



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item #

11/15/2007

MEMORANDUM: SPECIAL EXCEPTION

DATE: October 29, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Ralph Wilson, Zoning Supervisor, Development Review Division *RW*

FROM: Damon B. Orobona, Zoning Analyst, Development Review Division *D.B.O.*

SUBJECT: **Special Exception No. 2709: T-Mobile Northeast, LLC, and West Hillandale Swim Club, Inc.** Request for a special exception to permit a wireless telecommunications facility, R-90 zone, 915 Schindler Drive, Silver Spring, Maryland.

FILING DATE: July 17, 2007
PLANNING BOARD: November 15, 2007
PUBLIC HEARING: December 3, 2007

STAFF RECOMMENDATION:

1. Approve the Telecommunications Facility Special Exception with a Condition for a Stealth Flagpole Design

The monopole will substantially contribute to the cellular coverage in an area that is in need of improved service. Although a 120 foot tower will create some visual impact no matter where it is proposed, the applicants in this petition have taken important steps to reduce the tower's visual impact on nearby homes by placing it in an area bordered by substantial vegetation and maintaining extensive setbacks from single-family homes. The two institutional uses adjacent to the property to the south and west further buffer the monopole from residential homes in the respective directions. Designing the monopole as a stealth flagpole as recommended by Staff will further reduce visual impacts and help protect the character of the surrounding neighborhood.

SUMMARY OF REPORT:

Site Size and Location: The property's address is 915 Schindler Drive, Silver Spring, Maryland. The site is 4.81 acres and is generally located west of New Hampshire Avenue, east of Colesville Road, and north of the Capital Beltway.

Current Zone and Use: The site is zoned R-90 and is developed with a community swimming pool.

Proposed Zone and Use: The R-90 zoning will be retained as will the existing community swimming pool. The proposal is to add a telecommunications facility to the site, which is allowed by special exception in the R-90 zone.

Need for Monopole: The Montgomery County Tower Committee reviewed the proposal and found that there is a need for more adequate cellular service in the subject neighborhood and surrounding area.

Master Plan Consistency: The project is not inconsistent with the goals and objectives of the 1997 *White Oak Master Plan*.

Traffic Impact: The project will not have any substantial impact on traffic in the area because the use will require only one or two maintenance visits per month.

Zoning Ordinance: The proposal meets all of the standards and regulations set forth in the Montgomery County Zoning Ordinance relating to a telecommunications facility. Of particular importance is the applicants' request for a 79 foot setback reduction under §59-G-2.58(a)(1)(d), which allows such a reduction if the monopole is to be located in a less visible location. Staff recommends granting the requested reduction because this will allow the monopole to be buffered by vegetation and substantially increase the setback from the nearest single-family homes.

TABLE OF CONTENTS

I.	Summary of the Petition	3
II.	Relevant Facts and Findings	3
	A. Subject Property and Neighborhood	3
	B. Master Plan	6
	C. Proposed Use	6
	D. Need for the Proposed Facility	7
	E. Impact of the Proposed Facility on the Neighborhood	9
	F. Community Involvement in Petition	13
III.	Zoning Ordinance Analysis	13
	A. Inherent and Non-inherent Adverse Effects	13
	B. General Conditions Precedent to Approval of Use	15
	C. Specific Conditions Precedent to Approval of Use	19
IV.	Staff Recommendation	23
V.	Attachments	24
	1. Location/Vicinity Map	25
	2. Site Plan	26
	3. Community-based Planning Internal Memorandum	27
	4. Environmental Planning Internal Memorandum	28
	5. Transportation Planning Internal Memorandum	29
	6. Development Review Internal Memorandum	31
	7. Tower Committee Minutes for March 7, 2007	32
	8. Community Letters	35

I. SUMMARY OF THE PETITION

Petition No. S-2709, filed July 17, 2007, seeks a special exception, pursuant to § 59-G-2.58 of the Montgomery County Zoning Ordinance (“Zoning Ordinance” or “Code”), to permit an unmanned, wireless telecommunications facility and 120 foot monopole at 915 Schindler Drive, Silver Spring, Maryland. The subject property is in the R-90 zone¹, which allows a telecommunications facility by special exception.² A community swimming pool is already operating at the site under Special Exception CBA-1193, which will need to be modified to reflect the proposed special exception for the telecommunications facility.

The Montgomery County Board of Appeals (“Board of Appeals”) has scheduled a public hearing date for this matter on November 15, 2007. The public hearing will be held by a hearing examiner in the Office of Zoning and Administrative Hearings (“Hearing Examiner”). However, the Montgomery County Planning Board (“Planning Board”) first executes a *de novo* review of all special exception petitions for a telecommunications facility use before the Hearing Examiner’s public hearing.³

Technical staff at the Maryland-National Capital Park and Planning Commission (“Staff”) has reviewed the petition and recommends approval of the special exception subject to conditions.

II. RELEVANT FACTS AND FINDINGS

A. Subject Property and Neighborhood

The subject property is located at 915 Schindler Drive, Silver Spring, Maryland. The property is owned by co-applicant, West Hillandale Swim Club,

¹ See Zoning Map in Attachment 1.

² § 59-C-1.31

³ § 59-A-4.128.

Inc., which has operated a community swimming pool at the site since 1962 under special exception CBA-1193.⁴

The property consists of approximately 4.81 acres and is improved with a community swimming pool facility and parking lot. The site is generally rectangular in shape and has a gentle upward slope. There is approximately 250 feet of street frontage along Schindler Drive. The following photograph illustrates the property's existing conditions.

Swim Club Façade



The neighborhood that surrounds the subject property is bound by West Nolcrest Drive and Harper Road to the north, Cresthaven Drive to the east, LaGrande Road to the south, and Northwest Branch Park to the west. The entire neighborhood is classified under the R-90 zone. Staff has defined the boundaries of the neighborhood to include the neighbors who may be most affected by possible visual impacts. No traffic impacts were taken into consideration in defining the neighborhood boundary because the proposed use

⁴ The existing special exception on site will need to be modified to reflect the proposed special exception for the telecommunications facility. The co-applicants have also applied for the necessary modification.

will generate only minimal traffic. As defined, the neighborhood consists of single-family detached dwelling units, two institutional uses, and one special exception. The two institutional uses are Cresthaven Elementary School and Francis Scott Key Junior High School. As previously mentioned, the existing special exception is the West Hillandale Swim Club itself. No other special exceptions exist within the neighborhood boundaries (as defined in orange on the map below).

Neighborhood Boundary



B. Master Plan

The property is located within the area covered by the 1997 *Approved and Adopted White Oak Master Plan*. The Master Plan shows the existing swim club property on land recommended for single-family residential development under the R-90 zone. The following general guidance is given to evaluate a proposed special exception: "Evaluate new requests for special exception uses and their impact on the character and nature of the residential neighborhoods in which they are proposed." This standard is already codified and is examined for any special exception request under Zoning Ordinance § 59-G-1.21(4).⁵ The Master Plan gives no specific guidance regarding how to assess a proposed telecommunication facility special exception, nor does it give any guidance on whether to allow a special exception application on a site with an already existing special exception (as in the instant case).⁶

Staff concludes that because the Master Plan recommends the R-90 zone for this neighborhood, and because the R-90 zone allows a telecommunications facility by special exception, the proposed use is not inconsistent with the goals and objectives of the *White Oak Master Plan*.

C. Proposed Use

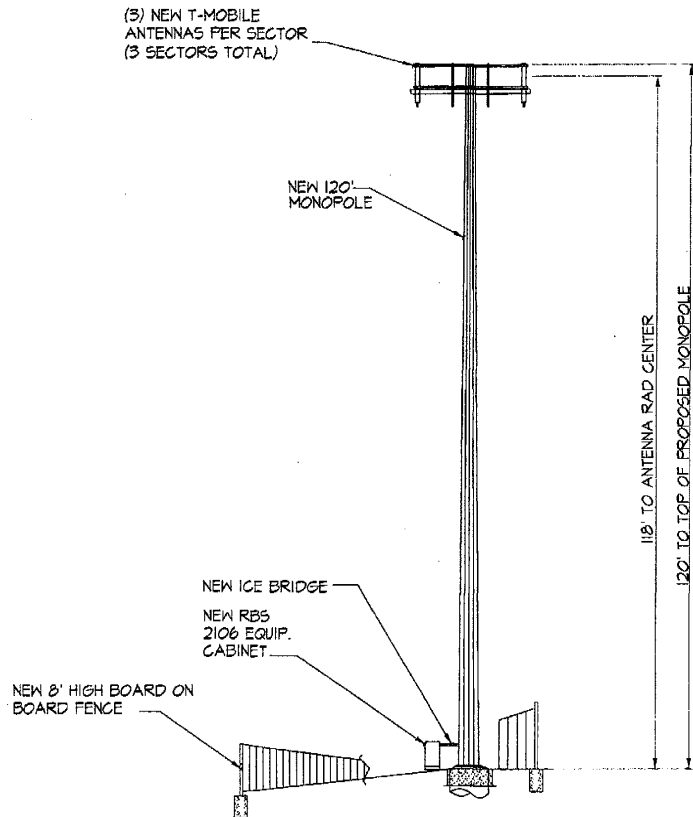
The proposed use is an unmanned wireless telecommunications facility with nine panel antennas mounted to a 120 foot monopole. The proposed antennas measure approximately 59 inches high, 12 inches wide, and 6 inches deep, and will be attached to the monopole at the 118 foot level. All antennas will be painted to match the proposed monopole. A 2,500 square foot equipment compound will also be constructed at the base of the monopole containing three equipment cabinets and other ancillary equipment. The equipment compound

⁵ See section III.B. of this report for this analysis (General Conditions Precedent to Approval of Use).

⁶ See Community-Based Planning Memorandum in Attachment 3.

will be surrounded by an eight foot tall wooden fence. Although the facility will be unmanned, it will be in continuous operation 24 hours per day. The only visits to the site will be for emergency repairs or regularly scheduled maintenance visits one or two times per month. The tower will be constructed to house two additional co-locators.

Monopole Elevation

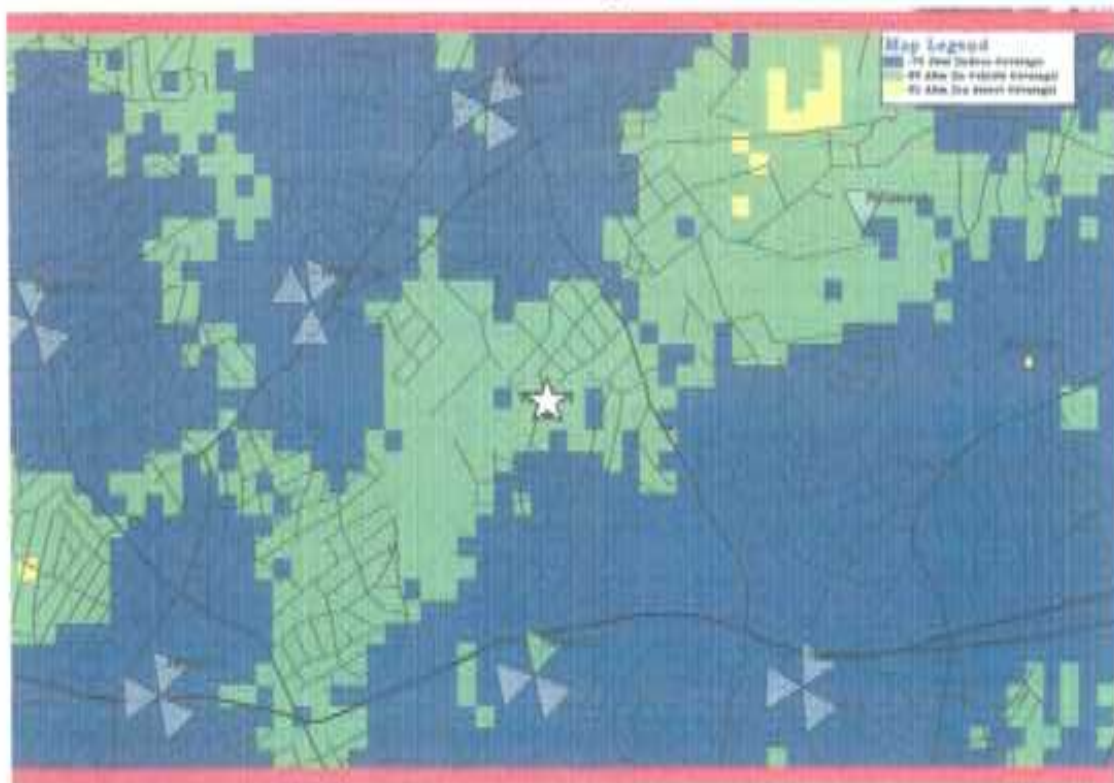


D. Need for the Proposed Facility

Zoning Ordinance § 59-G-2.58(a)(12) requires the Planning Board to make a separate, independent finding as to the need of the proposed telecommunication facility even though the petition has already been reviewed by the Montgomery County's Transmission Facilities Coordinating Group ("Tower Committee").

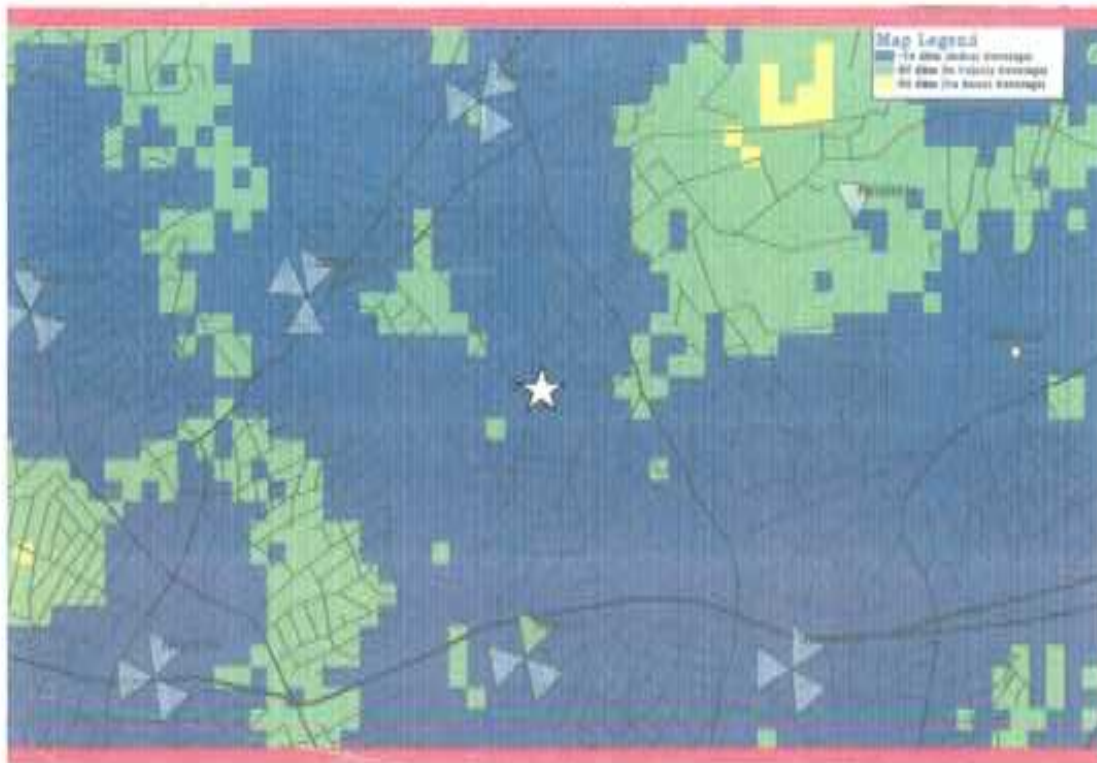
On March 7, 2007 the Tower Group heard T-Mobile's application for monopole construction on the West Hillandale Swim Club property.⁷ During the proceedings the Tower Committee discussed testing results and coverage maps that illustrated whether a monopole would be needed at this particular location to provide adequate coverage for cellular users. The Tower Committee decided that the necessary coverage objectives could be met with the placement of a 120 foot monopole structure at the West Hillandale Swim Club site. Based on the applicants' submitted materials, Staff also recommends that there is a need for the proposed facility at the subject site. The following coverage maps show the current levels of coverage in the area and the anticipated coverage levels once the proposed monopole is operational. Yellow areas indicate minimal coverage, green areas represent reasonable coverage inside an automobile, and blue areas represent good indoor coverage. The star represents the proposed tower placement.

Current Coverage in Area



⁷ Application # 200610-10.

Projected Coverage in Area



Although the Tower Committee ultimately rejected the applicant's proposal, the Committee specifically stated that the basis for denial was solely due to the proposed tower not meeting the telecommunications facility special exception setback standard in the Zoning Code. The Tower Committee did not consider whether the setback reduction provision allowed in the Code would be appropriate. The Committee further stated that although the proposed placement of the monopole minimizes visual impacts, it is not within the authority of the Committee to recommend a setback reduction because this area falls under the purview of the Board of Appeals.

E. Impact of the Proposed Facility on the Neighborhood

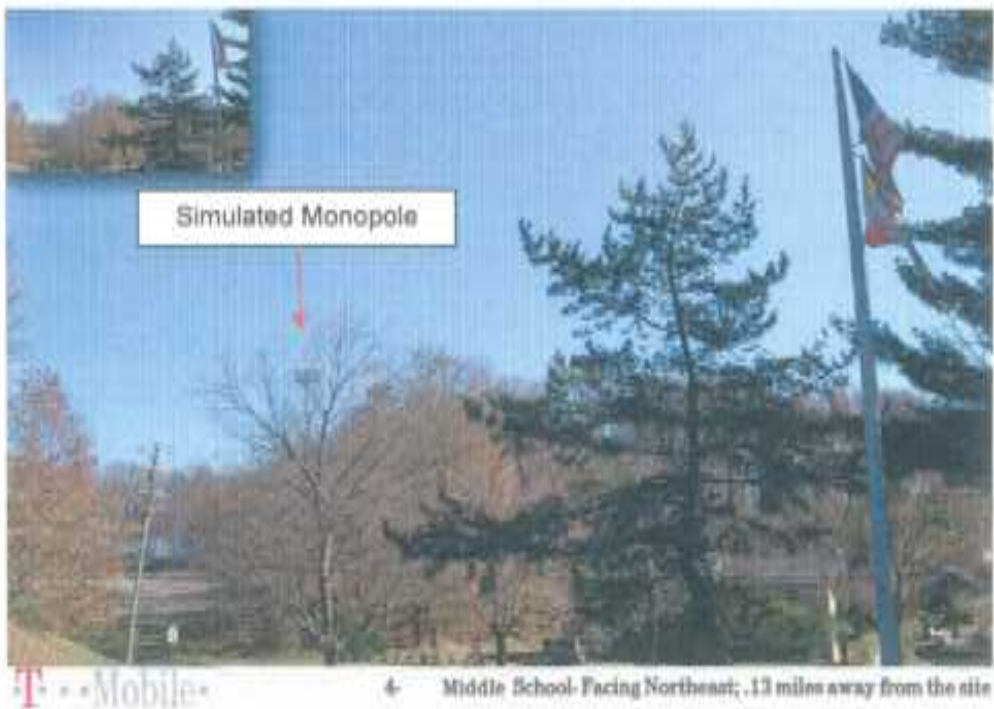
The applicants have composed photographic simulations of the proposed monopole from locations around the site to give a visual assessment of the post-

construction view. Two of the submitted photographic simulations are reproduced below.

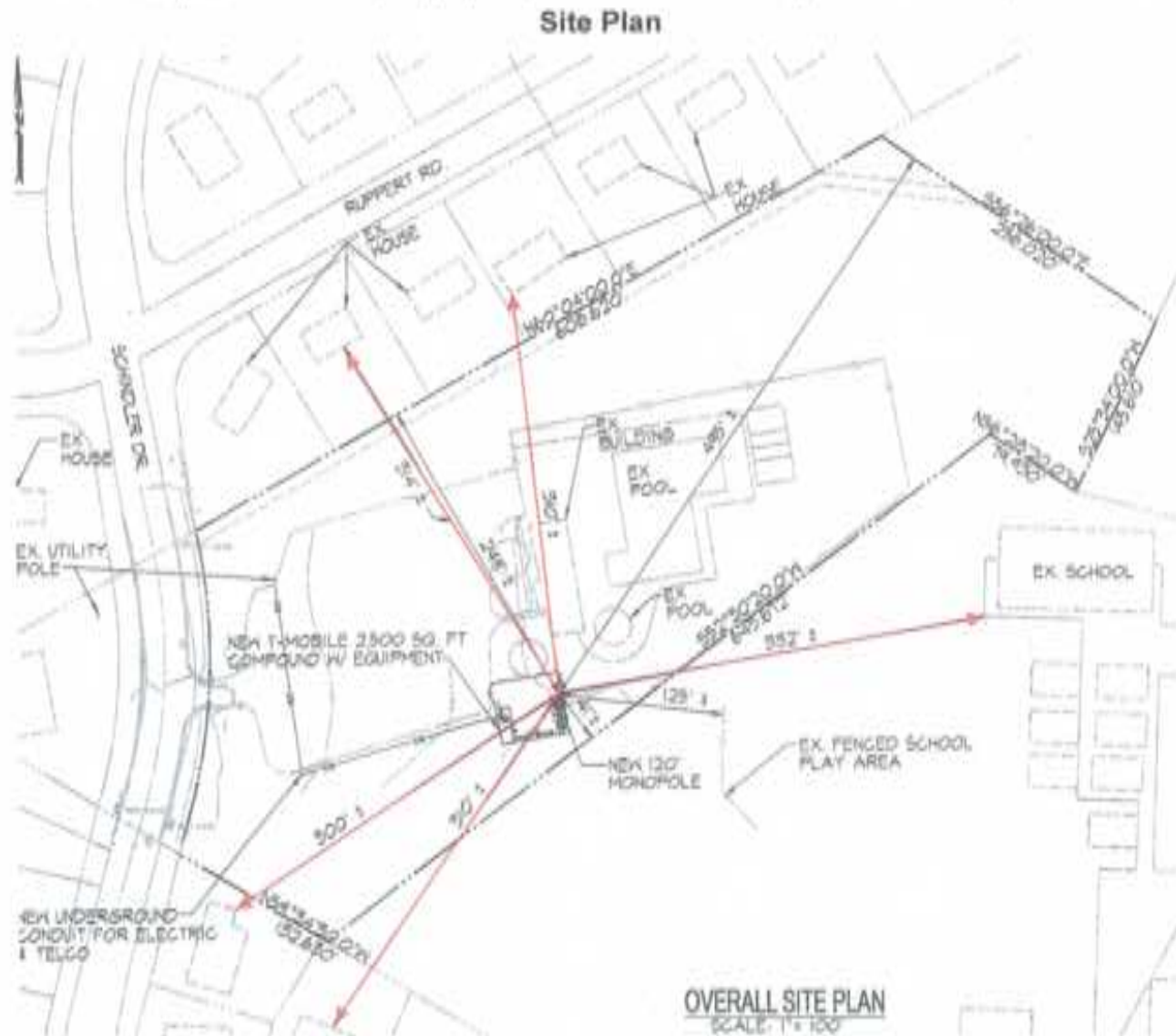
Photo Simulation from Schindler Road



Photo Simulation from the Nearby Middle School



As represented from the simulations, the proposed facility will be substantially visible only to those who are practically on the grounds of the subject site. The site's natural terrain and vegetation and the selected location of the monopole on the subject property minimizes the monopole's visual impact.



As located, the substantial forested land on the subject site and adjacent elementary school site to the south will obscure views to single-family homes located to the south and east of the monopole. The proximity of the school site

to the south is not considered an incompatible arrangement as monopoles and other tall poles are often located on school property.⁸

Another public school is located to the west, and to some extent buffers the visual impact of the tower in that direction. Additionally, the closest single-family home is at least 300 feet away from the monopole in the western direction, lowering visual impact by way of distance. To the north, the tower is located 310 feet away from the nearest single-family home. It should be noted here that 300 feet is the appropriate distance as established by zoning regulation to buffer a monopole's visual impact from adjacent single-family homes.⁹

To further minimize the visual impact to the immediate community, Staff recommends conditioning approval of the use on the applicants' designing the monopole in the form of a stealth flagpole. This will eliminate the large apparatus located on top of the monopole as exhibited in the elevation drawing on page seven and as displayed in the photographic simulation and will better protect the character of the neighborhood. With the above reasoning, Staff believes that the proposed monopole will not have an unacceptable visual impact on the neighborhood.

No lighting or sound will be associated with the telecommunications facility. The only sign will be the small two square foot warning sign as required by zoning regulation.¹⁰ All needed utilities are already on site. No substantial increase in traffic is associated with the use or its operation.¹¹ The applicants asserts that the use may also facilitate decreased response time of emergency teams and assist safety and improved traffic flow.

One other area of concern needs to be mentioned. Members of the community have raised issues of health effects and the radio waves generated by telecommunications facilities. However, the Federal Communications Commission ("FCC") regulates radio frequency exposure on a federal level and

⁸ There are currently ten monopoles that have been allowed on Montgomery County Public School sites. Two of these monopoles have been approved on elementary schools.

⁹ § 59-G-2.58(a)(2)(a).

¹⁰ § 59-G-2.58(a)(8).

¹¹ See Transportation Planning Memorandum at Attachment 5.

local government officials are prohibited from denying a telecommunications use based on health concerns as long as the facility complies with federal law.¹²

F. Community Involvement in Petition

There has been a great deal of community involvement in the proposed telecommunications facility on the West Hillandale Swim Club site. Approximately 90 form letters voicing community support have been received by Staff to date. Many of these letters are from members of the Swim Club itself. A copy of the form letter is attached to the end of this staff report. Additionally, Staff has received intermittent emails from concerned citizens regarding the proposed monopole. These emails are also attached.

III. ZONING ORDINANCE ANALYSIS

A. Inherent and Non-inherent Adverse Effects

The standard of evaluation for a special exception use requires consideration of the inherent and non-inherent adverse effects on the location, vicinity, and general neighborhood where the use is proposed.¹³ Inherent adverse effects are the harmful effects caused by the physical and operational characteristics necessarily associated with the particular use irrespective of the size or scale of operations.¹⁴ Non-inherent adverse effects are any harmful effects caused by physical and operational characteristics not necessarily inherently associated with the particular special exception use, or adverse effects created by unusual characteristics of the site.¹⁵

Any analysis of inherent and non-inherent adverse effects must first establish what physical and operational characteristics are necessarily

¹² See the Telecommunications Act of 1996, codified at 47 USC § 332(c)(7)(B)(iv).

¹³ § 59-G-1.2.1.

¹⁴ *Id.*

¹⁵ *Id.*

associated with a particular special exception use. As established by precedent, the following are the inherent physical and operational characteristics necessarily associated with a telecommunications facility use: (1) The existence of an equipment platform, equipment cabinets, monopole tower, and antennas within a defined compound that makes up the telecommunications facility; (2) visual impacts associated with the height of the telecommunications facility; and (3) the emission of radio frequency waves from the monopole itself.

Any adverse effects of the proposed accessory apartment that are raised by the above characteristics are considered inherent adverse effects. Alone, they are not sufficient to constitute a denial.¹⁶ On the other hand, adverse effects that are raised and are inconsistent with the above characteristics are considered non-inherent adverse effects, which may be sufficient to result in the denial of the special exception application.¹⁷

In the instant case, there are no adverse effects that will negatively impact the community above and beyond those necessarily inherent to a telecommunications facility. The applicants assert that the tower will comply with all FCC regulations relating to radio frequency emissions, bringing the facility within the federal standards that were promulgated to ensure safety with these types of uses. The proposed telecommunications facility can only be said to have a visual impact on the neighborhood because the facility will be noiseless, unmanned, and require only occasional servicing. Visual impact will also be minimized because the telecommunications facility will be set back significantly from the nearest dwelling units and will be adequately buffered by natural terrain. Additionally, a flagpole design has been recommended by Staff to further reduce visual impact. There are no unusual characteristics associated with the subject site.¹⁸

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ It has come to Staff's attention that neighboring Crethaven Elementary will be undergoing a modernization redevelopment and the elementary school building may be relocated closer to the pool's southern property line and possibly within the 300 foot setback standard established for a telecommunications facility. Although the school's potential relocation could be argued to be an unusual characteristic for this particular site, two points must be made: First, a school does not fall within the category of an off-site dwelling unit as protected by the 300 foot setback regulation.

As long as all conditions of approval are met, the operational and physical characteristics of the proposed telecommunications facility are consistent with the inherent characteristics of a telecommunications facility use. There are no non-inherent adverse effects present in this case.

B. General Conditions Precedent to Approval of Use

§ 59-G-1.21. General Conditions.

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

Analysis: A telecommunications facility is a permissible special exception use in the R-90 zone pursuant to § 59-C-1.31.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

Analysis: The proposed use complies with the specific regulations set forth in § 59-G-2.58 for a telecommunications facility. See section III.C. *infra* for analysis.

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be

Second, the school's modernization plan has not been finalized and therefore Staff cannot take the possible school relocation into consideration when analyzing this special exception petition.

inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

Analysis: The subject property is subject to the 1997 *Approved and Adopted White Oak Master Plan*. The Master Plan does not directly address telecommunications facilities in this area of the County. However, the Master Plan does recommend the R-90 zone for the Swim Club property, and this zoning allows telecommunications facilities by special exception. Therefore, it follows that the proposed telecommunications facility is not inconsistent with the goals and objectives of the *White Oak Master Plan*.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

Analysis: Large setbacks and natural terrain help protect the character of the surrounding neighborhood. Also, Staff has recommended that the monopole be designed as a flagpole to further bring the monopole into harmony with its surroundings. There will be no significant impact on traffic or parking as the proposed low intensity use will only require on-site personnel for emergencies or regularly scheduled maintenance visits once or twice a month. No similar uses exist within the defined neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: There is no evidence to support a finding that the proposed monopole at the subject site will be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties and neighborhood because the plan calls for large setbacks and there is a natural terrain that helps buffer the monopole. Additionally, if the monopole is designed as a flagpole as

recommended, the detrimental visual impacts associated with the use will be minimal. Again, no noise, traffic, or lighting will be present with the use.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: The facility will not be illuminated. There will not be any noise, vibrations, or fumes associated with the telecommunications facility.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

Analysis: There are no other special exceptions in the defined neighborhood (except the community swimming pool special exception that currently operates on the subject property). The proposed special exception will not substantially increase the scope or intensity of special exception uses in the area. Designing the monopole as a stealth flagpole will also help preserve the residential nature of the area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

Analysis: There are no non-inherent adverse effects associated with the proposal. The only potential adverse effect will be visual impact, which will be minimized with large setbacks, natural terrain, and the recommended flagpole design for the monopole. As discussed *supra*, 47 USC § 332(c)(7)(B)(iv) states that so long as the facility complies with FCC regulations, no local governmental

entity may regulate telecommunications facilities based on concerns regarding radio frequency emissions.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.
 - (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.
 - (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

Analysis: The subject site is adequately served by public facilities. The proposed use, by its nature, does not require water or sewer services. A preliminary plan of subdivision is not needed for the subject property.

Public facilities review must include analysis of the Local Area Transportation Review ("LATR"). Transportation Planning Staff reviewed the special exception application and concluded that because the proposed use will require only one or two service trips per month and generally no peak-hour trips will be generated, the impact on traffic will be negligible.¹⁹ Therefore, an LATR traffic study is not required for this application.

¹⁹ See Transportation Planning Memorandum at Attachment 5.

C. Specific Conditions Precedent to Approval of Use

§ 59-G-2.58. Telecommunications Facility.

- (a) Any telecommunications facility must satisfy the following standards:
 - (1) A support structure must be set back from the property line as follows:
 - a. In agricultural and residential zones, a distance of one foot from the property line for every foot of height of the support structure.
 - b. In commercial and industrial zones, a distance of one-half foot from property line for every foot of height of the support structure from a property line separating the subject site from commercial or industrial zoned properties, and one foot for every foot of height of the support structure from residential or agricultural zoned properties.
 - c. The setback from a property line is measured from the base of the support structure to the perimeter property line.
 - d. The Board of Appeals may reduce the setback requirement to not less than the building setback of the applicable zone if the applicant requests a reduction and evidence indicates that a support structure can be located on the property in a less visually obtrusive location after considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, if any, and visibility from the street.

Analysis: The proposed monopole is 120 feet tall. Therefore, a 120 foot setback from the base of the monopole to all property lines is required under subsection (a) and (c). As proposed, the monopole is set back 249 feet, 495 feet, and 270 feet, respectively, from the northern, eastern, and western property lines. However, the pole is set back only 41 feet from the southern property line. Therefore, the applicant has requested a setback reduction of 79 feet. Subsection (d) allows for a reduction of the 120 foot setback requirement down to the applicable setback given for *buildings* in the R-90 zone (in this case, 8 feet for

a side *building* setback) if the monopole can be located in a position that makes it less visually obtrusive.²⁰

Staff recommends granting the requested reduction for the southern setback to minimize visibility of the monopole from the nearby single-family homes to the north. As represented in the photographic simulations earlier in the report, there is little visual impact with the monopole at its proposed location given the natural terrain and large distances to neighboring structures. Even though the setback is only 41 feet from the southern property line, the southern neighbor is the Cresthaven Elementary school site owned by Montgomery County. The property line separating the monopole site and the school site is heavily wooded, making placement close to the southern property line ideal to lessen the monopole's visual impact. Despite the monopole being only 41 feet from the school property line, the school building itself is approximately 332 feet away from the base of the monopole.²¹ In the instant case, the 41 foot setback provided will still be much greater than the 8 foot side *building* setback normally required under the R-90 zone.

- (2) A support structure must be set back from any off-site dwelling as follows:
 - a. In agricultural and residential zones, a distance of 300 feet.
 - b. In all other zones, one foot for every foot in height.
 - c. The setback is measured from the base of the support structure to the base of the nearest off-site dwelling.
 - d. The Board of Appeals may reduce the setback requirement in the agricultural and residential zones to a distance of one foot from an off-site residential building for every foot of height of the support structure if the applicant requests a reduction and evidence indicates that a support structure can be located in a less visually obtrusive location after

²⁰ Although every zoning regulation is promulgated with the health, safety, and welfare of the community in mind, the framer's intent for §59-G-2.58(a)(1)(d) appears to have been to give flexibility to allow monopole positioning that reduces visibility. Subsection (a)(1)(d) specifically instructs the factfinder to consider the height of the monopole, the topography and vegetation of the surrounding area, and the visibility of the monopole from nearby residential properties and streets. No guidance is given to instruct the reviewer regarding any safety measures.

²¹ As previously mentioned, there is currently an issue regarding the school's modernization plan, but Staff cannot consider a tentative development plan on a special exception application.

considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, and visibility from the street.

Analysis: The subject application is in a residential zone, so the 300 foot setback requirement applies. The proposal satisfies this requirement as the facility will be located at least 300 feet from the nearest off-site dwelling units.

- (3) The support structure and antenna must not exceed 155 feet in height, unless it can be demonstrated that additional height up to 199 feet is needed for service, collocation, or public safety communication purposes. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection pursuant to the building permit, the applicant must certify to the Department of Permitting Services that the height and location of the support structure is in conformance with the height and location of the support structure as authorized in the building permit.

Analysis: The support structure and antenna will be 120 feet in height. Therefore, the proposal satisfies this regulation.

- (4) The support structure must be sited to minimize its visual impact. The Board may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and adjoining and nearby residential properties. The support structure and any related equipment buildings or cabinets must be surrounded by landscaping or other screening options that provide a screen of at least 6 feet in height.

Analysis: As previously mentioned, the proposed facility will be located in an area chosen to reduce any visual impact upon the surrounding residential community. Additionally, Staff has recommended designing the monopole as a stealth flagpole to help the use blend in with the residential area and further lessen visual impact. The photographic simulations provided demonstrate that the proposed tower will not have an unacceptable visual impact on the neighborhood.

- (5) The property owner must be an applicant for the special exception for each support structure. A modification of a telecommunications facility special exception is not required for a change to any use within the special exception area not directly related to the special exception grant. A support structure must be constructed to hold no less than 3 telecommunications carriers. The Board may approve a support structure holding less than 3 telecommunications carriers if: 1) requested by the applicant and a determination is made that collocation at the site is not essential to the public interest; and 2) the Board decides that construction of a lower support structure with fewer telecommunications carriers will promote community compatibility. The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with the telecommunication facility for all the carriers.

Analysis: The property owner, West Hillandale Swim Club, Inc., is a co-applicant. The facility will be capable of supporting three telecommunications carriers.

- (6) No signs or illumination are permitted on the antennas or support structure unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.

Analysis: No signs or illumination are proposed except for the two square foot sign required by subsection (8) below.

- (7) Every freestanding support structure must be removed at the cost of the owner of the telecommunications facility when the telecommunications facility is no longer in use by any telecommunications carrier for more than 12 months.

Analysis: the applicant understands that the proposed telecommunications facility will be removed from the property within 12 months of cessation of operations as stated by applicants.

- (8) All support structures must be identified by a sign no larger than 2 square feet affixed to the support structure or any equipment building. The sign must identify the owner and

the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership.

Analysis: The required sign will be installed by applicants.

- (9) Outdoor storage of equipment or other items is prohibited.

Analysis: No outdoor storage of equipment is proposed by applicants.

- (10) Each owner of the telecommunications facility is responsible for maintaining the telecommunications facility, in a safe condition.

Analysis: Applicants plan to service the facility on a monthly or bi-monthly basis.

- (11) The applicants for the special exception must file with the Board of Appeals a recommendation from the Transmission Facility Coordinating Group regarding the telecommunications facility. The recommendation must be no more than one year old.
- (12) Prior to the Board granting any special exception for a telecommunications facility, the proposed facility must be reviewed by the County Transmission Facility Coordinating Group. The Board and Planning Board must make a separate, independent finding as to need and location of the facility.

Analysis: A recommendation from the Tower Committee, dated March 7, 2007, was filed with the initial special exception application.

IV. STAFF RECOMMENDATION

Based on the forgoing analysis, Staff recommends that Petition S-2709, for a special exception to permit a telecommunications facility use in the R-90 zone located at 815 Schindler Drive, Silver Spring, Maryland, be granted subject to the conditions stated at the beginning of this report.

V. ATTACHMENTS

1. Location/Vicinity Map
2. Site Plan
3. Community-based Planning Internal Memorandum
4. Environmental Planning Internal Memorandum
5. Transportation Planning Internal Memorandum
6. Development Review Internal Memorandum
7. Tower Committee minutes for March 7, 2007
8. Community Letters

ATTACHMENT 1

Location/Vicinity Map



g:\item\project\map\map\5-2709_schindler.mxd

1" = 400'

Address: 915 Schindler Dr.
Silver Spring, MD

LEGEND

-  S-2709 (T-Mobile)
-  Project Area
-  Parcel Boundary

NOTICE

The positions, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission and may not be copied or reproduced without written permission from MNPCC.

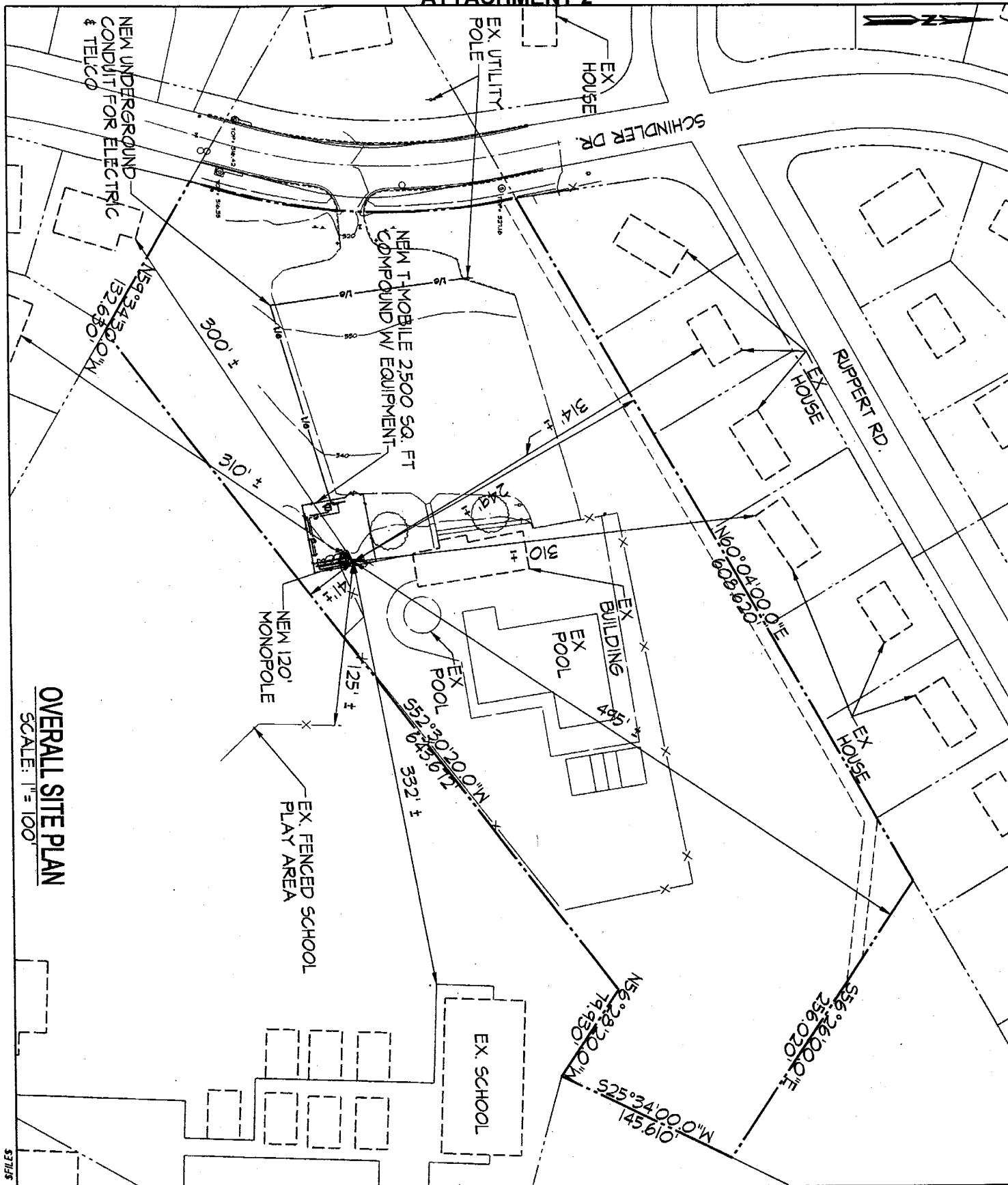
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be considered as exact field surveys. Placement features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within two feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map other than for general planning purposes is not recommended.



Key Map NTS





OVERALL SITE PLAN
SCALE: 1" = 100'

FILES



ENGINEERS
PLANNERS
SCIENTISTS
CONSTRUCTION MANAGERS

14502 GreenMan Drive, Suite 100
Larzel, Maryland 20708
(410) 742-8086 (301) 453-1821
Fax: (410) 742-7414
www.kci.com

T-Mobile Northeast LLC

12050 BALTIMORE AVENUE
BELTSVILLE, MD 20705
(240) 264-8600 FAX: (240) 264-8610

PROJECT:
SITE WAN134G
WEST HILLANDALE
SWIM CLUB
UNMANNED WIRELESS
COMMUNICATION SITE
915 SCHINDLER DRIVE
SILVER SPRING, MD 20903

DRAWING TITLE:
LEASE EXHIBIT

REVISION NO.: B	DRAWN BY: HKS
DATE ISSUED: 04-18-01	CHECKED BY: GT
SCALE: AS NOTED	APPROVED BY: MK
SHEET NO. 1 OF 4	
PROJECT NO.: 16042450.B2	

Orobona, Damon

From: Barron, Bill
Sent: Tuesday, October 09, 2007 2:05 PM
To: Orobona, Damon
Subject: RE: Comments for S-2709 (T-Mobile) Special Exception

The site for this Special Exception is covered by the Approved and Adopted White Oak Master Plan ,dated 1997. The Plan shows the existing swim club as "single family residential" land use and reconfirms the R-90 Zoning. The Plan does not provide any specific land use guidance for a new special exception (the cell tower) on an existing special exception (the swim club). The Plan makes the following general recommendation:

- *"Evaluate new requests for special exception uses and their impact on the character and nature of the residential neighborhoods in which they are proposed."*



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

Date: September 25, 2007
To: Damon Orobona, Development Review
Via: Jorge Valladares, P.E., Environmental Planning, Countywide Division
From: Marion Clark, Environmental Planning, Countywide Division
Subject: Board of Appeals Petition No. S-2709
Telecom Tower at 915 Schindler Dr, Silver Spring

Handwritten initials 'M' in a circle and a signature.

Recommendation: Approval

Discussion

The applicant's "Statement of Operations/Justification" notes that "the antennas will be painted to minimize visibility." Painting the antennas is an important first step toward providing good design. Since the monopole will be clearly visible to traffic along Schindler Dr and to the homes along Schindler Ct. and Ruppert Dr., Environmental Planning supports reducing the visual impact.

Forest Conservation

An exemption (42007303E) from submitting a Forest Conservation Plan was granted for the subject site. The exemption was issued because the proposed installation is a modification to an existing property and will not: clear more than 5,000 square feet of forest; affect any forest in a stream buffer; be located on property in a special protection area which submit a water quality plan; require approval of a new subdivision. A Tree Save Plan is not required.

Water Quality

The property lies within the Northwest Branch Watershed "and is the largest of three county watersheds contributing to the regional Anacostia watershed" (CSPS 2003). Stream conditions range from poor to fair throughout most of the watershed. However, there are not any stream valleys or stream buffers that cross through the site.

Environmental Guidelines

The proposed tower lies within the White Oak Master Plan. This site is not within a Special Protection Area or Primary Management Area.



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

October 8, 2007

MEMORANDUM

TO: Damon B. Orobona, Zoning Analyst/Senior Planner
Development Review Division

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning

FROM: Cherian Eapen, Planner/Coordinator *CE*
Transportation Planning

SUBJECT: Special Exception No. S-2709
Proposed Unmanned Wireless Telecommunication Facility
T-Mobile Northeast LLC
915 Schindler Drive, Silver Spring
West Hillandale Swim Club
Fairland/White Oak Policy Area

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject special exception case for the proposed unmanned wireless telecommunications facility at the West Hillandale Swim Club on an R-90 zoned lot.

RECOMMENDATION

Transportation Planning staff recommends no transportation-related conditions to support granting of the subject special exception case. The proposed use will not have an adverse effect on the transportation network.

DISCUSSION

Site Location and Access

The unmanned wireless telecommunications facility is proposed to be located on the West Hillandale Swim Club site within the southeast quadrant of the intersection of Schindler Drive and Ruppert Road. The Swim Club is across from Francis Scott Key Middle School and backs to Cresthaven Elementary School. The pool is open from the Saturday of Memorial Day weekend through Labor Day.

Vehicular access to the site/facility is from Schindler Drive. Schindler Drive is a north-south residential road to the south of New Hampshire Avenue (MD 650), and has a posted speed limit of 25 mph. The roadway has 4-foot wide sidewalks on both sides. Transit services in the area include RideOn Routes 20 and 22 along Schindler Drive, with bus stops in the vicinity of the school.

Master Plan Roadways and Bikeway/Pedestrian Facilities

The Approved and Adopted 1997 *White Oak Master Plan* includes the following nearby master-planned roadway facility:

1. New Hampshire Avenue, as a six-lane major highway (M-12) with 120-feet of minimum right-of-way within the Master Plan boundary. The *Countywide Bikeways Functional Master Plan* recommends a dual bikeway (DB-7) for MD 650 south of Lockwood Drive to the Prince George's County line.
2. Schindler Drive, a north-south two-lane primary residential road (P-14) between New Hampshire Avenue (MD 650) to the north and Crest Park Drive to the south, with 70-feet of minimum right-of-way.

Local Area Transportation Review

A traffic study was not needed for the subject special exception use to satisfy Local Area Transportation Review and for APF purposes because the proposed unmanned wireless telecommunications facility typically will not generate any peak-hour vehicular trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods. The proposed facility would be unmanned and would only require routine inspections or service once or twice a month.

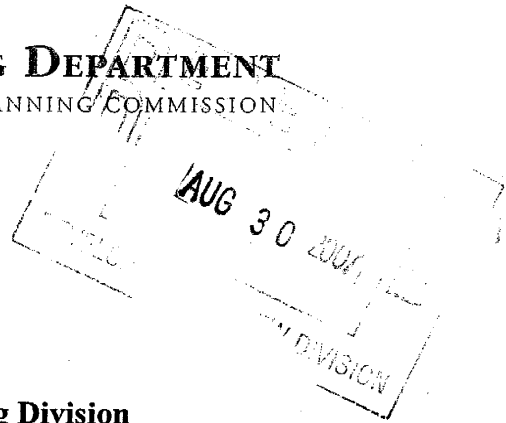
DKH:CE:tc

cc: Barbara Kearney

S-2709 Schindler Dr Monopole.doc



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



MEMORANDUM

DATE: August 29, 2007

TO: John Carter, Division Chief, Community Based Planning Division
Melissa Banach, Strategic Planning Division
Mary Dolan, Environmental Planning Division
Daniel Hardy, Transportation Planning Division
Tanya Schmieler, Park Planning and Development Division
Karl Moritz, Research & Technology Division
Gwen Wright, Historic Preservation Unit
Taslima Alam, Development Review Division
Bill Barron, Community Based Planning Team 6

FROM: Ralph Wilson
Development Review Division

No Comments

PLEASE REPLY TO: Damon Orobona (Note: This case has been reassigned)

SUBJECT: Board of Appeals Petition No. S-2709

Special Exception Request: To permit a telecommunications facility consisting of a 118-foot monopole.
Location: 915 Schindler Drive, Silver Spring **Zone:** R-90

Please assign a person on your staff to review the case cited above. Written comments and recommendations are requested by **Monday, October 1, 2007** for the staff report on this case. Staff may sign case files out of the Development Review Division, briefly, for review.

In addition to any other observations, it would be helpful to have your input on the following:

Community Based Planning: 1) consistency with master plan, 2) whether the special exception will adversely affect the surrounding area, 3) any information or recommendation concerning relevant master planning studies or other government action now under way.

Environmental Planning: 1) environmental impact due to topographic or other factors which may cause problems, 2) conformance with tree preservation legislation of Chapter 22-A of the County Code.

Transportation Planning: traffic impact and adequacy of road network affected by request.

Park Planning & Development: impact on existing or proposed park areas.

Development Review: applicable subdivision requirements.

Text Version

October 30, 2007



Home | Help | Site Map

SEARCH

RESIDENTS

GOVERNMENT

BUSINESSES

CULTURE & LEISURE

How Do I...?

News

County Executive

County Council

Departments

Services (A-Z)

Online Services

County Cable 6

Transportation

Education

Careers

Volunteers

Contact Us



Transmission Facilities Coordinating Group

[TFCG Home](#)

TFCG MEETING MINUTES

03/07/2007

MINUTES OF TFCG MEETING

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications

A meeting of the Transmission Facility Coordinating Group (TFCG) was held on March 7, 2007. The following people were in attendance:

MEMBERS

- Marjorie Williams OCCS (240) 777-3724
- Helen Xu DTS (240) 777-2804
- Mary Pat Wilson MCPS (240) 314-4707
- Carlton Gilbert M-NCPPC (301) 495-5476
- Martin Rookard WSSC (301) 206-8979
- David Niblock DPS (240) 777-6252
- Steve Batterden DPWT (240) 777-6063

STAFF

- Bob Hunnicutt CTC (410) 964-5700
- Carol Watson CTC (410) 964-5700

OTHER ATTENDEES

- Jeremy Schneider T-Mobile
- Vanessa Cooper T-Mobile
- Erin Galvin T-Mobile
- Tom Carroll, Esq. Donohue & Blue
- Jaichamdran Rajan T-Mobile
- Pete Maheridis Clearwire
- Adam Knubel Clearwire
- Bob Posilkin Verizon Wireless
- M.G. Diamond, Esq. Law Offices of M. Gregg Diamond, P.C. (Verizon)

Action Item – Meeting Minutes: David Niblock moved the minutes be approved as written. Steve Batterden seconded the motion and the minutes were unanimously approved.

Consent Applications:

1. Sprint-Nextel application to replace six existing panel antennas with three 53" panel antennas at the 183' level and add six new 48" panel antennas at the 90' level on an existing 190' monopole on Gate of Heaven property located at 13801 Georgia Avenue in Silver Spring (Application #200701-06).
2. FiberTower application to attach one 13" dish antenna at the 65' level of an existing stub tower mounted on the roof of the Silver Spring VFD building located at 111 University Boulevard East in

Motion: David Niblock moved the application be recommended. Martin Rookard seconded the motion and it was approved with Carlton Gilbert abstaining.

→ Action Item: T-Mobile application to construct a new 120' monopole and attach nine 53" panel antennas at the 118' level. The monopole will be located on the West Hillandale Swim Club property located at 915 Schindler Drive in Silver Spring (Application #200610-10).

Carol Watson summarized the application noting that the Tower Coordinator had asked T-Mobile if they would consider disguising the monopole as a tree. T-Mobile replied that they would consider that option if they were asked to do so during the Special Exception process. Ms. Watson summarized the review of the RF analysis noting that when asked why the coverage objective could not be met with antennas at the 80' level, T-Mobile had conducted a drive test and provided those results to the Tower Coordinator. She said that based on her review of the drive test results and the RF maps provided, it appeared that the 120' height of the structure may be needed to meet T-Mobile's coverage needs for this site. However, the Tower Coordinator does not recommend this application because it does not meet setback requirements.

Martin Rookard asked what the distance was from the property line. Ms. Watson stated that the 120' monopole was proposed to be placed only 62' from the side-lot line. Mr. Rookard said he thought that since the site was next to a school and there appeared to be a line of trees between the school and the site, he did not think there would be a problem with not meeting the setback.

Ms. Watson said that T-Mobile had noted in their application that they would request a reduction of the setback during the Special Exception process. Tom Carroll distributed copies of §59-G-2.58 of the Zoning Code noting that the Board of Appeals has the authority to reduce the setback requirements. Bob Hunnicutt added that the reduction would be based on certain conditions also in the Code and read the applicable section from the handout.

Mr. Rookard said he thought that the placement of this monopole at this location on the property was better as far as minimizing the visual impact of the facility in the community.

In response to a question regarding whether or not the nearby residents had been advised of this proposal, Mary Pat Wilson said that she had advised the School Principal about the proposal. The T-Mobile representative stated that T-Mobile had not done any community notice, but said that would be taken care of at the time of the Special Exception review.

David Niblock recommended the application be tabled until the Special Exception had been approved. Mr. Rookard said he thought that would not be appropriate since the Board of Appeals needs a determination from the Tower Group as part of their review of the Special Exception. Carlton Gilbert said he agreed with Mr. Rookard. Mr. Niblock stated he did not think it is in the interest of the TFCG to recommend applications that do not meet Code requirements. Mr. Hunnicutt stated that in the past the TFCG had made recommendations for some monopole sitings that required a Special Exception and conditioned them on obtaining approval for a reduction in the setback. He noted, however, that in recent times applicants have been submitting applications for new structures, many of which required one or more variances from the Code requirements. He said that his understanding from the TFCG now is that if the application does not meet Code requirements, the group was not inclined to recommend the application. He reminded the group that as they had been advised by Cliff Royalty in the past, they can recommend, not recommend, or recommend with conditions. He stated that if the group continues to recommend applications that do not meet Code standards, the standards eventually become meaningless.

Mr. Rookard said that if the reason for the setback is to create a fall zone, since there was a large piece of property next to this site, there would be no harm. Mary Pat Wilson disagreed with Mr. Rookard, and noted that this was school property that is used by children, and that there is a pathway along the boundary between the two properties where children walk.

Mr. Niblock added that there are other reasons in the Code for setbacks other than a fall zone, and to ignore setback is not in the interest of the TFCG.

Mr. Carroll noted that since the Schools accept monopoles on their own property at other locations, it should not be a concern of the group in this case, and argued that the location of this monopole is better than elsewhere on the property. Mr. Hunnicutt noted that based on the site plan, it appeared that if the monopole was placed elsewhere on the property to meet setback, then it would not meet the requirement to be 300' from the nearest dwelling.

Ms. Wilson commented that she believed it is not within the authority of the TFCG to recommend an

application that does not meet setback, as that is the authority of the Board of Appeals. She said she thought the TFCG should review the applications according to the Code requirements.

Motion: David Niblock moved to not recommend the application, noting on the Record of Action form that the reason for this action was based only on the fact that the structure did not meet setback requirements. Helen Xu seconded the motion and it was approved with four voting in favor of the motion, Martin Rookard against, and Mary Pat Wilson abstaining.

Action Item: T-Mobile application to construct a new 100' monopole and install nine 59" antennas at the 97' level of the monopole on Spencerville Methodist Church property located at 2100 Spencerville Road in Spencerville (Application #200702-07).

Carol Watson summarized the application noting that this site is near residential areas from which the monopole and equipment area will be visible. She said she had asked T-Mobile if a stealth design had been considered for this site. She said T-Mobile replied that if the Board of Appeals, Park and Planning Commission, or residents asked for a stealth design during the Special Exception process they would consider it. Ms. Watson added that based on her review of the RF maps, it appeared as though the 100' elevation of the antennas may be necessary to meet T-Mobile's coverage objective.

Marjorie Williams asked about potential use of the steeple on the church. Ms. Watson explained that she had also asked about use of the steeple but T-Mobile replied that the steeple was not structurally capable of supporting the antennas.

Motion: David Niblock moved the application be recommended conditioned on T-Mobile obtaining approval from the Board of Appeals for a Special Exception for the structure. Steve Batterden seconded the motion and it was approved with Carlton Gilbert abstaining.

Discussion Item – Next Meeting: The next meeting of the TFCG is scheduled for Wednesday, April 4, 2007 at 2 p.m. in the second floor conference room #225 of the COB.

Last edited:09/12/2007

[Alert](#) | [Awards](#) | [Privacy Policy](#) | [User Rights](#) | [Accessibility](#) | [Disclaimer](#) | [County Code](#) | [RSS](#) | [Blogs](#)
 Copyright 2002- 2007 Montgomery County Government All Rights Reserved
 Best viewed with IE 5.0 or Netscape 6.0 and higher

ATTACHMENT 8

October 3, 2007

Shawna Garver
10921 Jarboe Court
Silver Spring, MD 20901

Mr. Damon B. Orobana, J.D.
Zoning Analyst / Senior Planner
Montgomery County Development Review
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Petition of T-Mobile Northeast LLC, Case #S-2709

Dear Mr. Orobana:

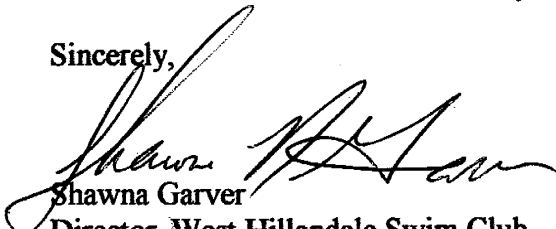
Enclosed please find 90 Letters Of Support from residents of West Hillandale for the T-Mobile telecommunications facility under consideration for construction at the West Hillandale Swim Club.

These residents feel strongly that the construction of the telecommunications tower is in the best interest of the community due to the rental income it will generate to support the West Hillandale Swim Club. The 50 year old Swim Club is a cherished community resource that has been struggling in recent years to maintain its aging infrastructure. The income from the cell tower will help give the pool a chance to survive for the next generation of West Hillandale families and residents.

In addition, West Hillandale residents have expressed that their neighborhood needs better cellular communications. Many areas in the community lack cell phone reception and wireless internet services. The residents of West Hillandale feel that the proposed tower location on the pool grounds, which is a large parcel with the tower to be set back from the road, is appropriate for a telecommunications facility. They feel that the location is a win-win for the neighborhood, because it will both afford better cell service and will provide funding that directly benefits the community.

Please support West Hillandale by voicing your support for the approval and construction of the T-Mobile telecommunications facility at West Hillandale Swim Club.

Sincerely,



Shawna Garver
Director, West Hillandale Swim Club
Chairman, Membership Committee
Email: Shawna.garver@verizon.net
Phone: (301) 593-8280

August 2007

To whom it may concern:

Please vote 'Yes!' for the installation of a telecommunications cell tower facility at West Hillandale Swim Club, located at 915 Schindler Drive in Silver Spring.

The telecommunications cell tower installation at the West Hillandale Swim Club is in the best interest of the West Hillandale Community.

- **Provides revenue for maintenance of 50 year old Swim Club.** The cell tower facility will provide over \$10,000 per year in rental revenue to the Swim Club for the next 30 years. This revenue is desperately needed to keep our cherished, but aging, Swim Club operational. – Without this income, the pool will likely close due to lack of sufficient funding.
- **Protects our property values.** The Swim Club increases our property values and provides our neighborhood with a unique community resource. When houses are marketed, the pool is highlighted as a major attraction.
- **Enhances wireless communications.** The cell tower will provide better cell phone service within the neighborhood by enabling essential, non-essential and emergency wireless communications. Each day 240,000 calls are made to 911 from wireless phones.

The perceived impacts of the cell tower are minimal.

- **No negative health impact.** The scientific studies of the health effects of cell phone installations show there are no negative health impacts. See <http://www.fda.gov/cellphones/> and <http://www.fcc.gov/oet/rfsafety/rf-faqs.html>
- **Minimal visual impact.** The visual impact of the cell tower will be minimal in our neighborhood due to rolling hills and an abundance of 80 to 100 foot tall trees. These mature trees will shield the view of the cell tower from most locations.
- **Proposed installation is not unique.** A similar installation was approved and has been successfully completed on a Special Exception Swim Club property in the neighboring Oak View community located just 1 mile South on New Hampshire Avenue. Cell towers are located on hundreds of school, recreational, business and Special Exception properties located within communities all over Montgomery County.

If this is not approved, T-mobile plans on pursuing other locations within our neighborhood, but the revenue will not stay local. Please, support our community! Vote 'Yes' for approval of the cell tower telecommunications facility at the West Hillandale Swim Club.

Sincerely, *John M. Horváth*

Print Name: JOHN M. HORVÁTH
Address: 10003 BRANCH VIEW COURT
SILVER SPRING, MD 20903

Orobona, Damon

From: Sue Present [suepresent@comcast.net]
Sent: Friday, October 19, 2007 10:35 AM
To: Orobona, Damon
Cc: Gilbert, Carlton; Wilson, Ralph
Subject: Concerns about Proposed Monopole at West Hillandale Swim Club

Dear Damon,

Thanks to you and Carlton Gilbert for the prompt and helpful reply. This excerpt from the 7/11/07 Tower Committee minutes had led me to conclude that some regulations for public schools had been changed, and that other changes were in the works.

Ms. Lawton replied it was not Mr. Molinaro's role to decide what authority the TFCG had in their review process. She said that the Tower Coordinator's recommendation and the TFCG's action was not a final determination, but was a recommendation on the application which would go forward to the next appropriate reviewing governmental body, who could exercise whatever authority they had to take action as appropriate. She noted that the Tower Coordinator is obligated to make a determination as to whether an application is a public or private use. She noted that the public schools had recently brought applications to the TFCG for review that did not meet the criteria in Section 59-A-.6.12, and that had prompted a closer review of the requirements for telecommunications sitings on school property. She agreed with the Tower Coordinator that the construction of this monopole is for a private use. She also noted that this issue had been the subject of discussion at a number of TFCG meetings over the years and that as public awareness of these kinds of facilities on school property has become more controversial in the community, there is a need for greater scrutiny on these applications. She said that she was also aware that the introduction of state legislation prohibiting these kinds of telecommunications facilities at all school sites in the state was expected -- evidencing community concerns about these kinds of applications.

I really do hope that some type of arrangement will be able to be worked out so that our pool will be able to get the income that will come with having a cell tower on its property, perhaps by locating the tower further back from the street (Schindler Drive) to behind the main pool. However, I consider the current proposed siting of the monopole to be problematic. At its proposed location and height the proposed monopole is visually unharmonious with the single-family, residential character of our neighborhood. And even though there may not be regulations that keep individual homeowners from expanding the footprints of their homes into the setback/"fall zone" of the tower, in the same way that there are regulations for the telecom to locate the tower at the established 300ft - setback /"fall zone" distance from existing residences, common sense tells me that the proposed monopole's presence would discourage the type of investment in surrounding homes that promote neighborhood stability and protect property values.

Furthermore, if in the future unfortunate circumstances were to require the pool to close and land to change hands, I foresee the likelihood of an existing tower as having an adverse impact upon the residential development options for the site and, as a result, having an adverse impact upon our neighborhood as a whole. I therefore believe that the only responsible way for our community pool association to structure this contract for a monopole and/or the only appropriate way for the County to issue a Special Exception is for the authorization for the monopole to be limited so that it expires at the point that the land is no longer owned by the community pool association and/or used for a community pool. It is my understanding that the current contract between the pool association and T-Mobile does not provide this protection.

I hope that that you and others in the County will work toward some middle ground so that a tower would need to be located much further back from Schindler Drive, and less visible, and so that this Special Exception would carry the conditions that the tower's authorization to remain on the site would be clearly limited so that if the property were to ever change hands or use the tower would need to be removed.

Thank you, again.

Sue Present

From: Orobona, Damon [mailto:Damon.Orobona@mncppc-mc.org]
Sent: Thursday, October 11, 2007 4:09 PM
To: suepresent@comcast.net
Cc: Gilbert, Carlton; Wilson, Ralph
Subject: FW: Differing Tower Committee Standards?

Sue:

Carlton Gilbert, our Planning Department staff member sitting on the Tower Committee, confirmed that there is no differing standards for the Tower Committee in reviewing a proposed tower on a public school site or a private site. The Tower Committee primarily determines that there is a need for signal coverage in the area the tower is proposed (see email below from Mr. Gilbert).

If a tower is proposed on a public school site, it will go through either a *special exception* review under Montgomery County Zoning Ordinance § 59-G-2.58 (just like the form of review in the W.Hillandale Swim Club case) or through a *mandatory referral* review under Zoning Ordinance § 59-A-6.12. Whether the proposed tower will be reviewed under the *special exception* or *mandatory referral* process depends on a case-by-case factual basis (for example, whether the tower is proposed to be placed on an already existing public structure).

As far as the Swim Club's proposed location of the tower affecting an adjacent home's ability to reorient itself on its own lot because of the 300' standard, the adjacent homeowner would not need to meet the 300' standard in order to shift his home's orientation, as the 300' standard applies only to proposed telecommunication facilities and not to the adjacent single-family home expansion. However, the homeowner would need to comply with single-family home setback requirements and other applicable standards for the reorientation or expansion.

I hope this answers your questions. Feel free to contact me if you have any additional questions. Thanks.

Damon B. Orobona, J.D.
Zoning Analyst / Senior Planner
Montgomery County Development Review
8787 Georgia Avenue
Silver Spring, Maryland 20910
(P) 301-495-4621
(F) 301-495-1306

From: Gilbert, Carlton
Sent: Thursday, October 11, 2007 1:59 PM
To: Orobona, Damon
Subject: Differing Tower Committee Standards?

There are no different standards applicable to the review of towers on public or private sites. The primary responsibility of the consultant Bob Hunnicutt is to determine that there is a need for coverage in that location.