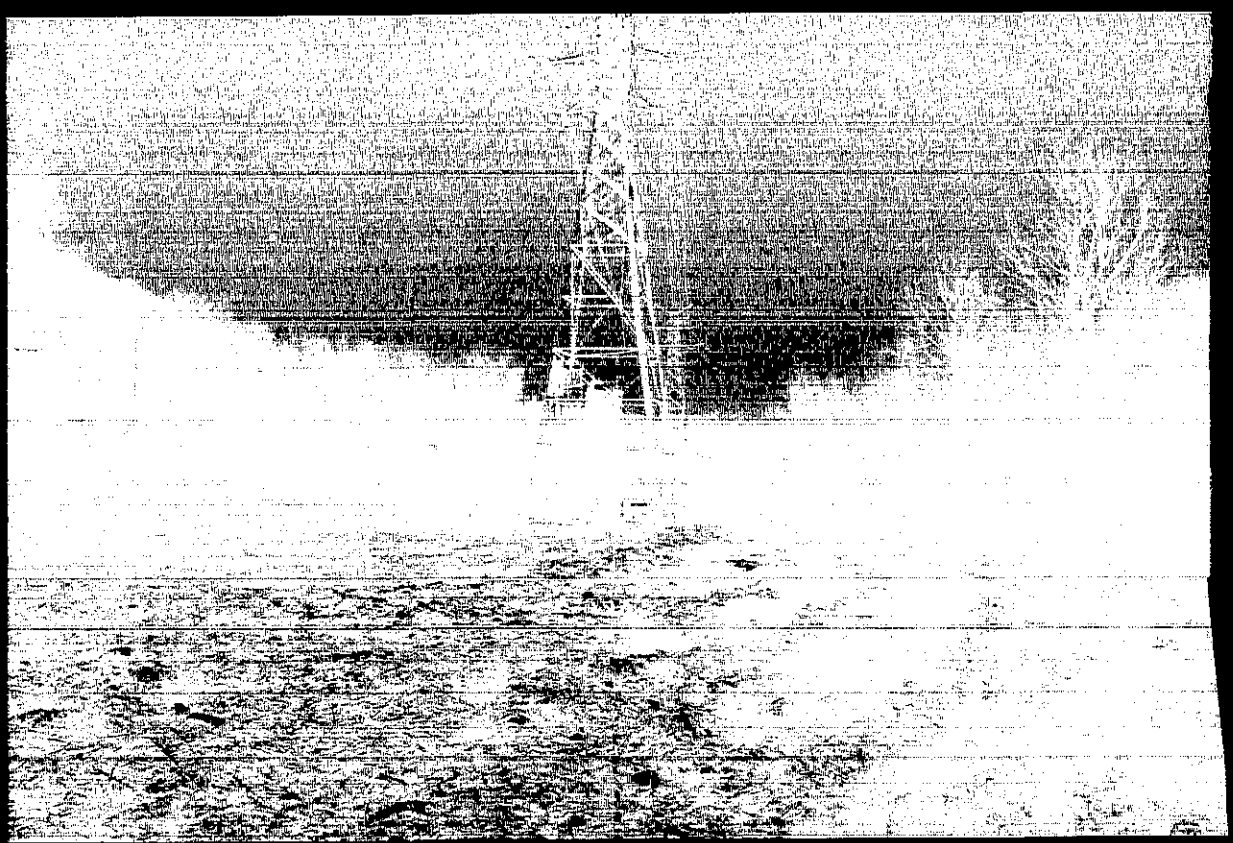




VIEW NC



)RTH FROM MONOPOLE




BASE


VIEW S

OUTH FROM MONOPOLE E



BASE



IN THE MATTER OF THE APPLICATION OF JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT - PETITIONERS FOR A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED 200' PAST THE N/END OF BRIGHTFIELD ROAD, 1080' NE OF FALLS ROAD, 220' SW OF INTERSTATE 83 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 96-360-XA

* * * * * * * *

O P I N I O N

This case comes on appeal from the Zoning Commissioner's Order of May 30, 1996, in which a Petition for Special Exception and Petition for Variances were denied. The special exception is for a wireless transmitting and receiving monopole structure in a D.R. 1 zone. The variances are for minimum lot area and for setbacks required. This case was heard de novo in two days of testimony. Appearing on behalf of Petitioners /Appellants was Karl J. Nelson, Esquire. Protestants, Wesley A. Lidie, Sr., and Sarah Lord, appeared pro se. People's Counsel for Baltimore County also participated in the proceedings. Following the conclusion of the hearing, memoranda were submitted by all parties. The Board deliberated the matter in open deliberations in accordance with the open meetings law.

Testifying for Petitioners /Appellants was Robert E. Morelock, registered landscape architect and project manager for Daft-McCune-Walker, Inc.; George Meeker, a real estate consultant for B & E Associates; Jim Jimreivat, a senior radio frequency engineer for Cellular One; Ronald Lipman, a real estate appraiser and consultant with Lipman, Frizzell & Mitchell, LLC; and George Gavrelis, an

expert planner with Daft-McCune-Walker, Inc.

Mr. Morelock, the project engineer for this case, provided some background and information concerning existing conditions through aerial photography and a site constraints map (see Appellant's Exhibit #2). He testified that the instant site is in the D.R. 1 zone which allows erection of a monopole structure such as that which is proposed by special exception. Before this Board, Petitioners have proposed a location on the site which is somewhat different from that which was before the Zoning Commissioner, improving the setbacks and lowering the height required to meet the needs of the Petitioner. The setback variances are now 90 feet from the western boundary of the site in lieu of the required 330 feet for the proposed monopole; 230 feet from the northern and eastern boundaries in lieu of the required 330 feet; and 220 feet from the southern boundary in lieu of the required 330 feet. The required setback of 330 feet is determined by doubling the proposed height of the monopole as stipulated in Baltimore County Zoning Regulations Section 502.7. The area variance required is to allow the structure to be built on the instant 3-acre site in lieu of the minimum lot size of 5 acres in the residential zone.

Mr. Morelock testified that there was no location on the site which meets all setbacks. He also testified that the site is severely constrained. It is traversed by a BGE right-of-way for high tension power lines existing above the site, suspended by 130-foot lattice structures. A portion of the Jones Falls flows through the site, with a perpetual stream location easement, as

well as a Baltimore County utility easement. What remains from a roughly 3-acre site after all of the constraints for easements is approximately 0.27 acre available for use. Immediately to the west of the instant site are mature woods, 50 feet of which is in a flood plain and which is not developable as the associated density units on that parcel have been moved to land to the south of Brightfield Road. Further, after takings by the State Highway Administration due to the construction of Interstate 695 and the associated relocation of the Jones Falls, the instant site is a remainder of the original parcel which still rests outside the Baltimore Beltway.

Mr. Morelock stated that the new proposed location for the monopole and the requested variance relief is the least relief necessary for the proposed monopole. Mr. Morelock went on to explain what has come to be known as a "balloon test" which was performed by Daft-McCune-Walker, Inc., in the company of BGE representatives to determine visibility of the proposed monopole on the instant site. Rather than review each of the findings, Mr. Morelock's testimony could be characterized as indicating that the proposed monopole would be only momentarily visible from various points around the area. That visibility test was performed in conjunction with analysis of possible impact on the area along with that which is indicated in the Environmental Impact Statement (EIS). While the EIS does not contain information on the impact to historic districts, he acknowledged on cross-examination that the location of the proposed monopole lies roughly 630 feet from the

Greenspring Valley National Register Historic District to the north and approximately 1,700 feet from the Rockland National Register Historic District, as well as approximately 800 feet from the Cloisters Museum. This Board notes that that particular issue relates to BCZR Section 502.7a, which is not a matter for this Board to determine since BCZR Section 502.7b.1 stipulates that, because this proposed monopole is less than 350 feet above grade, BCZR Section 502.7a does not apply.

Mr. George Meeker described the due diligence search performed for Cellular One as required by BCZR Section 502.7.C.1. In short, Mr. Meeker's testimony indicates that due to location, economy, elevation, engineering, or technological feasibility issues, no other appropriate location was available when he performed his location search.

The testimony from Mr. Jim Jimreivat provided technological information to assist the Board in understanding the requirements for such towers, as well as buttressing technological arguments relative to alternate sites in the search area considered by Mr. Meeker. Further, Mr. Jimreivat, as a representative of Cellular One, testified that they will comply with all engineering standards; that they will not interfere with other transmissions; that after the initial construction the site will be visited only for emergencies and regular maintenance; that the facility will be monitored for fire; that Cellular One will remove the monopole if the use is terminated; and that the monopole will not be lighted. Particularly interesting and instructive to the Board was Mr.

Jimreivat's description of the "line of sight" technology which is the Cellular communications technology. It is precisely this line of sight necessity which results in the need for such facilities to be visible to commuters who utilize cellular communications. The intersection of Interstate 83 and Interstate 695, two of the most heavily travelled highways in the interstate system within the State of Maryland, is by no surprise an area quite under-served in cellular capacity and coverage, resulting in call blockage and interruption. The height and location of such facilities must be engineered very closely based on existing conditions to range, road directions and expected volume such that proposed facilities such as the instant site are required to maintain coverage and capacity. He testified about the engineering difficulties of alternate sites, including the Valley Inn parking lot across Interstate 695, summing up that anything north of Interstate 695, so close to a nearby ridge line in the terrain, simply will not suffice for their engineering requirements.

Ronald Lipman testified to the issue of impacts to real estate values resulting from the construction of the proposed monopole. The essence of Mr. Lipman's expert opinion is that the proposed monopole, due largely to its remoteness from most neighboring properties and due to existing numerous impacts on neighboring properties, such as Interstate 695, Interstate 83, the BGE high tension lines and associated lattice structures, as well as telephone poles, already have had such an impact on the area that this structure will have no impact. Mr. Lipman also provided a

study in which he considered the effects of such monopoles in similar areas in Montgomery County, Maryland, where he found no impact on property values. He opined that the instant site is the ideal location for a cellular tower as its impact, being mostly visibility, is limited chiefly to the site of Protestant, Mr. Lidie.

Mr. George Gavrelis testified to the issues related to special exception and variances. He opined that the impact of the site constraints, the nearly unusable nature of the site due to not just the improvements and easements on the site but the construction of Interstate 695 and so forth, have placed an inordinate burden on the instant site, the likes of which he has seen nowhere else. He opined that the construction of the monopole would provide no detriment to the health, safety and welfare of the locality, that it would not tend to create congestion in roads, streets, alleys; that it presents no hazard from fire or panic; that it would not interfere with adequate light and air, nor provisions for other public services; that it is consistent with the spirit and intent of the zoning regulations; and that it is consistent with the impervious surface and vegetative retention provisions of the zoning regulations that are not required in a D.R. zone. Cross-examination also indicated that the monopole will not contribute to any deterioration of the nearby flood plain. The Petitioners rested their case-in-chief with the conclusion of Mr. Gavrelis' testimony.

Appearing in opposition to the proposed monopole was Gordon

Brock Johnson, a nearby resident; Wesley A. Lidie, Sr., a neighbor to the instant site and party in this case; Ms. Ruth Mascari, Executive Director of the Landmarks Preservation Commission; Sarah Lord, representative of the Ruxton-Riderwood-Lake Roland Association; Pamela Slinghoff, a resident of neighboring Brightwood complex; Edith Hoyt Garrett, a nearby resident; Thomas Mylander Bruggman, representative and president of the Rockland Home Improvement Association; and Josephine Johnson, a nearby resident to the instant site.

The thrust of all protestants' witnesses is their concern for the impact to the area and its historic districts. All were concerned about the aesthetic impact and the cumulative intrusion of yet another technological advancement in older areas. Speaking personally, Ms. Lord opined that the "Bare Hills" monopole "...in our view that's where such monopoles belong...." Ms. Garrett stated her belief in the process executed before this Board, her skepticism of the need for variances, and her question of the long-term need of such proposed facilities.

Ms. Johnson called the placement of the proposed monopole an unnecessary use of the land. On cross examination, Ms. Mascari opined that an historic "corridor" extends all the way to the end of Falls Road in the northern reaches of Baltimore County which, in her view, should result in avoidance of any adverse impact created by such improvements. On redirect, she stated that any visual change to an historic area is a "blow" to historicity.

This case was well-tried by all parties. Petitioners seek to

erect a cellular communications tower which becomes part and parcel to a system of communications cell sites throughout the area. People's Counsel argues that the mere existence of other cell sites in the area creates a need for special exception and variance on this site, which is self-imposed and should have been foreseen by Petitioners in order to avoid such a condition. The impact of People's Counsel's argument is on the issues of whether a variance can be granted from area and setback requirements for the proposed monopole on the instant site, assuming one gets to the issue of practical difficulty or unreasonable hardship. In examining variances, the burden rests with the Petitioner to prove that special circumstances exist that are peculiar to the land which is the subject of the variance request, and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship. Here Petitioner proposes a monopole on a site which Mr. Gavrelis, an expert planner, has characterized as having conditions like he has seen nowhere else in the County. The mere fact that the property is bounded by the intersection of two major interstate highways, as well as a major natural feature in the Jones Falls, leaves one to consider what similar properties could exist County-wide, to say nothing of the surrounding area. When one then adds to the mix the perpetual stream easement as well as the utility easement and overhead structures with the BGE power lines, this Board finds the uniqueness test easily satisfied.

As to the question of compliance with the zoning regulations

LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

January 23, 1997

HAND-DELIVERED

Robert O. Schuetz, Chairman
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: John A. Hatfield, Jr. and
Elizabeth S. Proutt--Petitioners
Case No. 96-360-XA

Dear Mr. Schuetz:

I learned from Ms. Peatt, the court reporter in the above-referenced matter, that the transcript of the second day's proceedings would not be available until Wednesday, January 22. The transcript was originally to have been available by Monday, January 20, 1997. She informed me that she contacted your office and that you have no objection to extending the deadline for Cellular One to file its brief through and including Wednesday, January 29, 1997. I write to confirm the extension. If I have misunderstood or otherwise errantly characterized the situation, please contact me at your earliest convenience.

Very truly yours,

Karl J. Nelson

KJN:jes

cc: Mr. Michael Maus

DMW

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333 FAX 410 296 4705
E-mail: dmw@dmw.com

Memorandum

To: Carl Richards, Supervisor
Zoning Review Office
Baltimore County
Permits and Development Management

From: Mitchell J. Kellman
Planning and Zoning Coordinator

Date: February 18, 1998

Re: Cellular One - JFX Site
Building Permit Site Plan
DMW Project No. 95057

This memorandum will summarize our recent conversation regarding the above referenced site. The original approved building permit site plan included connection walls between the modular buildings. On November 26, 1997, the Zoning Commissioner granted a special hearing which determined that the requirements Section 102.2 of the Baltimore County Zoning Regulations (BCZR) shall not be applied separately to multi-uses of a single site as a wireless transmitting and receiving facility. By order of this zoning case, the connection walls are no longer required. We are asking that you approve the revised building permit site plans which do not show the walls. We are submitting three copies of the site plan, two for the building permit file and one for the case file of 96-360-XA, which approved the site for the wireless transmitting use.

MJK/mls

cc: Mr. John M. Altmeyer, Supervisor, Code Inspection

County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Mr. and Mrs. Wesley A. Lidie, Sr.
521 Brightfield Road
Brooklandville, MD 21022

MARYLAND INSTITUTE
COLLEGE OF ART
1300 MOUNT ROYAL AVENUE
BALTIMORE, MARYLAND 21217

Robert Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

21204>4686

January 15, 1997

Robert Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Dear Sir:

In regard to the case of John A. Hatfield and Elizabeth S. Proutt #96-360-XA, the following is submitted for your consideration.

1. The variances being applied for by Cellular One do not meet the criteria for the erection a monopole upon the proposed site.
   a. The variance requested is to erect a monopole on a 3 acre plot in lieu of the required 5 acres, a difference of 40% in plot size.
   b. The variance requested is to erect a monopole 65 feet from the nearest private property line in lieu of the required 350 feet, a difference of 81.4% in distance requirements.

2. The proposed monopole site is adjacent to the Rockland Historical District and neighboring to the Greenspring Valley. Both Rockland and the Greenspring Valley harbor historic sites, both architecturally, and by reason of events that took place on the land. Since most of our history is "seen" in architecture or in land, any obstruction to this visual appreciation of either significantly destroys the historicity of a place. A monopole would impair these "sight" lines.
   a. The Cellular One attorneys presented testimony that likened the Rockland Historic District to a Washington D.C. suburban community of equal real estate values. This comparison is invalid because the Rockland Historic District is unique because it is the only continuously lived-in mill town in the United States. It has no counterpart.
   b. The monopole would be situated on or near the railroad that ran from Lake Roland to the Greenspring Valley, a route known to be important in the movement of Civil War troops.
   c. The resident of the Rockland Historic District and other friends of the Falls Road corridor and the Greenspring Valley oppose modern encroachments on this area for several reasons. First, the original 500 acre farm known as the Johnson estate has already suffered the intrusion of a major power line, a sewer line, two major road systems (I-83 and 95) and a fire station. Second, in an effort to preserve the rural heritage of this farm, members of the Johnson family have given considerable acreage to scenic easement. Third, it is in the interest of many residents to leave open land, especially along the Jones Falls streambed for the eventual purpose of a connecting trail system from Lake Roland to the Greenspring Valley. Fourth, the Rockland community has consistently fought the widening of Falls Road because in the event of such a widening, the front porches of the Rockland houses along Falls Road would have to be removed to accommodate the change. Fifth, as a matter of precedent, the Rockland community has fought many proposed variances in zoning in order to stave off further development and to negate modern intrusion.

PLEASE PRINT CLEARLY — CITIZEN SIGN-IN SHEET

NAME	ADDRESS
Mr. & Mrs. Wesley A. Lidie, Jr.	521 Brightfield Road
Sarah F. Lidie	Brooklandville, MD 21022
Royston, Rutherwood + Falls Rd Square Property Group	6134 Barrell Rd 21209

3. The erection of a monopole could impact the real estate values of the adjacent properties, i.e., the Lidie house and the Brightwood complex. Testimony was given by a Brightwood resident who felt that the pre-existence of a monopole within the sight lines of her home would have discouraged her from buying her present home.

4. The usefulness of a monopole was questionable.
   a. The monopole's presence at this location would give a range of approximately 1.5 miles in a north-south direction and 2 miles in an east-west direction. If one were traveling at 50-60 miles per hour on either I-83 or 695, the phone user would be inconvenienced from making or continuing a call for two minutes, a period of time which is survivable.
   b. Emergency vehicles such as police, fire trucks, hazmat clean-up trucks (state and federal level), and ambulances are dependent on radio waves transmissions as a communications source, not site-to-site transmissions for which monopoles are erected.
   c. The Cellular One attorneys claimed phone service in the range designated by the monopole was 10-30% deficient for customer use, especially during the time period around rush hour. Testimony was given by a Rockland resident who is a Cellular One phone user (she owns three such phones) that despite extensive use of these phones during rush hour especially, she has noticed no apparent disruption of service.

5. The proposed site stands in the 100 year flood plain of the Jones Falls streambed. This could have a potentially detrimental effect environmentally.

As an individual, I ask that the Board uphold the earlier ruling and deny the appeal for exception to the zoning variances. As a community, it is our hope that the Baltimore County Board of Appeals will join us in preserving a valuable historical resource not only for Baltimore County, but also for the nation.

Respectfully submitted,

Wesley A. Lidie, Sr.

cc: Peter Max Zimmerman
People's Counsel
Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

Karl Nelson (for Cellular One)
1 South Street
Suite 2600
Baltimore, MD 21202

We, the undersigned, are against the installment of a mono-pole communications tower on the land north of Meridian at Brightwood, south of the Beltway, east of Falls Rd + west of JFK.

1.	Josephine D Johnson	10145 Falls Rd Brooklandville 296
2.	Lidie Bertuch	10131 Falls Rd Brooklandville 3
3.	G Brock Johnson	10129 Falls Rd. 4 882-2927
4.	Kimberly Johnson	10115 Falls Rd Brooklandville 321-7662
5.		10115 Falls Rd Lutherville MD 252-7662
6.		6 BREEZYTREE CT. 628-2757
7.		10136 Falls Road Brooklandville 21022
8.		10116 Falls Rd Brooklandville Md 21022 823-6508
9.		10136 Falls Rd. Brooklandville 21022 823-6508
10.		1915 Fall Rd Brooklandville 21022 296-5585
11.	Ellie Johnson	10714 A Falls Rd Brooklandville 823-6429
12.		" " " "
13.		10216 Falls Rd Brooklandville 823-7987
14.		10214 Falls Road Brooklandville 21022
15.	James Rex Garrett	10220 Falls Rd, Brooklandville MD 21022 825-0374
16.	Eddie Hoyt Garrett	10220 Falls Rd Brooklandville MD 21022 296-0186
17.		5803 Tesdbert Ave Balto. MD 21215 764-7866
18.		521 Brightfield Road, Brooklandville, MD 21022
19.		10131 Falls Road, Brooklandville, MD 21022
20.	Wesley A. Lidie	521 Brightfield Road Brooklandville Md. 825-7856
21.		10134 Falls Rd Brooklandville Md. 821-9171
22.		1097 W. Lake Ave. Balto. 21210 377-2041

RECEIVED
MAY - 6 1996
ZONING COMMISSIONER

BRIGHTWOOD

SIBYL B. GIBBS
EXECUTIVE DIRECTOR

100 BRIGHTWOOD CLUB DRIVE (410) magic 4200
LUTHERVILLE, MARYLAND 21093 FAX (410) magic 4217

Case No. 96-360-XA

ST COMMUNICATIONS TOWER

We, the undersigned, as residents of Brightwood, oppose the construction of a communications tower on the proposed Hatfield property which is adjacent to our community.

Grace E. Howes
Mr. + Mrs. John Hurst
Edward B. Zwerdling
Thomas M. Wolf
Elizabeth S. Bennett
Elizabeth R. Hoffman
Pamela Slingluff
Marion Lewis
Patricia W. Chase
Joann W. Donnelly
Jeff Brown
Jo Rohn
I think we should protect down our Property. 111 12,000/year
Lynn Jameson Nunez
yes Hall Lane

RECEIVED
JUN - 7 1996
ZONING COMMISSIONER

PLEASE PRINT CLEARLY — PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Karl Nelson	One South Street
Jim Jimoyiannis	
Timothy E. Gore - Nextel	1170 Beltsville Dr ste 46 Beltsville 20705
Jeffrey Hoover -	1000 Jessup Dr Annapolis Junction MD 20701
David W Rencurel	" "
George Mecker	131 N. Mcmahon 21066
Rob Hoffman	36 Hillsley Ave 21204

Printed with Soybean Ink on Recycled Paper

P.C. #1

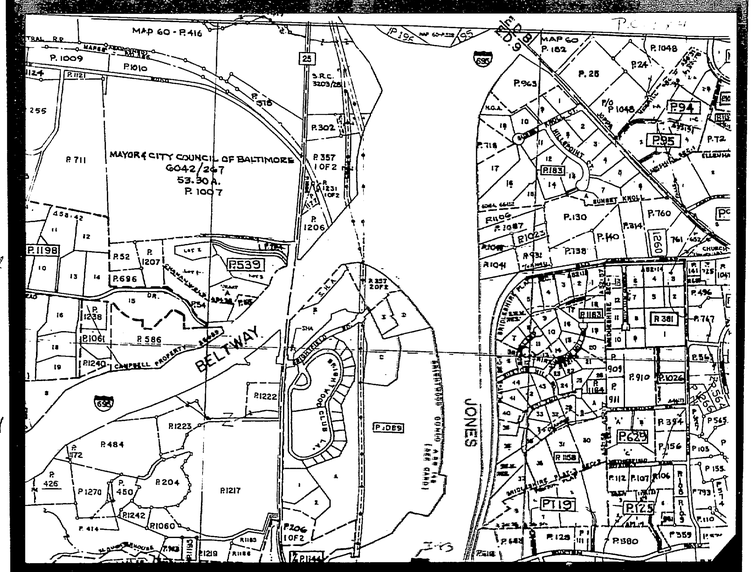
DATE: 12/10/96

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 95-360-XA

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Please Su.	(Community Group You Represent?) Basis of Your Concerns
✓	SARAH LEED 6134 BARRELL RD 21209	Fulston-Tudorwood Lake Roland Area Imp. Assoc., Inc.
✓	B BROCK JOHNSON 10134 FALLS RD 21022	FULSTON - TUDORWOOD LAKE ROLAND AREA IMPROVEMENT, ASSOC, INC
✓	Wesley B. Ward 516 Bellefield Rd 21093	Brooklandville Resident —
✓	Joseph w. J. Bosch 10145 Falls Rd 21022	Brooklandville Resident (nearest neighbor)
	Susan J. Dietrich 10134 Falls Rd 21022	Brooklandville Resident
	Spencer H. Garrett 10220 Falls Rd 21022	Brooklandville Resident
✓	THOMAS M. BRYCKMAN 2202 OLD COURT RD BALTIMORE MARYLAND	ROLAND HOME OWNER'S ASSOCIATION



resulting in practical difficulty or unreasonable hardship, this Board first notes that the 0.27 acre remaining usable of a 3-acre parcel separated and left nearly landlocked as a result of the construction of Interstate 83 and Interstate 695 renders the property nearly useless. People's Counsel argues two things on this point: (1) that the property owners were compensated by the State during the taking of property bisecting their properties (the Valley Inn to the north and the instant site to the south of I-695), and that such compensation addresses any hardship resulting from the taking; and (2) that the property owners still have 0.27 acre upon which they may construct a dwelling. This Board disagrees with the view of People's Counsel in this regard.

The taking of the property to construct the interstate highways was done at a time before the environmental and technological advances had been realized in the past two decades. We note that the State did not take the instant site; therefore, the instant site impacts were not compensated. In order for us to believe that the instant site impacts have been compensated, this Board believes this owner would not be in its possession. Over the years, the various easements have impacted this site to the point where it is unusable for nearly all uses. To that end, we do not find that speculative construction of a residence on a site bounded by two interstate highways and high tension power lines is one which would bear much fruit for a potential developer. Rather, this Petitioner has an opportunity for maximum and best use on a property which still has some practical use such as what is

proposed. Denial of such possible use results in practical difficulty or unreasonable hardship. The variances themselves are created by the need for setbacks as calculated by the formula found in BCZR Section 502.7.C.2. When considering the impacts with the granting of such variances, the Board looks to the way in which special exception requirements under BCZR 502.7.C are interwoven with conditions in the instant site.

People's Counsel alleges that the mere fact that Cellular One has constructed other cellular sites in the area creates a self-imposed hardship in this case. This Board points to BCZR Section 502.7.C.1 when considering the due diligence search requirements for alternate locations from locations proposed in the D.R. zone. In that section, the County Council has included language in the regulations which recognizes location, economic, elevation, engineering or technologic feasibility in the location of alternate sites. This Board's view is that the County Council recognizes that cellular communication providers do not possess the crystal ball which allows them to see years, even decades, into the future in determining service coverage requirements for every space in the County. This site is no exception. It is that very nature of the special exception requirements that points to the recognition of practical difficulty in denying a variance. This Petitioner is fortunate to have proximity to the interstate highways, an undevelopable site to the west, and limited neighboring development to the south. Therefore, the impact of granting the variance on such a site is minimal which this Board finds to be in strict

harmony with the spirit and intent of the area regulations and is without injury to public health, safety and general welfare.

On that point, Protestants argue that the historicity of the nearby historic districts will be irreparably damaged by the erection of the monopole. This Board points to the fact that the County Council has already determined that the proximity to the associated districts in this case is not a factor due to the height of the proposed monopole and its resultant standards to be met for special exception under 502.7.B, et seq. For all of the above reasons, the variances for the proposed monopole, as requested, shall be granted and will so order.

The requirements for special exception are found in BCZR Section 502. The Baltimore County Council has determined that uses permitted by special exception are already determined to be appropriate uses of the land, recognizing that certain inherent qualities of the proposed uses warrant special consideration before granting their use.

BCZR Section 502.1 enumerates those issues which must be addressed by this Board with the burden resting upon the Petitioner. This Board has already found that the monopole is not detrimental to the health, safety or general welfare of the locality involved. As indicated by the testimony of Mr. Gavrelis, as well as other Petitioners' witnesses, but for the period in which construction of the monopole takes place, the instant site will be visited only for the purpose of making repairs and scheduled maintenance visits. Therefore, it is inconceivable that

this use would create any congestion in roads, streets, and alleys.

This monopole structure is required, pursuant to BCZR Section 502.7.C, to pass rather rigorous engineering standards. Therefore, in the light of unrebutted testimony that the proposed monopole represents no danger to the surrounding area, this Board finds no potential hazard from fire, panic or other dangers.

Because of the limited area to be utilized by the monopole structure and maintenance sheds, this Board finds that the proposed use will not tend to overcrowd the land or cause undue concentration of population. Since this is a wholly private utilitarian use, the proposed use will not interfere with adequate provisions for schools, parks, water, sewerage or other public requirements, conveniences or improvements.

The monopole will be a very narrow structure and will cast its shadow purely on land to the west, north and east currently covered by the interstate highway system and densely wooded non-density parcels; therefore, the proposed use will not interfere with adequate light and air.

Due to the fact that this property, despite its density residential zoning classification, is essentially unusable in the absence of such a utilitarian purpose, this Board finds that the proposed use is wholly consistent with the property's zoning classification and with the spirit and intent of the zoning regulations allowing for low density, maximum and best use for otherwise unusable property.

Finally, as to the requirements under BCZR 502.1, the limit of

disturbance to the instant site will be so small that we find the use to be consistent with the impervious surface and vegetative retention provisions of the zoning regulations.

In addition to the special exception requirements under BCZR 502.1, wireless transmitting and receiving facilities still must meet the strict engineering and other requirements found under BCZR Section 502.7.C. The Board has unrebutted testimony that all ten requirements are or will be met as applicable. In accordance with BCZR Section 502.7.C.11, the Board had unrebutted testimony from Mr. Lipman that the monopole will not result in a substantial adverse impact on surrounding property values, park lands, or open space. Protestant Mr. Lidie is the nearest property owner who can claim such impact. The Board has ample testimony from both sides as to the impacts on Mr. Lidie's property; Mr. Lidie's property is impacted nearly to the same extent as the instant site from the effects of the interstate highways and the environmental issues. Mr. Lidie's property will not be adversely impacted by the erection of the monopole.

Protestants argue that the visual impact that such a monopole presents is an undue impact on the enjoyment of open space and historicity of the area. This Board notes that it is literally impossible to create a structure which is completely invisible. This Board also notes and reiterates a part of what has been stated above, that the technology of cellular communications is one of line of sight. The County Council has determined that such facilities are to be provided; due to the line of site needs, the

working portion of such facilities must be visible. Therefore, one is left with the question of the extent of effort put forth by Petitioners in mitigating visual impact on open space. This Petitioner is creating a monopole structure, not a lattice type nor guyed structure, both of which create substantially greater visual impact on the landscape. Therefore, this Board finds that there will not be substantial adverse impact on parks and open space.

One of the key tests in examining petitions for special exception according to case law, Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), and Mossburg v. Montgomery County, 107 Md.App. 1 (1995), is the issue of whether the proposed use has a greater impact from the instant site than elsewhere in the zone. This Board finds that the Petitioner has identified a site, "down in a hole," which is probably the best possible location for such a facility regardless of the zoning classification. Other sites identified in the area, both by Petitioner's experts in their due diligence search as well as that which was brought in argument by Protestants and People's Counsel, are locations which would result in greater impact on the surrounding respective locations than the instant site on its surrounding vicinity. Therefore, one of the key tests under Maryland case law has been thoroughly satisfied.

For all of the above reasons, this Board shall grant the special exception for the wireless transmitting and receiving facility, and will so order.

O R D E R

THEREFORE, IT IS THIS 30th day of April, 1997 by the County

Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to permit a wireless transmitting and receiving facility (monopole structure) in a D.R. 1 zone be and the same is hereby GRANTED; and it is further

ORDERED that the Petition for Variances to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and to permit a wireless transmitting and receiving facility on a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres be and the same is GRANTED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Robert O. Schuetz, Chairman

S. Diane Levero

Lawrence M. Stahl

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 30, 1997

Karl J. Nelson, Esquire
KRAMON AND GRAHAM
1 South Street
Suite 2600
Baltimore, MD 21202

RE: Case No. 96-360-XA
John A. Hatfield, Jr., et al

Dear Mr. Nelson:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

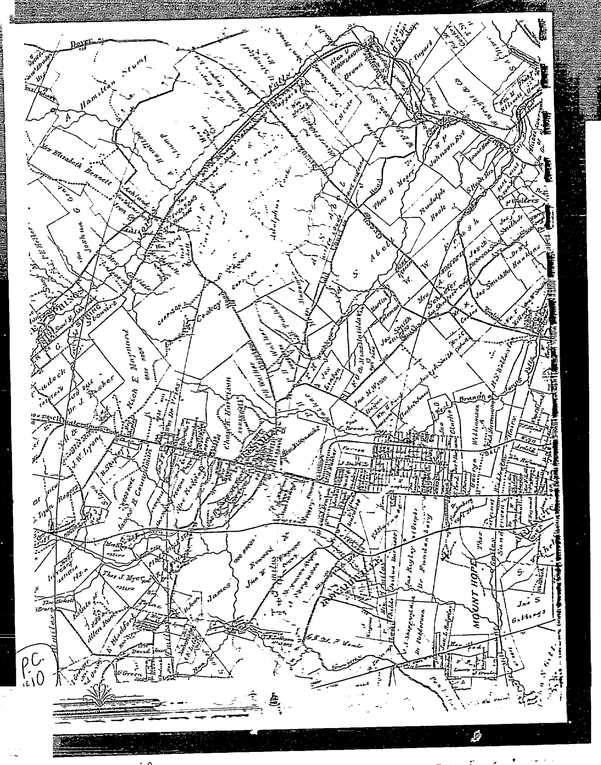
Very truly yours,

Kathleen C. Bianco, Administrator
County Board of Appeals

encl.

cc: John Hatfield /Elizabeth Proutt
Michael Maus, Cellular One
Robert Morelock /Daft-McCune-Walker
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
Laurie Long
Paul Dorf
People's Counsel for Baltimore County
Pat Keller
Arnold Jablon, Director /PDM
Lawrence E. Schmidt, Zoning Commissioner
Virginia W. Barnhart, Co Atty

Printed with Soybean Ink on Recycled Paper



PC 1.10

West side

People's Counsel Ex. 11

Roadland Brooklandville MD

Falls Road and Old Court / Ruxton looking south of Brightwood

PC Ex. 12

Ruxton-Riderwood-Lake Roland Area Improvement ASSOCIATION, Inc.

RESOLVED: That the position of the RRLRA Imp Association be as adopted by the (Board of Directors) ~~(Zoning Committee)~~ on the zoning matter known as:

Brightfield Road cellular tower

is that: To oppose the installation of telecommunications towers which need variances. (April 22, 1996)

AS WITNESS OUR HANDS AND SEAL THIS 9th day of January, 1997.

ATTEST:

RRLRA Improvement Association Inc

Secretary

President

looking south

A



B

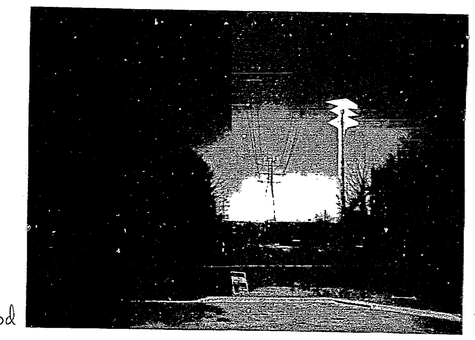


looking north

C



D



Brightwood

to Falls Rd

To Lidies

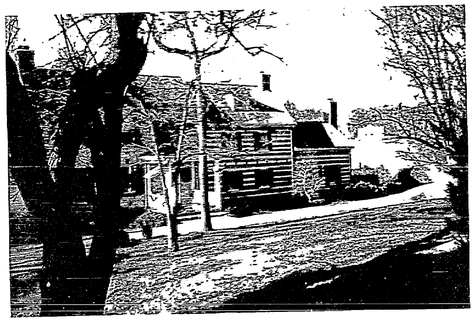
Meridian

looking west

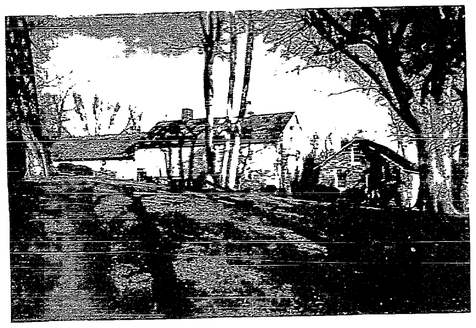
Brightwood

Meridian

E



F



G



Front Side pt 1



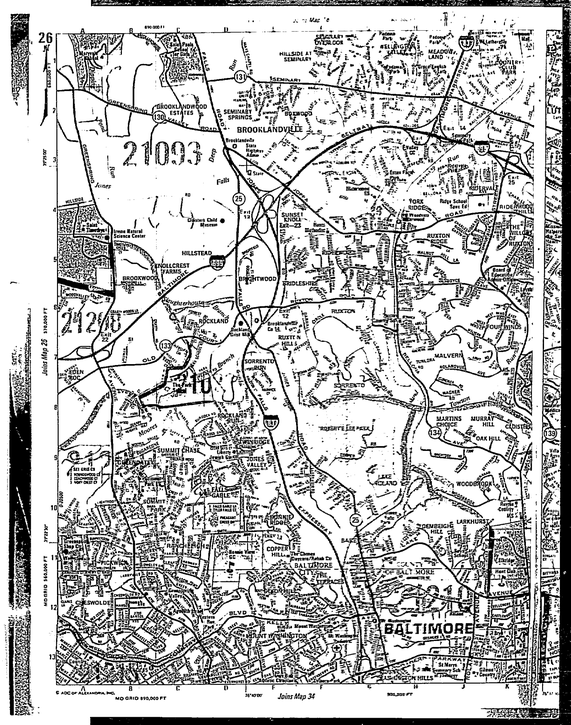
#1



I



J



P.C. Ex. 14

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

TO WIT:

I hereby swear upon penalty of perjury that I am currently a duly elected member of the (Board of Directors) (Zoning Committee) of the ROCKLAND HOMEOWNERS Association.

ROCKLAND HOMEOWNERS

ATTEST: _____ Association

Secretary — Thomas M. Bruggman, President

DATE: January 7, 1997

Dennis

F.C #15

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

August 5, 1985

The Honorable James T. Smith, Jr., Chairman
Baltimore County Council
Courthouse
Towson, Maryland 21204

Dear Councilman Smith:

I am forwarding to you, per your request, a revised report concerning wireless transmitting and receiving structures. This report discusses the general characteristics of such structures and recommends an "incentive-disincentive" approach as the most appropriate means of zoning regulation. This approach is similar to that considered by the Planning Board at its Ad Hoc Comittee meeting of July 18, 1985. As you may know, the Planning Board determined that other alternatives should be investigated prior to their making a decision.

You may want to take notice of Section 22-7 of the County Code, as amended, which states that if within 180 days of the submission of a Council resolution to the Planning Board, the Board has failed to submit a final report to Council, the Council may have the Office of Law prepare an appropriate report. Such report would require a Council public hearing in accordance with Section 22-22 of the County Code.

I, therefore, would suggest that if you decide that the approach suggested by the enclosed report is the desired approach, that the report be reviewed by the Office of Law and an Office of Law report be generated which would be the subject of the required public hearing.

If you wish to discuss this subject further, please contact me.

Sincerely,

Norman E. Gerber, Director
Office of Planning and Zoning

NEG/KLR/sf

Enclosure (1)

August 28, 1985

F.C. #16

OFFICE OF LAW REPORT
PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
RADIO TOWERS AND TELEVISION TOWERS AND OTHER
WIRELESS TRANSMISSION OR RECEIVING FACILITIES

P.C. Ex. 17

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1986, LEGISLATIVE DAY NO. 9
BILL NO. 64-86

MESSRS. O'ROURKE & RUPPERSBERGER, COUNCILMEMBERS

BY THE COUNTY COUNCIL, MAY 5, 1986

A BILL

ENTITLED

AN ACT concerning

Wireless Transmitting or Receiving Facilities

FOR the purpose of amending the Baltimore County Zoning Regulations in order to regulate the location of radio and television towers and other wireless transmission or receiving facilities by permitting such facilities by right under specified conditions in certain zones and by special exception in certain zones; and generally relating to the location of wireless transmitting or receiving facilities in Baltimore County and providing exceptions to certain of the regulations.

BY adding

Sections 502.7.C., 502.7.D., 426, 204.3.B.3., 205.3.A.5., 205.3.B.4., 207.3.A.14., and 253.1.B.19

Baltimore County Zoning Regulations, as amended

BY adding

Section 230.9, and 256.1, alphabetically an entry for Wireless transmitting or receiving facilities

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Sections 230.13, 233.4, 236.4, 248.4a, and 256.4, alphabetically the entry for wireless transmitting or receiving facilities

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Sections 207.3.D., 248.3, and 253.2.D.2.

Baltimore County Zoning Regulations, as amended

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill
Underlining indicates amendments to bill.

P.C. Ex. 18

DATE: 1/9/97

PEOPLE'S COUNSEL'S SIGN IN SHEET

CASE: 96-360-XA
HATFIELD/PECOUTT

The Office of People's Counsel was created by County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns if they do not have their own attorney. If you wish to be assisted by People's Counsel, please sign below.

Check if you wish to testify.	Name/Address Phone No.	(Community Group You Represent?) Bessis of Your Concerns
✓	Wesley A. Hatfield 8101 210 Crest Rd Brooklandville MD 21022 825/7776	Brooklandville
	G. BROCK JOHNSON 10135 FALLS RD. BROOKLANDVILLE MD. 21022 823-2527	Rockland Community
	ADRIAN H. MERRYMAN 10454 FALLS RD	BROOKLANDVILLE MD
✓	EDITH HART BURNETT 825-0394 10300 FALLS ROAD BROOKLANDVILLE MD 21022-0816	Parkleigh Brooklandville
✓	THOMAS M. BRUGGMAN P.O. BOX 1117, 2222 OLDCOURT RD BROOKLANDVILLE, MARYLAND 21022	PRESIDENT - ROCKLAND HOMEOWNERS ASSOCIATION
	FRED PETTY 10145 FALLS RD	ROCKLAND COMMUNITY
✓	JOSEPHINE JOHNSON 10135 FALLS RD	ROCKLAND COMMUNITY
✓	Pamela Slaughtoff 6 W. Brightwood Club Drive	Brightwood + Meridian
	Spencer Garrett 10220 FALLS ROAD	ROCKLAND
✓	JACAH LORD 5134 Bar. Rd Cab 21209	Ruxton - Ridgewood Lake Roland Area Imp Assoc. Inc.
	Alice Stark 7221 Falls Rd Brooklandville MD 21022	Rockland
	James P. Garrett 10220 Falls Road	Rockland
	Michelle K. Gouvela 20 Apt 10 10432 Falls Rd Brooklandville MD 21022	Brooklandville

App #5

IN RE: PETITIONS - SPECIAL EXCEPTION, SPECIAL HEARING, AND VARIANCE SW/S of Greenspring Ave., 1125' SE of the c. of Ridge Rd. 4th Election District

The Chestnut Ridge Volunteer Fire Company, Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 87-177-XSPHA

* * * * * * * * * * *

The Petitioner herein requests a special exception to permit a wireless transmitting and receiving structure; a special hearing to determine whether or not approval should be granted to amend the special exception permitted in Case Nos. 3988 and 77-104-ASPE by reducing the area of the original special exception to 2.17 acres in lieu of the original 2.50 acres; and variances to permit a setback of 35 feet from the nearest property line in lieu of the required 300 feet and to permit a lot size of 0.225 acres in lieu of the required minimum lot size of 5 acres.

At the onset of the hearing, Counsel for the Petitioner moved to amend the instant Petition to request a variance from Section 1A04.3A of the Baltimore County Zoning Regulations (BCZR) to permit the structure to be 150' in height in lieu of the permitted 35'. That height was indicated on the plan submitted with the original petition. The motion was granted.

On behalf of the Petitioner, the surveyor submitted a modified plan, prepared by Gerhold, Cross & Etzel, revised October 27, 1986 and identified as Petitioner's Exhibit 1, and testified that the Chestnut Ridge Volunteer Fire Company owns and utilizes the front portion of 2.5 acres. The Petitioner intends to provide 10,000 sq.ft. of leased area at the rear property line and a 10-foot access easement to the Washington/Baltimore Cellular One Telephone Company. The National Guard owns and uses 8.5 acres to the north of the property; to the south there is a field and to the west there are woods and a pasture. The site also has woods along the western boundary line as well as along part of the northern property line.

App #6

Environmental Impact Statement

Cellular One J.F.X. Site
Baltimore County, Maryland

March 1996

Project No. 95057

Prepared for:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
7150 Standard Drive
Hanover, MD 21076

Prepared by:
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

STATE OF MARYLAND · EDWARD F. KING · No. 11868 · REGISTERED PROFESSIONAL ENGINEER



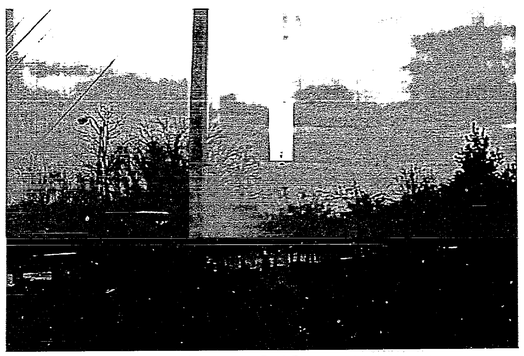
LOOKING SOUTH FROM FALLS RD. NEAR THE VALLEY INN
APPROX. 1200' AWAY

APP EXHIBIT 7B



LOOKING SOUTHEAST FROM THE INTERSECTION OF FALLS RD. & HILLSTEAD DRIVE
APPROX. 800' AWAY

APP EXHIBIT 7C



LOOKING NORTHEAST FROM INTERSECTION OF FALLS RD. & BRIGHTFIELD ROAD
APPROX. 1000' AWAY.

APP EXHIBIT 7D



LOOKING SOUTHWEST FROM THE JOPPA RD OVERPASS OF THE BALTO BELTWAY, I-695,
APPROX. 2700' AWAY

APP EXHIBIT 7F



LOOKING WEST FROM THE CURVE IN RELOCATED OLD COURT RD.
APPROX. 400' AWAY.



LOOKING SOUTH FROM M.S.H.A. FACILITY AT INTERSECTION OF JOPPA RD. & FALLS RD.
APPROX. 3900' AWAY

7G



LOOKING NORTHWEST FROM THE END OF ROCKLAND VUE COURT
APPROX. 1700' AWAY

7H



LOOKING NORTH EAST FROM INNER LOOP OF THE BALTO BELTWAY, I-695 MEDIAN BETWEEN GREENSPRING AVE & JFX Ex 3
APPROX. 4000' AWAY.



LOOKING NORTH[illegible] FROM PROPERTY [illegible] FROM ORIGINAL [illegible]

Market Study:

Proposed Monopole Site
NORTH END OF BRIGHTWOOD ROAD
Brooklandville, Baltimore County, Maryland

For:
Cellular One Washington/Baltimore

April 22, 1996 Ap. Ex 8

Ap Ex. 10

George E. Gavrelis
Vice President



DMW

Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21204
Phone 410 296 3333
Fax 410 296 4705
ggavrelis@dmw.com

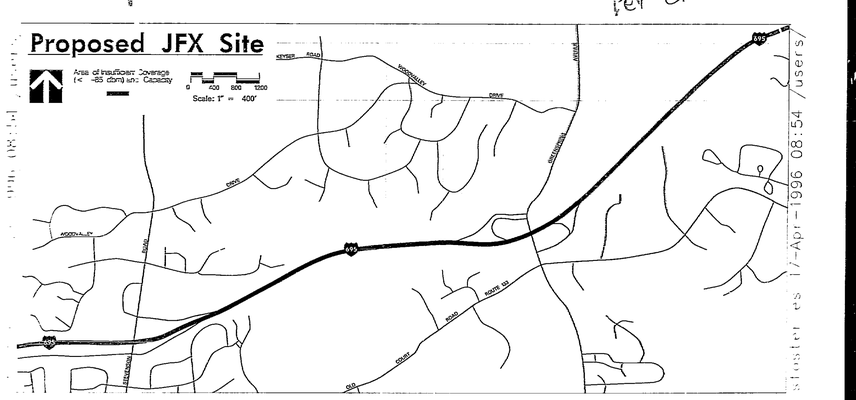
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

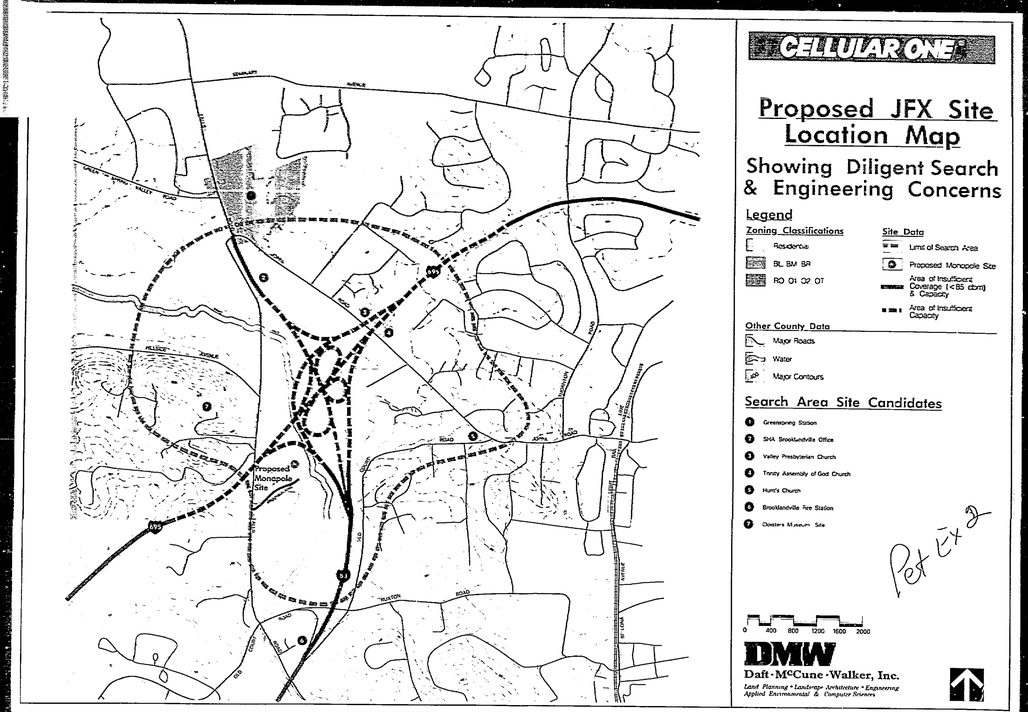
George is recognized as DMW's senior specialist in local planning and zoning. With extensive public-sector leadership service, he has in-depth knowledge of planning and zoning procedures as well as detailed requirements and standards of zoning and subdivision regulations. His expertise assures that projects comply with applicable standards and move expeditiously through the approval process.

George is recognized as an expert witness in Baltimore County planning, zoning and land use issues and testifies before the Zoning Commissioner, Board of Appeals, and circuit court.

Significant Projects	Professional Background	Associations
Towson Commons Towson, Maryland	Daft-McCune-Walker, Inc. Towson, Maryland 1986 - Present	American Institute of Certified Planners Charter Member
Mays Chapel North Planned Unit Development Timonium, Maryland	Private Planning Consultant Towson, Maryland 1982 - 1986	American Planning Assoc.
Caves Valley Golf Club Baltimore County, Maryland	Developers General Corp. Towson, Maryland 1972 - 1982	**Civic Involvement** The Towson Partnership Urban Design and Towson Core Subcommittees
Hayfields Baltimore County, Maryland	Office of Planning and Zoning, Baltimore County, Maryland 1951 - 1972 Director, 1963 - 1972	Baltimore County Master Plan, Strategic Plan 2000 Executive Steering Committee
Land Owners Council, Reciprocal Regional Development Agreement Owings Mills Growth Area Baltimore County, Maryland	**Education** M.A. - City Planning Harvard University Graduate School of Design	Trinity Episcopal Church Long Range Planning Committee
New Density Residential Zones Baltimore County, Maryland	A.B. - Architectural Sciences Harvard College	1992 Comprehensive Zoning Map Guidelines Advisory Group
The Guide Plan for Baltimore County, Maryland		

Pet Ex 2A





Pet Ex 2

Pet Ex #7

Environmental Impact Statement

Cellular One J.F.X. Site
Baltimore County, Maryland

March 1996

Project No. 95057

Prepared for:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
7130 Standard Drive
Hanover, MD 21076

Prepared by:
DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

STATE OF MARYLAND
EDMUND F. MAY
No. 3815
REGISTERED
PROFESSIONAL ENGINEER

Market Study:

Proposed Monopole Site
NORTH END OF BRIGHTWOOD ROAD
Brooklandville, Baltimore County, Maryland

For:
Cellular One Washington/Baltimore

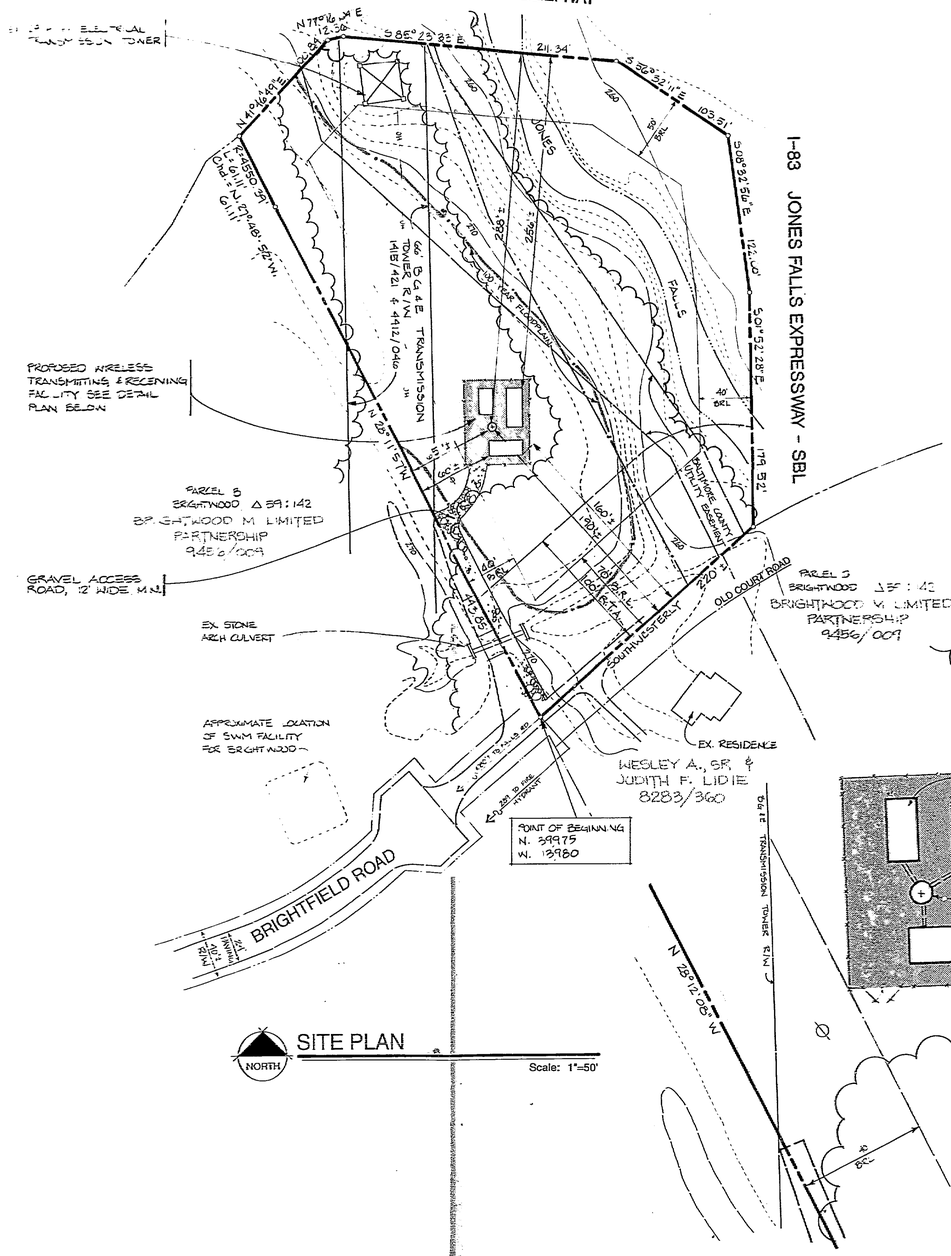
April 22, 1996

Copyright © 1996, by
Lipman Frizzell & Mitchell
a Maryland General Partnership

LIPMAN FRIZZELL & MITCHELL
Real Estate Appraisers & Consultants
L.F.&M. Professional Center
1400 Front Avenue - Suite 300
Lutherville, Maryland 21093

LFM-4492J

RAMP 'G'
I-695 BALTIMORE BELTWAY


I-83 JONES FALLS EXPRESSWAY - SBL
PROPOSED WIRELESS TRANSMITTING & RECEIVING FACILITY SEE DETAIL PLAN BELOW
GRAVEL ACCESS ROAD, 12' WIDE MIN.
EX. STONE ARCH CULVERT
APPROXIMATE LOCATION OF SWM FACILITY FOR BRIGHTWOOD
PARCEL 5 BRIGHTWOOD Δ 59:142 BRIGHTWOOD M. LIMITED PARTNERSHIP 9456/009
PARCEL 3 BRIGHTWOOD Δ 59:142 BRIGHTWOOD M. LIMITED PARTNERSHIP 9456/009
WESLEY A., SR. & JUDITH F. LIDIE 8283/360
EX. RESIDENCE
POINT OF BEGINNING N. 39975 W. 13780
BRIGHTFIELD ROAD
OLD COURT ROAD
JONES FALLS
BALTIMORE COUNTY UTILITY EASEMENT
SOUTHWESTERLY
SOUTHEASTERLY
N 77°16'49" E 12.36'
S 85°23'32" E 211.34'
S 29°32'11" E 103.21'
S 05°23'54" E 194.00'
S 01°52'28" E 179.52'
N 41°49'49" E 104.84'
L = 141.11' R = 445.50' CHD = N 70°48'49" W 140.51'
N 28°11'51" W 115.13'
S 61°48'09" W 60.00'
N 28°11'51" W 115.13'
N 61°48'09" E 60.00'
S 28°11'51" E

RAMP 'G'
I-695 BALTIMORE BELTWAY

I-83 JONES FALLS EXPRESSWAY - SBL

PROPOSED WIRELESS TRANSMITTING & RECEIVING FACILITY SEE DETAIL PLAN BELOW

PARCEL 10
BRIGHTWOOD Δ 59:142
BRIGHTWOOD M LIMITED PARTNERSHIP
9456/009

GRAVEL ACCESS ROAD, 2' WIDE M.N.

EX STONE ARCH CULVERT

APPROXIMATE LOCATION OF SWM FACILITY FOR BRIGHTWOOD

POST SIGN HERE

PARCEL 3
BRIGHTWOOD 35:142
BRIGHTWOOD M. LIMITED PARTNERSHIP
9456/009

OLD COURT ROAD

EX RESIDENCE
WESLEY A., SR. & JUDITH F. LIDIE
8283/360

POINT OF BEGINNING
N. 33975
W. 13980

BRIGHTFIELD ROAD

SITE PLAN
NORTH
Scale: 1"=50'

PROPOSED 10'x12'x10' HIGH UNMANNED EQUIPMENT BUILDING (NEXTEL)

PROPOSED 12'x30'x10'=HIGH UNMANNED EQUIPMENT BUILDING (BANM)

PROPOSED 175' HIGH MONOPOLE

PROPOSED 11'6"x26'x10'=HIGH UNMANNED EQUIPMENT BUILDING (CELLULAR ONE)

PROPOSED 50'x65' GRAVEL COMPOUND TO BE ENCLOSED WITH 8' HIGH CHAIN LINK FENCE WITH 3 STRAND BARBED WIRE TOP

SITE DETAIL
NORTH
Scale: 1"=20'

PROPOSED ANTENNA LOCATIONS

175'

MONOPOLE
N.T.S.

PORTION OF 200' SCALE BALTIMORE COUNTY ZONING MAPS NW-10C & NW-11G

I-695
I-83
RAMP 'G'
SITE
D.R.1
P.O.B.
N. 33975
W. 13980
BRIGHTFIELD ROAD
NORTH

VICINITY MAP
Scale 1"=1000'

Falls
Trinity Assembly of God
Clusters Child Museum
SITE
Exit 13
Exit 23
Hunts Methodist
695
BRIGHTWOOD
BRIDLESHIRE
RUXTON
ROCKLAND
Brooklandville Co 14 & Rescue
Exit 12
NORTH

96-360-XA

NOTES:

1. Current owner and street address
   E.H.K. Hatfield Jr.
   Elizabeth S. Proudt, et al
   P.O. Box 111
   Brooklandville, Maryland 21022
2. Contract lessee/ petitioner: Washington/Baltimore Cellular Limited Partnership dba Cellular One Washington/Baltimore, 7150 Standard Drive, Hanover, Maryland 21076
3. Site area: 3.0 Ac±
4. Existing use: Vacant
5. Site data: Tax Map 69, Grid 2, Parcel 357
   Deed Reference: E.H.K.Jr. 6681/726
   Tax Account No.: 09-08-003420
   Zoning: DR 1
   Election District: 9th
   Councilmanic District: 4th
6. Setbacks:

	Required to Tower	Provided to Tower	Required to Buildings	Provided to Buildings
Front	350'	190'±	70'	160'±
Side	350'	65'±	40'	60'±
Rear	350'	288'±	50'	256'±

* Variances requested

Height	Permitted	Proposed
Tower	N/A*	175'
Building	50'	10'±

*Pursuant to section 300.1.A. BCZR

7. The proposed improvements will consist of a 175' monopole (including antennas) with three unmanned modular accessory buildings for radio and telephone equipment
8. No water or sanitary utilities are required for the facility.
9. The information and boundary location shown hereon have been compiled from deed and other sources believed to be reliable, however their accuracy is not guaranteed and is subject to revision.
10. There are no signs proposed for this facility
11. Parking:
    There is no required parking for this unmanned facility
12. Previous Commercial Permits: N/A
13. Previous Zoning History: N/A
14. No utilities are required for these unmanned equipment buildings.

Requested Zoning Actions:

Special Exception to permit a wireless transmitting and receiving facility in a DR1 zone.

Variance from § 502.7.C.2 BCZR to permit a 175' monopole within 65' of the nearest property line in lieu of the required 350'

Variance from § 502.7.C.3 BCZR to permit a wireless transmitting and receiving facility on a 3.0± acre lot in lieu of the required 5 acres

SIGN PLAN FOR POSTING

GWEN

LOC. DESIGNATED BY APP. AT OWN RISK

Attorney:
Karl J. Nelson
Kramer & Graham
1 South Street, Suite 2600
Baltimore, MD 21202
(410) 347-7434

PRINTED
MAR 13 1996
DAFT-McCUNE-WALKER, INC

DMW
Daft-McCune-Walker, Inc.
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals
200 East Pennsylvania Avenue, Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

CELLULAR ONE

Plan to Accompany Petitions for Special Exception and Zoning Variance

J.F.X. SITE

9th Election District 4th Councilmanic District

Baltimore County, MD

No.	Description	Date
REVISIONS		
Proj. No.	95057	
Date	12-4-95	
Scale		
Last Rev.		

Sheet
1 OF 1

> "...where the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone, the application should be denied."

In Holbrook, a mobile home was visible to a residence 80 to 150 feet away. This contrasted with "countless locations...within the zone" which would not present such problems of proximity and close visibility. 314 Md., at 220. For this reason alone, the special exception was properly denied. That the location was most convenient to the petitioner did not warrant approval.

There were no variances involved in Holbrook. It should be remembered that where special exceptions, as conditional uses, are combined with variances, the Court of Special Appeals advises that "the presumption that a conditional use is permitted may well fall by the wayside." Chester Haven 103 Md. App., at 336; Umerley 108 Md. App., at 510-11.

While BCZR 502.7C notes the potential for variances which meet the standards of BCZR 307.1, the equivalent situation existed in Umerley by implication or reference. Contrary to Mr. Gavrelis' suggestion, this clause does not create or reinstate any favorable presumption for towers in residential zones which fail to satisfy area standards.

VI. There Is Evidence of Particular Adverse Effects to Adjoining Properties

Here, the location adjoins the Lidie homestead and the Brightwood residential facility and property. The area east of Falls Road is in the interior of a residential neighborhood. The testimony of Mr. Lidie and Ms. Slingluff to the adverse effect on enjoyment and value of their properties is entitled to respect. The proximity of the existing BGE transmission tower and the highway system does not invite or justify a new intrusion at a greater height.

The interior residential character of the location resembles to some extent the interior location in Lutherville which contributed to denial of the special exception in People's Counsel v. Mangione 85 Md. App. 738 (1991). Here, there are countless residential locations on main roads. There are countless locations which are larger in acreage. Indeed, the Valley Presbyterian Church and the Trinity Assembly of God appear to be among them and, so far as the evidence shows, could accommodate a tower. The Valley Inn itself is a commercial location on the main road. Cellular One did not include it in its study, although its engineer doubted its workability when questioned. It may just be that the Petitioners (Hatfield/Proutt)did not want a tower on their main property.

Based on all of this, there is ample evidence to deny the special exception even if no variances were required.

VII. The Proposed Tower is an Additional Intrusion into a Historic Area

Ruth Mascari gave uncontradicted testimony to the unique historic qualities of the area. Several of the citizens added evidence on the Johnson Estate, the Rockland district, and the still semirural ambiance and charm of the neighborhood. She explained that while other historic areas exist in the county, this one has extraordinary features.

To be sure, BCZR 502.7A, which sets minimum distances from listed historic districts, applies only to towers over 350 feet in height; so there is no absolute violation. But the public safety, health and welfare standard under BCZR 502.1a still encompasses historic impact considerations. See Faulkner v. Town of Chestertown 290 Md. 214 (1981). In reviewing the integral nature of historic area zoning, the Court quoted from City of New Orleans v. Pergament

5 So.2d 129 (1941):

> "Preventing or prohibiting eyesores in such a locality [the French and Spanish Quarter] is within the police power and within the scope of this municipal ordinance."

Like the French and Spanish Quarter in New Orleans or the Nantucket Historic District referred to in Opinions of the Justices 128 N.E.2d 557 (1955), the Rockland and Greenspring Valley Historic Districts are valuable assets to the citizens there and to Baltimore County. The historic impact of a proposed special exception, albeit from an adjacent area outside the district boundary, is an appropriate subject of review. This is particularly true where evidence shows the historic aspects of Rockland extend well beyond the designated boundaries and onto the Johnson estate.

The additional historic impact is a factor weighing against approval. It is another incremental and insidious intrusion to a community attempting to preserve its quality of life. The Petitioners never considered it, as their own environmental impact study shows.

Summing Up

VIII. The Petitioners' Site Selection is a Matter of Business Convenience; The Reasoning of Evans v. Shore Communications Compels Denial

Despite the length and detail of Petitioners' presentation of their service needs, search area, and site selection, their case comes down to the subordination of everything else to the commercial expansion of Cellular One's business and profits. Any problems which led them to choose this site were of their own making.

The Court of Special Appeals just issued its opinion on zoning of a communications tower in Talbot County. Evans v. Shore Communications 112 Md. App. 284 (1996). It reinforces our earlier observations on self-inflicted practical difficulty or hardship, and the artificial character of its business needs and search area.

The decision involves a request for a special exception for a tower, and a height variance to go from 200 feet to 300 feet in a rural zone. There are substantial differences between the Talbot County ordinance and the Baltimore County ordinance. There are also significant differences between the facts pertinent to the special exception in Evans and those in the present case. For example, the site in Evans was over five acres, not so close to residences, and not in a historic area. But there is an aspect of the variance case which parallels the present case. That is the presentation of the company of its service area needs as a basis for a finding of uniqueness related to hardship.

Judge Arrie Davis wrote, 112 Md. App., at 309:

> "In this case, the first prong of the variance process, as the parties and the Board have recognized, is whether peculiar circumstances surround the property. The Board found that the variance request is based on special circumstances that were created by the actions of SCI, not by the property itself. In other words, the second 'special condition and circumstance' claimed by SCI - the needs of its subscribers - are not peculiar to the land, but created by SCI. We agree. The customer requirements cited by SCI as support for its argument serve to illustrate that fact. The needs of SCI's customers have nothing to do with the peculiarity of the property in question. Thus, any hardship claimed by SCI - the second prong of the test - is self-inflicted, and thus not a ground for a variance. Ad & Soil, Inc., ..., Cromwell...."

The citation to Cromwell confirms the logic that application of the BCZR 307.1 test of uniqueness resulting in practical difficulty, compels the same result on the variances here. In other words, the company's service needs are insufficient to establish the premise of a relationship of uniqueness either to "difficulty" or "hardship". On this issue, Evans controls.

Moreover, as noted, the direct linkage between the variances and the special exception requirements under BCZR 502.7C bring into play Chester Haven, Umerley, and the idea that the special exception, as a conditional use, must meet the enumerated conditions. In this case, unlike

Evans, the the special exception and variances are so interwined as not to be severable. They fall together.

In an interesting article on the op-ed page of the December 29, 1996 New York Times, Michael J. Sandel, a Professor of Government at Harvard University, wrote:

> "When corporations use their power to extract tax reductions, zoning changes and environmental concessions, they disempower communities more profoundly than any Federal mandate ever did."

There is a clash here between commercial interests and community values. The public interest --- the public safety, health, and welfare --- embodies community values. The County Council has set standards to protect these values. Where a property owner or business organization fails to meet the standards, it may not override them based on commercial need. As Sara Lord directly said when questioned about her community's position on the tower in the Bare Hills area, the community accepts it because it is in a commercial area and meets the legislative standards. The community is realistic. But where the request fails the law, it is unsatisfactory. This case is a fundamental test of the implementation of Bill 64-86. We trust the County Board of Appeals to apply the law of special exceptions and variances to deny this petition.

Respectfully Submitted,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. DeMilio
Deputy People's Counsel
400 Washington Avenue
Towson, Maryland 21204
410 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 1997, a copy of the foregoing People's Counsel's Post-Hearing Memorandum was mailed to Karl J. Nelson, Esq., Kramon & Graham, 1 South Street, Suite 2600, Baltimore, MD 21202, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

284 EVANS v. SHORE COMMUNICATIONS [112 Md.App. 284 (1996).]

685 A.2d 454

Robert S. EVANS
v.
SHORE COMMUNICATIONS, INC., et al.

No. 907, Sept. Term, 1996.

Court of Special Appeals of Maryland.

Nov. 27, 1996.

Applicant appealed decision of county board of appeals denying special exception and variance for construction of antenna tower. The Circuit Court, Talbot County, William S. Horne, J., reversed in part and affirmed in part. Both parties appealed. The Court of Special Appeals, Davis, J., held that: (1) board's decision denying special exception was based upon consideration of improper factors, and (2) board's denial of variance was not arbitrary or capricious.

Affirmed and remanded with instructions.

1. Zoning and Planning ⇐503

Decision of county board of appeals to deny special exception for construction of antenna tower was improperly based on proliferation of towers in area as use regulation already delineated that additional towers could not be located within three-mile radius of existing tower and board only had authority to determine whether neighborhood would be adversely affected and whether use was in harmony with comprehensive plan. Talbot County, Md., Zoning Ordinance § 19.14(a), (b)(4).

2. Zoning and Planning ⇐745.1

Court of Special Appeals must review action of county board of appeals in same manner in which trial court conducted its review of board's decision denying special exception to zoning ordinance.

EVANS v. SHORE COMMUNICATIONS 285 [112 Md.App. 284 (1996).]

3. Zoning and Planning ⇐651

"Special exception" is valid zoning mechanism that delegates only limited authority to administrative board to determine use to be permissible in absence of any fact or circumstances that negate presumption.

4. Zoning and Planning ⇐651

County council, by designating use as special exception, determines that use is generally compatible with other uses in zone.

5. Zoning and Planning ⇐503

County board of appeals improperly denied special exception for construction of antenna tower even assuming that tower would result in adverse impact on surrounding properties, where board failed to make finding that adverse effects would be greater in proposed location than they would generally be elsewhere within areas of county where towers may be established. Talbot County, Md., Zoning Ordinance § 19.14(b)(4).

6. Zoning and Planning ⇐503

Conclusion by county board of appeals that construction of antenna tower would be unique to pattern of developed land use in area and detrimental to nearby residents' use and enjoyment of rural character of their property did not justify denial of special exception for tower where board failed to state how tower would undermine rural character of neighborhood. Talbot County, Md., Zoning Ordinance § 19.14(a), (b)(4).

7. Zoning and Planning ⇐503

Decision of county board of appeals to deny variance for construction of 200-foot antenna tower was not arbitrary or capricious despite claim by applicant that property was uniquely suited as location for multiuser tower where special circumstances supporting location of tower on property were created by actions of applicant, not by property itself. Talbot County, Md., Zoning Ordinance § 19.14(b)(3).

3130

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE - 200' past the NE/end of Brightfield Road, 1080' NE of Falls Road, 220' SW of I-83 9th Election District 4th Councilmanic District
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioners*

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-360-XA

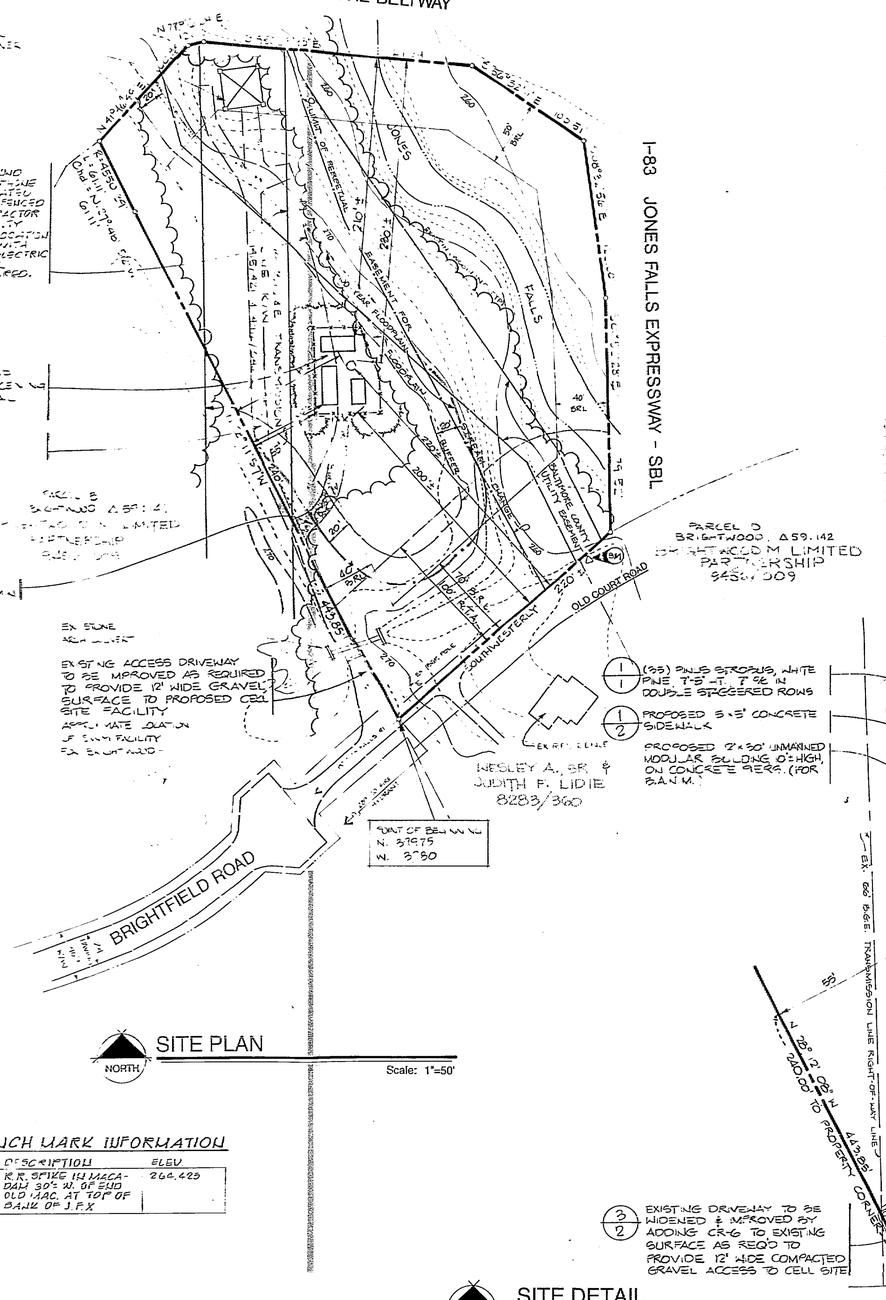
* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Exception and Variance for that property located 200 feet northeast of the end of Brightfield Road, just west of the Jones Falls Expressway (I-83) and Baltimore Beltway (I-695) interchange at Falls Road. The Petitions were filed by the owners of the property, John A. Hatfield, Jr. and Elizabeth S. Proutt, and the Contract Lessee, Washington/Baltimore Cellular Limited Partnership, (dba) Cellular One Washington/Baltimore, by Michael Maus, Real Estate Director, through their attorney, Karl J. Nelson, Esquire. The Petitioners request a special exception to permit a wireless transmitting and receiving facility in a D.R. 1 zone, and variance relief from Section 502.7.C.3 of the Baltimore County Zoning Regulations (B.C.Z.R. to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and to permit a wireless transmitting and receiving facility on a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

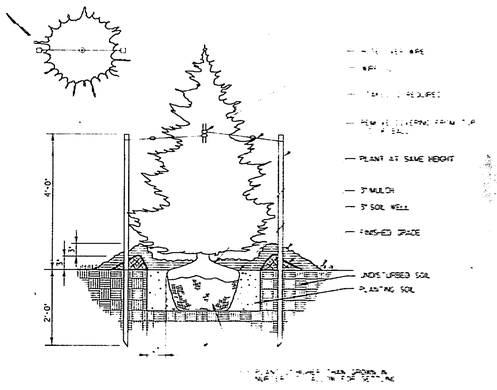
Appearing at the hearing on behalf of the Petitions were representatives of Cellular One, the Contract Lessee, representatives of Nextel,

ORDER RECEIVED FOR FILING
Date 2/13/96
By



BENCH MARK INFORMATION

NO	DESCRIPTION	ELEV.
10506	N.R. SPIKE IN MAGNOLIA 30'± N. OF END OLD I.A.C. AT TOP OF BANK OF J.F.X.	266.425

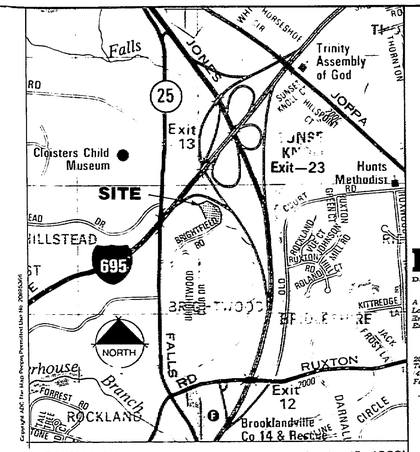


1 EVERGREEN PLANTING DETAIL

I certify that I have reviewed this Final Landscape Plan, that I am aware of the landscape regulations presented in the Baltimore County Landscape Manual, latest edition, and I agree to comply with these regulations and all applicable policies, guidelines, and ordinances. I agree to implement this plan within one year of approval by Baltimore County and assure the maintenance and survivability of the material planted for one year.

for: Patricia G. Cowan
John Hamer
Signature of Applicant
Director Construction
John Hamer
Print Name
7150 Standard Dr.
Address
Hanover, MD 21076

6/10/97
Date



VICINITY MAP Scale 1"=1000'

Copyright 1992 The Map People Permitted Use No. 20000696

DMW
Daft-McCune-Walker, Inc.
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals
200 East Pennsylvania Avenue
Towson, Maryland 21286
410) 296-3333
Fax 296-4705

NOTES:

1. Current owner and street address: [illegible] Jr. 2404 S. Pruett et al. [illegible] Brooklandville, Maryland 21022.
2. Contract lessee: Washington/Baltimore Cellular Limited Partnership dba Cellular One Washington/Baltimore 7150 Standard Drive Hanover, Maryland 21076
3. Site area: 3.0 Acs
4. Existing use: Vacant
5. Site data: Tax Map 69 Grid 2, Parcel 357 Deed Reference E.H.K.Jr. 6681/726 Tax Account No. 09-08-003420 Zoning DR 1 Election District 9th Councilmanic District 4th
6. Setbacks

	Required to Tower	Provided to Tower	Required to Buildings	Provided to Buildings
Front	330'	220'±	70'	200'±
Side	330'	90'±	40'	60'±
Rear	330'	230'±	50'	210'±

* Variances requested

Height

	Permitted	Proposed
Tower	N/A*	165'
Building	50'	10'±

*Pursuant to BCZR section 300.1.A

7. The proposed improvements will consist of a 165' monopole (including antennas) with three unmanned modular accessory buildings for radio and telephone equipment.
8. No water or sanitary utilities are required for the unmanned facility.
9. The information and boundary location shown hereon have been compiled from deed and other sources believed to be reliable, however their accuracy is not guaranteed and is subject to revision.
10. There are no signs proposed for this facility.
11. Parking
There is no required parking for this unmanned facility
12. Previous Commercial Permits
B313438
B303948
B313447
13. Existing utility location information shown on these plans is for the contractor's convenience only. While the information shown has been gathered from surveys and sources believed to be reliable, the correctness or completeness of the information shown is not warranted or guaranteed. The contractor shall verify all utility locations to his own satisfaction
14. The contractor must notify Miss Utility at (800) 257-7777 a minimum of 3 working days prior to any construction or excavation
15. The subject improvements to the existing Wireless Transmitting and Receiving Facility on this site were the subject of DRC Number 040696, Dist. 9C-1. By letter of April 22, 1996, the subject improvements were granted a limited exemption under Section 26-171(A)-(I) of the Baltimore County Code
16. Zoning History
The improvements shown on this plan were the subject of Zoning Case # 96-360-XA which requested a special exception for a Wireless Transmitting and Receiving Facility in the DR1 zone, a variance to permit the proposed 165' monopole within 90 feet of the nearest property line, and a variance to permit the Wireless Transmitting and receiving facility on a lot of less than 5 acres. The requested relief was granted by the Board of appeals in an order dated April 30, 1997

Reason for Permit Site Plan Revision

1. To remove the connection walls between the modular buildings as approved in Zoning Case 96-96-SPH granted on November 26, 1997 by the Zoning Commissioner. The hearing determined that the requirements of Section 102.2 of the BCZR shall not be applied separately to multi-users of a single site as a wireless transmitting and receiving facility (no specific location or site area).

PRINTED
FFS
DAFT-MCCUNE WALKER, INC

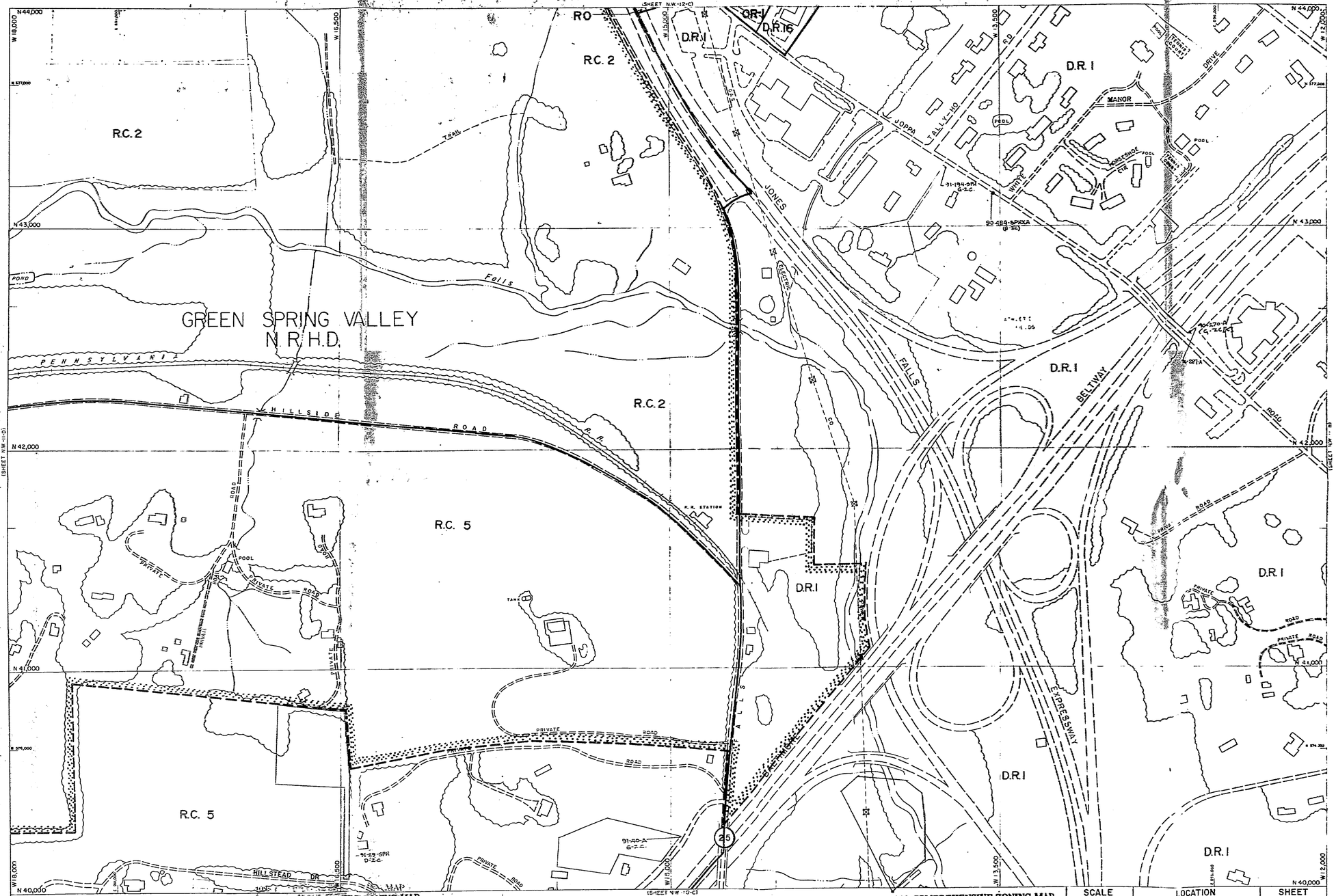
6/27/97

Baltimore County, MD

CELLULAR ONE
Plan to Accompany Building Permit Application - 1st Revision
J.F.X. SITE
9th Election District 4th Councilmanic District

No.	Description	Date
	REVISIONS	
Proj. No.	95057	
Date	03-MAY-97	
Scale	AS SHOWN	
Last Rev.	16 FEB 98	

Sheet 1



S-SW S-SE
O-NW O-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

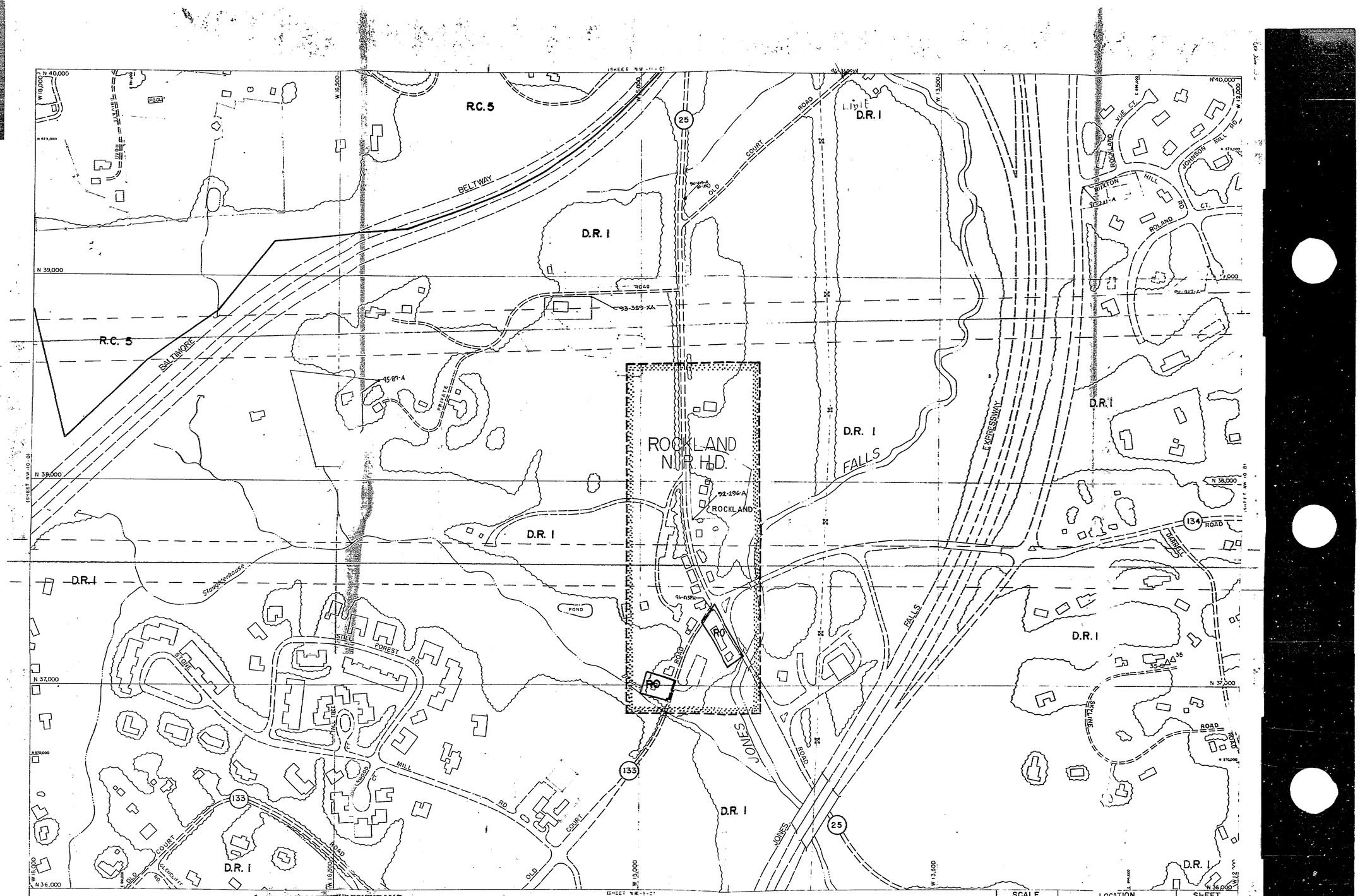
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 123-92, 124-92, 125-92, 126-92, 127-92, 128-92, 129-92

William A. Howard III
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200'±	BROOKLANDVILLE	N. W. 11-C
DATE OF PHOTOGRAPHY JANUARY 1986		

PC #2



O-NW O-NE
S-SW S-SE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Dale T. Volz
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92

William A. Howard III
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200'±	ROCKLAND	N.W. 10-C
DATE OF PHOTOGRAPHY JANUARY 1986		

P.C. # 3

BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS

In the Matter of: *

John A. Hatfield and Elizabeth S. Proust * Case No. 96-360-XA

Petitioners *

* * * * * * * * *

BRIEF OF WASHINGTON/BALTIMORE CELLULAR LIMITED PARTNERSHIP IN SUPPORT OF ITS PETITION FOR SPECIAL EXCEPTION AND VARIANCES

I. INTRODUCTION

In this case, the Washington/Baltimore Cellular Limited Partnership, trading as "Cellular One," seeks to locate a wireless transmitting and receiving facility on a unique parcel in central Baltimore County. A vast area surrounding the proposed site is currently experiencing poor cellular service due to the area's challenging topography and the explosion of cellular popularity. By erecting the proposed facility, Cellular One will provide a unique solution to the problem because the facility will be utilized by three cellular carriers, thereby helping to ease the proliferation of such structures.

The proposed facility requires a special exception for the use and variances of the set back and minimum lot size requirements. Despite the generalized concerns of several local residents who appeared to protest the facility, wireless transmitting and receiving facilities are permitted in residential zones by special exception. Thus, the legislative policy considerations associated with such a siting—indeed the very issue of whether such facilities "belong" in residential areas—have been addressed and resolved by the County Council. The only issue in this case is whether Cellular One has met the applicable special exception and variance requirements set forth in the Baltimore County Zoning Regulations ("BCZRs") and interpreted

by Maryland's Court of Appeals. Cellular One clearly has done so. Accordingly, Cellular One's petitions for relief should be granted.

II. THE SITE

The parcel in question ("the Site") is irregularly shaped and is dominated by its location at the confluence of two major interstate highways, and the presence of a high tension electrical tower supporting power lines. It is not, as several protestants seemed to assert, an idyllic woodland. Rather, it is a virtually undevelopable parcel sandwiched between two noisy highways.

The Site is a three acre parcel located off of Brightfield Road and owned by John A. Hatfield. It is unique and ideal from both land planning and radio frequency engineering perspectives. The Site was once part of a larger parcel that stretched across Interstate 695 to the north and included the Valley Inn. Due to various State condemnations for highway construction, the Site was separated from the Valley Inn parcel by I-695 and reduced in size to its current three acres.[1] See the attached Exhibit A, an extract of hearing transcript volume I at 49-50.

The Site is zoned D.R.1. It is bounded on the north and on the east by an entrance ramp to Interstate 83. Indeed, it sits virtually at the intersection of I-695 and I-83. To the west of the Site is a fifty acre wooded parcel owned by the neighboring Brightwood Community ("Brightwood Parcel B"). Brightwood Parcel B cannot be developed because it was stripped of

[1] Peoples' Counsel attempted to argue at various points during the proceedings that the subject parcel remains as part of the Valley Inn parcel because the two are listed together on tax maps. Quite obviously, the presence of I-695 as a barrier between the two properties renders the argument moot. Indeed, Peoples' Counsel's assertion to Robert Mandlack that he should "assume" that a pedestrian could walk across I-695 from one parcel to the other illustrates the ludicrousness of the argument. Ex. A at 111.

density during the development of the Brightwood project. Further, much of Parcel B is encumbered by the Jones Falls flood plain. Ex. A at 45-46. To the south of the Site is a parcel owned by Wesley A. Lidie. The Lidie parcel is improved by a small residential dwelling.

The Site is encumbered by numerous impediments to development. These impediments are graphically illustrated by Appellant's Exhibit No. 2. Of the Site's three acres, 1.64 acres are consumed by the D.R.1 residential set back requirements. 1.87 acres of the property are encumbered by the Jones Falls and its associated flood plain, with an additional .30 acres consumed by the mandatory 20' flood plain buffer. The entire northwest quadrant of the property, 1.31 acres, is subject to a perpetual stream relocation easement imposed by the State Highway Administration. A Baltimore County sanitary sewer line easement consumes .69 acres of the Site. A wooded area consumes 1.38 acres of the Site.

Dominating the Site is a 66' wide BGE utility easement that runs the full length of the Site from south to north. The BGE easement, which is cleared of all significant vegetation, is improved by a 130' tall, lattice-type high tension tower. The BGE tower supports high tension electrical lines that run the length of the easement.

Although several of the aforementioned constraints overlap, they combine to render all but .27 of the Site's three acres undevelopable.

Cellular One proposes to erect a 165' freestanding monopole which will support three antenna arrays. A monopole is a pencil shaped structure that is not supported by any sort of guidewires.[2] The site will be equipped with three antenna arrays because it will be used by Bell Atlantic Nynex Mobile and Nextel Communications, in addition to Cellular One. Ex. A at 34.

[2] Photographs of a monopole are included with Appellant's Exhibit 9.

As shown on the site plan submitted as Appellant's Exhibit 3, each user will have a small equipment building within the compound.

III. THE PROBLEM

The undisputed testimony of Cellular One's Senior Radio Frequency ("RF") Engineer, Jim Jimreivat, was that a critical service need has existed in the area for years. Despite Mr. Jimreivat's best efforts over a period of years to find a way to provide acceptable cellular service to the area without constructing some sort of freestanding structure, no viable alternative is available. See Exhibit B, an extract of hearing transcript volume II at 49-50.

The area of insufficient service is depicted by the Proposed JFX Site Location Map introduced as Appellant's Exhibit 4A and 4B. Ex. B at 19 and 24. A reduced copy of this map is attached hereto as Exhibit C. Included in the area are heavily traveled portions of I-695 and I-83, as well as parts of Falls Road, Joppa Road, Thornton Road and Old Court Road. As these are areas of extremely heavy automobile traffic, they are, consequently, areas of extremely heavy cellular telephone use. Ex. B at 14. The service problems extend to the secondary roads and residences in the area, affecting residents and commuters alike. Ex. B at 14.

Cellular customers currently face a myriad of problems when attempting to make and continue calls in the area, including static, interference, the cessation or "dropping" of existing calls and the inability even to access the system ("blocking"). Ex. B at 14, 15 and 22-23. The status of service is so problematic that during peak user times 10%-30% of Cellular One's customers are unable to access the system. Ex. B at 16. The area is "[t]he top area of need" for the "greater Baltimore area." Ex. B at 15. This need is echoed by Cellular One's customers, who register more complaints about service in the area than anywhere else in the Baltimore region. Ex. B at 21.

The service deficiencies stem from two separate but related sources: the absence of sufficient coverage and the absence of sufficient capacity. The coverage problem exists because the existing cell sites surrounding the area cannot project sufficient signal strength into the area to allow for adequate service. Ex. B at 17-23. Cellular technology requires a line of sight between cellular antennae and mobile users. Ex. B at 13. Accordingly, the technology is extremely sensitive to topography. If a ridge runs through an area, as in this case, a carrier must find a way to establish a line of sight between its antennae and its customers' mobile units that is not blocked by the ridge. It is particularly difficult for cellular carriers to project signal into those portions of I-695 immediately west of I-83 because the roadway in that area rests in a "valley" that lies below ridges to its north and south. Ex. A at 89; Ex. B at 26.[3]

With respect to capacity, as Mr. Jimreivat explained, Cellular One's entire system operates on the limited number of frequencies assigned to the company by the Federal Communications Commission ("FCC"). Ex. B at 10. Each frequency can handle only one call at a time. Ex. B at 10. In order to operate a viable network, cellular carriers must "reuse" these frequencies repeatedly to gain capacity. Frequencies are reused by creating a network of relatively small, low-powered sites that do not interfere with each other. Ex. B at 10-11. Each site provides service to a discrete area. If the sites are properly located and integrated, one frequency can be used by numerous callers at various locations throughout the network without interference. Ex. B at 10-12. In light of the explosion of cellular popularity, the existing facilities simply lack the capacity to process the number of calls being carried on in the area. Ex. B at 23.

[3] This area of low-lying roadway, and the surrounding ridges, are graphically depicted in Appellant's Exhibit 7H.

IV. THE SOLUTION

It is clear from the foregoing that the area provides a number of difficulties from an RF engineering standpoint. Cellular One's engineers have been tasked to develop a solution that will provide both sufficient coverage and capacity to an area that possesses challenging topography. They have crafted a solution that will provide the most minimal conceivable impact on the surrounding area.

Using computer modeling tools, Mr. Jimreivat was able to determine where a site would need to be located in order to resolve the current problems. Ex. B at 30-32. The computer model accounted for all of the local features, including topography. Ex. B at 30-32. The result of the computer modeling was plotted on a map of the overall area and is depicted on Exhibit C (Appellant's Exhibits 4A/4B) as the area within the orange dotted lines.

An area of potential site location is known in the industry as a "search area." Mr. Jimreivat's testimony that the solution to the current coverage and capacity problems can be resolved only by placing a cell site within the search area depicted on Exhibit C was undisputed.[4] Cellular One's real estate department explored the search area and located several potential site locations. These site candidates, including ultimately, the Site, were presented to Mr. Jimreivat for RF analysis. Mr. Jimreivat determined that a cell site on the Hatfield property, with an antenna height of 165' above ground level, would resolve both the existing coverage and capacity deficiencies. The proposed facility will have sufficient elevation to provide adequate signal strength throughout the area. More particularly, given the Site's location just to the east of the high ridge delineating the southern end of the Greenspring Valley, the proposed cell site will be

[4] Mr. Jimreivat also testified that the problems could not be rectified by modifying existing sites due to topographical limitations and the possibility of interference among and between existing sites. Ex. B at 21-22.

able to "see" into the low-lying portion of I-695 just to the west of I-83. Ex. A at 81, Appellant's Exhibit 7H. Further, the proposed site will triple the network's capacity in the area. Ex. B at 25-27.

V. LEGAL ISSUES

The Board finds itself at the nexus of several bodies of law. Quite clearly, the Board must look to the BCZRs. The BCZRs, themselves, must be viewed in the context of the Court of Appeals' limitations on the County's zoning powers as embodied in cases such as Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981). In Schultz, the Court of Appeals held that "the appropriate standard to be used in determining whether a request for special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Id. at 23 (emphasis supplied). Thus, the Board should look not to the drawbacks inherent in cell sites generally, but rather, to the drawbacks associated with the location of such a facility at this particular location.

The Board can deny Cellular One's requested special exception only if it finds that the proposed facility will somehow be more onerous because of its particular location than it would otherwise be elsewhere in the area. The record will not support such a finding. To the contrary, the evidence demonstrates that the Site is the least onerous location for such a facility. It requires a mere monopole, rather than a lattice tower. The monopole itself will be only 165' in height. It is located on a property that does not have residential neighbors on three sides despite the fact that the entire surrounding area is zoned residential. Indeed, the Site is bounded on two sides by highways and on a third side by an undevelopable and heavily wooded parcel. The

Site's location away from dense residential areas minimizes its effect on the surrounding area. Further, the tremendous natural screening provided by the woods in the area will render the Site virtually invisible to most of the community. It is difficult to imagine how such a site could be less onerous in a residential neighborhood.

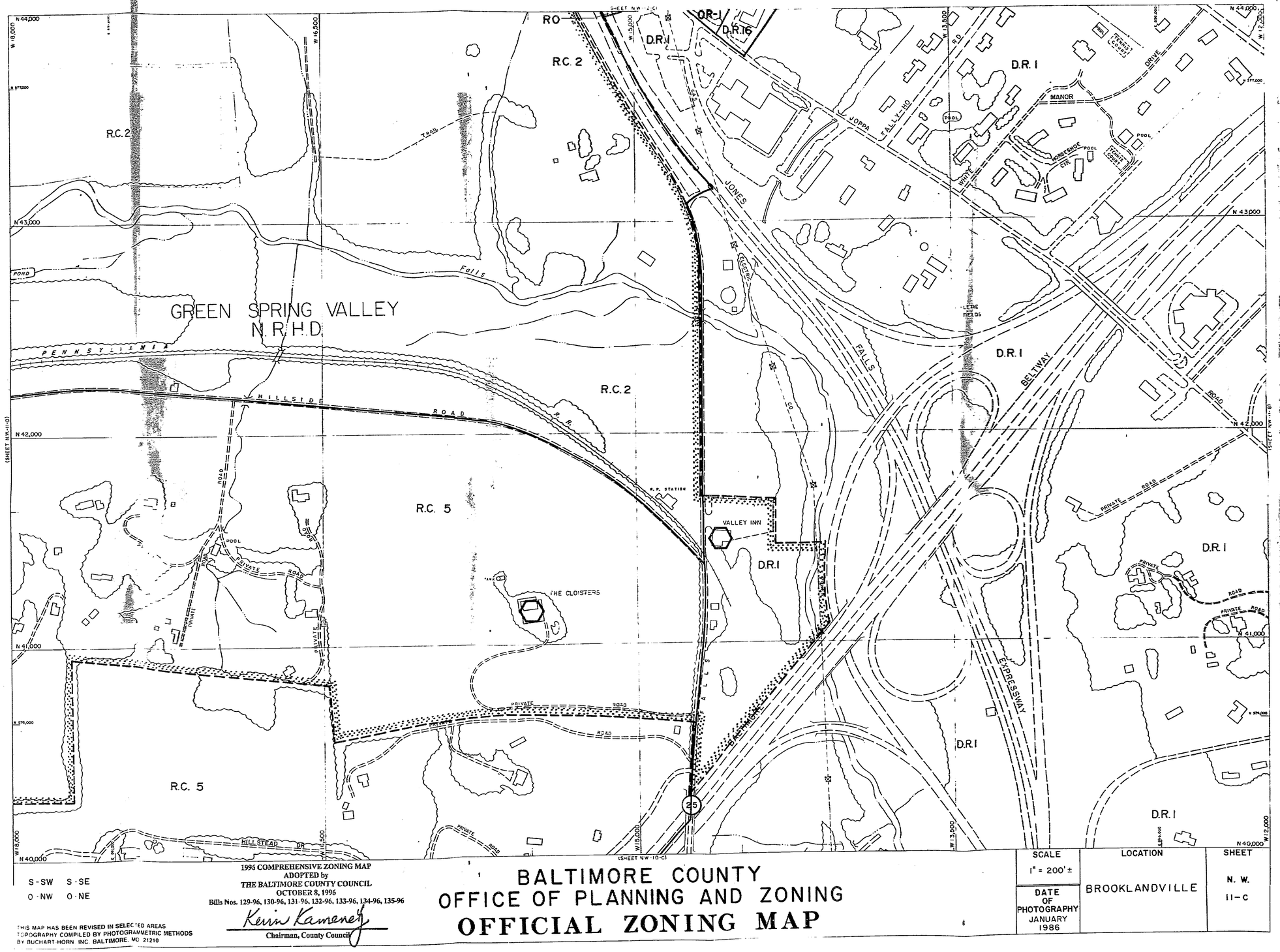
A new layer of applicable legal authority recently was added when Congress enacted the Telecommunications Act of 1996. While the Act does not "limit or affect the authority of a State or local government . . . over decisions regarding the placement, construction, and modification of personal wireless service facilities," such enforcement "shall not prohibit or have the effect of prohibiting the provision of personal wireless services."[5] Thus, while Baltimore County retains the right to place reasonable restrictions on the placement of cell sites, the restrictions cannot act to deprive an area of cellular service.[6]

VI. THE SPECIAL EXCEPTION REQUIREMENTS

"Wireless transmitting and receiving structures" are permitted by special exception in D.R.1 zones by operation of BCZR § 1B01.1.C.20. Thus, they are subject to the general special exception requirements set forth in § 502.1 et seq. Additionally they are subject to the more specific requisites of § 502.7. Cellular One has met all of the applicable special exception requirements.

[5] The Act provides that the term "personal wireless services" includes "commercial mobile services" such as Cellular One's network.

[6] Indeed, the Act provides cellular carriers with the extraordinary remedy of "commenc[ing] an action in any court of competent jurisdiction" within thirty days of a zoning decision that acts to "prohibit the provision of personal wireless services."



S-SW S-SE
O-NW O-NE

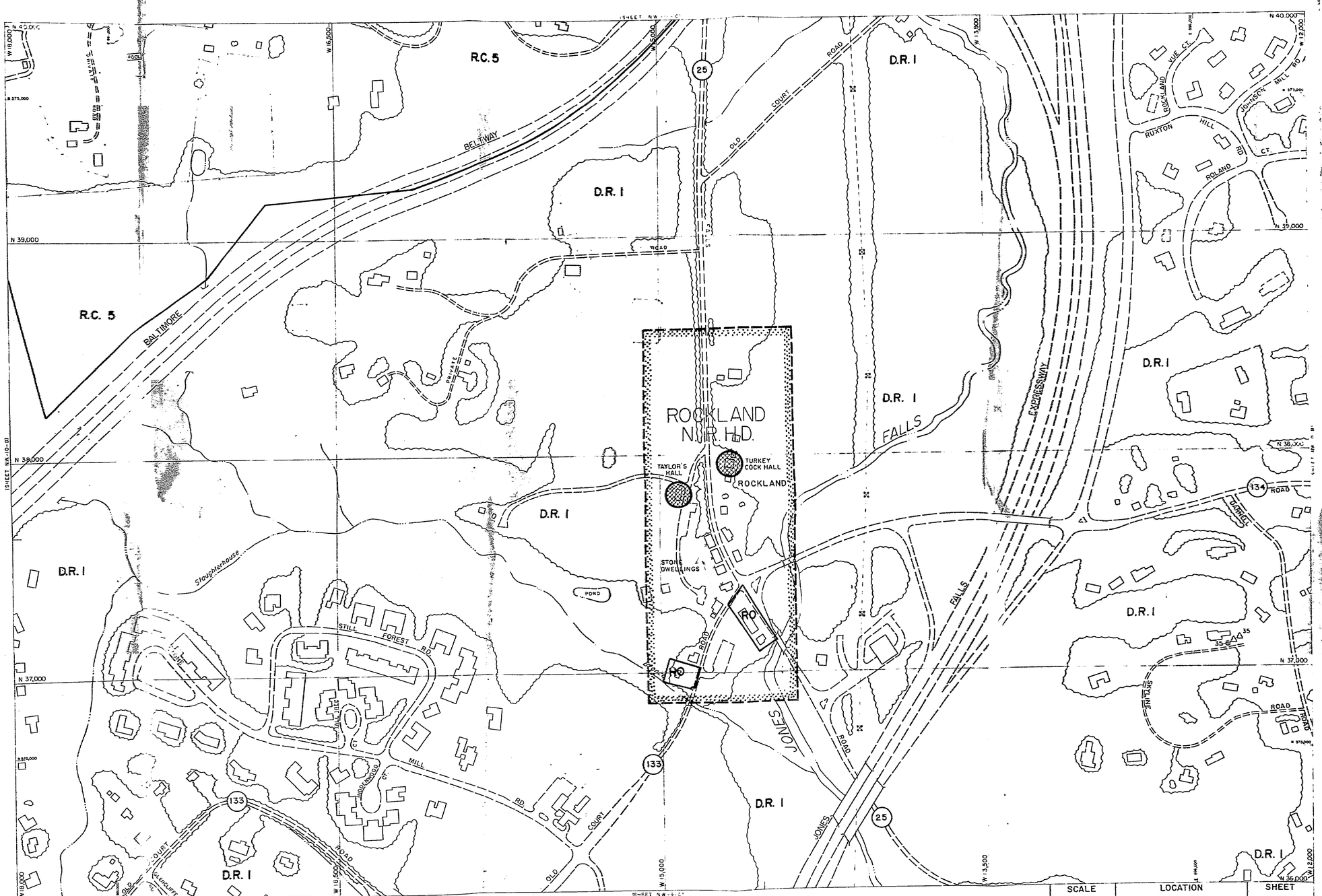
THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART HORN INC. BALTIMORE, MD 21210

1995 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BROOKLANDVILLE	N. W. 11-C
DATE OF PHOTOGRAPHY JANUARY 1986		



1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
ON [illegible], 1996
Bills Nos. 129-96, 130-96, [illegible], 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

O-NW O-NE
S-SW S-SE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	ROCKLAND	N.W. 10-C
DATE OF PHOTOGRAPHY JANUARY 1986		

APP. EXHIBIT #2

RAMP 'G'

I-695 BALTIMORE BELTWAY

I-83 JONES FALLS EXPRESSWAY - SBL

EX 129 HIGH ELECTRICAL TRANSMISSION TOWER

PROPOSED WIRELESS TRANSMITTING & RECEIVING FACILITY. SEE DETAIL PLAN BELOW.

PARCEL B
BRIGHTWOOD, Δ 59:142
BRIGHTWOOD M. LIMITED PARTNERSHIP
945 a/209

GRAVEL ACCESS ROAD, 12' WIDE, MIN.

EX. STONE ARCH CULVERT

APPROXIMATE LOCATION OF S.W.M. FACILITY FOR BRIGHTWOOD

N 77°16'04" E 12.36'

S 85°23'33" E 211.34'

S 56°32'11" E 103.51'

S 08°32'56" E 122.00'

S 01°52'28" E 179.52'

N 41°26'49" E 20.84'

R=4550.39'
L=61.11'
Chd.=N. 27°48'-51½'W.
61.11'

N 28°11'57" W 443.85'

66' BG&E TRANSMISSION TOWER R/W 1415/421 & 4442/046

50' ENVIRONMENTAL PERPETUAL EASEMENT

FOR STORMWATER RELOCATION

100 YEAR FLOODPLAIN

FLOODPLAIN

JONES FALLS

80' BUFFER

160'±

40'±

BALTIMORE COUNTY UTILITY EASEMENT

40' B.R.L.

70' B.R.L.

80' R.I.A.

220'±

SOUTHWESTERLY

OLD COURT ROAD

PARCEL D
BRIGHTWOOD, Δ 59:
BRIGHTWOOD M. L.
PARTNERSHIP
9456/209

EX. RESIDENCE

WESLEY A., SR. &
JUDITH F. LIDIE
8283/360

POINT OF BEGINNING
N. 39,975
W. 13,980

1000' TO FALLS RD

289' TO FIRE HYDRANT

BRIGHTFIELD ROAD

40'± R/W

24' PAVING

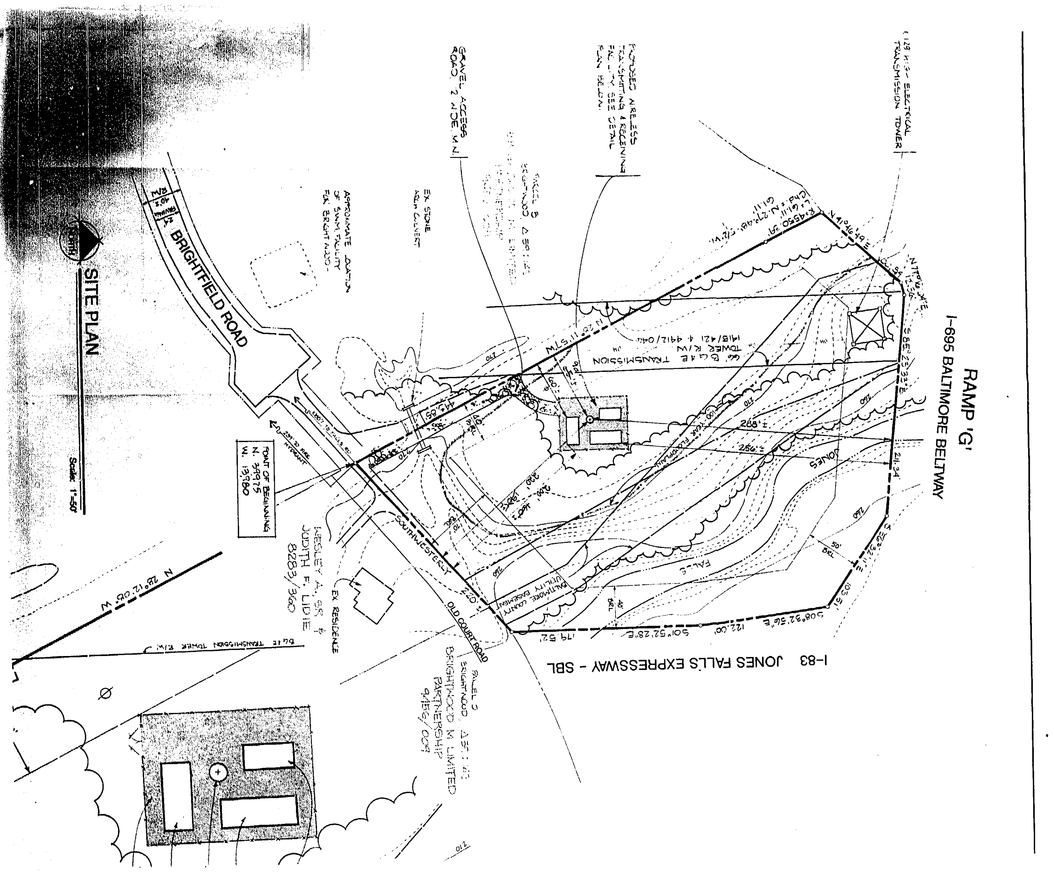
Total Site	3.00 Ac.
Zoning Setback Buildable Envelope	1.64 Ac.
BGE Power Line Right-of-Way	0.4 Ac.
100-yr. Flood Plain	1.5 Ac.
Buffer	0.6 Ac.
Total Flood Plain	2.1 Ac.
Perpetual Stream Change Easement	1.3 Ac.
Baltimore County Utility Easement	0.07 Ac.
Woods	1.38 Ac.
Unrestricted land suitable for building	0.27 Ac.

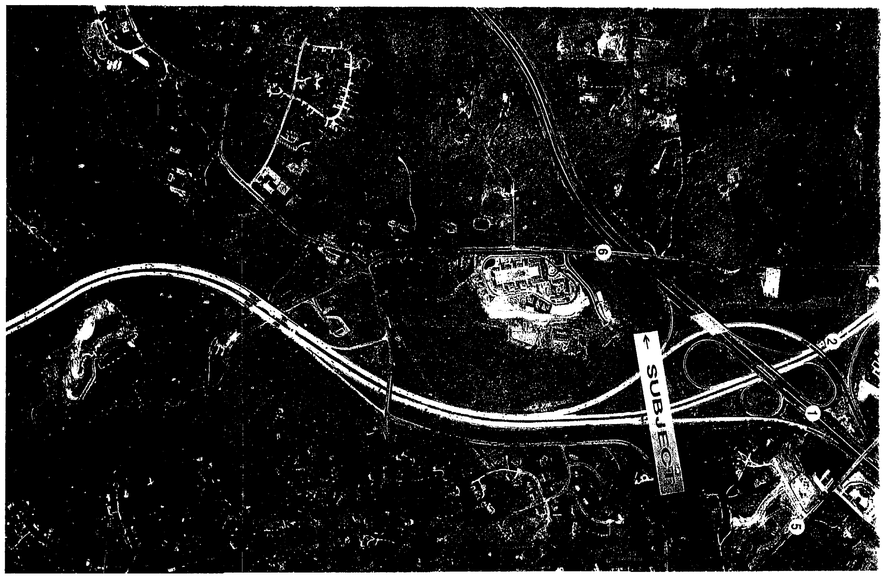
NORTH

SITE PLAN

Scale: 1"= 20'

Hatfield - CBA
Appellant's #9
96-360-XA





Appellant's #9

VIEW NORTH FROM MONOPOLE BASE



VIEW SOUTH FROM MONOPOLE BASE



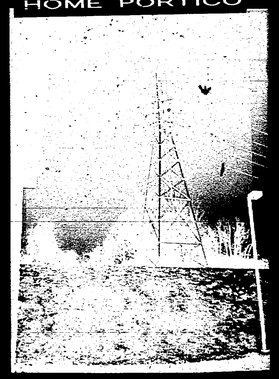
VIEW NORTHERLY FROM MERIDIAN NURSING HOME PORTICO TOWARDS SUBJECT



VIEW NORTHERLY FROM MERIDIAN NURSING HOME DRIVEWAY TOWARDS SUBJECT



VIEW OF BG&E TRANSMISSION LINE TOWERNEAR NURSING HOME PORTICO



VIEW NORTH FROM BRIGHTFIELD ROAD HAMMERHEAD

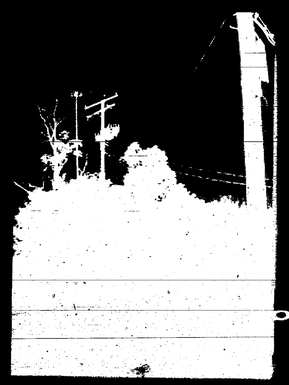


VIEW SOUTH ON FALLS ROAD FROM BRIGHTWOOD ROAD. NOTE TELEPHONE POLES AND WIRES



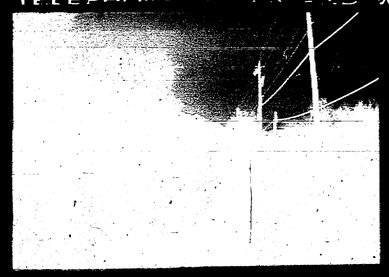
LIDIE HOUSE & LOT



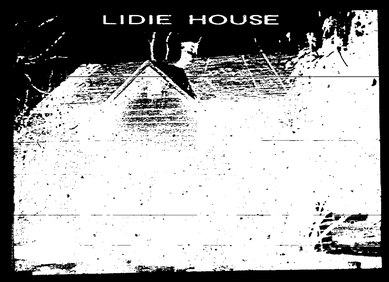


JUXTAPOSITION OF TELEPHONE POLES AND MONOPOLE ON WESTMINISTER PIKE

VIEW NORTH ON FALLS ROAD FROM NEAR BRIGHTWOOD ROAD. NOTE TELEPHONE POLES AND WIRES

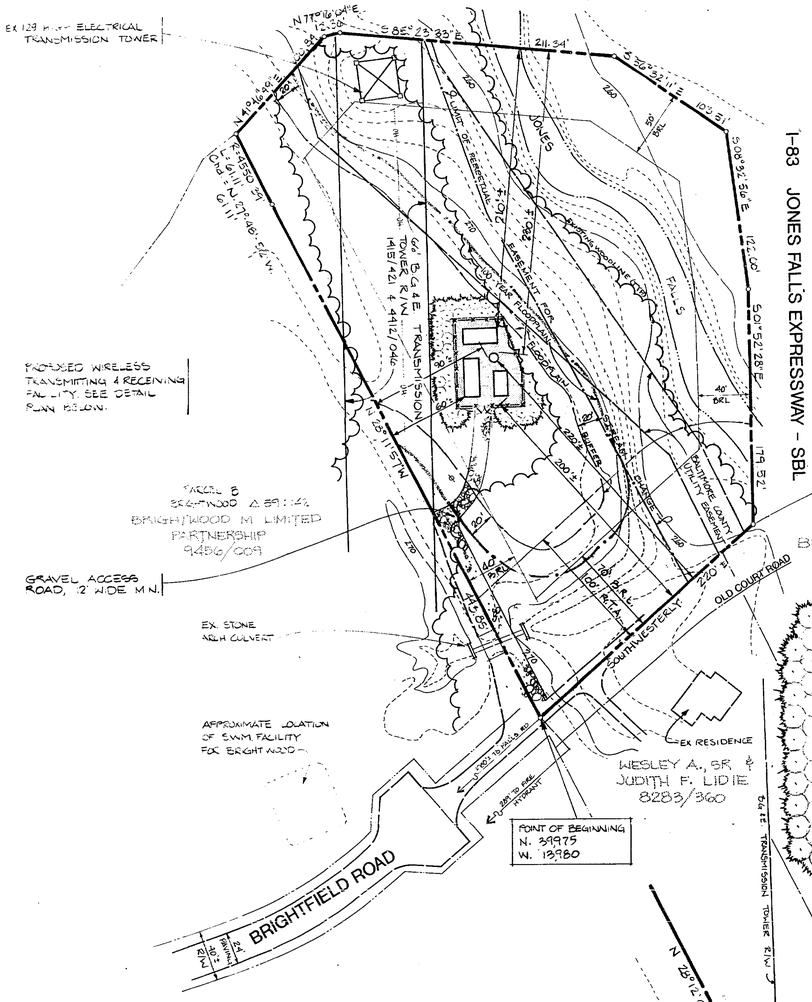


LIDIE HOUSE



APP. EXHIBIT #3

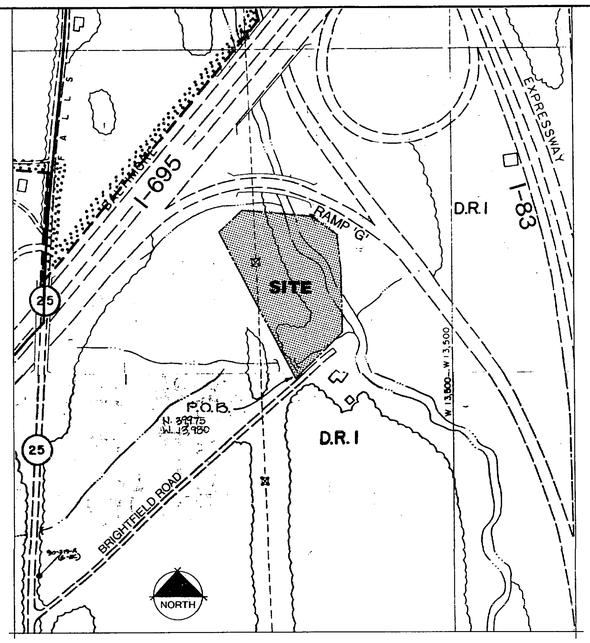
RAMP 'G'
I-695 BALTIMORE BELTWAY



SITE PLAN

NORTH

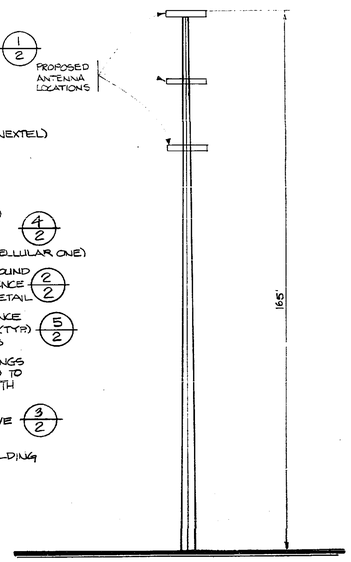
Scale: 1"=50'



SITE DETAIL

NORTH

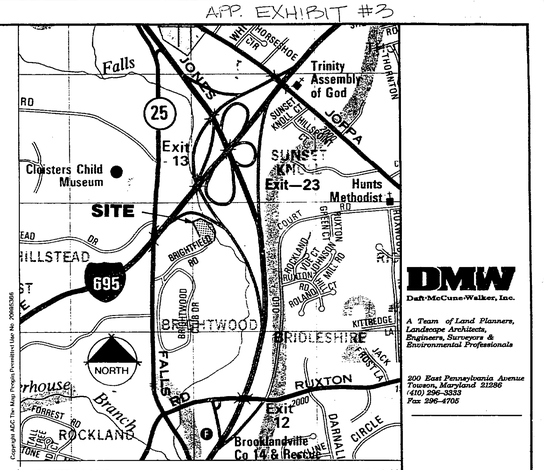
Scale: 1"=20'



MONOPOLE

NTS

PORTION OF 200' SCALE BALTIMORE COUNTY ZONING MAPS NW-10C & NW-11C



VICINITY MAP

Scale: 1"=1000'

Copyright ADC The Map People Permitted Use No. 20003306

NOTES:

1. Current owner and street address: John A. Hatfield, Jr., Elizabeth S. Prout, et al, P.O.Box 711, Brooklandville, Maryland 21022
2. Contract lessee/petitioner: Washington/Baltimore Cellular Limited Partnership, dba Cellular One Washington/Baltimore, 7150 Standard Drive, Hanover, Maryland 21076
3. Site area: 3.0 Ac.±
4. Existing use: Vacant
5. Site data: Tax Map 69, Grid 2, Parcel 357; Deed Reference: E.H.K.Jr. 6681/726; Tax Account No.: 09-08-003420; Zoning: DR 1; Election District: 9th; Councilmanic District: 4th
6. Setbacks:

	Required to Tower	Provided to Tower	Required to Buildings	Provided to Buildings
Front	330'	220'±*	70'	200'±
Side	330'	90'±*	40'	60'±
Rear	330'	230'±*	50'	210'±

* Variances requested

Height:

	Permitted	Proposed
Tower	N/A*	165'
Building	50'	10'±

*Pursuant to BCZR section 300.1.A

7. The proposed improvements will consist of a 165' monopole (including antennas) with three unmanned modular accessory buildings for radio and telephone equipment.
8. No water or sanitary utilities are required for the unmanned facility.
9. The information and boundary location shown hereon have been compiled from deed and other sources believed to be reliable; however their accuracy is not guaranteed and is subject to revision.
10. There are no signs proposed for this facility.
11. Parking: There is no required parking for this unmanned facility.
12. Previous Commercial Permits: N/A
13. Previous Zoning History: N/A
14. There are no additional Residential Transistion Areas imposed on this site beyond that which is shown

Requested Zoning Actions:

Special Exception to permit a wireless transmitting and receiving facility in a DR1 zone.

Variance from § 502.7.C.2 BCZR to permit a 165' monopole within 90' of the nearest property line in lieu of the required 330'

Variance from § 502.7.C.3 BCZR to permit a wireless transmitting and receiving facility on a 3.0± acre lot in lieu of the required 5 acres

Attorney:
Karl J. Nelson
Kramon & Graham
1 South Street, Suite 2600
Baltimore, MD 21202
(410) 347-7434

DMW
Daft-McCune-Walker, Inc.
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

CELLULAR ONE

Plan to Accompany Petitions for Special Exception and Zoning Variance

J.F.X. SITE

9th Election District 4th Councilmanic District

Baltimore County, MD.

No.	Description	Date
1	LOWER TOWER TO 165 FT	15-NOV-96
2	RECONFIGURE COMPOUND	9-DEC-96
REVISIONS		
Proj. No.	95057	
Date	5/3/96	
Scale	AS SHOWN	
Last Rev.		

Sheet 1 of 2

I. The Property Owners Are Not in A Legitimate Position to Request Zoning Relief

The property owners (Hatfield/Proutt) never testified. They have never suggested any genuine hardship, difficulty, or other sort of oppression which would warrant zoning relief. It is to be remembered that the original idea of such zoning relief was to mitigate the complaints of property owners unreasonably denied the use of their property. See Euclid v. Ambler Realty Co. 272 U.S. 365, 383 (1926); see McLean v. Soley 270 Md. 208, 214-15, standard 2.

Here, the owners have enjoyed the Valley Inn property, the subject property, and the adjacent properties on both sides of Falls Road. Their predecessors had to be compensated in the 1960s by the State Roads Commission, and the Baltimore Gas & Electric Company for the main easements reviewed in this case.

There has never been, nor could there be, a legitimate complaint that a part of their holdings is no longer as valuable as it was. Indeed, there is no evidence that the owners of the Valley Inn ever sought to establish a separate residence on this part of their property.

The reality is that Cellular One happened to come along. This could provide an additional, undefined source of income. For the owners, this case is a convenience, a stroke of fortune. But they are not in a legitimate position to request variance relief.

II. Cellular One Has Not Established Sufficient Interest to Request Zoning Relief

For reasons to be discussed below, Cellular One's service needs are not a basis for a finding of practical difficulty. But before that question is reached, the CBA must address Cellular One's interest in this case.

There is neither a purchase contract nor lease in evidence. Cellular One has come in, and

its consultants have testified, as if there were an interest; but none has been proven. It has long been held that a sufficient and actual interest in the outcome of a controversy is a prerequisite to jurisdiction, also called "standing." Curley v. Wolf 173 Md. 393 (1938); Webb v. Baltimore Commercial Bank 181 Md. 572, 577 (1943). In zoning cases, this translates to whether a party has a sufficient property interest. Southland Hills v. Raine 220 Md. 213 (1959); Kreatchman v. Ramsburg 224 Md. 209 (1961); Kennerly v. Mayor & City Council 247 Md. 601 (1967).

While anyone who identifies himself as having an interest in an administrative proceeding may be considered a party, it is a mystery as to how Cellular One has shown a sufficient interest to warrant zoning relief on the merits. It is an entity doing business in the cellular telephone industry; but there is no proven connection or interest in the property at Brightfield Road.

* * *

The Merits of the Zoning Issues

The Umerley Case Comparison

The present case resembles Umerley v. Baltimore County 108 Md. App. 497 (1996). It involved a proposed trucking facility special exception in the Nottingham area on property zoned industrial (M.L., manufacturing light). The case turned on variances, mainly the request for setback variances inside the minimum distances required to the residential zone line on Philadelphia Road and to wetlands. The site lay on the south side of the Philadelphia Road corridor, and faced protected residentially zoned land across the road. Like Falls Road, Philadelphia Road carried two lanes of traffic, but with heavier truck traffic. Indeed, Brooklandville and Rockland have a greater predominance of residential characteristics.

As in the present case with the Jones Falls and the highway, the Umerley site was constrained in the rear. It backed up to the Baltimore & Ohio Railroad track, which paralleled Philadelphia Road. But this geographic limitation and the consequent inability to comply with setback requirements did not justify a finding of uniqueness.

Nor did the argument that the trucking operation contributed substantially to the area's economy and employment. 108 Md. App., 506-09. Moreover, the Umerley court relied on North v. St. Mary's County 99 Md. App. 512 (1994) in finding that even environmental constraints would not justify a finding of uniqueness in a area which generally is sensitive.

Thus, with similar issues as to geography, economics, and the relevance of the North case, the CSA reversed the CBA majority's approval of similar setbacks in order to implement the legislative intent to protect residential zones. There is nothing in the present record to warrant a different conclusion.

Moreover, the Umerley case concluded with a harsher result. The trucking company had to move its operation. Here, the property owners have, in context, enjoyed their restaurant business and residence for many years; and Cellular One must simply make some other arrangements for its burgeoning business (which the government, in any event, subsidizes indirectly by highway improvements).

In a nutshell, the Umerley case by itself compels denial of the variances and special exception here. It should not go unmentioned that the lone, and correct, CBA dissenting opinion in the Umerley was authored by panel member Diane S. Levero.

The Zoning Variance: Uniqueness Which Results in Practical Difficulty

In Maryland, "variance" normally refers to deviation from height and area (not use) limits. To obtain a variance, BCZR Sec. 307.1 requires "...special circumstances or conditions...peculiar to the land or structure... and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship."

The first step, peculiarity or "uniqueness," is explained in Cromwell v. Ward 102 Md. App. 691 (1995). It refers to the characteristic of the property rather than of the owner.

The second step, effectively "practical difficulty", is defined generally in McLean v. Soley 270 Md. at 214-15:

> "1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restriction unnecessarily burdensome.
>
> 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
>
> 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

Zoning variances usually pertain to uses permitted by right, like the apartment development in McLean or single house in Cromwell. Even so, Cromwell found existing only five reported appellate cases approving zoning variances in the history of Maryland zoning.

III. The Subject Property is Not "Unique"

The subject property is one of a number of residentially zoned properties along the Jones Falls, in an area traversed by a BGE transmission line. It is next to the highway, but so are others.

In any event, the aspect of the property which prevents the tower is simply the size of the property and its proximity to other residential properties, not the public works or easements.

Incidentally, there has been no claim that the property owner is unable construct a residence on the property. The area proposed for the tower and maintenance buildings contains ample room to construct a residence; and there is evidence of other residences nearby.

On the subject of environmental contraints, it is established that a property owner on the Chesapeake Bay cannot claim uniqueness when it coexists with many other properties on the Bay. See Chester Haven Beach L.P. v. Board of Appeals of Queen Anne's County, supra, 103 Md. App. 324 (1995); North, supra. The variance ordinance at issue in North is comparable to BCZR 307.1 on the matter of uniqueness, and was authoritative in Cromwell. The Umerley case cited both North and Chester Haven.

There are always differences in degrees between properties, and their site constraints, but such differences do not translate to "uniqueness." The subject property is simply one of many residential properties in the middle of a residential area. It is too small to comply with explicit legal requirements. If this is a basis for a variance, then it mocks the intent of the Council.

IV. There is No Basis for a Finding of "Practical Difficulty"

The last of the three tests of "practical difficulty" under McLean is whether or not "the spirit of the ordiance will be observed..." This brings into play the legislative purpose, and the history already reviewed.

After careful consideration, the County Council struck a balance in allocating the zones in which to locate towers, and the applicable restrictions. It set specific restrictions in residential

zones in order to carry out the essential purpose to protect citizens residing in the area. The minimum setback and acreage requirments form a buffer. The proposed variances entirely subvert this legislative purpose.

Cellular One has presented its case, however, from the point of view of economics, or service. But this is not a relevant field of inquiry. To be sure, there is a comment in the case of Loyola Loan Ass'n v. Buschman 227 Md. 243 (1961) about a building's "uneconomic size." But other cases have superseded this casual comment.

Several Baltimore City cases rejected or doubted the relevance of even financial hardship, both before and after Loyola. Easter v. Mayor & City Council 195 Md. 395 (1950), front yard setback exception (area variance); City of Baltimore v. Polakoff 233 Md. 1 (1963); Burns v. Mayor & City Council 251 Md. 554 (1968). These led, in turn, to another important Baltimore County area variance case.

In Daihl v. County Board of Appeals 258 Md. 157 (1970), the Court addressed another request for variances involving setbacks from a residential zone:

> "We cannot overlook the fact that in the instant case there are substantial residential properties within the immediate area. The appellant Becky resides 350 feet from Lots 10 through 19. The appellant Daihl is constructing a $33,000 home, 186 feet from lots 10 through 19. Appellant Young resides on Lot 26. The evidence is such as would lead a reasonable man to the belief that the granting of these variances may well affect the *ambiance* of the residentially zoned properties which lie in the immediate area. For this reason we are of the opinion that the granting of these variances would be in disharmony with the 'spirit and intent' * * *of* * * the regulations * * *.'
>
> The 'difficulties' and 'hardships' to which the Board referred, although not spelled out, obviously were thought to be of such a nature that, if not overcome, would have resulted in the petitioners sustaining some financial hardship in their efforts to develop the property and in their future use of it. In Easter v. Mayor & City Council of Baltimore 195 Md. 395....(1950), we said: 'The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements....

In that same opinion, Judge Henderson, later Chief Judge, also stated: ' * * * but we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan.' See also Burns v. Mayor & City Council ... , and City of Baltimore v. Polakoff..... As we view the law, we think the granting of the variances by the Board was arbitrary and capricious." 265 A.2d, at 232.

Similarly, Cromwell v. Ward quoted Xanthos v. Board of Adjustment 685 P.2d 1032, 1036-37 (Utah 1984), involving frontage and setback issues:

> "Hardship is not demonstrated by economic loss alone. It must be tied to special circumstances, none of which has been proven here. Every person requesting a variance can indicate some economic loss. To allow a variance anytime economic loss is alleged would make a mockery of the zoning program." 102 Md. App, at 715-16.

In this context, the Cromwell court described Loyola as among several cases which "... appear to be somewhat at odds with accepted Maryland law." 102 Md. App., at 711-12.

Whether or not Loyola was anomalous when decided, its comment on economics is no longer the law in Maryland. Variances do not rest on the hazards of markets or service areas.

Here, Cellular One's case for hardship or difficulty rested on its desire to eliminate a fractional percentage of "blocks" to telephone calls in part of its service area. In effect, Cellular One placed the expansion and perfection of its commercial empire above the public interest reflected in the legislative judgment.

In any event, there was no proof that Cellular One had lost any customers or money. Even were economics relevant to this case, it would be to no avail. The appellate courts have consistently rejected generalized claims of economic problems in zoning cases. Howard County v. Dorsey 292 Md. 351 (1982); Boyce v. Sembly 25 Md. App. 43 (1975); Coppolino v. County Board of Appeals 23 Md. App. 358 (1974); Stratakis v. Beauchamp 268 Md. 643 (1973).

V. Cellular One Is Barred by the Doctrine of Self-Inflicted Hardship

The Petitioners have presented the case from the point of view of Cellular One. But Cellular One is coming onto the property, and must take it subject to the applicable zoning limits.

Any alleged hardship or difficulty is self-inflicted, as a matter of law. The Cromwell court devoted an entire section to the subject, ending with this statement:

> "We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted." 102 Md. App. at 722.

Cromwell was another area variance case, in nearby Ruxton.

Here, Cellular One has been involved in Baltimore County since the early 1980s. It has been aware of legislative developments. It has had the opportunity to plan its system. By all accounts, it has grown and been successful.

It cannot escape the above doctrine as it now carves out a search area and chooses a residential property which falls far short of meeting the legislative standards. There is no genuine hardship or difficulty. But if there were, it is classically self-inflicted.

The Special Exception

The special exception is a conditional use. Rockville Feed & Fuel Co. v. Gaithersburg 257 Md. 183 (1970); Schultz v. Pritts 291 Md. 1, 21 (1991). The CBA must examine specifically the impact of the use at the particular location in light of the purpose of the property's zoning classification and the spirit and the intent of the regulations. 502.1g. Here, there is the paramount purpose of Bill 64-86 to protect residential properties from the intrusion of nearby towers.

In Board of County Commissioners v. Holbrook 314 Md. 210, 217-18 (1988), Judge Harry Cole summed up the test of Schultz v. Pritts with this:

APP. EXHIBIT 4B



A. Specific Tower Requirements

Section 502.7 sets forth the specific special exception requirements applicable to wireless transmitting and receiving facilities to be located in residential zones. It is important to note that such facilities are permitted in residential zones if the various requisites are met. Accordingly, the protestants' argument that the proposed facility is somehow "inappropriate" in a D.R.1 zone is rebutted by the clear language of the BCZRs.

1. Diligent Search[7]

Section 502.7.C.1 provides as follows:

> Petitioner shall have the burden of establishing that it has made a diligent search for a location within a business, office or industrial zone, or for mounting on any existing structure over fifty (50) feet in height and that, due to valid considerations, including, but not limited to: location, economic, elevation, engineering or technologic feasibility, no appropriate location is available.

It is important to distinguish what § 502.7.C.1 requires from what it does not require. Section 502.7.C.1 requires only two things. A petitioner must first show that it diligently searched for a location within a non-residential zone or on an existing structure over 50' in height. It must also show that some "valid considerations, including, but not limited to" those set forth above render any non-residential properties or existing structures inappropriate. The petitioner need not demonstrate that the proposed location is the best or only conceivable

[7] Section 502.7.A is facially inapplicable to this case because it "does not apply to a wireless transmitting or receiving facility which is . . . [n]ot higher than three hundred fifty feet above grade level." § 502.7.B.

location for the facility. The petitioner need not demonstrate that one residential parcel is somehow "better" or more appropriate than another.[8]

The search area map was given to Cellular One's real estate consultant, George Meeker, in November of 1994. Ex. A at 195. Mr. Meeker drove the area to locate all tall existing structures. He located seven sites with buildings of some size as well as the only non-residentially zoned parcel in the search area, Greenspring Station. All of these sites were considered and rejected by Cellular One for the reasons described below. Mr. Meeker's search did not end until late 1995, when he located the Site, which was approved by Cellular One's engineering department. Ex. A at 195.

2. There are no appropriate non-residential parcels in the area

The only non-residentially zoned property in the search area is the Greenspring Station, which is a retail and business area to the extreme south of the search area.[9] Indeed, most of the property is located outside of the search area. A high ridge with elevations of 500' above sea level runs between Greenspring Station and the troublesome service area of I-695 west of I-83. See Ex. B at 59-60; Ex. C. Greenspring Station itself is at an elevation of approximately 300'-320' above sea level. Ex. B at 56; Ex. C. In light of these height disparities

[8] At the close of the hearing, Peoples' Counsel submitted certain documents purporting to evidence the legislative history of the special exception requirements specific to cell sites. The language of § 502.7 is clear and unambiguous on its face. At no point did counsel argue that the statutory language is ambiguous. See Buckman, supra at 523 ("when there is no ambiguity or obscurity in the language of a statute, there is no need to look elsewhere to determine the intent of the legislative body). See also Crawley v. General Motors Corp., 70 Md. Ap 100, 105-106, 519 A.2d 1348 (1987) (if the language of a statute is clear, "the inquiry ends" and a court should not review committee reports, etc. in the absence of ambiguity). Even if the Board determines to look at the purported committee reports, etc., such reports do not in any way alter Cellular One's entitlement to the requested special exception and variances.

[9] Greenspring Station is shown on Ex. C as search area candidate number 1.

and the essential "line of sight" nature of the technology, any structure constructed on the Greenspring Station property would need to be at least 250'-275' above ground level in order to function.[10] Ex. B at 34.

A communications tower in excess of 250' in height is significantly more onerous than a 165' monopole. A tower over 250' would be a three or four legged "lattice" structure, lighted and probably painted red and white to comply with Federal Aviation Administration guidelines. Ex. B at 35. Cellular One rightfully rejected the notion of constructing a 250'+, three-to-four sided, lighted, red and white lattice tower in the gateway to the Greenspring Valley. The need for such a large structure demonstrates that the site is inappropriate due to its location, low elevation and the technologic and engineering difficulties associated therewith.

Moreover, even if the site was otherwise appropriate, Cellular One cannot locate any tower on the property by operation of the Zoning Commissioner's order in Case No. 87-177-XSPHA, in the record as Appellant's Exhibit No. 5. The order provides:

> Cellular One shall not propose any other communication tower within the area of concern defined by [the] Valleys Planning Council, i.e. within the geographical area bounded by the Baltimore-Harrisburg Expressway on the east, the Western Maryland Railroad on the west, the south side of the Green Spring Valley ridge line on the south, and on the north, generally, by an arc between Glyndon on the west and the interchange of the Harrisburg Expressway and Belfast Road on the east."

Quite clearly, Greenspring Station is located squarely in the "no tower zone" imposed by Case No. 87-177-XSPHA. Ex. A at 62.

[10] As explained below, the approximate 50' height of the existing buildings at Greenspring Station renders them far too short to accommodate building or roof-mounted antennae.

3. There are no existing structures in the area upon which a cell site can be mounted

The entire area, not merely the search area, is comprised almost exclusively of residential uses. Not surprisingly, therefore, there are few structures of any significant height in the area. In fact, with the exception of several BGE high power towers, there were no structures identified at the hearing in excess of 50'-60' in height. Given the elevation requirements discussed above, none of the existing structures in the area are of sufficient height to support a viable cell site.

a. Greenspring Station

Greenspring Station is improved by several buildings of approximately five stories. Ex. A at 179. These buildings, approximately 60' in height, are nowhere near tall enough to provide coverage to the area, particularly beyond the 500' ridge to the southwest. Ex. B at 34. Rather, as explained above, any antennae mounted at the site would require an above ground elevation of at least 250'-275'. Ex. B at 34. Moreover, the site is within the "no tower zone." Ex. A at 62.

b. The SHA Brooklandville Office

Just south of Green Spring Station is the State Highway Administration's Brooklandville facility.[11] This facility is improved by one or two story buildings. Ex. B at 36. Its existing structures are not tall enough to accommodate a cell site, requiring instead the construction of a 250'-275' lighted lattice tower. Ex. B at 36-37. Accordingly, the site's elevation and location, as well as the technologic/engineering

[11] The facility is shown on Ex. C as search area candidate number 2.

impossibility of simply mounting a cell site on the existing structures, render the SHA Brooklandville office infeasible.

Cellular One is under no obligation to demonstrate why it did not attempt to build a freestanding structure at the SHA Brooklandville office because the parcel, like the Site, is zoned residential. Section 502.7.C.1 requires only a diligent search for non-residential properties and existing structures. The statute does not require a petitioner to demonstrate that one residential lot is somehow a "better" location for a freestanding facility than another. Even so, it is clear that the Site is a better overall location.

The SHA Brooklandville office presents the same location, elevation, engineering and technologic drawbacks as Green Spring Station itself, including the need for a 250'-275,' multi-sided, lighted, red and white, lattice tower. Obviously, such a facility would create a significantly greater visual impact than a 165' monopole tucked away on an undeveloped parcel between two major highways. Further, the SHA Brooklandville office is not a viable candidate because it is located within the "no tower zone." Ex. A at 62.

c. Valley Presbyterian Church

The Valley Presbyterian Church is a relatively large church located just to the northeast of where Joppa Road crosses I-695.[12] The highest point on the property is the church's steeple, which extends approximately sixty feet above the ground. Ex. A at 179. At such a low height, the steeple would not be able to provide adequate coverage to the area. Ex. B at 37. Rather, any antennae located at the site would need to be approximately 165' above ground level to provide sufficient coverage. Ex. B at 39. As the existing structures at the site are

[12] Valley Presbyterian Church is shown on Ex. C as search area candidate number 3.

far too short to support a viable cell site, the site was rejected for legitimate location, elevation, engineering and technologic concerns.

Like the Site, the Valley Presbyterian Church property is zoned residential. Although Cellular One need not demonstrate the Site's overall superiority, it is undeniable. First, Valley is in the "no tower zone." Ex. A at 62. Further, any freestanding facility at the church would be similar in size and shape to the proposed monopole. Ex. B at 39. It would be significantly more visible, however, as the church occupies a large, cleared lot. Unlike the Site, which is as remote as a site can be in such a highly developed area, the church is in the immediate vicinity of high density residential housing. Finally and definitively, the church board had no interest in allowing its property to be used as a cell site. Ex. A at 180-181.

d. Trinity Assembly of God

The Trinity Assembly of God facility is located on Joppa Road directly across I-695 from Valley.[13] The factors mitigating against its use are virtually identical to those referenced above for Valley. The tallest structure on the Trinity premises is the church steeple, which is approximately 60' above ground level. Ex. A at 181. As with Valley, the steeple is too short for the location of antennae. Ex. B at 39. In fact, Cellular One has placed a "mini site" on the church steeple that does not provide adequate coverage to the area. Ex. B at 38-39. Given its low elevation and power, the mini site "provides extremely limited coverage [and] some capacity." Ex. B at 39. In order to provide the area with sufficient coverage and capacity, the Trinity site would require a freestanding structure of approximately 165'. Ex. B at 39.

[13] The Trinity Assembly of God property is shown on Ex. C as search area candidate number 4.

Like Valley, the Trinity property is zoned residential and its merits relative to the Site are legally irrelevant. As with Valley, a freestanding structure at Trinity would be far more visible than the proposed monopole and closer to densely populated residential areas.[14]

e. Hunt's Church

Hunt's Church is located at the intersection of Joppa and Old Court roads. Ex. C. Like Valley and Trinity, it is located in the midst of dense residential housing and is zoned residential. Unlike Valley and Trinity, however, Hunt's Church is located on a small lot. Although Cellular One's real estate personnel looked at Hunt's Church, they determined that it simply did not have enough property to accommodate a cell site. Ex. A at 181-182. Even if the site was physically capable of housing the necessary equipment, the existing structures were far too short for a viable cell site. Ex. B at 40. A cell site at Hunt's Church would need to be approximately 165' above ground level. Ex. B at 40. Thus, even if the site could accommodate a cell site, it would be subject to the same drawbacks as both the Valley Presbyterian and Trinity sites.

f. Brooklandville Fire Station

Located on Falls Road just south of Old Court Road, the Brooklandville Fire Station is improved by a one or two story building and a short pole.[15] Ex. B 41. Neither structure is of sufficient height to support a viable cell site. Ex. B at 41.

[14] Counsel's suggestion that perhaps Trinity's residential neighbors might welcome a monopole in their neighborhood was, at best, imaginative, particularly in light of the fact that the local community association recently appealed the church's efforts to obtain a variance for a sign all the way to the Court of Appeals. Ex. A at 199-200.

[15] The Brooklandville Fire Station is shown on Ex. C as search area candidate number 6.

Additionally, the property is zoned residential and is located within the Rockland Historic District.

In order to function, the site would require a freestanding structure. Ex. B at 41. Even if such a structure could be erected, the site is inappropriate from location, elevation, engineering and technologic standpoints because it is beyond the search area's southern boundary. Ex. B at 41. Accordingly, a cell site there would not provide sufficient coverage to the northern portion of the problem area, thereby creating the need for at least one more cell site in the area. Ex. B at 41-43. Further, such a site would overlap with Cellular One's facility in the Bare Hills area to the south, causing unnecessary duplication of coverage and even interference with the Bare Hills site. Ex. B at 43. Finally, the fire station itself is located in the Rockland Historic District and a freestanding structure there would be highly visible from most, if not all, of the nearby historic properties.

g. The Cloisters

The Cloisters is a historic mansion located to the north of the Site almost at the top of the 500' ridge marking the Greenspring Valley's southern border.[16] Ex. C. The property is zoned residential. It is improved by a two-three story mansion. The mansion itself is too short to accommodate a cell site. Ex. B at 44. The site is, therefore, infeasible for legitimate location, elevation, engineering and technologic reasons.

To provide adequate coverage, Cellular One would require a freestanding facility of 80'-100 in order to clear the trees on the ridge. Ex. B at 44. Even if such a structure could be built, its location on the highest point of land in the area would create interference problems with Cellular One's other sites. Ex. B at 44-45. Further, any such

[16] The Cloisters is shown on Ex. C as search area candidate number 7.

structure would be significantly more visible than the proposed site, given the Cloisters' elevation of approximately 500.'

A hypothetical Cloisters site is no more than an interesting thought. The property was bequeathed to Baltimore City subject to strict deed restrictions limiting its use. Ex. A at 137 and 182-183. Further, the property is a historic site. Finally, the property is within the "no tower zone." Ex. A at 62.

h. Other Existing Structures

In addition to the structures discussed above, Cellular One also assessed the viability of locating a cell site at either the Brightwood facility or on one of the existing BGE transmission towers in the area. Neither option was viable.

Brightwood is a residentially zoned retirement community located immediately to the southeast of the Site. It consists primarily of single family homes with one or more low-rise buildings. Ex. A at 75-76. None of these buildings approaches the 165' height necessary for a cell site in the immediate area. Ex. B at 45-46. Any freestanding facility located on the Brightwood facility would actually be closer to Falls Road and, therefore, more visible from local residences.

The overall area is laced with BGE transmission towers. The tallest of these structures is approximately 130' in height. Again, such a structure falls well below the height required to locate a successful cell site. Ex. B at 46. In fact, of all the candidate sites, none would function at an above ground elevation below 165' due to the local topography.

Simply put, there are no existing structures in the area upon which Cellular One can mount equipment and solve the coverage and capacity problems. Ex. B at 46-47. Notably, Mr. Jimreivat's testimony on this issue was undisputed. Further, neither the

protestants nor Peoples' Counsel suggested any other existing structures that should have been considered; a testament to the thoroughness of Cellular One's diligent search.

3. Setbacks and five acre requirements

Subsections 502.7.C.2 and 3 provide for specific setback requirements and a minimum five acre lot size, respectively. These requirements cannot be met at the Site and are the subject of the variance requests discussed below. Section 502.7.C specifically contemplates that its subsections will require variances, stating that "nothing herein shall be deemed to prohibit the granting, where appropriate, or [sic.] variances from [502.7.C]'s requirements... ." [17]

4. Additional specific requirements

Subsections 502.7.C.4-9 set forth additional requirements that can be addressed as a group for the sake of economy.

a. Will the site be enclosed within a locked, chain-link fence, or comparable wall or structure, at least 8 feet high?

Yes. Ex. A at 38.

b. Has a landscape plan been submitted?

Yes. Ex. A at 84.

c. Will the site meet applicable federal standards and guidelines relating to radiation emissions?[18]

[17] It is significant that the statute itself contemplates the need for variances. Indeed, George Gavrelis, an acknowledged expert in planning issues with over twenty-five years of experience in the field, testified that he was unaware of similar language appearing anywhere else in the BCZRs. Ex. B at 139.

[18] Congress has delegated the task of regulating emissions to the FCC by operation of the Telecommunications Act of 1996. The Act forbids local zoning authorities from denying a cellular zoning application on the basis of health concerns if the FCC guidelines are met. Mr. Jimreivat testified that the site would comply with all applicable guidelines.

Yes. Ex. B at 47.

d. Will the structure be removed when the use is terminated?

Yes. Ex. B at 48.

e. Will Cellular One produce a structural engineer's certificate in compliance with § 502.7.C.8 every five years and otherwise comply with the section?

Yes. Ex. B at 48.

f. Will the site be lighted in any fashion?

No. Ex. B at 48-49.

5. Environmental impact statement

Daft, McCune, Walker ("DMW") prepared, and Cellular One submitted as Appellant's Exhibit 6, an environmental impact statement in conformity with § 502.7.C.10. As required, the statement addresses the issues set forth in BCZR § 101's definition of "environmental impact statement." The document speaks for itself and amply demonstrates that the proposed facility will have no impact, much less a "substantial impact," on the surrounding environment.

Peoples' Counsel attempted to argue that DMW failed to consider the proposed facility's impact on the area's historic structures in the environmental impact statement.[19] Historic issues are discussed in detail below and will not be repeated here in the interest of economy. It should be observed that the necessary contents of an environmental

[19] As explained below, the historical issues raised by the protestants amount to a tempest in a teapot. DMW did extensive testing to determine the potential visibility of the site from a number of areas, including the local historic districts. Thus, historical impact, in the form of visibility, was considered and determined to be negligible. The protestants presented no evidence to contradict DMW's findings with respect to visibility except unsupported assertions of belief that the monopole "might" be visible from certain locations.

impact statement are prescribed by §101. Section 101 does not require a discussion of historic issues. Rather, it is concerned with truly "environmental" matters, such as physical impact on plant and animal life, etc. The interaction of historical concerns with cellular site location is specifically covered in and governed by §§ 502.7.A and B. These sections limit cell site location with respect to historic areas. By operation of § 502.7.B.1, however, the limitations apply only when the proposed structure exceeds 350' above ground level. This legislative determination cannot be undermined by an overexpansive reading of the "environmental impact" standards set forth in § 502.7.C.10. Indeed, expanding § 502.7.C.10 to include historical concerns would render § 502.7.A mere surplusage, a practice that violates basic tenets of statutory construction. Montgomery County v. Buckman, 333 Md. 516, 524, 636 A.2d 448 (1994).

6. Property value issues

Section 502.7.C.11 specifically requires a consideration of whether a proposed cell site will have "a substantial adverse impact on surrounding property values . . . ." At the hearing, Cellular One presented the testimony of the area's most well known real estate valuation expert, M. Ronald Lipman. Mr. Lipman's methodology and findings are set forth in his report, which was introduced as Appellant's Exhibit 8. Exhibit 8 also contains Mr. Lipman's resume. Clearly, the value of Mr. Lipman's expertise has been recognized by numerous judicial and administrative bodies. His client list is a virtual "who's who" of Maryland, and indeed national, business leaders.

To analyze the property value impact of the proposed site, Mr Lipman looked for an area with comparable property values and similar cellular installations. He found a perfect fit in Potomac, Maryland, an extremely affluent suburb of Washington, D.C. with a similar "general character" to Ruxton and even greater property values. Ex. B at 92. As Mr.

Lipman explained, "I chose Potomac because I perceived the subject location to be of high prestige and of particularly high prices and there wasn't another place I could go in Baltimore County to replicate that." Ex. B at 110-111.

The Potomac area has two monopoles similar in size and configuration to the proposed installation. Comparing sales of single family units within 1,000' of the Potomac monopoles[20] to sales of single family units more than 1,000' from the poles (nearly 400 overall), Mr. Lipman found absolutely no statistical difference in the sales prices between the two groups. Ex. B at 95. In other words, the units closer to the poles had identical property values to similar units further away.

Applying the results of the Potomac study and his intimate knowledge of the greater Ruxton area to the instant case, Mr. Lipman determined that the construction "of a 165' monopole [at that site] will have absolutely no impact on property values in the neighborhood." Ex. B at 98. Mr. Lipman further explained that residential real estate consumers already are accustomed to an environment that includes similar structures that are often more visible, such as brown wooden telephone poles. Ex. B at 93-94, and 107.

Anticipating the concerns of the Site's closest residential neighbor, Mr. Lipman specifically addressed the property value issues applicable to the adjacent Lidie property. Mr. Lidie's property line is approximately 220' from the base of the proposed monopole. Ex. A at 35 and 37. Mr. Lidie's house sits an additional 50'-60' back from the property line. Ex. A at 39. The Lidie property is significantly burdened by existing factors which hold its value well

[20] Several of the units "were located literally the next lot adjacent to the monopole site." Ex. B at 124.

below those of other properties in the area. Addressing those burdens and the impact of the proposed monopole, Mr. Lipman testified as follows:

> Mr. Lidie, respectfully Mr. Lidie, you are located now in an area that has already been impacted by the Jones Fall Expressway to your immediate east, the ramp from the Baltimore Beltway to the north, a [66] foot power line easement running along the north/south [axis] just west of you which supports a 130 foot lattice work or, if you will, erector set transmission line.
>
> You enter your property off Brightwood Road from Falls Road at which point my photo suggests you look at 35 or 40 foot brown wood telephone and electric poles which are not attractive.
>
> You are already visually impacted. This [proposed facility] will have no — this will bring nothing new to the table in terms of the way the market will perceive your property when it goes to value it, if you decide to sell it.

Ex. B at 99-100.[21]

7. Parklands and open space

The proposed facility will not be near or on any parklands or open space. To the extent that any such uses exist in the area, the extremely minimal visibility of the proposed facility, as discussed above, would create no impact. See also Ex. B at 150-151.

B. General Requirements

The requisites of many of the general requirements are addressed in the discussion of the more specific requirements above. For the sake of brevity, Cellular One will incorporate prior arguments and evidence where appropriate.

[21] Mr. Lipman could have added Mr. Lidie's own admission that he can see (and hear) both I-695 and I-83 from his property, as well as road signs on both interstates and two of the BGE lattice towers. Ex. A at 147-148, and 167.

1. The Proposed Cell Site Will Not Be Detrimental to the Health, Safety, or General Welfare of the Locality

As discussed above, the site will have no impact on the health, safety or welfare of the overall area. Further, it will not affect, substantially or otherwise, surrounding property values. Rather, it will be a low impact use.

Indeed, the only imaginable impact associated with such a site stems from its visibility. DMW has conducted a thorough investigation of the site's potential visual impact. The unimpeachable result of this investigation was that the site will have virtually no visual impact on the surrounding area.

The highest point of the monopole will be 165' above ground level. To measure the visual impact of a structure with such height, DMW performed a "balloon test" at the subject site on November 24, 1996. Ex. A at 66. Mr. Morelock explained the basic nature of the balloon test as follows:

> We have the tower location marked on the ground and we raised the balloon from that point to the specified height, and then we drove the area on other roads to see where we can see the balloon from and that gives us a very good idea of the places that the tower will be visible from.

Ex. A at 66.

The balloon itself is approximately 9-10 feet in diameter and is red. Ex. A at 66-67. On the date in question, the bottom of the balloon was flown at a height of 165' "so the bottom of the balloon would be at the top of the tower." Ex. A at 67. As the balloon test took place well into the fall, the surrounding foliage provided the least possible screening of the

balloon. Further, there was no wind on that day and the balloon flew at the full height of 165'. Ex. A at 66-67.[22]

After the balloon was flown, Mr. Morelock drove the entire area around the site and took pictures from locations where the balloon was visible. Ex. A at 68. Those locations were plotted with dots on the aerial photograph introduced as Appellant's Exhibit 1. Areas from which the balloon was not visible were omitted. Ex. A at 68-69.[23]

Mr. Morelock testified that, as a general proposition, the balloon was visible only from areas where significant vegetation already had been cleared away. Ex. A at 72-73. For example, the balloon was visible from the 66' wide BGE high tension tower right-of-way running through the Ruxton area. Ex. A at 69. Of course, all of the BGE transmission towers are visible as well from the right-of-way. Ex. A at 69. The facility also will be visible from some locations on I-83 and/or I-695. Ex. A at 69.

With respect to the residential areas, however, the site will be visible only from a small number of specific areas where a sight line has been cleared through the existing vegetation. As Appellant's Exhibit A demonstrates, the balloon was visible for a short period of time when Mr. Morelock was traveling southbound on Falls Road just north of the Valley Inn. The site was visible because of the "view corridor" created by the BGE right-of-way. *The view is only momentary. Ex. A at 73. The balloon was visible again for a short period* further south on Falls Road where it crosses I-695. Ex. A at 73. As depicted in Appellant's

[22] As Mr. Morelock testified, the test would not have taken place on November 24, 1996 if there had been wind because of the site's "proximity to the high tension lines." Ex. A at 67.

[23] Obviously, no one can definitively identify each location from which the cell site might be visible. The intent of the DMW test was to establish the potential visibility of the site from the public roads. Ex. A at 69.

D. The Site Will Cause No Injury to Public Health, Safety, and General Welfare.

Health, safety and welfare issues have been discussed above at length. It is clear that the site simply will have no impact whatsoever on the health, safety and welfare of local residents.

VIII. PROTESTANTS' ISSUES

Most of the protestants' testimony concerned the visual impact of the Site and issues relating thereto. As visual impact and impact generally, have been discussed above in great detail, the arguments will not be reiterated here. The only significant issue of protestants' concerns not raised above involves historical considerations.

The protestants repeatedly raised the "historical character" of the area as a basis for their opposition. Indeed, Peoples' Counsel presented the testimony of Ruth Mascari, the chairperson of the Landmarks Commission, to testify about the area's historical significance. There is, undoubtedly, much historical value to the area. There is also no evidence to support a finding that the area's historical value will be impacted by the proposed site. Again, the Board should bear in mind that the proposed cell site will be virtually invisible from most of the nearby residential areas. Further, the Site itself is directly adjacent to both I-695 and I-83. The monopole will stand within a stone's throw from a significantly more onerous BGE electrical tower. It is difficult to imagine how a virtually invisible monopole located mere feet from two major interstate highways could ruin the historical character of the surrounding area.

As an initial matter, it must be observed that the proposed cell site will not be located in any governmentally-recognized historic district. The only such districts in the area are the Greenspring Valley district to the north and the Rockland district to the south. Accordingly,

there is no legal basis for challenging the site's location due to historical factors. The legal issues associated with siting a cellular facility near historic areas are addressed in § 502.7.A. That subsection limits the placement of such facilities near certain designated historic areas, including the Greenspring Valley historic district. By operation of 502.7.B.1, however, "[p]aragraph 502.7.A does not apply to a [cell site] which is ... [n]ot higher than fifty feet above grade level." The protestants cannot override the legislative consideration of historical issues by trying to characterize historical concerns as being significant under the BCZRs' more generalized "health, safety and welfare" type of requirements. The same is true of Peoples' Counsel's efforts to rehabilitate the issues as somehow being "environmental." The County Council has enacted specific zoning regulations governing the placement of cell sites near historical districts. It is "a cardinal rule of statutory construction that specific terms prevail over the general language of a statute." DeJarnette v. Federal Kemper Ins. Co., 299 Md. 708, 718, 475 A.2d 454 (1984). Further, no statutory construction should be adopted which renders a statutory provision a nullity. Buckman, supra at 523-524.

As an additional matter, the protestants' definition of "historical" is so broad that, if adopted, it would effectively eliminate cellular carriers' ability to provide service to vast areas of the County. Ms. Mascari testified that all of Falls Road, from Old Court Road north to its terminus at Middletown Road, is a "historic corridor." Ex. B at 195. She further testified that no cellular facility should be constructed anywhere where it could be visible from a historic structure or a historic site. Ex. B at 196. This is particularly telling because Ms. Mascari's definition of historic structure/site is extremely broad. In fact, she testified that the entire area has historical significance because a Confederate raiding party once passed through the area and "may" have stopped there. Ex. B at 187. She went even further by asserting that any area of

organized troop movement would be "historically significant." Ex. B at 199-200. Given the number of historic structures and historic sites, by Ms. Mascari's definition, strewn throughout Baltimore County and indeed throughout Maryland, an adoption of her opinions on tower siting would leave whole regions without cellular coverage and certainly run afoul of the Telecommunications Act.

Ms. Mascari's definition of adverse impact also was extremely broad. She testified, for example that any "20th century intrusion" into a historic area, including the construction of a new home, would have a "negative impact" on the historic area. Ex. B at 198. She also testified that a cellular structure could negatively impact an area even if it could not be seen from the area. When asked whether such a structure could negatively impact an area "possibly if it can't be seen," Ms. Mascari replied: "It may have other accutirments [accroutrements] we don't like." Ex. B at 202.[28]

Finally, the only empirical evidence presented to the Board as to the monopole's visibility, the balloon test, demonstrated that the monopole will be largely invisible throughout the area and will have no impact on the area's two recognized historic districts. With respect to Rockland, Mr. Morelock testified that the balloon was not visible from the Rockland area. Ex. A at 75. As for the Greenspring Valley district, Mr. Morelock testified that visibility north of I-695, the district's southern border, was limited to the Valley Inn parking lot, and the Falls Road bridge over I-695, and the SHA Brooklandville facility. Ex. A at 72-73. These areas are already exposed to the sights and sounds of both I-695 and I-83. Further, they have view corridors

[28] In fairness to Ms. Mascari and her views on historical impact, it should be noted that she was not present for the balloon test evidence. Accordingly, she based her opinions on her best guess as to the monopole's visibility. She was unaware, for example, that the monopole would not be visible from Rockland because of the local topography.

created by the BGE power towers and lines. Concerning the Valley Inn itself, it cannot be overlooked that the property is owned by Mr. Hatfield, who owns the Site.

IX. CONCLUSION

For the foregoing reasons, Cellular One respectfully requests that its petitions for special exception and variances be granted.

Respectfully submitted,

Karl J. Nelson
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202-3201
(410) 752-6030

Counsel for Appellant, Washington/Baltimore Cellular Limited Partnership

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 1997, copies of the foregoing Brief of Washington/Baltimore Cellular Limited Partnership in Support of Its Petition for Special Exception and Variances were mailed, first class, postage prepaid to:

Peter Max Zimmerman, Esquire
People's Counsel
Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

and

Mr. Wesley A. Lidie, Sr.
516 Brightfield Road
Baltimore, Maryland 21022

Karl J. Nelson

Exhibit C

MR. ZIMMERMAN: No objection, subject to the understanding it doesn't show the precise proposal now and subject, of course, to cross-examination.

THE CHAIRMAN: Of course.

Q. Mr. Morelock, continuing up to the issue of the site, just so the record is clear, Cellular One is leasing space on the site, correct?

A. Yes, sir.

Q. And the intent here is to erect a cellular communications facility?

A. Yes.

Q. How many different cellular carriers will utilize this facility?

A. There is room, from my understanding, that the monopole will have structural capacity for three carriers.

Q. And at this time, those carriers, to the best of your knowledge, would be?

A. Cellular One, Bell Atlantic Nynex Mobile, and Nextel Communications.

Q. What's the zoning of the property currently?

A. The property in its entirety is zoned D.R. 1.

The radio, or other frequencies at those stations, cross over the whole city, and in general aren't used in neighboring cities because they would cause interference.

The cellular technology, though, differs from that because we have to use our frequencies in close proximity, and reusing a frequency is, in fact, the basis for cellular design.

The FCC licenses 416 channels to each of the cellular carriers. And in traditional analogue, each channel, each frequency can carry one call, one conversation.

So if we are to follow the model that television or radio stations use, to build one big tall tower, broadcast over a large area, we would only be able to handle 416 conversations at any one movement, maximum.

So the way we are able to have more than 416 conversations simultaneously is to divide the area that we are attempting to cover into smaller service areas, and divide the 416 channels up into smaller groups, placing them into a cell site that covers a small service area,

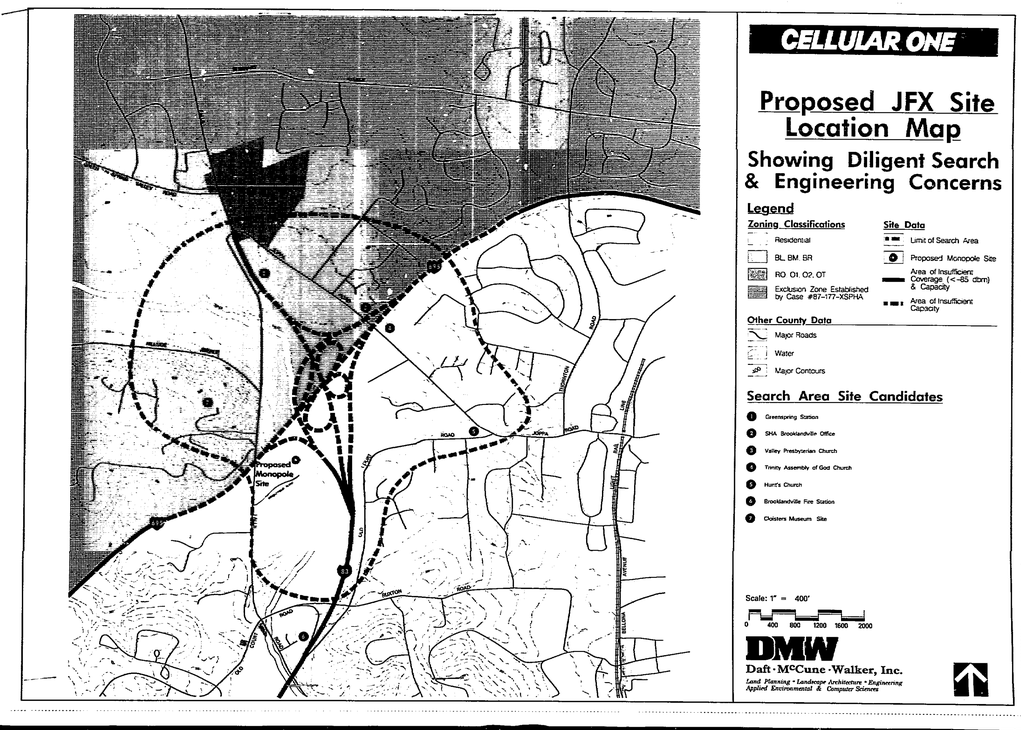


Exhibit C

Exhibit B, the balloon was visible approximately 800' away while Mr. Morelock was passing over I-695. Ex. A at 74. The view was ended by the woods on Brightwood Parcel B as soon as Mr. Morelock reached the other side of the bridge. Ex. A at 74.

Appellant's Exhibit 7C demonstrates that the balloon was visible from the intersection of Falls Road and Brightfield Road. Ex. A at 74. At that location, the balloon was approximately 1,000' from the roadway. Again the visibility was limited only to the area of Brightfield Road and existed solely because "the trees have been taken out because of the road construction, so there is a view corridor back to where the proposed cell site will be." Ex. A at 74.

Mr. Morelock continued driving south on Falls Road. Once he was beyond the intersection of Brightfield and Falls roads, the balloon was not visible at any point all the way down to the Rockland area at the intersection of Old Court and Falls Roads. Turning around and heading north from Rockland, the first time Mr. Morelock was able to see the balloon was immediately prior to the intersection of Falls and Brightfield Roads for the same reasons set forth above. Ex. A at 75. At no time was Mr. Morelock able to see the balloon from, or even near, the Rockland historic area, either northbound or southbound on Falls Road. Ex. A at 75.

Having covered the western side of the Site, Mr. Morelock evaluated the view from the north by traveling east on Joppa Road. As Appellant's Exhibit 7D demonstrates, the balloon was visible from the SHA offices located at the intersection of Joppa and Falls Roads because the SHA facility is located on and around the BGE right-of-way. Ex. A at 76. The SHA Brooklandville facility is approximately 3,900' from the proposed site. Continuing east on Joppa Road, the only place Mr. Morelock could see the balloon was from the Joppa Road bridge over I-

695. Ex. A at 77. At no other place along Joppa Road was Mr. Morelock able to see the balloon. Ex. A at 77.

To obtain a view from the east, Mr. Morelock turned off of Joppa Road onto Old Court Road heading in the direction of Ruxton Road. Appellant's Exhibit 7F demonstrates an area where vegetation was cut out for road construction from which the balloon could be seen. Ex. A at 78. Next Mr. Morelock went into the Ruxton Hill development in the same general area to determine whether the balloon could be seen from there. Generally, the balloon was invisible from the neighborhood but for a view at the end of a cul-de-sac on Rockland View Court, approximately 1,700' away from the proposed site. Ex. A at 79. It should be noted that the balloon could be seen at this point only by looking across Old Court Road, the Jones Falls Expressway, and the JFX entrance ramp from Ruxton Road. Ex. A at 79. Mr. Morelock continued onto Ruxton Road where the balloon was visible for a brief moment intertwined with the BGE power lines. Ex. A at 79. See also Appellant's Exhibit 7G.

As People's Counsel pointed out, Mr. Morelock did not ascend to the second story of every residence in the area to determine the visibility from each such structure. It is fair to say, however, that the balloon test provided an accurate depiction of the overall visibility of the proposed monopole from the various residential areas surrounding the Site. Simply put, except for a handful of locations from which the top of the monopole will be visible due to the elimination of vegetation, the proposed tower will be virtually invisible to most of its neighbors. The protestants provided no evidence to contradict DMW's findings. To the contrary, the protestants testified only about their concerns that the monopole might be visible from certain locations. Tellingly, not one of the protestants testified that he or she observed the red balloon flying on November 24, 1996.

2. The Site will not create congestion

The proposed cell site will be unmanned. It will be visited approximately once monthly by a technician. Ex. B at 84. Accordingly, the site will create no roadway congestion.

3. The Site will not create a fire hazard or other danger

Cell sites pose no fire danger. Ex. B at 48. Even so, they are monitored electronically for heat build-up Ex. B at 48. Further, the site will not emit any energy in excess of federally-established guidelines. Ex. B at 47. Thus, there is no basis to label the proposed site as a hazard of any kind.

4. The Site will not create population burdens

As explained above, the cell site will be unmanned. It will not cause overcrowding or undue concentration of population.

5. The Site will not burden public facilities

The cell site "has no need of any utilities, except electricity and telephone service." Ex. A at 84. Further, the Site is unmanned and will have no impact on schools, etc.

6. The Site will not interfere with adequate light and air

The only portion of the proposed installation that will be visible to anyone will be the very top of the monopole. The monopole is a slender structure. It simply will not have any impact on the "adequate light and air" in the area.

7. The Site will not be inconsistent with the property's zoning classification or otherwise with the spirit and intent of the zoning regulations

Cell sites are allowed as special exception uses in DR zones. Accordingly, the County Council has made the legislative determination that they are "consistent with the property zoning classification." Given the amount of residential zoning in Baltimore County, a finding that the placement of a cell site in a residential area is somehow inconsistent with the residential zoning classification would render significant portions of the County simply inaccessible to cellular carriers and their customers. Again, such an interpretation would run afoul of the Telecommunications Act. Further, in the case of cell sites, the BCZRs specifically address the steps a cellular carrier must take to properly locate a cell site in a residential area. Clearly, therefore, as the particular use is contemplated and regulated by the BCZRs, it is within the spirit and intent of the regulations.

As a further and final matter, the particular siting of this cellular facility will have virtually no impact on the surrounding residential area. It is, indeed, difficult to imagine a more benign special exception use. In light of the Court of Appeals' Schultz v. Pritz decision discussed above, it is clear that Cellular One's proposal meets the Court's definition of an acceptable special exception use. Thus, in light of the factors discussed in the Schultz v. Pritz case, the proposed facility is in harmony with the BCZRs.[24]

8. The Site will not be inconsistent with the impermeable surface and vegetative retention provisions of the BCZRs

Simply put, the Site will create no impermeable surface issues. Ex. A at 84.

[24] A further discussion of the "spirit and intent" issue is set forth below with respect to the requested variances.

VII. VARIANCE ISSUES

The proposed installation will require two types of variances. First, § 502.7.C.2 requires that the monopole must be set back from the nearest property line a distance equal to two times the monopole's height. In this case, the monopole's 165' height requires a set back of 330.' The proposed monopole will be 90' from the nearest property line, the uninhabited and undevelopable Brightwood Parcel B. Additionally, § 502.7.C.3 requires a minimum lot size of five acres. The Site is a three acre parcel. Cellular One has requested variances from these requirements.

Before turning to the specific variance requirements, it is important to note that § 502.7.C affirmatively contemplates the appropriateness of variances for cellular installations in residential areas. As the section states, "nothing [t]herein shall be deemed to prohibit the granting, where appropriate, or [sic.] variances from such requirements" set forth in 502.7.C's subsections, including subsections 2 and 3. Thus, the County Council recognized that the specific cell site-related requirements, including set backs and lot size, could be varianced. As Mr. Gavrelis testified, § 502.7.C appears to be the only portion of the BCZRs mandating set backs and similar requirements that specifically contemplates the need for variances. Ex. B at 139. Accordingly, the argument raised by several of the protestants that the variance requests, themselves, were somehow contrary to the spirit and intent of the BCZRs is contrary to the very language of § 502.7.C.

The appropriate variance standards are set forth in BCZR 307.1. The section provides the Board with the power to grant variances in situations "where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where compliance with the [BCZRs] would result in practical difficulty or

unreasonable hardship" Further, "any such variance shall be granted only if in strict harmony with the spirit and intent of [the requirement to be varianced], and only in such manner as to grant relief without injury to public health, safety, and general welfare."

A. Special Circumstances Peculiar to the Site

The Site is truly unique in both the colloquial and legal senses of the word. It is irregularly shaped. Its unusual configuration resulted from various State takings for highway construction. It sits at the intersection of two major interstate highways. It is bounded on the west by an undevelopable, uninhabited wooded parcel that has been stripped of its density.

The site is burdened by at least the following encumbrances to development:

- 1.87 acres is consumed by the Jones Falls and its associated flood plain
- .3 acres is consumed by the mandatory 20' flood plain buffer
- .31 acres is consumed by a perpetual stream location easement imposed by the State Highway Administration
- 1.64 acres is consumed by the D.R. residential setback requires
- .69 acres is consumed by a Baltimore County sewer line easement
- 1.3 acres is consumed by a wooded area

The Site is further encumbered by a 66' wide BGE utility easement that runs the full length of the Site from south to north, which is cleared of all significant vegetation and is improved by a 130' tall, "erector set"-type high tension tower with associated power lines.

When all of these restrictions are factored together, only .27 acres of the total Site is available for development. It is in this small area that the proposed Cell site will be located.

It is difficult to conceive of a property more unique in size, shape or encumbrances. Indeed, as Mr. Gavrelis testified, the Site "has an extraordinary set of limitations affecting how development can occur on it." Mr. Gavrelis continued: "[i]t is unique and different from any other property in the area." Ex. B at 142. In fact, the Site is a literal textbook example of a property that meets the legal definition of "uniqueness" which is embodied in the "special circumstances" test in the BCZRs.[25]

B. Strict Compliance Will Result in Practical Difficulty or Unreasonable Hardship

Given the encumbrances described above, the Site's location at the nexus of two major interstate highways, the looming possibility of additional State takings and all of the other factors that make the Site highly unusual, it is virtually undevelopable for any purpose other than that proposed by Cellular One. Accordingly, if the Board refuses to grant the requested variances, it will leave Mr. Hatfield with a property that effectively has no value. Such a result would be particularly onerous in light of the fact that the property's current unique configuration was created by State takings over which Mr. Hatfield had no control.[26]

Further, as Mr. Gavrelis testified, "strict compliance with the regulations would, in effect, prevent the use of this property for an otherwise permitted special exception

[25] Clearly, the uniqueness of the Site itself complies with the Court of Special Appeals' standard as set forth in Cromwell v. Ward, 102 Md. Ap 691, 651 A.2d 424 (1995).

[26] Peoples' Counsel attempte-l to argue at the hearing that the hardship arising from the State's takings was somehow self-inflicted because Mr. Hatfield may have been compensated by the State for the takings. This argument is patently ludicrous. Under Maryland law, self-inflicted hardship is defined as hardship which is "the result of the applicant's own actions." Cromwell v. Ward, 102 Md. App. 691, 721, 651 A.2d 424 (1995). The State took Mr. Hatfield's property by virtue of its sovereign power of eminent domain. If the State compensated Mr. Hatfield, it was because the Constitution required it to do so. That such takings could be considered Mr. Hatfield's "own actions" defies logic.

use." Such a result would prevent Cellular One from utilizing the property for use that is necessary and beneficial to all of the citizens of Baltimore County and specifically contemplated by the BCZRs. Such practical difficulty would be compounded by the fact that the site is "the only site south of the Baltimore Beltway that seems to be available in the first place." Ex. B at 144.

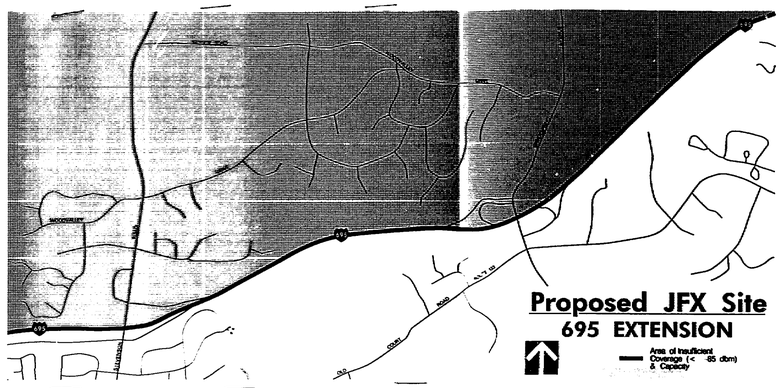
C. The Site is Within the Spirit and Intent of the BCZRs

As Mr. Gavrelis testified, BCZR 502.7.C specifically contemplates the likelihood that variances will be required in residential cellular applications. Accordingly, since the zoning regulations themselves contemplate the need for such variances, it is clear that the requested variances are within the spirit and intent of the BCZRs.

Moreover, it is clear from all of the testimony in this case that the site in question will be the least onerous place for such a facility to be located in the greater Ruxton area. It effectively has no neighbors on three sides. It has only one adjoining residential neighbor, whose property line is at least 220' from the proposed monopole and is screened by a significant stand of trees. The Lidie property is, itself, already sufficiently encumbered by natural and man-made features that the addition of the proposed monopole will have no impact on it. It is certainly within the spirit and intent of the application BCZRs that the monopole will be placed in the least onerous location within the necessary service area.[27]

[27] It should be noted that, in light of the numerous constraints present at the Site, the facility cannot be reconfigured to reduce the requested variances. Ex. A at 50-51.

Exhibit 6



LAW OFFICES
KRAMON & GRAHAM, P. A.
COMMERCE PLACE
ONE SOUTH STREET, SUITE 2600
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

January 29, 1997

HAND-DELIVERED

Robert O. Schuetz, Chairman
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: John A. Hatfield, Jr. and
Elizabeth S. Proutt--Petitioners
Case No. 96-360-XA

Dear Mr. Schuetz:

Enclosed please find the original and three copies of the Brief of Washington/ Baltimore Cellular Limited Partnership in Support of Its Petition for Special Exception and Variances to be filed in the above-referenced appeal.

Thank you for your attention to this matter. Do not hesitate to contact me should you have any questions.

Very truly yours,

Karl J. Nelson

KJN:jes

Enclosures

cc: Mr. Wesley A. Lidie, Sr. (w/encl.)
Peter Max Zimmerman, Esquire (w/encl.)

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE

220' PAST N/E END OF BRIGHTFIELD ROAD
1080' FEET NE OF FALLS ROAD
220' SW OF I-83

JOHN A. HATFIELD, JR. AND
ELIZABETH PROUTT - PETITIONERS

BEFORE THE

COUNTY BOARD OF APPEALS

OF BALTIMORE COUNTY

CASE NO: 96-360-XA

PEOPLE'S COUNSEL'S POST-HEARING MEMORANDUM

Statement of the Case

John A. Hatfield, Jr. and Elizabeth Proutt, property owners, petitioned for a special exception and for variances to minimum 5-acre lot size and to residential property line setback (twice the height of the facility) standards for a wireless transmitting and receiving facility. The location is Brooklandville, east of Falls Road and just inside the beltway at the I-83 intersection. The petition also lists Washington/Baltimore Cellular Limited Partnership dba "Cellular One Washington/Baltimore" under the line "Contract purchaser/lessee."

On May 30, 1996, the Deputy Zoning Commissioner denied the petition. Upon a de novo appeal (Charter Sec. 603, Code Sec. 26-132), the County Board of Appeals held two days of hearing, received testimony and documentary exhibits, and requested memoranda.

Along with People's Counsel, there appeared testifying in opposition two community associations --- Ruxton-Riderwood-Lake Roland and Rockland --- a number of individual homeowners --- Wesley Lidie, Thomas Bruggman, Pamela Slingluff of Brightwood, members of the Johnson family (descendants of the founder of the historic Johnson estate), Sara Lord, Edith Garrett --- and Ruth Mascari, expert on historic preservation.

Questions Presented

The Petitioners

1. Are the property owners in a legitimate position to request zoning relief?

2. What is Cellular One's interest in the property? Is it in a legitimate position to request zoning relief?

Zoning Variances

3. Whether the property fails the variance test of "uniqueness?"

4. Whether the property fails the "practical difficulty" test?

5. Whether any alleged practical difficulty is self-inflicted?

Special Exception

6. Whether the proposal particularly affects adversely the residential enjoyment of the adjoining property owners --- the Lidies and the residents of Brightwood?

7. Whether the proposal is an unnecessary and unwarranted additional intrusion in an outstanding historic area?

Summing Up

8. Whether the choice of a search area lacking suitable commercial sites or sites of suitable size acceptable to Cellular One is a matter of business planning and convenience subversive of the legislative intent; and whether the reasoning in Evans v. Shore Communications compels denial of the petitions?

Statement of Facts

Despite the length and detail of the testimony and exhibits, the facts are relatively simple.

The Property

The property is a polygon of 3.0 acres, partly wooded and on a slight incline. It is northeast of the end of Brightfield Road, a local road running east from Falls Road, the main north-south collector road in the area. Immediately to the south/southeast are the homestead of Wesley Lidie and Brightwood, including housing for the elderly and a convalescent home.

The north boundary is the beltway ramp, which curves south and east along the ramp to I-83. The Jones Falls runs just inside the east boundary. There was evidence of recreational and walking use, and county plans for a linear path in the immediate area.

To the west is an open area owned by the Brightwood elderly housing and nursing home development, including a swimming facility.

The Johnson Estate; Brooklandville; Rockland

Neighborhood witnesses identified the neighborhood as an area of 500-600 acres known historically as the Johnson estate, from which parcels were sold over the years. It is now generally known as Brooklandville. The area further south is also known for the former site of the Rockland Mill, and the historic buildings clustered near the intersection of Falls and Old Court Roads. These form the center of the Rockland National Register Historic District. See PC Exh. 3.

The Valley Inn, The Railroad Station; The Cloisters

Across the beltway to the north is the Valley Inn restaurant. It lies on the east side of Falls Road, at the east end of the Greenspring Valley Historic District. See PC Exh. 2, 9.

The petitioners (Hatfield/Proutt) own this parcel also. It was joined to the subject property before the beltway was constructed in the 1960s. They also own the property across from the Valley Inn, at the northwest corner of the T-intersection between Falls Road and Hilltop Road. This is occupied by the old railroad station, now in residential use. It adjoins the Cloisters, another historic property, owned by Baltimore City. The State Department of Assessments and Taxation map and computer printouts show the petitioners' and surrounding parcels. See PC Exh. 4-7.

Land Use and Zoning

The predominant land use in the entire area is residential, of low density. There are single-family homes up and down Falls Road, west along Hilltop Road (and on both sides of the beltway). There are other single-family home communities across interstate-83 to the east.

The Brightwood residential community and nursing home is the most substantial residential development in the immediate neighborhood. There are modest offices in restored historic buildings at the Falls/Old Court intersection. The Valley Inn, as noted, is just to the north.

The main zoning in the area is DR-1 (maximum one unit per acre). Even the Valley Inn is on land zoned residential. Upon favorable assumptions, it appears as a nonconforming use.

At the hearing were introduced 1992 comprehensive maps for Brooklandville and Rockland. PC Exh. 2,3. The 1996 maps are now available and are transmitted along with this memorandum. There do not appear to be any changes which affect this case.

History of Property; Easements

There was a good deal of discussion about easements. The gas and electric company has a 1964 right of way, 66 feet wide, running north-south in the area and through the subject property.

One of its series of 125-30 feet high transmission towers is on the property.

There are also listed easements to the State for the highway, and to the county near the stream and floodplain area.

There is in evidence the 1984 deed of inheritance, which reflects the BGE and State acquisitions in the 1960s. (PC Exh. 8).

The important thing to understand is that the BGE and County easements have no bearing on the special exception and variances. They affect neither the lot size nor the setback problems.

To be sure, when the beltway was constructed, it left the predecessors of Hatfield/Proutt with the Valley Inn and other property to the north, and the subject 3-acre property to the south. For this condemnation action, the owners received just compensation. That is reflected on page 2 of the Deed, referring to the Inquisition in the case of State Roads Commission v. John A. Hatfield and Elizabeth A. Hatfield.

The net result is that the family has owned and used the Valley Inn for many years. It also appears that they have owned and enjoyed the old railroad station property. There has never been any effort to develop the subject property for residential use, but there is no evidence to bar such development.

The Position of the Petitioners

The Petitioners Hatfield and Proutt never testified. There is no evidence of any hardship or difficulty on their part. They, and their family, have owned and enjoyed for many years this and a number of nearby properties in the area, without complaint.

Indeed, this case was presented entirely from the point of view of Cellular One. Yet

no one from management testified to any financial hardship or loss. No one even testified to any proposed relationship between Cellular One and the property owners. There was no contract or lease introduced.

Rather, Cellular One presented its senior communications engineer. He claimed that during rush hour about 10-30% of cellular telephone calls were hindered or blocked for a 2-3 mile stretch of the beltway and its environs. Part of this, he admitted, was due to the expansion of Cellular One's business.

However, the "gap" was partly a function of the company's placement of existing towers at other locations. The engineer admitted that compliance with the zoning law had never been in the company's guidelines for setting up the system. Having been with the company for about 3 years, he could not provide details as to early planning of the system or the number of facilities in the County. Nor did he comment on the expected effect of the beltway widening in process.

More about the Property; Comparison with Other Properties

The subject property is one of many residential properties in the Brooklandville/Rockland area. Its topography is unremarkable. Like many others, it is near the Jones Falls. Like many others, it has a BGE right of way running through it.

Its most important feature in this case is its size: 3 acres. But there is nothing remarkable about this. Some properties are bigger, and some smaller. Any property in this area under 5 acres is unable to meet the basic requirement. Indeed, a property of 3 acres is not large enough to come close to meeting residential setback requirements of 330 feet for a facility 165 feet in height. That was demonstrated graphically, by review of the site plan, during George Gavrelis' testimony.

The "Search" Area

Cellular One outlined a search area of roughly a square mile. But for a part of the Greenspring Station shopping center at the north edge of the search area, the entire area is zoned residential. There are several churches and public buildings in the area. There is also the Valley Inn, on land zoned residential.

In a nutshell, Cellular One identified, but then excluded, a number of other possible sites, including the Greenspring Station. Most were excluded for engineering reasons. But the reasons for excluding the Valley Presbyterian Church and Trinity Assembly of God were less clear. Both of these appeared to be larger than the subject property.

The main thing, however, is that Cellular One chose a search area which was virtually entirely residential. This contributed to its inability to comply with the law.

Adverse Effect on Nearby Residences

The most immediate adverse effect — both visually and as to character of the neighborhood — is to the Lidie property and to the residents of Brightwood. No amount of obfuscation can avoid this problem. The tower will be right next to these properties, immediately to the south. Moreover, the open space area of Brightwood, immediately to the west, is available for various uses and should not be disregarded.

In addition, the tower constitutes an additional intrusion, a commercial one, into a very beautiful residential community. The existence of interstate highway and electric transmission systems should not divert attention from this major new tower at the high 165' elevation. Indeed, it is the high "line of sight" elevation, necessary to Cellular One's business, which poses problems.

Nor should anyone be deluded by the incomplete and self-serving "balloon test" performed by Cellular One's consultants. The testimony of the citizens revealed the tower will not simply fade into the woodwork. They know their neighborhood better than the balloon men.

Similarly, the general appraisal testimony of Ronald Lippman should not be used to squash the testimony of solvent citizens and taxpayers. They live in the community and can legitimately testify to the adverse effect on their quality of life and property enjoyment. Lippman might not notice a tower in his neighborhood; but in Brooklandville and Rockland, the citizens pay attention to these things. That is one of the reasons their neighborhood endures.

Interestingly, one of the neighbors, also a customer of Cellular One, testified that she often uses her cellular phone during rush hour, and with never a problem. This raised the inference that the proposed tower is just another component of an ever-expanding business empire.

Historic Area Impact

Ruth Mascari gave uncontradicted testimony to the adverse impact of additional intrusion in this unique historic area. When pressed as to the unusual qualities of this neighborhood, she observed that it includes two national register historic districts (Rockland, Greenspring), a number of registered landmarks or other sites of historic value (the Johnson mansion, the Valley Inn, the Cloisters, the Rockland Mill houses, the old railroad station), and some Civil War activity.

While there may be other historic areas in Baltimore County, there were none identified with this combination of qualities. Of the residential areas around the entire beltway, Ms. Mascari stated that this area and Lutherville stand out above all other neighborhoods.

Once again, it was not a sufficient answer to Ms. Mascari's evidence that the area already experiences some of the intrusions of modern life. Each additional intrusion has an insidious negative impact on historic quality.

Note on the Amendment

At the CBA hearing, the Petitioners modified their proposal. They relocated the proposed tower to the very edge of the floodplain and reduced it from 175' to 165' in height.

There remained the necessity for the special exception and variances, despite the rearrangement of distances to various property lines.

Because of the lateness of the modification, there was no further review by the Zoning Advisory Committee under the aegis of Zoning Commissioner Rule 2. In particular, Robert Bowling of PDM had no opportunity to amplify his April 5, 1996 comment on floodplain and wetland protection. The matter of staff review remains incomplete.

Argument

Legislation on Wireless Transmitting and Receiving Structures

The Baltimore County Zoning Regulations provide comprehensively for wireless transmitting or receiving structures in many zones. In 1986, the County Council enacted Bill 64, with major amendments. PC Exh. 17

Bill 64 began by adding stricter provisions for special exceptions in the resource conservation, density residential, and residential-office zones. BCZR 502.7C. It included the minimum acreage and setback provisions which Petitioners seek to vary in this case. At the same time, it exempted structures mounted on any existing structure over 50 feet in height from

compliance with some of these new requirements. It also exempted from 502.7C gas and electric and local telephone public utility structures under some circumstances.

Then, the Bill added BCZR 426, providing by right for such structures to a maximum height of 200 feet in O-2 (office park), O-T (office and technology), and business and manufacturing zones, but subject to a minimum setback of 200 feet from any residential or R-O (residential-office) zone boundary.

Following that, the Bill comprehensively amended provisions allowing the structures in the office, business, and manufacturing zones. In general, it designated structures in office, business, and manufacturing zones not permitted by right under BCZR 426 as special exception uses.

Legislative Purpose and History: Principles of Statutory Construction

Bill 64-86 highlighted and strengthened the protection afforded to residential communities. The background and purpose of this important statute is important to this case. It evolved from Council Resolution 13-85 dated January 21, 1985 (see PC Exh. 15), an Office of Planning and Zoning Report dated August 5, 1985; and a parallel Office of Law Report dated August 28, 1985.

"The history of a legislative enactment often sheds light upon its intent and may be of aid in construing its terms." Truitt v. Board of Public Works 243 Md. 375 (1966); Pressman v. Barnes 209 Md. 544, 558-59 (1956). The Court of Appeals said in Rentals Unlimited v. Admin. 286 Md. 104 (1979); North Charles Gen'l Hospital v. Employment Security Admin. 286 Md. 115 (1979), and Dep't of State Planning v. Mayor & City Council 288 Md. 9 (1980):

> "The cardinal rule of statutory construction is to ascertain and effectuate the actual intent of the Legislature. In determining this legislative intent, a court must read the language of the statute in context and in elation to all of its provisions. In addition, it may consider the statute's legislative history and must consider its purpose."

In Kaczarowski v. Mayor & City Council 309 Md. 505, 514-15 (1987), Judge William Adkins treated the subject extensively:

> "The aim or policy of the legislation, against which we measure the words used, is 'not drawn...out of the air; it is evinced in the language of the statute as read in the light of other external manifestations of that purpose....' "
>
> "When we pursue the context of statutory language, we are not limited to the words of the statute...We may and often do consider other 'external manifestations' or 'persuasive evidence,' including a bill's title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of legislative purpose or goal, which becomes the context within which we read the particular language before us in a given case."
>
> "Although we did not describe any of the statutes involved in that case [State v. One 1983 Chevrolet] as ambiguous or uncertain, we did search for legislative purpose or meaning....We identified that scheme or purpose after an extensive review of Ch. 549, Acts of 1984, which had effected major changes in Art. 27, Sec. 297. That context includes, among other things, a bill request form..., prior legislation..., a legislative committee report..., a bill title..., related statutes..., and amendments to the bill....See also Ogrinz v. James..., in which we considered legislative history (a committee report) to assist in construing legislation that we did not identify as ambiguous or of uncertain meaning."

The Court repeated this approach in Wynn v. State 313 Md. 533 (1988). From another perspective, Chief Judge Murphy wrote in Condon v. State 332 Md. 481 (1993): "It often is necessary to look at the development of a statute to discern legislative intent that may not be as clear upon initial examination of the current language of the statute."

Accordingly, it is necessary to examine history to elevate our understanding of Bill 64-86. This inquiry is the more relevant because the basic standards applicable to both special exceptions and variances involve consideration of the spirit and intent of the relevant statute. See BCZR 502.1, 307.1.

History of Bill 64-86

Before 1986, radio and television towers were already subject to special exceptions in most zones, under the basic Section 502.1. In 1984, the Council had added Bill 117, setting new minimum requirements for towers over 350 feet high near designated historic districts. BCZR 502.7 A, B. But this was not enough. In January, 1985, the Council passed a resolution to consider more legislation on this controversial subject.

The OPZ Report (PC Exh. 15) studied and reviewed impartially the land use issues relevant to the growing cellular telephone business. It recognized concerns of the industry and residents. It recognized the issues as shared in common with other areas around the country.

It also reported that "Representatives of the cellular telephone industry indicate that three or four more towers may be needed in the County to adequately serve the metropolitan area." P. 5 Thus, the Report did not anticipate a flood of new towers.

At the same time, it focused on the "visual impact of towers in residential areas...(as) a major concern." Ibid. Considering the needs of all parties, OPZ wrote at page 6 of its Report:

> "At some point the development of new communications systems may require the use of land in residential zones. This land may be acquired subject to local regulations which are designed to lessen the visual impact and other inconveniences that a tower might create...."
>
> "It is quite understandable that most people do not want a transmission tower near their home. The setback requirements in most Residential zones would permit a tower to be *located undesirably close* to a dwelling....Ibid.
>
> "An amendment to the Zoning Regulations to permit towers by right under specified conditions in certain Office, Business and Manufacturing zones, along with more stringent special exception requirements in Resident zone would create a situation where non-residential zones would become more attractive location for towers. Permitting certain towers by right in non-residential zones would provide an incentive to seek sites in these zones....Additional regulations to protect residential areas which abut such zones could also be included." Ibid.

> "In order...to minimize adverse visual effects of wireless transmitting and receiving structures in certain residential zones add stricter controls to the special exception requirements as shown below."

The OPZ report then proceeded with recommended amendments. These included a proposal that the setback to the property line shall be 3 times the height of the structure. (Proposed BCZR 502.7C1, page 7). There was no recommendation to require a search for a nonresidential site. Nor was there a minimum acreage recommendation for the residentially zoned sites. The rest of the proposal essentially contains what ended up in Bill 64-86.

The Office of Law Report (PC Exh. 16) was a rewrite of the OPZ Report.

The Council, however, made significant amendments to Bill 64-86. These focused on special exception restrictions in residential zones. The Council initiated the requirement to search for nonresidential sites. (BCZR 502.7C1, as enacted). Then, it replaced the 3:1 setback distance:height of structure ratio with a 2:1 ratio (502.7C2). It balanced this reduction with a new minimum acreage requirement of 5 acres. (502.7C3). The Council probably realized that a 3:1 setback might actually require much larger minimum acreages. Consider that a tower 165 feet high would require a setback of about 500 feet from the nearest property line, and thus a property 1000 feet in diameter, 1 million square feet in area (over 23 acres). The net result nevertheless was to impose strict but reasonable setback and minimum acreage standards. In addition, the Council added a requirement that the CBA consider adverse impact on property values, park land, and open space. 502.7C11. These new standards have been intact since 1986, over and above the usual 502.1 standards. The rest of Bill 64-86 appears to track the OPZ proposal.

With this background, we turn to the specific points of argument.

and representatives of Bell Atlantic Nynex Mobile. The Petitioners were represented by Karl J. Nelson, Esquire. Appearing as Protestants in the matter were Mr. & Mrs. Wesley Lidie, adjacent property owners, and Sarah Lord, a representative of the Ruxton-Riderwood-Falls Road Scenic Route Group.

Testimony and evidence offered revealed that the subject property consists of 3.0 acres, more or less, zoned D.R. 1 and is located at the terminus of Brightfield Road, just west of the intersection of I-695 and I-83 in Brooklandville. The Petitioners are desirous of erecting a wireless transmitting and receiving facility on the subject property in the location shown on Petitioner's Exhibit 1, and utilizing the proposed monopole along with Nextel and Bell Atlantic Nynex Mobile. However, due to the size and topography of the land, the proposed facility will be located 65 feet from the western property line and 190 feet from the southern property line. Due to the height and location of the proposed monopole, the requested variances are necessary in order to proceed as proposed. Pursuant to Section 502.7.C.2 of the B.C.Z.R., the setbacks from the nearest property line must be twice the height of the proposed monopole, or a minimum of 350 feet. Furthermore, Section 502.7.C.3 requires that monopoles be located on a parcel not less than 5 acres in area.

Testimony and evidence offered in support of the relief requested revealed that the Petitioners and the other two companies have been looking in this area for some time for a suitable location for the proposed facility. Testimony indicated that as cellular phones become more popular with the general public, the need to increase the capacity of the transmitting and receiving devices increases daily. In the instant case, however, the location for the proposed monopole is limited due to the existence of

ORDER RECEIVED FOR FILING
Date 5/30/96
By

a 100-year flood plain which traverses the property. Furthermore, there is a 66-foot Baltimore Gas & Electric Company right-of-way and overhead transmission lines that traverse this property which further restrict the potential location of this monopole.

As noted above, Mr. & Mrs. Lidie, appeared in opposition to the relief requested. They are opposed to the Petitioners' request in that they believe the subject site is not large enough to accommodate the proposed tower and they are very much concerned that the Petitioners fail to meet the 350-foot setback required. The Lidie's believe that the subject property should remain in its natural state and do not want to see this type of development on this site.

Also appearing in opposition to the relief requested was Sarah Lord, a representative of the Ruxton-Riderwood-Falls Road Scenic Route Group. Ms. Lord testified that their Board voted to oppose the tower and the variances requested, which they believe to be extremely excessive.

As noted above, the Petitioners and two other companies wish to co-locate their antennae on the proposed monopole. In my opinion, this represents an efficiency of effort wherein only one monopole will be constructed to accommodate three separate companies' antennae and reduces the visual impact that three separate monopoles would create. However, after carefully reviewing all of the testimony and evidence offered both for and against the relief requested, I find that the Petitioners have failed to satisfy the burdens imposed upon them in order for the special exception and variances to be granted. It is apparent that the subject property is not an appropriate candidate upon which to locate a tower 175 feet in height. Furthermore, the tower is proposed to be located a short distance of 65 feet from the western property line. The County Council

ORDER RECEIVED FOR FILING
Date 5/30/96
By

determined, pursuant to its legislation, that such towers should maintain a distance of at least twice their height, or a minimum of 350 feet. In my opinion, the relief requested does not meet the requirements set forth in Section 502.1 of the B.C.Z.R. and would be detrimental to the health, safety and general welfare of the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special exception and variance relief must be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of May, 1996 that the Petition for Special Exception to permit a wireless transmitting and receiving facility in a D.R. 1 zone, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 502.7.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a monopole 175 feet in height to be located within 65 feet of the nearest property line in lieu of the required distance of 350 feet, and from Section 502.7.C.3 of the B.C.Z.R. to permit a wireless transmitting and receiving facility of a parcel 3.0 acres in size in lieu of the minimum required 5.0 acres, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petitioner's have thirty (30) days from the date of this Order in which to file an appeal of this decision.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 5/30/96
By

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

May 30, 1996

Karl J. Nelson, Esquire
Kramon & Graham
1 South Street, Suite 2600
Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE
200' past the NE/end of Brightfield Road, 1,080 NE of Falls Road
9th Election District - 4th Councilmanic District
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioners
Case No. 96-360-XA

Dear Mr. Nelson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr./Mrs. Wesley Lidie, 520 Brightfield Road, Brooklandville, Md. 21033

Ms. Sarah Lord, 6134 Barrel Road, Baltimore, Md. 21209

People's Counsel

File

Printed with Soybean Ink on Recycled Paper

RE: PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Rd. ("JFX" Site), 9th Election District, 4th Councilmanic
Legal Owners: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular Ltd. Partnership
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-360-XA

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 1996, a copy of the foregoing Entry of Appearance was mailed to Karl J. Nelson, Kramon & Graham, 1 South Street, Suite 2600, Baltimore, MD 21202, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

358 ORIGINAL SIGNATURES THIS FORM

Petition for Special Exception
to the Zoning Commissioner of Baltimore County

for the property located at 1080' Northeast of Falls Rd. Old Court Rd & Brightfield Rd

96-360-XA which is presently zoned DR 1

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a wireless transmitting and receiving facility in a DR 1 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
(Type or Print Name)
Signature MICHAEL MAUS REAL ESTATE DIRECTOR (CELL ONE)
7150 Standard Dr.
Address
Hanover MD 21076
City State Zipcode
Attorney for Petitioner:
Karl J. Nelson
Kramon & Graham
(Type or Print Name)
Signature
1 South Street, Suite 2600 347-7434
Address Phone No.
Baltimore MD 21202
City State Zipcode

Legal Owner(s):
John A. Hatfield, Jr.
(Type or Print Name)
Signature
Elizabeth S. Proutt
(Type or Print Name)
Signature
P. O. Box 711
Address Phone No.
Brooklandville MD 21022
City State Zipcode
Name, Address and phone number of legal owner, contract purchaser, or representative to be contacted.
Robert Morelock, Daft-McCune-Walker, Inc.
Name
200 E. Pennsylvania Ave. 296-3333
Towson, MD 21286
Address Phone No.

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING 2hrs
unavailable for Hearing
the following dates Next Two Months
ALL OTHER
REVIEWED BY: DATE 5/21/96

Zoning Administration & Development Management

ORDER RECEIVED FOR FILING
Date 5/30/96
By

350

Petition for Variance
to the Zoning Commissioner of Baltimore County

for the property located at 1080' Northeast of Falls Rd. Old Court Rd & Brightfield Rd

96-360-XA which is presently zoned DR 1

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section (s)

§ 502.7.C.2 to permit a 175' high monopole within 65' of the nearest property line in lieu of the required 350'
§ 502.7.C.3 to permit a wireless transmitting & receiving facility on a 3.0± acre lot in lieu of the required 5 acres

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:
Washington/Baltimore Cellular Limited Partnership
dba Cellular One Washington/Baltimore
(Type or Print Name)
Signature MICHAEL MAUS, REAL ESTATE DIR.
7150 Standard Drive
Address
Hanover MD 21076
City State Zipcode
Attorney for Petitioner:
Karl J. Nelson
Kramon & Graham
(Type or Print Name)
Signature
1 South Street, Suite 2600 347-7434
Address Phone No.
Baltimore MD 21202
City State Zipcode

Legal Owner(s):
John A. Hatfield, Jr.
(Type or Print Name)
Signature
Elizabeth S. Proutt
(Type or Print Name)
Signature
P.O. Box 711
Address Phone No.
Brooklandville MD 21022
City State Zipcode
Name, Address and phone number of representative to be contacted.
Robert Morelock
c/o Daft-McCune-Walker, Inc.
200 E. Pennsylvania Ave. 296-3333
Towson, Md 21286
Address Phone No.

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
unavailable for Hearing
the following dates Next Two Months
ALL OTHER
REVIEWED BY: DATE

Zoning Administration & Development Management

ORDER RECEIVED FOR FILING
Date 5/30/96
By

Description
to Accompany Petition for Zoning Variance
and Special Exception
3.0-Acre Parcel 96-360-XA
Hatfield Property
Ninth Election District, Baltimore County, Maryland

DMW

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333
Fax 296 4705
A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

Beginning for the same on or near the centerline of Brightfield Road, variable width, (also known as, now or formerly, Old Court Road) at a point distant 1080 feet, more or less, as measured northeasterly along said centerline from its intersection with the centerline of Falls Road, thence leaving said point of beginning and running for the two following courses and distances, viz: (1) North 28 degrees 11 minutes 57 seconds West 443.85 feet, and thence (2) Northwesterly by a line curving to the right with a radius of 4550.39 feet for a distance of 61.11 feet (the arc of said curve being subtended by a chord bearing North 27 degrees 48 minutes 52 seconds West 61.11 feet) to intersect the south side of Ramp "G" of the I-695 Baltimore Beltway, thence binding thereon the four following courses and distances, viz: (3) North 41 degrees 46 minutes 49 seconds East 100.84 feet, thence (4) North 77 degrees 16 minutes 04 seconds East 12.36 feet, thence (5) South 85 degrees 23 minutes 33 seconds East 211.34 feet, and thence (6) South 56 degrees 32 minutes 11 seconds East 103.51 feet to intersect the west side of I-83, Jones Falls Expressway, thence binding thereon the two following courses and distances, viz: (7) South 08 degrees 32 minutes 56 seconds East 122.00 feet, and thence (8) South 01 degree 52 minutes 28 seconds East 179.52 feet, thence leaving said expressway (9) Southwesterly 220 feet, more or less, to the point of beginning; containing 3.0 acres of land, more or less.

96-360-XA

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

January 17, 1996

Project No. 95057 (L95057)

STATE OF MARYLAND — PROFESSIONAL ENGINEER — PROPERTY LINE SURVEYOR

Page 1 of 2

RECEIVED BOARD OF APPEALS
96 JUL 10 PM 5:13

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
96-360-XA

District 9th — Date of Posting 4-5
Posted for: APRIL 24, 1996 HEARING
Petitioner: HATFIELD/CELLULAR ONE
Location of property: (SFX SITE) Brightfield Rd, NE of Falls Rd.
Location of Signs:
Remarks:
Posted by Joseph Lenhart Sr. — Date of return:
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/4, 19 96

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/4, 1996

THE JEFFERSONIAN,
A. Henrickson
LEGAL AD. - TOWSON

CERTIFICATE OF POSTING 96-360-XA
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th — Date of Posting 3/14/96
Posted for: Appeal
Petitioner: John A. Hatfield Jr. & Elizabeth Proutt
Location of property: NE/end Brightfield Rd.
Location of Signs: Facing roadway on property being appealed
Remarks:
Posted by [signature] — Date of return: 3/18/96
Number of Signs: 1

3/21/96 Rec'd from Kramon & Graham $595.00

BALTIMORE COUNTY, MARYLAND — No. 012847
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 6/27/96 — ACCOUNT A-001-6150
AMOUNT $ 460.00
RECEIVED FROM: Kramon & Graham, P.A.
FOR: Special Exception 250; Variance 175; Sign 35
$460
CSAP1802730 CSRC
BA C002:41PM06-27-96
$460.00
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be accessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising: WASHINGTON/BALTO. CELLULAR LTD. PRTNRSHP
Item No.: 358 Petitioner: VA CELLULAR ONE
Location: 1080' N.E. OF FALLS RD. ON OLD COURT RD & BRIGHTFIELD RD.
PLEASE FORWARD ADVERTISING BILL TO:
NAME: DMW, INC., ATTN: ROBERT MORELOCK
ADDRESS: 200 E. PENNSYLVANIA AVE. TOWSON, MD 21286
PHONE NUMBER: 296-3333

Printed with Soybean Ink on Recycled Paper

12

TO: PATUXENT PUBLISHING COMPANY
April 4, 1996 Issue - Jeffersonian

Please forward billing to:

Daft-McCune-Walker, Inc.
Robert Morelock
200 E. Pennsylvania Avenue
Towson MD 21286
296-3333

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-360-XA (Item 358)
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road ("SFX" Site)
9th Election District - 4th Councilmanic
Legal Owner: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular Limited Partnership; DBA Cellular One Washington/Baltimore

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a 175 foot high monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acre lot in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 24, 1996 at 9:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 29, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-360-XA (Item 358)
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road ("SFX" Site)
9th Election District - 4th Councilmanic
Legal Owner: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular Limited Partnership; DBA Cellular One Washington/Baltimore

Special Exception for a wireless transmitting and receiving facility.
Variance to permit a 175 foot high monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acre lot in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 24, 1996 at 9:00 a.m. in Room 106, County Office Building.

Arnold Jablon
Director

cc: John Hatfield, Jr. and Elizabeth S Proutt
Robert Morelock/Daft-McCune-Walker, Inc.
Michael Maus/Cellular One
Earl J. Nelson, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 24, 1996

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-360-XA — JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT -Petitioners
200' past the NE/end of Brightfield Road, 1080' NE of Falls Road, 220' SW of I-83
9th Election District
4th Councilmanic District

SE -Wireless transmitting and receiving facility in D.R. 1 zone; VAR -175' monopole within 65' of nearest property line in lieu of required 350'; and to permit transmitting and receiving facility on 3 acres in lieu of required 5 acres.

5/30/96 -Z.C.'s Order in which Petition for Special Exception and Petition for Variances were DENIED.

ASSIGNED FOR: WEDNESDAY, DECEMBER 11, 1996 at 10:00 a.m.

cc: Karl J. Nelson, Esquire — Counsel for Appellants /Petitioners
John A. Hatfield and Elizabeth Proutt — Appellants /Petitioners
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore — Contract Purchaser/Lessee
Robert Morelock /Daft-McCune-Walker, Inc.

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Legal Administrator

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

December 12, 1996

NOTICE OF ASSIGNMENT /Day #2

CASE #: 96-360-XA

IN MATTER OF: JOHN A. HATFIELD, JR., AND ELIZABETH S. PROUTT -Petitioners Brightfield Road /Falls Road /I-83 9th E; 4th C

ASSIGNED FOR: THURSDAY, JANUARY 9, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Petitioners: Karl J. Nelson, Esq.
Appellants /Petitioners : J. Hatfield /E. Proutt
Contract Purchaser /Lessee : Michael Maus, Cellular One
Daft-McCune-Walker, Inc. : Robert Morelock

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty

Printed with Soybean Ink on Recycled Paper

3180

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

April 17, 1996

Mr. Karl J. Nelson, Esquire
Kramon & Graham
1 South Street
Suite 2600
Baltimore, MD 21202

DO APPEAL
K - BIANCO - CALL. 6-9-97
-X4
HEARD

RE: Item No.: 358
Case No.: 96-360-XA
Petitioner: John A. Hatfield, Jr.
& Elizabeth S. Proutt

Dear Mr. Nelson:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on April 5, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

Printed with Soybean Ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Management

Date: April 5, 1996

FROM: Robert W. Bowling, Chief
Development Plans Review Division
Department of Permits & Development Management

SUBJECT: Zoning Advisory Committee Meeting
For April 8, 1996
Item No. 358

The Development Plans Review Division has reviewed the subject zoning item. Per Baltimore County Development Regulations adopted February, 1992; Section 26-276 Floodplain and wetland protection, "No construction in or alteration of any floodplain may be permitted, except the installation of any pond, culvert, bridge, street, utility or drainage facility that the County finds not detrimental to floodplain management progress". See "BRIGHTWOOD" floodplain study on file in Development Plans Review Division.

RWB:HJO:jrb

cc: File

ZONE5F

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

April 1, 1996

FROM: Robert A. Wirth
DEPRM

SUBJECT: Zoning Item #358 - Hatfield Property
Old Court Rd. & Brightfield Road
Zoning Advisory Committee Meeting of April 1, 1996

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

A Forest Buffer must be established from the Jones Falls and its floodplain.

RAW:VK:sp

HATFIELD/DEPRM/TXTSBP

Baltimore County Government
Fire Department

700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410)887-4880

DATE: 04/02/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF APR. 01, 1996

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:351, 352, 354, 355, 356, 357, 358, 359, 360 AND 361.

RECEIVED
1996

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed with Soybean Ink on Recycled Paper

Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

3-29-96

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 358 (JLL)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development Management

DATE: March 28, 1996

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 352, 354, 356, 357, 358, 359, 360, and 361

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey Long

Division Chief: Larry L. Kerns

PK/JL

ITEM352A/PZONE/ZAC1

PETITION PROBLEMS

#353 — JJS

1. Need original signature for legal owner.
2. Need original signature for contract purchaser.

#354 — JRA

1. Receipt not given to petitioner - still in folder.

#356 — JJS

1. No telephone number for legal owner.
2. Only 1 receipt for item #356 & 357.

#357 — JJS

1. No telephone number for legal owner.
2. Only 1 receipt for item #357 & 356.

#358 — JLL

1. No telephone number for legal owner.

#360 — JJS

1. No zoning classification on petition form.

#361 — JJS

1. No zoning classification on petition form.

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: March 21, 1996

TO: Hearing Officer

FROM: John L. Lewis
Planner II
Zoning Review, PDM

SUBJECT: Item #358
Old Court Road & Brightfield Road

1. Applicant was advised he needs DRC status as soon as possible.
2. The BG&E property was stated to be an easement, not owned in fee.
3. Applicant affirmed environmental impact statement will be presented at the hearing.
4. Applicant only wants one sign. If not sufficient, I advised it was at his own risk.

JLL:scj

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: R. Schuetz DATE: January 31, 1997
L. Stahl
D. Levero

FROM: Kathi

SUBJECT: Case No. 96-360-XA /John A. Hatfield, Jr., and Elizabeth S. Proutt /Post-Hearing Memorandums

The subject matter is scheduled for deliberation on Wednesday, February 26, 1997 at 9:30 a.m., notice having been sent on January 10th. As requested by the Board at the conclusion of the hearing on January 9th, the following Memorandums were filed by Counsel and Protestants, copies of which are provided herewith for each panel member's review:

1. Protestants' closing memorandum by way of letter dated January 15, 1997 from Wesley A. Lidie, Sr.
2. People's Counsel's Post-Hearing Memorandum filed by Peter Max Zimmerman and Carole S. Demilio.
3. Brief of Washington/Baltimore Cellular Limited Partnership in Support of its Petition for Special Exception and Variances.

Should you have any questions regarding the above, or need any additional information, please call me.

kathi

Attachments

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 18, 1997
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. 96-360-XA
JOHN A. HATFIELD, JR. AND
ELIZABETH S. PROUTT
9th E; 4th C

As no further appeals have been taken regarding the subject case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. 96-360-XA and Large exhibits)

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

96 JUL -9 AM 10:16

July 8, 1996

Ms. Sarah Lord
6134 Barroll Road
Baltimore, MD 21209

Mr. and Mrs. Wesley A. Lidie, Sr.
521 Brightfield Road
Brooklandville, MD 21022

RE: Petition(s) for Special Exception and Variance
200' past the NE/end of Brightfield Rd, 1080' NE of Falls Rd, 220' SW of I-83, (JFX Site)
9th Election District
4th Councilmanic District
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioner(s)
Case No. 96-360-XA

Dear Ms. Lord and Mr. and Mrs. Lidie:

Please be advised that an appeal of the above-referenced case was filed in this office on June 27, 1996 by Karl J. Nelson, Esquire on behalf of John A. Hatfield and Elizabeth S. Proutt. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals, (Board).

If you have any questions concerning this matter, please do not hesitate to call 887-3180.

Sincerely,

/s/

ARNOLD JABLON
Director

AJ:rye

cc: People's Counsel

Printed with Soybean Ink on Recycled Paper

APPEAL

Petition(s) for Special Exception and Variance
200' past the NE/end of Brightfield Rd.,
1080' NE of Falls Rd., 220' SW of I-83
(JFX Site)
9th Election District - 4th Councilmanic District
Case No. 96-360-XA
John A. Hatfield, Jr. and Elizabeth S. Proutt - Petitioner(s)

Petition(s) for Special Exception and Variance

Description of Property

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Petitioner(s) and Citizen(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plan to accompany Special Exception and Variance
2 - Proposed JFX Site Location Map
2A - Proposed JFX Site Plan
3 - Photograph of Existing Entrance to Site
4 - Photograph of Approx. 300 Feet from Site
5 - Photograph of Approx. 900 Feet from Site
6 - Photograph of Approx. 1300 Feet from Site
7 - Environmental Impact Statement
8 - Proposed Monopole Site

Three Correspondences of opposition

Two Miscellaneous Correspondences

Deputy Zoning Commissioner's Order dated May 30, 1996 (Denied)

Notice of Appeal received on June 27, 1996 from Karl J. Nelson, Esquire on behalf of John A. Hatfield, Jr. and Elizabeth S. Proutt

cc: Karl J. Nelson, Esquire, Kramon and Graham, 1 South Street, Suite 2600, 21202
John A. Hatfield and Elizabeth S. Proutt, P.O. Box 711, 21022
Mr. Robert Morelock, 200 E. Pennsylvania Avenue, 21286
Mr. Michael Maus, 7150 Standard Drive, Hanover, MD 21076
Mr. and Mrs. Wesley A. Lidie, Sr., 521 Brightfield Rd., Brooklandville, MD 21022
Ms. Sarah Lord, 6134 Barroll Road, 21209
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

9/24/95 -Notice of Assignment for hearing scheduled for Wednesday, December 11, 1996 at 10:00 a.m. sent to following:

Karl J. Nelson, Esquire
John A. Hatfield and Elizabeth Proutt
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore
Robert Morelock /Daft-McCune-Walker, Inc.
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/11/96 -Day 1 of hearing concluded; continued to January 9, 1997 at 10:00 a.m. for continuation and Day #2 (calendars verified by parties and Board). Notice to be sent.

12/12/96 -Notice of Assignment /Day #2 sent to parties with copy to R.L.M..

1/09/97 -Hearing concluded before Board (R.L.M.); Closing memos due from parties Monday, January 27, 1997; deliberation to be scheduled and notice sent.

1/10/97 -Notice of Deliberation sent to parties (w/copy to R.L.M.); scheduled for Wednesday, February 26, 1997 at 9:30 a.m.

9/24/95 -Notice of Assignment for hearing scheduled for Wednesday, December 11, 1996 at 10:00 a.m. sent to following:

Karl J. Nelson, Esquire
John A. Hatfield and Elizabeth Proutt
Michael Maus, Real Estate Director
Cellular One Washington /Baltimore
Robert Morelock /Daft-McCune-Walker, Inc.
Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

12/11/96 -Day 1 of hearing concluded; continued to January 9, 1997 at 10:00 a.m. for continuation and Day #2 (calendars verified by parties and Board). Notice to be sent.

12/12/96 -Notice of Assignment /Day #2 sent to parties with copy to R.L.M..

1/09/97 -Hearing concluded before Board (R.L.M.); Closing memos due from parties Monday, January 27, 1997 Ext. To 1/29/97
Nelson 1/29
Zimmerman 1/29
Protestants 1/29
Deliberation to be scheduled and notice sent.

1/10/97 -Notice of Deliberation sent to parties (w/copy to R.L.M.); scheduled for Wednesday, February 26, 1997 at 9:30 a.m.

1/23/97 -Letter from K. Nelson to R. Schuetz confirming grant of request to file brief on 1/29/97; C. Peatt unable to complete transcript by 1/20/97 as requested; extension granted by ROS.

1/24/97 -Closing memo filed by Wesley A. Lidie, Sr. /Protestant

1/24/97 -Letter to Mr. Nelson confirming 1/29/97 by close of business as due date; copy to Mr. Lidie and PMZ with copy of Mr. Nelson's letter.

1/31/97 -Copies of above referenced memos sent to R.L.M. this date.

2/26/97 SE & Var Granted; Order to be issued.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 24, 1997

Karl J. Nelson, Esquire
KRAMON & GRAHAM, P.A.
Commerce Place
One South Street, Suite 2600
Baltimore, MD 21202-3201

RE: Case No. 96-360-XA
John A. Hatfield, Jr. and
Elizabeth S. Proutt -Petitioners

Dear Mr. Nelson:

This office is in receipt of your letter of January 23, 1997 regarding the extension of time granted for the filing of Briefs in the subject matter.

This letter will confirm that the subject file has been noted, and said Briefs are now due by the close of business on Wednesday, January 29, 1997, allowing an additional two days for filing.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Legal Administrator

cc: Peter Max Zimmerman
People's Counsel for Baltimore County
Wesley A. Lidie, Sr.

Printed with Soybean Ink on Recycled Paper

RE: PETITION FOR SPECIAL EXCEPTION
PETITION FOR VARIANCE
200' past the NE/end Brightfield Road and a total of 1,080' and NE of Falls Road
9th Election District, 4th Councilmanic
Legal Owners: John A. Hatfield, Jr. and Elizabeth S. Proutt
Contract Purchaser/Lessee: Washington/Baltimore Cellular L.P., DBA Cellular One
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO.: 96-360-XA

* * * * * * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to personally appear before the County Board of Appeals of Baltimore County at the hearing for the matter captioned above on Thursday, January 9, 1996, at 10:00 a.m. in Room 48 Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board.

WITNESS: RUTH MASCARI
17210 Whiteley Road
Hockton, MD 21111

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (___) the Sheriff, (X) Private Process Server, to issue the Summons set forth herein.

Kathleen C. Bianco
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Cost: $_____ }
Summoned: _____, 19__ } SHERIFF OF BALTIMORE COUNTY
Not Served: _____, 19__ }

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 10, 1997

NOTICE OF DELIBERATION

Having begun this matter on December 11, 1996 and concluded testimony and evidence on January 9, 1997, deliberation has been scheduled by the Board as follows:

IN THE MATTER OF: JOHN A. HATFIELD, JR. AND ELIZABETH S. PROUTT -Petitioners
CASE NO. 96-360-XA

DATE AND TIME : Wednesday, February 26, 1997 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

Please note: Closing Memorandums are due on Monday, January 27, 1997 (Original and three copies).

Kathleen C. Bianco
Legal Administrator

cc: Counsel for Appellants /Petitioners: Karl J. Nelson, Esq.
Appellants /Petitioners : J. Hatfield /E. Proutt
Contract Purchaser /Lessee : Michael Haus, Cellular One
Daft-McCune-Walker, Inc. : Robert Morelock

Mr. & Mrs. Wesley A. Lidie, Sr.
Ms. Sarah Lord

People's Counsel for Baltimore County
Pat Keller Arnold Jablon, Director /PDM
Lawrence E. Schmidt Virginia W. Barnhart, Co Atty

Copied: R.L.M.

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: John A. Hatfield, Jr., and Elizabeth S. Proutt -Petitioners
Case No. 96-360-XA

DATE : Wednesday, February 26, 1997 @ 9:30 a.m.

BOARD /PANEL : Robert O. Schuetz, Chairman (ROS)
Lawrence M. Stahl (LMS)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Bianco
Legal Administrator

Those present at this deliberation included Karl J. Nelson, Esquire, Counsel for Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

ROS: Good morning, everyone. We are here this morning to deliberate Case No. 96-360-XA, which is a special exception and variance request for the monopole cellular site on the Hatfield property. I will remind everybody that this particular part of the process is not going to be part of the record per se. Minutes will serve to indicate compliance with the open meetings law. The matter before us is a special exception for a wireless transmitting and receiving facility in a D.R. zone at a site which fails to meet the 5-acre minimum, and the siting of which fails to meet the setback requirements prescribed for the transmitting facility. The special exception is required for the lawful use in D.R. 1 zone and need for a special exception.

I've read all my notes again, the file, everything brought into the case by way of evidence, as well as the memorandums that were filed by Petitioners and Protestants and People's Counsel, and there are a few things that I would to make clear first. These kinds of matters, based on what I've seen in case law -- one of the mistakes that the Petitioners in these matters, whether in Baltimore County or another jurisdiction, they believe that their case is essentially limited to matters which are not zoning. All too frequently we get a ton of engineering information which, frankly, is irrelevant, for the most part, in these kinds of proceedings. That's my view. A certain amount of information is necessary to understand predicament and that can come by way of stipulation -- very little information is required there -- only what it is that exists and what they are doing about it. That's all I want to say about that. That does not mean that I believe that insufficient information was provided on zoning matters. Only

Minutes of Deliberation /Case No. 96-360-XA /Hatfield, et al

I do not thing it had to be two days' worth.

There is one other matter raised in People's Counsel's Memorandum -- the issue of standing for Cellular One. We may not have evidence of a lease, as raised in your Memorandum, but we do have a statement, first of all, by Cellular One that they have a contractual agreement with Hatfield and Proutt owners, and that is by way of statement and signature of Petitions for Special Exception and Variance. That particular documentation still sits in the file and is part of what we have to look at. In the past, material incorrectly brought on the actual Petition has been the subject of argument, so it is part of the file. It's a properly executed document. At this point, I have to disagree with People's Counsel that these people do in fact have standing, whether it was Cellular One or any other entity, they could still obtain a special exception and move forward and then lease it to whomever at some time in the future. I do not mean to be impolite. It was a well-stated case. The Memorandums were very well written, including that of Mr. Liddie. He made an excellent case. I thought it was a threshold issue to get into that.

On to the merits -- one issue that was raised in Mr. Liddie's testimony, and I starred it in my notes -- that he believes that BGER 502.7 cannot be varied, and he wants the Board to uphold it. I disagree with Mr. Liddie. I think that 502.7(c) states it clearly - subject to requirements -- and then I would emphasize this -- if granting were appropriate -- it specifically states that it is a proper variance proceeding, when it comes to the matter under 502.7(c). We are here on variances for C(2) and (3) -- acreage and setback requirements.

After the case concluded, I thought -- there is not a better place to put this thing. It is my belief that -- and I don't like cellular phones; I do not use them; I'm a rather private person-- but that has very little to do with it. This particular site is situated such that it's virtually, and I say, virtually, out of view. Yes, there are some people who will drive past it -- I think Falls Road has a speed limit there of 40 -- but the way people drive, it's probably 60. That has an impact on visibility. When one is driving, we drive facing forward. Regarding drive by test with balloon test -- it's a novel approach to prove visibility at this particular proposed structure. Yet another attempt with a similar test -- and it was a good attempt -- but I think it was a little less scientific than what the balloon test did -- provided that bottom of balloon will be at the top of the proposed structure -- if you saw the balloon, then you might see the tip of the proposed structure, but not the entire

structure.

Having said all of that, I can honestly say that I can discount most of the testimony regarding visibility of this issue. It is not visible from Rockland, nor from most of Greenspring Valley. Only when one is traversing the bridge over the beltway, etc. The other side of that is -- there is a certain amount of ugliness that goes with this type of thing, and the County has recognized it must provide for this. We have a BGE high-tension wires supporting structures running all up and down Falls Road; nothing uglier in my view than those things. In this matter, we have a monopole -- less than one-foot in diameter. On a cloudy day, it would probably be invisible. And so, as for the impact that it might have on the visibility, and even the impact on the historical nature of the area, I really don't have any feeling that it would provide a detrimental impact on those issues.

As for the special exception requirements for a wireless transmitting and receiving facility, they must do a diligent search; I am convinced that they did exactly that. One of the things that troubled me by cross-examination was that due diligence should have taken into account the possibility of putting the tower on the parking lot of the Trinity site -- they found it to be an insufficient solution to their situation -- it was investigated. They are using monopole site within the tower of the Trinity Building. But capacity and service has not been able to keep up with demand.

I find that they did complete a due diligence search for other sites outside of residential zone. Most sites are still within the D.R. zone, and all other requirements under c(2) and (3) notwithstanding, I find that they have met the requirements.

As for the property values, I want to make a special note -- Mr. Liddie did make a good case as to the impact on his property. I believe, frankly, I am convinced by testimony from witness who spoke about the va lue impact on Mr. Liddie's property, and I have to say Mr. Liddie's property has already been adversely impacted about as much as it can be its site constraints, location, and so forth. There will be none on the historical nature of the area because of the standing of this particular pole adjacent to BGE right-of-way. It's going to be almost completely out of view when one is driving along Falls Road. As to the issue of whether or not the ultimate site of the Valley Inn was appropriate and whether or not those two sites constitute one site -- I disagree with People's Counsel in that I think that one test of whether or not they are a contiguous property exclusive of what is on

public documents -- there is one test -- you have to be able to walk from one to another; in my view, they are separate entities -- be aware of the fact that the State constructed 695.

Having said all that, I would grant the special exception for the transmitting and receiving facility. As for the variances, we had, I would say, not a lot of testimony but I think sufficient testimony to grant the variances as well. The site is, I think, about as encumbered as any site I have seen in any proceeding before me on the Board.

Regarding the intersection of 83 and 695, there are only so many of those sites County-wise. Taken from that collection of sites, other encumbrances set it apart from any other site in the County, and variance uniqueness test is not a difficult one to get by in this matter.

The other test in this particular case is the one where Petitioner has some problems -- I think this will probably be the second time that I have had to encounter that. "Practical difficulty" and "unreasonable hardship" -- we have unrebutted testimony that we have .27 remaining acre of roughly a 3-acre site -- which is available for development; .27 acre in an area such as this is amazing to me that when the State condemned the property to construct 695, it only condemned that part of I-695 - but that was,what, 1960? Relative issues were different than now.

I don't agree with People's Counsel that they were adequately paid for condemnation of the property because that rendered the rest of the property useless, but for something which would possibly be some utilitarian purpose. Having found that, we do have an opportunity for maximum and best use, and to do otherwise does create practical difficulty or unreasonable hardship. And so, I disagree with People's Counsel also that variances are threshold issue before getting to the special exception. I think they are separate issues -- merits are applied differently, and so I do find that it is practical difficulty or unreasonable hardship for denying the variances.

There are no density issues; no parking issues; and so forth. And so, having found all of that, I feel as though I am constrained to grant the variances -- only the second or third variance I've granted in almost 4 years on the Board. But I did not know I would do that until about 1:30 last night.

Having said all that, I would grant the variances and the special exception brought by Cellular One and the Hatfields

and Proutts.

SDL: I too went through a lot with this case; one where I wavered back and forth. The memorandums were good; cases were well presented; testimony was informing. I'm going to address the variances first. I agree that the issue of hardship cannot turn on the hardship suffered by Cellular One...I drove out to the property; I couldn't go on it. However, my impression was that this parcel would qualify as unique. There are 3 acres zoned D.R. 1 which, under ordinary circumstances, would permit three homes. Because of easements and constraints, .27 acre is buildable; only one home.

People's Counsel says that nothing bars building a residence. I cannot imagine anyone building any home on that property that would be at all economically feasible, given the location; abutting 695 and 83; and the presence of BGE tower and power lines that would be cumbersome to put up around it -- would never recover money.

It's a 3-acre property that, for all practical purposes, cannot be used. It strikes me as unique and a hardship not to Contract Purchaser, Cellular One, but to the owners, and not self-inflicted. People's Counsel points out that the owners inherited three properties, including that of Valley Inn. The idea of properties being owned by the same party being adjacent implies they can be used jointly. There is no way that two parcels divided by an interstate can be used in conjunction with each other. One may as well be in Towson and one in Dundalk. They were passed down through the family in the same deed. I think what the owners end up with here is a 3-acre residential parcel virtually unusable.

Balanced against the property owner's interest are those impacted by the construction of the pole. Testimony of real estate appraiser was convincing regarding property values; but don't think addition of a monopole would affect property owners; may affect enjoyment. A number of witnesses said it would. Most said it would detract from the historical ambience of the area.

I'm still wavering on the variances, but they could be granted.

Turning to the special exception, I don't quite agree with Rob. Regarding special exception, the Petitioner has complied with 502.7 except acreage and setback, and also with 502.1, except possibly the spirit and intent requirements. The difficulty is with Schultz v. Pritts. In that case, the Court of Appeals has held that the standard for granting is whether

the proposed use at that location would have adverse effects beyond those associated with the use elsewhere in the zone. I drove through Rockland. It's an amazing neighborhood; a unique neighborhood for Baltimore County. Historicity spills over on to the subject site. There are houses there that are clearly historic.... If a monopole is going to have an adverse effect, this is the neighborhood where it will do it. The balloon test was an attempt to see the effect of visibility. Rob does not think it would be that visible. I, myself, question whether something this high -- 35 feet above the BGE tower -- whether it will be visible or not. Looked at the trees between the Liddie site and the proposed site. Of course, it's wintertime -- not much foliage. I don't think they offered much of a screen. Whether it's feasible from Rockland or Falls Road -- that's what concerns me. The residents are overestimating the impact on the historical ambience of their area. I think it's disturbed every time a car goes by.

But going back to Schultz v. Pritts, if it does not have an undue effect on this neighborhood, It would have none on any neighborhood.

I would like to hear what Larry has to say.

LMS: First of all, for the record, we are here in public deliberation. My opinion as to the process is, by my own agreement and commitment to myself, stated as follows.

I don't feel that the open deliberation system, as many of you know, is the best way to go about these things. I have not been happy with it as an attorney or as a Board member since initiation, and suffice it to say that, especially in cases where we have some problem, some difficulty, some "we are not sures" -- it has a tendency to halt the discussion; also has tendency to possibly summarize discussion more than what is helpful to getting a decision. Suffice it to say, let the record reflect the comment, that since it is here, as a creature of not only the legislature but our brothers and sisters above us -- I would suggest to them that they might want to function in the same manner they are requiring us to do. I think neither our friends across the street or on Rowe Boulevard would want to do that.

Having said that, for only the second time since I have been on the Board, I took a ride -- I live closer to the area. I drive by the area quite often. I was not quite sure what it was like living near an area of easement, where you have towers, and so forth, after hearing Mr. Liddie's testimony, and reading his Brief. But to the point of discussion, and

while at the same time my mind is saying there is already this, that and something else, it seemed to me, however, that when someone has to live or lives near as much as is in that area, isn't he really entitled to a degree of protection from further encroachment? Do other things around you say to other entities -- this is already there and so we can do more? When someone is already burdened to that degree, is there not a point in time where you say -- okay, enough for this guy? Is everything dumped there because other things are there? I am confused by that thought.

Nobody likes to believe his property is the best place to put everything in the area. It has nothing to do with the value of property, necessarily.

The standing issue concerned me. Just from a procedural point of view, part of the problem when Memorandums are due on the same date is that sometimes issues are raised, and then the other side might have a response, but we do not get that response. I did not have a problem in this case. I feel there is certainly enough in the record to support a standing position. But there might not have been. For further reference, I think that there has got to be some difference in time. It opens an entire "bug-a-boo" regarding a new point raised -- does someone respond to that? If you have raised something that was not raised in the hearing and the other guy gets a chance to respond, you do not get a second bite of the apple. For further reference, there may have been -- we may have been in a position where we may have wanted to hear from someone else about it. In this particular situation, it did not come to that.

We have two issues -- a special exception and variances. As to expert witnesses, while we have sat on cases where technicalities have been very important, there is a point at which I would have accepted a proffer, especially, and this is the point about valuation -- one side presents experts; one side presents people's opinions and arguments. Expert is expert -- if you are on other side of argument where there is an expert, easiest way to get expert questioned is to have experts of your own. We had experts on one side, but it seemed to me that when you have one side with experts who survive cross-examination, I think it may be because examination was ley examination. When left with a situation where only experts are clear and convincing at what they are telling us, I find it difficult not to accept what they say as valid.

The special exception requirements, I think they have established that that exists. I was impressed with the

process. and I think, frankly I don't think Cellular One cared where they put it. There was no intent to be in any particular location. Anywhere in that area where it worked would have been fine with them. Logic had to have been -- place most defensible to put it in. I think their testimony reflected that they had logical winnowing process to find a spot meeting the requirements.

There was a lot of discussion in the memorandums regarding statute and variances -- this is one of the few sections in the law that actually says if you need a variance -- nothing in here should bar you from doing that. We got an idea of the philosophical pecking order the council had in mind. I think the mere statement by the council gives you indication that it is an idea that was alien to them. It may occur, may need to occur. The balloon thing -- it may be a valid test; may not be. No expert in site management or engineering saying anything. I did not see anything that tremendously changed the conclusion that he came to after the balloon man testified about what happened.

I came here with the impression -- if you look into it in more detail -- I'm still confused about the special exception only in the sense that the statute --I can be trying to find a way to protect Mr. Liddie's quality of life. If you can put it there -- but by the same token there's one more thing there. I cannot help but be brought back to the fact that the County Council and statute and case law -- including Schultz v. Pritts -- the comment that any adverse effects above and beyond the use irrespective of its location in the zone -- that's very clear. It certainly would not, on the one hand, would not have -- is it a cumulative thing -- is it Mr. Liddie having one more think in front of his house -- is it a worse effect for him than were it to be the only thing? Is it, in fact, no worse there than anywhere else?

I did not see it as a neighborhood problem as much as one property owner. I'm leaning toward granting the special exception. I will leave it for a second and talk about the variances. Believe it or not, I found the variances somewhat easier. Is the property unique? Yes, I think it is. I think when you leave .27 acre as the only part of the property developable for any other purpose, that in and of itself makes it to some degree unique. It's still a 3-acre plot -- this is not in terms of geography as much as a sense of what other entities have visited upon the property. I do not accept the argument that because there was compensation for the taking, that somehow makes it self-inflicted. Because it's State inflicted. Constitutionally, they are required to compensate people.

In that sense, it is because that property cannot have anything done with it. A person cannot change things on it as he wanted to do, could not force backward anything visited on his property, but none of his doing. He's stuck with easements and State takings. This made a property different from other parcels. It is unique. Is the inability to economically use a portion or part of property unreasonable hardship? If on one hand we are saying that it is unique because he only has .27 acre left, through no fault of his own -- does he have the right to find a use for that? If he cannot, that constitutes unreasonable hardship under the zoning laws. He has now found a use requiring minimum construction. If the right to use is not inherent, than it may not be an unreasonable hardship. If the property cannot be used, it would seem to be an unconstitutional taking. You still have to have uses that meet whatever criteria for that use -- special exception requirements in this case.

Do you have a right to have a reasonable use of that property, presuming you meet qualifications that the law proposes? I have to say that you do.

Here we have a permitted use -- and the mere act of trying to utilize the property for a use permitted should give you the right to say that being prohibited from making that use on the property visits undue or unreasonable hardship. If you follow that logic, there is unreasonable hardship. And therefore the second prong is met.

History is where you find it. Historical zones, landmarks, properties. I understand the arguments. But, Diane, I think you asked the appropriate question. Would another 35 feet of height affect detrimentally the historicity of the area? No development there; no access roads; and so forth. It is an historical area, but should not be used at the wrong time or too much. May have been an over-reaction as far as that is concerned.

Where does that leave me? It leaves me unhappy for Mr. Liddie. I think the Petitioners have done as much as they could do to pick appropriate site. I'm leaning toward granting both, strongly leading toward it.

SDL: I had a problem with the wording of Schultz v. Pritts.

ROS: I would like to address one thing -- the effect on Mr. Liddie's property, and his enjoyment of that property. I think that what you are raising is an equity issue. This Board is not a body in a position to adjudicate matters of equity. The fact is that no matter where this thing goes,

there will always be someone who will be affected by something, no matter where it goes in the County. Mr. Liddie has to be looked at not in terms of Mr. Liddie, but as Mr. X. I thought Mr. Liddie was a wonderful witness; he wrote a terrific Brief. I cannot think of personalities when looking at this situation. And so, that then takes us to Schultz v. Pritts, which is the test that the Board has to consider. Perhaps I glossed over it -- but when you are thinking about D.R. zone, and particularly D.R. 1, one of the shots taken at the site -- why not on the parking lot of Trinity. It becomes infeasible at any other site. I'm talking about the ability to say this thing -- if you put it anywhere else, it has a greater impact at any other site -- that's what makes me say that I cannot think of a better place. On the Schultz test -- we have the historicity in the area. Does that mean we are constrained to never construct in those areas? To what degree are we going to assign value to elsewhere in the zone? And elsewhere in the zone in this particular case goes from area roughly south of Rockland and to the north of GreenSpring Station. that is a very large area. Is there another site where it will have a more innocuous sighting of a structure such as this. It's being put in a hole.

LMS: They did a good thing by putting it there --

ROS: That's my point. The law amplifies what has been executed in Schultz in an unrelated case. That's why I glossed over Schultz thing. I apologize if I was not clear about that. Taking away the equity issue and taking away the Schultz test, that is why I am compelled to grant this thing.

It took a long time for me to get there. I had feelings for Mr. Liddie and other neighbors -- when I got my degree in architecture, there were lots of credits in historic preservation. I believe we are not impacted in this particular case because of the way this Petitioner has gone about it's business in minimizing the impact.

One other matter you spoke about -- that was the self-inflicted issue. It was also addressed by People's Counsel in Memorandum. I don't think it applies in this matter. It's not self-inflicted as it relates to the uniqueness of the site. I also believe that there are certain realities to life. Cellular One as one of the parties in this case is not the only one doing towers in this County. And Cellular One -- they all share towers -- there are limited sites in a jurisdiction as old as Baltimore County.

In Schultz, the test takes on new meaning in describing what is left for consideration. There are a lot of properties out

there, and cases which this Board has heard -- where what is left there can be taken into consideration when considering the Schultz case. I've concluded this is probably one and only site where this thing ought to go.

SDL: I was wavering -- really questioned whether it would impact historicity -- if you are comfortable with Schultz v. Pritts --

ROS: For the record, this is exactly one of the problems with open deliberation. I do not want to be viewed as the one influencing you at this juncture -- this is the problem with the whole process.

SDL: If it were not for the wording -- I can read it over again. You are already the majority -- it's already been granted. I can only write a dissent. And I don't feel that strongly. I don't really feel it will negatively impact the neighborhood.

ROS: So we are unanimous? Larry, you had one other thing?

LMS: No, you got that.

ROS: That concludes the matter for today. The Board will issue a written Opinion and Order. Any Petition for Judicial Review will go from the date of that Order.

Thank you.

****

Respectfully submitted,

Kathleen C. Bianco

THE RUXTON-RIDERWOOD-LAKE ROLAND AREA
IMPROVEMENT ASSOCIATION, INC.
P. O. Box 204
Riderwood, MD 21139
Tel. & FAX (410) 337-0792

April 24, 1996

Mr. Lawrence E. Schmidt
Zoning Commissioner
Courthouse, Suite 112
400 Washington Avenue
Towson, MD 21204

RECEIVED
APR 24 1996
ZONING COMMISSIONER

RE: Case No. 96-360-XA (Item 358)

Dear Mr. Schmidt:

The Ruxton-Riderwood-Lake Roland Area Improvement Association would like to go on record as being opposed to the above case regarding the request for a special exception.

The association feels that is the variances requesting the 175 foot monopole within 65 feet of the nearest property line in lieu of the required 350 feet; and to permit a wireless transmitting and receiving facility on a 3+/- acres lot in lieu of the required 5 acres are excessive and indicate that the chosen location is not conforming to Baltimore County's regulations. If variances of this type continue to be permitted, it will set an unfortunate precedent all over the county. The monopoles from all the different telecommunication companies will be all anyone sees towering along the skyline.

Thank you for your careful consideration to our request.

Very truly yours,

Laurie S. Long
Executive Director

cc: Mr. Michael Maus
Ms. Sarah Lord

KRAMON & GRAHAM, P. A
COMMERCE PLACE
ONE SOUTH STREET SUITE 2800
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

June 3, 1996

Mr. Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County
Office of Planning and Zoning
Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
JUN - 7 1996
ZONING COMMISSIONER

Re: Petitions for Special Exception and Variance
200' past the NE/end of Brightfield Road,
1,080 NE of Falls Road
9th Election District--4th Councilmanic District
Petitioners: John A. Hatfield, Jr. and
Elizabeth S. Proutt
Case No. 96-360-XA

Dear Mr. Kotroco:

I am in the process of gathering materials for Cellular One's appeal of your decision in the above-referenced case. At the hearing, a representation was made by Ms. Lord that her community association would be forwarding some materials to you for your review. I have not received copies of any such materials from her. So that I may be in possession of the complete record of the case, please forward copies of any materials/correspondence you received with respect to the above-referenced case from Ruxton-Riderwood-Falls Road Scenic Route Group.

Thank you for your attention to this matter.

Very truly yours,

Karl J. Nelson

KJN:jes

cc: Mr. Michael Maus
Ms. Sarah Lord

KRAMON & GRAHAM, P. A
COMMERCE PLACE
ONE SOUTH STREET SUITE 2800
BALTIMORE, MARYLAND 21202-3201
(410) 752-6030

KARL J. NELSON
(410) 347-7434

FACSIMILE
(410) 539-1269

June 27, 1996

HAND DELIVERY

PDM
By scj

Mr. Arnold Jablon
Director
Permits and Development Management
111 West Chesapeake Avenue, Room 111
Towson, Maryland 21204

Re: Petitions for Special Exception and Variance
200' past the NE/end of Brightfield Road,
1,080 NE of Falls Road
9th Election District--4th Councilmanic District
Petitioners: John A. Hatfield, Jr. and
Elizabeth S. Proutt
Case No. 96-360-XA

Dear Mr. Jablon:

This letter shall serve as a notice of appeal from the Deputy Zoning Commissioner's decision in the above-referenced case. In that case, Mr. Kotroco denied Washington/Baltimore Cellular Limited Partnership's request for a special exception and variances with respect to a proposed cellular telecommunications facility. Enclosed please find the Appellant's check, made payable to Baltimore County, Maryland, in the amount of $460 to cover the appeals costs for the special exception ($250), the variances ($175), and $35 for a sign.

Thank you for your attention to this matter. Should your office require any additional information, please do not hesitate to contact me.

Very truly yours,

Karl J. Nelson

KJN:jes

Enclosure

cc: Mr. Michael Maus (w/o encl.)