Monday March 9, 2009 @ 9:00 am Rm 104

ADPEAC

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(2009-0182)

2009-0182-SPHX

CERTIFICATE OF POSTING

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Plans Rev. ☐

ZONING VIOLATION _____

PRIOR ZONING 86-354-XSPH

2009-0182-SPHX

(1)

2009-0182-SPHX

5/25/10

IN RE: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION S side of Dogwood Road, 1830 feet W Of Rolling Run Drive 1st Coucilmanic District 1st Election District (7301 Dogwood Road)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
George Helfrich *Legal Owner* T-Mobile *Proposed Lessee*	* * *	Case No. 09-182-SPH

* * * * * * * * *

OPINION

This matter comes before the County Board of Appeals for Baltimore County (the "Board") for consideration of Petitions for Special Hearing and Special Exception filed by George Helfrich, the legal property owner, and Amy Bird, agent and representative for T-Mobile, the proposed lessee. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.") to approve the following:

Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and to conform the legality of the adult daycare use existing on the property.

The requested Special Exception is to allow a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R.

PROCEDURAL HISTORY

This case was heard by the Board on January 26, 2010 and publicly deliberated on March 16, 2010. Sean P. Hughes, Esquire appeared on behalf of the petitioner. Peter Max Zimmerman appeared on behalf of People's Counsel. Testifying on behalf of the Petitioners were George

Helfrich, Amy Bird of T-Mobile, Mitch Kellman of Daft, McCune and Walker, Inc. and Rajkanwar Brar, a consulting radio frequency engineer.

FACTS

Evidence was presented revealing that the subject property consists of approximately 10.99 acres zoned D.R.5.5 and R.C. 6. The property is located on the south side of Dogwood Road, west of North Rolling Road and east of the Diamond Ridge Golf Course. The property is improved with an existing two-story building near the northeast corner of the property. Access to the property is via Dogwood Road. The building is presently occupied by Easter Seals Greater Washington-Baltimore Region, Inc for use as an adult daycare facility.

Petitioners seek to construct a wireless communications tower on the property, southwest of the existing building, in order to provide enhanced coverage for wireless services in the area. The proposed tower would be a monopole, approximately 120 feet high and three feet in diameter at the base reducing to two feet near the top of the pole. The tower antennae would be located with a 650 square foot telecommunications compound consisting of the monopole, two T-Mobile equipment cabinets placed on a 10 foot by a 20 foot concrete pad, as well as additional utility cabinets.

As testified to by Ms. Bird, T-Mobile has a federal license that requires it to provide coverage for wireless services in Baltimore. T-Mobile identified a coverage gap in this area of Woodlawn through receipt of customer complaints and through a computer aided analysis. As testified to by Mr. Brar, he identified an area within the larger coverage gap where an antennae could be located to remedy the coverage gap situation. The smaller area within the coverage gap is referred to as a search-ring. T-Mobile's site acquisition specialists conducted a search for an appropriate site to either co-locate antennae on existing structures or to build a new facility. A

number of existing locations were identified in the search ring and were ruled out. The first, a federal building located at 7500 Security Blvd. was ruled out by the General Services Administration due to it being a secure facility. Other locations at 3300 and 3320 Lord Baltimore Drive were ruled out due to concerns over signal interference. A nearby school building was considered, but T-Mobile was informed the County did not want wireless towers at school locations. Without existing structures for co-location, T-Mobile identified the subject property, a large residentially zoned tract on which it proposes the 120 foot tall monopole within a 650 square foot telecommunications compound.

Additional evidence was presented that the Tower Review Committee ("TRC") also considered the Petitioner's application. As reflected in correspondence offered into evidence by the Petitioner, the TRC made several advisory comments for consideration by the Development Review Committee ("DRC"). These comments stated that T-Mobile demonstrated that no other co-location opportunities exited at or near the location that would provide the requested coverage for the intended area and that the monopole would be constructed to accommodate two additional wireless service providers as required. The TRC also noted that the proposed tower would be located in a D.R.5.5 zoned area and would meet the 200 foot setback from a residential property line. Concerns, however, were noted as to the new tower's proximity to the existing adult daycare facility – specifically within the fall zone of the tower (92 feet). To address this concern, it was noted that T-Mobile would design the tower to buckle and collapse on itself in the event of a tower failure. The TRC unanimously approved the new tower and concluded that it met all requirements of Section 426 of the B.C.Z.R.

Also admitted into evidence was the Zoning Advisory Committee comment from the Office of Planning darted February 6, 2009. The Planning Office indicated that it did not oppose

the requested special hearing relief. In regards to the request for Special Exception the comments noted the towers' visibility from Dogwood Road and recommended that the antennae be internal, that the color of the pole be one that did not standout from the existing trees and wooded area and that a Class A screening be placed around the fence compound.

As further testified to by Ms. Bird and Mr. Kellman, in their opinions the proposed use of the site would not be detrimental to the health, safety or general welfare of the locality involved; would not tend to create congestion in roads, streets or alleys therein; would not create a potential hazard from fire, panic or other danger, would not tend to overcrowd land and cause undue concentration of population; and would not interfere with adequate provisions for public requirements, conveniences or improvements. They further testified that the proposed use would not interfere with adequate light and air; would not be inconsistent with the purposes of the property's zoning classification or inconsistent with the spirit and intent of the Zoning Regulations; and would not be inconsistent with impermeable surface and vegetative retention requirements or be detrimental to the environment and natural resources of the site and vicinity.

Ms. Bird introduced into evidence photo simulations that included a map of the surrounding area with red points and photographs taken from those red dot locations in the direction of the proposed pole location. These simulations enables the viewer to see the pole superimposed into these locations and allows the viewer to appreciate the visibility of the proposed pole from these locations. The Board is satisfied from viewing these photos that the proposed pole would not be unreasonably obtrusive.

Additional testimony was provided by Rajkanwar Brar, a radio frequency engineer employed with T-Mobile. Mr. Brar introduced a computer generated propagation map showing the existing on-air coverage without the proposed telecommunications facility. He also

submitted a map taking into account the predicted signal strength with the proposed tower at the subject location. Mr. Brar concluded that adding the proposed facility would increase the overall coverage and provide the needed indoor and in-vehicle coverage that was sought. It would further enhance 911 emergency services.

OPINION

In regards to the Petitioner's request for Special Exception in context of the requirements of Sections 426 and 502.1 of the B.C.Z.R., the Board is satisfied that the Petitioner has met its burden and that the standard special exception criteria have been met. Evidence was clearly presented by the Petitioner regarding the need for extended coverage in the area and that all other alternatives in the surrounding area have been ruled out.

People's Counsel raised an issue of concern regarding the pole's location on the subject property during the hearing and also questioned Mr. Helfrich as to alternative locations on the property that may be available that would not possible endanger the adult daycare center. To make this point, People's Counsel called Richard Bohn of the TRC to testify regarding the Tower Review Minutes of August 26, 2008. In these minutes, Mr. Bohn expressed his surprise at the location of the tower due to the fact that an area was available near the abandon swimming pool. While, Mr. Bohn recognized his initial concerns, he provided no testimony stating an opposition to the final plan for the poles location and appearance. Consequently, the Board is satisfied that the location of the pole provides no immediate safety concerns that would preclude the approval of the requested relief. The adult daycare is approximately 92 feet from the proposed telecommunication compound. The new tower will be designed to buckle in the event of a pole failure and this fact has been substantiated by evidence submitted by the Petitioners.

ORDER

THEREFORE, IT IS this 25th day of May, 2010 by the Baltimore County Board of Appeals, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the following:

- Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and
- Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and
- To confirm the legality of the adult daycare use existing on property

be and are hereby GRANTED;

IT IS FURTHER ORDERED that the request for Special Exception to allow a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R. be and is hereby GRANTED; subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The tower shall be a concealment monopole where all the antennae are located within the pole structure. The pole shall also be of a type and have characteristics consistent with the design and construction of the monopole discussed in the report dated November 26, 2007 from Paul J. Ford and Company, consulting structural engineers, which was marked and accepted into evidence as Petitioner's Exhibit 11.

3. The tower shall be a white or off-white (such as galvanized gray) color that would blend in with the horizon and the surroundings. The color shall be approved by the Office of Planning.

4. Petitioner shall provide Class A screening around the telecommunications compound through appropriate landscaping as shown on Petitioner's Exhibit 1, as well as an 8 foot

high board-on-board fence surrounding the compound. The Class A screening and fencing shall be approved by the Office of Planning.

5. During construction of the telecommunications tower and compound and thereafter as part of its maintenance of the site, Petitioner shall have access to the site in common with the co-lessee, Easter Seals, but shall not materially interfere with or impact Easter Seals' use of the property; in particular their access, parking, and use of the adult daycare building.

6. Petitioner shall provide the co-lessee, Easter Seals, a valid certificate of liability insurance from year to year naming Easter Seals Greater Washington-Baltimore Region, Inc. as an additional insured. Furthermore, Petitioner T-Mobile and the property owner shall agree to indemnify and hold harmless Baltimore County from any claims of liability arising from the design, construction, maintenance, and potential failure of the wireless telecommunications tower, or in the alternative, shall include Baltimore County as an additional insured on the same policy (and provide Baltimore County a copy of said certificate of liability insurance referencing the above-captioned matter and Case Number).

7. In compliance with Section 426.6 of the B.C.Z.R., upon completion of the tower and every five years thereafter, Petitioner shall submit to the Code Official written certification from a professional engineer verifying that the tower and any structure housing equipment for the tower meets all applicable Building Code and safety requirements.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Andrew W. Belt, Panel Chair

Wendell H. Grier

Robert W. Witt

County Board of Appeals of Baltimore County

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May 25, 2010

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Sean P. Hughes, Esquire
6339 Ten Oaks Road, Ste 305
Clarksville, MD 21029

RE: IN THE MATTER OF: George Helfrich- Legal Owner/ Petitioner
Amy Bird, T-Mobile Agent
– Contract Purchaser/Lessee
Case No.: 09-182-SPHX

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa R. Shelton
Administrator

Enclosure: Opinion

Duplicate Original
c (w/Encl.): George Helfrich
Amy Bird, T-Mobile Agent
Michael McGarity
Diane Vance
Daft, McCune & Walker, Inc.
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

2/24/10

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird	*	BALTIMORE COUNTY
	Petitioner(s)		
		*	09-182-SPHX

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

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
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RECEIVED
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BALTIMORE COUNTY
BOARD OF APPEALS

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird	*	BALTIMORE COUNTY
	Petitioner(s)		
		*	09-182-SPHX

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

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Introduction

Upon People's Counsel's appeal of the Deputy Zoning Commissioner's approval of a special hearing and special exception, the County Board of Appeals (CBA) conducted a trial hearing on January 26, 2010. The appeal is *de novo* under Charter § 603.

The special exception is for T-Mobile's proposed tower for its cellular telephone network on property owned by George Helfrich at 7301 Dogwood Road. The property is about 11 acres in size and stretches for about 1200 feet along the south side of the road. It is zoned D.R. 5.5 (Density-Residential).

The special exception would replace an earlier special exception. In 1986, Deputy Zoning Commissioner Jean Jung granted a special exception for social, recreational, and athletic use, including a clubhouse, changing shed, swimming pool, athletic field, and basketball court. P.C. Exh. 4. That use ended years ago. What is left of that use is in disrepair: an abandoned empty in-ground swimming pool, a changing facility with graffiti on the wall and in disrepair, and a broken down basketball court and backboard structure.

The main use of the property now is for an adult day facility operated by the Easter Seals, a tenant occupying the principal onsite building and parking lot. The special hearing includes a request to determine the legitimacy of the adult day care use. The reason for this request is that the zoning regulations do not explicitly cover such uses. The zoning office has apparently treated them as comparable to child care facilities under BCZR § 424, which are allowed in D.R. Zones under those provisions. People's

Counsel has no objection to the adult day care use on this sizable property. There is plenty of room for it. The record does not indicate any complaints directed to this use.

It was the proximity of the proposed tower to the adult day care use which first drew our attention. The tower, 120 feet high, would be just 92 feet from the nearest section of the building used by Easter Seals and also close to the parking lot. This raised a reasonable concern about the danger if the tower falls in that direction. Among other things, we found that the Tower Review Committee's consultant, Bob Hunnicutt, had articulated serious concerns in his November 25, 2008 report. Pet. Exh. 12., page 3 It also turned out that the TRC Coordinator, Richard Bohn, had inquired whether the tower could be placed to the rear of the abandoned swimming pool in an August 26, 2008 meeting. P.C. Exh. 9, page 7. Nevertheless, the TRC felt constrained by its limited authority to recommend approval, as Mr. Bohn testified.

The tower's proximity to Dogwood Road, the adjacent Dogwood Elementary School, and nearby residences brought up another issue. There will be a disproportionate and excessive visual impact. While the site is about 2000 feet west of the commercial intersection of Dogwood and Rolling Roads, Dogwood Road takes on a residential and semi-rural character as one approaches the site driving west along the two-lane road. The GIS aerial photograph (P.C. Exh. 2) shows the elementary school and baseball diamond adjacent to the eastern boundary of the site and the scattered low-density single-family home uses on both sides of Dogwood Road. The Woodlands golf course is to the west. There are several higher density developments further to the north.

The availability of far better alternative locations onsite and nearby reinforces the conclusion that the proposed location is problematic. The site requirements for co-location of other providers add another level of complications.

There is more. The substitution of the adult day care and tower special exception for the approved social, recreational, and athletic use draws attention to the decrepit and dilapidated condition of the abandoned 1986 special exception. To secure the public health, safety, and welfare, these remnants and ruin must be eliminated or rehabilitated.

In our opening statement, we submitted a copy of our office's May 20, 2009 letter to the Deputy Zoning Commissioner, where we described our initial concerns. The *de novo* trial hearing at the CBA has provided the opportunity to illuminate these issues more clearly and to expose other serious problems.

The Legislative Framework

BCZR § 502 on special exceptions begins with a note, which states in part,

> "NOTE: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. ....All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety or general welfare of the public, the uses listed as special exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the County Board of Appeals.
>
> In granting any special exception, the Zoning Commissioner and the County Board of Appeals, upon appeal, shall be governed by the following principles and conditions."

BCZR § 502.1 sets the standards. These potential adverse impacts are of the essence,

> "Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> A. Be detrimental to the health, safety or general welfare of the locality involved;
>
> * * *
>
> C. Create a potential hazard from fire, panic or other danger;
>
> * * *
>
> G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;"

The proximity of the tower to the adult day care use presents a health, safety, or general welfare issue, a danger issue, and an issue of consistency with the purpose of the property's residential zoning classification and the spirit and intent of the Zoning Regulations. The visual impact problem also bears on the health, safety, or general welfare and on the legislative intent concerning such towers in residential zones.

At the beginning of the hearing, we provided each CBA panel member with a copy of BCZR § 426, which regulates cell phone towers under the nomenclature of wireless telecommunications facilities. There are several provisions which are relevant to

the present inquiry. We shall discuss the consistency of the proposed tower's location with the BCZR § 426.2 legislative policy,

> **§426.2. Legislative policy for siting of wireless telecommunications antennas and towers. [Bill No. 121-2001]**
>
> "It is the intent of Baltimore County that:
>
> A. Antennas should be placed on existing towers, buildings and structures, including those of public utilities, where feasible; and
>
> B. If a new tower must be built, the tower should be:
>
> **1. Constructed to accommodate at least three providers;**
> 2. Erected in a medium- or high-intensity commercial zone when available; and
> **3. Located and designed to minimize its visibility from residential and transitional zones."**

We shall also review consistency with the spirit and intent of this setback requirement,

> **" 426.6 Setback requirements for wireless telecommunications towers.**
>
> A. Setbacks. **[Bill No. 17-2002]**
>
> 1. A tower shall be set back at least 200 feet from any other owner's residential property line."

Our discussion about unsafe and hazardous conditions shall allude to BCZR §§ 426.7, 426.8, and 426.10.

The Burden of Proof in Telecommunications Facility Special Exception Cases

The legislation also addresses the burden of proof. BCZR § 426.9 reinforces the basic rule that the burden is on a petitioner. We highlight here BCZR §§ 426.9.A and 426.9.B,

> "Towers permitted by special exception shall meet the requirements of this section.
>
> A. A petitioner shall have the burden of demonstrating that:
> 1. The petitioner has made a diligent attempt to locate the antenna on an existing tower or nonresidential building or structure;
> 2. **Due to the location, elevation, engineering, technical feasibility or inability to obtain a lease or ownership of a location elsewhere, the construction of a tower at the proposed location is warranted;**

3. **To the extent technically feasible, the tower has been designed to accommodate antennas of at least two other providers**; and
4. The height of the tower is no higher than what is required to enable present and future co-location of other providers.

B. **The Zoning Commissioner shall review the petitioner's submittal with regard to the legislative policy under Section 426.2."** Emphasis supplied.

Maryland Case Law

In brief, the inquiry in a special exception case is whether, at the proposed location, the use will likely produce particular adverse impacts to the neighboring area and uses, above and beyond the impacts ordinarily associated with such uses. The courts have discussed the dimensions and ramifications of the standard at great length in many cases. The landmark case for many years has been Schultz v. Pritts 291 Md. 1, 21-22 (1981). The Court of Appeals addressed the subject at length in People's Counsel for Baltimore County v. Loyola College 406 Md. 54 (2008).

The special exception inquiry must take into account the fundamental purposes of the zoning law. Schultz, supra, 291 Md. at 23. When there is specific legislation governing a particular use, the analysis of the adverse impact plainly should embrace the legislative purpose. BCZR § 502.1.G embodies this principle. Here, there are specific legislative provisions governing wireless telecommunications facilities.

It should be underlined that such issues as visual impact, size, and scale have traditionally been relevant to the inquiry. Board of County Comm'rs v. Holbrook 314 Md. 210, 218-20 (1988); People's Counsel for Baltimore County v. Mangione 85 Md. App. 738, 746, n.6, 752 (1991).

The Burden of Proof in Special Exception Cases Generally

It also should be put in perspective that the listing of a special exception use is not an invitation to automatic approval. Judge Rita Davidson put it this way in Schultz,

> "This Court has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or

circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material."

Judge Glenn Harrell quoted this in Loyola College 406 Md. 88-89. So, Petitioners have the burden of proof in this *de* novo proceeding. While T-Mobile has orchestrated the presentation, property owner George Helfrich also has a part to play in this drama.

Evaluation of Expert Testimony

Petitioners in zoning cases tend to bring forth a parade of experts to support their proposals. Whether employed by or engaged by the Petitioners, they play a mixed role. Ideally, they express and reasoned opinions based on facts. But there is a tendency for them to become advocates. So, there is always an issue of credibility.

The Maryland appellate courts have developed evidentiary principles for the evaluation of expert testimony. Judge Marvin Smith wrote in A.H. Smith Sand *& Gravel Co. v. Dep't of Natural Resources 270 Md. 652, 667 (1974),

"This Court has observed that an expert's opinion is of no greater probative value than the soundness of his reasons given there will warrant."

Put another way, Judge Charles Moylan wrote in a zoning reclassification case, People's Counsel v. Beachwood I LP 107 Md. App. 627, 650 (1995), cert. denied 342 Md. 472 (1996),

"A self-evident reason for rejecting as an effective catalyst an expert opinion ... is the fact that opinion is merely conclusory, or is, at best, quasi-conclusory." ... [T]he opinion of an expert is of little or no weight in the absence of strong supporting facts ..."

Here, the record reflects a lack of any evidentiary foundation for the Petitioners' contentions or opinions that the proposed tower is safe, visually unobjectionable, and otherwise in compliance with the relevant standards.

T-Mobile's' Failure to Satisfy the Burden of Proof

T-Mobile presented four witnesses: Michael McGarity, a civil engineer with DMW; Amy Bird, a lawyer with a public relations degree who served as spokesperson; Rajkanwar Bar, an RF engineer, and Mitch Kellman, a planner, also with DMW.

Taking the last two first, we can dispose of them quickly. Mr. Bar testified as to how the location fit the needs of T-Mobile's network from the point of view of RF engineering. As we said at the hearing, we do not dispute his opinion that this site is well suited to T-Mobile's provision of service to its customers. Mr. Bar did not testify about any of the issues which concern our office.

Mr. Kellman produced a letter from Planner Joseph Merrey that the expansion of the special exception to adult day care use is within the spirit of the 1986 special exception. Pet. Exh. 11. While this should have been done by hearing rather than a unilateral letter, our office does not perceive any public interest in opposing this use. It is comparable to a permitted child care use in many ways, and the site has ample room for this use. Mr. Kellman did not provide any direct testimony about the issues which concern our office. He did acknowledge, on cross-examination, some facts pertinent to the state of disrepair of the 1986 social and recreational use special exception.

This brings us back to Mr. McGarity and Ms. Bird. Mr. McGarity works for T-Mobile on many projects. He prepared the site plan for this zoning case. But he did not get involved in the project until relatively recently. He was not involved in the site selection. He was not involved in the balloon test locations and photography. Ms. Bird similarly came recently to the project. She had no personal knowledge of the site selection process here, but could only testify as to what the company usually tries to do. Her expertise, as noted, was limited to public relations and management.

Neither they nor the other expert witnesses are structural engineers. They provided no direct evidence or explanation with respect to the safety of the location so close to the

adult day care use. Rather, T-Mobile chose to rely on its past representation to the Tower Review Committee that any collapse would be down to the ground, without tipping over.

On the subject of visibility, between the two of them, with the aerial photo in front of them, they had to admit that the proposed tower will be visible from the elementary school and nearby residences. Furthermore, upon cross-examination about the balloon test location diagram (Pet. Exh. 4), it appeared that there were but five (5) photographs taken in an area of a few square miles. This scattered approach hardly provided a realistic scenario of the visibility of the tower along Dogwood Road and nearby residences.

Concerning co-location, they had to admit that the location set aside for potential future providers is at a much lower height on the tower than the T-Mobile antennas. Under these circumstances, the practical availability of these locations is uncertain. The same is true for the locations set aside for future ground facilities. Nor was there any indication or as to whether Mr. Helfrich would agree to lease to future providers. It looks like these locations were added to the site plan to get through the process.

Ultimately, Mr. McGarity's testimony to support the special exception was perfunctory and presented in a perfunctory way. Ms. Bird turned out to be a spokesperson and manager, with good public relations skills, but no personal knowledge about the facts or issues in this case.

While there was evidence presented to exclude the availability of locations involving towers on government and commercial buildings in the area, there was no indication of any consideration given to the placement of the tower farther away from the adult day care facility, from Dogwood Road, and from other neighboring land uses. There is plenty of room on the site for other locations which are not so problematic.

The bottom line is that Petitioners' witnesses, individually and collectively, did not produce testimony sufficient to meet the threshold burden of proof on the key issues.

The Tower Review Committee and the Planning Office

T-Mobile relied on the fact that the Tower Review Committee (TRC) and Planning Office recommended approval. Pet. Exh. 11, 13. But on close examination, these approvals are more limited in scope or dubious than they might first appear.

Richard Bohn, the TRC coordinator, testified that the committee focuses primarily on telecommunications factors. While the TRC arguably could examine in depth all of the issues relating to the special exception, the gist of Mr. Bohn's testimony was that the TRC cannot, as a practical matter, do an in-depth review of the land use issues. They may come up in discussion, but the TRC does not pursue them.

The safety issue is a good example. Robert Hunnicutt, the TRC's independent Columbia Telecommunications Corporation consultant transmitted his November 25, 2008 report. He had specific safety concerns about the proximity to the adult day care use. T-Mobile explained that the tower was designed to "collapse on itself." But Mr. Hunnicutt found this explanation unsatisfactory. He wrote,

> "This design partially addresses the TRC's concerns. The design as described does not address a failure to the foundation or bolts that connect the monopole to the foundation. Of there were to be a failure with the foundation, the rear corner of the day care facility could be within a portion of the fall zone of the monopole if it was to fall. Though there does not appear to be a require distance of a monopole from an on-site dwelling, some members of the TRC expressed concern about that eventuality since the facility appear to be open to the public and is use for adult day care where extra safety measures may be prudent." Pet. Exh. 12, page 3.

T-Mobile apparently dismissed Mr. Hunnicutt's concerns. The TRC let the matter pass in their December 10, 2008 recommendation of approval. The TRC accepted T-Mobile's explanation at face value, without any mention of Mr. Hunnicutt's warnings. Pet. Exh. 13. The TRC did not have the staff or resources to evaluate TRC's assertion, and did not even bring Mr. Hunnicutt in for a dialogue. The TRC apparently felt it had to take T-Mobile's word, or that it did not have the authority to reject the location on this ground.

Similarly, while Mr. Hunnicutt and the TRC raised concerns about the visibility of the tower from nearby residential uses, they did not feel empowered to recommend an alternative location. Indeed, when Mr. Bohn suggested at the August 26, 2008 meeting that the tower be moved to the rear of the swimming pool area, T-Mobile virtually blew the suggestion off. Nor was there any discussion of the large field area in the western section of the property, or the adjacent property sold by Mr. Helfrich to a limited partnership. T-Mobile just excluded a couple of other sites (the GSA building and the

towers near Lord Baltimore Drive), and called it a day. The TRC identified a serious visual impact, but again acted powerless to do anything about it. Pet. Exh. 13, page 2.

The TRC's concerns about co-location of providers also elicited a dubious response, which the TRC felt it had to accept. T-Mobile just stated that its structure would accommodate two (2) additional wireless service providers, without showing realistically how this would occur at the lower heights. The TRC just accepted T-Mobile's promise, without any real check. Pet. Exh. 13, page 1.

This discussion is not intended as a criticism of the TRC. As Mr. Bohn observed, the TRC is the first stop in the process. It is not a substitute for plenary special exception review. The TRC raises issues and makes suggestions, but does not have the staff and resources to assemble the evidence to mount a sustained challenge on many issues. Nor is there any opportunity for area residents or other interested persons to appear at the TRC. On this record, we shall show that the TRC recommendation does not furnish a basis to approve the special exception..

The brief Planning Office comment also fails to substantiate the special exception. There is no attention paid to the safety issue. Meanwhile, the comment recognizes the problem of visibility from Dogwood Road, but just makes the weak recommendation of "concealment." Pet. Exh. 11.

George Helfrich

We subpoenaed George Helfrich and called him as a witness. He is in the real estate business. His testimony was terse.

He clarified that he sold an adjacent 1.45-acre property to Dogwood Limited Partnership some years ago, and that he does not have an interest in this partnership. This property is a field to the rear of the western section of his 11-acre property.

When asked if he would consider an alternative tower location on his property, he simply said no. He produced a May 1, 2008 lease for the chosen site. P.C. Exh. 6.

He said that the social or recreational use had ended some time ago, and that he would take care of what is left when he redevelops the property. He did not volunteer any timetable for this to happen. Nor did he provide any affirmative proof to support the

proposed tower special exception. Nor did he seek to excuse the decrepit condition of the use allowed by the 1986 special exception.

Argument

There Is Insufficient Evidence to Substantiate the Special Exception

a. The Safety Issue

The safety issue is paramount. It bears on the special exception standards to protect public health, safety, and welfare and to guard against danger. It is an important element in the legislation on wireless telecommunications facilities. We have referred to the specific provisions on hazard in BCZR §§ 426.7, 426.8, and 426.10. We also believe that the spirit and intent of the BCZR §426.6.A.1 minimum 200-foot setback from a residential property line dictates a similar distance from another onsite residential use.

We made it known below that this safety is a major concern. Yet T-Mobile did not produce a knowledgeable expert witness to address safety. There was no structural engineer, or anyone from T-Mobile who had done the design. T-Mobile apparently expects us to take their explanation to the TRC at face value. This is unacceptable.

T-Mobile signed a lease with Helfrich on May 1, 2008. There is no indication of any consideration given to safety at that time It appears to be T-Mobile's form lease. The lease does not address safety or accident prevention. T-Mobile's explanation that the tower would "collapse upon itself" came after the fact as a rationalization.

There are myriad imperfections and problems which may occur in the design, production, and maintenance of a monopole. There could be an inadvertent error in the design, a product defect in the structure, or a maintenance failure.

Despite the best of intentions, accidents occur. Bridges, dams, and levees break or collapse. Nuclear power facilities have meltdowns. Space shuttles fail catastrophically. These occurrences may be occasional or rare. But they happen.

Toyota had the reputation of designing motor vehicles with the highest safety standards. That reputation will likely not survive the plethora of recent safety recalls.

The luge track at the 2010 Vancouver Winter Olympics was said to be professionally designed by an expert who had designed previous tracks. Maybe the

design was good. Yet, the world recently witnessed a tragic fatal accident which led immediately to several remedial improvements.

It may be unlikely that a collapse will occur here. But if it does occur, such a collapse could easily cause severe injury in the building and area used by day care residents and staff. If there is a collapse which causes a serious injury or fatality, will it be an adequate excuse to say that T-Mobile declared it would not happen? What would then be said in light of Robert Hunnicutt's documented warnings? Would it be enough to say that the Board of Appeals had to believe T-Mobile's assurances?

It is common sense to keep the tower away from other active land uses, especially a use so sensitive as adult day care. It makes even more sense to provide adequate distance when there is plenty of room available on-site and on the neighboring Dogwood Limited Partnership site.

b. The Visibility Issue

The visibility issue is always significant in tower cases. It is a public welfare issue in the special exception process. It is a key element in the wireless telecommunication facilities law. As noted, BCZR § 426.2.B.3 states the explicit intent to minimize visibility from nearby residential and transitional zones.

That the location meets minimum setbacks from residential property lines does not immunize the proposal from scrutiny in a special exception case. The proximity to the adult day care poses a particular conflict with the spirit and intent of the law.

Once again, T-Mobile failed to meet its burden of proof. There was no witness with personal knowledge of the site selection process or the balloon test design. Amy Bird could only testify as to the company's usual good intentions.

As is plain from T-Mobile's diagram, the balloon test locations were so scattered and spread out as to be virtually worthless. Even so, the computer-assisted photographs showed some visibility at T-Mobile's selected locations.

Mr. McGarity, who did his engineering work afterwards, had to admit that the tower would be visible from the nearby residences and elementary school. As noted, the visual impact on the adult day care use also deserves consideration.

The TRC and the Office of Planning both identified the problem of visibility from nearby residences and the elementary school. Mr. Hunnicutt also made mention of the proximity to the adult day care use. Yet, the TRC and OPZ were willing to let the project pass with cosmetic recommendations. This is unacceptable.

Again, there is plenty of room on the site and the Dogwood Limited Partnership for a location with much less visibility. It is apparent that T-Mobile and Helfrich came to an agreement on location without regard to the visibility problems, and have constructed a weak justification after the fact.

c. The Co-Location Issue

The co-location requirement is prominent right at the beginning and end of the wireless telecommunications legislation. BCZR §§ 426.2.B.1, 426.9.A.3. Yet, the TRC documents reflect again that T-Mobile did not address it until instructed to do so.

T-Mobile's response was to add potential locations at much lower levels on the monopole. There was no evidence that these levels would be of practical use to other providers. The fact that T-Mobile felt it necessary to place its antennas at the higher level suggests that the additional locations are window dressing and not real.

Nor was there any proof that Mr. Helfrich was prepared to enter into any agreements with other providers, which would have to include not only the antennas but also new ground facilities and access.

d. The Decrepitude and Disrepair of the Abandoned 1986 Special Exception

The decrepit state of the 1986 special exception use is symptomatic of the Petitioner's indifference to the public health, safety, and welfare. There is no way that the continuation of the dilapidated social and recreational facilities comports with the 1986 special exception approval or the public interest.

Where the amendment to a special exception involves a new or substituted use, it is essential that the discontinued special exception use be removed or put in a presentable condition. There is no indication that the Petitioners gave this any consideration.

Conclusion

On this record, as a matter of law, the County Board of Appeals should deny the proposed special exception for all of the above reasons,

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of February, 2010, a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed to Amy Bird, 12050 Baltimore Avenue, Beltsville, MD 20705, T-Mobile Representative; and to Sean Hughes, Esquire, 5100 Dorsey Hall Drive, Elliott City, MD, 21043, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

2/23/10

IN RE:	*	BEFORE THE
T-Mobile	*	BALTIMORE COUNTY
Petitioner	*	BOARD OF APPEALS
	*	Case #09-182-SPHX

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

MEMORANDUM

The undersigned, on behalf of the Petitioner, T-Mobile, files this Memorandum pursuant to the Board of Appeals' offer at the conclusion of the hearing held before the Board of Appeals on January 26, 2010. Petitioner states as follows:

I. EVIDENCE CONFIRMING THAT PETITIONER HAS MET ITS BURDEN REGARDING ITS PETITION FOR SPECIAL EXCEPTIONS FOR A TELECOMMUNICATIONS FACILITY ("TOWER") PURSUANT TO SECTION BCZR 426.5 AND ITS PETITION FOR SPECIAL HEARING FOR TWO USES CO-EXISTING ON THE SAME PROPERTY IN CLOSE PROXIMITY (DAYCARE/WIRELESS COMMUNICATIONS)

1. Petitioner Meets Section 502.1 - Conditions determining granting of special exception:

Per below please consider the testimony of all four (4) of Petitioner's witnesses, and, in particular, Ms. Amy Bird, at the hearing before the Board of Appeals on January 26, 2010.

REQUIREMENT: Not be detrimental to the health, safety or general welfare of the locality involved.

RESPONSE: The facts are that it will not be detrimental to the health, safety or general welfare of the locality involved as it is an unmanned, low powered (within FCC guidelines of radio emissions), locked facility, to be screened by proposed fencing and landscaping on the ground, with no material noise, smell or even activity once built, besides typical routine maintenance about every 6 weeks. And the disguised telecommunications flagpole will be painted to blend in further with the surroundings.

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REQUIREMENT: Not tend to create congestion in roads, streets or alleys therein.

RESPONSE: No, once the facility is built it has a technician visit the site in a SUV type vehicle about every 4-8 weeks, so very minimal traffic impact.

REQUIREMENT: Not create a potential hazard from fire, panic or other danger

RESPONSE: No, as noted above, it is an unmanned, locked and fenced facility that is monitored remotely 24/7. In fact it will assist with communications in area and assist should emergency situations occur.

REQUIREMENT: Not tend to overcrowd land and cause undue concentration of population.

RESPONSE: No, it is unmanned facility and only approx. 650 sq. ft on a property that is nearly 11 acres.

REQUIREMENT: Not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements

RESPONSE: No, it is unmanned facility that requires low maintenance and will tie into local power and phone service.

REQUIREMENT: Not interfere with adequate light and air

RESPONSE: No, it is a small ground compound of approximately 650 sq ft and while it would be 120 ft. above ground level, it is thin in diameter (tapering like traditional flag poles and approx 2 ft at the top).

REQUIREMENT: Not be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations

RESPONSE: No, this request is permitted by Special Exception in this zone and plays an important part for emergency and non-emergency communication in our modern society and many similar applications have been approved in this and similar zones.

REQUIREMENT: Not be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

RESPONSE: No this application is passive in nature and based on its size and use is not detrimental to the impermeable surface and vegetative retention provisions of these Zoning Regulations.

REQUIREMENT: Not Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

RESPONSE: No this application is passive in nature and based on its size and use is not detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.

2. Petitioner Meets Section 426 - Wireless Telecommunications Facilities:

REQUIREMENT: Per section 426.2 the proposed tower (disguised telecommunications flagpole monopole) will be constructed to accommodate at least three providers.

RESPONSE: Please see exhibit 2 (Plat of site) that shows an elevation view of the tower/pole. It also notes on the plat that future ground space has been designed for the additional providers. Petitioner's first witness, Mr. Michael McGarity of Towson engineering firm DMW, also delivered direct testimony on this topic.

REQUIREMENT: Per section 426.4 the Tower Review Committee ("TRC") in Baltimore County the Petitioner met with the TRC regarding the subject application.

RESPONSE: Yes, Petitioner met with TRC as required (see Exhibits 12 & 13) and see testimony of Petitioner's witness Ms. Amy Bird and People's Counsel's witness, Mr. Richard Bohn, Chair of TRC.

REQUIREMENT: Per section 426.6 the proposed tower (pole) will be at least 200 feet from any other owner's residential property line.

RESPONSE: Yes, tower/pole location is at least 200 feet from any other owner's residential property line. Please see Exhibit 2 (Plat of Site) and testimony of Mr. Michael McGarity (civil engineer).

3. **Petitioner Meets Section 426.9 - Wireless Telecommunications Facilities.**

REQUIREMENT: Has Petitioner made a diligent attempt to locate the antenna on an existing tower or nonresidential building or structure.

RESPONSE: Yes, please see the testimony of Ms. Amy Bird along with Exhibits 12 & 13 regarding Tower Review Committee. In particular Exhibit 12 notes in the last paragraph on page 1 and into page 2 that, " Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our site visit and review of the RF contour maps provided with the application, we concur with that conclusion." And Ms. Bird testified that T-Mobile needed this new site location to be inside of the search ring area (see Exhibit 7- Search Area Map) and that if existing structures were examined outside of the search ring area they were ruled out as too close to existing sites, which equates to "would likely interfere with signals from the adjacent T-Mobile site".

Further, the Tower Review Committee in Exhibit 13 (*Findings and Conclusions For the Tower Review Committee*) noted that they "...feel that T-Mobile has provided all requested information to the Tower Review Committee (TRC) to successfully demonstrate that no other co-location opportunities exists at or near this location that would suffice in providing their requested coverage of the intended area.

REQUIREMENT: Due to the location, elevation, engineering, technical feasibility or inability to obtain a lease or ownership of a location elsewhere, the construction of a new tower at the proposed locations is warranted.

RESPONSE: Yes, construction of a new tower/pole at the proposed location is warranted for many reasons as testified to by Petitioner's witnesses, especially Ms. Amy Bird. Ms. Bird's testimony included the follow searches and was assisted by a large visual (see Exhibit 8-Aerial Map showing subject property with zoning overlay).

(i) Immediately north of the property (across the street) was an MLR zone. This area had several challenges which resulted in it being ruled out by T-Mobile including a significant drop via sloping ground, significant tree cover and other environmental challenges and impacts that would have resulted from a telecommunications facility on

that area versus subject property. It also had setback issues to the east and west due to the placement of existing residential homes and south to the subject property and its residential zoning.

(ii) Further north and northwest across the street there is some OR-2 (Office Residential) zoning that houses residential apartment/condo buildings. That community is heavily developed with little space for the telecom facility near the hundreds of units. The property also has some significant changes in elevation and uneven topography in the few areas that might have been a considered area. T-Mobile was also confident that locating at that complex would have resulted in a facility much closer to hundreds of residential units and resulted in a greater impact than the subject property.

(iii) East of the property there is an elementary school that was ruled out, as the school system policy does not allow for leasing of space for telecommunications facilities.

(iv) Just east of the elementary school is an O3 (Office park) zone. This small area has multiple parcels within the search ring map area and also holds multiple residential homes. Consequently, the setbacks could not be met per the County rules. And even if a site could legally be located in this area, a telecom facility would have a greater impact to the homes in close proximity and greater visibility to Dogwood Road travelers.

(v) Just south and south east of the above noted area there is additional O3 zoning. The aerial map (Ex. 8) showed two (2) large buildings in the area. Testimony also included the fact that a third building now also sits on that small parcel and that the property is fully developed and thus would not allow for a telecom facility. Further, even to put the tower/pole in the middle of the parcel, the setbacks are not met and it would interfere and impact the use of the property. In addition setback issues existed to the residences on the other O3 area to the west and northwest.

(vi) South of the property exists the large GSA federal facility. Unfortunately, GSA is no longer allowing private telecommunications providers to locate equipment upon those existing buildings. GSA noted in an email to Petitioner that the policy changed after 9-11-2001. See exhibit 10 (GSA email).

REQUIREMENT: There is no available, suitable site for a tower in a medium or high intensity zone, identifying with particularity any sites considered; or

Due to topographical or other unique features, the proposed site is more consistent with the legislative policy under Section 426.2 than a site in an available medium or high intensity commercial zone.

RESPONSE: Yes, for the same reasons as noted above and provided during case in chief of petitioner there are no available, suitable sites for a tower in a medium or high intensity zone, identifying with particularity any sites considered and/or due to topographical or other unique features, the proposed site is more consistent with the legislative policy under Section 426.2 than a site in an available medium or high intensity commercial zone.

II. PETITIONER MEETS BURDEN FOR SPECIAL HEARING BY SHOWING THAT THE TWO CASES CAN CO-EXIST ON THE SAME PROPERTY IN CLOSE PROXIMITY.

Yes, via its case in chief, including exhibits and witnesses and in particular Mr. Mitch Kellman, recognized as an expert in Zoning matters in Baltimore County, who stated that in his opinion the two uses of the telecommunications facility and its 650 square foot use proposed south of the adult day care use and facility and existing adult day care use could co-exist and would not overlap or interfere with each other use. Thus, as there is no conflict or overlap, there would be no prohibition per section 102.2 of the County zoning code for the two uses on the subject property. The Special Hearing request went essentially unchallenged by the People's Counsel.

III. THE PEOPLE'S COUNSEL'S OFFICE OPPOSITION TO THE SPECIAL EXCEPTION FOCUSED ON TWO GROUNDS (PLACEMENT OF THE MONOPOLE AND USE OF A RESIDENTIAL AREA AND ZONE) AND FAILED ON BOTH POINTS.

1. Placement of the Monopole.

The Applicant has met the burden of Section 426. Section 426.6 addresses setbacks specifically and notes in A. 1. that, "A tower shall be set back at least 200 feet from **any other** (emphasis added) owner's residential property line." The evidence was that the tower was

at least 200 feet from any other owner's residential property line (see Ex. 2 (Plat of site) and testimony of Mr. McGarity). This was unchallenged by the People's Counsel. Had the County Council desired a greater setback from offsite properties they would have so designated. Further, had the County Council desired that towers be a certain distance on the subject property from other items (buildings, signs, parking lots, paths, etc.) it would have so legislated. In fact the County Council has not dictated any setback requirements for towers from items on the subject property, just as other jurisdictions have not, throughout Maryland, Virginia and throughout the Country. This rationale is likely based on the long standing principal that a property owner may utilize their property as they legally see fit, provided the local government zoning code is followed, which it is in this case.

The County Council has deemed it permissible to have a cell tower in a residential zone as they are permitted by Special Exception in residential zones, including the zone of the subject property, subject to certain criteria. See Creswell v. Baltimore Aviation Serv., Inc., 257 Md. 712, 719, 264 A.2d 838, 842, (1970), which noted, "A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as a right in a particular zone..." Also see, Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), that said, "...The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid."

As an additional check the County does require new tower structures to receive a thorough and professional engineering review and approval via the County's Permits and Development Management review process before any new tower/pole, can be built. This is likely the same for all new structures in the County (buildings, signs, houses, stadiums, decks, scoreboards, windmills, etc.). Additional checks occur via certifications required under Section 426 D and E. These sections require periodic reports noting that the tower meets all applicable Building Code and safety requirements and noting the number of providers and antennas on the tower.

In addition section 426.7 addresses security bond for all new towers, including allowing code officials to use the bond to procure repair of unsafe or hazardous conditions, if warranted, per the code. In fact the structure proposed here is a monopole and of modest height for a cell structure. A monopole is a much different and resilient structure than the taller traditional lattice and guyed towers that have been deemed appropriate and utilized for decades across the country (and in Baltimore County) for TV, radio and other communications. This includes County communications towers for its communications needs, as noted by People's Counsel's witness, Mr. Richard Bohn, head of communications for Baltimore County (and TRC Chair) which are located in and around where citizens live, work and play. Quite simply there is no evidence of actual, legitimate concerns raised by the People's Counsel over the proposed monopole. Professional engineers design the structure. Skilled professionals build the facility. County professional engineers and staff review the plan at the building permit level as well as during construction and before providing a final inspection. The County has a long-standing and thorough review process to ensure structural integrity of new structures applied for in Baltimore County.

Petitioner contends that a monopole, like here, is stronger than everyday items the general public walks, drives and sleeps under each and everyday, including wooden telephone poles, wooden and metal power lines, street lights, traffic lights, flagpoles, buildings, water tanks, signs, balconies, billboards, decks, trees, stadium stands, ball field lights, bell towers, clock towers, steeples, chimneys, parking lot lights, etc. In fact there are twenty-eight (28) wooden telephone poles, fourteen (14) light poles (most on an Elementary School property where children attend school) and one flagpole all approximately 40-50 feet in height just within .4 a mile east of the site along Dogwood Road.

Further, the People's Counsel's office opposition noted that (CTC) consultant to the Tower Review Committee (TRC), Bob Hunnicutt, stated in his report to the (TRC) his concerns about the structural integrity of the monopole. However, the People's Counsel failed to provide any credentials for Mr. Hunnictt as a civil or structural engineer and the record later did show via testimony at the appeal that Mr. Hunnicutt is not a civil or structural engineer via testimony of Mr. Bohn in response to People's Counsel's question as to whether Mr. Hunnicut is a civil or structural engineer. Note, Mr. Bohn's committee (TRC) retains Mr. Hunnicutt and his employer, CTC on many new tower applications, including this one. In fact the TRC acted on that recommendation and unanimously approved the application and noted that it met all the requirements of Section 426 of the B.C.Z.R

Last, the location is the one selected by the owner of the property and T-Mobile, a lessee. The location meets all of the requirements of the County code, including setbacks, as well as the engineering and physical needs, constraints, considerations, and restrictions for the landowner and tenant, T-Mobile. Were this a Variance request the People's Counsel's claims/inferences regarding alternative locations on the subject property or nearby may have some validity. However, this is a special exception, not a variance. And the landlord's tenant, Easter Seals, asked to be a named as an additional insured and T-Mobile has done so. Further, the landlord, Mr. Helfrich, testified that he has insurance for the subject property in case of any injury that may occur. Here the Petitioner has met the special exception code requirements for the application. Consequently, the special exception is approvable.

2. USE OF A RESIDENTIAL AREA AND ZONE

Since the request was to place the telecommunications facility in a residential zone via special exception it is correct that the Petitioner had the burden at the public hearing to show per section 426.9.C.a. that there is no available, suitable site for the tower in an offsite medium or high intensity commercial zone, identifying with particularity any sites considered.

Petitioner did sufficiently in its case in chief via its witnesses and exhibits generally and specifically, particularly via Ms. Bird and Ex. 7 (T-Mobile search area map) and Ex. 8 (large aerial map with subject property/area and zoning overlay) as well as summarizing said testimony and exhibits earlier in this memo.

The petitioner also disagrees with the People's Counsel's claim or innuendo of not placing telecommunications facilities in residential areas at all. First, in order to provide coverage to residential areas, the sites must be close or in residential areas. And the Federal

Government under the Telecommunications Act of 1996 noted that wireless infrastructure development would occur in order to provide enhanced wireless services nationwide.

Today, more and more sites are going into residential areas. At present there are over 270 million wireless subscribers in the United States who make over 296,000 calls to 911 each day. Further, the wireless only households (no landline telephones) have grown to nearly 18%. This is up from 8.4% just four (4) years ago. As of two (2) years ago 60 percent of all calls were made from the home. Quite simply we do want and need to use our wireless phones in our homes for personal and business needs. Without cell sites in and around residential zones, wireless services will be unreliable. As noted above, the Baltimore County Council has deemed it permissible and acceptable to place cell sites (towers, monopoles) in residential zones by allowing them by special exception. See Mossburg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995) in which the Court wrote, "A special exception or conditional use involves a use which is permitted, once certain statutory criteria have been satisfied. It is a desirable use..."

The County Planning Staff had recommended and Petitioner agreed to accept conditions to reduce visibility of the pole by providing a concealment pole with internal antennae, provide a pole color that will not stand out and will blend with the existing area and provide screening around the ground compound

The People's Counsel also incorrectly states that there is concern over section 426.9 and the unlikelihood that other providers could co-locate on subject property as required per that section. However, the evidence via testimony was that the tower is designed to accommodate antennas of at least two other providers, as specifically required in 426.9.A.3 and that ground space for these future carriers exists as noted on Exhibit 2 (Plat of Site) and testimony of Mr. McGarity. Thus, this is not an issue or appropriate claim of concern.

CONCLUSION:

The Petitioner met its burden at the appeal hearing before the Board for the Special Exception and granting of the Special Hearing and as such respectfully requests that these requests be granted.

RESPECTFULLY SUBMITTED,

Sean P. Hughes
5100 Dorsey Hall Drive
Ellicott City, MD 21042
(410) 964-0300

Counsel for Petitioner T-Mobile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of February, 2010, a copy of the foregoing Memorandum was mailed, first class mail, postage prepaid, to Peter Max Zimmerman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47, Towson, Maryland 21204.

Sean P. Hughes

Law Office of Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, Maryland 21042-7870
(410) 964-0300
(410) 964-2008 Fax

February 23, 2010

County Board of Appeals for Baltimore County
Jefferson Building
Second Floor-Suite 203
105 West Chesapeake Avenue
Towson, MD 21204

RE: Case #: 09-182-SPHX

Please accept the attached Memorandum per the Board's offer at the conclusion of the appeal they heard on this matter on January 26, 2010.

Thank you,

Sincerely,

Sean P. Hughes

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BALTIMORE COUNTY
BOARD OF APPEALS

7/20/09

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
S side of Dogwood Road, 1830 feet W of Rolling Run Drive	*	DEPUTY ZONING
1st Election District	*	COMMISSIONER
1st Councilmanic District		
(7301 Dogwood Road)	*	FOR BALTIMORE COUNTY
George Helfrich *Legal Owner*	*	
	*	
T-Mobile *Proposed Lessee*	*	**Case No. 2009-0182-SPHX**

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

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner for consideration of a Motion for Reconsideration filed by Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County. The Motion for Reconsideration was filed pursuant to Rule 4(k) of Appendix G of the Baltimore County Zoning Regulations (B.C.Z.R.) wherein the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer for Baltimore County are provided. Rule 4(k) permits a party to file a Motion for Reconsideration of an Order issued by the Zoning Commissioner. This Motion must be filed within 30 days of the date the Order was issued, and must state with specificity the grounds and reasons for their request.

In the instant matter, Petitioners T-Mobile, the proposed lessee, and George Helfrich, the legal property owner, requested Special Hearing and Special Exception relief. The Special Hearing relief was requested in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the following:

- Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and

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- Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and
- To confirm the legality of the adult daycare use existing on property.

The Special Exception was requested to permit a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R. The undersigned convened a public hearing on March 9, 2009 in Room 104 of the Jefferson Building located at 105 West Chesapeake Avenue in Towson, MD. The hearing was attended by representatives of Petitioner T-Mobile, as well as their attorney, Sean Hughes, Esquire. Also in attendance was Diane Vance with Easter Seals Greater Washington-Baltimore Region, Inc., the current lessee of the property. There were no Protestants or other interested persons in attendance at the hearing. After considering the testimony and evidence offered by Petitioners in support of the relief, as well as the testimony received from Ms. Vance at the hearing and an email dated March 17, 2009 submitted after the hearing by Lisa Reeves, President and CEO of Easter Seals Greater Washington-Baltimore Region outlining her organization's requirements vis-à-vis the requested telecommunications tower, the undersigned issued an Order dated April 22, 2009, granting the Special Hearing requests and the Special Exception use.

Thereafter, Mr. Zimmerman submitted a letter dated May 20, 2009, to be treated as a Motion for Reconsideration. In his Motion, Mr. Zimmerman requests that further consideration be given to two main issues: (1) Petitioner's decision to place the 120 foot tall monopole on the subject property in a location that would be 92 feet from the corner of a building that houses an existing adult daycare facility, and (2) Petitioner's decision to erect the monopole and telecommunications facility in a residential area and zone. In Mr. Zimmerman' view, the issues associated with these decisions were not addressed in sufficient depth to warrant granting the Petitions. He also welcomes any additional response or input from Petitioners as well as Easter

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Seals, who it appears is potentially most affected by the presence and location of the telecommunications facility on the subject property.

Subsequently, Petitioner's attorney, Mr. Hughes, submitted a letter dated June 3, 2009 responding to the issues raised in Mr. Zimmerman's Motion. The letter included a Motion to Dismiss and an Opposition to the Motion. Initially, the Motion to Dismiss requests that the Motion for Reconsideration be dismissed because People's Counsel is not a "party" to the case. Mr. Hughes indicates he was not aware of an entry of appearance having been filed by People's Counsel and points out that People's Counsel did not participate in the case up to and at the public hearing.[1] In the alternative, Mr. Hughes raises a number of arguments in Opposition to the Motion for Reconsideration. Primarily, as to the issue of the placement of the monopole tower, Mr. Hughes indicates that Petitioner demonstrated at the hearing through testimony and evidence that the tower location would be in compliance with the requirements of Section 426 of the B.C.Z.R. -- in particular that the tower would meet all area and setback requirements, including the requirement that the tower be at least 200 feet away from any other owner's residential property line. He also indicates that the 502.1 special exception criteria had been addressed through the uncontroverted testimony of Petitioner's experts.

Moreover, Mr. Hughes points out that the issues concerning the design and function of the tower have undergone thorough scrutiny at a number of levels, including the County's Permits and Development Management review process, the Tower Review Committee and its consultants, the inspections and periodic monitoring that are required to ensure that the tower meets (now and in the future) all applicable building codes, and finally the public hearing

[1] In his Motion to Dismiss, Mr. Hughes questions whether People's Counsel could legally file the Motion for Reconsideration because he was not aware of People's Counsel entering his appearance in the case or participating in the public hearing. Thereafter in an email dated June 11, 2009, Mr. Hughes informed the undersigned that his office had indeed located People's Counsel's Entry of Appearance dated January 20, 2009.

7.20.09

conducted and findings made by the undersigned on this issue. As to the issue of placing the tower in a residential zone, Mr. Hughes acknowledges Petitioner's burden of proof as to the requirements of Section 426.9.C.a of the B.C.Z.R. and explains that Petitioner has indeed met its burden through the testimony and evidence adduced at the hearing. In short, Mr. Hughes argues that the issues raised in the Motion for Reconsideration (placement of the monopole and location in a residential area and zone) are the same issues that were addressed and discussed at the public hearing, and that the testimony and evidence at the hearing warranted the granting of the special hearing and special exception.

Finally, Mr. Zimmerman submitted a letter dated June 11, 2009 responding to the Motion to Dismiss and again raising the issues of the placement of the tower in proximity to the adult daycare facility and in a residential area and zone.

In considering the Motion for Reconsideration, the undersigned reviewed the file and the Findings of Fact and Conclusions of Law dated April 22, 2009, as well as the respective positions of the parties outlined in People's Counsel's Motion and Petitioners' response. Disposing of the Motion to Dismiss, I shall deny that Motion. Clearly, People's Counsel entered its appearance in the case. Notwithstanding the fact that People's Counsel did not participate in the hearing, they are a party to these proceedings and the Motion to Dismiss is denied.

As to the Motion for Reconsideration, after reviewing the aforementioned documents, I do not believe the case warrants reconsideration. I understand People's Counsel's intent in filing the instant Motion for Reconsideration was to determine if there might be a potential resolution at the Zoning Commissioner level in order to avoid further litigation. I also understand there are indeed situations where such an intent might be helpful to all parties in coming to an equitable resolution of a case. However, with all due respect to People's Counsel's position in this matter,

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I disagree with his statement at the end of the third full paragraph on page 4 of his May 20, 2009 letter that "[o]n the record to date, the petition should be denied." On the contrary, after reviewing the evidence at the hearing, which included documentary evidence, and listening to at least four witnesses, including experts, testify as to the requirements associated with the requested relief, I am persuaded that granting the relief was appropriate.

The issues raised in particular by People's Counsel as to the placement of the monopole on the subject property and it location in a residential area and zoned were acknowledged and addressed by Petitioners. Moreover, the co-lessee, Easter Seals Greater Washington-Baltimore Region, Inc. by Ms. Vance, attended the hearing and was given an opportunity to present testimony at the hearing, which it did through Ms. Vance. In addition, after the hearing was concluded, the undersigned kept the record open in order to give Ms. Vance's supervisor, Lisa Reeves, more time to evaluate Petitioner's proposal and provide additional input to the undersigned. Ms. Reeves did so in an email dated March 17, 2009 and the undersigned included most of Ms. Reeves' requirements as conditions of granting the requested relief, including the provisions to add Easter Seals as an additional insured on T-Mobile's certificate of insurance and non-interference by T-Mobile of Easter Seals' use of their building. It is also telling in my view that Easter Seals has not joined Mr. Zimmerman's Motion for Reconsideration or presented any additional information in light of the Motion.

In conclusion, in my view, the issues raised in People's Counsel's Motion for Reconsideration were raised at the public hearing and were addressed by Petitioner and its experts through testimony and documentary evidence. Petitioner met its burden of proof without any evidence to the contrary and was entitled to the relief granted in my Order dated April 22, 2009. Hence the aforementioned Motion for Reconsideration shall be denied.

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WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of July, 2009 that Petitioner's Motion to Dismiss be and is hereby DENIED; and

IT IS FURTHER ORDERED that People's Counsel's Motion for Reconsideration be and is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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7.20.09

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

July 20, 2009

SEAN HUGHES, ESQUIRE
5100 DORSEY HALL DRIVE
ELLICOTT CITY MD 21042

PETER MAX ZIMMERMAN, ESQUIRE
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
105 WEST CHESAPEAKE AVENUE, ROOM 204
TOWSON MD 21204

Re: Petition for Special Hearing and Special Exception
Case No. 2009-0182-SPHX
Property: 7301 Dogwood Road

Dear Messrs. Hughes and Zimmerman:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz
Enclosure

c: George Helfrich, 2516 Maryland Avenue, Baltimore MD 21218
Amy Bird and Rajkanwar Brar, T-Mobile Agents, 12050 Baltimore Avenue, Beltsville MD 20705
Michael McGarity and Mitch Kellman, DMW-Draft Mccune Walker Inc., 200 East Pennsylvania Avenue, Towson MD 21286
Diane Vance, Director, Easter Seals, Greater Washington-Baltimore Region, 731 Dogwood Road, Baltimore MD 21244

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
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PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 11, 2009

RECEIVED
JUN 11 2009
ZONING COMMISSIONER

HAND-DELIVERED
Thomas H. Bostwick, Deputy Zoning Commissioner
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION
George Helfrich, Legal Owner and T-Mobile, Lessee- Petitioners
7301 Dogwood Road
Case No: 09-182-SPHX

Dear Mr. Bostwick:

This letter answers T-Mobile's motion to dismiss dated June 3, 2009 concerning People's Counsel's charter authority and participation. Section I, pages 1-4. This letter then replies substantively in Sections II-VIII, pages 4-6. The effort has been to be as brief as reasonably possible. Notably, property owner George Helfrich has not filed any further comment or motion.

I. Answer to Motion to Dismiss: People's Counsel is a proper party

People's Counsel filed the attached entry of appearance on January 20, 2009 to register its interest as a party. It was mailed both to Amy Bird and Sean Hughes, Esquire, the designated representative and attorney for petitioners, respectively.

Baltimore County Charter § 524.1 (BCZR, Appendix C) establishes the Office of People's Counsel. The most pertinent § 524.1(a)(3) states,

> *Powers and Duties*: The people's counsel shall have the following powers and duties: A. **He shall appear as a party before the zoning commissioner of Baltimore County, his deputy, the county board of appeals, the planning board, and the courts on behalf of the interests of the public in general, to defend any duly enacted master plan and/or comprehensive zoning maps** as adopted by the county council, and **in any matter or proceeding now pending** or hereafter brought **involving** zoning reclassification and/or variance from or **special exception** under the Baltimore County Zoning Regulations, as now or hereafter in force and effect, in which he may deem the

public interest to be involved. ... He shall have in such appearance, all the rights of counsel for a party in interest, ..." (Emphasis supplied).

This explicitly includes the panoply of zoning cases, including special exception proceedings. See People's Counsel v. A.V. Williams 45 Md. App. 617 (1980); Umerley v. People's Counsel 108 Md. App. 497 (1996); Riffin v. People's Counsel 137 Md. App. 90 (2001); People's Counsel v. Loyola College 406 Md. 54 (2008).

In this context, the entry of appearance fulfills the charter mandate to appear as a party. When the office appears, it can only be as a party to defend the comprehensive zoning maps or master plan on behalf of the public interest.

Furthermore, under Maryland administrative law, in order to qualify as a party, all that is necessary is that People's Counsel fulfill the charter mandate and indicate an interest in the proceedings. The entry of appearance serves this purpose. All petitioners are thereby on notice. There is no requirement to participate in person at the hearing. The office may or may not choose to appear at the hearing, make an opening statement, or question witnesses.

The Court of Appeals has explained "the liberal standards under Maryland law for party status at an administrative hearing," and that anyone expressing an interest has the right to be a party. In Dorsey v. Bethel A.M.E. Church 375 Md. 59, 72-73 (2003), the Court quoted extensively from Sugarloaf Citizens v. MDE 344 Md. 271, 286-87 (1996),

> "The requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily. In holding that a particular individual was properly a party at an administrative hearing, Judge J. Dudley Digges for the Court in Morris v. Howard Res. & Dev. Corp., 278 Md. 417, 365 A.2d 34, 37 (1976), explained as follows:
>
> > 'He was present at the hearing before the Board, testified as a witness and made statements or arguments as to why the amendments to the zoning regulations should not be approved. This is far greater participation than that previously determined sufficient to establish one as a party before an administrative agency. *See, e.g., Baxter v. Montgomery County*, 248 Md. 111, 113, 235 A.2d 536 (1967) (per curiam) (submitting name in writing as a protestant); *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289, 293-94 (1967) (testifying before agency); *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672, 680 (1967) (submitting into evidence letter of protest); *DuBay v. Crane*, 240 Md. 180, 184, 213 A.2d 487, 489 (1965) (identifying self on agency record as a party to proceedings); *Brashears v. Lindenbaum*, 189 Md. 619, 628, 56 A.2d 844, 849 (1948) (same). **Bearing in mind that the format for proceedings before administrative agencies is intentionally designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the**

> **record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party to the proceedings.'" Emphasis supplied.**

"And in *Maryland-Nat'l v. Smith, supra,* 333 Md. at 10, 633 A.2d at 859, we stated.

> "*Morris* and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed low. Although we have said that one's presence at the hearing and testimony in favor of an asserted position is sufficient, *id.,* we have also said that **personal appearance and testimony at the hearing are not required.** *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672 (1967); *Largo Civic Ass'n v. Pr. Geo's Co.*, 21 Md.App. 76, 81, 318 A.2d 834 (1974). In fact, it has been held to be sufficient that the hearing examiner considered the appellant to be a party, *Northampton v. Pr. George's Co.*, 21 Md.App. 625, 633-34, 321 A.2d 204, *rev'd on other grounds,* 273 Md. 93, 327 A.2d 774 (1974), or that the appellant's name was submitted to the Board of Appeals as one who would be aggrieved by an adverse decision. *Wright v. McCubbin,* 260 Md. 11, 14, 271 A.2d 365 (1970). *See also Baxter v. Montgomery County,* 248 Md. 111, 113, 235 A.2d 536 (1967) **(submitting name in writing as a protestant is sufficient);** *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289 (1967) (testifying before agency is sufficient); *DuBay v. Crane,* 240 Md. 180, 184, 213 A.2d 487 (1965) **(identifying self on agency record as a party is sufficient).**" (emphasis added).

In addition, Lisa Reeves, the president of Easter Seals, expressed concern about the project. The Court of Appeals addressed standing where there is more than one party on the same side. In Garner v. Archers Glen Partners, Inc., 405 Md. 43, 54 (2008), Judge Harrell explained, quoting People's Counsel v. Crown Development Corp. 328 Md. 303, 317 (1992),

> **"It 'is a settled principle of Maryland law that, 'where there exists a party having standing to bring an action . . . we shall not ordinarily inquire as to whether another party on the same side also has standing.'"** [citations omitted].

Even with respect to court actions, where the rules on standing are more restrictive, Judge Harrell pointed out the court's **". . . traditional reluctance to address issues of standing not necessary to the outcome of a case . . ."** [citations omitted]. Emphasis supplied. While the interest of Easter Seals is not identical to People's Counsel's interest, President Lisa Reeves' expression of concern about proximity was a contributing factor in our review.

Recently, there have been over 600 zoning cases filed annually. People's Counsel necessarily has to judge which cases warrant priority, heightened activity, and/or correspondence or reconsideration at the commissioner level. As explained below, the law allows People's Counsel to appeal any commissioner decision. When the office files for reconsideration, it is customarily in the hope that there may be a constructive resolution at the commissioner level.

Baltimore County Code § 32-3-401(a) allows any "person aggrieved or feeling aggrieved by a decision of the Zoning Commissioner" to "appeal the decision or order to the Board of Appeals. People's Counsel could already have appealed. Rather, People's Counsel chose, via reconsideration, to provide petitioners with an opportunity to address several significant problems. Petitioners have responded by attacking the messenger and denying the problems.

To summarize, People's Counsel entered its appearance and registered its interest as a party. As such, the office is entitled to request reconsideration. The office from time to time files such motions in order to identify and potentially resolve problems at the Zoning Commissioner level. If these problems cannot be resolved here, People's Counsel may file a *de novo* appeal.

II. The location of the proposed tower on the property: impact on the neighborhood residential, and school uses, including safety and visual impact

T-Mobile says the only setback it must meet is the minimum 200-foot setback from any owner's residential property line, and that any other consideration of distance is irrelevant. We disagree. The residential property line setback is an absolute minimum setback. But where a special exception is involved, BCZR § 502.1 enumerates a number of broad considerations with respect to the adverse impact on public safety, health, and welfare and the consistency with legislative intent. Here, the safety and visual impact issues are striking because the petitioners have chosen to place the tower so close to the Easter Seals building, adjacent to an elementary school property, and relatively close to Dogwood Road and nearby residential areas. They are the more striking because there is ample room on the site's abandoned baseball field outfield to place the tower well away from Easter Seals, the school, the traveled road, and many residences.

T-Mobile downplays the safety issue by downplaying the report of Bob Hunnicutt. But he is the designated expert of the Tower Review Committee. He is the only neutral expert who reviewed the application. T-Mobile placed his report in evidence by T-Mobile. The bond and insurance issues all attest to the concern for safety. Lisa Reeves was concerned about safety. When we observed that there has not been any **literature search**, our point was that the various cell phone providers have suggested that there will never be a problem, but have not cited any literature. History is filled with examples of projects claimed or thought to be 100% safe, which nevertheless ended in disaster. The unpredictable is far more commonplace than most people are aware of, or admit. See, e.g. Nassim Taleb, The Black Swan (2007).

T-Mobile's report, quoted on page 8-9 of the DZC opinion, concludes that the pole design is such that, "... the stresses on the lower portion of the pole are reduced, making further collapse of the pole unlikely." That such "collapse" may be "unlikely" will be small comfort if the pole should collapse and cause injury. That there are other types of structures in our society and other risks does not excuse T-Mobile from placing this tower in a safer location, especially where one seems obviously available.

As to visual impact and its adverse effect on the neighborhood, the Court of Appeals focused on this point in affirming the denial of a special exception for a mobile home in County Comm'rs v. Holbrook 314 Md. 210 (1988). BCZR § 426 legislatively tracks this concern.

The burden of proof is on petitioner, not our office. At a minimum, the reasonable thing to do appears to be to relocate the tower and alleviate the negative safety and visual impacts by placing it at or near the "left field" forest border to the interior of the west side of the property.

III. The inadequacy of T-Mobile's search for commercial or industrial locations

While T-Mobile identified several locations at Security Boulevard, Lord Baltimore Drive, or Liberty Road, which it claims are too far away or otherwise unsuitable, it has still not shown any comprehensive or systematic search for other locations. It is not enough to select a couple of "straw" locations to set up and reject.

T-Mobile says, based on the locations of its other facilities, that it cannot "move the site much in any of those directions and thus not fill the customer need of enhancing service to the needed areas." But even if T-Mobile cannot move the site "much" to satisfy its service needs, the subject site is obviously not the only possible site. Moreover, if indeed this location 90 feet from Easter Seals and close to Dogwood Road and residences were the only practical site, then it would be open to the objection that T-Mobile has not planned its system in a way is conducive to satisfying the legislative intent to stay out of residential areas if at all possible.

T-Mobile argues that more and more sites are going into residential areas in the United States. It seems to argue simply that such facilities should be entitled to a special exception in any residential area where they see a need for "enhanced" service. Be that as it may, the Baltimore County Council has stated its intent to keep them out of residential areas unless there is a real and exhaustive search for alternative locations. This means that the cell provider's optimum location may conflict with other legislative goals.

T-Mobile emphasizes the "need" for reliable cell phone service. But that does not give service providers *carte blanche* to select particularly troublesome locations. Other cell phone providers have apparently set up their systems so that this site is not necessary for their systems. T-Mobile needs to arrange its systems to avoid problematic locations affecting both onsite and offsite uses. This is especially true of an area close to an elementary school on the east, an attractive rural-residential area to the west, on a road traveled by local residents.

IV. The matter of conditions

T-Mobile says that its monopole will be unobtrusive. The approval of a cell phone tower location is often rationalized by cosmetic conditions. There is the euphemistic condition that the tower be a "concealment monopole," as if the tower were virtually invisible. Whether white, off-white, or gray, it is still a visible tower in varying skies and weather. It may not be as ugly as some towers, but it is still a visual blot. There is the stated concern for noninterference of the compound with Easter Seals, a difficult condition to fulfill in practice. There are then the insurance and indemnity conditions, which recognize the safety risk but do nothing to prevent it by the simple measure of relocation to a more distant locale.

V: The co-location issue

T-Mobile says that its tower will be accessible to other providers for co-location. But Robert Hunnicutt identified a problem of availability at this specific location for other providers' compounds. While Hunnicutt says the plans have been modified to show such space, it is unclear how such compounds could be located without infringing on the Easter Seals use. The baseball field location would not present any such problems.

VI. The Telecommunications Act of 1996

T-Mobile cites the federal Telecommunications Act of 1996. But federal law contemplates implementation of local zoning laws to assure appropriate land use considerations. The County Council's enactment of comprehensive tower legislation in Bill 30-98 is a valid exercise in cooperative federalism. Its codification in BCZR § 426 is consistent with this intent. The Court of Special Appeals has recognized the intended federal allowance of local government zoning control of land use. This is confirmed in the well-known Court of Special Appeals decision in the Sprint PCS case on Back River Neck Road.

VII. The Omnipoint decision

T-Mobile meanwhile omits any mention of our discussion of the County Board of Appeals decision in Omnipoint. This decision corroborates our view that the special exception process involves a serious look at the location choices of cell phone service providers. The process should not function as a rubber stamp.

VIII. The abandoned 1986 special exception for a social clubhouse, pool, and recreation fields

T-Mobile also omits any mention of the social club special exception use approved in 1986 and the remnants or residuals of that use. This appears to warrant consideration and evaluation. To the extent necessary and appropriate, any zoning approval should address and determine if any remedy is necessary and appropriate. This is relevant to various criteria under BCZR § 502.1. The commissioner customarily addresses such existing situations when dealing with zoning requests for new, additional, or replacement uses.

In sum, the proposed tower should not be considered in isolation. The abandoned social club use should be considered, as well as the ongoing Easter Seals tenancy.

Conclusion

This office's intent, in requesting reconsideration, was to determine if there might be a potential resolution at this level. This might avoid further litigation. The potential relocation of the tower to the "left field" area of the abandoned baseball field could alleviate several of our concerns, if not all of them.

The Rule K time for decision is 30 days. Nevertheless, we are prepared to attend a hearing if the Commissioner believes one would be helpful. We also have no objection if the Commissioner should wish to inspect the site and area.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: George Helfrich, Petitioner and property owner
Sean Hughes, Esquire, attorney for T-Mobile, by first class mail and e-mail
Richard Bohn, Tower Coordinator, Tower Review Committee
Lisa Reeves, President of Easter Seals, by first class mail and e-mail

Law Office of Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, Maryland 21042-7870
(410) 964-0300
(410) 964-2008 Fax

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JUN 04 2009
ZONING COMMISSIONER

June 3, 2009

Thomas H. Bostwick, Deputy Zoning Commissioner
Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RE: Case Number 2009-0182-SPHX- 7301 Dogwood Road

Dear Deputy Zoning Commissioner Bostwick,

Please accept this letter behalf of T-Mobile in response to the People's Counsel May 20, 2009 Motion for Reconsideration. This letter includes a 1. **Motion to Dismiss** the People's Counsel Motion as well as a 2. **Opposition to the Motion**, should our Motion to Dismiss not be granted.

MOTION TO DISMISS

The People's Counsel's Rule K (Code of Baltimore County, Appendix G, Rule 4K) Motion for Reconsideration should be dismissed as inappropriately filed. The Rule states that, "Any **party** (emphasis added) may file a motion for reconsideration of an order issued by the Zoning Commissioner." In the above referenced case the People's Counsel was not a party. The Petitioner's did not view, receive, nor are they aware of an entry of the People's Counsel appearance. Further, the People's Counsel failed to participate in any facet of the case, up to and including at the March 9, 2009 public hearing. Hence, the likely reason the Deputy Zoning Commissioner's office did not copy the People's Counsel on its April 22, 2009 decision.

Since the People's Counsel choose not to enter its appearance or participate in the case up to and at the public hearing, they are not a party to the matter and thus cannot legally make a motion for reconsideration under and per Rule K. Consequently, the Motion for Reconsideration should be dismissed with prejudice.

OPPOSITION TO MOTION

In the alternative, should the Petitioner's Motion to Dismiss not be granted, please review the following arguments in Opposition to the People's Counsel's Motion. The People's Counsel's Motion notes two grounds. They are the placement of the monopole and use of a residential area and zone. The Petitioner properly addressed each of these items before the Tower Review Committee and the Deputy Zoning Commissioner at the March special exception public hearing.

Neither of these arguments dictate a reversal or alteration of the April 22, 2009 order per the below reasons or otherwise. Therefore, the Motion should be denied.

PLACEMENT OF THE MONOPOLE

The Applicant has met the burden of Section 426 as determined by the Deputy Zoning Commissioner and unanimous vote of the Tower Review Committee. Section 426.6 addresses setbacks specifically and notes in A. 1. that, "A tower shall be set back at least 200 feet from **any other** (emphasis added) owner's residential property line." The evidence was that the tower was at least 200 feet from any other owner's residential property line. This was unchallenged by the People's Counsel. Had the County Council desired a greater setback from offsite properties they would have so designated. Further, had the County Council desired that towers be a certain distance on the subject property from other items (buildings, signs, parking lots, paths, etc.) it would have so legislated. In fact the County Council has not dictated any setback requirements for towers from items on the subject property, just as other jurisdictions have not, throughout Maryland and Virginia. This rationale is certainly based on the long standing principal that a property owner may utilize their property as they legally see fit, provided the local government zoning code is followed, which it is in this case.

The County Council has deemed it permissible to have a cell tower in a residential zone as they are permitted by Special Exception in residential zones, including the zone of the subject property, subject to certain criteria. See Creswell v. Baltimore Aviation Serv., Inc., 257 Md. 712, 719, 264 A.2d 838, 842, (1970), which noted, "A special exception is a use which has been legislatively predetermined to be conditionally compatible with the uses permitted as a right in a particular zone..." Also see, Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981), that said, "...The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid."

As an additional check the County does require new tower structures to receive a thorough and professional engineering review and approval via the County's Permits and Development Management review process before any new tower/pole, can be built. This is the same for all new structures in the County (buildings, signs, houses, stadiums, decks, scoreboards, windmills, etc.). Additional checks occur via certifications required under Section 426 D and E. These sections require periodic reports noting that the tower meets all applicable Building Code and safety requirements and noting the number of providers and antennas on the tower.

In addition section 426.7 addresses security bond for all new towers, including allowing code officials to use the bond to procure repair of unsafe or hazardous conditions, if warranted, per the code. In fact the People's Counsel notes in its own brief on page 3 that, "In the various cases on towers, I cannot recall any literature search about potential tower collapse." Precisely, the People's Counsel has failed to provide any evidence of structural integrity issues with cell tower monopoles in Baltimore County or beyond generally or specifically here and thus failed to meet their burden.

In fact the structure proposed here is a monopole and of modest height for a cell structure. A monopole is a much different and resilient structure than the taller traditional lattice and guyed

towers that have been deemed appropriate and utilized for decades across the country (and in Baltimore County) for TV, radio and other communications. This includes County communications towers for its communications needs, which are located in and around where citizens live, work and play. Quite simply there is no evidence of actual, legitimate concerns provided in the People's Counsel's motion over the proposed monopole. Professional engineers design the structure. Skilled professionals build the facility. County professional engineers and staff review the plan at the building permit level as well as during construction and before providing a final inspection.

Petitioner contends that a monopole, like here, is stronger than everyday items the general public walks, drives and sleeps under each and everyday, including wooden telephone poles, wooden and metal power lines, street lights, traffic lights, flagpoles, buildings, water tanks, signs, balconies, billboards, trees, stadium stands, ball field lights, bell towers, clock towers, steeples, chimneys, parking lot lights, etc. In fact there are twenty-eight (28) wooden telephone poles, fourteen (14) light poles (most on an Elementary School property where children attend school) and one flagpole all approximately 40-50 feet in height just within .4 a mile east of the site along Dogwood Road. (See attached photos).

Further, it must be noted that the People's Counsel's motion mentions (bottom of page 2 and top of page 3) that (CTC) consultant to the Tower Review Committee (TRC), Bob Hunnicutt, noted in his report to the (TRC) his concerns about the structural integrity of the monopole. However, the People's Counsel failed to provide any credentials for Mr. Hunnictt and the record should note that he is not an engineer of any sort, let alone a civil engineer. In fact the TRC acted on that recommendation and unanimously approved the application and noted that it met all the requirements of Section 426 of the B.C.Z.R (as noted in the Deputy Zoning Commissioner's report, page 4).

Last, the location is the one selected by the owner of the property and T-Mobile, a lessee. The location meets all of the requirements of the County code, including setbacks, as well as the engineering and physical needs, constraints, considerations, and restrictions for the landowner and tenant, T-Mobile. Were this a Variance request the People's Counsel's claim regarding alternative locations on the property or nearby may have some validity. However, this is a special exception, not a variance. Here the Petitioner has met the special exception code requirements for the application. Consequently, the special exception is approvable.

USE OF A RESIDENTIAL AREA AND ZONE

Since the request was to place the telecommunications facility in a residential zone via special exception it is correct that the Petitioner had the burden at the public hearing to show per section 426.9.C.a. that there is no available, suitable site for the tower in an offsite medium or high intensity commercial zone, identifying with particularity any sites considered. That burden was met at the public hearing as found in the Deputy Zoning Commissioner's written decision. Please see page 3 and 4 that notes that a number of existing locations identified in the search ring and ruled out. This included a federal building at 7500 Security Boulevard, which was rejected by GSA due to security reasons, as well as, locations at 3300 and 3320 Lord Baltimore Drive

being unfeasible due to signal interference issues, as they are too close to other existing T-Mobile antenna/cell site location currently serving customers.

In addition the two existing towers west of Lord Baltimore Drive in the office park area noted by the People's Counsel do not work from a technical standpoint. Plain and simple they are significantly too far east of the need area and too close to two existing T-Mobile sites. The need area for the new site, in order to provide enhanced services for T-Mobile customers, is west of Rolling Road. The towers in Rutherford Business Center and Windsor Corporate Office Park are located between Rolling Road and I-695, south of Windsor Mill Road and north of Dogwood Road. This is simply too far east and in the area of two T-Mobile sites already serving its customers. The sites are listed on Petitioner's map submitted at the March public hearing as and exhibit (attached for reference) as BAN 019 located at 7309 Windsor Mill Road and BAN 255 at 7100 Ambassador Road, both in Woodlawn. Whenever a new site is needed the area where it must be located to improve service is identified. In this case T-Mobile supplied a map as an exhibit that showed and had testimony re the locations of the proposed site and the existing surrounding sites. As the map shows the existing sites are all approximately one (1) mile away to the northeast, east, south and southwest of the proposed site at Dogwood Road. The sites include BAN 019 at 7309 Windsor Mill Road (1.32 miles away), Woodlawn, BAN 255 at 7100 Ambassador Road in Woodlawn (1.17 miles away), BAN 379 at 5 Elderberry Court, Catonsville (0.967 miles away) and BAN 176 in Patapsco Valley State Park, Piscall area (BGE structure), Windsor Mill, MD 21244 (1.26 miles away). To move the site much in any of those directions would place the proposed site too close to the existing sites and thus not fill the customer need of enhancing service to the needed areas. The CTC report (dated 11/25/08) for the TRC (Petitioner's Ex. 4 at hearing) also stated that T-Mobile ruled out an existing monopole at 8112 Liberty Road as being too far from the desired coverage to the residential areas around the proposed site. The County's own consultant concurred with such a conclusion (see top of page 2).

The petitioner takes exception with the People's Counsel's claim of not placing telecommunications facilities in residential areas. First, in order to provide coverage to residential areas, the sites must be close or in residential areas. And the Federal Government under the Telecommunications Act of 1996 noted that wireless infrastructure development would occur in order to provide enhanced wireless services nationwide.

Today, more and more sites are going into residential areas. At present there are over 270 million wireless subscribers in the United States who make over 291,000 calls to 911 each day. Further, the wireless only households (no landline telephones) have grown to nearly 18%. This is up from 8.4% just three (3) years ago. As of two (2) years ago 60 percent of all calls were made from the home. Quite simply we do want and need to use our wireless phones in our homes for personal and business needs. Without cell sites in and around residential zones, wireless services will be unreliable. As noted above, the Baltimore County Council has deemed it permissible and acceptable to place cell sites (towers, monopoles) in residential zones by allowing them by special exception. See Mossburg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995) in which the Court wrote, "A special exception or conditional use involves a use which is permitted, once certain statutory criteria have been satisfied. It is a desirable use..."

The County Planning Staff had recommended and Petitioner agreed to accept conditions to reduce visibility of the pole by providing a concealment pole with internal antennae, provide a pole color that will not stand out and will blend with the existing area and provide screening around the ground compound. In addition as noted in the Deputy Zoning Commissioner's report on page 5, per Exhibit 4,

> "Columbia noted that Dogwood Road to the west of the site is hilly with tees along the road that will likely screen the monopole from view from the roadway, though some homes directly across the street from the improved area of the property will see the monopole; they noted the tower would also be visible over the horizon from the elementary school located east of the property. The report also indicated that it appears the view of the monopole will likely be minimized because of its distance from residential areas north of the subject property and from the trees between the monopole and the homes, and that the same appears to be true for residential areas to the south of the site."

The Deputy went on to note astutely in his decision on page 6 that, "As seen in the photographs, although the pole is visible from all these locations, the view certainly could not be characterized as unreasonably obtrusive."

The People's Counsel also incorrectly states that there is concern over section 426.9 and the unlikelihood that other providers could co-locate on subject property as required per that section. However, the evidence via testimony and the structural letter (Petitioner's Ex. 11) was that the tower is designed to accommodate antennas of at least two other providers, as specifically required in 426.9.A.3. Thus, this is not an issue or appropriate claim of concern.

The Petitioner met their burden at the public hearing for the Special Exception for the new monopole. However, the People's Counsel has failed to prove otherwise or meet their burden in their motion. Consequently, it should be denied and the Deputy Zoning Commissioner's April 22, 2009 decision should stand intact.

Sincerely,

Sean P. Hughes

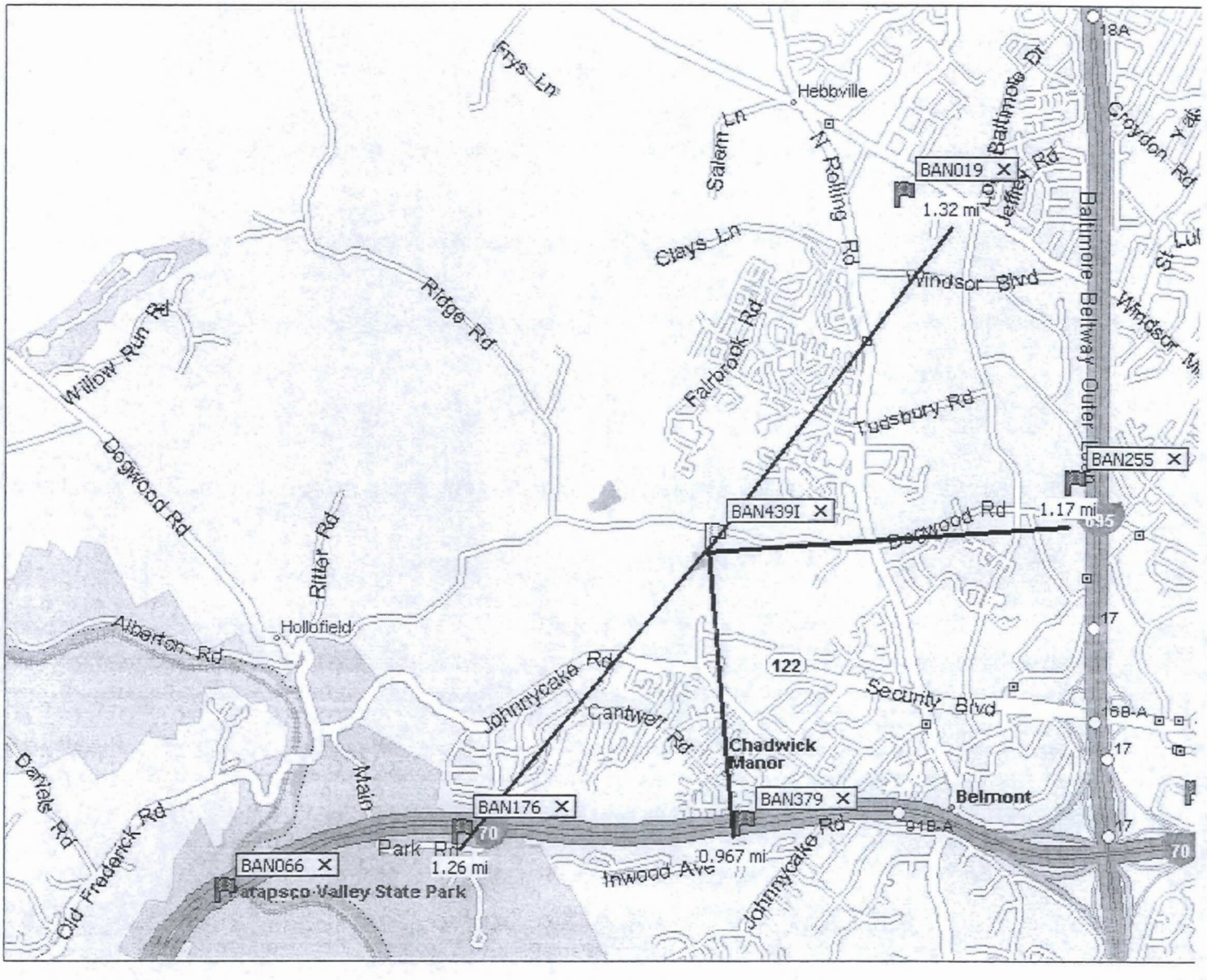
Sean Hughes
Zoning Attorney for T-Mobile

Cc: Amy Bird, T-Mobile
George Helfrich, property owner of 7301 Dogwood Road
Lisa Reeves, tenant at 7301 Dogwood Road, Easter Seals
People's Counsel
Richard Bohn, Tower Coordinator, Tower Review Committee





BAN439I Location w.r.t. OA Sites



TB
3-9-09

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 20, 2009

RECEIVED

MAY 20 2009

ZONING COMMISSIONER

HAND-DELIVERED
Thomas H. Bostwick, Deputy Zoning Commissioner
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

Re: PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION
George Helfrich, Legal Owner and T-Mobile, Lessee- Petitioners
7301 Dogwood Road
Case No: 09-182-SPHX

Dear Mr. Bostwick:

Please accept this letter as a Rule K Motion for Reconsideration of the Findings of Fact and Conclusions of law granting these petitions for special hearing and special exception for a telecommunications tower in a residential zone dated April 22, 2009. Based on a review of the record, additional consideration is warranted to address more particularly several concerns.

The first concern relates to the placement of the monopole. It would be 92 feet from the existing adult day-care facility building, relatively close to the parking lot, and within 306 feet of Dogwood Road. A second concern involves the choice of a residential area and zone. To review the validity and seriousness of these concerns, a description of the area and site is fruitful. A GIS aerial photo of the site is also of great assistance.

The 7301 Dogwood Road site is in Woodlawn, on the south side of Dogwood Road, about 2000 feet west of the commercial intersection at Dogwood and Rolling Roads. While it is not far as the crow flies from major commercial, office, and governmental uses along Security Boulevard, including the HCFA building, Dogwood Road takes on a residential and semi-rural character as one approaches the site driving west along the two-lane Dogwood Road. There are a number of residences at low to moderate density. Then, on the left, just before reaching the site, the Dogwood Elementary School and recreation area stretches along the road, with the baseball diamond virtually bordering the subject property. The site itself stretches west for another 1200 feet or so of frontage along Dogwood Road. Beyond the site, the area transitions from residential to rural, including Diamond Ridge Park and golf course. There are several zones along the road, but the land use is, as noted, decidedly residential and rural. It is noteworthy meanwhile that to the east of Rolling Road, there are corporate and office parks to the north of

Dogwood Road. The neighborhood thus changes dramatically as one proceeds west along Dogwood.

The site itself is listed as having 11 acres, but the site plan also reflects that the owner, George Helfrich, has additional adjacent acreage under the name of Dogwood Limited Partnership. The contiguous property is thus larger than 11 acres. As the enclosed zoning history shows, Deputy Zoning Commissioner Jean Jung granted special exception approval in 1986 for a social clubhouse, pool, and recreation fields in Case No. 86-354-SPH. As discussed below, these uses are now in a state of disrepair and decay.

The main current use, as noted, is for the Easter Seals adult day care facility tenancy. There is a substantial building on the east side of the property fronting and set back 148 feet from Dogwood Road. There is on its west side a paved parking lot, and there is circumnavigating it a secondary dirt driveway. To the south of this driveway is a forest conservation easement. The proposed monopole would be just north of the boundary with the conservation easement, but within 92 feet southwest of the corner of the day care building. It would be perhaps 100-150 feet from the parking lot, and 306 feet from Dogwood Road. It is thus in close proximity to the day care use generally.

The paved parking lot extends to the west from the building. Immediately to its south, shown on the site plan as an existing building and swimming pool, are actually the ruins of the clubhouse and empty swimming pool. These are fenced off, apparently for safety. Beyond the parking lot, to the west, is the remnant of a paved basketball court with backboards, and a large open playing field with even topography. To the south of this field, there is another large open flat field, with an eroded baseball backstop facing southwest. Beyond the outfield, there begins a patch of forest. The baseball field and forest extend into the land owned by Mr. Helfrich under the aegis of Dogwood Limited Partnership. To put this in geographic perspective, the left field corner, where the forest patch begins, appears to be about 700 feet equidistant from both Dogwood Road to the north and the adult day care facility to the east/northeast.

As the Board of Appeals said in the enclosed September 28, 2007 Omnipoint opinion, denying a tower at a high school, BCZR § 426.8 expresses a concern about unsafe or hazardous conditions. In addition, the BCZR § 426.6.A 200-foot setback requirement from residential property lines may be intended to alleviate safety concerns (this requirement is just literally satisfied here because the residential use is internal).

The proposed monopole here is variously described as 130 feet in height (Pet. Exh. 10) and 120 feet in height (elsewhere). The proposed site location, as noted, is as close as 92 feet to the corner of the day care building and in the general area of day care use. Its only advantage appears to be for the convenience of the petitioners.

Having provided this description, let us consider the problems. The Tower Review Committee raised the issue as to potential collapse of the tower in proximity to the day-care facility. T-Mobile claimed that the design insured that any collapse would be virtually internal, that is to say, the tower would never tilt over to the side. On the other hand, the CTC consultant

to the Tower Review Committee (TRC), Robert Hunnicutt, stated at the end of his November 25, 2008 report (Pet. Exh. 4) that, "The design as described does not address a failure to the foundation or bolts that connect the monopole to the foundation. If there were to be a failure with the foundation, the rear corner of the day care facility could be within a portion of the fall zone of the monopole if it was to fall." His recommendation was "subject to approval for a special exception." The December 10, 2008 TRC report (Pet. Exh. 2) mentions this concern and the design of the tower to fall on itself, but does not mention Mr. Hunnicutt's concern about a foundation failure. The president of Easter Seals, the operator of the day care facility, sent a March 17, 2009 e-mail to express some concerns, which included a request to be named as additional insured. Ultimately, the April 22, 2009 DZC opinion included in condition 6 a requirement that petitioner provide a certificate of liability insurance for Easter Seals and a hold harmless agreement and certificate of insurance for Baltimore County.

If the potential collapse of the monopole is of sufficient concern to draw the attention of the TRC, require heightened insurance conditions, and invoke a hold harmless clause, why is it not a sufficient concern to move the monopole a reasonable distance from the adult day care facility on this 11-acre site? Is a potential collapse a serious concern or not? It appears to be, at the very least, not frivolous.

So, if the monopole must be on this site, could it more appropriately be located elsewhere? While it cannot be placed in the conservation easement, there appears to be plenty of room on the west side of the site in the area of the playing fields, including the baseball field outfield area to the interior of the property and farther away both from the adult day care facility and Dogwood Road. There does not appear in the record to be any consideration given to this alternative.

In the various cases on towers, I cannot recall any literature search about potential tower collapse. The subject of bridge collapse comes to mind. Generally, bridges do not collapse. There are strict engineering and maintenance requirements. Even so, tragically, they occasionally do collapse. As to towers, I realize that safety concerns could be raised about proximity to commercial or industrial uses as well as residential uses, and that some towers in commercial zones may be permitted. But the safety issue is still there and should not escape attention, especially in residential areas.

This brings us to the question of placement of the monopole in a residential zone. As the CBA also recognized in Omnipoint, BCZR § 426.9.C places the burden on petitioner in a residential zone to show with particularity that no available suitable site exists in a medium or high intensity commercial zone (OR-2, BLR, BL, B.M., BR, M.R, ML, ML, M:R,)-3, OT, MH per BCZR 426.5 chart). Moreover, the TRC December 10, 2008 report did find that the proposed monopole would have a "visual impact in the area of the tower, so the unipole will be visible from adjacent properties and roadways. As the site plan and record show, there are many single-family homes nearby." In this context, it is even more important to evaluate potential alternative commercial locations. While T-Mobile identified and excluded a GSA building at 7500 Security Boulevard and buildings at 3300 and 3320 Lord Baltimore Drive, there are many other medium and high intensity zone uses in the Woodlawn area bounded by Lord Baltimore Drive, Windsor

Mill Road, Ridge Road, and Security Boulevard. There are at least two existing lattice-type towers west of Lord Baltimore Drive in the office park area. Given the relatively large number of commercial and office uses in the area, it would appear that a more particular and systematic search for the availability of alternative sites and co-location is warranted. In other words, even if the few buildings mentioned in the record are unavailable or unsuitable, it appears reasonable to inquire as to the availability and suitability of other sites and the basis on which the owners might consider the establishment of a monopole.

It is also noteworthy, under, BCZR § 426.9.A, that there is an additional concern about the apparent unlikelihood that other providers could co-locate their facilities at this precise location on the property. This is yet another issue.

Given the foregoing, it is legitimate to ask whether T-Mobile found the subject property and liked it; whether both T-Mobile and the owner found the location next to the day care facility most convenient and accessible; and whether they then looked for reasons to justify it? The goals should be to stay away from residential areas and stay away from residential uses. It is not clear that these goals were given sufficient priority.

While petitioners have submitted their proposal to the TRC and then for your review, I respectfully ask that there be further consideration in order to address these issues in depth. On the record to date, the petition should be denied.

I would welcome any additional response or explanation from petitioners or their representatives, and any input from Easter Seals.

Thank you for your consideration.

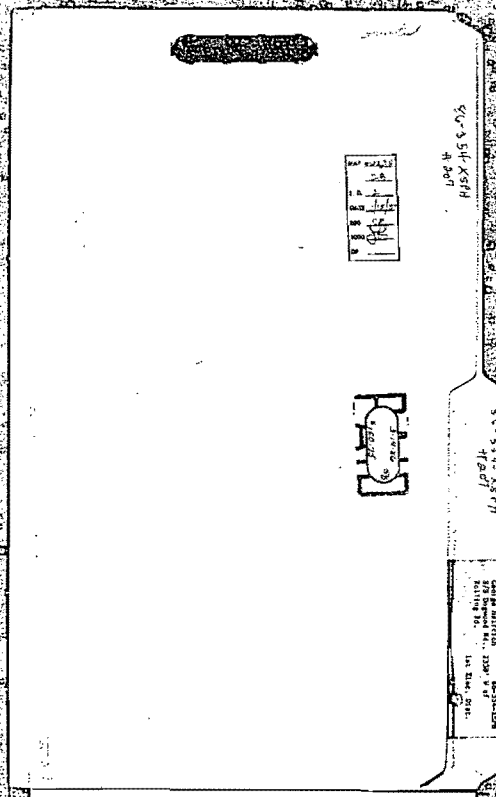
Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: George Helfrich, Petitioner and property owner
Sean Hughes, Esquire, attorney for T-Mobile
Richard Bohn, Tower Coordinator, Tower Review Committee
Lisa Reeves, President of Easter Seals



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

May 15, 1986

J. Carroll Holzer, Esquire
305 W. Chesapeake Avenue, Suite 110
Towson, MD 21204

RE: PETITIONER SPECIAL EXCEPTION
AND SPECIAL HEARING
S/S of Dogwood Road,
2338'W of Rolling Road
1st Election District
George Helfrich, Petitioner
Case No. 86-354-XSPH

Dear Mr. Holzer:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

JEAN M. H. JUNG
Deputy Zoning Commissioner

JMHJung

Attachments

cc: Jubelle's Counsel

Ms. Ann Dow
7130 Dogwood Road
Baltimore, Maryland 21207

ORDER RECEIVED FOR FILING
DATE May 15, 1986
BY Debbie Schmidt

IN RE: PETITIONER SPECIAL EXCEPTION AND SPECIAL HEARING
S/S of Dogwood Road, 2338'W of Rolling Road
1st Election District
George Helfrich - Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-354-XSPH

* * * * * * * * * * *

The Petitioner herein requests a special hearing for the continued operation of certain activities on the property, such activities being determined to be nonconforming to the current D.R. 5.5 zone; utilization of the clubhouse for social activities, including the utilization of a liquor license, wherein meetings, dances, and other social activities have been conducted; outdoor baseball, football and soccer fields which have been utilized for those sports activities; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; two clay tennis courts which have been utilized; and a pond, which has been used for canoeing, boating and fishing and/or

The Petitioner requests a special exception for utilization of the clubhouse as an area of social activities including a liquor license wherein meetings, dances, and other social activities will be conducted; outdoor baseball, football, and soccer fields for those sports activities; tennis facilities; the woods for hiking, camping and other nature activities; the pool for swimming and other aquatic activities; a miniature golf course and a golf driving range; the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer; and camping to include overnight tenting and other outdoor recreational activities.

Testimony by and on behalf of the Petitioner indicated that the clubhouse has been in existence since the 1940's and both it and the grounds have been utilized by club members or private parties (including companies and organized groups) for meetings, dances and other social activities, many of which utilized a liquor license. The pool and pool house, since the early 1950's, have been utilized by club members, groups, those joining the pool for an annual membership and a day camp for one summer. Since the 1940's or early 1950's the pond, woods and open areas have been used for general recreational purposes including camping by members and the parking lot has been in existence. The earliest specific reference to basketball was "prior to 1961." Although the Petitioner testified that he saw fields (i.e. baseball, football and/or soccer) somewhere between 1952 and 1964, one person testified they were added about 1965, and another that they were added at the time the last building at Social Security was constructed. An undated letter from the President of the Wildwood Athletic Association, Inc., marked Petitioner's Exhibit 2, indicated that the organization built lighted football and softball fields subsequent to its purchase of the site in 1979. The tennis courts were added in 1978 according to one witness and after Potts and Callahan work according to another.

The Petitioner, in his special exception request, proposes to expand the facility by adding a miniature golf course and a golf driving range, and to obtain the right to utilize the clubhouse and fields as a training facility.

Testimony by a representative of a local improvement association indicated concern for proper management of the pool and other facilities and concern that there might be noise, vandalism and/or brawls by users of the facility. She urged pool admission by bonded membership only, that no amplifiers or rock groups be permitted and, in general, good management. She testified that the fields were constructed in 1977.

After due consideration, in the opinion of the Deputy Zoning Commissioner, the petitioner should enjoy a legal, nonconforming status as indicated on the plan prepared by Gerwald, Cross & Etzel, revised September 10, 1985 and marked Peti-

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DATE May 15, 1986
BY Debbie Schmidt

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Petitioner's Exhibit 1: clubhouse for social activities including basic and liquor licenses, pool and pool house, recreational use (including camping) of pond, woods and open areas; parking lot and a basketball court.

It appears that fields, baseball, football and soccer, as well as tennis courts, have been added later and have been within, but totally utilized, the 25% expansion allowed by the Baltimore County Zoning Regulations (BCZR).

Pursuant to the advertisement, posting of property, and public hearing on the Petitions, and after due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the requirements of Section 502.1, BCZR, have been met and the health, safety and general welfare of the community will not be adversely affected, and, therefore, the Special Hearing and Special Exception should be granted in part, subject, however, to the limitations on the Special Hearing reflecting the findings noted above and to restrictions on the Special Exception.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 15th day of May, 1986, that the herein Petition for Special Hearing for the continued operation of certain activities on the property, such activities being determined to be nonconforming to the current D.R.5.5 zone; utilization of the clubhouse for social activities, including the utilization of a liquor license, wherein meetings, dances, and other social activities have been conducted; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; and a pond which has been used for canoeing, boating and fishing, and, additionally, the Petition for Special Exception for a miniature golf course and a golf driving range; all in accordance with Petitioner's Exhibit 1, are hereby GRANTED, from and after the date of this Order, subject, however, to the following limitations on the Special Hearing reflecting the testimony and evidence presented:

ORDER RECEIVED FOR FILING
DATE May 15, 1986
BY Debbie Schmidt

- 3 -

1. The nonconforming uses, including their permitted 25% expansion, shall not extend beyond the clubhouse for social activities including, music and liquor license, pool and pool house, recreational use (including camping) of pond, woods and open areas; parking lot, basketball court, fields (baseball, football and soccer) and tennis courts.

2. There shall be no concerts whose attendance will cause the parking lot to overflow or cause noise/sound in violation of Baltimore County ordinance laws.

3. No amplifiers shall be used after 11:00 p.m.

4. All activities, except camping, shall cease by 2:00 p.m. Friday and Saturday, and midnight Sunday through Thursday.

5. The pool shall not be open to the public as a commercial business with daily admission, but available to organized groups or to individuals and families who are clubmembers, or who have paid an annual membership fee and to their specified guests for whom they are responsible.

and to the following restrictions on the Special Exception:

1. The driving range and miniature golf activities shall cease by 10:00 p.m.

2. Adequate parking in accordance with current BCZR shall be provided for the miniature golf course and the golf driving range.

3. The pool shall be operated in accordance with all Health Department requirements.

4. All facilities shall be closed and the two entrances to the parking lot secured with a cable/chain unless there is, on the property, a manager or person responsible to the owner. That manager is responsible for seeing that there is no illegal drug and/or alcohol consumption on the property.

A special exception for the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer is hereby DENIED.

Deputy Zoning Commissioner
of Baltimore County

ORDER RECEIVED FOR FILING
DATE May 15, 1986
BY Debbie Schmidt

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86-354-XSPH

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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

herein described property for utilization of the clubhouse as an area of social activities, including a liquor license, wherein meetings, dances and other social activities will be conducted; outdoor baseball, football, and soccer fields for those sports activities; tennis facilities; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; a miniature golf course and a golf driving

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

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

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

Contract Purchaser:	Legal Owner(s):
.....	George Helfrich
(Type or Print Name)	(Type or Print Name)
.....	.....
Signature	Signature
.....	.....
Address	(Type or Print Name)
.....	.....
City and State	Signature
Attorney for Petitioner:	
J. Carroll Holzer	3516 Maryland Avenue
(Type or Print Name)	Address Phone No.
.....	Baltimore, Maryland 21218
Signature	City and State
305 W. Chesapeake Ave., Suite 110	Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted
Address	
Towson, Maryland 21204	.....
City and State	Name
Attorney's Telephone No.: 823-4960	Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this ...4th... day of ...February..., 19...86... that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the ...11th... day of ...March..., 19...86... at ...1:30... o'clock

Zoning Commissioner of Baltimore County.

(over)

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(cont'd.)

range; the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer; Camping to include overnight tenting and other outdoor recreational activities; all pursuant to Baltimore County zoning regulations, Section 1B01.1.C.6

86-354-XSPH

IN THE MATTER OF THE APPLICATION OF OMNIPOINT COMMUNICATIONS CAP OPERATIONS – PETITIONER; BOARD OF EDUCATION – LEGAL OWNER FOR SPECIAL EXCEPTION ON PROPERTY LOCATED AT 4000 OFFUTT ROAD	*	BEFORE THE COUNTY BOARD OF OF BALTIMORE COUNTY
2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	Case No. 06-421-X

* * * * * * * * *

OPINION

This case comes to us as an appeal of a Deputy Zoning Commissioner's Order in which the requested special exception was granted. The County Board of Education and Omnipoint Communications CAP Operations, Petitioners, were represented by Karl Nelson. People's Counsel Carole Demilio brought the appeal. Aaron Plymouth, President of the Randallstown High School PTSA also filed an appeal.

A public de novo hearing was held on May 16, 2007. Post-Hearing Memoranda were filed in lieu of closing arguments on July 17, 2007. A public deliberation was held on August 22, 2007.

Preliminary Matter

Karl Nelson filed a Motion to Dismiss on August 4, 2007, arguing that Mr. Plymouth had not appeared at the Deputy Zoning Commissioner's hearing, and therefore did not have standing to appeal the decision and order. People's Counsel, in response to the Motion to Dismiss, pointed out in a letter dated August 16, 2006, that Code Sec. 32-3-401(a) allowed "not only a 'person aggrieved' but also any 'person feeling aggrieved' to file an appeal." People's Counsel further pointed out that the Board of Appeals has always "construed this law liberally."

This Board considered both arguments and agreed with People's Counsel. The law does allow a much more liberal standard for appeals to this Board than, say to the Circuit Court. We therefore dismissed the Motion.

Testimony and Evidence

The general facts in this case are undisputed. This case involves a Petition for Special Exception, filed by the legal owners of the subject property, Board of Education for Baltimore County, and Omnipoint Communications CAP Operations, LLC, lessee. Petitioners are requesting a special exception under Section 426.5.D of the Baltimore County Zoning Regulations (BCZR) for property located at 4000 Offutt Road in the Randallstown area of Baltimore County. The request is to allow an unmanned wireless telecommunications facility in a D.R. 3.5 Zone, specifically on Randallstown High School property. The facility will consist of three antenna sectors with three antennas per sector attached to a 110-foot stealth light pole communications tower. This light pole/monopole will replace an existing 30-foot light pole located three feet away. The nine antennas will be located at an antenna centerline of 107 feet. Omnipoint will also install ancillary equipment cabinets on a 10-foot by 20-foot concrete pad. There will be a 20-foot by 40-foot chain-link fence around the entire area.

Jaichandran Rajan, an engineer with Telecon Technical Service, testified for Petitioners. Mr. Rajan is a Radio Frequency engineer, whose responsibility is to identify weak areas within the T-Mobile network. He described many aspects of his job, particularly how signal strength differed from being on the street, to being in a car, to being within a building. He testified that T-Mobile attempts to provide service in all three situations. He stated that currently, in the area around the subject site, there is barely any street coverage and people within cars and home cannot make cell phone calls.

Rajan described the area as being densely residential, and stated that it was therefore an important area for T-Mobile to cover. Mr. Rajan presented Petitioner's Exhibit 1, a printout of the asset system propagation map, which had color-coded overlays showing the current and projected mobile phone coverage in the area. The subject site is in the middle of the map, in the white area and marked with an "X".

Mr. Rajan described the Site Development Team's work, and how he evaluates sites they propose. He testified that in the search area, there were no co-locations—existing cell towers on which to place an antenna—which would serve T-Mobile's needs. Without a co-location available, he had to look for a location on which to place a new tower. The Randallstown High School site was the best site for covering the area T-Mobile required.

On cross examination, Mr. Rajan testified that the boxes at the base of the tower would require standard 110-120 voltage, and there would be danger signs posted. He also stated that if the boxes were touched there would be no danger. If broken into, a person could receive a shock, but he compared the danger to a broken home appliance. He also described the boxes as being about the size of refrigerators, about 5-1/2 feet tall and 3 feet wide. He said the equipment was sensitive and expensive and the fence would help protect it.

When asked if it would be possible to locate the tower anywhere else on Randallstown High School property, he stated it was possible, but depended on elevation. He also stated it was his responsibility only to evaluate sites for technical suitability, and not in terms of its affect on people in the area.

Mr. Rajan was asked about other locations in the area, such as the WBAL tower east of the subject site. He stated that other sites were too far away to be of use in the area T-Mobile

needed to cover. Randallstown High school was near the center of the area needed, and therefore was the best location for achieving signal strength.

Mike Budde, of Network Building and Consulting, who was contracted to T-Mobile for the site development team, testified about the subject site. He stated that the high school was on a parcel of about 25 acres, but the entire facility consisted of a total of about 40 acres. He presented Petitioner's Exhibit 2, the site plan for the cell tower facility. The tower would be located southwest of the school, adjacent to existing tennis courts. The stealth installation would replace an existing light pole for the tennis courts with the 110-foot cell tower pole. A replacement light would be affixed at 35 feet for the tennis courts. He presented Petitioner's Exhibit 3, the site plan for Fullerton Elementary School, on which a stealth cell tower had been built.

Mr. Budde testified that the cell tower proposed for Randallstown High School met all the required setbacks: North the setback was 275 feet; East, 808 feet; South, 364 feet; and West, 621 feet. He stated that the nearest residence was over 500 feet away from the proposed site.

Regarding safety issues of the site, Mr. Budde testified that to his knowledge no one had ever broken into a cabinet; that to get into a cabinet a specific key and unique tool were required that were not commercially available. He stated that the power in the cabinet was about the same as in a house or school.

Regarding the choosing of the site, Mr. Budde testified that he first looked for co-locations, because of Baltimore County regulations which require co-locating as the first option. He also testified that it was cheaper and faster for a cell phone company to co-locate rather than build new, so it was preferred. However, there were no co-location sites in the required area. He stated there were no existing tall structures in the area, except a church which at 30-40 feet was

too short for a cell tower. He stated the parcel size of the subject site was ideal for the tower, all the other parcels in the area being residential and only about a quarter acre in size. The opportunity to put up a stealth pole replacing a light pole also made the site a good one.

Budde testified to BCZR Section 502.1 requirements stating there would be no density, little maintenance (perhaps one technician per month), no vehicle traffic and no impact on public utilities if this cell tower were built. The existing tennis light would be replaced, but otherwise no light would be added to the site.

On cross examination, he testified that he had no idea how many towers Verizon had in the area, and that there was a monopole on Liberty Road in the area, but he did not know what carriers were on it. He also did not know if T-Mobile had been receiving complaints in the area for lack of service. He also testified that no other locations on the subject site were looked at besides the location near the tennis courts, because they thought the light pole replacement was the best idea.

A number of people testified for the Protestant's case. State Senator Robert Zirkin (11th District), testified in his capacity as a citizen regarding his concerns for the safety of the approximately 1,000 students at the school. He was also concerned that the School Board had not notified himself, the district's delegates, or the school's PTA regarding its plans for the cell tower. He stated he had also seen studies on both sides of the safety issues regarding cell tower and that he believed until conclusive data was available, it was not appropriate to place a cell tower on a school site.

Mr. Allan Gee, a resident in the area, also testified. He stated he was a retired building inspector for the county and had inspected many building sites including cell towers. His major concern was that the tower would be erected right near the front of the school, near the recreation

area where students played ball and milled around. He produced People's Counsel's Exhibit #1, a series of photos showing a number of other cell tower facilities and the types of equipment contained within the chain link fence.

Mr. Anthony Green testified regarding his concern for the safety of the students. In May of the previous year, his daughter was electrocuted at a recreation park in Baltimore City when she touched a metal fence while playing softball. She died instantly. He believed that children's safety should be considered in this case.

Ella White Campbell testified for the Liberty Road Community Council (People's Counsel 2, Rule 8 papers). The LRCC voted on May 8, 2007, to oppose the cell tower. Their reasons were that studies have shown that cell tower radiation promotes cancer; the property values of the surrounding community could be adversely impacted; and the aesthetic impact of the tower would destroy the beauty of the campus.

Linda Dorsey Walker, a former PTSA officer at Randallstown High School described the area in which the cell tower would be placed as being too close to the school and to where students tend to "hang out," as well as get on and off school buses. She produced photos showing the location of the proposed cell tower near the tennis courts (People's Counsel Exhibit #3) and of the light pole that would be replaced. She was also concerned that the School Board and T-Mobile did not consult with parents, the PTA, or the community even as a "common courtesy." She named other locations in the area that would be more suitable than the high school for the proposed tower. Tonya Williams concurred with much of Ms. Walker's testimony, also naming other locations she believed could be suitable. She also thought there might be better locations on the school property that would not be opposed; it was just the location in the front of school she opposed.

Mr. Roderik Hart, who also lives in the area, testified that he is retired from Verizon's 911 operations and he had never heard complaints regarding the use of 911 in the Randallstown area. He was also concerned about the safety of the students and the aesthetics of a cell tower on the school grounds.

Finally, Aaron Plymouth, the outgoing president of the PTSA testified regarding why he originally appealed the case (People's Counsel Exhibit #5, Rule 8 Papers). He stated that the process for this cell tower installation had begun in August 2004, but in the two years of planning, the school board had never notified the PTSA or the local community association for their input. He was primarily concerned for the students, who might assume the facility is safe and accessible simply because it is on the public school grounds. All the areas of the school are open to the public, he stated. The tennis court is fenced in, but the gate is open all week, night and day.

Applicable Law

Baltimore County Zoning Regulations Sections 426.2 (Legislative policy for siting of wireless communications antennas and towers), 426.6 (Setback requirements for wireless telecommunications towers), 426.9 (Addition conditions for towers permitted by special exception), and 502.1 (Special Exceptions) are all relevant to this case. The controlling case regarding the approval of Special Exceptions is *Schultz v. Pritts* 291 Md.1, 432 A.2d 1319 (1981), and it must also be considered here.

> When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. . . . Such uses cannot be developed if **at the particular location proposed** they have an adverse effect above and beyond that ordinarily associated with such uses. *Schultz v. Pritts,* 21-22. (Emphasis added.)

There was no dispute regarding certain basic facts of this case. There was no contradictory evidence to show the cell tower did not meet the setback requirements. In addition many of the requirements for building a new cell tower were also met (such as designing it to accommodate at least two other providers). The height of the tower was also unquestioned. The primary concerns raised by Protestants were regarding the choice of this exact location, near the tennis courts, on Randallstown High School and its effect of the general health and safety of people, particularly students, in the area.

The approval of a special exception is contingent on a finding that the conditions in Section 502.1 are met. Given the nature of a cell tower, most of the requirements of Section 502.1 are not hard to prove (cell towers do not create congestion on roads and alleys, do not overcrowd the land or cause concentration of population, do not interfere with adequate provisions for schools, parks, etc.). The two exceptions are 502.1A: Be detrimental to the health, safety, or general welfare of the locality involved; and 502.1G: Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations. Protestants argue that the conditions for 502.1A are not met.

To meet 502.1G, Petitioner would also have to meet 426.2 and 426.9.

426.2. Legislative policy for siting of wireless telecommunications antennas

A. Antennas should be placed on existing towers, buildings and structures, including those of public utilities, where feasible; and

B. If a new tower must be built, the tower should be:

1. Constructed to accommodate at least 3 providers;

2. Erected in a medium- or high-intensity commercial zone when available; and

3. Located and designed to minimize visibility from residential and transition zones.

426.9 Additional conditions for towers permitted by exception.

Towers permitted by special exception shall meet the requirements of this section.

A. A petitioner shall have the burden of demonstrating that:

1. The petitioner has made a diligent attempt to locate the antenna on an existing tower or nonresidential building or structure;

2. Due to the location, elevation, engineering, technical feasibility or inability to obtain a lease of ownership of a location elsewhere, the construction of a tower at the proposed location is warranted;

3. To the extent technically feasible, the tower has been designed to accommodate antennas of at least two other providers; and

4. The height of the tower is no higher than what is required to enable present and future co-location of other providers.

B. The Zoning Commission shall review the petitioner's submittal with regard to the legislative policy under Section 426.2.

C. In a residential or transitional zone, a tower shall meet the following additional requirements:

1. A petitioner shall have the burden of demonstrating that:

a. There is no available, suitable site for the tower in a medium or high intensity commercial zone, identifying with particularity any sites considered; or

b. Due to topographical or other unique features the proposed site is more consistent with the legislative policy under Section 426.2 than a site in an available medium or high intensity commercial zone.

.....

Petitioner argues that "T-Mobile has an important coverage need in the heavily populated and highly traveled Randallstown area." The best location to place a tower to fill that need is Randallstown High School, because it contains the largest area, provides for all the necessary setbacks, has high ground elevation, and allows the use of a stealth

pole. Petitioner argues that the requirements of 426 and 502.1 were met, that T-Mobile conducted a "diligent search" for co-locations and other locations as required by 426.9. "Commercial parcels were equally non-viable. All were well outside the search area to the north and south. All would fail to cover the target area and interfere with existing T-Mobile installations." Regarding *Schultz,* Petitioner argues that it exceeded the *Schultz* threshold, since all other parcels in the DR zone are quarter-acre residences and the high school is the largest parcel in the area, therefore a tower place there would have the least impact of anywhere else in the zone.

People's Counsel, in its Post-Hearing memo, argues that the particular requirements for towers in residential zones, in 426.9, indicates that it was the County Council's intent to permit towers in residential zones "as a last resort." In addition, the special requirement in 426.8, that "the owner keep the facility, and specifically the 'tower and any structure housing equipment for the tower' free from 'unsafe or hazardous conditions' is an acknowledgment that the tower and equipment are potentially unsafe or hazardous." People's Counsel then argues that once adverse effects are established, the location *vis a vis* those conditions must be examined, per *Schultz.* "A special exception must be denied where the adverse effects are particular to the location, and above and beyond the normal adverse effects." Citing a number of cases in which special exceptions were denied, People's Counsel points out that "in each situation, there was something particular about the project or neighborhood, which justified denial." (Citing Schultz, County Comm'rs v. Holbrook; Mangione; and People's Counsel v. Country Ridge Shopping Center.)

Opinion and Order

As noted above, because of the inherent nature of a cell tower, most of the conditions set forth in Section 502.1 do not apply. The County Council, however, set forth additional conditions specifically for cell towers requiring a special exception. *Schultz v. Pritts* is instructive as to the difference between a permitted use and a special exception or conditional use:

> Because the legislative body, in reaching its determination [regarding permitted and special exception uses], is engaged in a balancing process, certain uses may be designated as permitted although they may not foster all of the purposes of the zoning regulations and, indeed may have an adverse effect with respect to some of these purposes. . . .When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. *Schultz supra* at p. 21. (Emphasis added.)

In examining the proposed use as a special exception in a residential area, we need to look at whether its adverse effects outweigh its positive effects, and as *Schultz* instructs, whether those adverse effects "are particular to the location, and above and beyond the normal adverse effects." As the cases cited by People's Counsel point out, the question we must address is whether in *this* location, next to the tennis courts near the front of Randallstown High School, the adverse effects outweigh the potential benefits.

This Board finds that they do. The subject site is a location through which 1,000 students traverse almost daily, near which they "hang out," walk or jog on a paved path, play tennis, and discharge from and re-board school buses. Out of nearly a 40-acre site, *this* particular location has the greatest potential safety issues for a use of this nature. The

County Council itself recognized that such facilities have some potential hazard when they included 426.8 – Unsafe or hazardous conditions – in the zoning regulation.

There is also an aesthetic issue with the cell tower in *this* location, which is close enough to the front of the school to be clearly visible. The photos produced by Mr. Gee are clearly illustrative of just how unsightly cell tower facilities can become. Although T-Mobile plans only 2-3 refrigerator size boxes on the ground around the tower, at least two more cell providers may eventually add their equipment, and there is no guarantee what size their equipment would be. In the future there could be nine refrigerator-sized—or larger—boxes at the base of the tower. The Court of Appeals has upheld aesthetic concerns as a reason to deny a special exception (County Comm'rs v. Holbrook 314 Md.210 (1988).

Finally, we are not convinced that T-Mobile conducted a "diligent" search of the area for other sites, as Section 426 requires. At least one Board member had the impression throughout the testimony that once the radio frequency engineer had placed an "X" on this exact location on Randallstown High School as the perfect coverage spot, only scant attention was paid to surrounding areas. Protestants provided a number of examples of alternative sites within blocks of the school, yet Mr. Budde was unfamiliar with all of them. Perhaps if T-Mobile and the School Board had met with the neighborhood association and the PTSA, more accommodating sites could have been examined.

Based on these three concerns, this Board unanimously finds that this petition fails the test created by *Schultz v. Pritts* for approving a special exception. The adverse effects produced by a cell tower – both from a safety standpoint and aesthetically—are greater in *this* location on Randallstown High School—near the front of the school, in the middle of a well-trodden area by nearly 1,000 students--than they would be elsewhere in the zone.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 28th day of September, 2007, that the Petition for Special Exception filed in Case No. 06-421-X to allow an unmanned wireless telecommunications facility in a D.R. 3.5 Zone, specifically on Randallstown High School property, be and the same is hereby **DENIED**.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Margaret Brassil

Margaret Brassil, Ph.D., Chairperson

Lawrence M. Stahl

Robert W. Witt

4/22/09

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
S side of Dogwood Road, 1830 feet W of Rolling Run Drive	*	DEPUTY ZONING
1st Election District	*	COMMISSIONER
1st Councilmanic District		
(7301 Dogwood Road)	*	FOR BALTIMORE COUNTY
George Helfrich *Legal Owner*	*	
	*	
T-Mobile *Proposed Lessee*	*	**Case No. 2009-0182-SPHX**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by George Helfrich, the legal property owner, and Amy Bird, agent and representative for T-Mobile, the proposed lessee. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve the following:

- Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and
- Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and
- To confirm the legality of the adult daycare use existing on property.

The requested Special Exception is to allow a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

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Appearing at the requisite public hearing in support of the requested special hearing and special exception was Amy Bird, Petitioner T-Mobile's consulting Zoning Manager, and Sean P. Hughes, Esquire, attorney for Petitioner. Also appearing in support of the requested relief were Michael McGarity, Petitioner's wireless services engineering consultant, and Mitch Kellman, Petitioner's land use and zoning consultant, both with Daft McCune Walker, Inc. ("DMW"), the firm that prepared the site plan, and Rajkanwar Brar, consulting radio frequency engineer with T-Mobile. Also attending the hearing as an interested party on behalf of the current lessee of the property was Diane Vance with Easter Seals Greater Washington-Baltimore Region, Inc. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is irregular-shaped and consists of approximately 10.99 acres, more or less, zoned D.R.5.5 and R.C.6. The property is located on the south side of Dogwood Road, west of North Rolling Road and east of the Diamond Ridge Golf Course, in the Woodlawn area of Baltimore County. The property is improved with an existing two-story building near the northeast corner of the property. Vehicular access is via an asphalt driveway from Dogwood Road near that same northeast corner, with a parking area adjacent to the building. The building is presently leased by Easter Seals Greater Washington-Baltimore Region, Inc. for use as an adult daycare facility. According to Ms. Vance, Director of the facility, Easter Seals has been at the subject site for the past 12 years, and may eventually seek to purchase the property, especially if they decide to expand into childcare services.

At this juncture, the property owner, Mr. Helfrich, and the proposed lessee, T-Mobile, seek to erect a wireless communications tower on the property, southwest of the existing building, in order to provide enhanced coverage for wireless services in the area, in particular

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911 services and E-911. The proposed tower would be a monopole, approximately 120 feet in height, three feet in diameter at the base and tapering to two feet near the top. The tower antennae would be located internally and would have capacity for at least two other carriers in the future. The tower would be located within a 650 square foot telecommunications compound consisting of the monopole, two T-Mobile equipment cabinets (and room for an additional cabinet in the future) placed on a 10 foot by 20 foot concrete pad, as well as additional utility cabinets.

In support of the requested relief, Ms. Bird and Messrs. McGarity, Kellman, and Brar were offered and accepted as experts in their respective fields.[1] Their testimony can be summarized as follows: T-Mobile has a federal license that requires it to provide coverage for wireless services in Baltimore. T-Mobile identified a coverage gap in this area of Woodlawn through receipt of customer complaints and through a computer aided analysis using specially designed software. Mr. Brar, the radio frequency engineer, identified an area within the larger coverage gap, from which antennae can be used to fill in the coverage gap. This smaller area within the coverage gap is called a search ring. T-Mobile's site acquisition specialists conducted an extensive search for an appropriate site to either co-locate antennae on existing structures or to build a new facility. A number of existing locations were identified in the search ring and were ruled out. The first, at a federal building located at 7500 Security Boulevard, was rejected by the General Services Administration due to it being a secure facility. Other locations at 3300 and 3320 Lord Baltimore Drive were ruled out due to concerns over signal interference. A nearby school building was also considered, but T-Mobile was told the County did not want wireless towers at school locations. Ms. Bird also explained that T-Mobile normally desires to

[1] The resumes outlining the backgrounds and qualifications of Messrs. McGarity, Kellman, and Brar were marked and accepted into evidence as Petitioner's Exhibits 5, 9, and 12, respectively.

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co-locate their antennae whenever possible, but they could not do so in this case. Lacking existing structures for co-location, T-Mobile identified the subject property, a large residentially zoned tract on which it proposes the aforementioned 120 foot tall monopole within a 650 square foot telecommunications compound, as depicted on the site plan.

As part of the process required for a new tower, the Tower Review Committee ("TRC") met on August 26, 2008 and considered the application made by Petitioner on July 1, 2008. In its December 10, 2008 Inter-Office Correspondence which was marked and accepted into evidence as Petitioner's Exhibit 2, the Tower Review Committee made several advisory comments for consideration by the Development Review Committee ("DRC"), including that T-Mobile demonstrated that no other co-location opportunities exist at or near the location that would provide the requested coverage for the intended area, and that the monopole would be constructed to accommodate two additional wireless service providers as required. The Tower Review Committee also noted that the proposed new tower would be located in a D.R.5.5 zoned area and would meet the 200 foot setback from a residential property line; however, concerns were noted as to the new tower's proximity to the existing adult daycare facility -- specifically within the fall zone of the tower (92 feet). To alleviate this concern, it was noted (and reiterated by Petitioner at the hearing) that T-Mobile would design the tower to buckle and collapse on itself in the event of a tower failure. In unanimously approving the proposed new tower, the TRC concluded it would meet all the requirements of Section 426 of the B.C.Z.R., while allowing the needed emergency and non-emergency communications for citizens in the area.

Petitioner also indicated it could comply with the Zoning Advisory Committee comments from the Office of Planning dated February 6, 2009 that were marked and accepted into evidence as Petitioner's Exhibit 3. Specifically, the Planning Office indicated that it does not oppose the

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special hearing request. As to the special exception, they noted that the proposed tower would be visible from Dogwood Road. In order to improve the appearance of the tower and reduce its visibility, the Planning Office recommended that (1) the tower be a concealment monopole with internal antennae, (2) that the tower be a color not to stand out amongst its surroundings and blend in with existing trees and wooded areas, and (3) that Petitioner provide Class A screening around the fenced compound. In response, Petitioner's attorney, Mr. Hughes, indicated the proposed tower is in fact a concealment monopole, that the color would typically be a white or off-white or similar color that would blend in better than a darker color, and that Petitioner would provide adequate screening, and would also erect a more attractive board-on-board fence around the compound as opposed to the chain link fence indicated the site plan.

In addition, the TRC's independent analyst, Columbia Telecommunications Corporation, published its findings with regard to the visibility of the proposed tower in its report dated November 25, 2008 that was marked and accepted into evidence as Petitioner's Exhibit 4. Columbia noted that Dogwood Road to the west of the site is hilly with trees along the road that will likely screen the monopole from view from the roadway, though some homes directly across the street from the improved area of the property will see the monopole; they noted the tower would also be visible over the horizon from the elementary school located east of the property. The report also indicated that it appears the view of the monopole will likely be minimized because of its distance from residential areas north of the subject property and from trees between the monopole and the homes, and that the same appears to be true for residential areas to the south of the site.

Further evidence indicated that the proposed telecommunications tower at the subject site would not have any negative impacts to the special exception criteria set forth in Section 502.1

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of the B.C.Z.R. Ms. Bird and Mr. Kellman both specifically addressed these factors and offered their opinions that the proposed use would not be detrimental to the health, safety or general welfare of the locality involved; would not tend to create congestion in roads, streets or alleys therein; would not create a potential hazard from fire, panic or other danger; would not tend to overcrowd land and cause undue concentration of population; and would not interfere with adequate provisions for public requirements, conveniences or improvements. They also testified that the proposed use would not interfere with adequate light and air; would not be inconsistent with the purposes of the property's zoning classification or inconsistent with the spirit and intent of the Zoning Regulations; and would not be inconsistent with impermeable surface and vegetative retention requirements or be detrimental to the environmental and natural resources of the site and vicinity.

In particular, Ms. Bird introduced photo simulations that were marked and accepted into evidence collectively as Petitioner's Exhibit 7. The simulations include a map of the surrounding area with red dot points, and photographs taken from those red dot locations in the direction of the proposed pole location, with the size and shape of the proposed pole superimposed on the photographs from the various distances. This gives the viewer a firsthand look at how visible the pole would be from the particular locations. As seen in the photographs, although the pole is visible from all these locations, the view certainly could not be characterized as unreasonably obtrusive. In addition, the proposal to have a monopole with interior antenna slots and a light color to blend in with the horizon would likely make the pole even less conspicuous. Ms. Bird also pointed out that compared with the size of the entire site (almost 11 acres), the proposed tower and telecommunications compound would be relatively small (approximately 650 square feet) and take up very little space. Further, traffic originating from

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the compound would be minimal, with only a service technician visiting the site every four to six weeks. There would also be no lighting required for the monopole, further lessening the tower's visual impact. A report study dated July 10, 2008 by Jeppesen, Inc., an aviation consulting company, that was marked and accepted into evidence as Petitioner's Exhibit 10 reveals that marking and lighting is not required for less than 200 feet in height.

Providing additional testimony specifically as to the need for the enhanced wireless service was Rajkanwar Brar. Mr. Brar is a radio frequency engineer employed with T-Mobile. He obtained an engineering degree at the University of Pune, India in 1995 and has extensive experience in GSM (Global Standard for Mobile Communications) and RF (Radio Frequency) Design.

Mr. Brar introduced a computer generated propagation map showing the existing on-air coverage without the proposed telecommunications facility that was marked and accepted into evidence as Petitioner's Exhibit 13A. He also submitted a similar map taking into account the predicted signal strength with the proposed tower at the subject location that was marked and accepted into evidence as Petitioner's Exhibit 13B. As shown on these exhibits, the color blue indicates where the signal strength is sufficient indoors to have continuous communication and properly hand off to the next cell tower. In addition, the green areas indicate sufficient in-vehicle coverage. Mr. Brar then noted the lack of comprehensive coverage in the subject area as indicated by the predominance of green (in-vehicle coverage). He indicated that adding the aforementioned facility would increase the overall coverage and provide the needed indoor and in-vehicle coverage as depicted in Petitioner's Exhibit 13B. It would also allow for enhanced 911 services.

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Turning first to the special exception, I have reviewed Petitioner's proposal in the context of Sections 426 and 502.1 of the B.C.Z.R. and am persuaded that Petitioner has met its burden, and that the request meets all of the customary special exception criteria with very little negative impact on the surrounding community. Petitioner presented uncontroverted testimony that there is a need for wireless coverage in the area, that there were no other viable alternative locations or opportunities to co-locate their antennae, that the antennae would be mounted inside the pole, and that the proposed telecommunications facility would have no detrimental impacts on the health, safety and general welfare of the locale.

Petitioner also addressed the concern regarding locating the proposed 120 foot tower within a fall line of the adjacent building currently utilized by the lessee, Easter Seals, operating an adult daycare facility. The daycare facility is approximately 92 feet from the proposed telecommunications compound. As indicated previously, the new tower is designed to buckle and essentially collapse into itself in the event of a pole failure. This was further explained in a report dated November 26, 2007 from Paul J. Ford and Company, consulting structural engineers, which was marked and accepted into evidence as Petitioner's Exhibit 11. This report was prepared for another proposed T-Mobile site in Silver Spring, MD, but utilizing the same type of 120 foot monopole that is proposed in the instant matter. The report indicates the following with regard to the design:

> This pole will be designed with the top 39.25 feet meeting the design wind criteria, while the lower 80.75 feet of the pole, anchor rods, and foundation are over-designed to resist more than the design wind loads. When steel becomes overstressed it does not suddenly break, it will bend and buckle. In the unlikely event that this pole would experience a wind event that would cause a collapse, the upper portion of the pole would become overstressed first and would buckle. The upper portion of the pole would then swing down and hang from this level or, at worst, break of resulting in a fall radius of approximately 39.25 feet. Once the upper portion is no longer upright catching the full force of the wind, the stresses

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on the lower portion of the pole are reduced, making further collapse of the pole unlikely.

I am persuaded that Petitioner will take the necessary steps to ensure that the proposed 120 foot monopole in the instant matter is designed and erected in a manner consistent with the characteristics discussed in this report.

Turning now to the Special Hearing request, I am persuaded by the testimony and evidence presented that this relief should also be granted. Petitioner adduced substantial evidence that the location of the new tower and compound will not result in overlapping use between this 650 square foot space needed for the special exception and the existing building that is used by Easter Seals as an adult daycare facility. Because there is no conflict or overlap, there is no prohibition under Section 102.2 of the B.C.Z.R. for such dual use. By way of example, this situation could be compared to a wireless cell tower that is surrounded by a farmer's agriculturally used field. Finally, I find that the existing building and its use by Easter Seals as an adult daycare facility is a permitted use, with no conflicting uses vis-à-vis the proposed wireless telecommunications tower.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's request for special hearing and special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 22nd day of April, 2009 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the following:

- Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and

4.22.09

- Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and
- To confirm the legality of the adult daycare use existing on property

be and are hereby GRANTED.

IT IS FURTHER ORDERED that the request for Special Exception to allow a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R. be and is hereby GRANTED.

This Order is subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The tower shall be a concealment monopole where all the antennae are located within the pole structure. The pole shall also be of a type and have characteristics consistent with the design and construction of the monopole discussed in the report dated November 26, 2007 from Paul J. Ford and Company, consulting structural engineers, which was marked and accepted into evidence as Petitioner's Exhibit 11.

3. The tower shall be a white or off-white (such as galvanized gray) color that would blend in with the horizon and the surroundings. The color shall be approved by the Office of Planning.

4. Petitioner shall provide Class A screening around the telecommunications compound through appropriate landscaping as shown on Petitioner's Exhibit 1, as well as an 8 foot high board-on-board fence surrounding the compound. The Class A screening and fencing shall be approved by the Office of Planning.

5. During construction of the telecommunications tower and compound and thereafter as part of its maintenance of the site, Petitioner shall have access to the site in common with the co-lessee, Easter Seals, but shall not materially interfere with or impact Easter Seals' use of the property; in particular their access, parking, and use of the adult daycare building.

6. Petitioner shall provide the co-lessee, Easter Seals, a valid certificate of liability insurance from year to year naming Easter Seals Greater Washington-Baltimore Region, Inc. as an additional insured. Furthermore, Petitioner T-Mobile and the property owner

4.22.09

shall agree to indemnify and hold harmless Baltimore County from any claims of liability arising from the design, construction, maintenance, and potential failure of the wireless telecommunications tower, or in the alternative, shall include Baltimore County as an additional insured on the same policy (and provide Baltimore County a copy of said certificate of liability insurance referencing the above-captioned matter and Case Number).

7. In compliance with Section 426.6 of the B.C.Z.R., upon completion of the tower and every five years thereafter, Petitioner shall submit to the Code Official written certification from a professional engineer verifying that the tower and any structure housing equipment for the tower meets all applicable Building Code and safety requirements.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

RECEIVED FOR FILING
N. 22.09

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

April 22, 2009

SEAN HUGHES, ESQUIRE
5100 DORSEY HALL DRIVE
ELLICOTT CITY MD 21042

Re: Petition for Special Hearing and Special Exception
Case No. 2009-0182-SPHX
Property: 7301 Dogwood Road

Dear Mr. Hughes:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: George Helfrich, 2516 Maryland Avenue, Baltimore MD 21218
Amy Bird and Rajkanwar Brar, 12050 Baltimore Avenue, Beltsville MD 20705
Michael McGarity and Mitch Kellman, DMW-Draft Mccune Walker Inc., 200 East Pennsylvania Avenue, Towson MD 21286
Diane Vance, Director, Easter Seals, Greater Washington-Baltimore Region, 731 Dogwood Road, Baltimore MD 21244

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

April 22, 2009

SEAN HUGHES, ESQUIRE
5100 DORSEY HALL DRIVE
ELLICOTT CITY MD 21042

Re: Petition for Special Hearing and Special Exception
Case No. 2009-0182-SPHX
Property: 7301 Dogwood Road

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In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: George Helfrich, 2516 Maryland Avenue, Baltimore MD 21218
Amy Bird and Rajkanwar Brar, 12050 Baltimore Avenue, Beltsville MD 20705
Michael McGarity and Mitch Kellman, DMW-Draft Mccune Walker Inc., 200 East Pennsylvania Avenue, Towson MD 21286
Diane Vance, Director, Easter Seals, Greater Washington-Baltimore Region, 731 Dogwood Road, Baltimore MD 21244

Tax Acct. # 24-00-006858

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at ~~Cattle Woods Estates~~ 7301 Dogwood Rd.) Woodlawn, MD 21244
which is presently zoned DR 5.5 + RCC

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

(This box to be completed by planner)

1) Two uses (Adult Day Care & Wireless Telecommunications Tower) Co-existing on the same property in close proximity to each other, and.
2) Two Uses as not conflicting with Section 102.2, BCZR, and
3) The legality of the Adult Day Care use existing on the property.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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:

Amy Bird, T-Mobile Agent
Name - Type or Print

Amy Bird
Signature

12050 Baltimore Ave. 410-703-6541
Address Telephone No.

Beltsville, MD 20705
City State Zip Code

Attorney For Petitioner:

Sean P. Hughes
Name - Type or Print

Sean P Hughes
Signature

Law office of Sean Hughes
Company

5100 Dorsey Hall Dr 410 964 0300
Address Telephone No.

Ellicott City MD 21043
City State Zip Code

Legal Owner(s):

George Helfrich
Name - Type or Print

George W Helfrich, Owner
Signature

Name - Type or Print

Signature

2516 Maryland Ave.
Address Telephone No.

Baltimore MD 21218
City State Zip Code

Representative to be Contacted:

Amy Bird.
Name

12050 Baltimore Ave 410-703-6541
Address Telephone No.

Beltsville MD 20705
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2009-0182-SPHX

UNAVAILABLE FOR HEARING _____

REV 9/15/98

Reviewed By JNP Date 1/5/09

RECEIVED FOR FILING

1-22-09

By

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property located at ~~[illegible]~~ 7301 Dogwood Rd.), Woodlawn, MD 21244

which is presently zoned DR 5.5 & RC 6

Deed Reference: 6812/262 and 7845/158 Tax Account #2400006858

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a telecommunications facility (tower) on property Zoned DR 5.5 pursuant to B.C.Z.R. Section 426.5, et al.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded 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:

Amy Bird, T-Mobile Agent
Name - Type or Print

Amy Bird
Signature

12050 Baltimore Ave, 410-705-6541
Address Telephone No.

Beltsville, MD 20705
City State Zip Code

Attorney For Petitioner:

Sean P. Hughes
Name - Type or Print

Sean P. Hughes
Signature

Law office of Sean Hughes
Company

5100 Dorsey Hall Dr 410 964-0300
Address Telephone No.

Ellicott City MD 21043
City State Zip Code

Legal Owner(s):

George Helfrich
Name - Type or Print

George W. Helfrich, Owner
Signature

Name - Type or Print

Signature

2516 Maryland Ave.
Address Telephone No.

Baltimore MD 21218
City State Zip Code

Representative to be Contacted:

Amy Bird
Name

12050 Baltimore Ave. 410-703-6541
Address Telephone No.

Beltsville MD 20705
City State Zip Code

Case No. 2009-0182-SPHX

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____
Reviewed By JNP Date 1/5/09

REV 07/27/2007

RECEIVED FOR FILING
4.22.09

DMW

DAFT McCUNE WALKER INC

Description

To Accompany Petition for

Special Exception and Special Hearing

Dogwood Road

Baltimore County, Maryland

Commencing for the same at the point formed by the intersection of the centerline of Rolling Run Drive and the centerline of Dogwood Road, thence leaving said intersection point and running with the centerline of said Dogwood Road in a northwesterly direction a distance of 1,830 feet, more or less, thence leaving said centerline in a southwestern direction a distance of 30 feet, more or less, to the point of beginning, said point of beginning being known and designated as Point No. 278 as laid out and shown on a plat entitled "George Helfrich Property" and recorded among the Land Records of Baltimore County, Maryland, in Plat Book S.M. 77, Folio 10, thence leaving said point of beginning and running with and binding on the outlines of said plat, the nineteen following courses and distances: (1) South 19 degrees 11 minutes 42 seconds West 536.76 feet, thence (2) South 79 degrees 35 minutes 45 seconds West 11.50 feet, thence (3) South 26 degrees 18 minutes 42 seconds West 96.55 feet, thence (4) South 75 degrees 19 minutes 11 seconds West 30.67 feet, thence (5) North 56 degrees 35 minutes 07 seconds West 151.05 feet, thence (6) North 12 degrees 30 minutes 23 seconds West 81.10 feet, thence (7) North 50 degrees 22 minutes 38 seconds West 191.04 feet, thence (8) North 65 degrees 44 minutes 00 seconds West 76.35 feet, thence (9) North 72 degrees 50 minutes 27 seconds West 87.27 feet, thence (10) South 54 degrees 01 minute 42 seconds

TOWSON: 200 EAST PENNSYLVANIA AVENUE, TOWSON, MARYLAND 21286 P: 410 296 3333 F: 410 296 4705
FREDERICK: 8 EAST SECOND STREET, SUITE 201, FREDERICK, MARYLAND 21701 P: 301 696 9040 F: 301 696 9041
BERLIN: THE PAVILIONS, 11200 RACETRACK ROAD, SUITE 202, BERLIN, MARYLAND 21811 P: 410 641 9980 F: 410 641 9948

2009-0182-SPHX

West 15.20 feet, thence (11) North 43 degrees 13 minutes 55 seconds West 37.49 feet, thence (12) North 05 degrees 17 minutes 13 seconds East 66.43 feet, thence (13) North 81 degrees 39 minutes 19 seconds West 80.55 feet, thence (14) South 84 degrees 04 minutes 08 seconds West 306.31 feet, thence (15) North 10 degrees 27 minutes 47 seconds West 269.31 feet, thence (16) North 77 degrees 00 minutes 57 seconds East 396.64 feet, thence (17) Southwesterly by a line curving to the left, having a radius of 4030.00 feet, for a distance of 122.85 feet (the arc of said curve being subtended by a chord bearing South 76 degrees 36 minutes 19 seconds East 122.85 feet), thence (18) South 77 degrees 28 minutes 43 seconds East 569.30 feet, thence (19) Southeasterly by a line curving to the right, having a radius of 1115.00 feet, for a distance of 116.60 feet (the arc of said curve being subtended by a chord bearing South 74 degrees 28 minutes 58 seconds East 116.55 feet) to the point of beginning; containing 478,442 square feet or 10.988 acres of land, more or less, being known and designated as "Parcel A" as shown on the aforementioned plat.

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

December 29, 2008

Project No. 08046 (L08046)



12/29/08

2009-0182-SPHX

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 33086

Date: 1/5/09

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				705.00

Total: 705.00

Rec From: T. Mobile USA Inc

For: Special Exception & Special Hearing
D201 Dogwood Road
2009-0182-SPHX (HELFRICH)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT
BUSINESS ACTUAL TIME
1/05/2009 1/05/2009 [illegible]
REG # 006 WALK-IN [illegible]
RECEIPT # 640457 1/05/2009 [illegible]
[illegible]
Recpt Tot: $705.00
$705.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

NOTICE OF ZONING 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: #2009-0162-SPHX
7301 Dogwood Road
S/side of Dogwood Road, 1830 feet west of Rolling Run Drive
1st Election District — 1st Councilmanic District
Legal Owner(s): George Helfrich
Contract Purchaser: T-Mobile, Amy Bird, Agent

Special Hearing: to permit two uses (adult daycare & wireless telecommunications tower) co-existing on the same property in close proximity to each other, and to permit two uses as not conflicting with section 102.2 of the BCZR, the legality of the adult daycare use existing on property. **Special Exception:** for a telecommunications facility tower on property zoned D.R. 5.5.

Hearing: Monday, March 9, 2009 at 9:00 a.m. in Room 104, Jefferson Building,105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

2/289 Feb. 19 194613

CERTIFICATE OF PUBLICATION

2/20/, 2009

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/19/,2009.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

Certificate of Posting

RE: Case NO. 2009-0182-SPHX

Petitioner/Developer

Amy Bird, T-Mobile

Date of Hearing/Closing 3/9/09

Baltimore County
Department of Permits and Development Managements
County Office Building – Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

Attention:

This letter is to certify, under penalties of perjury, that the necessary sign(s) as required by law, were posted conspicuously on the property located at

7301 Dogwood Rd.

The sign(s) were posted on 2/21/09
(Month, Day, Year)

Sincerely,

2/21/09
(Signature of sign Poster and date)

Richard E. Hoffman
(Printed Name)

See Attached Photograph

904 Dellwood Drive
(Address)

Fallston, Md. 21047
(City, State, Zip Code)

410-879-3122
(Telephone Number)

Note: It was discovered that sign posted on 2/21/09 was vandalized with silver paint. Property was Reposted on 3/1/09 with new sign (see attached photographs).

Certificate of Posting
Photograph Attachment

Re: 2009-0182-SPHA

Petitioner/Developer:

Amy Bird, T-Mobile

Date of Hearing/Closing: 3/9/09



7301 Dogwood Rd.

Posting Date: 2/21/09

Richard E.Hoffman

Certificate of Posting
Photograph Attachment
(Vandalized sign)

Re: 2009-0182-SPHA

Petitioner/Developer:

Amy Bird, T-Mobile

Date of Hearing/Closing: 3/9/09



7301 Dogwood Rd. (Vandalized Sign 3/1/09)

Posting Date: 2/21/09

3/1/09

Richard E.Hoffman

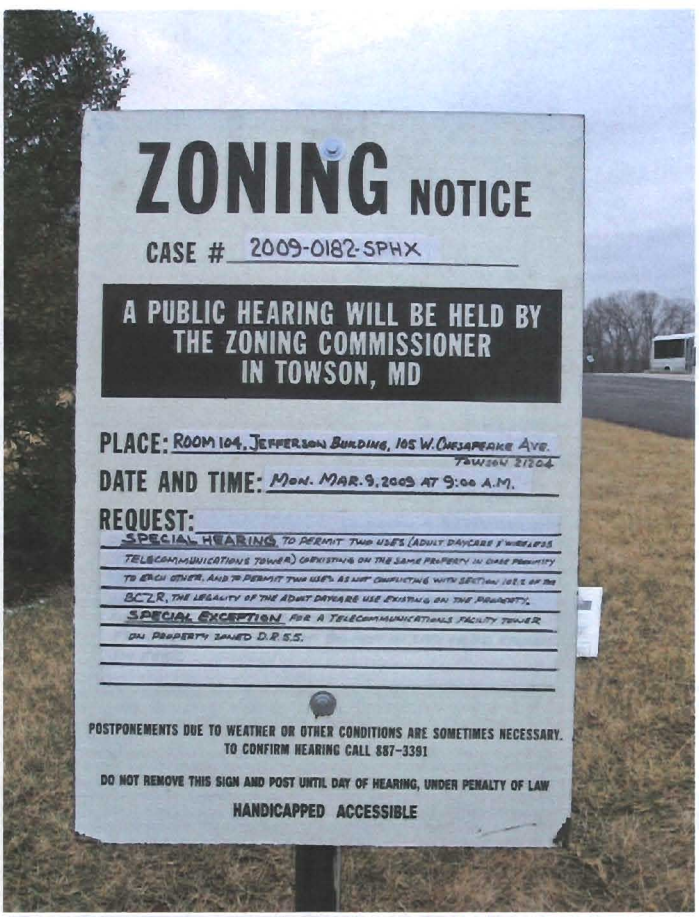
Certificate of Posting
Photograph Attachment
(Reposted sign)

Re: 2009-0182-SPHA

Petitioner/Developer:

Amy Bird, T-Mobile

Date of Hearing/Closing: 3/9/09



7301 Dogwood Rd. (Reposted Sign 3/1/09)

Posting Date: 2/21/09

3/1/09

Richard E.Hoffman

Requested: October 9, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 09-182-SPHX

7301 Dogwood Road

1st ELECTION DISTRICT APPEALED: 7/29/09

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Theresa Shelton
Administrator

CASE NO.: 09-182-SPHX

LEGAL OWNER: **George Helfrich**

RECEIVED
OCT 29 2009
BALTIMORE COUNTY
BOARD OF APPEALS

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

7301 DOGWOOD ROAD
S/SIDE OF DOGWOOD ROAD, 1830 FT W/OF ROLLING RUN DRIVE

The sign was posted on 10-29, 2009

By: M Stuart Kelly
(Signature of Sign Poster)

M Stuart Kelly
(Print Name)

PHOTOGRAPHIC RECORD

~~Facility~~ No.: 09-182-SPHX Record No.: _____

Date of Photograph(s): 10-29-09 7301 Dogwood RD

I HEREBY CERTIFY that I took 2 photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above referenced Facility/Record Number on the date set above.

M Stuart Kelly
(Enforcement Officer)


Adult Day Services
410-277-0940
The Harry & Jeanette Weinberg Center
ZONING APPEAL
PUBLIC HEARING
CASE NUMBER:
09-182-SPHX
FOR INFORMATION CALL
410-887-3180
DO NOT REMOVE
UNDER PENALTY OF LAW
BALTIMORE COUNTY BOARD OF APPEALS
10 29 2009 11 03


ZONING APPEAL
PUBLIC HEARING
CASE NUMBER:
09-182-SPHX
FOR INFORMATION CALL
410-887-3180
DO NOT REMOVE
UNDER PENALTY OF LAW
BALTIMORE COUNTY BOARD OF APPEALS
10 29 2009 11 03

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property that is the subject of an upcoming zoning hearing. For those petitions that require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2009-0182-SPHX

Petitioner: George Helfrich-Petitioner, T-Mobile-Lessee

Address or Location: ~~jksjfksdlskld~~ [redacted]. 7301 Dogwood Rd.) Woodlawn, MD 21244

Please Forward Advertising Bill to:

Name: T-Mobile, Attn: Amy Bird

Address: 12050 Baltimore Ave.

Beltsville, MD 20705

Telephone: 410 703 6541

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

January 30, 2009
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NOTICE OF ZONING 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: 2009-0182-SPHX
7301 Dogwood Road
S/side of Dogwood Road, 1830 feet west of Rolling Run Drive
1st Election District – 1st Councilmanic District
Legal Owners: George Helfrich
Contract Purchaser: T-Mobile, Amy Bird, Agent

Special Hearing to permit two uses (adult daycare & wireless telecommunications tower) co-existing on the same property in close proximity to each other, and to permit two uses as not conflicting with section 102.2 of the BCZR, the legality of the adult daycare use existing on property. Special Exception for a telecommunications facility tower on property zoned D.R. 5.5.

Hearing: Monday, March 9, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Sean Hughes, 5100 Dorsey Hall Drive, Ellicott City 21043
Amy Bird, T-Mobile, 12050 Baltimore Ave., Beltsville 20705
George Helfrich, 2516 Maryland Avenue, Baltimore 21218

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY,FEBRUARY 21, 2009**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 19, 2009 Issue - Jeffersonian

Please forward billing to:
Amy Bird 410-703-6541
T-Mobile
12050 Baltimore Avenue
Beltsville, MD 20705

NOTICE OF ZONING 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: 2009-0182-SPHX
7301 Dogwood Road
S/side of Dogwood Road, 1830 feet west of Rolling Run Drive
1st Election District – 1st Councilmanic District
Legal Owners: George Helfrich
Contract Purchaser: T-Mobile, Amy Bird, Agent

Special Hearing to permit two uses (adult daycare & wireless telecommunications tower) co-existing on the same property in close proximity to each other, and to permit two uses as not conflicting with section 102.2 of the BCZR, the legality of the adult daycare use existing on property. Special Exception for a telecommunications facility tower on property zoned D.R. 5.5.

Hearing: Monday, March 9, 2009 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

December 1, 2009

NOTICE OF ASSIGNMENT

CASE #: 09-182-SPHX IN THE MATTER OF: George Helfrich- Legal Owner/ Petitioner
Amy Bird, T-Mobile Agent – Contract Purchaser/Lessee
7301 Dogwood Road / 1st E; 1st Councilmanic District

RE: Petition for Special Hearing – two uses co-existing on the same property in close proximity (Daycare/Wireless Communications)
Petition for Special Exception for a telecommunications facility (tower) pursuant to BCZR 426.5

4/22/2009 – Decision by the Deputy Zoning Commissioner granting the Petitions with restrictions.
7/20/2009 - Decision by the Deputy Zoning Commissioner denying the Motion for Reconsideration

ASSIGNED FOR: TUESDAY, JANUARY 26, 2010 AT 10:00 A.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 B, 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 d unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date

Theresa R. Shelton, Administrator

---

c: Appellants : Peter Max Zimmerman
Carole S. Demilio
People's Counsel for Baltimore County

Counsel for Petitioner/Legal Owner : Sean Hughes, Esquire
Petitioner/Legal Owner : George Helfrich
Contract Purchaser/Lessee : Amy Bird, Ranjkanwar Brar / T-Mobile Agents

Michael McGarity , Mitchell Kellman

Diane Vance

William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 28, 2010

NOTICE OF DELIBERATION

CASE #: 09-182-SPHX IN THE MATTER OF: George Helfrich- Legal Owner/ Petitioner
Amy Bird, T-Mobile Agent – Contract Purchaser/Lessee
7301 Dogwood Road/ 1st E; 1st Councilmanic District

Having concluded this matter on 1/26/10, a public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, MARCH 16, 2010 at 9:00 a.m.**

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on Friday, February 26, 2010, **no later than 4:00 p.m.**
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

---

c: Appellants : Peter Max Zimmerman
Carole S. Demilio
People's Counsel for Baltimore County

Counsel for Petitioner/Legal Owner : Sean Hughes, Esquire
Petitioner/Legal Owner : George Helfrich
Contract Purchaser/Lessee : Amy Bird, T-Mobile Agent

Michael McGarity Diane Vance

Daft, McCune & Walker, Inc.
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

GEORGE HELFRICH

-SPHX

January 26, 2010 @ 10:00 ✓
completed

Memos due 2/26/10

March 16, 2010 @ 9AM - Deliberation

opinion issued 09-182-SPHX
5/25/2010
(20090182)

2

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

March 5, 2009

Sean P. Hughes
Law Office of Sean Hughes
5100 Dorsey Hall Dr.
Ellicott City, MD 21043

Dear: Sean P. Hughes

RE: Case Number 2009-0182-SPHX, 7301 Dogwood Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 5, 2009. This letter is not an approval, but only a **NOTIFICATION.**

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure 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. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
George Helfrich; 2516 Maryland Ave.; Baltimore, MD 21218
Amy Bird; 12050 Baltimore Ave; Beltsville, MD 20705

TB 3/9

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

MAR 02 2009

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: 3/2/09

SUBJECT: Zoning Item # 09-182-SPHX
Address 7301 Dogwood Road
(Helfrich Property)

Zoning Advisory Committee Meeting of January 12, 2009

__X__ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

Additional Comments:

Reviewer: JWL Date: 3/2/09

C:\DOCUME~1\dwiley\LOCALS~1\Temp\ZAC 09-182-SPHX 7301 Dogwood Rd.doc

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

January 19,2009

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 12, 2009

Item Numbers 0175,0176,0177,0178,0179,0180,0181,0182

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: February 6, 2009

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 7301 Dogwood Road

INFORMATION:

Item Number: 9-182

Petitioner: George Helfrich

Zoning: DR 5.5 and RC 6

Requested Action: **Special Hearing and Special Exception**

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and does not oppose the request for Special Hearing. However this office does have comments on the requested Special Exception. The proposed tower will be visible from Dogwood Road. In order to improve the appearance of the tower and to reduce its visibility, this office recommends the following:

1. The tower should be a concealment monopole where all the antennas are located within the pole structure.
2. The tower should be a color not to stand out amongst its surroundings and blend in with the existing trees and wooded area.
3. Provide class A screening around the fenced compound.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Dennis Murray

Division Chief: Lynn Lanham

AFK/LL: CM

W:\DEVREV\ZAC\9-182.doc

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

SHA State Highway Administration

John D. Porcari, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: JAN. 15, 2009

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

RE: Baltimore County
Item No 2009-0182-SPHX
7301 DOGWOOD ROAD
HELFRICH PROPERTY
SPECIAL HEARING
SPECIAL EXCEPTION

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2009-0182-SPHX

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND
Interoffice Correspondence

DATE: December 10, 2008

TO: Walter Smith
Department of Permits and Development Management

FROM: Tower Review Committee

SUBJECT: New Tower –T-Mobile – 7301 Dogwood Road

The Tower Review Committee met on August 26, 2008 to discuss the application made by T-Mobile on July 1, 2008. The committee is making the following advisory comments to the Development Review Committee (DRC) in accordance with section 426.4 of the Baltimore County Zoning Regulations in reference to the proposed construction of a new 120-foot unipole; however, at the request of the Tower Review Committee the design was modified to a stealth unipole design. The structure is to be located on the property owned by George Helfrich, 2516 Maryland Ave., Baltimore, MD 21218-4510.

- *Antennas should be placed on existing towers, buildings, and structures, including those of public utilities, where feasible.*

Findings: We feel that T-Mobile has provided all requested information to the Tower Review Committee (TRC) to successfully demonstrate that no other co-location opportunities exists at or near this location that would suffice in providing their requested coverage of the intended area. The total height of T-Mobile's proposed new 120-foot stealth unipole structure is 120-feet, including all appurtenances.

- *If a tower must be built, the tower should be: Constructed to accommodate at least three providers.*

Findings: T-Mobile has shown, in the drawings accompanying the application to the TRC that the stated antenna structure will be constructed to support 2 additional wireless service providers in addition to T-Mobile.

- *Erected in a medium or high intensity commercial zone when available.*

Findings: This area is located in a DR5.5 zoned residential area and will require a special exception hearing. It meets the 200' setback from a residential property line; however, the Tower Review Committee had a concern involving an adult daycare facility that is located on the property and within the fall-zone of the tower. To address this concern the carrier has designed the tower to buckle and fall on itself in the event of a collapse.

➢ *Located and designed to minimize its visibility from residential and transitional zone.*

Findings: Based on the site survey and information presented, we find that there will be a visual impact in the area of the tower, as the unipole will be visible from adjacent properties and the roadways.

Conclusion

By a unanimous decision of the Tower Review Committee, it was agreed that the advisory comments provided above be forwarded to the Development Review Committee for further processing. It is the recommendation of the committee, that the 120-foot unipole would meet all the requirements of Section 426, while allowing needed emergency and non-emergency communications for the citizens of the area.

Additional Information

An Application Evaluation, complete with recommendations, from Columbia Telecommunications Corporation is attached.

Tower Review Committee

Richard A. Bohn, Tower Coordinator
Curtis Murray , Office of Planning
Harry Wujek, Community Member TRC
Richard Sterba, OIT Representative

CC: Sabrina Chase, Baltimore County Office of Law
Amy Bird, T-Mobile
Bob Hunnicutt – Columbia Telecommunications
Robert Stradling, Director, Baltimore County Office of Information Technology

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	ZONING COMMISSIONER
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich Contract Purchaser(s): Amy Bird Petitioner(s)	*	BALTIMORE COUNTY
		*	09-182-SPHX

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

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
JAN 20 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of January, 2009, a copy of the foregoing Entry of Appearance was mailed to Amy Bird, 12050 Baltimore Avenue, Beltsville, MD 20705 and Sean Hughes, Esquire, 5100 Dorsey Hall Drive, Elliott City, MD, 21043, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

October 2, 2009

Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, MD 21042

Dear Mr. Hughes:

RE: Case: 2009-0182-SPHX, 7301 Dogwood Road

Please be advised that an appeal of the above-referenced case was filed in this office on July 29, 2009 from the office of People's Counsel. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
George Helfrich, 2516 Maryland Avenue, Baltimore 21218
Amy Bird, Rajkanwar Brar, T-Mobile, 12050 Baltimore Avenue, Beltsville 20705
Michael McGarity & Mitch Kellman, DMW, 200 E. Pennsylvania Ave., Towson 21286
Diane Vance, Easter Seals, Greater Washington-Baltimore Region,
7301 Dogwood Road, Baltimore 21244

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

July 29, 2009

RECEIVED

JUL 29 2009

Hand-delivered
Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Re: George Helfrich, Legal Owner & T-Mobile, Proposed Lessee - Petitioners
7301 Dogwood Road
Case No: 09-182-SPHX

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Order on Motions for Reconsideration dated July 20, 2009, and the incorporated the Findings of Fact and Conclusions of Law dated April 22, 2009, filed by the Baltimore County Deputy 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

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ /rmw

cc: Sean Hughes, Esquire

APPEAL
Petition for Special Hearing & Special Exception
7301 Dogwood Road
S/side Dogwood Road, 1830 ft. W/Rolling Run Drive
1st Election District – 1st Councilmanic District
Legal Owners: George Helfrich
Case No.: 2009-0182-SPHX

Petition for Special Hearing/Special Exception (January 5, 2009)

Zoning Description of Property

Notice of Zoning Hearing (January 30, 2009)

Certification of Publication (February 19, 2009 – The Jeffersonian)

Certificate of Posting (February 21, 2009) by Richard Hoffman

Entry of Appearance by People's Counsel (January 20, 2009)

Petitioner(s) Sign-In Sheet – One Sheet

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Site Plan
2. Tower Review Committee Report (12/10/08)
3. Planning Comments
4. Report from Columbia Telecommunication Corp. (11/25/08)
5. Michael McGarity Resume
6. Photographs (A thru G)
7. Photo simulations
8. Aerial Map w/location of sites
9. Mitch Kellman Resume
10. Report from Jeppesen (7/10/08)
11. Report from Paul J. Ford & Company (11/26/07)
12. Rajkanwar Brar Resume

13A. Map of Current on-air coverage
13B. Map of on-air coverage w/proposed tower

Protestants' Exhibits - None

Miscellaneous (Not Marked as Exhibit)
1. Correspondence from Thomas Bostwick regarding Linda Reeves attached email
2. Letter from Sean Hughes (March 23, 2009)
3. Letter from People's Counsel of Baltimore (May 20, 2009)
4. Letter from Sean Hughes (June 3, 2009)
5. Letter from People's Counsel of Baltimore (June 11, 2009)

Deputy Zoning Commissioner's Order (GRANTED – April 22, 2009)

Order on Motion for Reconsideration (DENIED – July 20, 2009)

Notice of Appeal received on July 29, 2009 from People's Counsel of Baltimore

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Sean Hughes
George Helfrich
Amy Bird, Rajkanwar Brar
DMW
Dian Vance, Easter Seals

date sent October 5, 2009, klm

Address List

George Helfrich
2516 Maryland Avenue
Baltimore, MD 21218

Sean Hughes, Esquire
5100 Dorsey Hall Drive
Ellicott City, MD 21042

Amy Bird
Ranjkanwar Brar
T-Mobile
12050 Baltimore Avenue
Beltsville, MD 20705

Michael McGarity
Mitchell Kellman
Daft, McCune & Walker, Inc.
200 E. Pennsylvania Avenue
Towson, MD 21286

Diane Vance
Easter Seals
Greater Washington-Baltimore Region
7301 Dogwood Road
Baltimore, MD 21244

Interoffice:

Office of People's Counsel (Appellant)
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

DO NOT LIST CAROLE DEMILIO ON THIS FILE IN ANY OUTGOING LETTERS OR NOTICES, ETC.

Address List

George Helfrich
2516 Maryland Avenue
Baltimore, MD 21218

Sean Hughes, Esquire
5100 Dorsey Hall Drive
Ellicott City, MD 21042

Amy Bird
Ranjkanwar Brar
T-Mobile
12050 Baltimore Avenue
Beltsville, MD 20705

Michael McGarity
Mitchell Kellman
Daft, McCune & Walker, Inc.
200 E. Pennsylvania Avenue
Towson, MD 21286

Diane Vance
Easter Seals
Greater Washington-Baltimore Region
7301 Dogwood Road
Baltimore, MD 21244

Carole can't be on here b/c Helfrich is a client of hers and it's a conflict

Interoffice:

Office of People's Counsel (Appellant)
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
John Beverungen, County Attorney

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird, T-Mobile Petitioner(s)	*	BALTIMORE COUNTY
		*	09-182-SPHX

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December, 2009, a copy of the foregoing Subpoena was mailed, first class mail to Sean Hughes, Esquire, 5100 Dorsey Hall Drive, Elliott City, MD, 21043, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
DEC 29 2009
BALTIMORE COUNTY
BOARD OF APPEALS

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird, T-Mobile Petitioner(s)	*	BALTIMORE COUNTY
		*	09-182-SPHX

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of December, 2009, a copy of the foregoing Subpoena was mailed, first class mail Richard Bohn, Tower Coordinator, Tower Review Committee, 11112 Gilroy Road, Hunt Valley, Maryland 21030.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
DEC 30 2009
BALTIMORE COUNTY
BOARD OF APPEALS

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird, T-Mobile Petitioner(s)	*	BALTIMORE COUNTY
		*	09-182-SPHX

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County) George Helfrich
2516 Maryland Avenue
Baltimore, Maryland 21218

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in The Jefferson Building, 105 W. Chesapeake Avenue, Second Floor Hearing Room 2, Towson, MD 21204 on **January 26, 2010 at 10 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):**

- Documentation describing the history of the 1986 recreation club special exception use, the current use of the property by the Easter Seals organization, and the proposed arrangement with T. Mobile.

RECEIVED
DEC 2 8 2009
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:
Peter Max Zimmerman, People's Counsel
Office of People's Counsel for Baltimore County
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204
(410) 887-2188

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

Theresa R. Shelton

COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

RE:	PETITION FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE COUNTY
	7301 Dogwood Road; S/S Dogwood Road, 1830' W of Rolling Run Drive	*	BOARD OF APPEALS
	1st Election & 1st Councilmanic Districts	*	FOR
	Legal Owner(s): George Helfrich		
	Contract Purchaser(s): Amy Bird, T-Mobile Petitioner(s)	*	BALTIMORE COUNTY
		*	09-182-SPHX

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

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Richard Bohn, Tower Coordinator
Tower Review Committee
11112 Gilroy Road
Hunt Valley, Maryland 21030

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; in The Jefferson Building, 105 W. Chesapeake Avenue, Second Floor Hearing Room 2, Towson, MD 21204 on **January 26, 2010 at 10 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated):**

- Documents relating to the proposed T-Mobile tower at 7301 Dogwood Road, Woodlawn, MD 21244.

RECEIVED
DEC 2 9 2009
BALTIMORE COUNTY
BOARD OF APPEALS

SUBPOENA REQUESTED BY:
Peter Max Zimmerman, People's Counsel
Office of People's Counsel for Baltimore County
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204
(410) 887-2188

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

Andrew R. Shelton

COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY

Law Office of Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, Maryland 21042-7870
(410) 964-0300
(410) 964-2008 Fax

County Board of Appeals for Baltimore County
Jefferson Building
Second Floor-Suite 203
105 West Chesapeake Avenue
Towson, MD 21204

RE: Case #: 09-182-SPHX

ENTRY OF APPEARANCE

Please enter the appearance of Sean P. Hughes for T-Mobile in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final order. All parties should copy T-Mobile's counsel on all correspondence sent and all documentation filed in this case.

Sean P. Hughes
Counsel for T-Mobile
5100 Dorsey Hall Drive
Ellicott City, MD 21042

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of December, 2009, a copy of the foregoing Entry of Appearance was mailed to, Peter Max Zimmerman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47, Towson, Maryland 21204

Sean Hughes
Counsel for T-Mobile

Cc: People's Counsel for Baltimore County
T-Mobile

RECEIVED
DEC 0 8 2009
BALTIMORE COUNTY
BOARD OF APPEALS

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 10, 2009

Sean P. Hughes, Esquire
5100 Dorsey Hall Drive
Ellicott City, MD 21042

RE: IN THE MATTER OF: George Helfrich- Legal Owner/ Petitioner
Amy Bird, T-Mobile Agent
09-182-SPHX – Contract Purchaser/Lessee

Dear Mr. Hughes:

This will acknowledge receipt of your Notice of Entry of Appearance received in this office on December 8, 2009, as counsel for T-Mobile in the subject matter.

A hearing on this matter is currently scheduled for Tuesday, January 26, 2010 and the Notice of Assignment was mailed to you on December 1, 2009.

Please be advised that you have been added to our case file, and that you will receive a copy of the final decision when it is issued by the Board, as well as copies of any future correspondence and/or notices in this matter.

Please call me if I can be of any further assistance.

Very truly yours,

Theresa R. Shelton

Theresa R. Shelton
Administrator

c: People's Counsel for Baltimore County

Theresa Shelton - Petition for Special Hearing and Special Exception 09-182-SPHX

From: Richard Bohn
To: Zimmerman, Peter
Date: 1/8/2010 9:35 AM
Subject: Petition for Special Hearing and Special Exception 09-182-SPHX
CC: Demilio, Carole; Shelton, Theresa; Stradling, Robert
Attachments: Peoples Council Subpoena.pdf

Peter,
Please contact me as soon as you return to the office regarding the attached.
Thank you

Richard A. Bohn, Chief
Baltimore County Office of Information Technology -
Electronic Services
410-887-1878 voice
410-887-1882 fax

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

ROBERT R. STRADLING, *Director*
Office of Information Technology

January 10, 2010

Peter Max Zimmerman, People's Counsel
Office of People's Counsel for Baltimore County
105 W. Chesapeake Avenue, Room 204
Towson, Maryland 21204

Re: George Helfrich, Owner & T-Mobile, Contract Purchaser
7301 Dogwood Rd
Case No.: 09-182-SPHX

Dear Mr. Zimmerman:

I am in receipt of a subpoena in reference to the above, wherein I am requested to produce related documents and appear personally at the County Board of Appeals hearing at 10:00 a.m., on January 26, 2010. Please be informed, however, that I will be unable to attend at the slotted time because it conflicts with the advertised Tower Review Committee meeting, which convenes on the same date and time. I can provide documents for the hearing, if you will guide me as to what specific documents are required.

It is very important to hold the TRC meetings when scheduled in order to meet the Federal mandated timeline required for governmental review. Please see the FCC WT Docket No. 08-165 for a recent declaratory ruling related to section 332(c)(7). If we are forced to reschedule our TRC meeting, the county will be at risk of violating the ruling by not completing our review in a timely fashion.

I would be available to attend the hearing, and give my testimony if necessary, beginning early afternoon on the scheduled date or on an alternate date/time. Please contact me so that we can discuss the case and coordinate our schedules.

Sincerely,

Richard A. Bohn

Richard A. Bohn
Chief, Electronic Services /
Chairperson, Tower Review Committee

cc: Theresa R. Shelton, County Board of Appeals for Baltimore County

Electronic Services / Telecommunications
11112 Gilroy Road, Suite 101 | Hunt Valley, Maryland 21031-1302 | Phone 410-887-1878 | Fax 410-887-1882
www.baltimorecountymd.gov

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: George Helfrich 09-182-SPHX

DATE: March 16, 2010

BOARD/PANEL: Andrew M. Belt
Wendell H. Grier
Robert W. Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to permit two uses co-existing on the same property in close proximity (adult day care facility and wireless communications facility).

2. Petition for Special Exception to allow a telecommunications facility (tower).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the facts and testimony presented to them. The Petitioner owns the subject property where an adult day care facility is currently run. The property was used in the past as a recreational center and there are still some visible remnants of that use which ended in the 1980's. The Petitioner has applied for a Special Hearing to permit the adult day care facility and telecommunications facility (tower) to be co-existing uses on the subject property and a Special Exception to allow a telecommunications facility (tower) on the property.
- With regard to the Special Hearing request, the Board reviewed People's Counsel's arguments in this matter. First, People's Counsel took issue with the fact that the proposed tower will be located within 200 feet of the day care center. The Board determined that the Regulations only require that the tower be a minimum of 200 feet from any other party's property and therefore this argument is not valid. Second, People's Counsel was concerned with the safety of the tower and what would happen if the tower collapsed or if a disaster occurred. The Board determined that this was not a valid argument. The Board stated that an accident or disaster can occur anywhere at any time. Testimony was presented by the Petitioner that the tower will be maintained and inspected regularly and often to ensure the safety and stability of the structure. Lastly, People's Counsel was concerned that the subject location of the tower would interfere with the surrounding residential area. The Board reviewed that no testimony was presented to validate this concern as no one from the surrounding community appeared as a Protestant in this matter.

- The Board then reviewed the issues with regard to the Special Exception. The Board heard from experts on behalf of the Petitioner in this matter. The experts stated that three (3) other properties were considered for the proposed tower. The experts all cited reasons as to why the other properties were not optimal locations. The experts also reviewed the statutory requirements for the approval of the tower. People's Counsel, without citing statute or case law, stated that to amend a Special Exception, a new or substituted use is required and that the previous use must be discontinued, removed or put in a presentable use. The Board determined that People's Counsel got hung up on the visible remnants of the recreational center use of the property which has no effect on the uses as a day care or telecommunications tower. The Board determined that the proposed Special Exception meets the statutory requirements of the BCZR. A concern for People's Counsel was the appearance and maintenance of the tower should it be approved. The Board found that the Deputy Zoning Commissioner had set conditions on the appearance, maintenance, construction and structure of the tower. The Board reviewed these conditions and determined that they will impose the same conditions upon granting the Special Exception and Special Hearing.

DECISION BY BOARD MEMBERS: The Board decided that the Petitions for Special Hearing and Special Exception will be granted with the conditions imposed by the Deputy Zoning Commissioner.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Special Hearing and Petition for Special Exception with the conditions imposed by the Deputy Zoning Commissioner.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

From: Thomas Bostwick
To: shugheslaw@comcast.net
Date: 03/18/09 4:57:53 PM
Subject: Fwd: Zoning Hearing - Easter Seals - George Helfrich Property

Mr. Hughes,

Attached please find an email I received March 17, 2009 from Lisa Reeves, President & CEO of Easter Seals Greater Washington-Baltimore Region, Inc., outlining Easter Seals' position and needs regarding the property located at 4301 Dogwood Road and the proposed cell tower on that site.

As you know, the record of this case was held open until March 20, 2009 in order to give Easter Seals an opportunity to present their position and I presume the attached email does just that. If you wish to respond in writing to this email, I would appreciate you doing so by Friday, March 27, 2009.

If you have any questions or comments regarding this matter, please do not hesitate to contact me. Thank you.

Thomas H. Bostwick
Deputy Zoning Commissioner
for Baltimore County
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
Phone: (410) 887-3868
Fax: (410) 887-3468

CC: lreeves@eseal.org

Thomas Bostwick - Zoning Hearing - Easter Seals - George Helfrich Property

From: "Lisa Reeves" <lreeves@eseal.org>
To: <tbostwick@baltimorecountymd.gov>
Date: 03/17/09 7:19 AM
Subject: Zoning Hearing - Easter Seals - George Helfrich Property
CC: "Arthur Adler" <aadler@cavesvalleypartners.com>, "Diane Vance" <dvance@eseal.org>, "Mindy Propst" <mpropst@eseal.org>

Dear Mr. Bostwick:

Regarding the plan to install a tower on the property currently used by Easter Seals located at 4301 Dogwood Rd. in Baltimore County the following outlines our needs:

1. **Want to make sure that the tower will have its own power source and not draw power from Easter Seals.**
2. **If they have a generator, it must have a muffler for sound reduction.**
3. **Access to build and maintain the tower must be done in a way to not interfere with Easter Seals' use of their facility.**
4. **Make sure Easter Seal is an additional insured on insurance certificates**
5. **Wood fence screening with Leyland cypress blocking view from Easter Seals.**
6. **No parking of cars on tower site - must be on lot and walk down.**
7. **Tower painted brown per pictures.**
8. **Nothing hanging from tower - no flags etc.**

We look forward to receiving feedback to confirm these recommendations. Thank you for your support.

Lisa

Lisa Reeves
President & CEO
Easter Seals Greater Washington-Baltimore Region, Inc.
1420 Spring Street
Silver Spring, MD 20910
301-920-9706 direct line
301-588-8700
301-920-9770 fax
lreeves@eseal.org
www.gwbr.easterseals.com
Providing help, hope and answers

From: Krysundra Cannington
To: Hughes, Sean
Date: 9/25/2009 3:44 PM
Subject: RE: 09-182-SPHX

Mr. Hughes,

Thank you for the update and your sentiment.

I will keep an eye out for the file and we will process it when we get it.

I hope you, also, have a great weekend.

Sunny

Krysundra "Sunny" Cannington
Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204
(410) 887-3180
kcannington@baltimorecountymd.gov

>>> "Sean Hughes" <shugheslaw@comcast.net> 9/25/2009 3:36 PM >>>
Ok, thank you and I hope Ms. Shelton has a speedy recovery.

I initially had been told by Zoning that hearings have been and could be set once the notice of appeal has been received by the Board and since they are apparently quite busy and backed up and the file has been there for 2 months upon the appeal filing-I was hoping they were correct.

Since that is not correct-I have spoken with Ms. Matthews and she expects the file to get to your office next week. I hope so-as I understand from you as of a week or two ago-that hearings were already being set in January of 2010.

Have a nice weekend,

Sean Hughes

-----Original Message-----
From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Friday, September 25, 2009 9:03 AM
To: Sean Hughes
Cc: Theresa Shelton
Subject: RE: 09-182-SPHX

Good Morning Mr. Hughes,

I spoke with my supervisor yesterday with regard to your situation. At this time she is still out on medical leave. She told me that we are unable to schedule any cases without the file. If you want to know the status of the file, our suggestion is that you call Kristen Matthews in the Zoning Office at 410-887-3391.

Thank you for your understanding. Please do not hesitate to contact me with any other questions.

Sunny

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County Board of Appeals
Jefferson Building, Suite 203
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Towson, MD 21204
(410) 887-3180
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>>> "Sean Hughes" <shugheslaw@comcast.net> 9/24/2009 8:23 AM >>>
Good morning Sunny.

I wanted to check back and see if you had any update re our request for a hearing date. I did not want to contact Ms. Shelton at this time- due to the medical issue you reference below-unless, she is back in the office and you prefer I do so.

Thanks much for status update.

Sean Hughes

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From: Krysundra Cannington [mailto:kcannington@baltimorecountymd.gov]
Sent: Thursday, September 17, 2009 3:25 PM
To: shugheslaw@comcast.net
Cc: Theresa Shelton
Subject: 09-182-SPHX

Mr. Hughes,

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I have left a message for Ms. Shelton to consider your request, I, however, am unable to answer your question at this time.

I will keep you updated as to the status of your request.

I will be out of the office on a previously scheduled vacation on Friday, 9/18 and Monday 9/21. I hope to have an answer for you next week.

Thank you for your patience.

Sunny

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105 W. Chesapeake Avenue
Towson, MD 21204

(410) 887-3180
kcannington@baltimorecountymd.gov

From: "Sean Hughes" <shugheslaw@comcast.net>
To: "'Krysundra Cannington'" <kcannington@baltimorecountymd.gov>
CC: "'Theresa Shelton'" <tshelton@baltimorecountymd.gov>
Date: 9/25/2009 3:36 PM
Subject: RE: 09-182-SPHX

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kcannington@baltimorecountymd.gov

From: Krysundra Cannington
To: Hughes, Sean
CC: Shelton, Theresa
Date: 9/25/2009 9:02 AM
Subject: RE: 09-182-SPHX

Good Morning Mr. Hughes,

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Thanks much for status update.

Sean Hughes

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Sent: Thursday, September 17, 2009 3:25 PM
To: shugheslaw@comcast.net
Cc: Theresa Shelton
Subject: 09-182-SPHX

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From: "Sean Hughes" <shugheslaw@comcast.net>
To: "'Krysundra Cannington'" <kcannington@baltimorecountymd.gov>
Date: 9/24/2009 8:23 AM
Subject: RE: 09-182-SPHX

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To: shugheslaw@comcast.net
Cc: Theresa Shelton
Subject: 09-182-SPHX

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From: "Sean Hughes" <shugheslaw@comcast.net>
To: "'Krysundra Cannington'" <kcannington@baltimorecountymd.gov>
CC: "'Theresa Shelton'" <tshelton@baltimorecountymd.gov>
Date: 9/17/2009 9:51 PM
Subject: RE: 09-182-SPHX
Attachments: sean hughes (shugheslaw@comcast.net).vcf

Ok, thank you very much.

Sean Hughes

Law Office of Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, MD 21042-7870

(410)-964-0300 office
(703)-906-0184 cell
(410)-964-2008 fax
shugheslaw@comcast.net
www.lawofficeofseanhughes.com

CONFIDENTIALITY STATEMENT: This electronic message contains privileged and confidential information. This information is intended solely for the use of the intended recipient above. If you have received this message in error, please be aware that any disclosure, copying, distribution or use of the contents in this message is prohibited. Please notify us immediately by telephone at 410-964-0300 or by email reply if you have received this message in error. Thank you.

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kcannington@baltimorecountymd.gov

Sean Hughes

Subject: FW: BAN439 FW: T-Mobile

-----Original Message-----

From: mark.pugnetti@gsa.gov [mailto:mark.pugnetti@gsa.gov]

Sent: Monday, January 07, 2008 8:54 AM

To: Kinnally, John

Cc: salim.dasoo@gsa.gov; helen.prymak@gsa.gov; nancy.belt@gsa.gov; john.kahler@gsa.gov; juliek.hepp@gsa.gov; debbie.phillips@gsa.gov; juliek.hepp@gsa.gov; liliana.delbonifro@gsa.gov

Subject: RE: T-Mobile

John,

I don't know if you received a reply back concerning your request for

further information on why T Mobile's request to have an antenna

installed on the CMS HQ was denied.

I tell you now, as the final authority on this subject matter, than it

is up to the discretion of the Government to allow or deny these

requests. So because of heighten security concerns this request is

denied.

Any further questions, please call me directly on 215-446-4528.

Thank you,

Mark

JEPPESEN®

STUDY FOR

T-Mobile Northeast LLC

Jeppesen Study Number:	VSW 55620-08
Date:	July 10, 2008
Site ID/Name:	BAN439 /Helfrich Rawland

Structure Location: Woodlawn, MD

Latitude:	39°	19'	12.96"
Longitude:	076°	46'	04.38"
	NAD 83		

Site Elevation:	424'	AMSL
Tower Height:	130'	AGL
Overall Height:	554'	AMSL

This study is conducted in accordance with the Federal Aviation Regulations (FAR) Part 77 and the Federal Communications Commission (FCC) Rules Part 17.

This report and the findings, opinions and recommendations expressed herein are intended for the exclusive use of T-Mobile Northeast LLC in making appropriate regulatory filings and may not be reproduced by other parties in any form or manner.

5155 Clipper Drive, Atlanta, Georgia 30349
678.924.8000·Fax 678.924.8006·www.asacinc.com

IMPACT:

The study site is located 54,400' or 8.95 NM on a True Bearing of 124.70° from the approach end of Runway 02 at Hoby Wolf Airport, the nearest landing surface for regulatory compliance purposes. The study site is located 55,270' or 9.10 NM on a True Bearing of 125.22° from the airport reference point (ARP) of this public use, VFR-only airport. The proposed 130' AGL (554' AMSL) structure located in the study site would not adversely affect VFR flight operations or procedures at this airport.

The proposed 130' AGL (554' AMSL) structure located at the study site would not adversely affect VFR or IFR terminal flight operations or procedures established at area airports.

The proposed 130' AGL (554' AMSL) structure located at the study site would not adversely affect VFR or IFR en route flight operations or procedures in the area.

At a height of 130' AGL (554' AMSL), the proposed structure located at the study site would not exceed any FAR Part 77 or FCC Part 17 notice requirement surface. Therefore, FAA Notice of Proposed Construction is not required. However, if FAA Notice is provided, the FAA most likely would approve the structure without conducting an extended study.

WJFK, an AM Broadcast Station, is located 0.91 Statute Miles (SM) on a True Bearing of 351.90° from the study site. This station is "directional" and the interference radius is 1.90 SM.

- **FAA Notice is not required. Maximum no notice height is 200' AGL (624' AMSL).**
- **Marking and lighting is not required. Maximum no marking and lighting height is 200' AGL (624' AMSL).**
- **Extended study is not required.**
- **Structure is within AM Broadcast Station interference radius.**
- **Structure would not affect flight operations at a private use airport or heliport.**

Should you have any questions regarding this study, please feel free to contact our office at (678) 924-8088.

Marietta S. Rosser

Marietta S. Rosser
Sr. Airspace Technician

Law Office of Sean Hughes
5100 Dorsey Hall Drive
Ellicott City, Maryland 21042-7870
(410) 964-0300
(410) 964-0300 Fax

RECEIVED
MAR 27 2009
ZONING COMMISSIONER

March 23, 2009

Thomas H. Bostwick, Deputy Zoning Commissioner
Jefferson Building
105 W. Chesapeake Avenue
Suite 103
Towson, MD 21204

RE: Case Number 2009-0182-SPHX- 7301 Dogwood Road

Dear Deputy Zoning Commissioner Bostwick,

Please accept this letter in response to the correspondence from you on March 18 and our landowner's tenant, Easter Seals, of March 17, 2009 regarding this case. We appreciate the opportunity to reply to the comments provided.

T-Mobile's initial position is that we believe that many of the items (specifically numbers 1, 2, 3, 4 & 6) are outside of typical zoning process. They involve private contractual relations between parties (landowner and tenants) and it may be unfair or improper to ask the Zoning Commissioner's office or Baltimore County to intervene and officiate traditional landlord and tenant lease issues. We would have welcomed the opportunity to discuss any concerns with the current tenant. Unfortunately, they were less than responsive to our early outreach and never shared the noted eight (8) items prior to the March 9 hearing and the March 17, 2009 correspondence.

Nonetheless, T-Mobile prides itself on being a good corporate neighbor (and co-lessee in this case) and will provide direct feedback below to each specific item. We also initially and as part of our lease contemplated several of these items and as is typical with our sites, we expect to co-exist in an appropriate fashion at the site, should we receive approval. Our ability to not negatively impact the property and current tenant on site was a strong consideration from the landowner and we committed to not do so verbally and via the lease agreement.

1. While we feel tenant item 1. is a private item and should be outside of the zoning process, T-Mobile expects to draw its own power from the power company/BGE.

2. While we feel tenant item 2. is a private item and should be outside of the zoning process, T-Mobile is not requesting or planning on having a generator installed on site. Should T-Mobile need to bring a generator on site during an extended emergency situation involving longstanding power failure, said generator would comply with County noise limits.

3. While we feel tenant item 3. is a private item and should be outside of the zoning process, T-Mobile is committed to conduct the construction, should this application be approved, and ongoing periodic maintenance in a professional and considerate fashion that will not materially impact the landowner or his tenant/tenants use of the property. T-Mobile intends to comply fully with its private lease arrangement guiding its use and operations on the subject property.

4. T-Mobile feels that tenant item 4. is a private item and should be outside of the zoning process. As with all of its sites T-Mobile obtains and carries sufficient insurance and its lease governs the topic of insurance with the landowner. Nonetheless, in this case T-Mobile is willing to add lessee, Easter Seals, as an additional insured.

5. T-Mobile did note at the public hearing that they intended to provide screening of the ground compound via 100% opacity and would like for the Zoning Commissioner's office to consider allowing the Planning Department to determine the best method to do so in this case, whether through a board on board fence or combination board on board fence and landscaping or otherwise. Thus, T-Mobile is not opposed to the planting of a reasonable number and at reasonable starting height of Leyland Cypress trees planted on the north side of the compound to further shield the view of the ground compound from the landowner's large building housing tenant, Easter Seals.

6. T-Mobile feels that tenant item 4. is a private item and should be outside of the zoning process. Further, T-Mobile takes exception to this item. There is an existing gravel drive that runs from the parking lot to and around the proposed ground compound. T-Mobile will need to utilize this access drive to assist with construction and periodic maintenance, in which T-Mobile workers and technicians use heavy equipment and tools. T-Mobile does not have a need and will not perform any long-term parking or storage of vehicles onsite once the site is constructed.

7. T-Mobile typically suggests that disguised flagpole facilities, such as that proposed here, be painted the typical flagpole colors of galvanized grey or off-white. In fact the photo simulations included the galvanized grey color (See exhibit photo labeled from 2309 Ridge Road). We acknowledge that due to the distance and projected impact of sunlight and clouds, etc. that the pole does appear darker in some of the other photo simulation exhibits. T-Mobile remains open to painting the pole any appropriate color as requested or determined by the County.

8. The T-Mobile exhibits and testimony support the position that the proposed site would be a flagless flagpole with the antennas fully enclosed inside of the pole. There is no intention or need to place or hang anything else from the pole.

Should your office have any questions regarding this project please do not hesitate to contact me by phone, 410-964-0300, or by email at shugheslaw@comcast.net. Thank you.

Sincerely,

Sean P. Hughes

Sean Hughes
Zoning Attorney for T-Mobile

Cc: Amy Bird, T-Mobile
George Helfrich, property owner of 7301 Dogwood Road
Lisa Reeves, tenant at 7301 Dogwood Road, Easter Seals

DMW

DAFT McCUNE WALKER INC

MICHAEL D. McGARITY
TEAM MANAGER
WIRELESS SERVICES DIVISION

Education

University of Maryland College Park, B.S., Civil Engineering

Professional Summary

Mr. McGarity has nine years experience in managing wireless telecommunications projects for numerous carriers, including AT&T Wireless Services, Sprint PCS, Nextel Communications, Cingular Wireless, and T-Mobile USA. Mr. McGarity implements an innovative and practical approach to providing site planning, zoning, engineering, surveying and permitting services for wireless carriers throughout Maryland. Mr. McGarity provides a close and personal link with his clients, providing expertise from site inception to completion in the field. Mr. McGarity is proficient with Microstation and mentors his staff with providing detailed plans that are compliant with local jurisdictional standards. Mr. McGarity is actively involved with other development projects within DMW to gain additional engineering experience as he works toward acquiring his Professional Engineering License.

Partial List of Projects

AT&T Wireless expansions throughout the Maryland area
Cellular One network expansions throughout the Maryland area
Cingular Wireless network expansions throughout the Maryland area
Nextel Communications network expansions throughout the Maryland area
Sprint PCS network expansions throughout the Maryland area
T-Mobile USA network expansions throughout the Maryland area
Verizon Wireless network expansions throughout the Maryland area

Memberships and Awards

American Society of Civil Engineers (Student Chapter 1994-1996)

Professional Experience

Daft-McCune-Walker, Inc., Towson, Maryland, 1997 - Present
Pavex, Inc., Cockeysville, MD, 1996-1997

DMW

DAFT McCUNE WALKER INC

MITCHELL J. KELLMAN
DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning
Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 11 years of experience working in zoning administration and subdivision regulation for the public sector; 9 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authonty. Additionally, he supervised county review staff, met with professionals and public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings.

Partial List of Projects

Charlestown Retirement Community, Baltimore County, MD
GBMC, Baltimore County, MD
Goucher College, Baltimore County, MD
Hopewell Point, Baltimore County, MD
Notre Dame Preparatory School, Baltimore County, MD
Oakcrest Village Retirement Community, Baltimore County, MD
Sheppard and Enoch Pratt Hospital, Baltimore County, MD
Waterview, Baltimore County, MD

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD: 2000-Present
Baltimore County Office of Permits and Development Management - Development Control, 1988-2000

Rajkanwar Brar

12050 Baltimore Ave.,
Beltsville, MD 20705

Rajkanwar.Brar@t-mobile.com
(443) 739-7489(C)
(240) 264-8646(O)

SUMMARY:

- Experience in GSM RF Design and introduction to BSS optimization.
- Experience with Drive test units like TEMS Investigation, DTI, Agilent, Wider and Invex.
- Experience with mapping tools like MapInfo.
- Experience with Optimization tools like OptPCS.
- Experience with Planning tools like Asset.
- Experience with Desktop Applications like Excel, Word, and PowerPoint.
- Experience with VB6, Oracle8 programming and Crystal Reports.
- Experience with Novell Intranetware (4.11).

EXPERIENCE

A) **Telecom Technology Services Inc. (Consultant to T-Mobile, Washington DC-Baltimore Market)**
Date: April 2006 - Present

RF Engineer, RF Design (Nov 2007 - Present)

1. Drive test data analysis using TEMS and OptPCS.
2. Voice and Data Traffic Planning and Analysis.
3. Provided technical support in City Council and Zoning Hearings.
4. Planning and designing sites in the Washington Metro area and coordinating all activities to make sites on-air.
5. Design of cell split sites to offload high traffic sites and infill sites for low coverage areas.
6. Design Review Presentation for the senior management.
7. Candidate site selection, ranking and evaluation.
8. Coordination and assistance in defining low coverage areas.
9. Preparation of search rings.
10. Provided technical support in zoning hearings, planning commission hearings and neighbourhood / pre-zoning meetings.
11. Neighbor List Assignment, Frequency Plan Review, Interference Analysis.

RF Engineer, Solutions Group (Apr '06-Jul '07 and Oct '07 - Nov '07)

1. Post-Processed and Analyzed GSM and CDMA Drive-test Data collected using TEMS, DTI, Agilent,
Wider using OptPCS, OptiCP, Mapinfo, TEMS Investigation and Wind Tunnel.
1. Performed Neighbor/Interferer Analysis using OptPCS based on TTS Spectral Efficiency Guidelines to identify top offenders in the market.
2. Recommended Parameter Changes to the Market RF Team based on the Drive Data.
3. Prepared Presentation/Project Document for the Management/RF Team in the market at the end of the project, outlining the process followed, results obtained, major recommendations based on the drive.

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5	
Private Property: ☒	Permitted: ☐
Public Property: ☐	Special Exception: ☒

Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.

Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site.

T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective.

Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.

Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence.

Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our

DMW

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

Memorandum

To: Charlie Main

From: Roma Campanile

Date: August 4, 1998

Re: Boumi Temple - Landscape/Lighting Revisions
Project No. ~~97036.0~~ 97063.A1

Enclosed is the red-line mark up of the revised lighting plan you submitted to me. I have noted on the plan the following trees to be deleted since they are in conflict with the proposed light locations:

2 ZSGV
3 PAB
1 ARRS

The other lighting revisions don't appear to be in conflict. I am assuming that the flag pole will be deleted unless the client wants to retain it somewhere else on site.

I have also noted alternate locations for the proposed planting at the front entrance which will be displaced by the addition of parking. Please let me know if you need additional clarification on the above.

Daft·McCune·Walker, Inc.

Roma Campanile
rcampanile@dmw.com

SECTION 426 Wireless Telecommunications Facilities

[Bill No. 30-1998
Editor's Note: This bill also repealed former Section 426, Wireless Transmitting or Receiving Structures, added by Bill No. 64-1986. In addition, Section 5 of Bill No. 30-1998 provided that "...this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any person who has had a hearing on a proposed tower before the Zoning Commissioner before the effective date of this Act" (March 30, 1998), and Section 6 of Bill No. 30-1998 provided that "...the provisions of this Act shall be interpreted consistent with the Telecommunications Act of 1996."
]

§ 426.1 Definitions.

[Bill No. 121-2001]
In this section, the following words have the meanings indicated:

ANTENNA
A wireless telecommunications antenna.

OWNER
The owner, agent, lessee or person in control of a wireless telecommunications tower.

PROVIDER
A wireless telecommunications service provider.

SCENIC VIEWSHED
A scenic route or view as designated in the Baltimore County Master Plan.

SCENIC VIEWSHED ELEMENTS

A.
Those visual elements of a scenic viewshed which are of a quality, character, rarity and nature to cause a viewshed to be designated in the Baltimore County Master Plan by the Baltimore County Planning Board; and

B.
Which are catalogued by the Planning Board in accordance with § 32-4-417 of the Baltimore County Code.

[Bill No. 137-2004]

TOWER
A wireless telecommunications tower.

TOWER APPLICANT
A person who applies to the Committee pursuant to Section 426.4.

§ 426.2 Legislative policy for siting of wireless telecommunications antennas and towers.

[Bill No. 121-2001]
It is the intent of Baltimore County that:

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Amy Bird	12050 Baltimore Ave.	Beltsville, MD 20705	amy.bird3@t-Mobile.com
MICHAEL MCGARITY	200 E. PENNSYLVANIA AVE	TOWSON, MD 21286	mmcgarity@dmw.com
Mitch Kellman	" "	" "	mkellman@dmw.com
Sean Hughes	5100 Dorsey Hall Dr	Ellicott City, MD 21042	Shughes law@comcast.net
RAJKANWAR BRAR	12050 BALTIMORE AVE	BELTSVILLE, MD 20705	rajkanwar.brar@t-mobile.com

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Di'ane Vance	7301 Dogwood Road	Baltimore, MD 21244	dvance@eseal.org

Easter Seals
DISABILITY SERVICES

Easter Seals
Greater Washington-Baltimore Region
7301 Dogwood Road
Baltimore, MD 21244
410.277.0940 phone
410.277.0943 fax
dvance@eseal.org
www.gwbr.easterseals.com

Diane Vance, MA
Director
Adult Day Services - Baltimore

NETWORK BUILDING
& CONSULTING, LLC

JOHN R. PETR
GRAPHIC DESIGN ARTIST
JPETR@NBCLLC.COM

MOBILE: 410.382.0701
OFFICE: 410.712.7092 X1010
WWW.NETWORKBUILDING.COM

7380 COCA COLA DR, SUITE 106, HANOVER, MD 21076

ATTORNEY'S NOTES

(20090182)

(3)

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO: Wendell – hand delivered
Andy - mailed
Bob – hand delivered

DATE: February 25, 2010

FROM: Theresa T

RE: **George Helfrich – T-Mobile – DOGWOOD ROAD**

Attached are the Closing Memos that were due 2/26/10.

Deliberation is scheduled for Tuesday, March 16 at 9 AM

Thank you

Theresa

T. 806.1(L

Burden of
1986 special exception

Rockford v. Comm'rs

→ Safety -

Visibility →

Is the burden to amend to
a special exception

Special Hearing granted
Special Exception granted

Notes - Special - 09-182-SPHX

George Helfrich

Opening T-Mobile

L'Shawn Hayes

T-Mobile

88% of people use cells

20% of " " " exclusively

120' tower will look like a flag pole

Special Exception

Opening - People's Counsel

§ 426. of Code.

Matrix for recommendation:

Who owns this piece of land,

Earlier special exception on property

1986 - for swimming meetings

etc.

T-Mobile Case Mc McGarvity

Witness #1 Mr. Michael ~~Garvity~~

Expert - Civil Engineering → ACCEPTED

as " in civil engineering + cell phone

Assign →

Aldrich

pg 2. → 4' cabinet 11"

650 s.f. "building" or area for status of operations

Date of 11/13/08 site plan →

Set Back

→ Code 200' from residential owners property line

→ Testing we have more than 200' set back.

Cross Exam

1. Were you involved in site selection
A - No

2. Did you determine where the ~~cabinet~~ tower would be located
A. No.

3. Can this tower be used by up to 3 providers?
A Yes

Q Would it take up any additional space
A Yes they would need their own cabinets,

Q Is this space on the site plan?
A Yes

Q Would the tower have to be raised in height to accomodate additional users.

A. I don't know.

Q. As a part of your job did you investigate the consequence of the tower tilting over

REDIRECT

→ Where would other users go?

Witness #2

Amy Byrd → Consultant →
100% of time on
SA Zoning Manager →
2.5 yrs. →
Education
B.S. Polit. Science
J.D. Univ. of MD

Photo simulations
i.e. 3' Brown is Fluvanna & other groups - subsidiary puts in a tower

→ Rt. Fridge property has residential designation

→ Feds said you can't use our tower

Health / Safety & General welfare

130
125
25.00

Query re to Special Exception Text.

Health Safety & General Welfare

A No

Congestion to traffic.

A No

Fire Police or Dept

A No

Overcrowding

A No.

Schools - parks, etc.

A

Light & Air

A No -

Cross - Exam

I've been involved w the zoning aspect of the last since 2008.

Mr. Killman →

Engnt in zoning - Asserted.

I think a special hearing will be required because 2 activities exist in R1 - D.S Zoning

same house. = 1 Unit

Is adult day care $ 8.24 = OK. Use special exception in residential & commercial

Adult day care is treated by the same office as the same as child day care.

P.C. exhibit -
Microfiche - of 1986
(case 86-354-XSPH)

People's Counsel - Case
Witness # 1 Owner
Mr. Hetrick →
Q How long have you owned the property?
A 25 yrs.

what of the pool?
I don't know what I am going to do!
(with the property)

Witness # 2
Mr. Bohn
Chief, of Balto. County
Office of
Bureau of Fire Prevention & Rescue
- (Short statement)

THIS IS

HIS WITNESS!

Not Cross Exam

You Can't Lead!

Maybe Hostile witness?

(20090182)

EXHIBIT

4

SEARCH RING

SITE

(DIAMOND RIDGE GOLF COURSE)

BALTO CO, MD
7537/406
10 04A
R 693

DAVID R KALB
5669/158
60 00A
P 333

BOARD OF EDUCATION
4261/23
4337/132
14 01A
P 230
CHADWICK ELEM. SCH.

ST BARTHOLME'S CHURCH
4084/504
5 97A
P 221

EDGAR A KALB PROP
466 133

LEONA R. MANSFIELD
HEALTH CARE FINANCING ADMINISTRATION

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MAP 87 - P.8

MAP 87 - P.394

MAP 87-P.598

MAP 87-P.292

MAP 87-P.200

MAP 94-P.453

MAP 94-P.452

MAP 94-P.394

MAP 94 P.394

MAP 94 P.242

MAP 94 P.470

MAP 94 P.371

MAP 94 P.183

MAP 94 P.361

ROAD

FAIRBROOK ROAD

GRANITE RUN

TUDSBURY

ROCKFIELDS

WINDSOR

CORPORATE PARK

SECURITY BLVD

DOGWOOD ROAD

SAWMILL BRANCH ROAD

ROLLING RUN DRIVE

ROLLING HEIGHTS BUS. PARK

ROLLING IND. PARK

LESADA DR.

FAIRBROOK PARK APARTMENTS

WATERFORD PLACE

BOULEVARD PLACE

LORD BALTIMORE DR.

BELMONT AVE.

SECURITY BLVD

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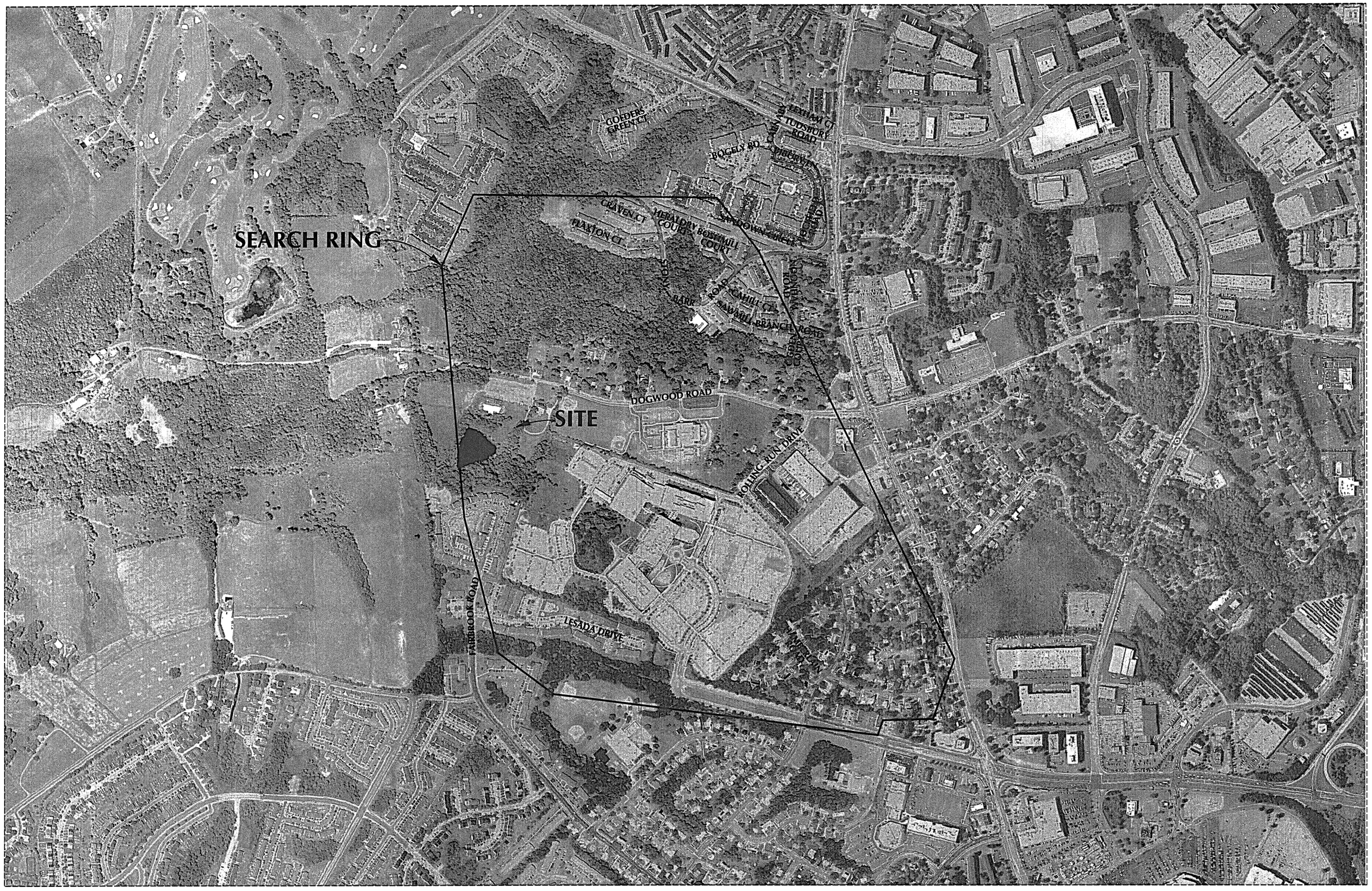
P.411

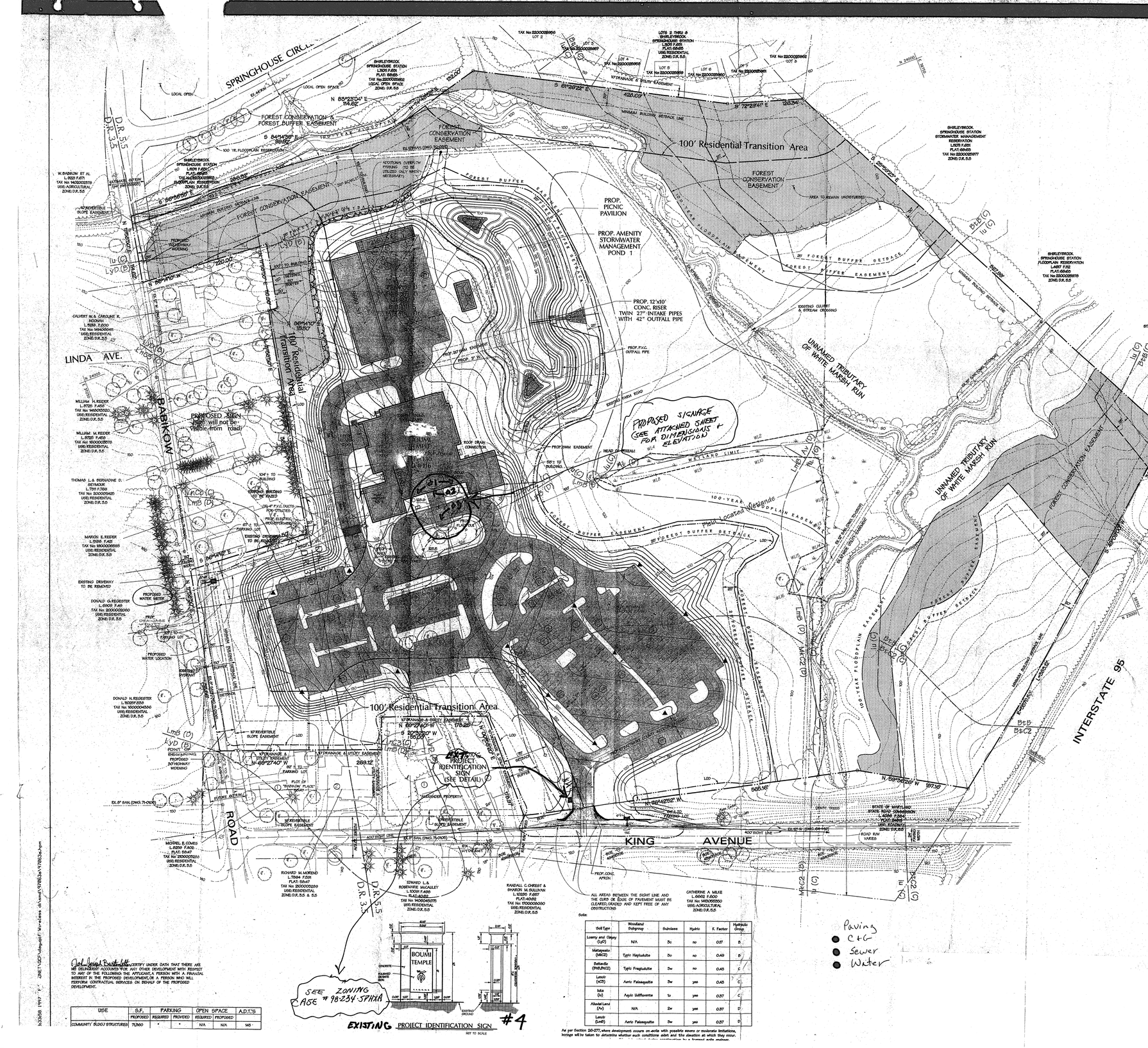
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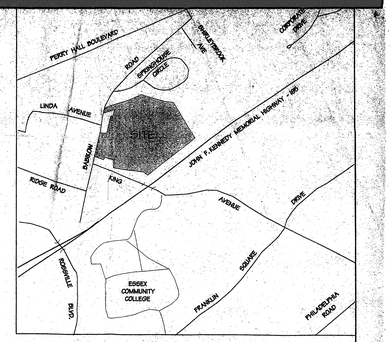
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SEARCH RING
SITE
GOLDERS GREEN CT
BOGLEY RD
TUDSBURY ROAD
CRAVEN CT
HERALDRY COURT
BOSSMILL COURT
FLAXTON CT
SANDOWN CIRCLE
STONY BARR ROAD
SAWMILL BRANCH ROAD
DOGWOOD ROAD
HOLLING RUN DRIVE
FAIRBROOK ROAD
LESADA DRIVE



LEGEND

- ZONING LINES
- SOIL TYPE
- PROPOSED CONTOURS
- EXISTING CONTOURS
- EXISTING TREES
- PROPOSED IMPERVIOUS SURFACE
- FOREST BUFFER EASEMENT
- 25' FOREST BUFFER SETBACK
- FOREST CONSERVATION EASEMENT
- WETLAND LIMIT
- 100-YEAR FLOOD PLAIN BUFFER
- EXISTING STREAM
- EXISTING STRUCTURES TO BE RAZED
- EXISTING SEPTIC AREA TO BE ABANDONED
- EXISTING WOODLINE
- PROPOSED WOODLINE
- 25%+ SLOPE
- EXISTING SPECIMEN TREES
- LIMIT OF DISTURBANCE
- PROPOSED No. OF PARKING SPACES
- PROPOSED LIGHT



VICINITY MAP

Scale: 1" = 2000'

GENERAL NOTES

1. Property Owner: Edward John Bartenfelder
   John Joseph Bartenfelder
   James William Bartenfelder, et al.
   3005 Edgewood Ave.
   Baltimore, MD 21234
2. Developer/Applicants: Doumi Temple
   4800 North Charles Street
   Baltimore, MD 21210
   (410) 435-4000
3. Legal Address: 5032 King Avenue
   Baltimore, MD 21237
4. Prepared by: Daft-McCune-Walker, Inc. (DMW)
   200 East Pennsylvania Avenue
   Towson, MD 21286
   (410) 296-3333
5. Site Area: 34.21 ± Acres
6. Tax Information: Tax Map 102, Grid 13, Parcel 340, Account No. 1402000300
7. Election District: 14 Councilmanic District: 6 Census Tract No.: 4406
   Planning District: 321
8. Watershed: 11 Sub-watershed: B
9. Site Data:

Current Zoning and Acreage:

Net =	1.92 Acres +/-	D.R. 5.5	
	32.29 Acres +/-	D.R. 3.5	
	34.21 Acres +/-	Total	
Gross =	1.92 Acres +/-	D.R. 5.5	
	32.29 Acres +/-	D.R. 3.5	
	34.21 Acres +/-	Total (includes 507 King Ave. R/W)	

Site Program Tabulation:

Doumi Temple
Main Floor 22,777± sq. ft.
Basement Floor 22,136± sq. ft.
Accessory Storage Building 2,352 sq. ft.
Grand Total 47,265± sq. ft.
All proposed improvements will be completed in one phase of development.

Parking:

Main Floor
Banquet facility and Club Rooms 14,500 sq. ft.
Remaining area (circulation, offices, etc.) 11,500 sq. ft.

Basement Floor
Lodge Rooms / Auditorium (total capacity) 500 seats
Mech., storage, & circulation 23,800 sq. ft.

Total parking provided 406 (20 HC) (includes overflow @ rear of site)

* The banquet hall facilities on the main floor and the lodge rooms on the basement floor shall never be used simultaneously or concurrently. None of the facilities will be available to the general public.

All spaces will be a minimum 8'6"x 18' except for handicapped, paved with a durable, dustless surface and striped. All lighting for parking areas shall be arranged so as to reflect the light away from the adjacent residential areas and public streets.

Local Open Space / Amenity Open Space:

None Required

Landscape Planting Requirements:

See Schematic Landscape Plan

10. Forest Conservation Notes:

There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Any Forest Conservation Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.

11. Forest Buffer Easement Notes:

There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

Any Forest Buffer Easement shown hereon is subject to protective covenants which may be found in the Land Records of Baltimore County and which restrict disturbance and use of these areas.

12. Stormwater Management, quality and quantity, will be managed in an above ground facility, as shown on the plan.

13. Existing streams, floodplains, springs, seeps, bodies of water and wetlands located on this property have been shown on this plan. The streams are unnamed tributaries of White Marsh Run.

The wetland systems that exist on the site are associated with the stream systems and are included entirely within the Forest Conservation / Forest Buffer Easement and will be retained and protected

14. This site is not located within the Chesapeake Bay Critical Area.

15. There are no known historic structures in existence on this site per the Landmarks Preservation Commission and the Maryland Historic Trust Inventory. All existing on-site structures including the residence are to be removed.

16. Average Daily Trips:
Lodges and Fraternal Organizations: 500 lodge room seats x 0.29 = 145 trips

17. There are no known significant geologic formations, critical areas, archeological sites, endangered species habitats on the site.

18. There are no significant views on this site

19. There are no underground fuel storage tanks on the site. A Phase I environmental assessment has been conducted for this site.

20. There are no known wells within 100 feet of the property. A septic tank is known to exist on the subject property. It will be removed or backfilled in accordance with Health Department standards during construction. Adjacent properties are served by public water and sewer.

21. This project will be served by public water and sewer.

22. The proposed sign is as shown on the plan.

23. There is no known zoning history related to this site.

24. There are no current limitations established by the county County Board of Appeals, Planning Board and/or Zoning Commissioner or restrictive convenants recorded with individuals or groups which would limit the proposed development of the site.

25. The proposed area of disturbance is approximately 600,000 S.F.

26. A variance was granted on September 22 and revised on September 24, 1997 by the Baltimore County Department Protection and Resource Management to allow a reduced Forest Buffer Easement subject to the following conditions:

1. The Final Grading / Erosion and Sediment Control Plan will not be approved until there is 80% "good" ground coverage of grasses/herbaceous vegetation, at least two inches tall, in the area down slope of the Limit of Disturbance adjacent to the area of reduced slope analysis scores, including but not limited to the Forest Buffer Easement.
2. The planting area above shall be clearly demarcated and labeled on the Erosion and Sediment Control plan
3. The planted area shall remain unmowed during the period of construction. Thereafter the Forest Buffer shall remain undisturbed in perpetuity.
4. Prior to grading close-out, the Forest Buffer Easement shall be posted with "Forest Buffer Easement - Do Not Disturb" signs available from the Baltimore County Department of Environmental Protection and Resource Management.
5. Additional sediment control measures may be required on the sediment control/grading plan to ensure adequate protection of the streams and wetlands during construction.

This plan reflects the conditions of site variance to reduce and mitigate any impacts to water quality.

27. Data Sources:
Topography and streams shown hereon were obtained from aerial survey by Mirage Aerial Mapping dated January 4, 1995, and provided by D.S. Thaler & Associates.

28. There are no unresolved community concerns from the Community Input Meeting November 19, 1997.

29. A variance has been applied for to allow the sanitary connection and manhole in the Forest Buffer Easement.

30. ANY FIXTURES USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.

IN RE: PETITIONER'S PLAN HEARING and * BEFORE THE
PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE * DEPUTY ZONING COMMISSIONER
15/8 Ashlow Rd. & N/S of King Ave.; *
15th Election District * OF BALTIMORE COUNTY
6th Councilmanic District

James W. Bartenfelder, et al. Owners; * Case Nos. XIV-360 & 98-234-SPHXA
Doumi Temple, Developer *

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

HEARING OFFICER'S ORDER AND DEVELOPMENT PLAN ORDER

WHEREAS, IT IS ORDERED by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 23 day of February, 1998, that the development plan for Doumi Temple, identified herein as Developer's Exhibit 1, be and is hereby APPROVED, subject to the following restriction:

1) The Letter Agreement entered into by and between the Owner/Developer and the South Perry Hall Boulevard Improvement Association, a copy of which was submitted into evidence as Developer's Exhibit 2, shall be incorporated herein and is enforceable as if a part of this Order. A copy is attached for reference.

IT IS FURTHER ORDERED that the Petition for Special Exception to use a D.R.3.5 and D.R.5.5 zone, and compliance to the extent possible with BCR restrictions, pursuant to Section 1B01.1.B.1.g(10) of the Baltimore County Zoning Regulations (B.C.Z.R.), and in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that 406 parking spaces is sufficient for the proposed community building, in accordance with Petitioner's Exhibit 1, and as such, the Petition for Special Parking is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 400.4.C of the B.C.Z.R. to permit a sign height of 34 feet in lieu of the maximum allowed 6 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Any appeal of this decision must be taken in accordance with Section 26-209 of the Baltimore County Code.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

NOTE: 100 YEAR FLOODPLAIN TO BE CONVEYED TO BALTIMORE COUNTY AS AN EASEMENT

ALL EXISTING STRUCTURES ON-SITE WILL BE RAZED PRIOR TO RECORD PLAT BY CONTRACT PURCHASER (DOUMI TEMPLE CORP.)

EXISTING SEPTIC AREA TO BE BACKFILLED AND ABANDONMENT REPORT FILED WITH D.E.P.R.M. PRIOR TO RECORD PLAT.

AMENDED MARCH 12, 2010 PLAT FOR SIGN VARIANCES

5050 KING AVENUE

14TH E.D. SCALE 1" = 50'

31. PROPOSED SIGN #1: WALL MOUNTED SIGN ON FRONT WALL OF SECOND LEVEL OF BUILDING. 198 SQUARE FEET (4.3'X45')
SIGN #2: MOUNTED ON DOOR 2.64 SQUARE FEET (.66'X4')
SIGN #3: MOUNTED ON FRONT OF CANOPY 16 SQUARE FEET (4'X4')

32. EXISTING SIGN #4: FREESTANDING SIGN PYLON GROUND MOUNTED AT KING AVENUE ENTRANCE 18 SQUARE FEET (3'X6')

33. VARIANCES: WALL MOUNTED SIGNS #1, 2 AND 3, AREA 231 SQUARE FEET INSTEAD OF 25 SQUARE FEET MAXIMUM FREESTANDING SIGN #4, HEIGHT 10 FEET INSTEAD OF 6 FEET MAXIMUM (APPROVED IN CASE 98-234-SPHXA)

34. SIGN ELEVATIONS AND DIMENSIONS ARE SHOWN ON SITE PLAN EXHIBIT 1B.

35. SITE AND SIGN LIGHTING CONDITIONS ARE DISCUSSED IN LETTER FROM CHARLES JOHNSTON TO PETER MAX ZIMMERMAN DATE MARCH 12, 2010, EXHIBIT 1C, AND SHOWN ON DMW RED LINE DRAWING 8-4-98, AS REVISED 3-12-10, EXHIBIT 1D. (IN PINK MAGIC MARKER).

PETITIONER'S EXHIBIT 1A
(COUNTY BOARD OF APPEALS)

ENT 1 OF 2
2009-0265-A

CHANGES MADE AND SUBMITTED BY CHARLES L. JOHNSTON, JR., CHIEF RABBAN OF BOUMI TEMPLE

CHARLES L. JOHNSTON, JR.

I, John Joseph Bartenfelder CERTIFY UNDER OATH THAT THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENT WITH RESPECT TO ANY OF THE FOLLOWING: THE APPLICANT, A PERSON WITH A FINANCIAL INTEREST IN THE PROPOSED DEVELOPMENT, OR A PERSON WHO WILL PERFORM CONTRACTUAL SERVICES ON BEHALF OF THE PROPOSED DEVELOPMENT.

USE	S.F.	PARKING		OPEN SPACE		A.D.T.'S
	PROPOSED	REQUIRED	PROVIDED	REQUIRED	PROPOSED	
COMMUNITY BLDG./ STRUCTURES	71,360	*	*	N/A	N/A	145

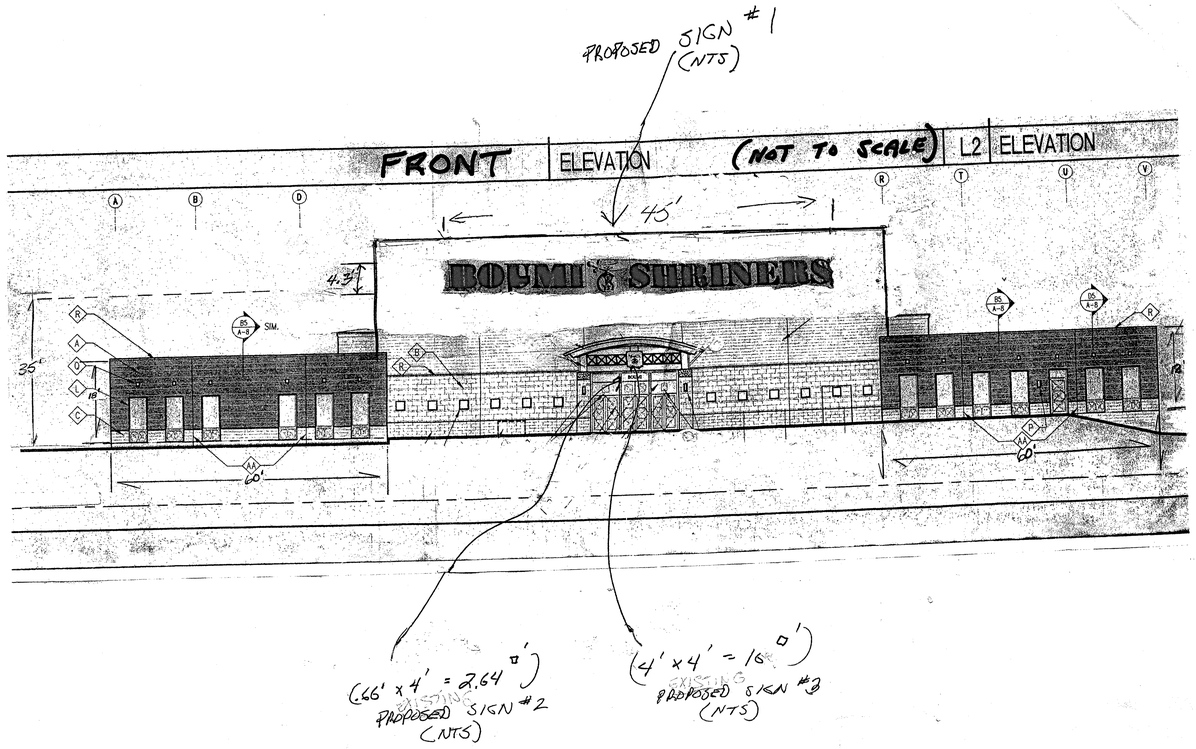
Soil Type	Woodland Subgroup	Subclass	Hydric	K Factor	Hydraulic Group
Loamy and Clayey (LgD)	N/A	3c	no	0.17	B
Manokin (MkC2)	Typic Hapludults	3c	no	0.49	B
Beltsville (MnD,MnC2)	Typic Fragiudults	3w	no	0.43	C
Lenoir (NcB)	Aeric Paleaquults	3w	yes	0.43	C
Issue (Ns)	Aquic Udifluvents	1c	yes	0.37	C
Aberdeen Land (Ab)	N/A	2w	yes	0.37	D
Lenoir (Ln)	Aeric Paleaquults	3w	yes	0.37	D

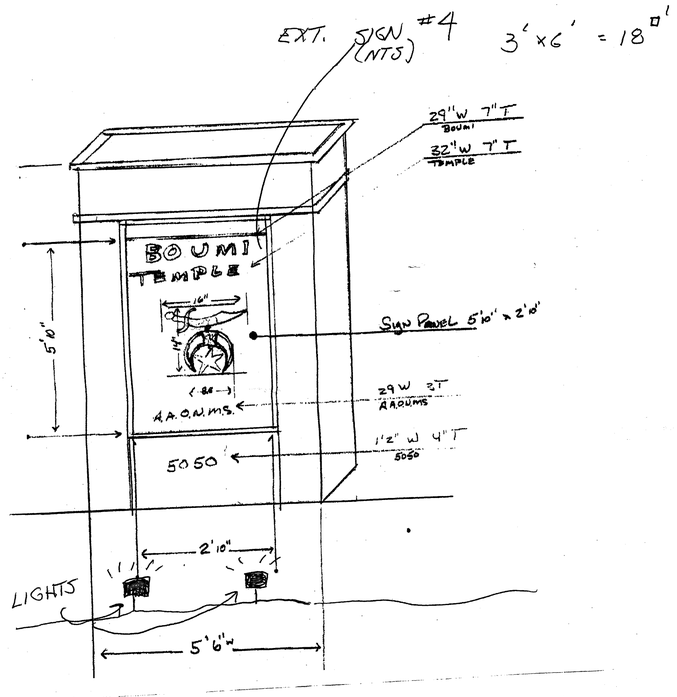
As per Section 26-277, where development occurs on soils with possible severe or moderate limitations, borings will be taken to determine whether such conditions exist and the elevation at which they occur.

ALL AREAS BETWEEN THE SIGHT LINE AND THE CURB OR EDGE OF PAVEMENT MUST BE CLEARED, GRADED AND KEPT FREE OF ANY OBSTRUCTIONS

Note:

EXHIBIT - 1-A





TOTAL SIGNAGE

SIGN #1 (PROPOSED) 4.3' x 45' = 194.00 SQUARE FEET
WALL-MOUNTED, ON FRONT WALL OF SECOND LEVEL OF BUILDING

SIGN #2 (EXISTING) .66' x 4' = 2.64 SQUARE FEET
EXISTING, MOUNTED ON DOOR

SIGN #3 (EXISTING) 4' x 4' = 16.00 SQUARE FEET
EXISTING, MOUNTED ON FRONT OF CANOPY

SIGN #4 3' x 6' (GROUND-MOUNTED) = 18.00 SQUARE FEET
EXISTING, FREESTANDING/PYLON SIGN AT KING ROAD ENTRANCE

TOTAL SIGNAGE = 230.64 = 231 SQ. FT.

Sheet 2 of 2

EXHIBIT B

Boumi Temple
5050 King Avenue
Baltimore, MD 21237

March 12, 2010

Peter Max Zimmerman
People's Counsel for Baltimore County
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204

Dear Mr. Zimmerman,

In reference to your request concerning the parking lot lighting, flag pole lighting and the proposed building identification sign, I was able to find a final "Red Line Drawing" which I would like to identify as project number 97063-A1 which replaced project number 97036.0. With this drawing is a letter from the engineering company Daft, McCune.Walker, Inc. who did the final "Red Line Drawing" which was prepared on August 4, 1998. I propose the contents of this letter be made part of this now existing drawing which you have a copy of. The following changes which we discussed in your office on February 9, 2010, with Vernon Boozer, myself, and you, have been listed below for your final consideration regarding the lighting.

For reasons of clarification, we will call this revision 2-A and make it part of the "Red Line Drawing". By using the directional indicator on the drawing we will refer to the entrance off of King Avenue as being South. The now existing sign left of the driveway will come on at dusk and go off at ten o'clock (10:00pm). The driveway coming in from King Avenue referencing the parking lot to your right which would still be in the South East part of the complex, there are nine (9) dual head light poles. We propose to time them to come on at dusk and go off at eleven forty-five (11:45 pm). The furthest light pole on the South East side of that parking area will remain on until daybreak.

2-B. The lights now at the base of the eight (8) flag poles will come on at dusk and be timed out at ten o'clock (10:00pm). The one flag pole which fly's the American Flag will be lit from dusk to dawn.

EXHIBIT 1-C

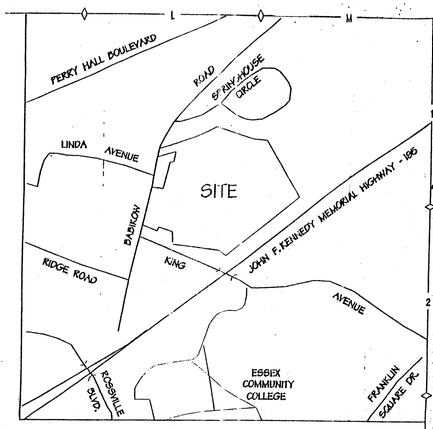
2-C. Building identification lettering will be lit from dusk until eleven thirty (11:30pm). It should be noted that the back lit lighting is LED which is referred to in today's energy management as going green. It should also be noted that once this signage is installed, we will no longer burn the twelve halogen lights that are now installed on the building.

In order to justify the times mentioned our building is open for use seven days a week and most of the functions and gatherings take place in the evening hours, primarily from seven until twelve at night. Our insurance carrier has advised us that we have a responsibility for the safety of our patrons and members. They are telling us that we cannot darken the parking areas when functions are in process. We have a standing rule in the temple that all functions end at twelve o'clock (12:00pm), with the exclusion of New Year's Eve. I would hope the efforts put forth in the above statement would be satisfactory to all concerned.

Respectfully,

Charles L. Johnston Jr.
Chief Rabban

BOUMI TEMPLE

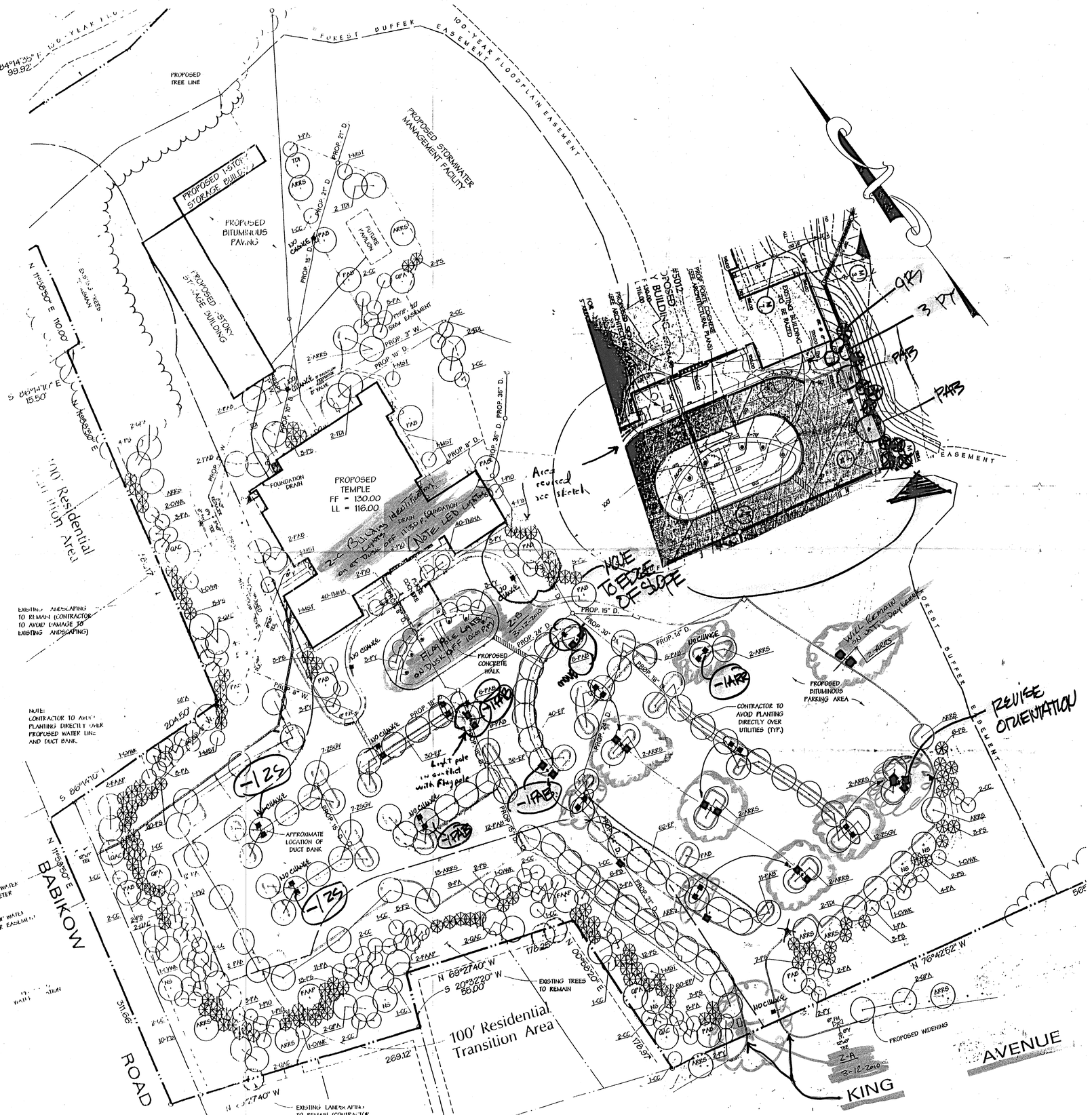


VICINITY MAP

Scale: 1" = 1000'

Prepared 8-4-98

STANDARD NONDISTURBANCE NOTE:
There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement / Reservation or other forest retention areas, except as permitted by the Baltimore County Department of Environmental Protection & Resource Management.



LEGEND

- ZONING LINES
- SOIL TYPE
- PROPOSED CONTOURS
- EXISTING CONTOURS
- EXISTING TREES
- FOREST BUFFER EASEMENT
- WETLAND LIMIT
- EXISTING STREAM
- EXISTING STRUCTURES TO BE RAZED
- EXISTING SEPTIC AREA TO BE ABANDONED
- EXISTING WOODLINE
- PROPOSED WOODLINE
- EXISTING SPECIMEN TREES
- LIMIT OF DISTURBANCE
- PROPOSED LIGHT
- PROPOSED LANDSCAPE PLANTING

Contractor/Owner Baker
Oak Contracting Corporation
Architect
Cochran, Stephenson & Donkervoet, Inc.
Mechanical Engineer
James Posey Associates, Inc.
Structural Engineer
Whitney Bailey Cox & Wagman
Civil Engineer
DeWberry-McCuen-Hillier, Inc.

BASE DTK
DRAWN DTK
DESIGNED SOG, RGT
CHECKED BY
DATE CHECKED

No.	Date	Revisions
1	5.22.98	Revised strike + limit of
		Temple
1	8.10.98	Final Revisions
2A	9/12/98	Existing Sign
		Dusk to 10:00 PM
		Move dwelling
		on at Dusk off
		11:45
2B	9/16/98	Flag Pole Lights
		on at Dusk off 10:30 PM
2C	9/16/98	Building to stay
		on at Dusk off 11:30
		(LED)

Project No: 97065.A
Date JANUARY 20, 1998
Scale 1" = 50'
Sheet Title: FINAL LANDSCAPE AND PARKING LOT LIGHTING
Sheet No.:

RED LINE REVISION 8.4.98

5 of 10 (COUNTY BOARD SHEETS)

From: "Jack Dillon" <jackdillon1@verizon.net>
To: "Peter Max Zimmerman" <petermaxz@aol.com>, <rwheatley@baltimorecountymd....
Date: 1/22/2010 9:59 AM
Subject: 14 pictures for you
Attachments: IMG_0435.JPG; IMG_0436.JPG; IMG_0437.JPG; IMG_0438.JPG; IMG_0440.JPG; IMG_0
441.JPG; IMG_0442.JPG; IMG_0443.JPG; IMG_0444.JPG; IMG_0445.JPG; IMG_0446.J
PG; IMG_0447.JPG; IMG_0448.JPG; 09-182 SPHX.JPG

Pete these were taken on May 18, 2009, jack
You have been sent 14 pictures.

IMG_0435.JPG
IMG_0436.JPG
IMG_0437.JPG
IMG_0438.JPG
IMG_0440.JPG
IMG_0441.JPG
IMG_0442.JPG
IMG_0443.JPG
IMG_0444.JPG
IMG_0445.JPG
IMG_0446.JPG
IMG_0447.JPG
IMG_0448.JPG
09-182 SPHX.JPG

These pictures were sent with Picasa, from Google.
Try it out here: http://picasa.google.com/

PC Ex 23



P. Mob. Ic
F-46.6

3A



3B



3C

3D



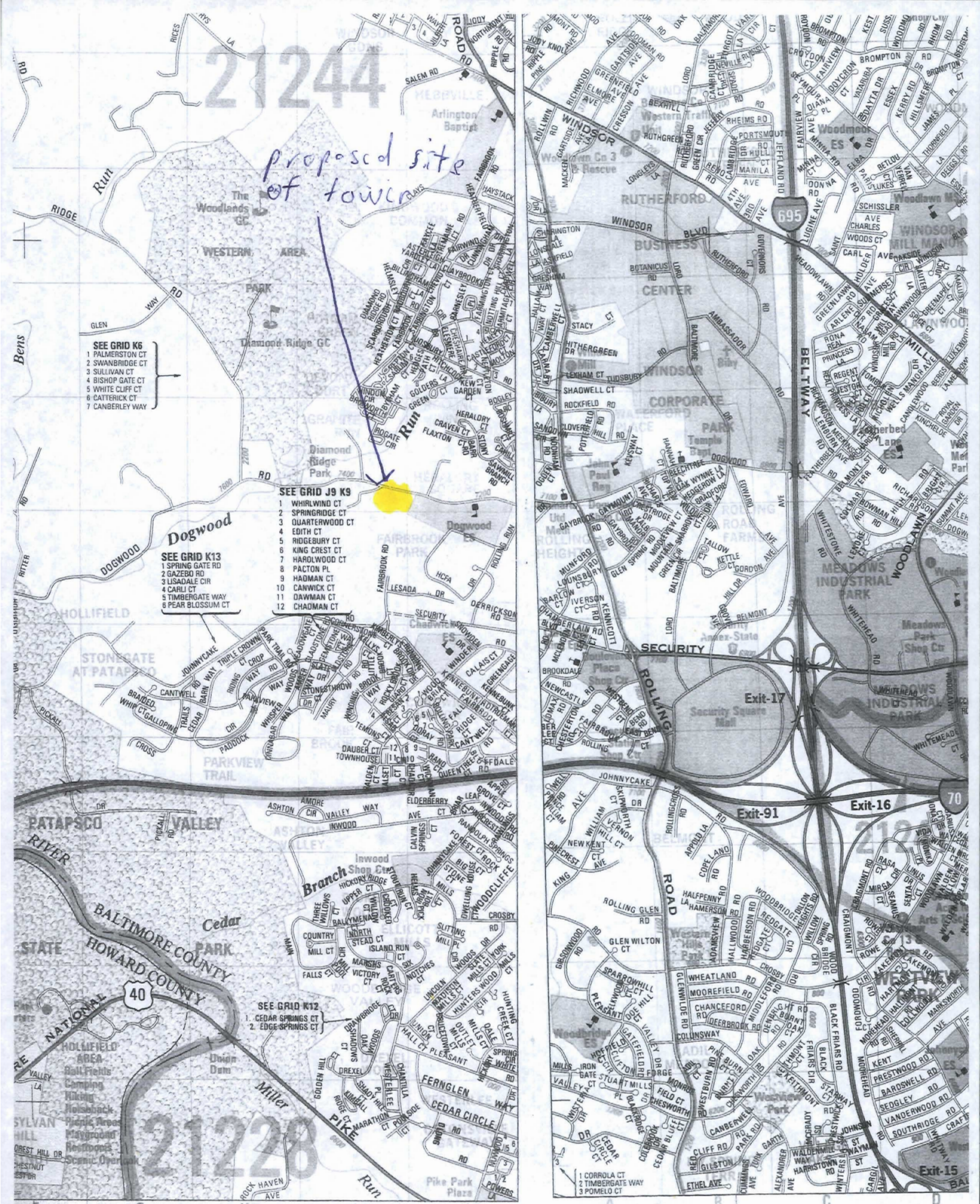


3E



3F




proposed site of town
21244
21228
SEE GRID K6
1 PALMERSTON CT
2 SWANBRIDGE CT
3 SULLIVAN CT
4 BISHOP GATE CT
5 WHITE CLIFF CT
6 CATTERICK CT
7 CANBERLEY WAY
SEE GRID J9 K9
1 WHIRLWIND CT
2 SPRINGRIDGE CT
3 QUARTERWOOD CT
4 EDITH CT
5 RIDGEBURY CT
6 KING CREST CT
7 HAROLWOOD CT
8 PACTON PL
9 HAOMAN CT
10 CANWICK CT
11 DAWMAN CT
12 CHADMAN CT
SEE GRID K13
1 SPRING GATE RD
2 GAZEBO RD
3 LISADALE CIR
4 CARLI CT
5 TIMBERGATE WAY
6 PEAR BLOSSOM CT
SEE GRID K12
1. CEDAR SPRINGS CT
2. EDGE SPRINGS CT
1 CORROLA CT
2 TIMBERGATE WAY
3 POMELO CT
Exit-17
Exit-91
Exit-16
Exit-15
Dogwood
Diamond Ridge Park
Diamond Ridge GC
The Woodlands GC
WESTERN AREA PARK
Arlington Baptist
Dogwood ES
Inwood Shop Ctr
Branch
Cedar Park
Union Dam
HOLLIFIELD AREA
Ball Fields
Camping
Hiking
Horseback
Picnic Areas
Playground
Restrooms
Scenic Overlook
PATAPSCO VALLEY
PATAPSCO RIVER
BALTIMORE
HOWARD COUNTY
NATIONAL
STATE
Bens Run
Miller Run
Pike Run
Rock Haven Ave
Pike Park Plaza
RUTHERFORD BUSINESS CENTER
WINDSOR CORPORATE PARK
MEADOWS INDUSTRIAL PARK
Security Square Mall
Woodmoor ES
Woodlawn Middle
Deerbed Lane ES
Meadow Park Shop Ctr
Westview Park
Annex-State
SECURITY
WINDSOR
BELTWAY
ROLLING ROAD
WOODLAWN
695
70
40
Map 40
860,000 FT
870,000 FT
76°45'00"

→ File Order Moved In This Doc Not Found.

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION	*	BEFORE THE
S side of Dogwood Road, 1830 feet W of Rolling Run Drive	*	DEPUTY ZONING
1st Election District	*	COMMISSIONER
1st Councilmanic District		
(7301 Dogwood Road)	*	FOR BALTIMORE COUNTY
George Helfrich	*	
Legal Owner		
	*	
T-Mobile		
Proposed Lessee	*	**Case No. 2009-0182-SPHX**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by George Helfrich, the legal property owner, and Amy Bird, agent and representative for T-Mobile, the proposed lessee. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve the following:

- Two uses (adult daycare and wireless telecommunications tower) co-existing on the same property in close proximity to each other; and
- Two uses as not conflicting with Section 102.2 of the B.C.Z.R.; and
- To confirm the legality of the adult daycare use existing on property.

The requested Special Exception is to allow a telecommunications facility tower on property zoned D.R.5.5 pursuant to section 426.5 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

with overlay

Area Map of Property w. surrounding area with overlay.

Or Zoning locations



P. Mdell #11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: February 6, 2009

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 7301 Dogwood Road

INFORMATION:

Item Number: 9-182

Petitioner: George Helfrich

Zoning: DR 5.5 and RC 6

Requested Action: **Special Hearing and Special Exception**

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and does not oppose the request for Special Hearing. However this office does have comments on the requested Special Exception. The proposed tower will be visible from Dogwood Road. In order to improve the appearance of the tower and to reduce its visibility, this office recommends the following:

1. The tower should be a concealment monopole where all the antennas are located within the pole structure.
2. The tower should be a color not to stand out amongst its surroundings and blend in with the existing trees and wooded area.
3. Provide class A screening around the fenced compound.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Curtis Murray

Division Chief: Lynn Lanham
AFK/LL: CM

W:\DEVREVIZAC\9-182.doc

T-Mobile #12

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5	
Private Property: ☒	Permitted: ☐
Public Property: ☐	Special Exception: ☒

Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.

Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site.

T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective.

Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.

Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence.

Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our

T. Mobile #13

BALTIMORE COUNTY, MARYLAND
Interoffice Correspondence

DATE: December 10, 2008

TO: Walter Smith
Department of Permits and Development Management

FROM: Tower Review Committee

SUBJECT: New Tower –T-Mobile – 7301 Dogwood Road

The Tower Review Committee met on August 26, 2008 to discuss the application made by T-Mobile on July 1, 2008. The committee is making the following advisory comments to the Development Review Committee (DRC) in accordance with section 426.4 of the Baltimore County Zoning Regulations in reference to the proposed construction of a new 120-foot unipole; however, at the request of the Tower Review Committee the design was modified to a stealth unipole design. The structure is to be located on the property owned by George Helfrich, 2516 Maryland Ave., Baltimore, MD 21218-4510.

- *Antennas should be placed on existing towers, buildings, and structures, including those of public utilities, where feasible.*

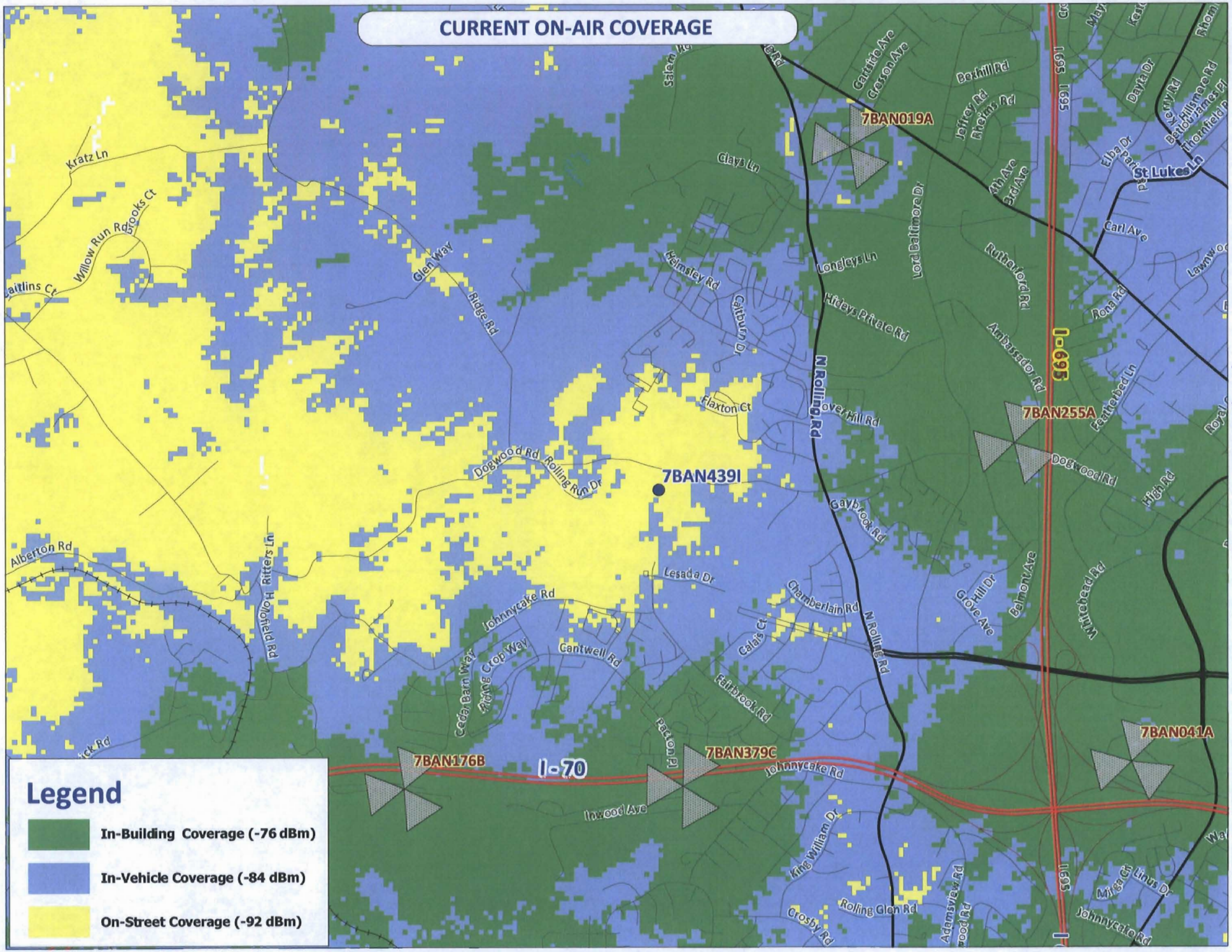
Findings: We feel that T-Mobile has provided all requested information to the Tower Review Committee (TRC) to successfully demonstrate that no other co-location opportunities exists at or near this location that would suffice in providing their requested coverage of the intended area. The total height of T-Mobile's proposed new 120-foot stealth unipole structure is 120-feet, including all appurtenances.

- *If a tower must be built, the tower should be: Constructed to accommodate at least three providers.*

Findings: T-Mobile has shown, in the drawings accompanying the application to the TRC that the stated antenna structure will be constructed to support 2 additional wireless service providers in addition to T-Mobile.

- *Erected in a medium or high intensity commercial zone when available.*

Findings: This area is located in a DR5.5 zoned residential area and will require a special exception hearing. It meets the 200' setback from a residential property line; however, the Tower Review Committee had a concern involving an adult daycare facility that is located on the property and within the fall-zone of the tower. To address this concern the carrier has designed the tower to buckle and fall on itself in the event of a collapse.


CURRENT ON-AIR COVERAGE
7BAN019A
7BAN255A
7BAN439I
7BAN041A
7BAN176B
7BAN379C
I-695
I-70
N Rolling Rd
Dogwood Rd
Rolling Run Dr
Flaxton Ct
Over Hill Rd
Hilltop Rd
Ridge Rd
Glen Way
Willow Run Rd
Brooks Ct
Kratz Ln
Alberton Rd
Ritters Ln
Lesada Dr
Johnnycake Rd
Cantwell Rd
Chamberlain Rd
Gaybrook Rd
Fairlebed Ln
Whitehead Rd
Belmont Ave
Grove Hill Dr
Ambassador Rd
Rutherford Rd
Longleys Ln
Lord Baltimore Dr
Clays Ln
Caitlins Ct
Inwood Ave
Crosby Rd
Rolling Glen Rd
King William Dr
Legend
In-Building Coverage (-76 dBm)
In-Vehicle Coverage (-84 dBm)
On-Street Coverage (-92 dBm)

T-Mobile

E-Mail

#17

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 5, 2003

Thomas J. Hoff, Inc.
406 West Pennsylvania Avenue
2nd Floor
Towson, Maryland 21204

Dear Hoff:

RE: Easter Seals Adult Day Care, 7301 Dogwood Road, 1st Election District

Your letter to Mr. Arnold Jablon of January 28, 2003 regarding the above referenced matter has been referred to me for reply. I have met with Mr. Carl Richards, Zoning Supervisor concerning this matter, and he has advised that the proposed expansion to be utilized for Adult Day Care is within the Spirit and Intent of the prior Special Exception case (86-354-XSPH) and that the addition can proceed to building permit for review.

Should you have any questions regarding the above, I may be reached at 410-887-3391.

Sincerely,

Joseph C. Merray
Planner II
Zoning Review

Pet Ex #11

Printed with Soybean Ink on Recycled Paper

G-26149

JEPPESEN®

STUDY FOR

T-Mobile Northeast LLC

Jeppesen Study Number:	VSW 55620-08
Date:	July 10, 2008
Site ID/Name:	BAN439 /Helfrich Rawland

Structure Location: Woodlawn, MD

Latitude:	39°	19'	12.96"
Longitude:	076°	46'	04.38"
	NAD 83		

Site Elevation:	424'	AMSL
Tower Height:	130'	AGL
Overall Height:	554'	AMSL

This study is conducted in accordance with the Federal Aviation Regulations (FAR) Part 77 and the Federal Communications Commission (FCC) Rules Part 17.

This report and the findings, opinions and recommendations expressed herein are intended for the exclusive use of T-Mobile Northeast LLC in making appropriate regulatory filings and may not be reproduced by other parties in any form or manner.

5155 Clipper Drive, Atlanta, Georgia 30349
678.924.8000·Fax 678.924.8006·www.asacinc.com

PETITIONER'S EXHIBITS

(20090182)

5

Case No.: 2009-0182-SPHX

Exhibit Sheet

	Petitioner/~~Developer~~	~~Protestant~~
No. 1	Site Plan	13A - Map of Current on-air coverage
No. 2	12/10/08 Tower Review Committee report	13B - Map of on-air coverage w/ proposed Tower
No. 3	2/6/09 Planning Comments	
No. 4	11/25/08 Report From Columbia Telecommunication Corp.	
No. 5	Michael McGinty Resume	
No. 6 A-G	Photographs of property	
No. 7	Photo simulations	
No. 8	Aerial Map w/ location of OA Sites	
No. 9	Mitch Kellman Resume	
No. 10	7/10/08 Report From Jeppesen	
No. 11	11/26/07 Report From Paul J. Ford + Company	
No. 12	Rajkumar Bros Resume	

This document is the creation, design, property and copyrighted work of T-Mobile Northeast LLC. Any duplication or use without express written consent is strictly prohibited.

12/29/2008 mcgarity q:\tpm\38846.prf



SITE PLAN

SCALE: 1"=100'

100 0 50 100 200

CURVE TABLE (NAD83)

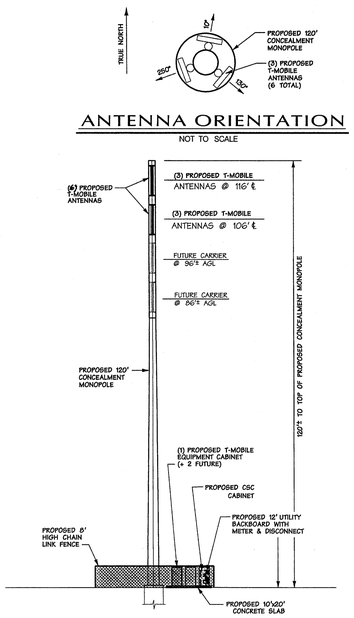
CURVE	DELTA ANGLE	RADIUS	ARC	CHORD BEARING	LENGTH	TANGENT
C1	07°44'49"	400.00'	122.85'	S 76°36'19" E	122.85'	61.43'
C2	05°59'30"	1115.00'	116.60'	S 74°28'58" E	116.55'	58.35'

GENERAL NOTES

1. Current Owner: George Helfrich, 2516 Maryland Ave., Baltimore, MD 21218-4510
2. Contract Lessee/Applicant: T-Mobile Northeast LLC, 12050 Baltimore Avenue, Beltsville, Maryland 20705
3. Site Area: 10.99 acres = 478,724.40 sq. ft.
4. Existing Use: Adult Day Care Center
5. Site Address: Granite Woods Ct. (A.K.A. 7301 Dogwood Rd.) Woodlawn, MD 21244
6. Site Data: Tax Map 87 Grid 22 Parcel 268. Deed Reference: 6618/262 & 7845/158. Plat Reference: #7710, "George Helfrich Property". Tax Account Number: 2400006858. Election District: 1. Councilmanic District: 1. Zone: DR 5.5 AND RC 6
7. Proposed Concealment Monopole Location: Latitude: N 39°19'13.34" (NAD 83). Longitude: W 76°46'03.28" (NAD 83). Ground Elevation: 424.0' AMSL (NAVD 88). Proposed Monopole Height (including antennas): 120'± AGL. Total Proposed Monopole Elevation (including antennas): 544.0'± AMSL (NAVD 88)
8. The topographic information shown hereon, in the area of the proposed compound, is taken from a DMW field survey on 5-9-08. The topographic information shown hereon, outside the area of the proposed compound, is taken from Baltimore County Digital GIS. Boundary information shown hereon is based upon a record Plat Entitled "GEORGE HELFRICH PROPERTY PLAT 3 OF 3" and recorded among the Land Records of Baltimore County in Plat Book 77, Page 10, together with field located evidence and rotated to meet the Maryland Coordinate System Nad-83(1991). This plan is not the result of a DMW boundary survey and, therefore, is subject to change. This plan was prepared without the benefit of a title report. This plan may be subject to easements and restrictions that may be recorded or unrecorded and may not be shown hereon.
9. No water or sewer utilities are required for the proposed installation.
10. There are no new signs proposed for this facility.
11. No tower lights are proposed for this facility, unless required by the Federal Aviation Administration.
12. Existing utility location information shown on these plans is for the contractors convenience only. While the information shown has been gathered from surveys and sources deemed to be reliable, the correctness or completeness of the information shown is not warranted or guaranteed. The contractor shall verify all information to his own satisfaction.
13. The contractor is to notify Miss Utility (800)-257-7777 a minimum of 3 working days prior to any construction or excavation. The contractor is to also notify a private utility contractor for all on-site utility locations.
14. The proposed tower and compound location are not located within a 100 year flood plain as per the National Flood Insurance Program, flood insurance rate map community panel number 240010-0369-F revised Sept. 26, 2008. Ex. 100 yr flood plain elevation: 402.5'± NAVD 88 (Plat 77-010). Ground elevation at proposed concealment monopole: 424.0'± NAVD 88
15. Proposed work includes the installation of (2) equipment cabinets (+1 future), a ppc cabinet, and a bbu cabinet on a proposed 10'x20' concrete pad at the base of a proposed 120' concealment monopole inside a proposed 650 s.f. fenced gravel compound. A csc cabinet and 12' utility backboard with meter and disconnect are to be installed inside the proposed compound, and a transformer is to be installed next to the proposed compound. (6) proposed antennas are to be mounted inside the proposed concealment monopole at a centerline height of 116'± & 106'±.
16. Required number of employees: 0 (unmanned facility)
17. Required number of parking spaces: 0 (unmanned facility; ex. parking on site)
18. Ground disturbance for this telecommunications facility: 700± s.f.
19. The applicant shall provide a certification from a registered engineer that the structure will meet the applicable design standards for wind loads of the Electronic Industries Association (EIA) for Baltimore County.
20. Zoning information is taken from Baltimore County official zoning maps no. 087B3 & 087C3.
21. Ex. well and septic on property as shown on plan.
22. Existing building permits on record for this property: B347083, B347093, B445697, B512695.
23. Class "A" screening to be provided if required by the Baltimore County.
24. Applicant agrees to section 426.6 D. & E. in Baltimore County Zoning Regulations.
25. This proposed project is not within the Chesapeake Bay Critical Area.
26. No CRG, DRC, or waivers are on record for this site.
27. The proposed facility is not located within a County Historic or National Register District. The subject property is not listed as a Baltimore County Historical Property. This information is taken from the historic map on the Baltimore County government website.

ZONING HISTORY

Case #86-354-XSPH
Petition: Continued operation of certain non-conforming activities to current DR 5.5 zone; social activities (including liquor license), sports & recreation, miniature golf & driving range
Order: Petition granted (with limitations) 5-15-86



ANTENNA ORIENTATION

NOT TO SCALE

NOTE: ALL REFERENCES TO THE MONOPOLE AND ITS FOUNDATION ARE DIRECTED TO THE DESIGN AND DETAIL DRAWINGS BY THE POLE SUPPLIER.

MONOPOLE ELEVATION

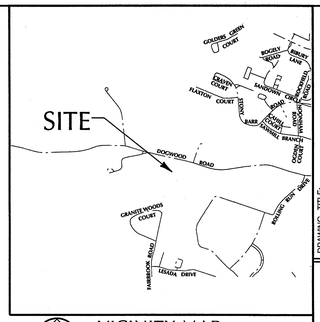
NOT TO SCALE

LEGEND

- MLR / DR 5.5 — EXISTING ZONING LINE
- PROPERTY LINE
- 400 / 402 — EXISTING CONTOURS
- EXISTING EDGE OF PAVEMENT
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING STREAM CENTERLINE
- KeD32 — EXISTING SOIL CLASSIFICATION
- EXISTING EDGE OF STREAM
- EXISTING 100 YEAR FLOODPLAIN RESERVATION
- EXISTING FOREST CONSERVATION EASEMENT
- EXISTING FOREST BUFFER EASEMENT
- PROPOSED CHAIN LINK FENCE
- TRAV2 — DMW BENCHMARK

MONOPOLE SETBACKS

	REQUIRED	PROVIDED
FRONT	200'	306.0'±
SIDE	200'	803.0'±
SIDE	200'	218.0'±
REAR	200'	311.5'±



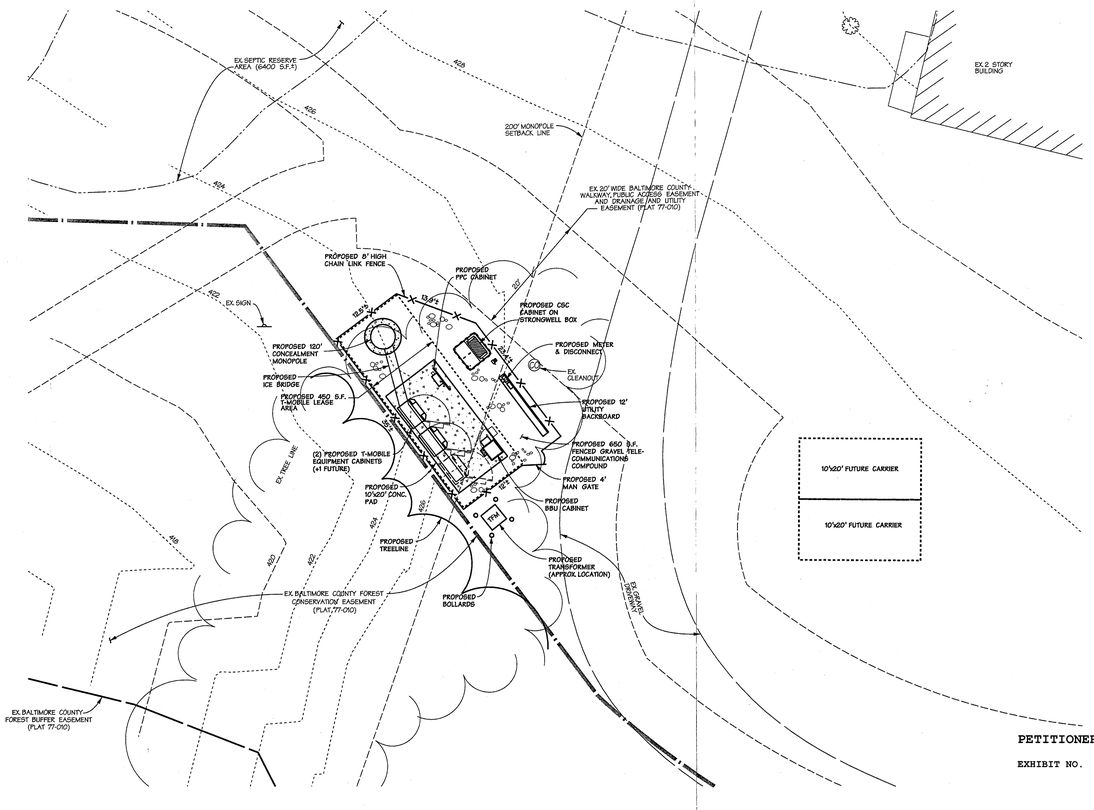
VICINITY MAP

SCALE: 1"=1000'

BENCHMARKS

DMW TRAV2
REBAR & CAP
N 602467.421
E 1378064.514
ELEV. 430.60

DMW TRAV3
REBAR & CAP
N 602564.338
E 1378222.463
ELEV. 435.24



COMPOUND DETAIL

SCALE: 1"=10'

10 0 5 10 20

PETITIONER'S EXHIBIT NO. 1

PROFESSIONAL CERTIFICATION.
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 22770 EXPIRATION DATE: 5-14-09

STATE OF MARYLAND — STEPHEN E. KROUSE — PROFESSIONAL ENGINEER

SCHEDULE OF REVISIONS

1	TOWER COMMITTEE COMMENTS	MDM	MDM	11-13-08	
0	ISSUED FOR REVIEW	MSR	MDM	7-9-08	
A	PRELIMINARY REVIEW	MSR	MDM	6-16-08	
REV	DESCRIPTION OF CHANGES	BY	CHKD	DATE	

DMW
DAFT MCCUNE WALKER, INC
200 EAST PENNSYLVANIA AVENUE, TOWSON, MD 21286
(410) 296-3333 FAX: (410) 296-4705
A TEAM OF LAND PLANNERS, LANDSCAPE ARCHITECTS, ENGINEERS, SURVEYORS & ENVIRONMENTAL PROFESSIONALS

T-Mobile Northeast LLC
SITE NO. 7BAN4391
HELFRICH PROPERTY
GRANITE WOODS CT
(AKA 7301 DOGWOOD RD)
WOODLAWN, MD 21244

DRAWING TITLE: PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION AND SPECIAL HEARING
DRAWN: MSR
CHECKED BY: MDM
DRAWING: 1 of 1
DATE CHECKED:
PROJECT NO.: 08046
SHEET SCALE: AS SHOWN

PROJECT: 7BAN4391 UNMANNED WIRELESS COMMUNICATION SITE
HELFRICH PROPERTY
GRANITE WOODS CT (AKA 7301 DOGWOOD RD) WOODLAWN, MD 21244
BALTIMORE COUNTY, MD
ELECTION DISTRICT 01

T-Mobile Northeast LLC
SITE NO. 7BAN4391
HELFRICH PROPERTY
GRANITE WOODS CT
(AKA 7301 DOGWOOD RD)
WOODLAWN, MD 21244

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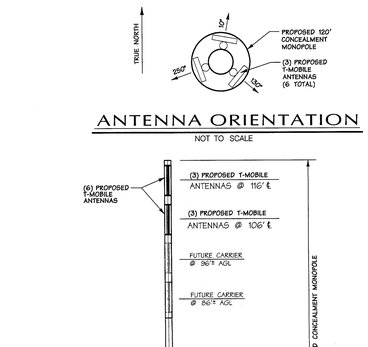
SITE PLAN

SCALE: 1"=100'

100 0 50 100 200

CURVE TABLE (NAD83)

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD BEARING	LENGTH	TANGENT
C1	07°44'48"	403.00'±	122.85'	S 76°26'19" E	122.35'	61.43'
C2	05°59'30"	1115.00'	116.60'	S 74°28'58" E	116.55'	58.36'



ANTENNA ORIENTATION

NOT TO SCALE

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MONOPOLE ELEVATION

NOT TO SCALE

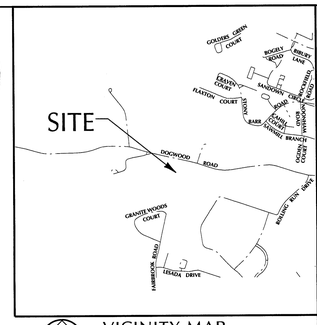
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- EXISTING FOREST BUFFER EASEMENT
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	REQUIRED	PROVIDED
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#2



VICINITY MAP

SCALE: 1"=1000'

BENCHMARKS

DMW TRAV2	DMW TRAV3
REBAR & CAP	REBAR & CAP
N 602457.421	N 602564.938
E 1372604.514	E 1373222.469
ELEV. 430.60	ELEV. 435.24

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24. Applicant agrees to section 426.6 D. & E. in Baltimore County Zoning Regulations.
25. This proposed project is not within the Chesapeake Bay Critical Area.
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ZONING HISTORY

Case #86-354-XSPH
Petition: Continued operation of certain non-conforming activities to current DR 5.5 zone; social activities (including liquor license), sports & recreation, miniature golf & driving range
Order: Petition granted (with limitations) 5-15-86

COMPOUND DETAIL

SCALE: 1"=10'

10 0 5 10 20

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 23770 EXPIRATION DATE: 5-14-09

SCHEDULE OF REVISIONS

1	TOWER COMMITTEE COMMENTS	MDM	MDM	11-10-08	SITE PLAN
0	ISSUED FOR FINAL	MDM	MSR	7-31-08	SITE PLAN
A	PRELIMINARY REVIEW	MDM	MSR	5-30-08	SITE PLAN
NO.	DESCRIPTION OF CHANGES	DRAWN BY	CHECKED BY	DATE	ISSUE STATUS

T-Mobile Northeast LLC
SITE NO. 7BAN4391
HELFRICH PROPERTY
GRANITE WOODS CT
(AKA 7301 DOGWOOD RD)
WOODLAWN, MD 21244

DMW
DAFT McCUNE WALKER INC
200 E. LEE STREET, SUITE 300, TOWSON, MD 21286
P: 410 296 3333 | F: 410 296 4705 | WWW.DMW.COM
A TEAM OF: LAND PLANNERS, LANDSCAPE ARCHITECTS, ENGINEERS, SURVEYORS & ENVIRONMENTAL PROFESSIONALS

DRAWING TITLE: PLAN TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION AND SPECIAL HEARING

DRAWN: MSR | DRAWING: 1 of 1
CHECKED BY: MDM
DATE CHECKED: 08/08/08
PROJECT NO.: | SHEET SCALE: AS SHOWN

PROJECT: 7BAN4391 UNMANNED WIRELESS COMMUNICATION SITE
HELFRICH PROPERTY
GRANITE WOODS CT (AKA 7301 DOGWOOD RD) WOODLAWN, MD 21244
BALTIMORE COUNTY, MD | ELECTION DISTRICT 01

1/26/2010 mmcgarity c:\hpm\08846.prf

BALTIMORE COUNTY, MARYLAND
Interoffice Correspondence

DATE: December 10, 2008

TO: Walter Smith
Department of Permits and Development Management

FROM: Tower Review Committee

SUBJECT: New Tower –T-Mobile – 7301 Dogwood Road

The Tower Review Committee met on August 26, 2008 to discuss the application made by T-Mobile on July 1, 2008. The committee is making the following advisory comments to the Development Review Committee (DRC) in accordance with section 426.4 of the Baltimore County Zoning Regulations in reference to the proposed construction of a new 120-foot unipole; however, at the request of the Tower Review Committee the design was modified to a stealth unipole design. The structure is to be located on the property owned by George Helfrich, 2516 Maryland Ave., Baltimore, MD 21218-4510.

- *Antennas should be placed on existing towers, buildings, and structures, including those of public utilities, where feasible.*

Findings: We feel that T-Mobile has provided all requested information to the Tower Review Committee (TRC) to successfully demonstrate that no other co-location opportunities exists at or near this location that would suffice in providing their requested coverage of the intended area. The total height of T-Mobile's proposed new 120-foot stealth unipole structure is 120-feet, including all appurtenances.

- *If a tower must be built, the tower should be: Constructed to accommodate at least three providers.*

Findings: T-Mobile has shown, in the drawings accompanying the application to the TRC that the stated antenna structure will be constructed to support 2 additional wireless service providers in addition to T-Mobile.

- *Erected in a medium or high intensity commercial zone when available.*

Findings: This area is located in a DR5.5 zoned residential area and will require a special exception hearing. It meets the 200' setback from a residential property line; however, the Tower Review Committee had a concern involving an adult daycare facility that is located on the property and within the fall-zone of the tower. To address this concern the carrier has designed the tower to buckle and fall on itself in the event of a collapse.

PETITIONER'S
EXHIBIT NO. 2

2009-0182-SPHX

TB 3/9
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: February 6, 2009

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 7301 Dogwood Road

INFORMATION:

Item Number: 9-182

Petitioner: George Helfrich

Zoning: DR 5.5 and RC 6

Requested Action: **Special Hearing and Special Exception**

RECEIVED
FEB 13 2009
ZONING COMMISSIONER

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and does not oppose the request for Special Hearing. However this office does have comments on the requested Special Exception. The proposed tower will be visible from Dogwood Road. In order to improve the appearance of the tower and to reduce its visibility, this office recommends the following:

1. The tower should be a concealment monopole where all the antennas are located within the pole structure.
2. The tower should be a color not to stand out amongst its surroundings and blend in with the existing trees and wooded area.
3. Provide class A screening around the fenced compound.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Curtis Murray

Division Chief: Lynn Lanham

AFK/LL: CM

PETITIONER'S
EXHIBIT NO. 3

W:\DEVREV\ZAC\9-182.doc

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5 Private Property: ☒ Permitted: ☐ Public Property: ☐ Special Exception: ☒	

Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.

Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site.

T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective.

Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.

Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence.

Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our

PETITIONER'S
EXHIBIT NO. 4

DMW

DAFT McCUNE WALKER INC

MICHAEL D. McGARITY
TEAM MANAGER
WIRELESS SERVICES DIVISION

Education

University of Maryland College Park, B.S., Civil Engineering

Professional Summary

Mr. McGarity has nine years experience in managing wireless telecommunications projects for numerous carriers, including AT&T Wireless Services, Sprint PCS, Nextel Communications, Cingular Wireless, and T-Mobile USA. Mr. McGarity implements an innovative and practical approach to providing site planning, zoning, engineering, surveying and permitting services for wireless carriers throughout Maryland. Mr. McGarity provides a close and personal link with his clients, providing expertise from site inception to completion in the field. Mr. McGarity is proficient with Microstation and mentors his staff with providing detailed plans that are compliant with local jurisdictional standards. Mr. McGarity is actively involved with other development projects within DMW to gain additional engineering experience as he works toward acquiring his Professional Engineering License.

Partial List of Projects

AT&T Wireless expansions throughout the Maryland area
Cellular One network expansions throughout the Maryland area
Cingular Wireless network expansions throughout the Maryland area
Nextel Communications network expansions throughout the Maryland area
Sprint PCS network expansions throughout the Maryland area
T-Mobile USA network expansions throughout the Maryland area
Verizon Wireless network expansions throughout the Maryland area

Memberships and Awards

American Society of Civil Engineers (Student Chapter 1994-1996)

Professional Experience

Daft-McCune-Walker, Inc., Towson, Maryland, 1997 - Present
Pavex, Inc., Cockeysville, MD, 1996-1997

PETITIONER'S
EXHIBIT NO. 5

TOWSON: 200 EAST PENNSYLVANIA AVENUE, TOWSON, MARYLAND 21286 P: 410 296 3333 F: 410 296 4705
FREDERICK: 8 EAST SECOND STREET, SUITE 201, FREDERICK, MARYLAND 21701 P: 301 696 9040 F: 301 696 9041
BERLIN: THE PAVILIONS, 11200 RACETRACK ROAD, SUITE 202, BERLIN, MARYLAND 21811 P: 410 641 9950 F: 410 641 9945





PETITIONER'S

EXHIBIT NO. 6A-6

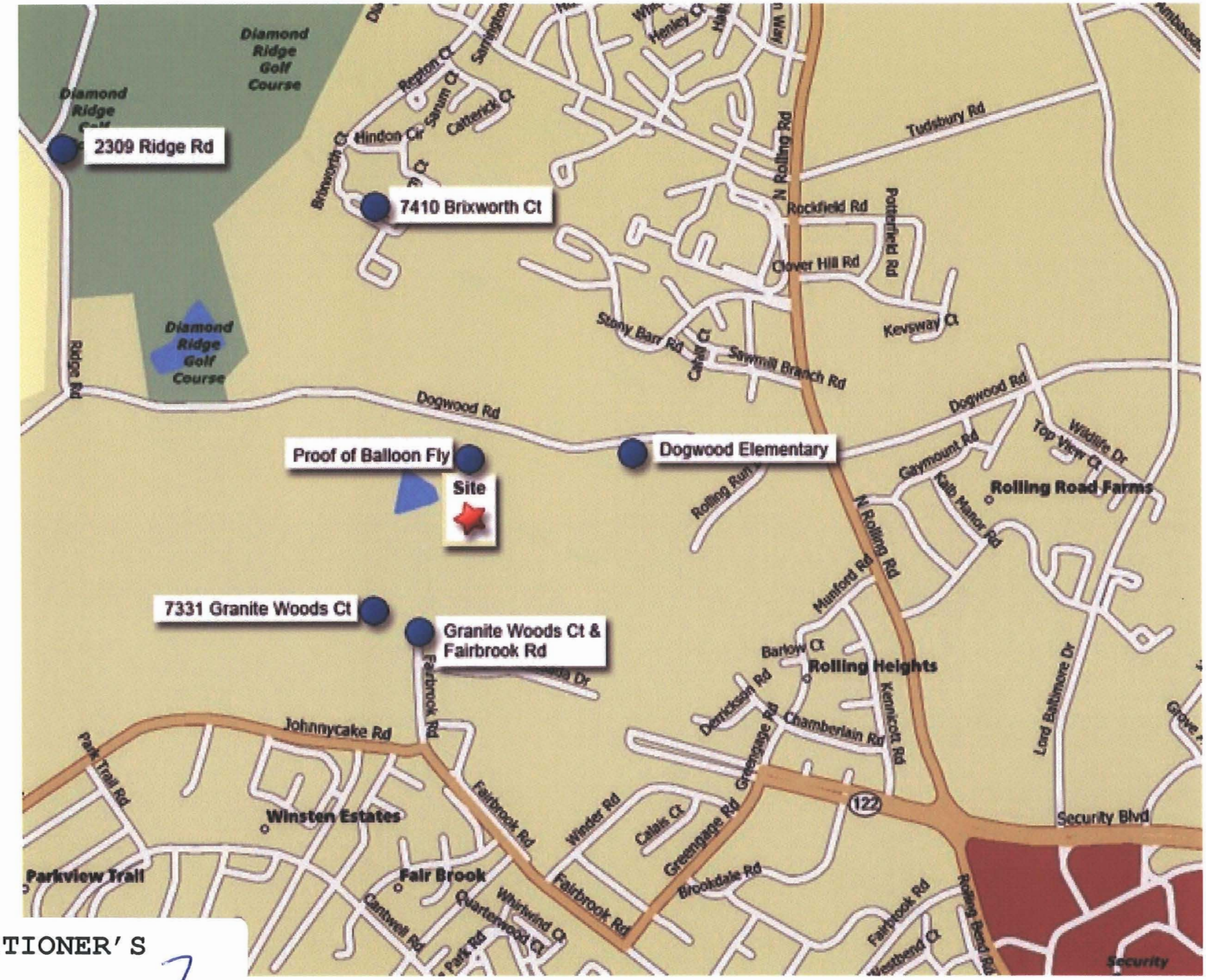












PETITIONER'S

EXHIBIT NO. 7


Site Name: BAN 439
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244
Photograph Information:
2309 Ridge Rd
View from the Northwest
Showing the Proposed Site
Network Building
& Consulting, LLC


Site Name: **BAN 439**
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244
Photograph Information:
2309 Ridge Rd
View from the Northwest
Showing the Balloon Fly
NETWORK BUILDING
& CONSULTING, LLC



Site Name: **BAN 439**
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244

Photograph Information:
Dogwood Elementary School
View from the East
Showing the Balloon Fly

NETWORK BUILDING & CONSULTING, LLC



Site Name: **BAN 439**
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244

Photograph Information:
Dogwood Elementary School
View from the East
Showing the Proposed Site

NETWORK BUILDING & CONSULTING, LLC



Site Name: **BAN 439**
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244

Photograph Information:
Granite Woods Ct & Fairbrook Rd
View from the South
Showing the Balloon Fly

NETWORK BUILDING
& CONSULTING, LLC



Site Name: **BAN 439**
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244

Photograph Information:
Granite Woods Ct & Fairbrook Rd
View from the South
Showing the Proposed Site

NETWORK BUILDING & CONSULTING, LLC


Site Name: BAN 439
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244
Photograph Information:
7331 Granite Woods Ct
View from the Southwest
Showing the Balloon Fly
NETWORK BUILDING
& CONSULTING, LLC


Site Name: BAN 439
Wireless Communication Facility
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Woodlawn, MD 21244
Photograph Information:
7331 Granite Woods Ct
View from the Southwest
Showing the Proposed Site
NETWORK BUILDING
& CONSULTING, LLC

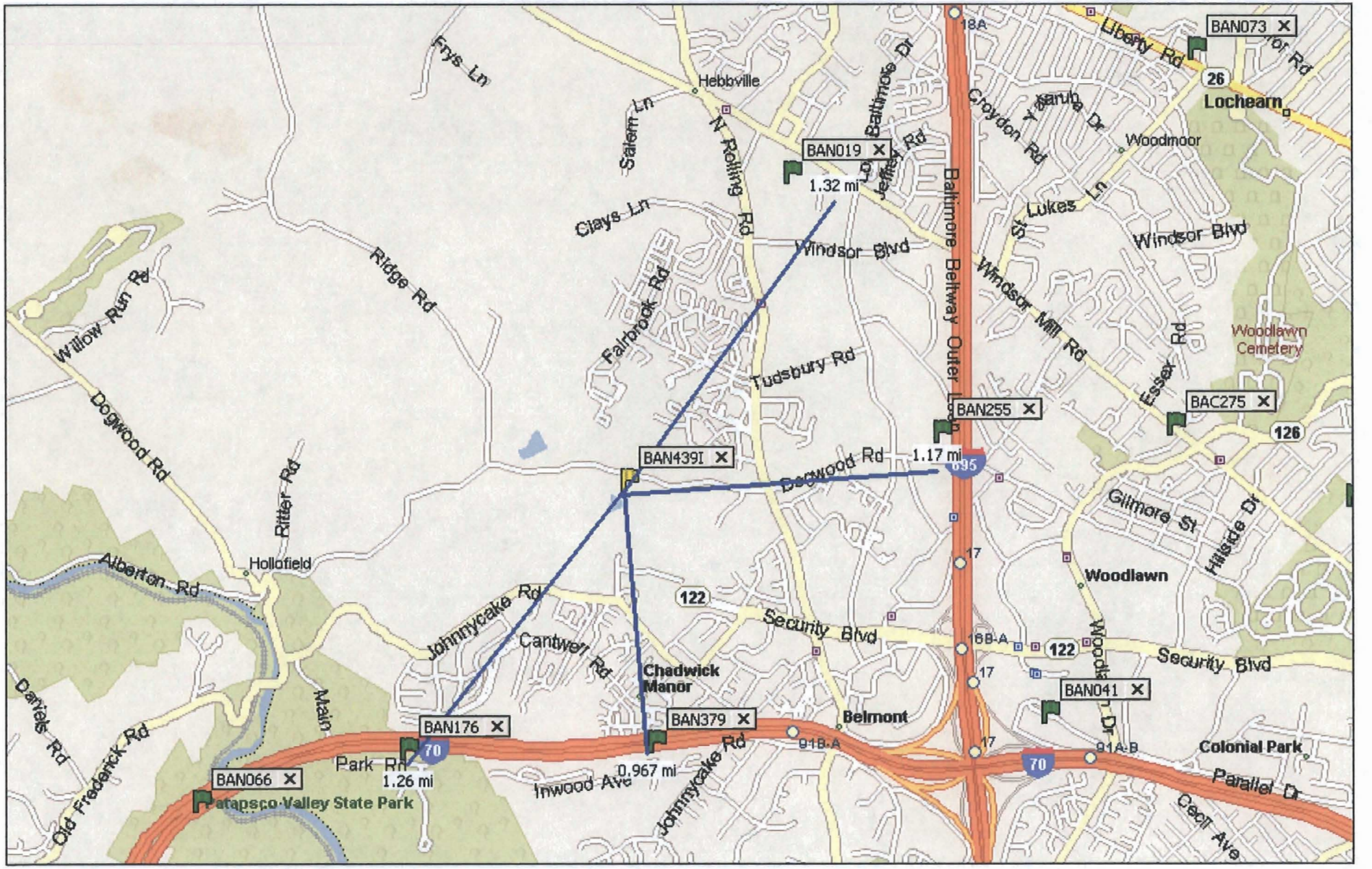

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Woodlawn, MD 21244
Photograph Information:
7410 Brixworth Ct
View from the North
Showing the Balloon Fly
Network Building
& Consulting, LLC


Site Name: BAN 439
Wireless Communication Facility
7301 Dogwood Ct
Woodlawn, MD 21244
Photograph Information:
7410 Brixworth Ct
View from the North
Showing the Proposed Site
Network Building
& Consulting, LLC

PETITIONER'S

EXHIBIT NO. 1

BAN439I Location w.r.t. OA Sites



PETITIONER'S

EXHIBIT NO. 8

DMW

DAFT McCUNE WALKER INC

MITCHELL J. KELLMAN
DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning
Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 11 years of experience working in zoning administration and subdivision regulation for the public sector; 9 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings.

Partial List of Projects

Charlestown Retirement Community, Baltimore County, MD
GBMC, Baltimore County, MD
Goucher College, Baltimore County, MD
Hopewell Point, Baltimore County, MD
Notre Dame Preparatory School, Baltimore County, MD
Oakcrest Village Retirement Community, Baltimore County, MD
Sheppard and Enoch Pratt Hospital, Baltimore County, MD
Waterview, Baltimore County, MD

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD; 2000-Present
Baltimore County Office of Permits and Development Management - Development Control, 1988-2000

PETITIONER'S
EXHIBIT NO. 9

TOWSON 200 EAST PENNSYLVANIA AVENUE, TOWSON, MARYLAND 21286 P 410.296.3333 F 410.296.4705
FREDERICK 8 EAST SECOND STREET, SUITE 201, FREDERICK, MARYLAND 21701 P 301.696.9640 F 301.696.9641

JEPPESEN®

STUDY FOR

T-Mobile Northeast LLC

Jeppesen Study Number:	VSW 55620-08
Date:	July 10, 2008
Site ID/Name:	BAN439 /Helfrich Rawland

Structure Location: Woodlawn, MD

Latitude:	39°	19'	12.96"
Longitude:	076°	46'	04.38"
	NAD 83		

Site Elevation:	424'	AMSL
Tower Height:	130'	AGL
Overall Height:	554'	AMSL

This study is conducted in accordance with the Federal Aviation Regulations (FAR) Part 77 and the Federal Communications Commission (FCC) Rules Part 17.

This report and the findings, opinions and recommendations expressed herein are intended for the exclusive use of T-Mobile Northeast LLC in making appropriate regulatory filings and may not be reproduced by other parties in any form or manner.

PETITIONER'S
EXHIBIT NO. 10

5155 Clipper Drive, Atlanta, Georgia 30349
678.924.8000·Fax 678.924.8006·www.asacinc.com

PAUL J. FORD AND COMPANY
STRUCTURAL ENGINEERS
250 East Broad Street · Suite 1500 · Columbus, Ohio 43215

November 26, 2007

Stealth Concealment Solutions
6549 Fain Blvd.
N. Charleston, SC 29406

Charlene Polk

Re: 120-Ft Stealth Flag Pole
T-Mobile Site WAN-134: Hillandale Swim Club: Silver Spring, MD
PJF #31907-0176 (Stealth No. TMOB-71621W-17R2)

Dear Ms. Polk:

Paul J. Ford and Company has been asked to comment on the stability of the proposed communications flag pole to be located at the Hillandale Swim Club in Silver Spring, MD.

The 120-ft flag pole will be designed to support (4) wireless carriers. The pole will be designed in accordance with the Telecommunications Industry Association TIA/EIA-222-F standard. The pole is designed to withstand a 75 mph (fastest mile) design wind speed in accordance with the TIA/EIA-222-F standard. The basic wind speed is a design wind velocity, which means that the pole will safely withstand the full design wind velocity and still maintain an additional load capacity known as a "Safety Factor."

The safety factors used to design communication poles are the same factors used in building design. A safety factor of 1.25 is specified by the American Institute of Steel Construction (AISC) and a factor of 1.3 is specified by the American Concrete Institute (ACI). These safety factors are incorporated into both the pole and foundation design. A 1.25 safety factor means that the pole would have to be subject to 25% more load (than the design load) before failure would theoretically occur.

This pole will be designed with the top 39.25-ft meeting the design wind criteria, while the lower 80.75-ft of the pole, anchor rods, and foundation are over-designed to resist more than the design wind loads. When steel becomes overstressed it does not suddenly break, it will bend and buckle. In the unlikely event that this pole would experience a wind event that would cause a collapse, the upper portion of the pole would become overstressed first and would buckle. The upper portion of the pole would then swing down and hang from this level or, at worst, break off resulting in a fall radius of approximately 39.25-ft. Once the upper portion is no longer upright catching the full force of the wind, the stresses in the lower portion of the pole are reduced, making a further collapse of the pole unlikely.

PETITIONER'S
EXHIBIT NO. 11

Rajkanwar Brar

12050 Baltimore Ave.,
Beltsville, MD 20705

Rajkanwar.Brar@t-mobile.com
(443) 739-7489(C)
(240) 264-8646(O)

SUMMARY: Global Standard for Mobile Communication

- Experience in GSM RF Design and introduction to BSS optimization.
- Experience with Drive test units like TEMS Investigation, DTI, Agilent, Wider and Invex.
- Experience with mapping tools like MapInfo.
- Experience with Optimization tools like OptPCS.
- Experience with Planning tools like Asset.
- Experience with Desktop Applications like Excel, Word, and PowerPoint.
- Experience with VB6, Oracle8 programming and Crystal Reports.
- Experience with Novell Intranetware (4.11).

EXPERIENCE

A) **Telecom Technology Services Inc. (Consultant to T-Mobile, Washington DC-Baltimore Market)**
Date: April 2006 - Present

RF Engineer, RF Design (Nov 2007 - Present)

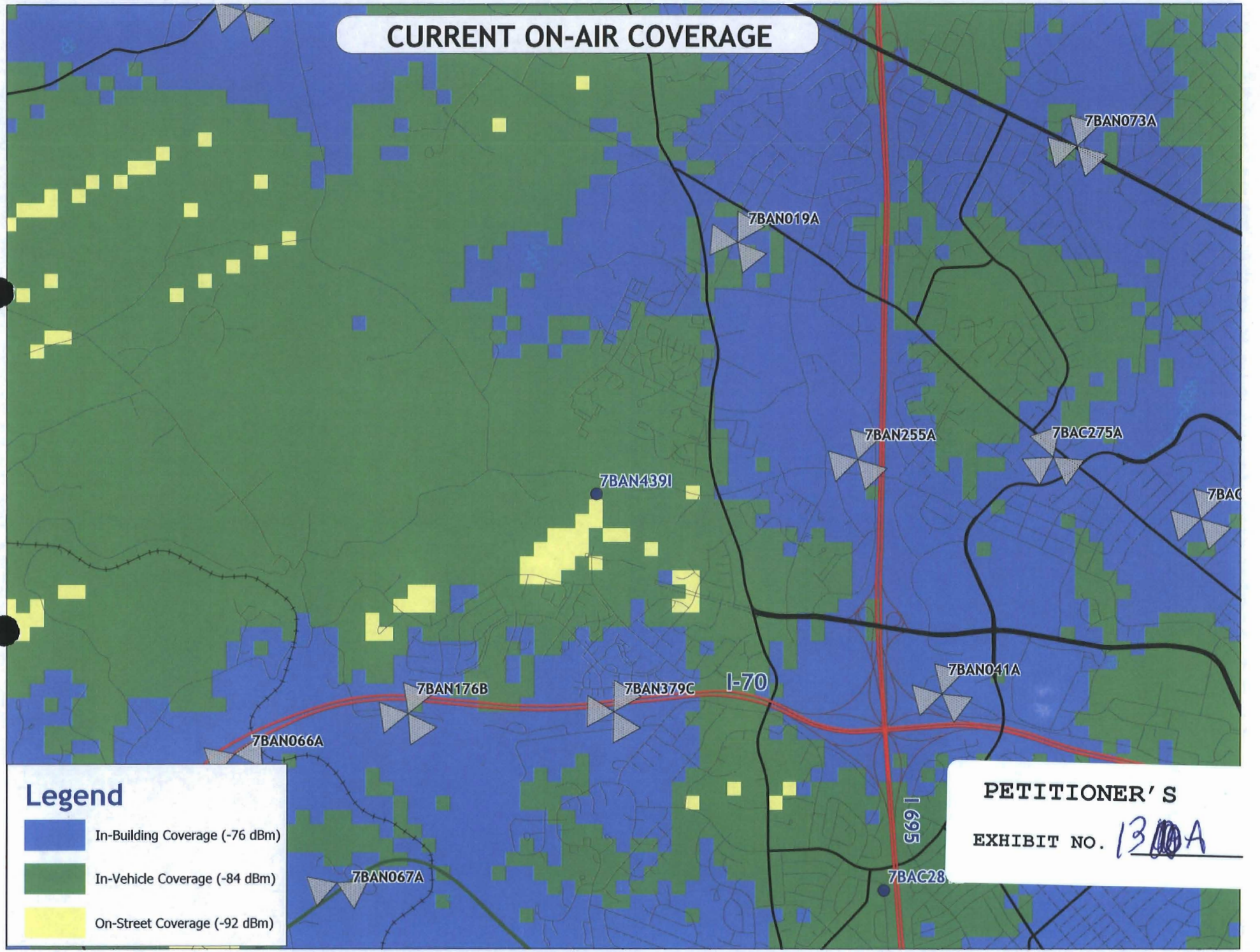
1. Drive test data analysis using TEMS and OptPCS.
2. Voice and Data Traffic Planning and Analysis.
3. Provided technical support in City Council and Zoning Hearings.
4. Planning and designing sites in the Washington Metro area and coordinating all activities to make sites on-air.
5. Design of cell split sites to offload high traffic sites and infill sites for low coverage areas.
6. Design Review Presentation for the senior management.
7. Candidate site selection, ranking and evaluation.
8. Coordination and assistance in defining low coverage areas.
9. Preparation of search rings.
10. Provided technical support in zoning hearings, planning commission hearings and neighbourhood / pre-zoning meetings.
11. Neighbor List Assignment, Frequency Plan Review, Interference Analysis.

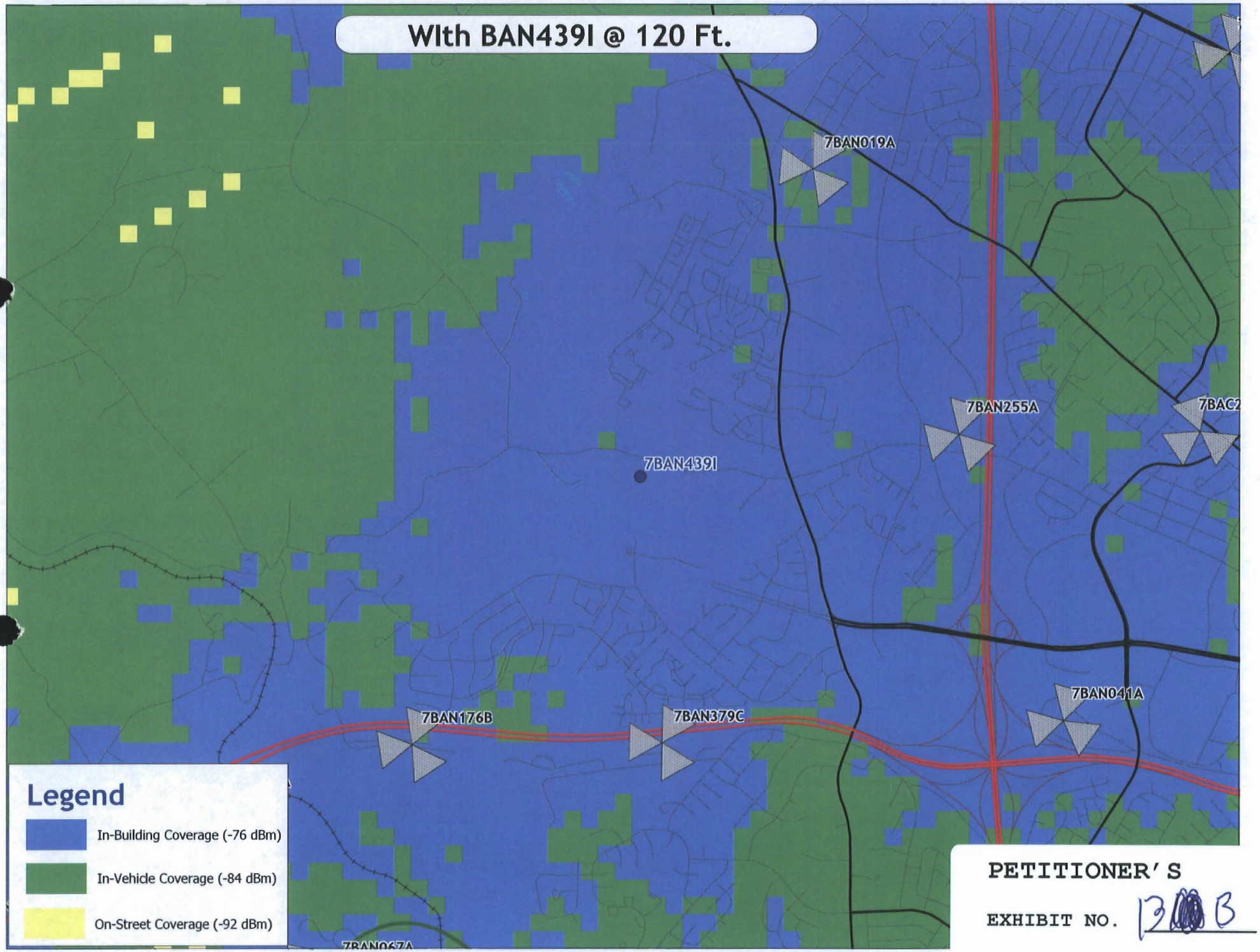
RF Engineer, Solutions Group (Apr '06-Jul '07 and Oct '07 - Nov '07)

1. Post-Processed and Analyzed GSM and CDMA Drive-test Data collected using TEMS, DTI, Agilent,
Wider using OptPCS, OptiCP, Mapinfo, TEMS Investigation and Wind Tunnel.

1. Performed Neighbor/Interferer Analysis using OptPCS based on TTS Spectral Efficiency Guidelines to identify top offenders in the market.
2. Recommended Parameter Changes to the Market RF Team based on the Drive Data.
3. Prepared Presentation/Project Document for the Management/RF Team in the market at the end of the project, outlining the process followed, results obtained, major recommendations based on the drive.

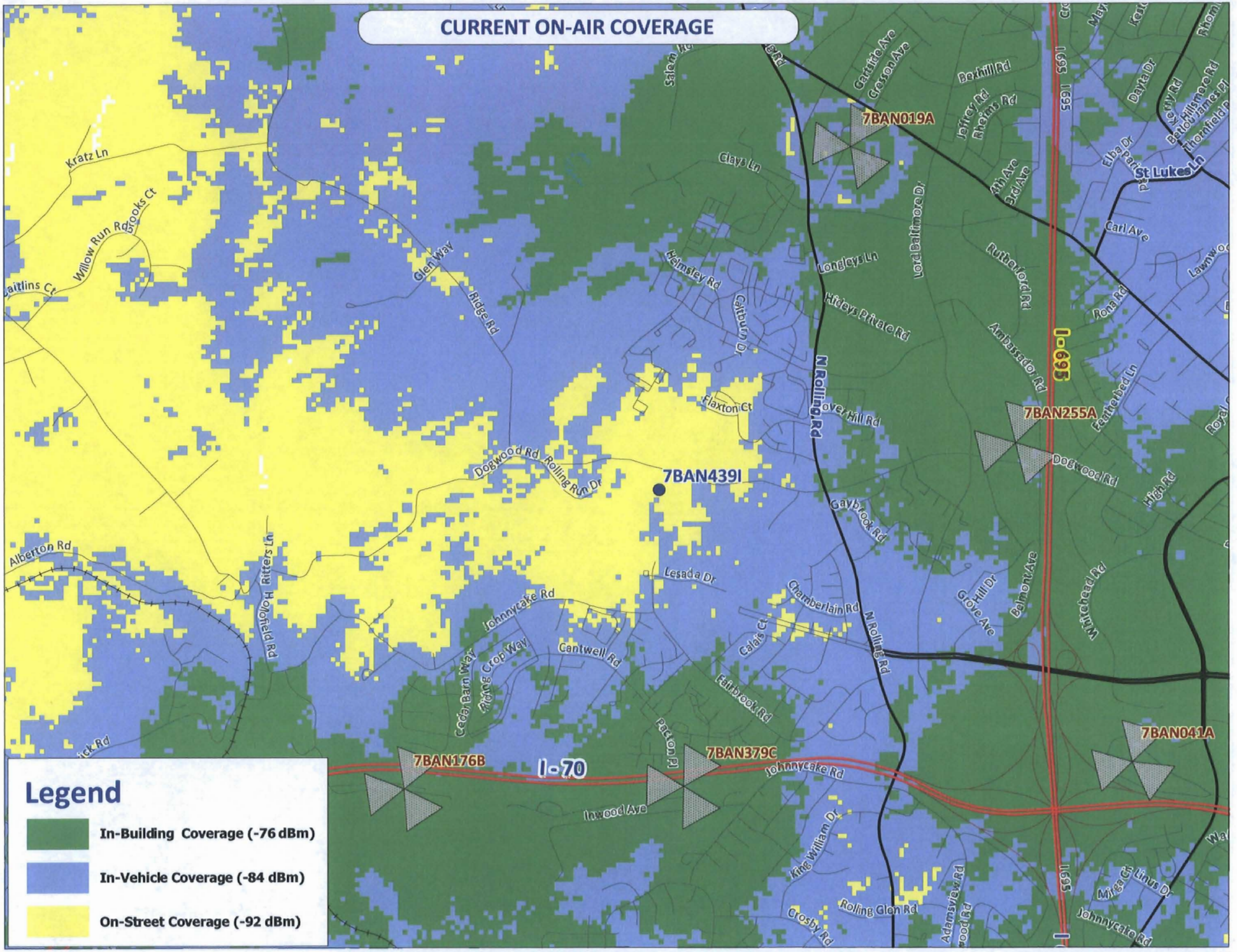
PETITIONER'S
EXHIBIT NO. 12

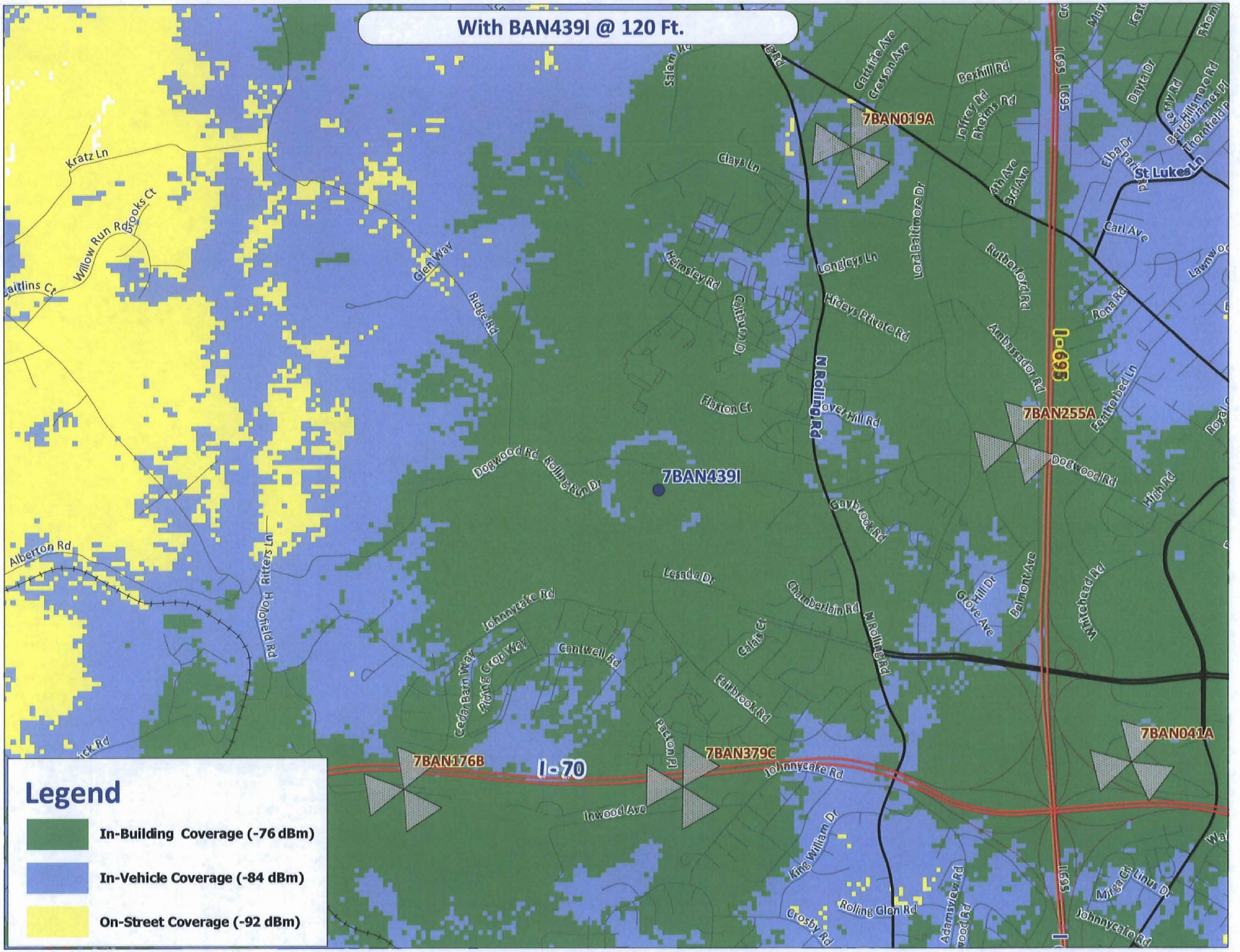

CURRENT ON-AIR COVERAGE
7BAN073A
7BAN019A
7BAN255A
7BAC275A
7BAN439I
7BAN176B
7BAN379C
I-70
7BAN041A
7BAN066A
I-695
7BAN067A
7BAC28
Legend
In-Building Coverage (-76 dBm)
In-Vehicle Coverage (-84 dBm)
On-Street Coverage (-92 dBm)
PETITIONER'S
EXHIBIT NO. 13A



PETITIONER'S

EXHIBIT NO. 13B


CURRENT ON-AIR COVERAGE
7BAN019A
7BAN255A
7BAN439I
7BAN041A
7BAN176B
7BAN379C
I-695
I-70
Legend
In-Building Coverage (-76 dBm)
In-Vehicle Coverage (-84 dBm)
On-Street Coverage (-92 dBm)


With BAN439I @ 120 Ft.
7BAN019A
7BAN439I
7BAN255A
7BAN176B
7BAN379C
7BAN041A
I-70
I-695
Legend
In-Building Coverage (-76 dBm)
In-Vehicle Coverage (-84 dBm)
On-Street Coverage (-92 dBm)

PEOPLE'S
COUNCIL
EXHIBITS

(20090182)

6

Verified 1/27/10 KLC

CASE 09-182-SPHX

PEOPLES' COUNTER EXHIBITS

✓ 1. MAP

✓ 2. AERIAL PHOTO OF THE PROPERTY

✓ 3. PHOTOS A-N OF THE PROPERTY

✓ 4. COPIES OF MICROFILM APPROVING DAYCARE FACILITY.

✓ 5. MD OF A+T 7301 DOGWOOD RD.

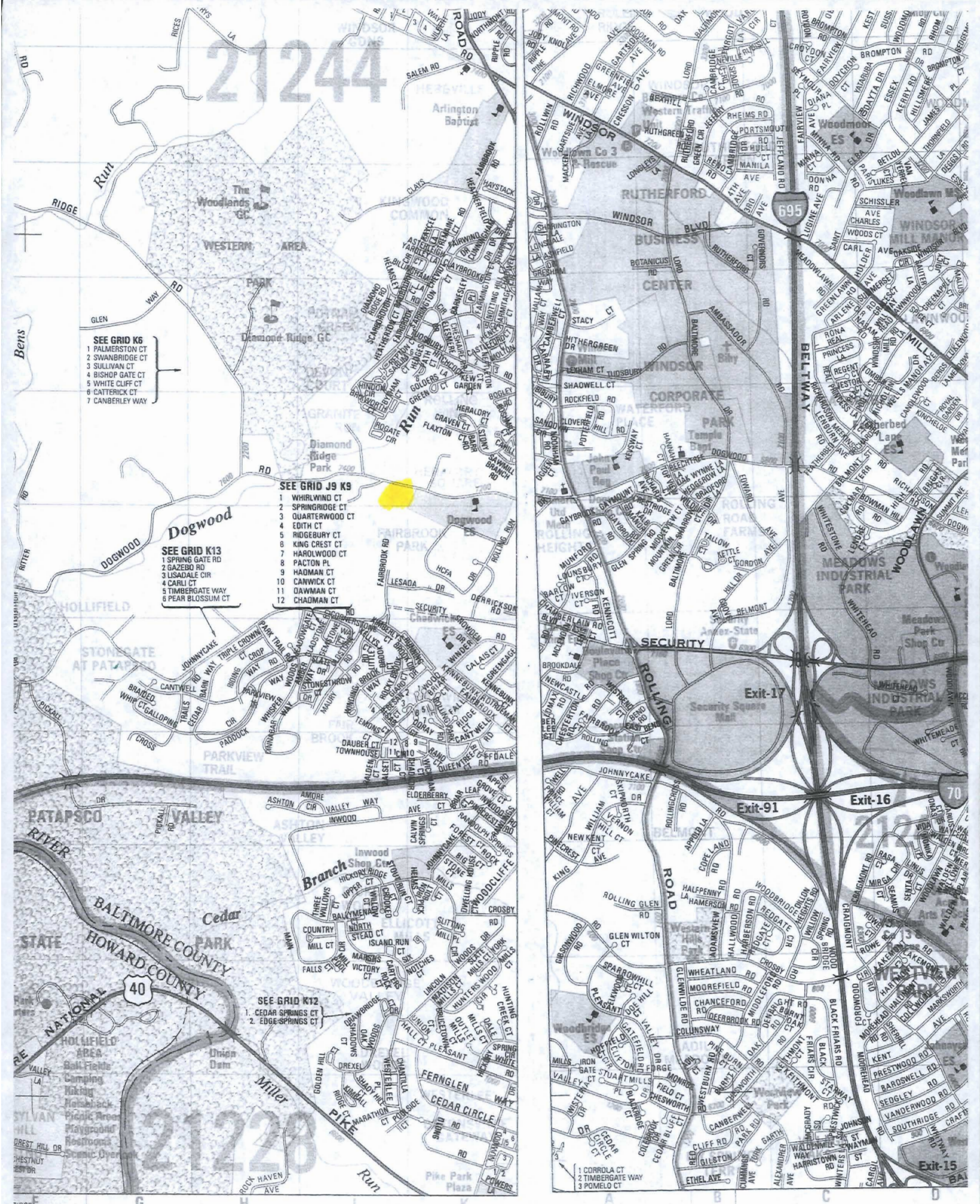
✓ 6 SITE LEASE BETWEEN T-MOBILE AND MR HEFFRICH. 5/1/08.

✓ 7. BRIEF DESCRIPTION OF RICHARD BOHN'S BACKGROUND.

✓ 8. TOWER REVIEW COMMITTEES' DECISION GUIDELINES.

✓ 9. TOWER REVIEW COMM. MINUTES 8/26/08.

✓ 10. 2008 ZONING MAP.



7°30" F G H J K 860,000 FT

s Map 40

870,000 FT 76°45'00" A B C D

CBA P/C EX. NO. 1


APEX GROUND PROPERTIES LLC
GULAZMI JAMIE E
RITTER DUANE L
ANGELOZZI STACY L
MANSFIELD LEONA R
DOGWOOD
STIRN DEBORAH JEAN
HELFRICH GEORGE W
DAVIS ANTHONY W
EDDINGER MARJORIE E
MANSFIELD LEONA R
THOMAS MARIANN E
SNYDER FRANK F JR
MANSFIELD LEONA R
MANSFIELD LEONA R TRUSTEE
APEX GROUND PROPERTIES LLC
HELFRICH GEORGE DISNEY JOHN
PARHAM ELIZABETH A
PALACOROLLA THOMAS
DOGWOOD LIMITED PARTNERSHIP
BOARD OF EDUCATION OF
BALTIMORE COUNTY MARYLAND
DOGWOOD LIMITED PARTNERSHIP
BALTIMORE COUNTY MARYLAND
DOGWOOD LIMITED PARTNERSHIP
UNITED STATES OF AMERICA
HCPA
RITTER DUANE L
PARHAM ELIZABETH A
PARHAM ELIZABETH A
DOGWOOD LIMITED PARTNERSHIP
BALTIMORE COUNTY MARYLAND
WATERS JOSH
VANNA
GIBY EXCUSIVE
WATERS JOSH
WATERS JOSH
WATERS JOSH

From: "Jack Dillon" <jackdillon1@verizon.net>
To: "Peter Max Zimmerman" <petermaxz@aol.com>, <rwheatley@baltimorecountymd....
Date: 1/22/2010 9:59 AM
Subject: 14 pictures for you
Attachments: IMG_0435.JPG; IMG_0436.JPG; IMG_0437.JPG; IMG_0438.JPG; IMG_0440.JPG; IMG_0
441.JPG; IMG_0442.JPG; IMG_0443.JPG; IMG_0444.JPG; IMG_0445.JPG; IMG_0446.J
PG; IMG_0447.JPG; IMG_0448.JPG; 09-182 SPHX.JPG

Pete these were taken on May 18, 2009, jack
You have been sent 14 pictures.

IMG_0435.JPG
IMG_0436.JPG
IMG_0437.JPG
IMG_0438.JPG
IMG_0440.JPG
IMG_0441.JPG
IMG_0442.JPG
IMG_0443.JPG
IMG_0444.JPG
IMG_0445.JPG
IMG_0446.JPG
IMG_0447.JPG
IMG_0448.JPG
09-182 SPHX.JPG

These pictures were sent with Picasa, from Google.
Try it out here: http://picasa.google.com/

CBA PC Exh 3 A-N

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

May 15, 1986

J. Carroll Holzer, Esquire
305 W. Chesapeake Avenue, Suite 110
Towson, MD 21204

RE: PETITIONS SPECIAL EXCEPTION AND SPECIAL HEARING
S/S of Edgewood Road, 233ft W of Rolling Road
1st Election District
George Helfrich, Petitioner
Case No. 86-354-XSPH

Dear Mr. Holzer:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

Jean M. H. Jung
Deputy Zoning Commissioner

JMHJ:mmn
Attachments

cc: Joseph Cohen, Esquire
Ms. Ann Dew
7330 Edgewood Road
Baltimore, Maryland 21207

ORDER RECEIVED FOR FILING
DATE 5/15/86
BY Debbie O. Schmidt

IN RE: PETITIONS SPECIAL EXCEPTION AND SPECIAL HEARING
S/S of Edgewood Road, 233ft W of Rolling Road
1st Election District
George Helfrich - Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 86-354-XSPH

The Petitioner herein requests a special hearing for the continued operation of certain activities on the property, such activities being determined to be nonconforming to the current D.R. 5.5 zones utilization of the clubhouse for social activities, including the utilization of a liquor license, wherein meetings, dances, and other social activities have been conducted; outdoor baseball, football and soccer fields which have been utilized for those sports activities; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; two clay tennis courts which have been utilized; and a pond, which has been used for canoeing, boating and fishing and/or

The Petitioner requests a special exception for utilization of the clubhouse as an area of social activities including a liquor license wherein meetings, dances, and other social activities will be conducted; outdoor baseball, football, and soccer fields for those sports activities; tennis facilities; the woods for hiking, camping and other nature activities; the pool for swimming and other aquatic activities; a miniature golf course and a golf driving range; the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer; and camping to include overnight (emergency) and other outdoor recreational activities.

Testimony by and on behalf of the Petitioner indicated that the clubhouse has been in existence since the 1940's and both it and the grounds have been utilized by club members or private parties (including companies and organized groups) for meetings, dances and other social activities, many of which utilized a liquor license. The pool and pool house, since the early 1950's, have been utilized by club members, groups, those joining the pool for an annual membership and a day camp for one summer. Since the 1940's or early 1950's the pond, woods and open areas have been used for general recreational purposes including camping by members and the parking lot has been in existence. The earliest specific reference to basketball was "later to 1961." Although the Petitioner testified that he saw fields (i.e. baseball, football and/or soccer) somewhere between 1952 and 1954, one person testified they were added about 1965, and another that they were added at the time the last building at Social Security was constructed. An undated letter from the President of the Wildwood Athletic Association, Inc., marked Petitioner's Exhibit F, indicated that the organization built lighted football and softball fields subsequent to its purchase of the site in 1979. The tennis courts were added in 1971 according to one witness and after Potts and Callahan were according to another.

The Petitioner, in his special exception request, proposes to expand the facility by adding a miniature golf course and a golf driving range, and to obtain the right to utilize the clubhouse and fields as a training facility.

Testimony by a representative of a local improvement association indicated concern for proper management of the pool and other facilities and concern that there might be noise, vandalism and/or brawls by users of the facility. The proper pool admission by bonded members only, that no scaffiere or rock [illegible] be permitted and, in general, good management. She testified that the fields were constructed in 1973.

After due consideration of the testimony and evidence presented, it is the opinion of the Deputy Zoning Commissioner, the requirements of Section 502.1, BCZR, have been met and the health, safety and general welfare of the community will not be adversely affected, and, therefore, the Special Hearing and Special Exception should be granted in part, subject, however, to the limitations on the Special Hearing reflecting the findings noted above and to restrictions on the Special Exception.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 15th day of May, 1986, that the herein Petition for Special Hearing for the continued operation of certain activities on the property, such activities being determined to be nonconforming to the current D.R.5.5 zone; utilization of the clubhouse for social activities, including the utilization of a liquor license, wherein meetings, dances, and other social activities have been conducted; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; and a pond which has been used for canoeing, boating and fishing, and, additionally, the Petition for Special Exception for a miniature golf course and a golf driving range; all in accordance with Petitioner's Exhibit 1, are hereby GRANTED, from and after the date of this Order, subject, however, to the following limitations on the Special Hearing reflecting the testimony and evidence presented:

ORDER RECEIVED FOR FILING
DATE 5/15/86
BY Debbie O. Schmidt

- 2 -

Zoner's Exhibit 1: clubhouse for social activities including music and liquor license, pool and pool house, recreational use (including camping) of pond, woods and open areas; parking lot and a basketball court.

It appears that fields, baseball, football and soccer, as well as tennis courts, have been added later and have been within, but totally utilized, the 75% expansion allowed by the Baltimore County Zoning Regulations (BCZR).

Pursuant to the advertisement, posting of property, and public hearing on the Petitions, and after due consideration of the testimony and evidence presented, it is the opinion of the Deputy Zoning Commissioner, the requirements of Section 502.1, BCZR, have been met and the health, safety and general welfare of the community will not be adversely affected, and, therefore, the Special Hearing and Special Exception should be granted in part, subject, however, to the limitations on the Special Hearing reflecting the findings noted above and to restrictions on the Special Exception.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 15th day of May, 1986, that the herein Petition for Special Hearing for the continued operation of certain activities on the property, such activities being determined to be nonconforming to the current D.R.5.5 zones utilization of the clubhouse for social activities, including the utilization of a liquor license, wherein meetings, dances, and other social activities have been conducted; outdoor baseball, football and soccer fields which have been utilized for those sports activities; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; two clay tennis courts which have been utilized; and a pond, which has been used for canoeing, boating and fishing and/or [illegible]; and a special exception for the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer is hereby DENIED.

Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
DATE 5/15/86
BY Debbie O. Schmidt

- 3 -

1. The nonconforming uses, including their permitted 75% expansion, shall not extend beyond the clubhouse for social activities (including music and liquor license), pool and pool house, recreational use (including camping) of pond, woods and open areas; parking lot, basketball court, fields (baseball, football and soccer) and tennis courts.

2. There shall be no concerts whose attendance will cause the parking lot to overflow or cause noise/sound in violation of Baltimore County nuisance laws.

3. No merrymakers shall be used after 11:00 p.m.

4. All activities, except camping, shall cease by 2:00 a.m. Friday and Saturday, and midnight Sunday through Thursday.

5. The pool shall not be open to the public as a commercial business with daily admission, but available to organized groups or to individuals and families who are signatories, or who have paid an annual membership fee and to their specified guests for whom they are responsible.

and to the following restrictions on the Special Exception:

1. The driving range and miniature golf activities shall cease by 10:00 p.m.

2. Adequate parking in accordance with current BCZR shall be provided for the miniature golf course and the golf driving range.

3. The pool shall be operated in accordance with all Health Department requirements.

4. All activities shall be closed and the two entrances to the parking lot secured with a cable/chain unless there is, on the property, a manager or person responsible to the owner. That manager is responsible for seeing that there is no illegal drug and/or alcohol consumption on the property.

A special exception for the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer is hereby DENIED.

Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
DATE 5/15/86
BY Debbie O. Schmidt

- 4 -

207
86-354
XSPH

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for utilization of the clubhouse as an area of social activities, including a liquor license, wherein meetings, dances and other social activities will be conducted; outdoor baseball, football, and soccer fields for those sports activities; tennis facilities; the woods which have been utilized for hiking, camping and other nature activities; the pool which has been utilized for swimming and other aquatic activities; a miniature golf course and a golf driving

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

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

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

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

J. Carroll Holzer
(Type or Print Name)

305 W. Chesapeake Ave., Suite 110
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: 823-4510

Legal Owner(s):

George Helfrich
(Type or Print Name)

George Helfrich
Signature

(Type or Print Name)

Signature

7330 Maryland Avenue
Address Phone No.

Baltimore, Maryland 21238
City and State

Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted

Name

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 4th day of February, 19 86, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through-out Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County on the 11th day of March, 19 86, at 11:30 o'clock

Zoning Commissioner of Baltimore County.

(over)

207

(cont'd.)

ranger the right to utilize the clubhouse and fields as a training facility for football, baseball, or soccer. Camping is include overnight (emergency) and other outdoor recreational activities; all pursuant to Baltimore County zoning regulations, Section 1B01.1.C.6

CBA P/C NO. 1

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3)

Go Back
View Map
New Search

Account Identifier: **District** - 01 **Account Number** - 2400006858

Owner Information

Owner Name:	HELFRICH GEORGE	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	2516 MARYLAND AVE BALTIMORE MD 21218-4510	**Deed Reference:**	1) 2)

Location & Structure Information

Premises Address
7301 DOGWOOD RD
BALTIMORE MD 21244

Legal Description
PARCEL A (FUT DEV)
NSR GRANITE WOODS CT
GEORGE HELFRICH PROPERTY

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	3
87	22	268						3	Plat Ref:	77/ 10

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000	8,326 SF	10.99 AC	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2008	Phase-in Assessments As Of 07/01/2009
Land	176,900	326,900		
Improvements:	319,600	246,600		
Total:	496,500	573,500	496,500	522,166
Preferential Land:	0	0	0	0

Transfer Information

Seller:		**Date:**	**Price:**
Type:		**Deed1:**	**Deed2:**
Seller:		**Date:**	**Price:**
Type:		**Deed1:**	**Deed2:**
Seller:		**Date:**	**Price:**
Type:		**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

CBA P/C No. 5

Fin Count

SITE LEASE WITH OPTION

THIS SITE LEASE WITH OPTION (this "Lease") is by and between George Helfrich , an individual ("Landlord") and T-Mobile Northeast LLC, a Delaware limited liability company ("Tenant").

1. Option to Lease

(a) In consideration of the payment of one hundred and no/100 dollars ($100.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease a portion of the real property described in the attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial term of twelve (12) months, commencing on the Effective Date (as defined below) (the "Option Period"). The Option Period may be extended by Tenant for an additional twelve (12) months upon written notice to Landlord and payment of the sum of five hundred and no/100 dollars ($500.00) ("Additional Option Fee") at any time prior to the end of the Option Period.

(b) During the Option Period and any extension thereof, and during the Initial Term and any Renewal Term (as those terms are defined below) of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communications Commission ("FCC") ("Governmental Approvals"), including all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use permits. Landlord expressly grants to Tenant a right of access to the Property to perform any surveys, soil tests, and other engineering procedures or environmental investigations ("Tests") on the Property deemed necessary or appropriate by Tenant to evaluate the suitability of the Property for the uses contemplated under this Lease. During the Option Period and any extension thereof, and during the Initial Term or any Renewal Term of this Lease, Landlord agrees that it will not interfere with Tenant's efforts to secure other licenses and permits or authorizations that relate to other property. During the Option Period and any extension thereof, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section 12 hereof.

(c) If Tenant exercises the Option, then Landlord hereby leases to Tenant that portion of the Property sufficient for placement of the Antenna Facilities (as defined below), together with all necessary space and easements for access and utilities, as generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises"). The Premises, located at Granite Woods Court known as 7301 Dogwood Road Parcel A, Baltimore, MD. 21244, comprises approximately 450 square feet.

2. Term. The initial term of this Lease shall be five (5) years commencing on the date of exercise of the Option (the "Commencement Date"), and terminating at midnight on the last day of the initial term (the "Initial Term").

3. Renewal. Tenant shall have the right to extend this Lease for five (5) additional and successive five-year terms (each a "Renewal Term") on the same terms and conditions as set forth herein except that Rent shall be increased by 10 percent (10%) of the Rent paid over the preceding term . This Lease shall automatically renew for each successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

4. Rent. From and after the Commencement Date, Tenant shall pay Landlord or designee, as rent, [redacted] per month ("Rent"). The first payment of Rent shall be due within twenty (20) days following the Commencement Date and shall be prorated based on the days remaining in the month following the Commencement Date, and thereafter Rent will be payable monthly in advance by the fifth day of each month to Landlord at the address specified in Section 12 below. If this Lease is terminated for any reason (other than a default by Tenant) at a time other than on the last day of a month, Rent shall be prorated as of the date of termination and all prepaid Rent shall be immediately refunded to Tenant. Landlord, its successors, assigns and/or designee, if any, will submit to Tenant any documents required by Tenant in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

5. Permitted Use. The Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, including, without limitation, tower and base, antennas, microwave dishes, equipment shelters and/or cabinets and related activities.

6. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Property by Landlord or lessees or licensees of Landlord with rights in the Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including, without limitation, non-interference). Similarly, Landlord shall not use, nor shall Landlord permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

7. Improvements; Utilities; Access.

CBA P/C NO. 6

Chief of Baltimore County Office of information Technology/Electronic Services

I have been employed by Baltimore County in my current capacity since June of 2005. I was formerly employed by the State of Maryland between 1986 and 2005 by several agencies including the Maryland State Police. I have been working in the radio communications field for over 30 years, since 1980.

I hold a lifetime FCC General Radio Operators License (GROL) and serve on several State and Regional communications committees including the State Interoperability Executive Committee (SIEC) Practitioners Steering Committee (PSC) representing the Maryland Association of Counties and the Central Maryland Area Radio Communications Committee – Technical Subcommittee representing Baltimore County and the FCC Region 20 Public Safety Regional Planning Committees and both Technical Subcommittees for both 800 and 700 MHz .

I am currently managing the single largest project within OIT. The "Public Safety Digital Communications System replacement/enhancement Project"

I supervise the Electronic Services staff of 32 authorized positions.

The primary Responsibility of Electronic Services is the installation, maintenance and repair of the infrastructure and subscriber equipment associated with **three** major 800 MHz radio communication systems. These radio systems are utilized by the county Fire, Police and Public Works Departments for transmission of voice and data.

Electronic Services supports the infrastructure and includes the Private Microwave network that connects our 8 tower sites to the 911 Center and over 5000 pieces of two-way communications equipment including portable and mobile equipment.

As the Chief of Electronic Services I chair the county Tower Review Committee and my staff provides administrative support. This committee reviews all applications by cellular carriers to construct new communications towers in the county.

CBA P/C No. 7

BALTIMORE COUNTY, MARYLAND

TOWER REVIEW COMMITTEE
POST-REVIEW
DECISION GUIDELINES

In accordance with section §426.2 of the Baltimore County Zoning Regulations as it applies to proposed tower construction, Baltimore County's Tower Review Committee adheres to the following guidelines in forming their post-review decision.

- Antennas should be placed on existing towers, buildings, and structures, including those of public utilities, where feasible

- If a tower must be built, the tower should be: Constructed to accommodate at least three providers

- Erected in a medium or high intensity commercial zone when available

- Located and designed to minimize its visibility from residential and transitional zone

CBA P/C No. 8

BALTIMORE COUNTY, MARYLAND
TOWER REVIEW COMMITTEE
MINUTES OF August 26, 2008

Attendees:

Committee
Richard Bohn
Sabrina Chase
Curtis Murray
Richard Sterba
Harry Wujek

Others
Bob Hunnicutt – Columbia Telecomm
Amy Bird - T-Mobile
Greg Rapiserda – Saul Ewing
Jason M. St. John – Saul Ewing

Applications for:

T-Mobile
7301 Dogwood Road
Woodlawn, Maryland 21244

Rick stated that this is a meeting not a hearing. Introductions.

Rick and Bob visited site. Columbia Telecommunications has done a review of this site.

Bob – Need additional information from T-Mobile – Bob brought in photos to show position of monopole, which is a large property with a swimming pool. The monopole is next to trees near conservation area behind the parking lot and Day Care Facility. There are other properties attached to the structure, one is an Elementary School, and the other is a secured government facility. Asked Amy why they could not use the antenna at the location. Got in contact with GSA and they said that they are not allowing any more antennas on the pole. There are other tall structures in the vicinity. It put some distance between the residential area and site, which will minimize the impact of the monopole. There is one new town home subdivision and one near the south. The north there is a large water tank, but it is close to another T-Mobile site. There is also a Maryland State Police tower towards the Southeast, that site is pretty close to another site, so did not ask about it. Other sites that they considered are some short buildings, but did not ask about. So this is a fairly good location to meet coverage objection. Still need some clear statement as to what it is the carrier is trying to cover.

Amy – She believe she sent the clear statement. It is on the bottom half of alternative site analysis.

CBA P/C NO. 9.

CBA P/C No. 10



Plan Sheet: ***087B3***

Note:
The zoning depicted in this application incorporates the actions associated with 2008 Comprehensive Zoning Map Process, zoning changes associated with an adopted Community Plan and Baltimore County Board of Appeals actions through December 31, 2008.

Legend

Buildings — Streams — Vegetation
Zoning — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

086C2	087A2	087B2	087C2	088A2
086C3	087A3	087B3	087C3	088A3
093C1	094A1	094B1	094C1	095A1

Scale

1" = 200'

0 100 200 400 Feet

N

Data Sources:
Planametric Data - Baltimore County OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2008



Plan Sheet: *087B3*

Note:
The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

086C2	087A2	087B2	087C2	088A2
086C3	087A3	087B3	087C3	088A3
093C1	094A1	094B1	094C1	095A1

Scale

1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004

2009-0182-SPHX

CBA

PETITIONER'S

EXHIBITS

(20018 2)

7

Verified 1/27/10 KLC

CASE 09-182-SPHX

PETITIONERS' EXHIBITS

✓1. RESUME FOR MICHAEL D. McGARITY

✓2. PLAT OF SITE

✓3. A-G PICTURES OF SITE.

✓4. MAP-LOCATION

✓5. PHOTO SIMULATIONS — RED DOT & ANTENNA

✓6. MAP - YELLOW DOT-SITE, GREEN EXISTING TOWERS

7. ~~AERIAL MAP SHOWING MR. HOFFRICH'S PROPERTY.~~

✓7. T. MOBILE SEARCH AREA MAP.

✓8. AERIAL MAP SHOWING MR. HOFFRICH'S PROPERTY WITH AN OVERLAY OF ZONING. (Large Exhibit)

✓9. JEPPESEN STUDY.

✓10. GSA'S DENIAL E-MAIL

✓11. MEMO FROM OFFICE OF PLANNING TO TIM KOTROCO.

✓12. APPLICATION EVALUATION FOR THE TOWER REVIEW COMMITTEE.

✓13. FINDINGS AND CONCLUSION FOR THE TOWER REVIEW COMMITTEE.

✓14. RAJKANWAR BRAR RESUME

✓15. CURRENT ON-AIR COVERAGE AND NEW COVERAGE

✓16. MITCHELL KELLMAN RESUME.

✓17. LETTER DATED 2/5/03 ALLOWING ADULT DAY CARE

DMW

DAFT McCUNE WALKER INC

MICHAEL D. McGARITY
TEAM MANAGER
WIRELESS SERVICES DIVISION

Education

University of Maryland College Park, B.S., Civil Engineering

Professional Summary

Mr. McGarity has nine years experience in managing wireless telecommunications projects for numerous carriers, including AT&T Wireless Services, Sprint PCS, Nextel Communications, Cingular Wireless, and T-Mobile USA. Mr. McGarity implements an innovative and practical approach to providing site planning, zoning, engineering, surveying and permitting services for wireless carriers throughout Maryland. Mr. McGarity provides a close and personal link with his clients, providing expertise from site inception to completion in the field. Mr. McGarity is proficient with Microstation and mentors his staff with providing detailed plans that are compliant with local jurisdictional standards. Mr. McGarity is actively involved with other development projects within DMW to gain additional engineering experience as he works toward acquiring his Professional Engineering License.

Partial List of Projects

AT&T Wireless expansions throughout the Maryland area
Cellular One network expansions throughout the Maryland area
Cingular Wireless network expansions throughout the Maryland area
Nextel Communications network expansions throughout the Maryland area
Sprint PCS network expansions throughout the Maryland area
T-Mobile USA network expansions throughout the Maryland area
Verizon Wireless network expansions throughout the Maryland area

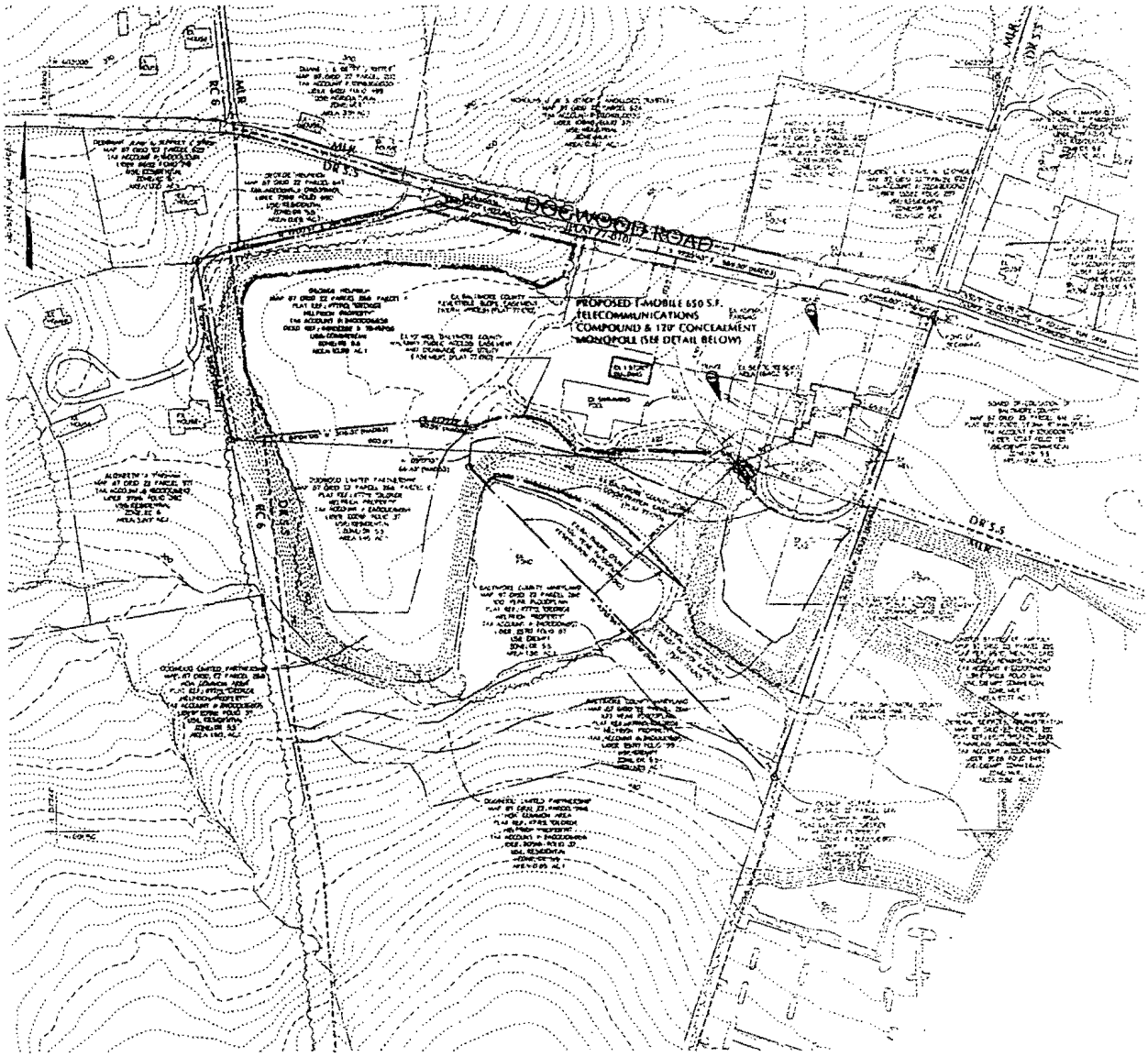
Memberships and Awards

American Society of Civil Engineers (Student Chapter 1994-1996)

Professional Experience

Daft-McCune-Walker, Inc., Towson, Maryland, 1997 - Present
Pavex, Inc., Cockeysville, MD, 1996-1997

CBA Pet. No. 1



SITE PLAN

SCALE: 1"=100'

100 0 50 100 200

CURVE TABLE (NAD83)

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD BEARING	CHORD	HEIGHT
C1	09°44'59"	1,000.00'	170.00'	S 71°49'47" E	169.81'	MAX
C2	09°44'59"	1,000.00'	170.00'	S 71°49'47" E	169.81'	170'

GENERAL NOTES

1. Current Owner: George Hedrick, 2346 Maryland Ave, Baltimore, MD 21218-4510
2. Contract Lessee/Applicant: T-Mobile Northeast LLC, 12040 Baltimore Avenue, Beltsville, Maryland 20705
3. Site Area: 10.99 acres ± 478,724 AD sq. ft.
4. Existing Use: Adult Day Care Center
5. Site Address: Granite Woods Ct. (A.K.A. 7301 Dogwood Rd.) Woodlawn, MD 21244
6. Site Data: Tax Map 87 Grid 22 Parcel 260, Deed Reference: 6078/262 & 7846/152, Plat Reference: #7763, "George Hedrick Property", Tax Account Number: 2400006650, Election District: 1, Councilmanic District: 1, Zone: DR 5.5
7. Proposed Concealment Monopole Location: Latitude: N 39°19'13.34" (NAD 83), Longitude: W 76°46'03.28" (NAD 83), Ground Elevation 424.0' AMSL (NAVD 88), Proposed Monopole Height (including antennas): 170'± AGL, Total Proposed Monopole Elevation (including antennas): 594.0'± AMSL (NAVD 88)
8. The topographic information shown hereon, in the area of the proposed compound, is taken from a Dunn Field Survey on 5-9-06. The topographic information shown hereon, outside the area of the proposed compound, is taken from Baltimore County Digital GIS. Boundary information shown hereon is based upon a record Plat Entitled "DOGGE HILL-KEEN PROPERTY" PLAT 2 OF 3" and recorded among the Land Records of Baltimore County in Plat Book 77, Page 10, together with field located evidence and related to NAD 83 Maryland Coordinate System #4681(1991). This plan is not the result of a Dunn boundary survey and, therefore, is subject to change. This plan was prepared without the benefit of a title report. This plan may be subject to easements and restrictions that may be recorded or unrecorded and may not be shown hereon.
9. No water or sewer utilities are required for the proposed installation.
10. There are no new signs proposed for this facility.
11. No tower lights are proposed for this facility, unless required by the Federal Aviation Administration.
12. Existing utility location information shown on these plans is for the contractors convenience only. While the information shown has been gathered from surveys and sources deemed to be reliable, the correctness or completeness of the information shown is not warranted or guaranteed. The contractor shall verify all information to his own satisfaction.
13. The contractor is to notify Miss Utility (800)-257-7777 a minimum of 3 working days prior to any construction or excavation. The contractor is to also notify a private utility contractor for all on-site utility locations.
14. The proposed tower and compound location are not located within a 100 year flood plain as per the National Flood Insurance Program, flood insurance rate map community panel number 240010-0295B+1 revised Sept. 26, 2008. El. 100' or mean sea level elevation: 402.5'± NAVD 88 (P.M. 77.12). Ground elevation at proposed concealment monopole: 424.0'± NAVD 88.
15. Proposed work includes the installation of (2) equipment cabinets (+/-11'x4'x6'), a pad, bollards, and a low screen on a proposed 10'x20' concrete pad at the base of a proposed 120' concealment monopole inside a proposed 650 s.f. fenced gravel compound. A GPS cabinet and 12' utility backboard area meters are also to be installed inside the proposed compound, and a transformer is to be installed next to the proposed compound. (6) proposed antennas are to be mounted inside the proposed concealment monopole at a centerline height of 160'± & 156'±.
16. Required number of employees: 0 (unmanned facility).
17. Required number of parking spaces: 0 (unmanned facility, no service visit).
18. Ground disturbance for this telecommunications facility: 7,000 s.f.
19. The applicant shall provide a certification from a registered engineer that the structure will meet the applicable design standards for wind loads of the Electronic Industries Association (EIA) for Baltimore County.
20. Zoning information is taken from Baltimore County official zoning maps no. 087N3 & 087N3.
21. Lot and area stated on property as shown on plan.
22. Existing building permits on record for this property: B347063, B347062, B440097, B476895.
23. Class "A" screening to be provided if required by the Baltimore County.
24. Applicant agrees to section 426.6 D.3 b.ii Baltimore County, Zoning Regulations.
25. This proposed project is not within the Chesapeake Bay Critical Area.
26. No CRG, DRC, or waivers are or record for this site.
27. The proposed facility is not located within a County Historic or Historic Register District. The subject property is not listed as a Baltimore County Historical Property. This information is taken from the Baltimore County government website.

ZONING HISTORY

[illegible] 706-[illegible]
[illegible] proposed use of certain non-conforming activities to current DR 5.5 zone and all activities (including adult nursery, home & recreation measure and 3 parking spaces)
Zoning Petition granted (with limitations) 8-15-06

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CBA PET. NO. 2

CBA Pet. Ex 3A-3G



3A



3BB


Location Map BAN 439
2309 Ridge Rd
0.74 Miles to Site
7410 Brixworth Ct
0.39 Miles to Site
Dogwood Elementary
0.18 Miles to Site
Site
7331 Granite Woods Ct
0.18 Miles to Site
Granite Woods Ct & Fairbrook Rd
0.22 Miles to Site
Diamond Ridge Golf Course
Ridge Rd
Dogwood Rd
Tudsbury Rd
N Rolling Rd
Rockfield Rd
Potterfield Rd
Clover Hill Rd
Kevsway Ct
Stony Barr Rd
Cahill Ct
Sawmill Branch Rd
Gaymount Rd
Kalb Manor Rd
Wildlife Dr
Top View Ct
Rolling Road Farms
Munford Rd
Barlow Ct
Rolling Heights
Derrickson Rd
Greengage Rd
Chamberlain Rd
Kennicott Rd
Lord Baltimore Dr
Johnnycake Rd
Park Trail Rd
Fairbrook Rd
Winsten Estates
Parkview Trail
Fair Brook
Winder Rd
Calais Ct
Brookdale Rd
Whirlwind Ct
Quarterwood Ct
Cantwell Rd
Westbend Ct
Rolling Bend Rd
Security Blvd
122
Security
Repton Ct
Sarum Ct
Catterick Ct
Hindon Cir
Brixworth Ct
Henley Ct

CBA Pet. Ex 4

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5	
Private Property: ☒	Permitted: ☐
Public Property: ☐	Special Exception: ☒

Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.

Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site.

T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective.

Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.

Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence.

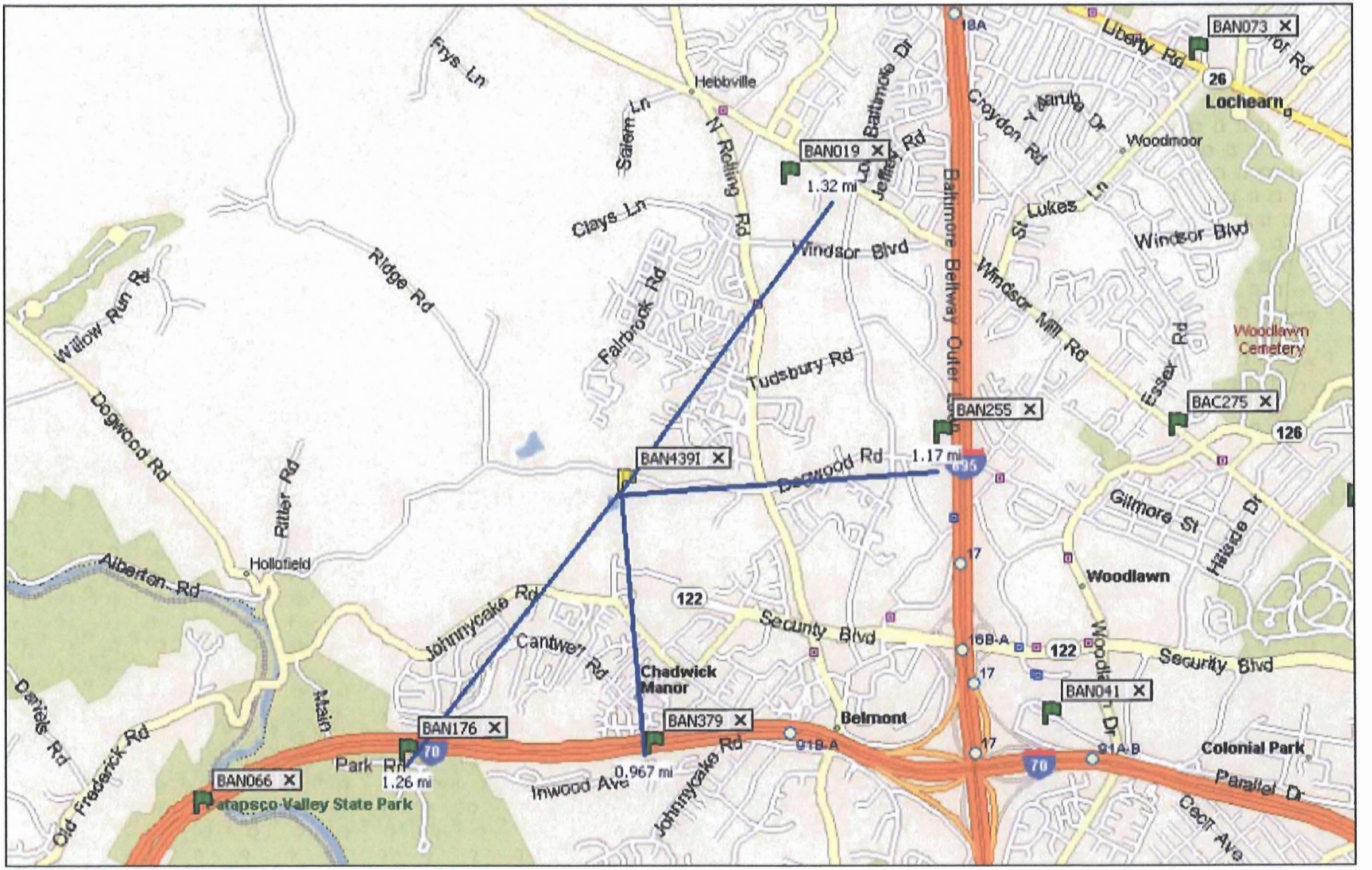
Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our

PETITIONER'S (2C)
EXHIBIT NO. 4



PHOTO SIMULATIONS BY BALOON CBA PET. EX. NO. 5

BAN439I Location w.r.t. OA Sites



CBA PET. EX No. 6

T-Mobile

BALTIMORE/WASHINGTON REGION

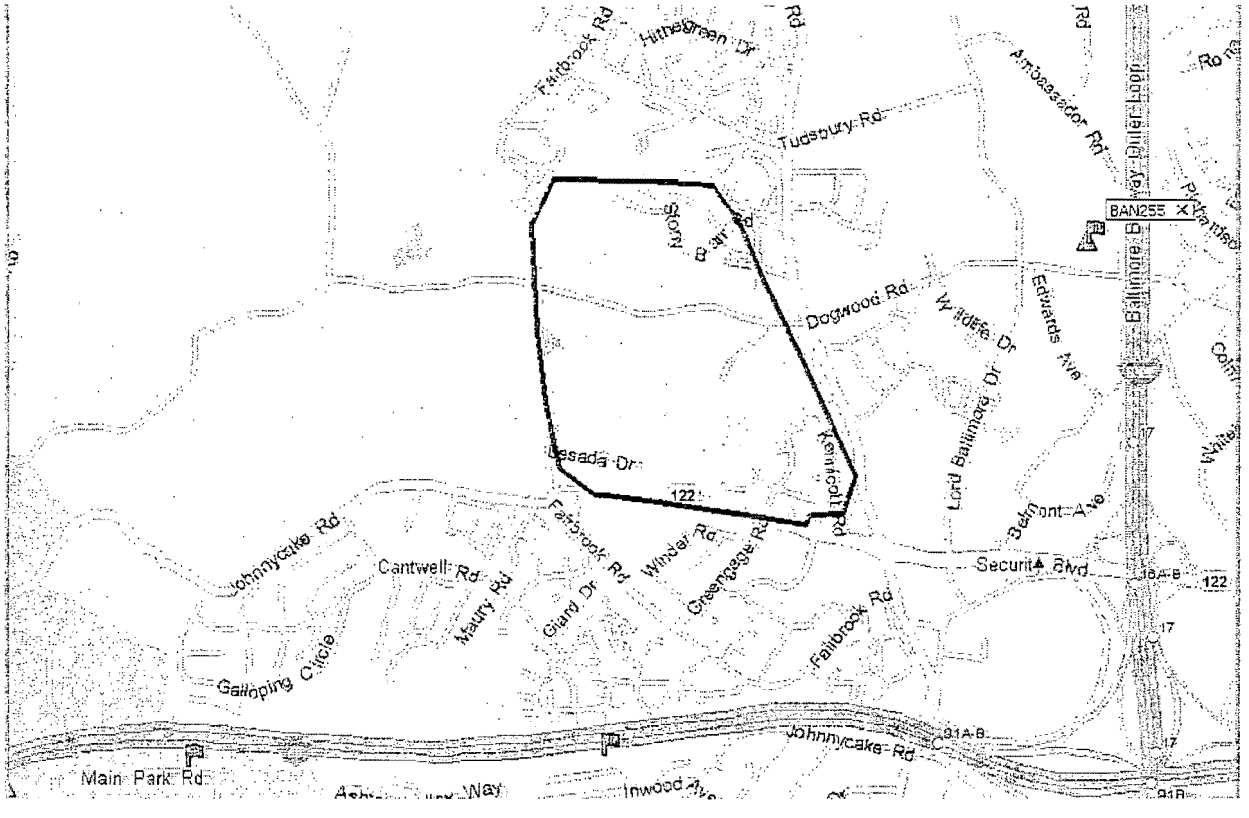
SEARCH AREA

Search Area ID	**BAN439**	Search Area Name	**Bexhill**

Coverage Objective	**To improve residential coverage near the I695 and I70 intersection.**

Latitude	**39.31600**	Longitude	**-76.76450**

ACL minimum	**30 ft**	maximum ACL	**150 ft**	Ground Elevation	**N/A**



No.	Potential Candidates	Description
1		
2		
3		
4		

Comments Section	**Extend coverage in residential area**

BBA. PET. EX. NO. 7



See larger scale

CBA PET. EX. No. 8

JEPPESEN®

STUDY FOR

T-Mobile Northeast LLC

Jeppesen Study Number:	VSW 55620-08
Date:	July 10, 2008
Site ID/Name:	BAN439 /Helfrich Rawland

Structure Location: Woodlawn, MD

Latitude:	39°	19'	12.96"
Longitude:	076°	46'	04.38"
	NAD 83		

Site Elevation:	424'	AMSL
Tower Height:	130'	AGL
Overall Height:	554'	AMSL

This study is conducted in accordance with the Federal Aviation Regulations (FAR) Part 77 and the Federal Communications Commission (FCC) Rules Part 17.

This report and the findings, opinions and recommendations expressed herein are intended for the exclusive use of T-Mobile Northeast LLC in making appropriate regulatory filings and may not be reproduced by other parties in any form or manner.

5155 Clipper Drive, Atlanta, Georgia 30349
678.924.8000·Fax 678.924.8006·www.asacinc.com

CBA PET. EX No. 9

Sean Hughes

Subject: FW: BAN439 FW: T-Mobile

-----Original Message-----

From: mark.pugnetti@gsa.gov [mailto:mark.pugnetti@gsa.gov]

Sent: Monday, January 07, 2008 8:54 AM

To: Kinnally, John

Cc: salim.dasoo@gsa.gov; helen.prymak@gsa.gov; nancy.belt@gsa.gov; john.kahler@gsa.gov; juliek.hepp@gsa.gov; debbie.phillips@gsa.gov; juliek.hepp@gsa.gov; liliana.delbonifro@gsa.gov

Subject: RE: T-Mobile

John,

I don't know if you received a reply back concerning your request for

further information on why T Mobile's request to have an antenna

installed on the CMS HQ was denied.

I tell you now, as the final authority on this subject matter, than it

is up to the discretion of the Government to allow or deny these

requests. So because of heighten security concerns this request is

denied.

Any further questions, please call me directly on 215-446-4528.

Thank you,

Mark

CBA PET. NO. 10

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: February 6, 2009

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 7301 Dogwood Road

INFORMATION:

Item Number: 9-182

Petitioner: George Helfrich

Zoning: DR 5.5 and RC 6

Requested Action: **Special Hearing and Special Exception**

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and does not oppose the request for Special Hearing. However this office does have comments on the requested Special Exception. The proposed tower will be visible from Dogwood Road. In order to improve the appearance of the tower and to reduce its visibility, this office recommends the following:

1. The tower should be a concealment monopole where all the antennas are located within the pole structure.
2. The tower should be a color not to stand out amongst its surroundings and blend in with the existing trees and wooded area.
3. Provide class A screening around the fenced compound.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by: Cynthia M. Murray

Division Chief: Lynn Lanham

AFK/LL: CM

W:\DEVREV\ZAC\9-182.doc

CBA REG. NO. 11

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5	
Private Property: ☒	Permitted: ☐
Public Property: ☐	Special Exception: ☒

Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.

Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site.

T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective.

Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.

Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence.

Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our

CBA PET NO. 12

BALTIMORE COUNTY
TOWER REVIEW COMMITTEE

Columbia Telecommunications Corporation
Application Evaluation

Applicant:	T-Mobile
Description:	Construct a new 120' high monopole and attach six panel antennas at the 116' and 106' level.
Site Location:	The Harry and Jeanette Weinberg Center 7301 Dogwood Road, Woodlawn
Property Owner:	George Helfrich
Zoning Classification: DR5.5 Private Property: ☒ Permitted: ☐ Public Property: ☐ Special Exception: ☒	
Site visit findings: The proposed location for the monopole is on property presently being used for adult day care services. The location for the monopole is behind the Weinberg Center building and parking area and adjacent to a protected conservation easement. There are some short trees, approximately 30' tall, next to the site proposed for this monopole.	
Technical review: The applicant reports that the coverage objective for this site is to improve service along Dogwood and Rolling Roads in the vicinity of the site as well as to improve indoor coverage to the residential areas in the relatively new subdivision of townhomes to the north of the site. T-Mobile submitted RF contour maps illustrating the calculated coverage with and without antennas as proposed and at the 110' level. Based on our review of the maps illustrating the existing coverage to this area, it appears there is a need to improve coverage to meet the target signal levels for indoor coverage to the nearby residential areas. Based on our review of the RF maps with the antennas as proposed, it appears antennas at the 120' level may meet the stated objective. Based on our review of the maps illustrating coverage with antennas at the lower 110' level, it appears that signals to some of the residential areas to the north of the site may not be at the levels desired to provide reliable indoor coverage.	
Co-location options: The applicant provided information about other existing structures they considered but ruled out as locations for attaching their antennas. During our site visit, we noted that a federal government office building on property adjacent to the Helfrich land (7500 Security Boulevard) already had cell antennas attached on the penthouse walls of that building. The applicant submitted e-mail correspondence from the GSA (who manages the building) that stated they no longer permit collocation of antennas on their building since it is now a secure facility. We have attached a copy of that correspondence. Other options identified by the applicant include buildings at 3300 and 3320 Lord Baltimore Drive in Windsor Mill which were ruled out because signals from antennas on those building rooftops would likely interfere with signals from the adjacent T-Mobile site. Based on our	

CBA Pet. No. 13

Rajkanwar Brar

12050 Baltimore Ave.,
Beltsville, MD 20705

Rajkanwar.Brar@t-mobile.com
(443) 739-7489(C)
(240) 264-8646(O)

SUMMARY:

- Experience in GSM RF Design and introduction to BSS optimization.
- Experience with Drive test units like TEMS Investigation, DTI, Agilent, Wider and Invex.
- Experience with mapping tools like MapInfo.
- Experience with Optimization tools like OptPCS.
- Experience with Planning tools like Asset.
- Experience with Desktop Applications like Excel, Word, and PowerPoint.
- Experience with VB6, Oracle8 programming and Crystal Reports.
- Experience with Novell Intranetware (4.11).

EXPERIENCE

A) **Telecom Technology Services Inc. (Consultant to T-Mobile, Washington DC-Baltimore Market)**
Date: April 2006 - Present

RF Engineer, RF Design (Nov 2007 - Present)

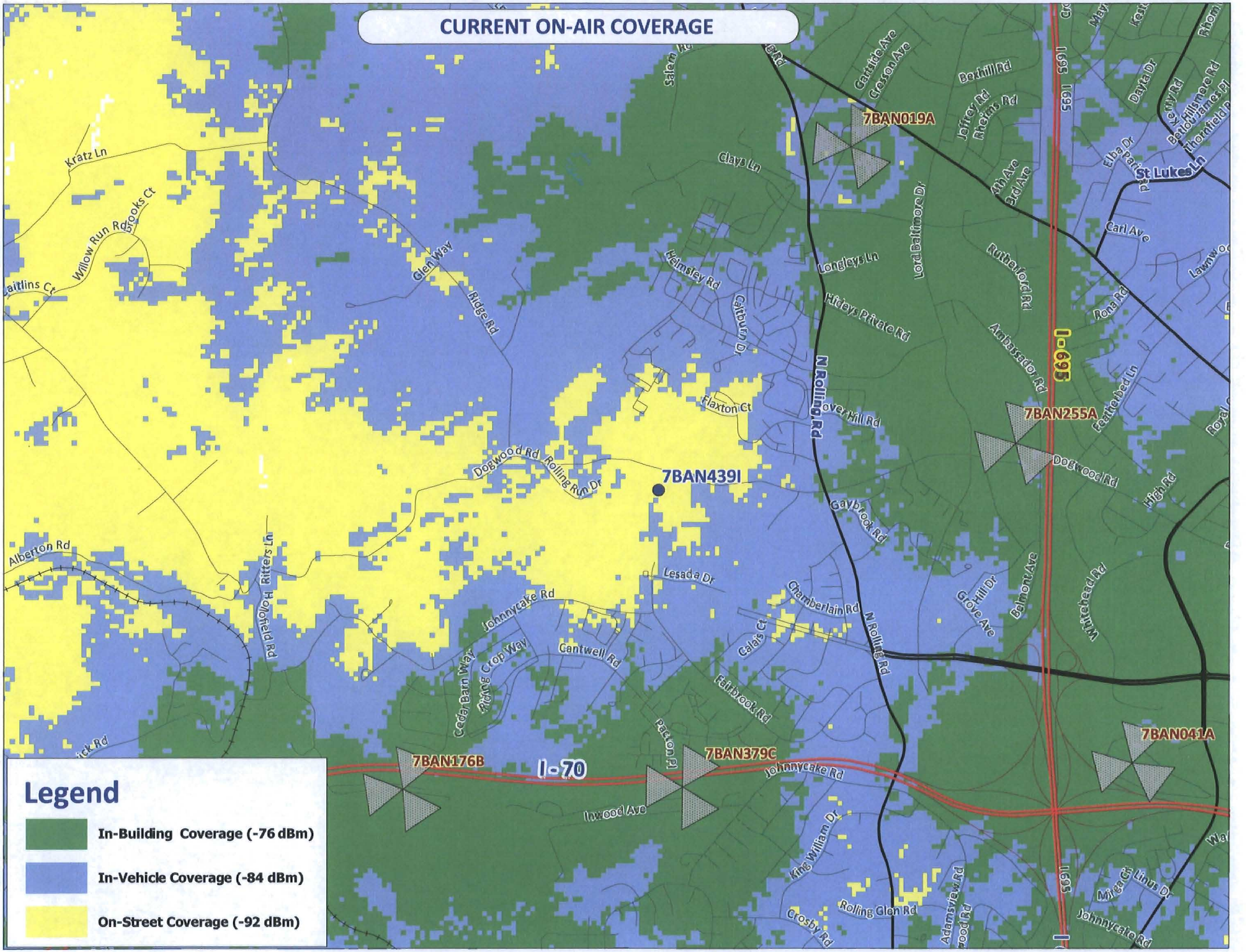
1. Drive test data analysis using TEMS and OptPCS.
2. Voice and Data Traffic Planning and Analysis.
3. Provided technical support in City Council and Zoning Hearings.
4. Planning and designing sites in the Washington Metro area and coordinating all activities to make sites on-air.
5. Design of cell split sites to offload high traffic sites and infill sites for low coverage areas.
6. Design Review Presentation for the senior management.
7. Candidate site selection, ranking and evaluation.
8. Coordination and assistance in defining low coverage areas.
9. Preparation of search rings.
10. Provided technical support in zoning hearings, planning commission hearings and neighbourhood / pre-zoning meetings.
11. Neighbor List Assignment, Frequency Plan Review, Interference Analysis.

RF Engineer, Solutions Group (Apr '06-Jul '07 and Oct '07 - Nov '07)

1. Post-Processed and Analyzed GSM and CDMA Drive-test Data collected using TEMS, DTI, Agilent,
Wider using OptPCS, OptiCP, Mapinfo, TEMS Investigation and Wind Tunnel.

1. Performed Neighbor/Interferer Analysis using OptPCS based on TTS Spectral Efficiency Guidelines to identify top offenders in the market.
2. Recommended Parameter Changes to the Market RF Team based on the Drive Data.
3. Prepared Presentation/Project Document for the Management/RF Team in the market at the end of the project, outlining the process followed, results obtained, major recommendations based on the drive.

CBA Pet. No. 14


CURRENT ON-AIR COVERAGE
7BAN019A
7BAN255A
7BAN439I
7BAN176B
7BAN379C
7BAN041A
I-70
I-695
Legend
In-Building Coverage (-76 dBm)
In-Vehicle Coverage (-84 dBm)
On-Street Coverage (-92 dBm)
Kratz Ln
Willow Run Rd
Brooks Ct
Glen Way
Ridge Rd
Clays Ln
Helmsley Rd
Catbury Dr
Longleys Ln
Hidey Private Rd
Lord Baltimore Dr
Rutherford Rd
Ambassador Rd
N Rolling Rd
Flaxton Ct
Dogwood Rd
Rolling Run Dr
Alberton Rd
Ritters Ln
Holtsford Rd
Lesada Dr
Johnnycake Rd
Chamberlain Rd
Gaybrook Rd
Grove Hill Dr
Belmont Ave
Whitehead Rd
Calais Ct
Cantwell Rd
Cedar Barn Way
Rising Crop Way
Patton Pl
Fallbrook Rd
Inwood Ave
King William Dr
Rolling Glen Rd
Crosby Rd
Adamsview Rd
Mega Ct
Linns Dr
Carlisle Ave
Grason Ave
Bedhill Rd
Jeffrey Rd
Rhoads Rd
Davia Dr
Elba Dr
St Lukes Ln
Carl Ave
Pona Rd
Featherbed Ln
High Rd
Salem Rd

CBA REG. NO. 15

DMW

DAFT McCUNE WALKER INC

MITCHELL J. KELLMAN
DIRECTOR OF ZONING SERVICES

Education

Towson University, BA, Geography and Environmental Planning, Urban Planning

Towson University, Masters, Geography and Environmental Planning, Urban Planning

Professional Summary

Mr. Kellman has over 11 years of experience working in zoning administration and subdivision regulation for the public sector; 9 of those years were with the Baltimore County Office of Planning and Zoning. His responsibilities included review, approval and signatory powers on behalf of the Director of Final Development Plans and Record Plats. He represented the Zoning Office on the County Development Review Committee, a body reviewing the procedural compliance of all development submissions. Review of petitions and site plans filed for zoning hearing approvals were within his authority. Additionally, he supervised county review staff, met with professionals and public on development project matters, and made determinations regarding developments and their compliance with county regulations. In working for DMW, he has extensive experience in testifying before the Baltimore County Zoning Commissioner, Hearing Officer, and Board of Appeals. He also regularly represents the company at the Baltimore County Development Review Committee meetings.

Partial List of Projects

Charlestown Retirement Community, Baltimore County, MD

GBMC, Baltimore County, MD

Goucher College, Baltimore County, MD

Hopewell Point, Baltimore County, MD

Notre Dame Preparatory School, Baltimore County, MD

Oakcrest Village Retirement Community, Baltimore County, MD

Sheppard and Enoch Pratt Hospital, Baltimore County, MD

Waterview, Baltimore County, MD

Professional Experience

Daft-McCune-Walker, Inc., Towson, MD: 2000-Present

Baltimore County Office of Permits and Development Management - Development Control, 1988-2000

CBA Pet. No. 16

Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 5, 2003

Thomas J. Hoff, Inc.
406 West Pennsylvania Avenue
2nd Floor
Towson, Maryland 21204

Dear Hoff:

RE: Easter Seals Adult Day Care, 7301 Dogwood Road, 1st Election District

Your letter to Mr. Arnold Jablon of January 28, 2003 regarding the above referenced matter has been referred to me for reply. I have met with Mr. Carl Richards, Zoning Supervisor concerning this matter, and he has advised that the proposed expansion to be utilized for Adult Day Care is within the Spirit and Intent of the prior Special Exception case (86-354-XSPH) and that the addition can proceed to building permit for review.

Should you have any questions regarding the above, I may be reached at 410-887-3391.

Sincerely,

Joseph C. Merray
Planner II
Zoning Review

Pet Ex #11

Printed with Soybean Ink on Recycled Paper

CBA Pet. No. 17