IN THE MATTER OF:

<u>ELAINE ANN TROTT-LEGAL OWNER</u>

BELL ATLANTIC NYNX MOBILE-CP

GREENSPRING/BELTWAY RAMP

RE:

Petition for Special Exception to permit a wireless transmitting and receiving facility on DR 1 zoned land and variance to permit a 100 foot tall monopole to be located 104 feet from the front property line and 80 feet from the rear property line in lieu of the required 200 foot distance from each.

BEFORE THE

* BOARD OF APPEALS

OF BALTIMORE COUNTY

CASE NO.: 97-352-XA

*

*

*

ORDER OF DISMISSAL

This matter having come before this Board on appeal dated May 16, 1997 from a decision dated April 16, 1997 from the Zoning Commissioner, wherein the Petition for Special Exception to permit a wireless transmitting and receiving facility on DR 1 zoned land and variance to permit a 100 foot tall monopole to be located 104 feet from the front property line and 80 feet from the rear property line in lieu of the required 200 foot distance from each. was granted.

WHEREAS, the Board has been reviewing its docket with reference to inactive cases with the intent to dismiss and close as many of these cases as possible;

WHEREAS, the subject matter has been held on the Board's docket since October 27, 1997, and no further action having occurred in this matter;

WHEREAS, by letter dated June 19, 2009, the Board of Appeals notified the Counsel of record that the above-entitled matter would be dismissed for lack of prosecution after a period of 30 days; and

WHEREAS, there has been no request made for hearing in this matter, nor objection made to said dismissal;

IT IS THEREFORE ORDERED, this 5 day of 1.2009 by the Board of Appeals for Baltimore County that the above-referenced appeal filed in Case No.: 97-352-XA, be and is hereby DISMISSED FOR LACK OF PROSECUTION.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Maureen E. Murphy, Chairman



County Board of Appeals of Baltimorr County

JÉFFERSON BUILDING
- SECOND FLOOR, SUITE 203
105 WEST CHES PEAKE AVENUE
TOWSON LIARYLAND, 21204
4(U-267-3180
FAX, 410-887-3182

June 19, 2009

Robert Hoffman, Esquire Venable, LLP 210 Allegheny Avenue, Towson, MD 21204

RE: In the Matter of: Elaine Ann Trott - Legal Owner

Case No.: 97-352-XA

Dear Mr. Hoffman:

The Board of Appeals has been reviewing its docket, particularly with reference to inactive cases. By this review, the Board intends to dismiss and close as many of these cases as possible.

A review of the subject file indicates that your request for postponement was granted on 10/27/97, with no further action reflected in the file to date.

Pursuant to the above intent regarding inactive cases, the purpose of this letter is to advise you that an Order of Dismissal of Petition for lack of prosecution will be entered in the above-captioned matter after the expiration of 30 days from the date of this Notice. Upon receipt of a request filed at any time before 30 days after date of this Notice, the Board, for good cause, may defer entry of the Order of Dismissal for the period and on the terms it deems proper.

Very truly yours,

Theresa R. Shelton Administrator

Theresa Shelton/KC

TRS/klc



Petrion for Variance

to the Zoning Commissioner of Baltimore Count

for the property located at North side of Old Court Rd., approximately 126' east of Greenspring Ave.

which is presently zoned DR1

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 part of hereof, hereby petition for a Variance from Section(s)

502.7.C to permit a 100 foot monopole within 104 feet of the front property line and 80 feet from the rear property line in lieu of the required 200 feet; and from Section 502.7.C.3 to permit a wireless transmitting and receiving facility on a site of 2.61 ac. in lieu of the required 5 ac.

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

to be determined at hearing.

2/20/97

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 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 legal owner(s) of the property which is								
Bell Atlantic NYNEX Mobile (Type or Print Marine) By: By: Signature Maurice Thompson, 11, Real Estate Consultant			Elaine Ann Trott (Type or Print Name) Elaine Ann Jrutt Signature								
						9000 Junction Drive					
						Address			(Type or Print Name)		
						Annapolis Junction	MD	20701			
City	State	Zipcode	Signature								
			7913 Juniper Drive	(410)4	94-6201						
Attorney for Petitioner:			Address		Phone No.						
Robert A. Hoffman			Annapolis Junction	MD_	20701						
Venable, Baetjer and Howa (Type or Print Name)	rd, LLP		City	State	Zipcode						
(Type or Plint Name)			 Name, Address and phone number of to be contacted. 	riegai owner, contract	purchaser or representa						
MAN Wells			Robert A. Hoffman Venable, Baetjer and Howan	J. LLP							
Signature			Name								
210 Allegheny Ave.	<u> </u>	(410) 494-6200	210 Allegheny Ave, Towson,	MD 21204	(410) 494-620						
Address		Phone No	Address		Phone No.						
Towson	MD	21204	OF	ICE USE ONLY							
City DOD OF	State	Zipcode	ESTIMATED LENGTH OF HEARING								
DROP. UFF No REVIEW Notice Administrating			unavailable for Hearing the following dates								
UP KEN	EW	√b, ĕ	Next Two Months ALL	OTHER							

REVIEWED BY:

CERTIFICATE OF POSTING

	RE: Case No.: 97-952XH
	Petitioner/Developer:
	·
	Date of Hearing/Closing:
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	·
	ty located at 200' EAST OF
GREENSPRING ON N	15 OF OLD COURT RD.
The sign(s) were nested	 ·
The sign(s) were posted on	(Month, Day, Year)
	Sincerely,
	Hay Trees 5/28
	(Signature of Sign Poster and Date)
	(Printed Name)
	(Address)
	(City, State, Zip Code)
	(Telephone Number)

9/96 cert.doc BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: March 24, 1997

Department of Permits & Development

Management

FROM:

Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting

for March 24, 1997 Case No. 97-352-XA

The Development Plans Review Division has reviewed the subject zoning item.

The proposed chain link fence must have it's post. Framing and fabric black vinyl coated. A landscape plan that conforms with previously given landscape comments must be submitted.

RWB:HJO:cab

cc: File



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 25, 1997

NOTICE OF ASSIGNMENT

IN THE MATTER OF: ELAINE ANN TROTT -Legal Owner; NYNEX MOBILE ÞELL ATLANTIC -Contract /Petitioners Greenspring /Beltway I-695 Ramp) 3rd Election District; 2nd Councilmanic

(Petitions for Special Exception and Variance GRANTED with restrictions.)

ASSIGNED FOR:

TUESDAY, NOVEMBER 25, 1997 at 1:00 p.m.

NOTICE:

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

Please refer to the Board's Rules of \Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: 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).

Kathleèn C. Bianco Legal Administrator

Appellants /Protestants

:/Harry Goldberg /OCG Imp Assn Cheryl K and Richard B. Jacobs; Stanley V. Stovall; Donna S. and Howard D. Weiss MD

Appellant

: People's Counsel for Baltimore County

Counsel for Petitioners

: Robert A. Hoffman, Esquire

: Elaine Ann Trott /Legal Owner Petitioners

Bell Atlantic NYNEX Mobile -Maurice

Thompson /Contract Lessee

Phyllis Friedman, Esquire

Pat Keller Lawrence E. Schmidt Arnold Jablon, Director /PDM Virginia W. Barnhart, Co Atty





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

October 27, 1997

NOTICE OF POSTPONEMENT

CASE #: 97-352-XA

IN THE MATTER OF: ELAINE ANN TROTT -Legal Owner; BELL ATLANTIC NYNEX MOBILE -Contract Lessee /Petitioners Greenspring /Beltway I-695 Ramp) 3rd Election District; 2nd Councilmanic

(Petitions for Special Exception and Variance GRANTED with restrictions.)

which was scheduled to be heard on November 25, 1997 has been POSTPONED by request of the parties; to be reset only upon request.

NOTICE:

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

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: 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).

Kathleen C. Bianco Administrator

cc: Appellants /Protestants

: Harry Goldberg /OCG Imp Assn; Cheryl K and Richard B. Jacobs; Stanley V. Stovall; Donna

S. and Howard D. Weiss MD

Appellant

: People's Counsel for Baltimore County

Counsel for Petitioners

Petitioners

: Robert A. Hoffman, Esquire

: Elaine Ann Trott /Legal Owner

Bell Atlantic NYNEX Mobile -Maurice

Thompson /Contract Lessee

Phyllis Friedman, Esquire

Pat Keller Lawrence E. Schmidt Arnold Jablon, Director /PDM Virginia W. Barnhart, Co Atty



Case No. 97-352-XA

SE -to permit wireless transmitting and receiving facility on DR 1 zoned land; VAR -100' monopole 104' from front property line and 80' from rear ilo required 200 feet each; to be located on 2.61-acre site ilo required 5 acres.

4/16/97 -Zoning Commissioner's Order in which Petitions for Special Exception and Variances GRANTED with restrictions.

9/25/97 -Notice of Assignment for hearing scheduled for Tu November 25, 1997 at 1:00 p.m. sent to following:

Harry Goldberg /OCG Imp Assn.
Cheryl K and Richard B. Jacobs
Stanley V. Stovall
Donna S. and Howard D. Weiss MD
People's Counsel for Baltimore County
Robert A. Hoffman, Esquire
Elaine Ann Trott /Legal Owner
Bell Atlantic NYNEX Mobile -Maurice
Thompson /Contract Lessee
Phyllis Friedman, Esquire
Pat Keller
Lawrence E. Schmidt

Arnold Jablon, Director /PDM Virginia W. Barnhart, Co Atty

10/24/97 -T/C from R. Hoffman; resolution of this matter between the parties is near; request postponement of 11/25/97 hearing to allow time to reach final agreement. To be reassigned for hearing only upon request of either party. Hold.

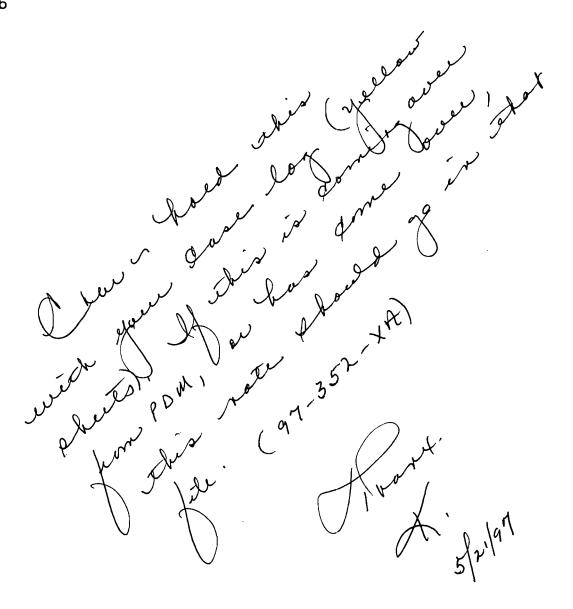
Elaine O'Mansky 410-484-4884

RE: Bell Atlantic case -- 97-352-XA --

She will be out of town during June. Asks that matter not be scheduled for hearing until latter summer or after Labor Day if possible due to scheduling conflicts.

Advised her that schedule has been set into October; unlikely that this matter would be scheduled for a hearing prior to the Fall 1997. However, would advise her when scheduled.

kcb



OCGS OLD COURT GREENSPRING IMPROVEMENT ASSOCIATION, INC.

Elaine O'Mansky 2 Saxony Court Baltimore, MD 21208 410-484-4884

August 22, 1997

Ms. Kathy Bianco County Board of Appeals 400 Washington Avenue, Room 49 Towson, MD 21204 97 AUG 25 PM 12: 32

RE: Appeal Case # 97-352-XA
PETITIONS FOR SPECIAL EXCEPTION
AND VARIANCE, NEC Old Court Road
and Greenspring Avenue
3rd Election District, 2nd Councilmanic
ELAINE TROTT/BELL ATLANTIC
NYNEX MOBIL PETITIONERS

Dear Ms. Bianco:

The Old Court Greenspring Improvement Association, Inc., Cheryl K. and Richard B. Jacobs, Stanley V. Stovall, Donna S. and Howard D. Weiss, M.D. are requesting a hold on the Appeal of Case No. 97-352-XA

The Community is attempting to come to an agreement with Bell Atlantic NYNEX Mobil to co-locate on a cellular monopole proposed on Greenspring Avenue and I695 by AT&T Wireless.

Sincerely,

Elaine O'Mansky, Vice-Pres

Cheryl Kelley Jacobs, Esquire

2800 Old Lourt Road Baltimore, Maryland 21208 Tel:410/653-2828 Fax:410/653-2893

April 1, 1997

To: Zoning Commissioner

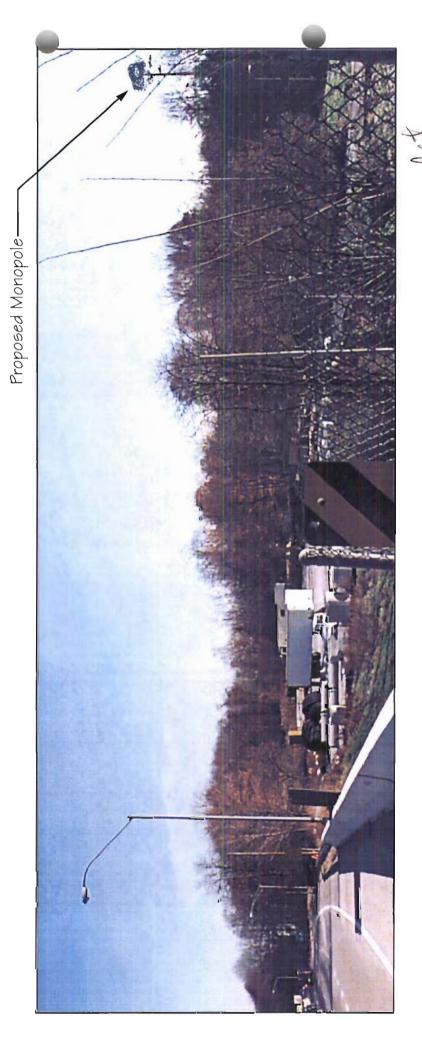
From: Cheryl and Richard Jacobs

Re: Special Exception Hearing Case #97-352-XA

Please be advised that we reside at 2800 Old Court Road which is adjacent to the proposed 100ft. monopole. This memo is to serve as official notice to our objection to this intrusion into an otherwise residential area. We understand that a minimum of five acres is normally required and that the subject site is only 2.61 acres.

We further believe this tower will not only adversely impact the value of the homes in our area, but may also pose a health risk from its emissions. We are both attorneys and are required to be in Court today; otherwise, we would be present to personally voice our opposition to this proposed zoning variance.

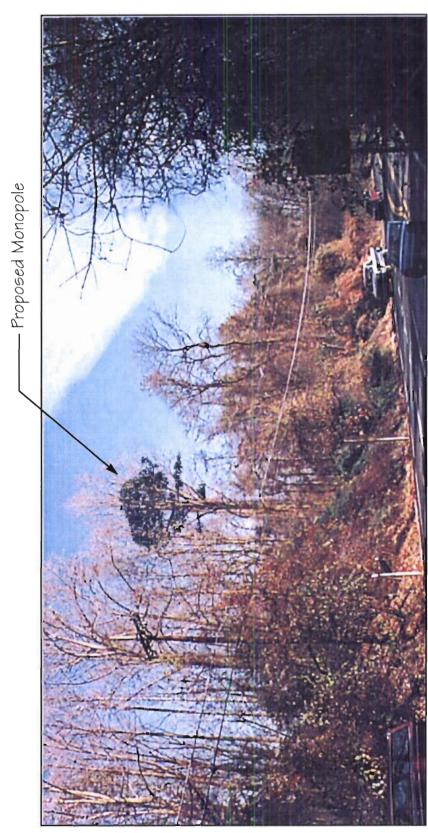
Put No 1







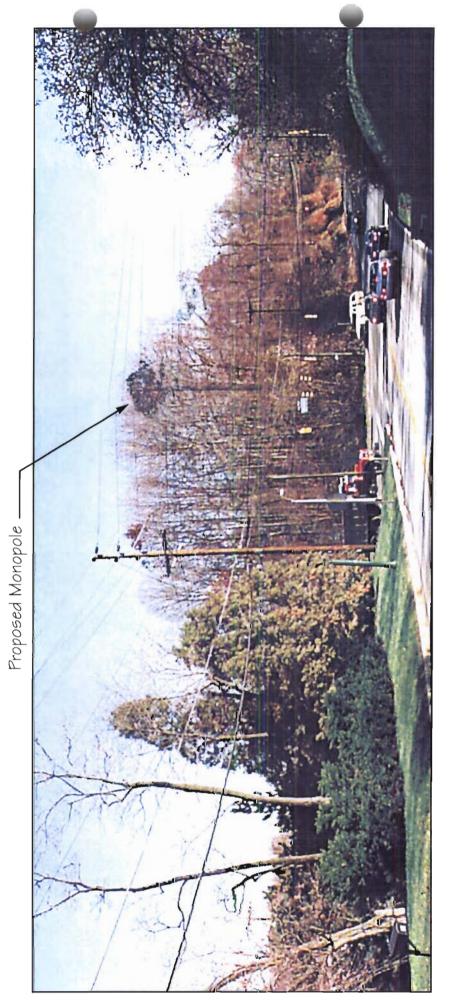








December 1996







December 1996







ht No

PROFESSIONAL BACKGROUND OF JULES COHEN

Jules Cohen received the degree of Bachelor of Science in electrical engineering from the University of Washington (Seattle) in 1938. His first professional experience was with consulting engineering firms in the city of Seattle, then with the Bonneville Power Administration, a division of the U.S. Department of Interior, where he served as a junior engineer and assistant engineer in the substation design section. He was commissioned in the Navy in May of 1942 and served for three and one-half years as a naval officer during World War II. His duties included training at Harvard, at MIT and at the Naval Air Technical Training Center in Corpus Christi. He was a project officer on radar beacons at the Radiation Laboratory at MIT, then at the Bureau of Ships. Under the Commander, Service Forces, Pacific Fleet, he was in responsible charge of the radar beacon program for the Pacific Fleet. His last duty station in the Navy was as Executive Officer of the Electronics Division, Commander, Service Forces, Pacific Fleet.

Following release from the Navy, he entered the field of consulting engineering and has been so engaged for fifty years. During 44 of those 50 years, he has been either a sole principal, a partner, or an officer in a consulting engineering firm. He was authorized to practice as a registered professional engineer in the District of Columbia in June of 1952, and was authorized to practice in the field of electrical engineering as a certified professional engineer in the Commonwealth of Virginia in June of 1954. During the period of his professional practice, he has provided professional engineering services in the field of broadcasting, in particular, and communications, in general. On January 1, 1988, he retired from the presidency of Jules Cohen & Associates, P.C., but has continued providing professional consulting service to selected clients.

Over 10,000 projects of varying levels of complexity have been carried out by the engineering firm of which he was either sole member, partner or officer. Work performed has included propagation studies, interference studies, frequency allocation surveys, radiation hazard evaluations, antenna design and adjustment, satellite earth station studies, the planning and placement of cellular and other communications structures, studio and transmitter plant layouts for both radio and television, equipment evaluation, and extensive work involving the engineering aspects of changes in the Rules of the FCC.

He was the author of Appendix C of the 1975 Cable Television Advisory Committee Panel II report to the Federal Communications Commission. That Appendix dealt with the problem of echoes in television systems. He is also the author of the section on low power television in the 1986 edition of the McGraw-Hill Encyclopedia of Science and Technology. As chairman of the engineering committee concerned with interference to television broadcasting from noncommercial FM stations, he played a major role in the development of the rules adopted by the FCC governing the assignment of FM stations in the frequency band from 88.1 to 91.9 MHz. He represented television broadcast interests as co-chairman of the Technical Analysis Working Group of the Land Mobile Radio/UHF Television Technical Advisory Committee.

Professional Background of Jules Cohen

Page 2

From the time of its inception in 1983, Jules Cohen has represented the Association for Maximum Service Television, Inc. (MSTV) in Subcommittees and Technology Groups of the Advanced Television Systems Committee (ATSC). As stated in its Charter, the purpose of ATSC "[I]s to explore the need for and, where appropriate, to coordinate development of voluntary national technical standards for Advanced Television Systems."

He has participated as a member, co-chairman or vice chairman of a number of Technical Groups and is currently vice-chairman of the Technology Group on Distribution (T3) that has recently completed preparation of the specifications for a Digital Television Standard based on the Grand Alliance Advanced Television System, together with a Guide to its use.

Participation in the work of the Advisory Committee on Advanced Television Service (ACATS) began in November, 1987, the starting date set by the Federal Communications Commission, and continued until the completion of the Advisory Committee's work in November, 1995. He was a member of Working Parties 1 and 2 of the Systems Subcommittee (SS/WP-1 and 2), and Working Parties 3, 4 and 6 of the Planning Subcommittee (PS/WP-3, 4 and 6). Under SS/WP-2, he chaired the Field Testing Task Force. That Task Force completed field testing of the Grand Alliance System in October, 1995. Mr. Cohen had a major role in preparing both the specifications for the field testing and preparation of the report following field testing. Under PS/WP-3, he chaired the Spectrum Analysis Working Group.

Clients of the firm have included the three major radio/television networks, the National Association of Broadcasters, the Association for Maximum Service Television, the Electronic Industries Association, major group owners, and individual radio and television stations.

For approximately the past twenty years, he has worked extensively in the field of nonionizing radiation effects. He has done research in the scientific literature devoted to the subject, participated in the Bioelectromagnetics Society Symposia held yearly from 1979 through 1995, completed courses in Hazardous Electromagnetic Radiation offered by the George Washington University and the Management of Electromagnetic Energy Hazards offered by Cook College, Rutgers University, attended meetings of the Electromagnetic Radiation Management Advisory Council, moderated panels on the Biological Effects of Nonionizing Radiation at the 1979, 1983 and 1988 annual conventions of the National Association of Broadcasters, delivered invited papers on the Biological Effects of Nonionizing Radiation in the 1979, 1984 and 1993 meetings of the Broadcast Technology Society of the Institute of Electrical and Electronics Engineers, and, by invitation, provided a critique of the first and second 1979 drafts and the 1985 draft of a RF/Microwave Criteria document of the National Institute for Occupational Safety and Health.

He was a member of American National Standards Institute (ANSI) Committee C95 that developed the 1982 ANSI Standard C95.1-1982 and he is a member of IEEE Standards

Professional Background of Jules Cohen

Page 3

Coordinating Committee 28 (SCC 28) and Subcommittee IV which completed a revision to American National Standards Institute (ANSI) Standard C95.1-1982 (now identified as IEEE C95.1-1991 or ANSI/IEEE C95.1-1992). Subcommittee IV is continuing evaluation of scientific literature for a possible further updating of the standard. He is a member of SCC 28 Subcommittee I that developed IEEE Standard C95.3-1991, IEEE Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields - RF and Microwave. He is a member of the IEEE Committee on Man and Radiation (COMAR). He is also a member of Committee 89-2 of the National Council on Radiation Protection and Measurements (NCRP). Committee. 89-2 has prepared NCRP Report No. 119, A Practical Guide to the Determinations of Human Exposure to Radiofrequency Fields. Under contract to the National Association of Broadcasters, he prepared a suggested revision to FCC OST Bulletin No. 65, taking into account the ANSI/IEEE 1992 exposure guide. He has been qualified as an expert witness in Federal court, other courts, and in hearings before the FCC and FAA.

He is a member of Tau Beta Pi, engineering scholastic honorary, a member of the National Society of Professional Engineers, a Life Fellow of the Institute of Electrical and Electronics Engineers, a Life Fellow of the Society of Motion Picture and Television Engineers, a charter member of the Bioelectromagnetics Society, a past president of the Association of Federal Communications Consulting Engineers and former chairman of that association's Radiation Hazard Subcommittee. He was selected for the 1988 Engineering Achievement Award of the National Association of Broadcasters and a 1990 Achievement Award of the Broadcast Pioneers Washington, D.C. chapter.

January, 1997

ENGINEERING STATEMENT RADIO-FREQUENCY EXPOSURE ANALYSIS BELL ATLANTIC NYNEX MOBILE EDEN ROC CELL SITE

No No

Pursuant to a request from Bell Atlantic NYNEX Mobile ("Bell"), an analysis has been made of the radio-frequency (RF) exposure in the vicinity of the proposed cell site on Old Court Road, Baltimore, Maryland. This engineering statement describes the results of the analysis and the methodology employed.

Cellular radio installations, such as that proposed by Bell, are environmentally benign. They do not constitute a health hazard. They are not a potential source of interference to broadcast station reception or to electrical or electronic devices. They are neither a noise source nor a generator of traffic, nor do they emit noxious fumes.

In brief, the analysis shows that the maximum RF exposure would be no more than 0.205 percent of the permissible exposure established by the Federal Communications Commission (FCC) for uncontrolled (general population) environments. At the nearest residences near Eden Roc, at a horizontal distance of 170 feet, but substantially below the Bell cellular transmitting antenna 98 feet above ground, the RF exposure would be 0.020 percent of the permissible exposure at six feet above ground.

The maximum exposure level occurs at head height approximately 400 feet from the antenna, where the exposure is approximately 0.2 percent of the maximum permitted. Beyond that distance, exposure drops off rapidly. At 1000 feet distance, the exposure is less than 0.06 percent of the maximum permitted.

A tabulation of exposure at head height versus distance follows:

Distance (feet)	Exposure (mW/cm²)*	% of Max. Permitted
200	0.0001	0.014
300	0.0005	0.087
400	0.0012	0.205
500	0.0009	0.148
600	0.0007	0.119
700	0.0006	0.099
800	0.0005	0.089
900	0.0004	0.074
1000	0.0004	0.060

* mW/cm² = milliwatts (thousandths of a watt) per square centimeter.

Although nine antennas are proposed to be mounted on the supporting structure by Bell, only three antennas are for transmission. The remaining antennas are receive only and make no contribution to the expected exposure level. Because of the horizontal directivity of the antennas, signal strength in any direction is received almost entirely from only a single antenna.

Bell will transmit on a maximum of 15 channels from each proposed transmitting antenna. In two of the three directions, input power to each antenna will be approximately 2 watts per channel, or a total of 30 watts if all channels are in simultaneous use. (Although simultaneous use of all channels is not usual, that is the

RF Exposure Analysis
Bell Atlantic NYNEX Mobile

Page 3

assumption made throughout the study to assure a determination of the maximum exposure possible.) In the third direction, input power to the transmitting antenna will be approximately 5 watts per channel, or a total of 75 watts if all channels are in simultaneous use. Each antenna concentrates the power in a single main beam. That concentration results in producing 17.8 times (12.5 dBd) as much "effective radiated power" as would be experienced using a simple antenna with the descriptive name "dipole." By concentrating power directed toward the service area intended to be served, the antenna substantially reduces power delivered to nearby areas in directions at substantial departure from the main beam angle.

The antenna to be employed is a Swedcom Corporation Model ALP 8013-N Log-Periodic Reflector antenna. The three antennas have downward beam tilts of 4, 8, and 10 degrees, respectively. The angle from horizontal to locations specified in foregoing paragraphs is 5.3 to 28.4 degrees.

Exposure levels were calculated by methods prescribed by the FCC in a technical bulletin produced by the Office of Engineering and Technology. On August 1, 1996, the FCC adopted a change in its rules governing maximum permissible RF exposure. The new rules specify two levels of exposure: (1) Occupational/Controlled and (2) General Population/Uncontrolled environments. The second category permits the exposure at most frequencies, including those used for the cellular service, to be only one-fifth of the levels permissible for the first category. At cellular frequencies, the maximum exposure

RF Exposure Analysis
Bell Atlantic NYNEX Mobile

Page 4

level permitted is 0.59 mW/cm² averaged over a period of 30 minutes for the General Population/Uncontrolled environment. The maximum exposure calculated above is approximately 500 times lower than the maximum permitted exposure of 0.59 mW/cm².

In making the foregoing calculation, not only were all 15 channels assumed to be operating simultaneously, but the further assumption was made that a reflecting surface was causing the exposure to be increased because the reflected signal was arriving in phase with the direct ray. The reflected signal could just as well arrive out of phase and act to reduce the exposure. In addition, the figures shown are always the greatest to be encountered in any direction. Because of the differences in beam tilts, the maximum exposure is not always in the direction where input power to the antenna is the greatest.

The standard adopted by the FCC follows the maximum exposure limits set by the National Council on Radiation Protection and Measurements (NCRP), with some features taken from Standard C95.1/1992 of the American National Standards Institute/Institute of Electrical and Electronics Engineers. The NCRP is an independent expert group chartered Congress. The permissible exposures set. Occupational/Controlled environment, are not at the threshold where biological harm may result. They are based on the scientific literature, including a data base of in excess of 10,000 papers, reporting experimental results. Studies show that the most sensitive indicator of a biological effect is behavioral. When animals are trained to do a particular task, their performance of that task is modified when exposure is equal to a level

RF Exposure Analysis
Bell Atlantic NYNEX Mobile

Page 5

approximately ten times greater than the maximum exposures permitted for the Workplace/Controlled environment and fifty times greater than the exposures permitted for the General Population/Uncontrolled environment. Behavior modification is not necessarily harmful and disappears when the field is reduced, but the assumption is made that prolonged exposure in excess of the level causing behavioral modification might be harmful.

Continuous exposure at the level cited above is well within the maximum exposure level permitted by the standards. Those standards are premised on avoidance of levels that may have an adverse biological effect.

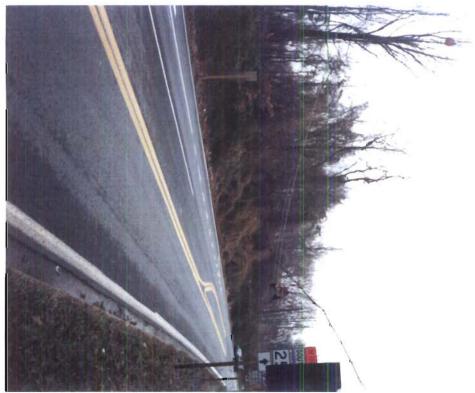
Jules Cohen, P.E.

Jule Coher

January 7, 1997













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 J. Gregory Ciambruschini Kimo S. Phillips Janet C. Williams Allen E. Fleming Henry T. Casado Deborah M. Ryba, Mgr.

March 14, 1997

Robert A. Hoffman, Esquire Venable Baetjer & Howard, LLP 210 Allegheny Avenue Towson, Maryland 21204

RE: Proposed Monopole Site
Old Court Road & Greenspring Avenue
Baltimore County, Maryland

Dear Mr. Hoffman:

In accordance with your request that I conduct a study of the above captioned site on which Bell Atlantic Nynex proposes to construct a 100 ft. freestanding Monopole to be used in conjunction with a mobile telephone network, I herewith submit my report.

Background

In preparation of this study, I inspected the subject site and its immediate surroundings on several occasions. In conjunction with this inspection, I have investigated the market for residential housing in the immediate area, reviewed tax maps prepared by the State Department of Assessments & Taxation, studied recent aerial photography of the immediate and general area, reviewed a site plan for the proposed Monopole project, visited similar Monopole sites in

I. INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared as supporting documentation to a Petition for Special Exception and variances for the development of a wireless transmitting and receiving facility to be known as the Bell Atlantic NYNEX Mobile (BANM), Greenspring/Beltway Ramp site. The facility will be operated by Bell Atlantic NYNEX Mobile whose business address is 9000 Junction Drive, Annapolis Junction, Maryland, 20701.

II. PROJECT SUMMARY

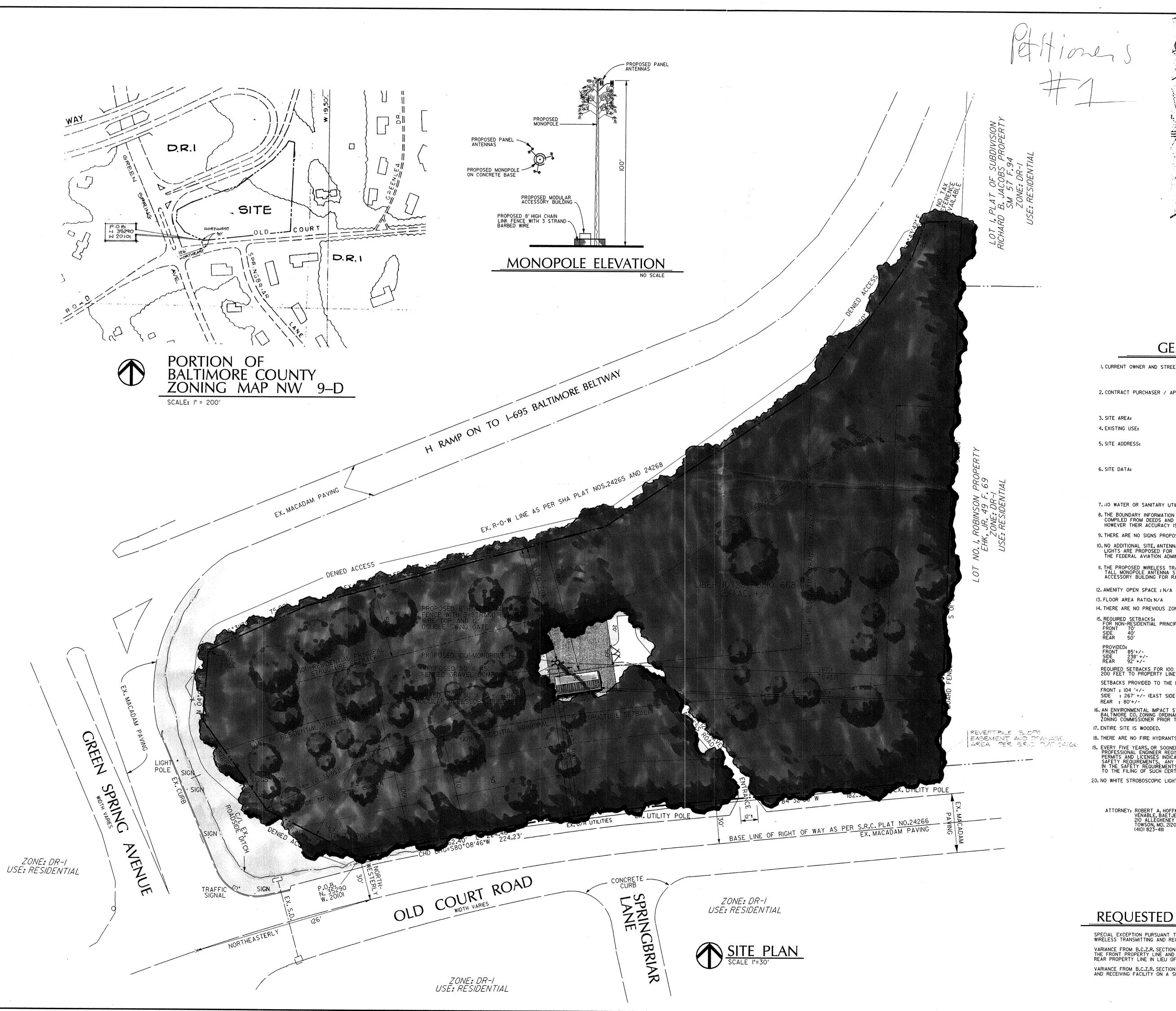
The proposed project will consist of the construction and operation of a wireless transmitting and receiving facility for cellular telephone service. The facility will consist of an artificial tree-type, camouflaged 100' high monopole and a 12' x 30' unmanned modular accessory building to house BANM radio and telephone system interconnect equipment within a 45' x 50' fenced gravel compound, and a 12' wide access drive. The station will be incorporated into the overall Bell Atlantic NYNEX Mobile cellular telephone network serving the Baltimore area.

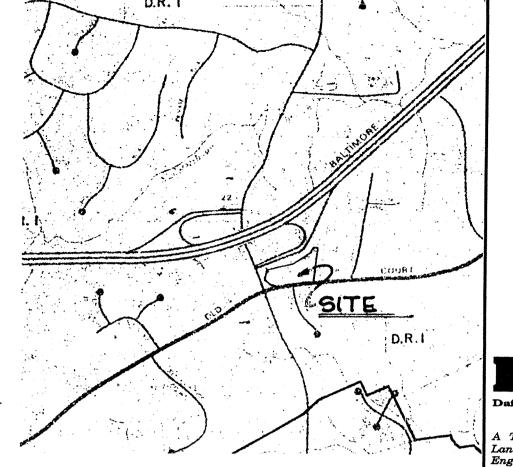
The facility will be constructed on land under contract for purchase by Bell Atlantic NYNEX Mobile. The property is identified as Tax Map 68, Block 18, Parcel 82, situated on the northeast corner of the intersection of Old Court Road and Greenspring Avenue. The site is also bounded on the north by the on-ramp to the inner loop of the Baltimore Beltway, thus affording road frontages to three sides of the irregularly shaped parcel. The proposed facility will be located near the center of the site on the north side of Old Court Road roughly opposite from the intersection of Springbriar Lane. The facility will be wholly contained within the boundary of the 2.7-acre property. The subject site, which is currently undeveloped, and the surrounding properties are all zoned D.R.1.

An existing driveway entrance from Old Court Road will be used to access the proposed facility, so it can be constructed at this location with minimal land disturbance to the site. The cell site installation 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 unmanned operation, but will be subject to regular periodic maintenance visits.

III. PROBABLE ENVIRONMENTAL IMPACT

Site Clearing and Grading: The facility can be installed at this location with a minimum of land disturbance. The monopole and equipment building will be constructed within a 45' x 50' fenced compound with a 12' wide access drive constructed from the existing driveway entrance to Old Court Road up to the proposed gravel compound. The proposed location of the facility is approximately 85 feet from Old Court Road. Clearing and grading will be necessary in order to construct the gravel compound and access drive, but the compound location was chosen and the driveway





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

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

SITE

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GENERAL NOTES

I. CURRENT OWNER AND STREET ADDRESS: ELAINE ANN TROTT 7913 JUNIPER DRIVE FREDERICK, MD. 21702

2. CONTRACT PURCHASER / APPLICANT:

BELL ATLANTIC/NYNEX MOBILE 9000 JUNCTION DRIVE ANNAPOLIS JUNCTION. MD. 20701

2.61 AC. +/-

VACANT

OLD COURT ROAD AND GREEN SPRING AVE.

8. THE BOUNDARY INFORMATION AND LOCATION SHOWN HEREON HAVE BEEN COMPILED FROM DEEDS AND OTHER SOURCES BELIEVED TO BE RELIABLE, HOWEVER THEIR ACCURACY IS NOT GUARANTEED AND IS SUBJECT TO CHANGE 9. THERE ARE NO SIGNS PROPOSED FOR THIS FACILITY.

IO.NO ADDITIONAL SITE, ANTENNA LIGHTS OR WHITE STROBOSCOPIC LIGHTS ARE PROPOSED FOR THIS FACILITY, UNLESS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION.

II. THE PROPOSED WIRELESS TRANSMITTING AND RECEIVING FACILITY WILL CONSIST OF A 100 FOOT TALL MONOPOLE ANTENNA STRUCTURE AND ONE UNMANNED 12'X30'X10' +/- HIGH MODULAR ACCESSORY BUILDING FOR RADIO AND TELEPHONE EQUIPMENT WITHIN A 45' × 50' FENCED COMPOUND.

13. FLOOR AREA RATIO: N/A 14. THERE ARE NO PREVIOUS ZONING CASES ON FILE FOR THIS PROPERTY.

IS. REQUIRED SETBACKS:

FOR NON-RESIDENTIAL PRINCIPAL BUILDINGS IN THE D.R.I ZONE FRONT 70'

SIDE 40'
REAR 50'

REQUIRED SETBACKS FOR 100 FOOT TALL MONOPOLE ANTENNA, 200 FEET TO PROPERTY LINES ON ALL SIDES

SETBACKS PROVIDED TO THE PROPOSED 100 FOOT MONOPOLE : SIDE : 267' +/- (EAST SIDE PROPERTY LINE), 224'+/- (WEST SIDE PROPERTY LINE)

I6. AN ENVIRONMENTAL IMPACT STATEMENT, AS DEFINED IN SECTION 101 OF THE BALTIMORE CO. ZONING ORDINANCE SHALL BE SUBMITTED TO THE ZONING COMMISSIONER PRIOR TO THE HEARING. 17. ENTIRE SITE IS WOODED.

18. THERE ARE NO FIRE HYDRANTS WITHIN 500' OF THIS PROPERTY.

EVERY FIVE YEARS, OR SOONER IN THE EVENT OF SUBSTANTIAL DAMAGE, A CERTIFICATION BY A PROFESSIONAL ENGINEER REGISTERED IN MARYLAND SHALL BE FILED WITH THE DEPARTMENT OF PERMITS AND LICENSES INDICATING THAT THE AFORMENTIONED 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 PROIR TO THE FILING OF SUCH CERTIFICATION.

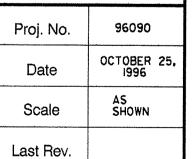
20. NO WHITE STROBOSCOPIC LIGHTS ARE PERMITTED.

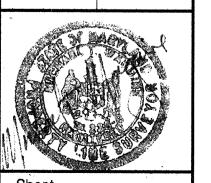
ATTORNEY: ROBERT A. HOFFMAN, ESQ.
VENABLE, BAETJER AND HOWARD
210 ALLEGHENEY AVE.
TOWSON, MD. 21204
(410) 823-4111

REQUESTED ZONING ACTIONS

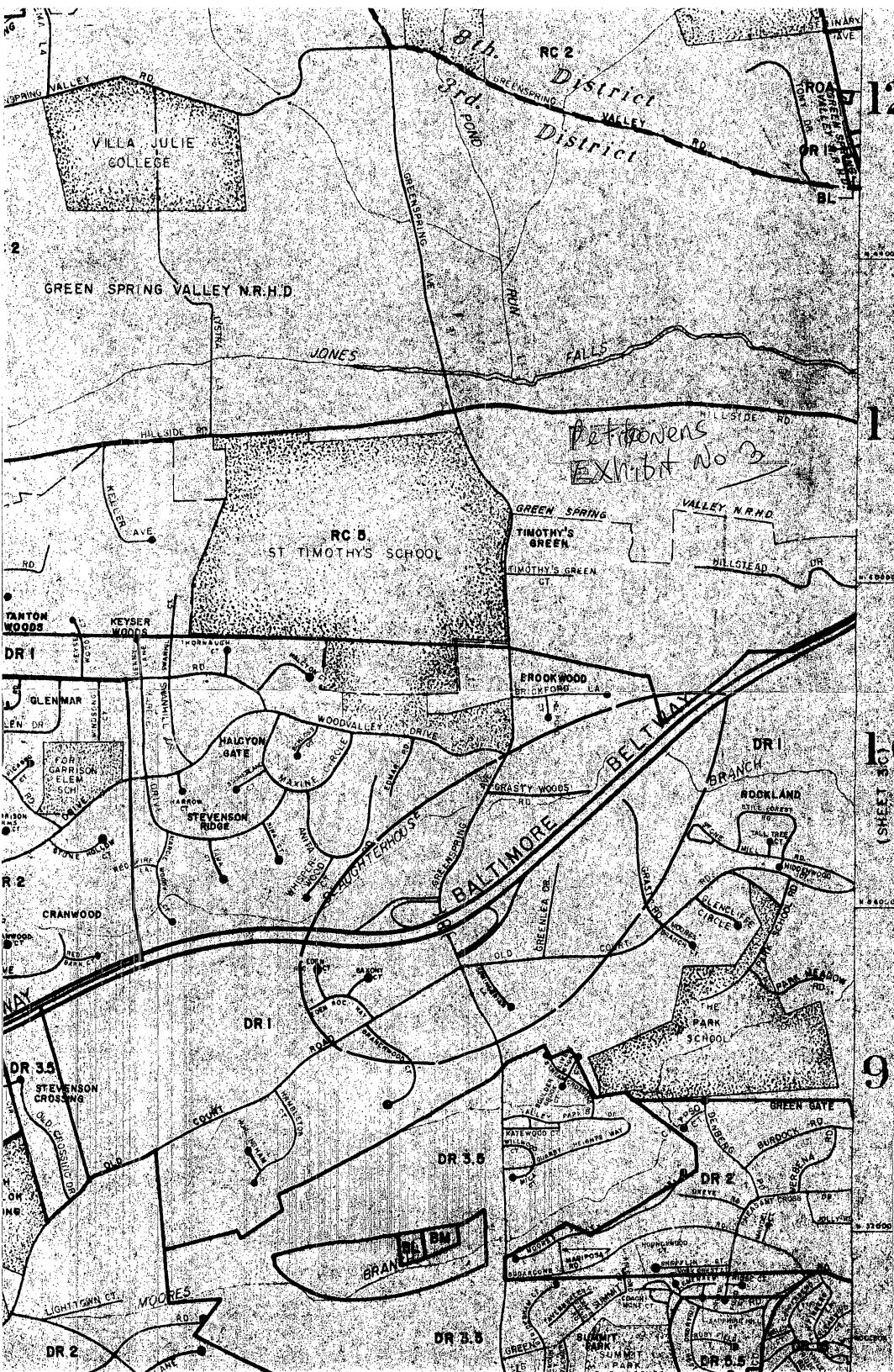
SPECIAL EXCEPTION PURSUANT TO SECTION IBOI. C.20 TO PERMIT A WIRELESS TRANSMITTING AND RECEIVING FACILITY IN A D.R.I ZONE. VARIANCE FROM B.C.Z.R. SECTION 502.7.C.2 TO PERMIT A 100 FOOT MONOPOLE WITHIN 104 FEET OF THE FRONT PROPERTY LINE AND 80 FEET FROM THE REAR PROPERTY LINE IN LIEU OF THE REQUIRED 200 FEET. VARIANCE FROM B.C.Z.R. SECTION 502.7.C.3 TO PERMIT A WIRELESS TRANSMITTING AND RECEIVING FACILITY ON A SITE OF 2.61 ACRES IN LIEU OF THE REQUIRED 5 ACRES.

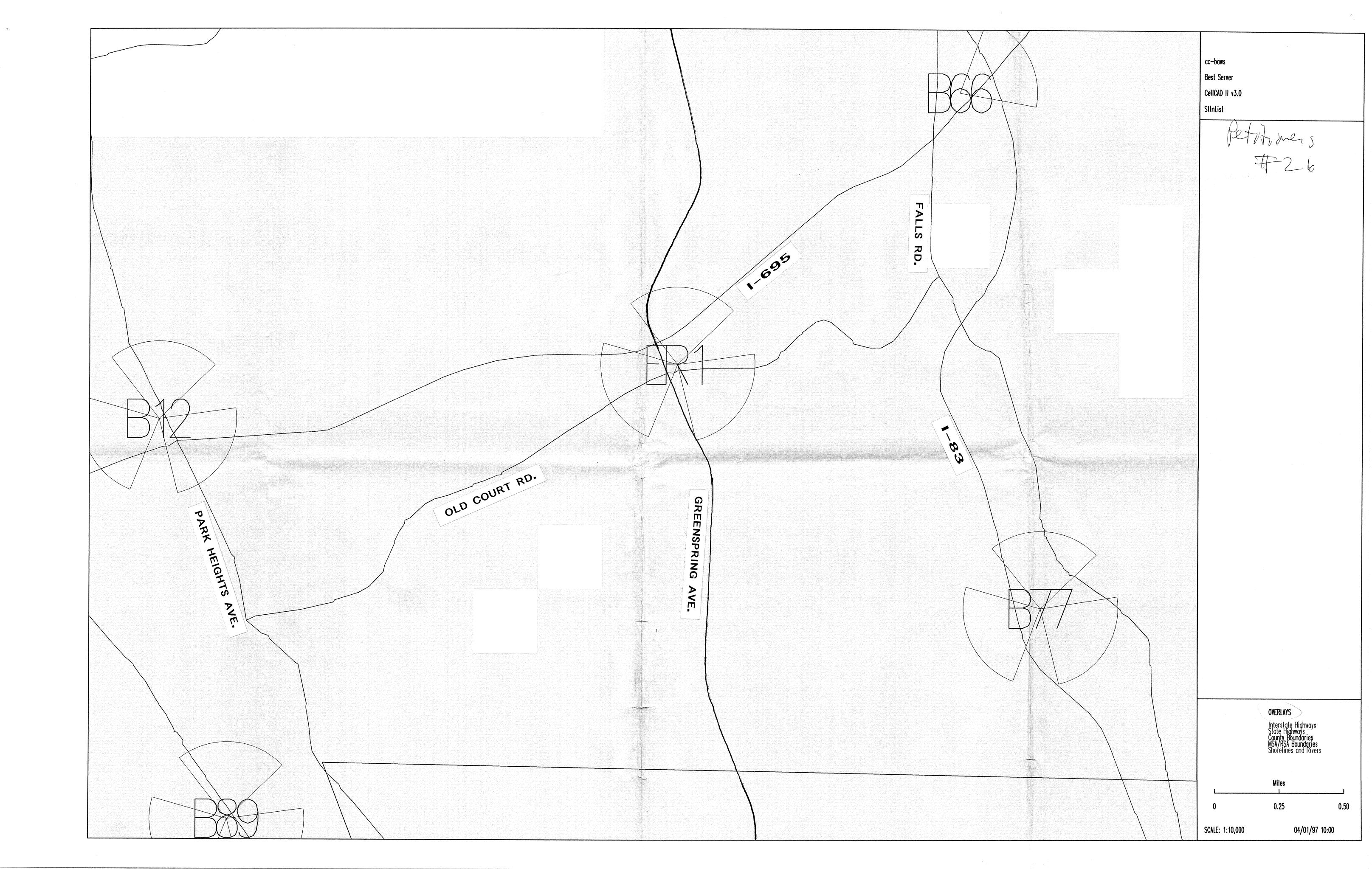
Bell Atlantic
NYNEX Mobile
SITE PLAN TO ACCOMPANY PETI
GREENSPRING
BLT M95EX22
THIRD ELECTION DISTRICT REVISE COMPOUND LOCATION DEC. 19, 1996 SHOW ONE PROVIDER FEB. 4, 1997 3 SHOW RTA ADD NOTES 19, 20 FEB. 14, 1997
4 ADD RTA BUFFER FEB 27, 1997 No. Description Date REVISIONS

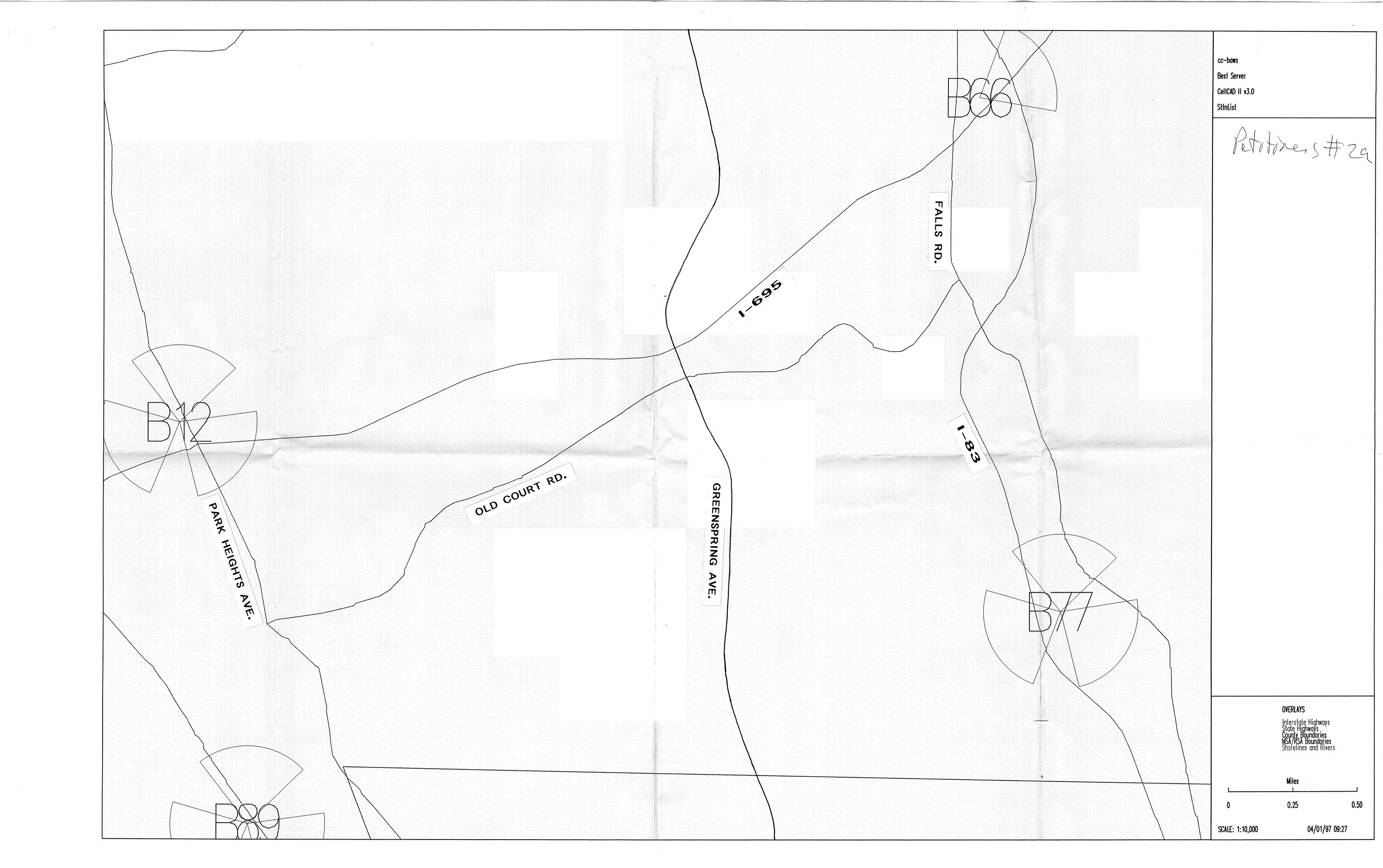




1 OF 1







IN RE: PETITIONS FOR SPECIAL EXCEPTION *

AND VARIANCE - N/S Old Court Road,

126' E of Greenspring Avenue * ZONING COMMISSIONER

(Greenspring/Beltway I-695 Ramp)

3rd Election District * OF BALTIMORE COUNTY

2nd Councilmanic District

Case No. 97-352-XA

BEFORE THE

Elaine Ann Trott, Legal Owner

Bell Atlantic Nynex Mobile, Contract Lessee

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance for property located at the northeast corner of Old Court Road and Greenspring Avenue at the Baltimore Beltway (I-695) in Stevenson. The Petitions were filed by the owner of the property, Elaine Ann Trott, and Bell Atlantic Nynex Mobile, Contract Lessee, through their attorney, Robert A. Hoffman, Esquire. The Petitioners seek special exception relief, pursuant to Section 1B01.1.C.20 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a wireless transmitting and receiving facility on D.R.1 zoned land. In addition, variance relief is sought from Section 502.7.C of the B.C.Z.R. to permit a 100-foot tall monopole to be located 104 feet from the front property line and 80 feet from the rear property line in lieu of the required 200-foot distance from each; and from Section 502.7.C.3 to permit a wireless transmitting and receiving facility to be located on a site containing 2.61 acres in area, in lieu of the required 5 acres. The subject property and relief requested 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 Petitioners were Maurice
Thompson, II, Kent Lutz, and Audrey Schaefer, all representatives from
Bell Atlantic Nynex Mobile, and several expert consultants retained by the

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Petitioners, namely, George Frizzel, an appraiser, Jules Cohen, an engineer, Spencer Ginder, a radio frequency engineer, and Robert Morelock, a landscape architect with Daft-McCune-Walker. The Petitioners were represented by Robert A. Hoffman, Esquire, and Venable, Baetjer & Howard, LLP.

This case generated significant interest from surrounding property owners. Many individuals appeared at the hearing and their attendance is reflected on the Sign In Sheets. Among those who appeared and participated at the hearing were Phyllis Friedman, on behalf of the Helmsley Court Homeowners' Association, Elaine O'Mansky, on behalf of the Old Court Road/ Greenspring Homeowners' Association, Donna Weiss, and Stan Stovall.

An examination of the site plan shows that the property is roughly triangular in shape, and contains 2.61 acres in area, zoned D.R.1. As noted above, the property lies adjacent to the intersection of Old Court Road and Greenspring Avenue and on the south side of the entrance ramp from Greenspring Avenue onto the Baltimore Beltway (I-695). Presently, the site is unimproved; however, the Contract Lessee, Bell Atlantic Nynex Mobile, proposes to construct a 100-foot monopole on the property as shown on the site plan. A small portion of the site (approximately 50' x 45' in area) will be cleared to accommodate the tower and a small building (12' x 30') at its base. This building will be unmanned; however, will contain the equipment necessary for the antennae mounted on the monopole to function. A small road will be constructed to provide access to these improvements from Old Court Road, and the entire area will be enclosed with a fence.

The hearing conducted for this case consumed nearly an entire day and numerous witnesses were presented. The following is but a summary of their testimony. Spencer Ginder, an RF engineer retained by Bell Atlantic Nynex Mobile, appeared and testified. He described in general terms the

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business of Bell Atlantic Nynex Mobile; to wit, the providing of mobile communications. He indicated that the company was establishing a mobile communications network in the Baltimore Washington Metropolitan area. The geographic network established is divided into a series of grids. Each grid contains a station for wireless transmitting and receiving antennae. Frequently these antennae are mounted on existing buildings, water towers, or other structures of sufficient height. However, when no such structure can be located in a particular area, a monopole is built and the antennae are installed thereon.

Mr. Ginder produced a series of exhibits, including Petitioner's Exhibits 2A and 2B, which show existing and contemplated conditions in the area. Petitioner's Exhibit 2A demonstrated Mr. Ginder's testimony that there is a "hole" in Bell Atlantic's grid network in this locale. He explained that this hole was caused by the topography of the land and the fact that there are no existing antennae in this area. As a result of this hole, a mobile telephone user's connection on the system is dropped when the user enters this area. In order to cure this problem, Bell Atlantic wishes to install a monopole and its antennae on the subject property. Mr. Ginder indicated that the installation of this equipment would cure Bell Atlantic's coverage problems (See Petitioner's Exhibit 2B).

Mr. Ginder also described the operation of the equipment and network. He testified that the power levels generated by the antennae are extremely low and will not be detrimental to the public health. He further described Bell Atlantic's system as employing "line of sight technology" which requires its low level towers to be located in relatively close proximity to one another. Mr. Ginder also produced Petitioner's Exhibit 3, a map of the search area in the vicinity where the tower must be located.

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on the property. He also testified as to the special exception and variance relief requirements as set forth in the B.C.Z.R.

Lastly, Jules Cohen, a recognized RF expert, also testified. Mr. Cohen's persuasive testimony was that the use complies with all Federal standards and that there would be minimum levels of radio waves emitted. He believes that the tower is appropriate and that the proposed location does not present any danger to the public health.

A number of neighbors appeared in opposition. Donna Weiss observed that the property was significantly undersized and that the variance requests were "major". Stan Stovall, another property owner, appealed more directly to Bell Atlantic Nynex Mobile. He believes that the tower would be inconsistent with the surrounding neighborhood and that the attractiveness of the neighborhood would be threatened. Mr. Stovall indicated he would rather not have mobile telephone service in the area than have the tower. Testimony was also received from Elaine O'Mansky, on behalf of the Old Court/Greenspring Homeowners' Association. She also believes that the variance relief sought should be denied in that the proposal substantially fails to meet the setback and size requirements. Her testimony was echoed by Phyllis Friedman, an attorney and representative of the Helmsley Court community association.

As noted above, this matter comes before the Zoning Commissioner as a Petition for Special Exception. I have often considered other Petitions for Special Exception and have frequently stated my interpretation of the law thereof.

As has been frequently stated, the B.C.Z.R. classified the permissibility of land uses in a given zone in one of three categories. For each zone, uses are either: 1) permitted as of right; 2) prohibited; or,

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3) permitted by special exception. Those uses permitted by right are automatically allowed, notwithstanding any potential adverse impact. Uses prohibited are not allowed, no matter how benign or favorable their impact may be. Special exception uses, in effect, constitute a middle ground. They are permitted only after a public hearing during which the Petitioner must comply with the statutory requirements imposed by the B.C.Z.R. A wireless transmitting and receiving facility is permitted in the D.R. 1 zone by special exception.

The words "special" and "exception" when combined to identify these middle ground uses, cause confusion to the public and others unfamiliar with the zoning code. Uses identified by special exception, in most cases, are not "special", nor are they "exceptions". A better description would be to label these uses as "conditional". This word is far more accurate. Indeed, special exception uses are conditionally permitted, assuming the criteria set forth in Sections 502.1 and 502.7 of the B.C.Z.R. are satisfied.

In <u>Schultz v. Pritts</u>, 291 Md. 1, (1981) the Court of Appeals issued perhaps the leading opinion dealing with special exceptions in Maryland. In its opinion, the Court stated the often repeated principle that "The special exception use is part of the comprehensive zoning plan sharing the presumption that, as such, it is the interest of the general welfare and therefore, valid." Schultz, Page 11.

In <u>Creswell v. Baltimore Aviation Services, Inc.</u>, 257 Md. 712 (1970), the Court of Appeals observed that a special exception use "...is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular zone, the condition being that a zoning body must, in each case, decide under speci-

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fied statutory standards, whether the presumptive compatibility exists."

Thus, in this case, the Baltimore County Council (the legislature) has determined that a wireless transmitting and receiving facility (an identified special exception use) is conditionally compatible with uses permitted as of right in the D.R. zone (e.g., dwellings), provided that the zoning body (this Zoning Commissioner) decides that the specified standards (Sections 502.1 and 502.7 of the B.C.Z.R.) are satisfied. Thus, it is important to note the presumptive appropriateness of a proposed special exception use, under the law.

Moreover, in considering the impact of the proposed special exception use, this Zoning Commissioner must be mindful of the Court of Special Appeals' opinion in Mossburg v. Montgomery County, (107 Md. App.1 (1995). In that case, the Court was called upon to discuss how the statutory criteria (Sections 502.1 and 502.7) should be applied in a given case.

Specifically, the Court recognized that all special exception use carry with them some adverse impact. In the instant case, it is undisputed that the proposed monopole will have an aesthetic impact and produce radio waves in this vicinity. Moreover, it is not beyond serious dispute that these impacts are of a negative nature to a residential community. However, the mere existence of negative impacts does not warrant denial of the Petition for Special Exception. As succinctly stated by the Court in Mossburg, "Moreover, it is not whether a use permitted by way of a special exception will have adverse effects (adverse effects are implied in the first instance by making such uses conditional uses, or special exception uses, rather than permitted uses), it is whether the adverse effects in a particular location would be greater than the adverse effects

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the agency." (Pg. 8). In Mossburg, the Court was to consider a special exception use to permit a solid waste transfer station. The Court noted that such a facility inherently has negative effects, but stated, "The question is not whether the solid waste transfer station has adverse effects. It inherently has them. The question is also not whether the solid waste transfer station at issue will have adverse effects at this proposed location. Certainly, it will and those adverse effects are contemplated by the statute. The proper question is whether those adverse effects are above and beyond, i.e., greater here than they would generally be elsewhere within the areas in the County where they may be established..." (Pg. 9).

In applying this standard to the case at issue, I must grant the Petition for Special Exception. The Petitioners presented a thorough and overwhelming case as to each of the considerations set forth in Sections 502.1 and 502.7 of the B.C.Z.R. The Protestants largely object to the aesthetic impact of a 100-foot monopole on nearby residences and the radio waves which will be generated by the equipment. There was no persuasive evidence that those impacts, inherently objectionable, are any worse here than elsewhere in the D.R.1 zone. The Petition for Special Exception, therefore, must be granted.

In addition to the special exception relief sought, the Petitioners ers have also requested variance relief. As noted above, the Petitioners seek approval to erect its monopole on a lot 2.61 acres in area, in lieu of the required 5 acres, and with setbacks of 104 feet and 80 feet in lieu of the required 200 feet each. The 200-foot setback requirement is triggered

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by Section 502.7.C of the B.C.Z.R., which requires a minimum property line setback of twice the height of the tower.

In its opposition to the Petition for Variance, the Protestants cite Evans v. Shore Communications, Inc., et al, 112 Md. App. 284 (1996). The Evans case is a recent decision from the Court of Special Appeals regarding the proposed construction of a mobile communications tower in Talbott County on Maryland's eastern shore. The Court discussed the application of the facts presented in that case to the law of special exceptions and variances in Maryland. Interestingly, as to special exceptions, the Court's opinion cited, with favor, Schultz and Mossburg, infra, which were earlier cited herein. The Court repeated again the often held principle that special exceptions are part of the comprehensive zoning process an are presumptively valid. The Court affirmed the lower Court's remand to the County Board of Appeals to grant the application for special exception.

The Protestants in the case before me, however, rely on the Evans' Court treatment of the request for variance. In Evans, the variance request was denied by the Board of Appeals; said denial affirmed by the Circuit Court, and again by the Court of Special Appeals.

In support of its request for variance, the Petitioner in Evans contended that the property was unique for three reasons; namely, that the property was just outside a distance of three miles from another tower; that the property was the only property in the vicinity that would accommodate the networking requirements for the cellular communication providers; and, that the property was one of the highest elevations in the general vicinity. The three-mile limitation was part of the County zoning ordinance which prohibits towers from being located closer than three miles

from one another. The Court of Special Appeals summarily rejected the Petitioner's three-mile argument commenting that any property more than three miles from another tower would, by logical extension of the Petitioner's argument, be unique. Such is not obviously the case. As to the other two contentions, the Court of Special Appeals found the Board of Appeals' conclusions that the subject property was not unique, "fairly debatable." The Court affirmed the lower Court's denial of the variances. The Court of Special Appeals also discussed the doctrine of self-imposed hardship as well as what constitutes "practical difficulty" or "unwarranted hardship".

The Protestants also cite, as support for their opposition to the variance, Cromwell v. Ward, 102 Md. App. 691 (1995). This frequently cited case (by Protestants in many zoning cases) is familiar to this Zoning Commissioner. The case arose from a Petition for Variance initially considered by me in Baltimore County. Judge Cathell's harsh condemnation of his perceived ease at which variances are granted is duly noted.

In considering variances, the Court of Special Appeals opined in Cromwell that the zoning authority's first task is to determine whether there exists a peculiar characteristic or unusual circumstance relating only and uniquely to the subject property. Only if such a unique and peculiar characteristic exists can the zoning authority then move on to the remaining portions of the variance test; whether practical difficulty or unreasonable hardship would exist if relief were denied; and, whether the relief would adversely impact neighboring properties.

only the property's location within its grid network, a finding of uniqueness could not be made. The Board of Appeals in Talbott County rejected

such an argument in <u>Evans</u>, and the <u>Cromwell</u> opinion likewise can be read to reject such an approach.

However, the facts presented in this case demonstrate that the Petitioners rely not just on the property's location relative to its network system as a basis for its position that the property is unique. In this regard, the testimony of Mr. Morelock was particularly relevant. Mr. Morelock testified that the property's shape and configuration make it He noted that the property has frontage on three roadways (Greenunique. spring Avenue, Old Court Road, and the Baltimore Beltway (I-695) entrance ramp) and also commented upon the shape, topography and other factors which he believes are peculiar to this property. More importantly, he testified about the historical evolution of the subject property. Specifically, he noted that the property was originally part of a tract which was 6.8 acres in size. Obviously, a property of that size would be sufficient to meet the minimum area requirement (5 acres) and no doubt, the additional acreage would provide more room for the setback requirements to be satisfied. Mr. Morelock also testified in detail that portions of the property were acquired by the State in order for the Beltway and access ramp thereto to be constructed. These takings reduced the property to its present configuration and size, and in Mr. Morelock's opinion, makes the site unique.

In <u>Cromwell</u>, the Court cited, with favor, the decision rendered in <u>North v. St. Mary's County</u>, 99 Md. App. 502 (1994), wherein unique was defined as "...an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." Judge Cathell also

commented upon the uniqueness found by the Court in McLean v. Soley, 270 Md. 208 (1973) wherein variance relief was approved. Judge Cathell particularly noted that the presence of trees on a particular lot may be a factor which could make that lot unique.

In my judgment, the factors described by Mr. Morelock make the property unique. I am particularly impressed with the evolution of this property to its present size and configuration. Having determined that the property is unique, attention is turned to the next requirement, that the Petitioners satisfy the practical difficulty or unreasonable hardship test. This test has also been repeatedly described and delineated by the Appellate Courts in McLean, Cromwell, supra., and other cases cited above.

In this case, denial of the variance from area requirements simply because the property lacks sufficient acreage would be inappropriate. Carried to its logical conclusion, such a finding would make every undersized lot ineligible for variance relief, and, in certain cases, a permitted purpose. That is, notwithstanding the Protestants argument, the fact that the property is less than the minimum acres in size does not, in and of itself, mean that it is unacceptable for the proposed use. To the contrary, the property appears to be an appropriate location for the proposed tower, given its proximity to the Baltimore Beltway, topography, and existing trees, which will screen the tower. In my judgment, the Petitioners will suffer a practical difficulty if the variance relief is denied.

As to the setbacks, Mr. Morelock's testimony was also persuasive. Due to the unusual configuration of the property, he noted that there is no place on the site where a 100-foot tower could be erected that would meet the 200-foot setback requirement. The property is too narrow in

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from all property lines. Mr. Morelock's testimony and that of the other Petitioners' witnesses was that efforts had been made to place the tower at a location as far away from adjoining residential uses as possible, yet close enough to perform its intended purposes.

As to the final variance test, I also find that a grant of the relief will not cause adverse impact on adjacent properties. My findings in this regard are based upon the cumulative testimony offered.

Based on the testimony and evidence presented, I am persuaded that the Petitioners have met the variance requirements set forth in Section 307, as construed by case law. The facts presented in this case are persuasive and convincing that the Petitioners have met their burden.

For these reasons, I will grant both the Petitions for Special Exception and Variance. However, in so granting, I will impose conditions upon the relief to assure that adjoining properties are not adversely impacted by the proposed use. I exercise this discretion, pursuant to the applicable provisions of the B.C.Z.R.

the Petitioners' efforts to disguise the tower to create an appearance similar to a tree. The monopole itself will be coated with material to resemble bark and false leaves will decorate the top of the tower. Obviously, the tower must, in fact, be constructed as shown on the site plan with these features. Secondly, the building constructed at the base of the tower shall be of the dimensions reflected on the site plan. Moreover, it shall be "dressed up" to resemble a residential structure. Testimony was offered by the Petitioners that changes can be made to the building's exterior so that same mimicks a shed, garage, or other similar

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residential accessory structure. In this regard, I will require that the Petitioners make such changes. A plan showing the building shall be submitted and approved by the Office of Planning. I will leave it to that Office's expertise to approve the details; however, suggest such revisions to the building as to roof pitch, false windows, building exterior, etc.

Third, although the property is screened by existing foliage, the building and perimeter of the fenced in area at the base of the tower shall be further buffered. Many of the trees are deciduous and obviously the foliage is reduced during the winter months. Thus, the Petitioners shall submit a landscape plan for review and approval by the County's Landscape Architect. In this regard, it is my intent to require the Petitioners to install evergreens and similar plants/tree material around the base of the tower. Even in the event of the loss of existing foliage, the building will be appropriately screened from adjacent residential uses. Screening from the Beltway is obviously not necessary.

A final comment is appropriate about the impact of Resolution 27-97, passed by the County Council on April 7, 1997. This non-binding resolution was passed after the hearing on this case, thereby precluding any opportunity for the parties to comment or argue about its impact. The resolution urges County agencies and offices to withhold approvals and/or permits for the construction or siting of towers if a sufficient amount of existing tower space is available to accommodate potential users and until additional legislation is considered.

The Zoning Commissioner is not a part of the legislative branch of County government. My role is not to adopt legislation. Rather, I am required to interpret the existing provisions of the B.C.Z.R., as construed

by the case law, in accordance with the County Charter and Baltimore County Code. I apply these regulations to each case which comes before me.

I encourage the Council to pass such legislation as is necessary to bring the zoning regulations up to the advances in technology which have increased the demand for wireless transmitting and receiving facilities. Nonetheless, I will not presuppose what that legislation will be or impose my judgment as to what it should be. Under the present law, I feel bound to approve the Petitions before me in this case.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the special exception and variance relief shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of April, 1997 that the Petition for Special Exception to permit a wireless transmitting and receiving facility on D.R.1 zoned land, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

relief from Section 502.7.C of the B.C.Z.R. to permit a 100-foot tall monopole to be located 104 feet from the front property line and 80 feet from the rear property line in lieu of the required 200 feet from each, and from Section 502.7.C.3 to permit a wireless transmitting and receiving facility to be located on a site containing 2.61 acres in area, in lieu of the required 5 acres, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

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1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such

time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

- 2) Prior to the issuance of any building permits, the Petitioners shall submit a plan for review and approval by the Office of Planning of the building to be constructed at the base of the tower. Said plan shall depict how the building shall be modified to resemble a residential structure.
- 3) Prior to the issuance of any use and occupancy permits, the Petitioners shall submit a landscape plan for review and approval by the County's Landscape Architect. Said plan shall incorporate evergreens and similar plants/tree material around the base of the tower to insure that even in the event of the loss of existing foliage, the building will be appropriately screened from adjacent residential uses.
- 4) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:bjs



Baltimore County Zoning Commissioner Office of Planning and Zoning

April 16, 1997

Suite 112, Courthouse 400 Washington Avenue Towson, Maryland 21204 (410) 887-4386

Robert A. Hoffman, Esquire Venable, Baetjer & Howard 210 Allegheny Avenue Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION and VARIANCE
N/S Old Court Road, 126' E of Greenspring Avenue
(Greenspring/Beltway I-695 Ramp)
3rd Election District - 2nd Councilmanic District
Elaine Ann Trott, Legal Owner
Bell Atlantic Nynex Mobile, Contract Lessee
Case No. 97-352-XA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Variance have been granted 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,

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES:bjs

cc: Ms. Elaine Ann Trott 7913 Juniper Drive, Annapolis Junction, Md. 20701

Mr. Maurice Thompson, Bell Atlantic Nynex Mobile, 9000 Junction Drive, Annapolis Junction, Md. 20701

Phyllis Friedman, Esquire, 19 Hambleton Court, Pikesville, Md. 21208

Ms. Donna Weiss, 1 Springbriar Lane, Baltimore, Md. 21208

Mr. Stan Stovall, 2742 Old Court Road, Baltimore, Md. 21208 Ms. Elaine O'Mansky, 2 Saxony Court, Baltimore, Md. 21208

Office of Planning; People's Counsel; Case File



Petiton for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at

North side of Old Court Rd., approximately 126' east of Greenspring Ave.

97-352-XA

which is presently zoned DR1

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 part of 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 DR1 zone pursuant to Section 1B01.1.C.20 of the Baltimore County Zoning Regulations.

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 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:			Legal Owner(s):		
Bell Atlantic NYNEX Mobile		<u></u>	Elaine Ann Trott	, , , , , , , , , , , , , , , , , , , ,	<u></u>
(Type or Print Marine) By Manuary Marine	- p-ks	7	(Type or Print Name) Elaine ann	Trott	2
Signature Maurice Thompson, IV, Re	al Estate C	onsultant	Signature		
9000 Junction Drive			(Type or Print Name)		<u></u>
Anapelis Junction	MD	20701			
And the lis Junction	State	Zipcode	Signature		
			7913 Juniper Drive	(410) 49	والمستنبين والمنافذ والمستنبين والمستنبين والمستنبين والمستنبين والمستنبين والمستنبين والمستنبين والمستنبين
Attorner for Petitioner:			Address		Phone No.
Robert A. Hoffman			Annapolis Junction	MD	20701
en Baetjer and Howard, LLi	P	·	City	State	Zipcode
Type Prim Alame)	· · · · · · · · · · · · · · · · · · ·		Name, Address and phone number of legal owner, contract purchaser or representati to be contacted.		
		Robert A. Hoffman Venable, Baetjer and Howard, LLP			
Signature	····	<u> </u>	Name		· !
210 Allegheny Ave.		(410) 494-6200	210 Allegheny Ave, Towson,	MD 21204	(410) 494-6200
Address		Phone No	Address		Phone No.
Towson	MD	21204	OF OF	FICE USE ONLY	
City	State	Zlpcode	ESTIMATED LENGTH OF HEARING	}	₹
DROP. OF	F	k A letin s	unavailable for Hearing the following	······································	
No REV		Journe Administration	Next Two Months	OTHER	;
De meu		\$ #	REVIEWED BY: DATE		1
-1-1		2 Pagement Manager			
2/20/97	40	Elonment Manage			;

97-352-XA

Description

to Accompany Petition for Special Exception

and Variance

2.61 Acre Parcel

North Side of Old Court Road

Third Election District, Baltimore County, Maryland

DMA

Daft MCune 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 the north right-of-way line of Old Court Road (width varies) at the end of the second of the two following courses and distances measured from the point formed by the intersection of the baseline of right-of-way for Old Court Road as shown on the State Roads Commission of Maryland (S.R.C.) Plat No. 24266 with the baseline of right-of-way for Green Spring Avenue (width varies) as shown on S.R.C. Plat Nos. 24265 and 24266 (1) Northeasterly along the baseline right-of-way for Old Court Road 126 feet, more or less, thence radially from the baseline of right-of-way for Old Court Road (2) Northwesterly 30 feet to the point of the beginning, thence leaving said point of beginning and running with and binding on the east right-of-way line of Green Spring Avenue the three following courses and distances, viz: (1) North 63 degrees 11 minutes 11 seconds West 73.30 feet, thence (2) North 35 degrees 46 minutes 57 seconds West 76.49 feet, and thence (3) North 04 degrees 03 minutes 04 seconds East 48.94 feet, thence leaving the east right-of-way line of Green Spring Avenue and running with and binding on the right-of-way line of through highway for I-695 as shown on S.R.C. Plat Nos. 24265 and 24268, the five following courses and distances, viz: (4) North 65 degrees 31 minutes 39 seconds East 75.00 feet, thence (5) North 74 degrees 55 minutes 00 seconds East 214.54 feet, thence (6) North 55 degrees 39 minutes 03 seconds East 188.34 feet, thence (7)

North 34 degrees 39 minutes 50 seconds East 99.45 feet, and thence (8) North 20 degrees 43 minutes 42 seconds East 26.91 feet, thence leaving the said right-of-way line of through highway and running (9) North 88 degrees 21 minutes 04 seconds East 24.94 feet, thence (10) South 01 degrees 53 minutes 14 seconds West 389.28 feet to intersect the right-of-way line of Old Court Road as shown on the S.R.C. Plat No. 24266, thence running and binding thereon, the two following courses and distances, viz: (11) South 84 degrees 32 minutes 39 seconds West 182.32 feet, and thence (12) Southwesterly by a line curving to the left with a radius of 1462.40 feet for a distance of 224.46 (the arc of said curve being subtended by a chord bearing South 80 degrees 08 minutes 46 seconds West 224.23 feet to the point of beginning; containing 2.61 acres of land, more or less.

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

November 25, 1996

Project No. 96090 (L96090)



Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at # @ N/E COLNEL OLD COUNTY OF AVENUE # OAD AND GREENSPRING AVENUE The sign(s) were posted on 3/15/97 (Month, Day, Year)	Date of Hearing/Closing: 4/2/97 Baltimore County Department of Permits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue Flowson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at # N/E CONNEL OLD COUNTY OF N/E CONNEL OLD COUNTY ON N/E CONNEL OLD COUNTY OF N/E CONNEL OLD COUNTY ON N/E C		RE: Case No.: 7/- 252 //
Date of Hearing/Closing: 4/2/97 Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #	Date of Hearing/Closing: 4/2/97 Baltimore County Department of Permits and Development Management County Office Building, Room 111 11 West Chesapeake Avenue Flowson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at # N/E CONNEL OLD COUNTY OF N/E CONNEL OLD COUNTY ON N/E CONNEL OLD COUNTY OF N/E CONNEL OLD COUNTY ON N/E C		Petitioner/Developer: TROTT, ETAL
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at ### N/E COUNTED OLD COUNTED COAD AND GREENSPRING AVENUE The sign(s) were posted on 3/15/97 (Month, Day, Year) Sincerely, Fallow M. O'Keefe (Printed Name) 523 Penny Lone (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-6366 Pager (410) 64	Date of Hearing/Closing: 4/2/97 Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Fowson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #@ N/E connect old county Road AND GREENSPRING AVENUE The sign(s) were posted on		
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at ### N/E CONSEL OLD COUNTY CONSEL OLD COUNTY C	Saltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Flowson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #ONE COLLECTION AVENUE LOAD AND GREENSPRING AVENUE The sign(s) were posted on 3/15/97 (Month, Day, Year)		
Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at ROAD AND GREENSPRING AVENUE The sign(s) were posted on	Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Fowson, MD 21204 Attention: Ms. Gwendolyn Stephens Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #### N/E COLNEL OLD COUNTY AVENUE ##### AVENUE The sign(s) were posted on 3/15/97 (Month, Day, Year) Sincerely, Farmed Mane Sincerely Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-5366 Pager (410) 66		Date of Hearing/Closing:/_/
Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #@ N/E CORNER OLD COUNTY OLD COUNTY OLD COUNTY OLD AND GREENSPRING AVENUE The sign(s) were posted on 3/15/97 (Month, Day, Year) Sincerely, Gignature of Sign Poster and Date)	Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #@ N/E COENER OLD COUNTY AVENUE LOAD AND GREENSPRING AVENUE The sign(s) were posted on (Month, Day, Year) Sincerely, When the penalties of perjury that the necessary sign(s) required by law were posted on ## @ N/E COENER OLD COUNTY AVENUE Sign(s) were posted on (Month, Day, Year) Sincerely, Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)	Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
This letter is to certify under the penalties of perjury that the necessary sign(a) required by law were posted conspicuously on the property located at # O N/E COENEL OLD COUR POAD AND GREENSPRING AVENUE The sign(s) were posted on (Month, Day, Year) Sincerely, Sincerely, Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)	This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #ON/E CORNEL OLD COUNTY	Attention: Ms. Gwendolyn Stephens	
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #	This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at #ON/E CORNEL OLD COUNTY	Ladies and Gentlemen:	
(Signature of Sign Poster and Date) Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)	(Signature of Sign Poster and Date) Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)	The sign(s) were posted on	3/15/97 (Month, Day, Year)
(Signature of Sign Poster and Date) Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)	(Signature of Sign Poster and Date) Patrick M. O'Keefe (Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code)		
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(Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-5366 Pager (410) 64	(Printed Name) 523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-5366 Pager (410) 6		•
523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-5366 Pager (410) 64	523 Penny Lane (Address) Hunt Valley, MD 21030 (City, State, Zip Code) (410) 666-5366 Pager (410) 6		
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(410) 666-5366 Pager (410) 64	(410) 666-5366 Pager (410) 6		
			(City, State, Zip Code)

97-352-XA OLD CT. & GREENSPRING AVE, 3/15/97

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

No. 028527

DROP-OFF --- NO REVIEW
TTEM #352

2/20/97 - 001~6150 ACCOUNT_ DATE AMOUNT_\$550.00 RECEIVED Venable, Beetjer & Howard FROM:-#020 - VARIANCE #050 - SPECIAL EXCEPTION NEC Old Court Road & Greenspring Avenue FOR:

OLADONOOBOMICHRC BA COOY#25AMO2-24-97 \$550.00



VALIDATION OR SIGNATURE OF CASHIER

FICE OF BUDGET & FINANCE MISCELLANEOUS RECEIL		No. 03580	0	#100 H
DATE 3/4/97	ACCOUNT	001-6150		
	AMOUNT \$ 1	00.00 (WCR)	-	
RECEIVED Venable, Baet	jer & Howar	d, LLP		
#110 - RI	_	DROP-OFF NO REVIEW		
DISTRIBUTION WHITE - CASHIER PINK - AGENCY	YELLOW - CUS	TOMER	CABH	ER'S VALIDATION
		-	1.5	`,
The state of the s				
BALTIMORE COUNTY, "OFFICE OF BUDGET & FINAL MISCELLANEOUS RECEIL	`\	No.		R 1177
BALTIMORE COUNTY, "" OFFICE OF BUDGET & FINA	ARYLAND	No.	5 PATTO RECEIPT 05/18/97 01 4 04 Dept 5 502 MISH CR 10. 035845	R 1.1775 CELLANDIS CASH K P-A-T-D
BALTIMORE COUNTY, "" OFFICE OF BUDGET & FINA MISCELLANEOUS RECEIL	ARYLAND	No.	5 05/18/97 01 4 0M Dept 5 502 MISH	CELLANDIS CASH K P-A-I-D nty Karyland
BALTIMORE COUNTY, "OFFICE OF BUDGET & FINAL MISCELLANEOUS RECEIL DATE 5 - 9 - 9 - 7	ARYLAND PT ACCOUNT	No. 03584 P001-6150 460.00	5 05/8/97 01 4 0M Dept 5 502 MISH CR NO. 035845 \$460.00 CH Baltimore Cou	CELLANDIS CASH K P-A-I-D nty Karyland
BALTIMORE COUNTY, MOFFICE OF BUDGET & FINAL MISCELLANEOUS RECEIVED	ARYLAND PT ACCOUNT AMOUNT \$	No. 03584 P001-6150 460.00	5 05/8/97 01 4 0M Dept 5 502 MISH CR NO. 035845 \$460.00 CH Baltimore Cou	CELLANOUS CASH K P-A-I-D nty Karyland

Case: #97-352-XA
NEC Old Court Road and
Greenspring Avenue
3rd Election District
2nd Councilmanic Legal Owner(s): Elaine Ann Trott

Contract Purchaser:

Bell Atlantic NYNEX Mobil

Special Exception: for a wireless transmitting and receiving facility. Variance: to permit a 100 foot monopole within 104 feet of the front property line and 80 feet from the rear property line in lieu of the required 200 feet; and to permit a wireless transmitting and receiving facility on a site of 2.61 acres in lieu of the required 5 acres.

Hearing: Wednesday, April 2, 1997 at 9:00 a.m. in Rm.

108, County Office Building,

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations.
Please Call 887-3353.

(2) For information concern-ing the File and/of Hearing, Please Call 887-3391

3/034 March 6 C124388

CERTIFICATE OF PUBLICATION

TOWSON, MD.,	3/6.	1997
THIS IS TO CERTIFY, that	t the annexed advertiseme	ent was
published in THE JEFFERSONIA	N, a weekly newspaper pu	ıblished
in Towson, Baltimore County, Md		
weeks, the first publication appea	aring on 316 .	1997.
TE	ie jeffersonian,	
	Henrelson	3
LEG	AL AD TOWSON	

Request for Zoning: Variance, Special Exception, or Special Hearing	
Date to be Posted: Anytime before but no later than	
Format for Sign Printing, Black Letters on White Background:	TEM 352

ZONING NOTICE

Case No.: 97-352-XA

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE:	
DATE AND TIME:	
REQUEST: SPECIAL EXCEPTION FOR A WIRELESS TRANSMITTING	
& RECEIVING FACILITY. VARIANCE TO PERMIT A 100-FT.	
MONOPOLE WITHIN 104 FT. OF THE FRONT PROPERTY LINE	
AND 80 FT FROM THE REAR PROPERTY LINE IN LIEU OF	
THE REQUIRED 200 FT.; AND TO PERHIT A WIRELESS	_\
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY. TO CONFIRM HEARING CALL 887-3391.	₹)

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TRANSMITTING AND RECEIVING FACILITY ON A SITE OF 2.61 AC. IN LIEU OF THE REQUIRED 5 AC.



Baltimore County Department of Permits and Development Management

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

February 28, 1997

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-352-XA

NEC Old Court Road and Greenspring Avenue 3rd Election District - 2nd Councilmanic

Legal Owner(s): Elaine Ann Trott

Contract Purchaser: Bell Atlantic NYNEX Mobile

Special Exception for a wireless transmitting and receiving facility.

Varinace to permit a 100 foot monopole within 104 feet of the front property line and 80 feet from the rear property line in lieu of the required 200 feet; and to permit a wireless transmitting and receiving facility on a site of 2.61 acres in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 2, 1997 at 9:00 a.m. in Room 106, County Office Building.

Arnold Jablon

Director

cc: Elaine Ann Trott

Bell Atlantic NYNEX Mobile Robert A. Hoffman, Esq.

sel Jake

NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MARCH 18, 1997.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
- (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



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 25, 1997

NOTICE OF ASSIGNMENT

CASE #: 97-352-XA

IN THE MATTER OF: ELAINE ANN TROTT -Legal Owner; BELL ATLANTIC NYNEX MOBILE -Contract Lessee /Petitioners Greenspring /Beltway I-695 Ramp)
3rd Election District; 2nd Councilmanic

(Petitions for Special Exception and Variance GRANTED with restrictions.)

ASSIGNED FOR:

TUESDAY, NOVEMBER 25, 1997 at 1:00 p.m.

NOTICE:

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

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: 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).

Kathleen C. Bianco Legal Administrator

cc: Appellants /Protestants

: Harry Goldberg /OCG Imp Assn; Cheryl K and Richard B. Jacobs; Stanley V. Stovall; Donna S. and Howard D. Weiss MD

Appellant

: People's Counsel for Baltimore County

Counsel for Petitioners

: Robert A. Hoffman, Esquire

Petitioners

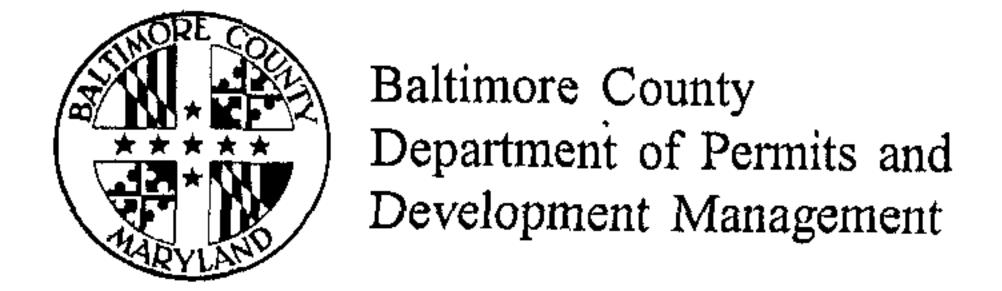
: Elaine Ann Trott /Legal Owner

Bell Atlantic NYNEX Mobile -Maurice

Thompson /Contract Lessee

Phyllis Friedman, Esquire

Pat Keller Lawrence E. Schmidt Arnold Jablon, Director / PDM Virginia W. Barnhart, Co Atty



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

March 27, 1997

Robert A. Hoffman, Esquire Venable, Baetjer & Howard, LLP 210 Allegheny Avenue Towson, MD 21204

RE: Item No.: 352

Case No.: 97-352-XA

Petitioner: Elaine Ann Trott

Dear Mr. Hoffman:

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 February 20, 1997.

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.

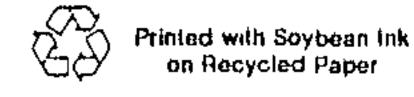
If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.

Zoning Supervisor

WCR/re
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: March 24, 1997

Department of Permits & Development

Management

Robert W. Bowling, Chief Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting

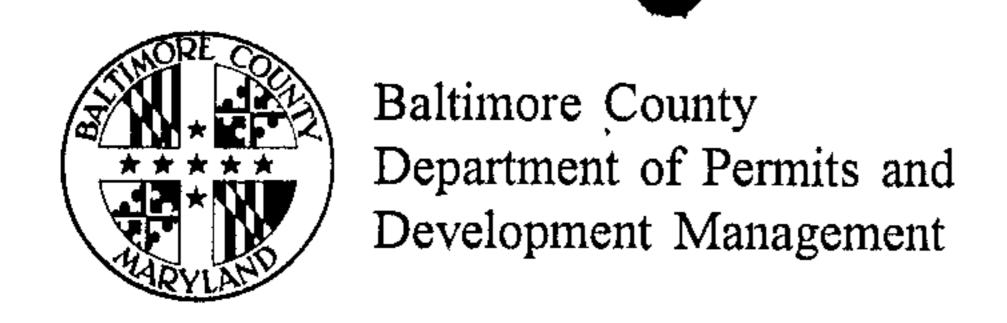
for March 24, 1997 Case No. 97-352-XA

The Development Plans Review Division has reviewed the subject zoning item.

The proposed chain link fence must have it's post. Framing and fabric black vinyl coated. A landscape plan that conforms with previously given landscape comments must be submitted.

RWB:HJO:cab

cc: File



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

March 14, 1997

Robert A. Hoffman, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue P.O. Box 5517 Towson, MD 21204-5517

RE: Drop-Off Revision Review
Case #97-352-XA
Bell Atlantic NYNEX Mobile
3rd Election District

Dear Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced revisions were accepted for filing without a final filing review by the staff. The revisions were accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed no unaddressed zoning issues and/or incomplete information. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Catherine A. Milton

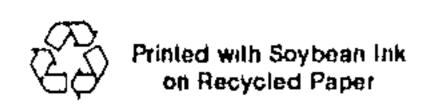
Planner I

Zoning Review

CAM:scj

Enclosure (receipt)

c: Zoning Commissioner



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

Date: March 10, 1997

Department of Permits & Development

Management

FROM: Robert W. Bowling, Chief

Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting

for March 10, 1997

Item No. 352

The Development Plans Review Division has reviewed the subject zoning item. All improvements, intersections, entrances, drainage requirements and construction affecting a State road right-of-way are subject to the Standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

The base should be buffered with Evergreen trees. The surrounding wooded area should be preserved and supplemented with trees in order to fill in the gaps of the woods.

RWB:HJO:jrb

cc: File

TO: PUTUXENT PUBLISHING COMPANY
March 6, 1997 Issue - Jeffersonian

Please foward billing to:

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard, LLP
210
Allegheny Avenue
Towson, MD 21204
494-6200

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 in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 97-352-XA

NEC Old Court Road and Greenspring Avenue 3rd Election District - 2nd Councilmanic

Legal Owner(s): Elaine Ann Trott

Contract Purchaser: Bell Atlantic NYNEX Mobile

Special Exception for a wireless transmitting and receiving facility.

Varinace to permit a 100 foot monopole within 104 feet of the front property line and 80 feet from the rear property line in lieu of the required 200 feet; and to permit a wireless transmitting and receiving facility on a site of 2.61 acres in lieu of the required 5 acres.

HEARING: WEDNESDAY, APRIL 2, 1997 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, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE:

March 4, 1997

TO:

Arnold Jablon, Director

Permits and Development

Management

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. 337 and 352

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 887-3495.

Prepared by:

Division Chief:

PK/JL



David L. Winstead Secretary Parker F. Williams Administrator

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

RE: Baltimore County 3.4.91

Item No.

352 WCR

Dear Ms. Eubanks:

We have reviewed the referenced item and we have no objection to approval, as a field inspection reveals the existing entrance(s) onto MD/US /33 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions. Thank you for the opportunity to review this item.

Very truly yours,

Ronald Burns, Chief

Engineering Access Permits

Division

LG

Baltimore County Government Fire Department



700 East Joppa Road Suite 901 Towson, MD 21286-5500

(410) 887-4500

DATE: March 4, 1997

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 MARCH 3, 1997

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.

The Fire Marshal's Office has no comments at this time, 8. IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

344, 345, 346, 348, 349, 350, 351, and 352

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



BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO:

PDM

DATÉ:

FROM:

R. Bruce Seeley

Permits and Development Review

DEPRM

SUBJECT:

Zoning Advisory Committee

Meeting Date:

3.1997

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

March

Item #'s:

344

345

346

347

348

350

1352

RBS:sp

BRUCE2/DEPRM/TXTSBP

RE: PETITION FOR SPECIAL EXCEPTION

BEFORE THE

PETITION FOR VARIANCE
NEC Old Court Road and Greenspring Avenue *

ZONING COMMISSIONER

3rd Election District, 2nd Councilmanic

OF BALTIMORE COUNTY

Legal Owner(s): Elaine Ann Trott

Contract Purchaser: Bell Atlantic NYNEX Mobile

Petitioners

CASE NO. 97-352-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

People's Counsel for Baltimore County

CAROLE S. DEMILIO

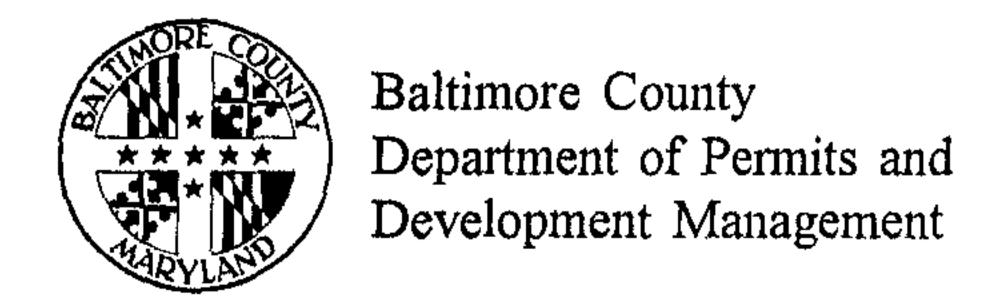
Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue

Towson, MD 21204 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of March, 1997, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN



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

May 16, 1997

Robert A. Hoffman, Esquire Venable, Baetjer and Howard, LLP 210 Allegheny Avenue Towson, MD 21204

RE: Petitions for Special
Exception and Variance
N/S Old Court Road, 126'
E of Greenspring Avenue
(Greenspring/Beltway
I-695 Ramp)
3rd Election District
2nd Councilmanic District
Elaine Ann Trott - Legal
Owner
Bell Atlantic Nynex Mobile
- Contract Lessee
Case No. 97-352-XA

Dear Mr. Hoffman:

Please be advised that an appeal of the above-referenced case was filed in this office on May 8, 1997 by Harry Goldberg on behalf of the Old Court Greenspring Improvement Association, Inc. and Cheryl K. and Richard B. Jacobs, Stanley V. Stovall, and Donna S. and Howard D. Weiss, M.D and on May 13, 1997 by Peter Max Zimmerman and Carole S. Demilio on behalf of the People's Counsel of Baltimore County. 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 410-887-3180.

Sincerely,

ARNOLD JABLON.

Director

AJ:rye

c: People's Counsel

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN People's Counsel Deputy People's Counsel

May 13, 1997

Arnold Jablon, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Hand-delivered

Re: PETITIONS FOR SPECIAL EXCEPTION

AND VARIANCE, NEC Old Court Road

and Greenspring Avenue

3rd Election District, 2nd Councilmanic ELAINE TROTT/BELL ATLANTIC NYNEX MOBILE

Petitioners

Case No. 97-352-XA

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Order dated April 16, 1997 of the Baltimore County Zoning Commissioner in the above-entitled case.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

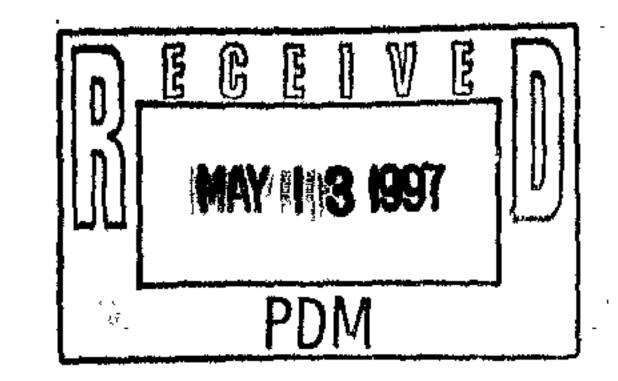
Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/caf



Arnold Jablon, Director
Department of Permits and
Development Management
May 13, 1997
Page Two

cc: Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, P. O. Box 5517, Towson, MD 21209, Attorney for Petitioner

Old Court Greenspring Imp. Assn., Inc., c/o Elaine O'Mansky, V.P., 2 Saxony Court, Baltimore, MD 21208, Protestants

Phyllis Friedman, Esq., 19 Hambleton Court, 21208 Attorney for Helmsley Court Homeowners' Assn.

Arnold Jablon, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re:

PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE, NEC Old Court Road

and Greenspring Avenue

3rd Election District, 2nd Councilmanic

ELAINE TROTT/BELL ATLANTIC NYNEX MOBILE

PETITIONERS
Case No. 97-352-XA

Dear Mr. Jablon:

Please enter an appeal of the Old Court Greenspring Improvement Association, Inc. and Cheryl K. and Richard B. Jacobs, Stanley V. Stovall, and Donna S. and Howard D. Weiss, M.D. to the County Board of Appeals from the Findings of Fact and Conclusions of Law and Order dated April 16, 1997 of the Baltimore County Zoning Commissioner in the above-entitled case.

Enclosed is our check in the amount of \$460.00 for the filing fee. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Old Court Greenspring Improvement Assn., Inc.

By:

Harry Goldberg, President,

in care of Elaine O'Mansky, Vice-President

Two Saxony Court Baltimore, MD 21208 410-484-4884

Cheryl Macoby & Richard B. Jacobs, 2840 Old Court Rd., Baltimore, MD 21208, 410-653-2828

Stanley V. Stovall, c/o W MAR, 6400 York Road, Baltimore, MD 21212, 410-377-2222, ext 570

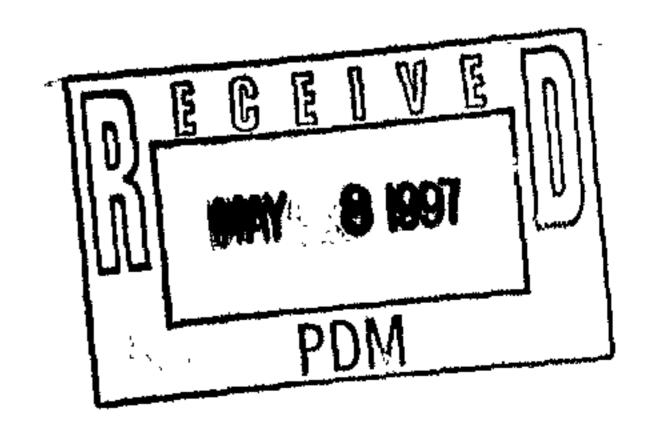
Charles Allerand Juliana

Donna S. Weiss & Howard D. Weiss, MD, One Springbriar Lane, Baltimore, MD 21208, 410-484-6178

cc: Robert A Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, P O Box 5517, Towson, MD 21204, Attorney for Petitioner

Phyllis Friedman, 19 Hambleton Court, 21208

People's Counsel for Baltimore County, Old Courthouse, Room 47 400 Washington Avenue, Towson, MD 21204



APPEAL

Petitions for Special Exception and Variance
N/S Old Court Road, 126' E of Greenspring Avenue
(Greenspring/Beltway I-695 Ramp)
3rd Election District - 2nd Councilmanic District
Elaine Ann Trott - Legal Owner
Bell Atlantic Nynex Mobile - Contract Lessee
Case No. 97-352-XA

Petitions for Special Exception and Variance

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioners' Exhibits:

- 1 Site Plan to Accompany Petitions for Special Exception and Variance
- 2A-B Two Overlays
 - 3 Zoning Map
 - 4 No Exhibit Found
 - 5 Study of Proposed Monopole Site Old Court Road & Greenspring Avenue dated March 14, 1997
 - 6A Photograph
 - 6B Photograph of Eden Roc Site
 - 7A Photograph
 - 7B Photograph of Eden Roc Site
 - 8A Photograph
 - 8B Photograph of Eden Roc Site
 - 9A Photograph
 - 9B Photograph of Eden Roc Site
- 10A Photograph
- 10B Photograph of Eden Roc Site
- 11 Photograph
- 12 Exhibit Not Found
- 13 Exhibit Not Found
- 14 Environmental Impact Statement
- 15 Professional Background of Jules Cohen
- 16 Engineering Statement

Protestants' Exhibit:

1 - Letter from Cheryl and Richard Jacobs to Zoning Commissioner dated April 1, 1997

Excerpts from Evans v. Shore Communications, Inc., (Md.App. 1996)

Letter of Opposition dated April 2, 1997

Zoning Commissioner's Order dated April 16, 1997 (Granted)

Notice of Appeal received on May 8, 1997 from Harry Goldberg on

behalf of the Old Court Greenspring Improvement Association, Inc. and

Cheryl K. and Richard B. Jacobs, Stanley V. Stovall, and Donna S. and

Howard D. Weiss, M.D.

Notice of Appeal received on May 13, 1997 from Peter Max Zimmerman and Carole S. Demilio on behalf of the People's Counsel of Baltimore County

c: Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, Towson, MD 21204

Ms. Elaine Ann Trott, 7913 Juniper Drive, Annapolis Junction, Maryland 20701

Mr. Maurice Thompson, Bell Atlantic Nynex Mobile, 9000 Junction Drive, Annapolis Junction, MD 20701

Phyllis Friedman, Esquire, 19 Hambleton Court, Pikesville,

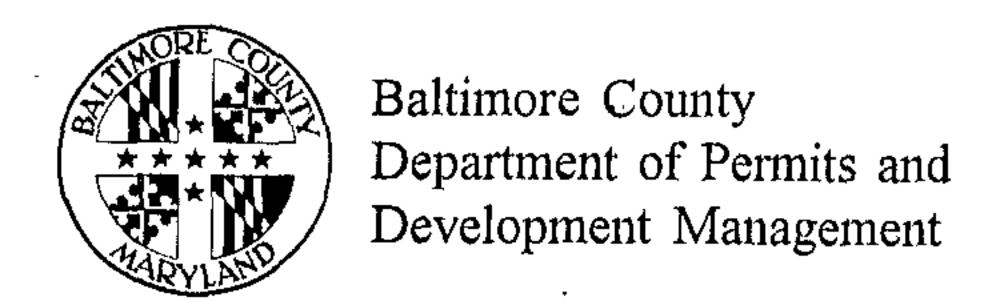
Maryland 21208
Donna S. and Howard D. Weiss, M.D., 1 Springbriar Lane, Baltimore, Maryland 21208

Mr. Stanley V. Stovall, c/o WMAR, 6400 York Road, Baltimore, Maryland 21212

Mr. and Mrs. Richard Jacobs, 2800 Old Court Road, Baltimore, Maryland 21208

Ms, Elaine O'Mansky, Two Saxony Court, Baltimore, MD 21208 People's Counsel of Baltimore County, M.S. 2010

Request Notification: Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM



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

February 28, 1997

Robert A. Hoffman, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, MD 21204

RE: Drop-Off Petition Review (Item #352)

3rd Election District

Dear Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are <u>advisory</u> and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

The RTA landscape buffer needs to be shown on the plan.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

Catherine A. Wilton

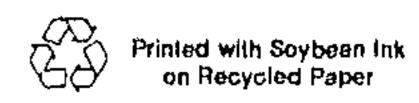
Planner!

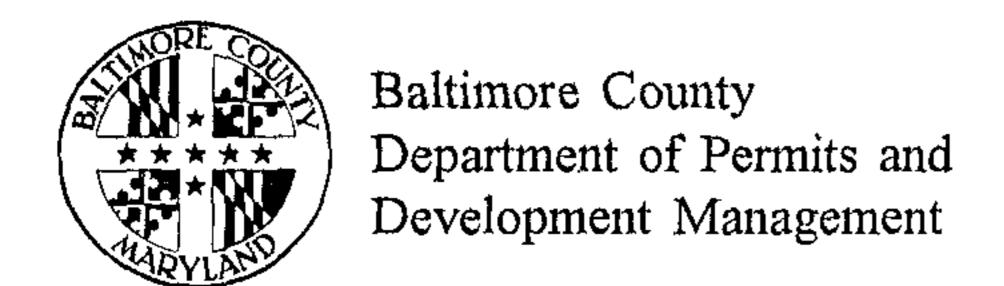
Zoning Review

CAM:scj

Enclosure (receipt)

c: Zoning Commissioner





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

February 21, 1997

Robert A. Hoffman, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, MD 21204

RE: Drop-Off Petition (Item #352)

NEC Old Court Road and Greenspring Avenue 3rd Election District

Dear Mr. Hoffman:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. Once a detailed review has been completed by the staff, those comments will be forwarded to you (hopefully before the hearing).

As Baltimore County is no longer responsible for posting properties, I have enclosed the proper forms pertaining to this. There is a form indicating the posting standards required by Baltimore County, as well as a list of vendors serving the Baltimore County area. The sign must contain the wording indicated on the "Zoning Notice" form and the certificate of posting must be completed by the poster and returned to Gwendolyn Stephens.

If you have any questions regarding the sign posting, please do not hesitate to contact Gwendolyn Stephens at 887-3391.

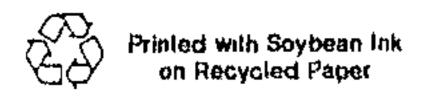
Very truly yours,

U. Calliall Shall

W. Carl Richards, Jr. Zoning Supervisor Zoning Review

WCR:scj

Enclosures



able, Baetjer and Howard, Llp Including professional corporations

210 Allegheny Avenue Post Office Box 5517

Towson, Maryland 21285-5517 (410) 494-6200, Fax (410) 821-0147



OFFICES IN

MARYLAND WASHINGTON, D.C. VIRGINIA

Writer's Direct Number: (410) 494-6201

March 3, 1997

Via Hand Delivery

W. Carl Richards, Jr. Department of Permits and Development Management County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Re: Case No.: 97-352-XA

Petitioner: Bell Atlantic NYNEX Mobile

Dear Carl:

Enclosed please find twelve copies of the revised site plan in the above-captioned matter. These plans have been revised pursuant to Kate Milton's comments.

Also enclosed is our check in the amount of \$100.00 for the revision fee.

Sincerely,

Barbara W. Ormord

Legal Assistant

BWO:pmp Enclosure

Robert A. Hoffman, Esquire cc:

TO1DOCS1/BAW01/0039739.01

ABLE, BAETJER AND HOWARD, LLP

metuding professional corporations

210 Allegheny Avenue Post Office Box 5517 Towson, Maryland 21285-5517 (410) 494-6200, Fax (410) 821-0147



MARYLAND WASHINGTON, D.C.

VIRGINIA





February 18, 1997

Via Hand Delivery

Mr. Carl Richards Department of Permits & Development Management County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

Re:

Legal Owner: Elaine Ann Trott

Property Location: North side of Old Court Road

approx. 126' east of Greenspring Avenue

Petition for Special Exception and Variance

Dear Carl:

I am hereby drop filing the enclosed Petition for Special Exception with regard to the above captioned property. This request has been previously reviewed by Kate Milton of your office. Pursuant to Zoning Enforcement, there is no evidence of any zoning citations currently outstanding on this site. Enclosed for submittal are the following documents:

- Petition for Special Exception (3);
- Petition for Zoning Variance (3);
- 3. Zoning description (3);
- Site plans including 200' scale zoning map insert (12); 4.
- 5. 1000' Scale Search Area Map;
- 6. Environmental Impact Statement; and,
- Check in the amount of \$550.00.

If you have any questions, please give me a call.

Sincerely,

Legal Assistant

Enclosures

Bob Morelock, DMW Robert A. Hoffman, Esquire

TO1DOCS1/BAW01/0039039.01

173-343 Md./1-112 Md.App. 112 Md.App. 284, 685 A.2d 454, Evans v. Shore Communications, Inc., (Md.App. 1996)

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] [9] [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 [685 A.2d 466] 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.

To grant a variance the Board must find from the evidence more than that the Copyright (c) West Group 1997 No claim to original U.S. Govt. works

Baltimore, 247 Md. 601, 233 A.2d 800 (1967):

173-343 Md./1-112 Md.App. 112 Md.App. 284, 685 A.2d 454, Evans v. Shore Communications, Inc., (Md.App. 1996)

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. (FN3) Since, however,

------ 310 follows ------ Page 112 Md.App. 310 follows -----they can be addressed easily, we will do so to avoid the expense and delay of another appeal. MD. RULE 8-131(a) (1996). SCI contends that the Board deprived it of the due process of law when it found that "the literal interpretation of the ordinance would not deprive the property owners of rights commonly enjoyed by other property owners in the same zone." In support of its argument, SCI relies on all of the previous grants of variances by the Talbot County Board of Appeals since 1974, which show, according to SCI, that the Board's decision in the case sub judice was not consistent with its earlier decisions. SCI, however, does not provide further argument in support of its due process claim. Further, SCI did not reproduce these decisions in its appendix, it did not provide us with one citation in its brief, or indicate where in the record we may find such a list or the decisions themselves. Therefore, this argument [685] A.2d 467] is not properly before us. See, e.g., von Lusch v. State, 31 Md.App. 271, 281-82, 356 A.2d 277 (1976), rev'd on other grounds, 279 Md. 255, 368 A.2d 468 (1977) (appellate courts cannot be expected to delve through the record to unearth factual support favorable to appellant and then seek out law to sustain appellant's position).

Finally, again relying on the Board's previous grants of variances, SCI argues that the past decisional history of the Board mandated the application of a "practical difficulty" standard rather than the "unwarranted hardship" standard applied by the Board. Enunciated in Anderson v. Board of Appeals, 22 Md.App. 28, 322 A.2d 220 (1974), that standard provides less stringent requirements for the grant of a variance than that applied by the Board. Id. at 39, 322 A.2d 220. We see no reason to do so, however. First, as discussed supra, SCI provides us with no factual support for its claim. Second, Anderson sheds no light on the issue. The zoning ordinance in that case required a showing of "practical difficulty" and "unnecessary hardship" for a variance, and

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173-343 Md./1-112 Md.App. 112 Md.App. 284, 685 A.2d 454, Evans v. Shore Communications, Inc., (Md.App. 1996)

we properly declined to override the ordinance. In fact, we held in that case that proof of "practical difficulty" was not enough, precisely because the ordinance itself required more. Id. at 41, 322 A.2d 220. We do the same here. The Talbot County Ordinance requires a showing of "unwarranted hardship" if the restrictions are literally enforced. We will not disturb this legislative judgment, and we affirm that part of the circuit court's judgment that affirmed the Board's denial of a variance.

JUDGMENT OF THE CIRCUIT COURT FOR TALBOT COUNTY AFFIRMED; CASE REMANDED WITH INSTRUCTIONS TO VACATE THE DECISION OF THE BOARD OF APPEALS AND TO GRANT THE SPECIAL EXCEPTION AND DENY THE VARIANCE.

afant 2, 1997 1 Greenlia Drive Baltmus and 21208-3405

Zonny Commissionel Battimere County Town, md 21204

Re; Bell atlanter - nynch Proposal at Old built and Greenspring

I attended the first Two hours of to-days hearings and had To leave for health reasons.

I have been a resident at this eddress for 41 years. We have wer un integral part of my retirement plans, ett age 76 and after a year of netwinest, by virtue of the belt way upanism, The last I water und sewings and now that, my net ivernant is a warry to me.

I west through The rapid and often veasus marks that were extually too high and ded not represent the true value or take with installaration other above factors ment conell.

I do not believe the real estate representative at the seering is houset in his assessment of the situation. I know that the house ment door was sold some months ago at a figure fifty thousand dollars less than was asked or believed. to be invert.

I do not believe the "RF, representative would give an homest answer or at least what that research is on young regarding the towers. In any event, if there is harm or not, many people will be turned aff in parchasing a dome close to a tower. Why opened 170,000 - 200,000 with the problem me have when somes can be purchased on other subdivious of Baltimon, or Carroll country without their southerns.

Bell attante - nyner.

me, agoing East in Old lourt Road that is a sell tower - very un obtainine, everted among tell tous, that some company is suring of it so so un attrument, that just today I had to point the tower out to several of my savightor Can't the above ampanies find out a saight, without having to put up a cell block building and old be able to empite will the foreis.

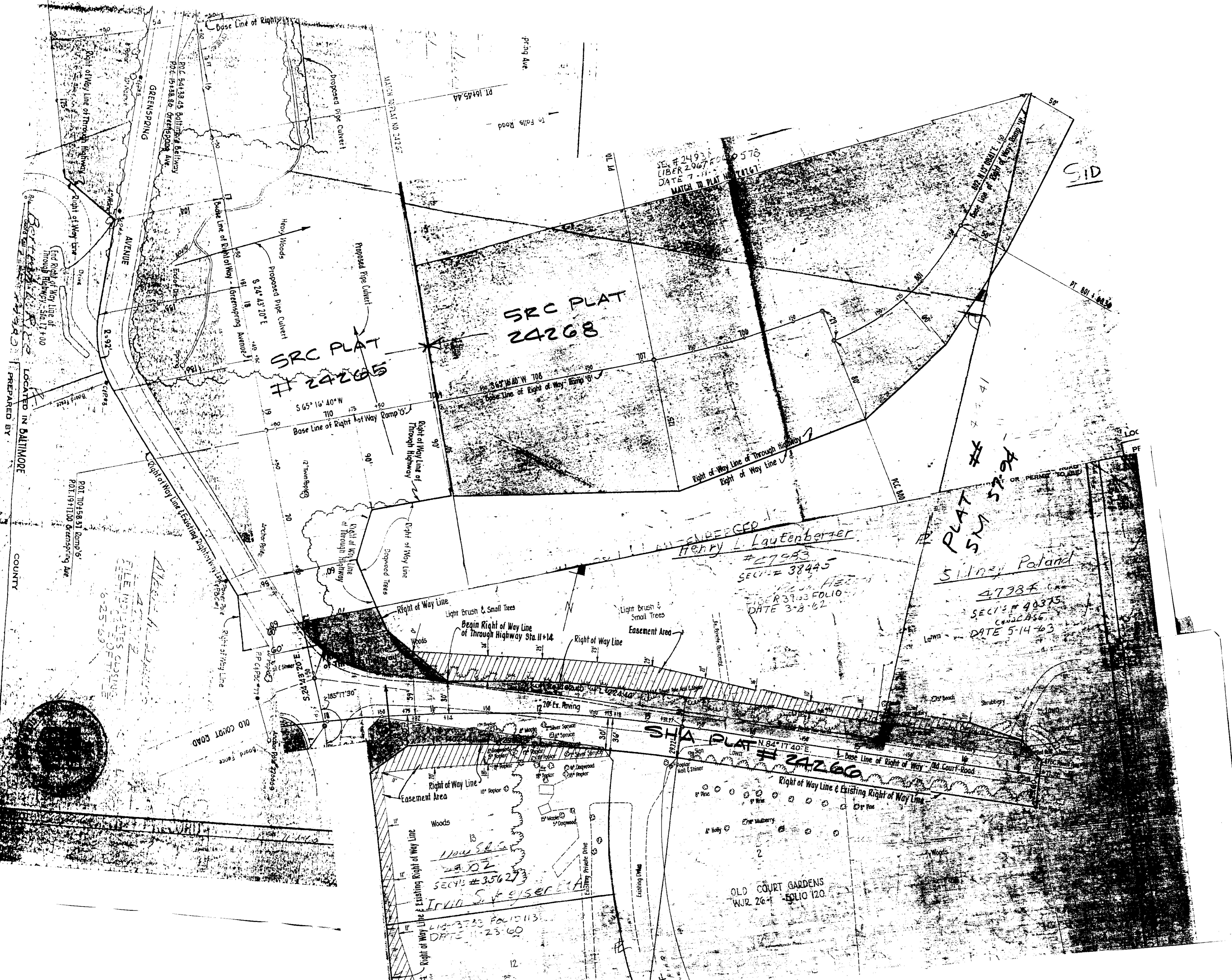
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
PROTESTANT(S) SIGN-IN SHEET

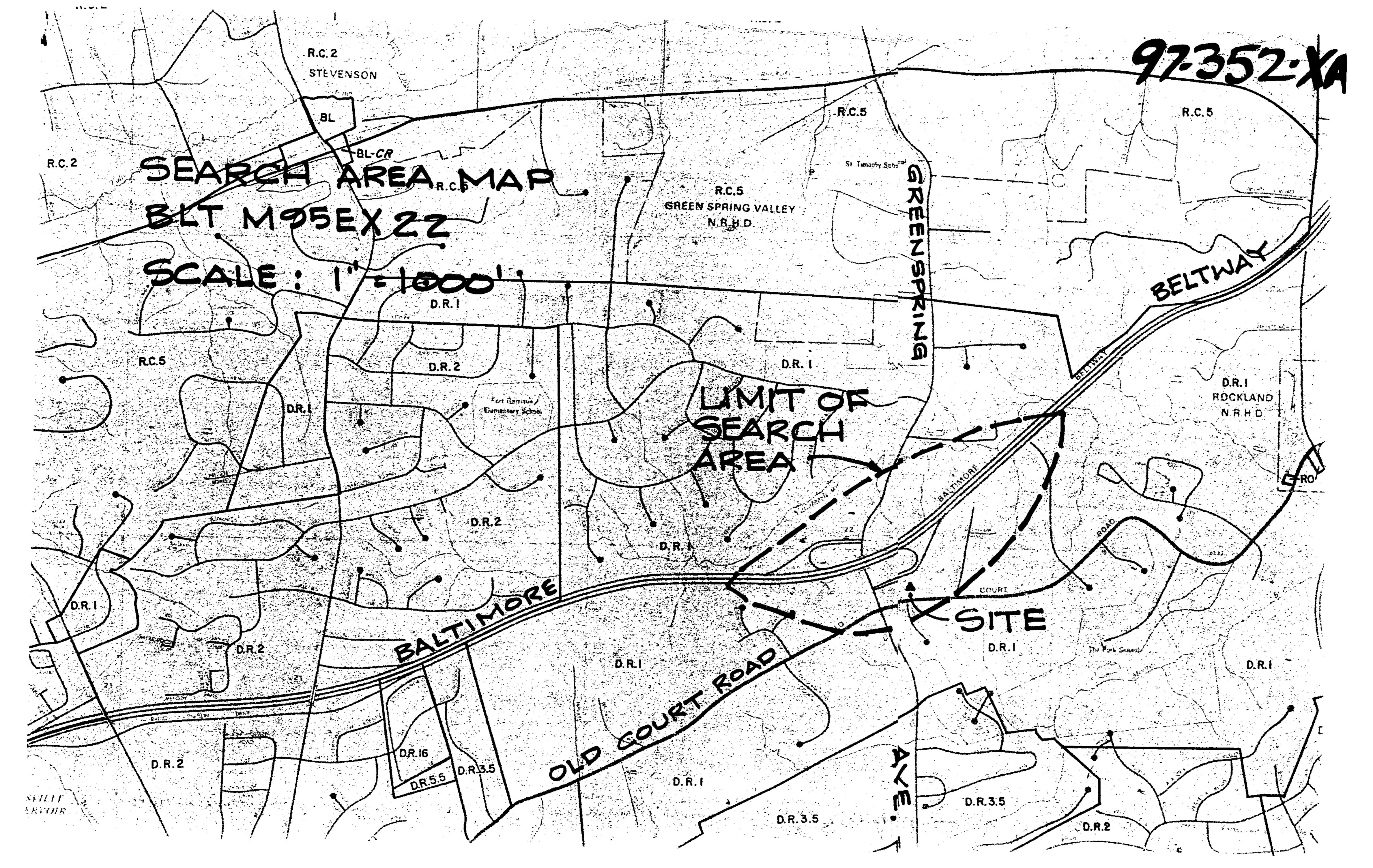
NAME	ADDRESS
ELAME OMANSKY JULIAN KATZENBERG	2 SAX0114 COURT 2 2008
JULIAN MATZENBERG	10 GREENLEA DR 21208
RICHARD VACOBS	JEDO OLD COGRIFICAD ZAOF
ESEYMOUR WINGRAT	2 GREEN LEIT-DRIVE 21208
ENARLES EPSTEIN	1 GREEN LED DC 212.08-3405
250 F. BRTRIDGE	21 STRAGANE CE BALT MS 2123
EVELYN KAMANITZ	4 SPRINGBBIAR LA BACTUMO ZR
DOMMA WEISS	1 SPRINGBRIHE UN BALTONID 2120
Margone Katzinherg	10 Streenlen Dr 21208
FIAN STOUTCE	2742 Old Court Ble 21208
ROBERT SIEGMEISTER	7 GREENLEA DR 21228
Joanne R. Marres	2910 Old Court Road 2/208
Erika Schon	2917 old Court Rd. 21208
LARRY CANTUN	3004 000 court RD 21608
MICAL WILMUTH	3004 000 court 10 21108
Susan Scheho	7 Springbour Lane Balto MO 21208
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
## PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
1200 Haffman	210 Alleghann
George FRIZZell	1400 FRONT Ave.
Jules Cahan	1961 Benneylognia Ave. Work. DC
Spencer Ginder	19908 York Rd Parkton MI
Kent Lutz	9000 Junction Dr. Annapolis Lumbin MD
Coursey G. Capute	2 Hopkins Plaza, Baltsmar MD 21201
Timmy Ruppersberger	210 Megherny Are 21704
BARBARA PASH BACT JE	210 Meghern Are 21704 with Times 2/04 Ni Charles St. 2/2/8
Andrey Schaefer BANN- 16521 Kee	its Terrace. Derwood, MD00855
MAURICE THOMPSON, IT BANM	2000 JUNCTION DR., ANNAPOUTS SUNCTION, MIS
ROBERTMORELOCK	200 E. PEHNA. AVE. TOWSON, MD 2128
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This search area is determined by locating the Company's nearest towers and evaluating the topography of the vicinity. Mr. Ginder testified that the equipment must be installed within that search area for same to cure Bell Atlantic's coverage problems.

Next testifying was Maurice Thompson, the search manager for Bell Atlantic. He indicated that once Mr. Ginder had defined the search area, he conducted an analysis of the area to determine any appropriate locations for the proposed monopole. In this regard, he indicated that the entire search area was zoned D.R. (Density-Residential) and that there were no commercially zoned or used properties in the area. He indicated that he discovered the subject site by observing a "For Sale" sign on the property. Ultimately, negotiations were undertaken with the property owner (Elaine N. Trott) and a lease entered into for use of the site by Bell Atlantic Nynex Mobile.

Also testifying on behalf of the Petitions was George Frizzel, a real estate appraiser. Mr. Frizzel's report was submitted into evidence as Petitioner's Exhibit 5. In essence, he testified that the tower would not have an adverse effect upon property values within the vicinity. His opinion in this regard was that the location of I-695 (the Baltimore Beltway) causes an adverse impact on the value of properties nearby and that the proposed monopole would not appreciably increase that impact.

Also testifying was Robert Morelock, a Landscape Architect, with Daft-McCune-Walker. He described in detail the site plan and proposed improvements to the property. He also introduced a series of photographs which depict a balloon test employed by the company prior to the hearing. A balloon tethered on a 100-foot string was launched at the site to indicate the location of the top of the tower as compared with existing trees

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