



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

August 25, 2008

MCPB 09/04/08
ITEM # _____

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Ralph Wilson, and Damon Orobona
Montgomery County Planning Department, Development Review Division

SUBJECT: **Special Exception No. 2729: Washington, D.C. SMSA Limited Partnership (d/b/a Verizon Wireless) and MNCPPC.** Request for a special exception to permit a wireless telecommunications facility, RE-2 Zone, 1313 Bonifant Road, Silver Spring, Maryland.

REPORT AND RECOMMENDATION

Staff recommends approval of application S-2729, a Verizon Wireless telecommunications facility, as the facility will substantially contribute to the cellular coverage in an area that is in need of improved service. Although a 140-foot tower will typically create some visual impact no matter where it is proposed, the applicants have taken important steps to reduce the tower's visual impact on homes in the general vicinity by locating the facility on parkland buffered by substantial vegetation, long vistas, and extensive setbacks from single-family homes. Designing the monopole in a stealth treepole design will further reduce visual impacts and help protect the character of the surrounding neighborhood.

SUMMARY OF REPORT

Application Filing Date:	March 3, 2008
Scheduled Public Hearings:	September 4, 2008 (Planning Board) September 19, 2008 (Hearing Examiner)
Overview of Site:	The subject property is part of the Northwest Branch Recreational Park owned by MNCPPC with a general property address of 1313 Bonifant Road, Silver Spring, Maryland. The site is generally located 6 miles north of the Capital Beltway and 2 miles east of Georgia Avenue. The park is multi-parceled with 680 total acres. However, only two of the parcels will be disturbed by the installation of the proposed monopole: Parcel P229 (61.5 acres) will be the site of the monopole, while Parcel P250 (43.19 acres) will be subject to a driveway extension.
Current Zone and Use:	The site is zoned RE-2 and is developed with MNCPPC's Northwest Branch Recreational Park. The park is also home to the 18-hole Northwest Branch Golf Course and the National Capital Trolley Museum (currently being relocated within the Park's expansive boundaries because of the approved Inter County Connector alignment).
Proposed Use:	A telecommunications facility is allowed by special exception in the RE-2 Zone. The applicants propose to add a telecommunications facility with a 140-foot stealth pine tree monopole to the site. Additionally, the applicants will construct an extension to the park's existing road network to allow carrier access to the telecommunication compound.
Need for Monopole:	The Montgomery County Tower Committee reviewed the proposal on May 2, 2007 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 consistent with the goals and objectives of the 1994 <i>Aspen Hill Master Plan</i> .
Environmental Impact:	The site has an approved Final Forest Conservation Plan (FFCP) and an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) associated with the subject application. No environmental issues are present with this application.
Traffic Impact:	There is minimal traffic impact as the use will require only one or two routine maintenance visits per month. The application satisfies both the Local Area Transportation Review (LATR) and the Policy Area Mobility Review (PAMR) and will have no adverse effect on area roadway conditions.
Zoning Ordinance:	The proposal meets all of the general and specific standards relating to a telecommunications facility under §§ 59-G-1.23 and 59-G-2.58, respectively.
Recommendation:	Staff recommends approval of the application on the grounds that the proposal satisfies the general and specific conditions for the use, is consistent with the applicable master plan, and will have no inherent or non-inherent adverse effects sufficient to warrant denial.

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I. PROCEDURAL HISTORY

Petition No. S-2729, filed March 3, 2008, 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 140-foot monopole at 1313 Bonifant Road, Silver Spring, Maryland. The subject property is zoned RE-2, which allows a telecommunications facility by special exception.¹ The monopole is proposed to be placed inside the Northwest Branch Recreational Park, already in operation on the site.

This application was previously before the Planning Board (“Board”) on March 16, 2006 in the form of a *Site Location* request. The Board unanimously adopted the staff recommendation and approved the site location request with the conditions that Washington D.C. SMSA Limited Partnership (doing business as Verizon Wireless; hereinafter “Verizon”) execute a ground lease with the Maryland-National Capital Park and Planning Commission (“MNCPPC”), that Verizon comply with all site development requirements identified by MNCPPC’s Department of Parks, and that Verizon obtain a park construction permit prior to construction of the telecommunications facility.²

Since the March 16, 2006 proceeding, Verizon has executed a ground lease with MNCPPC. As such, both Verizon and MNCPPC are co-applicants to this special exception request, with MNCPPC being the property owner and Verizon being a contract lessee. Verizon has also satisfied all development requirements as asked for by MNCPPC’s Department of Parks.³ Verizon understands that they must obtain a park construction permit if the present special exception application is approved (an approved special exception is a prerequisite for obtaining a construction permit).

The Montgomery County Transmission Facility Coordinating Group (“Tower Committee”) has reviewed whether the placement of the monopole at this particular site is appropriate to further the telecommunication requirements of

¹ § 59-C-1.31(b).

² See summary of the Board’s action at attachment 1.

³ See Parks Department Internal Memorandum at attachment 2.

the County. The Tower Committee first reviewed the application on June 8, 2005 and recommended the placement of a 140-foot monopole at the Northwest Branch Park site conditioned on the applicants obtaining a special exception from the Board of Appeals.⁴ The Committee voted 6 in favor, 1 against, and 1 abstaining. However, because of the length of time taken to negotiate a lease between Verizon and MNCPPC, the Tower Committee's initial recommendation of June 8, 2005 expired. On May 2, 2007, the Tower Committee again heard the petition and voted unanimously to recommend the placement of a 140-foot monopole at the Northwest Branch Park site to further the County's telecommunication coverage.

The Planning Board now must review the application and recommend to the Board of Appeals whether to approve the special exception request. The Planning Board's public hearing will be held on September 4, 2008 in the Planning Board Auditorium located at 8787 Georgia Avenue, Silver Spring, Maryland. A subsequent public hearing will be held by the Office of Zoning and Administrative Hearings on September 19, 2008 in the Stella B. Werner Council Office Building at 100 Maryland Avenue, Rockville, Maryland.

II. SPECIFIC DETAILS OF APPLICATION

A. Subject Property and Neighborhood

The subject property is located at 1313 Bonifant Road, Silver Spring, Maryland. The property is owned by co-applicant MNCPPC, which currently operates the Northwest Branch Regional Park on site. The Northwest Branch Regional Park is a large, multi-parceled park consisting of 680 acres with approximately 250 feet of street frontage along Bonifant Road. However, only two of the park's parcels will be affected by the installation of the proposed monopole: Parcel P229 (61.5 acres) will be the site of the monopole, while Parcel P250 (43.19 acres) will be subject to a driveway extension. The shape of

⁴ Tower Committee Application #200505-07. See attachment 3.

the park is generally rectangular with a gentle upward slope approximately 60 feet higher in elevation at the location of the proposed monopole placement than at street level along Bonifant Road (an approximate 6% slope).

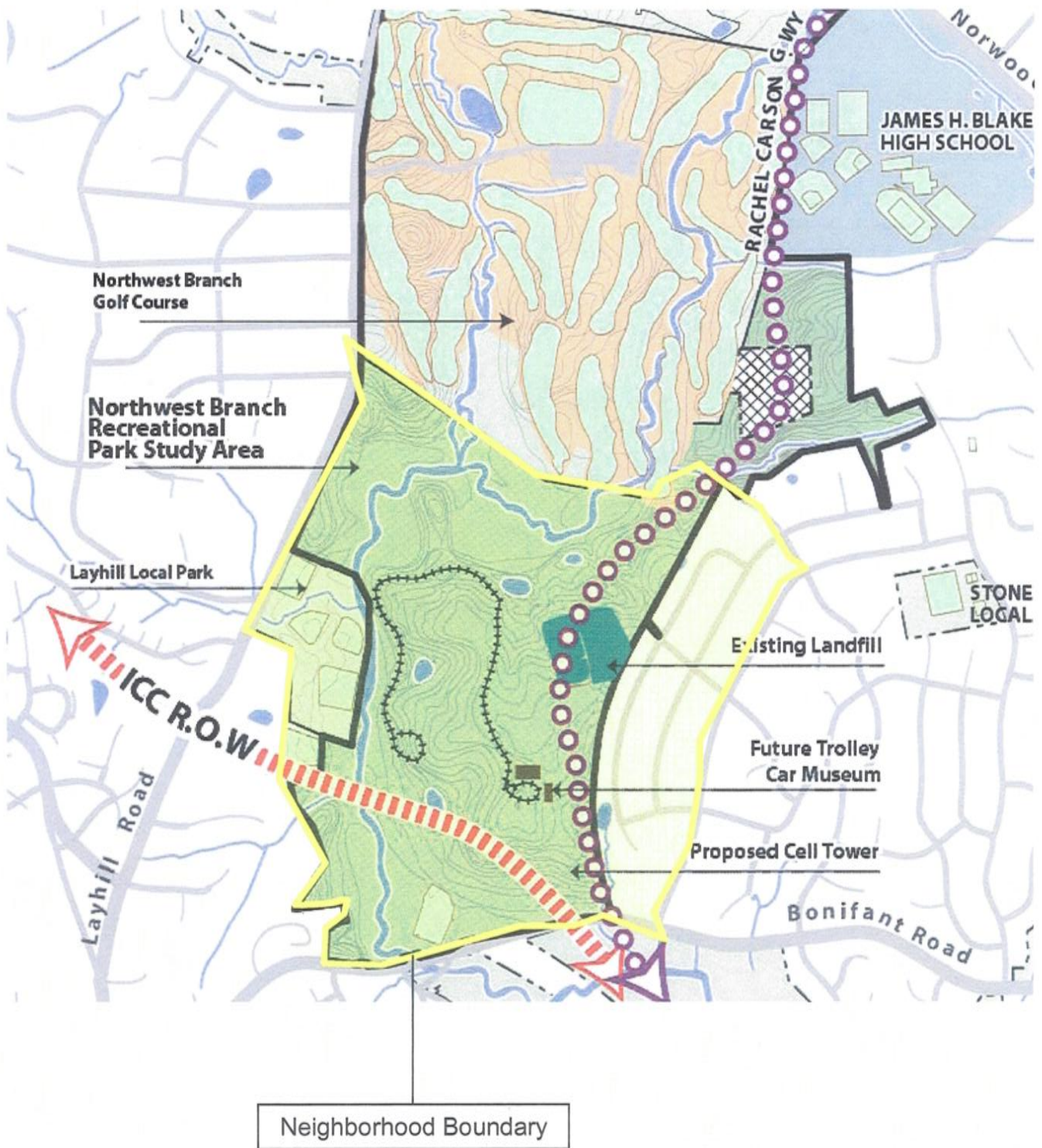
Within the park's boundaries are an 18-hole golf course, the National Capital Trolley Museum, and a closed landfill. Currently, the existing National Capital Trolley Museum is closed and a new Trolley Museum is being constructed at a location slightly north of its existing location because of the approved alignment of the future ICC right-of-way. Much of the park's land is comprised of natural, undisturbed area.

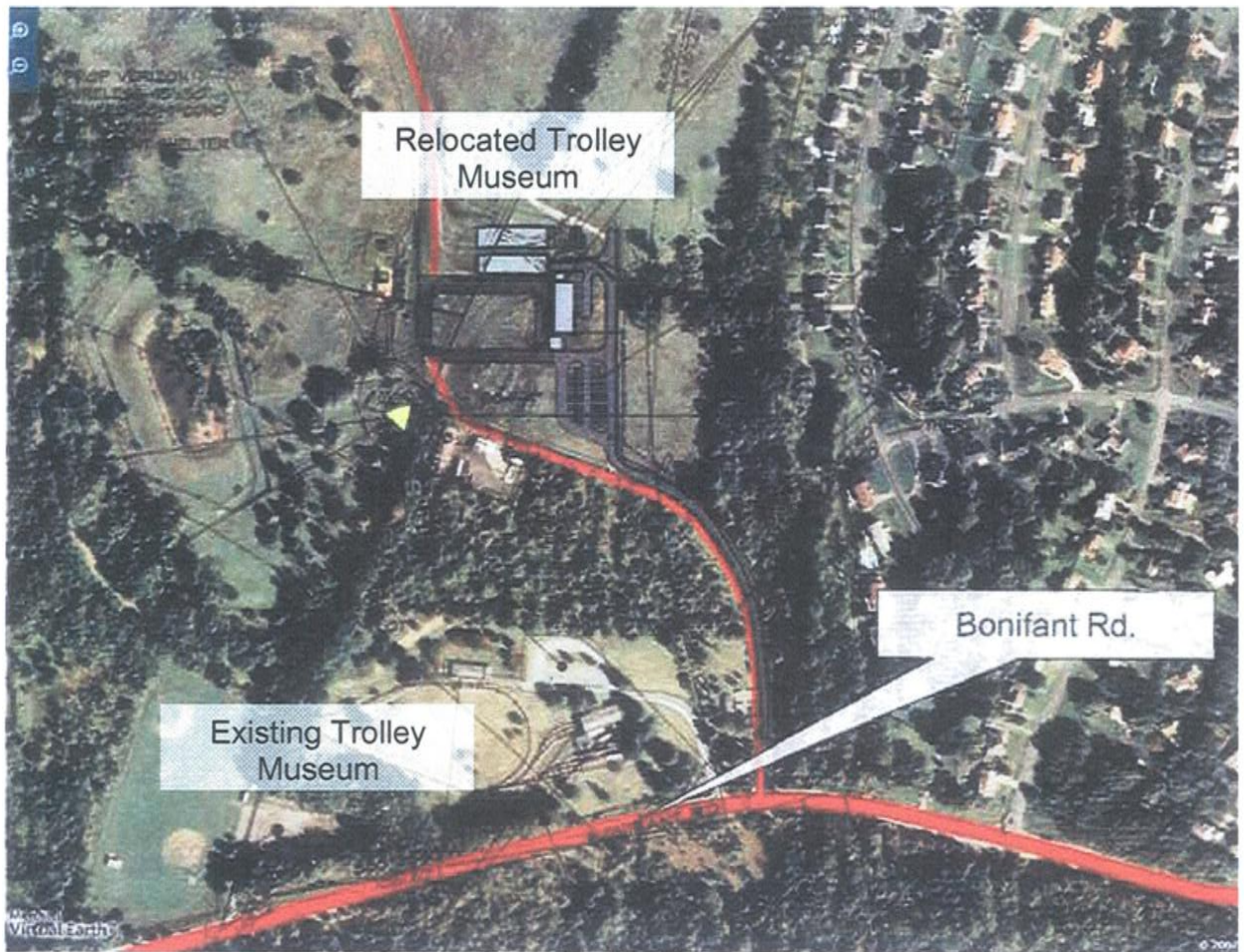
Staff has defined the neighborhood boundaries that surround the proposed special exception to be comprised of properties that could be affected by visual impacts. The neighborhood is bound by the Northwest Park Golf Course to the North, Jaystone and Carona Drive to the East, Bonifant Road to the South, and Northwest Branch Park and Layhill Local Park's outer boundaries to the west. No traffic impacts were taken into consideration in defining the neighborhood because the proposed use will generate only minimal traffic.

As defined, the neighborhood consists solely of single-family detached dwelling units and publicly-owned parkland. The entire neighborhood is classified under either the RE-2 or R-200 Zone. Within the neighborhood boundary is Layhill Local Park, which is directly adjacent to Northwest Branch Park. James H. Blake High School lies slightly to the northeast of the defined neighborhood. Only one other special exception – an accessory apartment – exists within the neighborhood boundary.⁵ The following map and aerial photograph illustrate the park's existing conditions and proposed additions. The Neighborhood boundary is outlined and shaded in yellow.

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⁵ S-1982



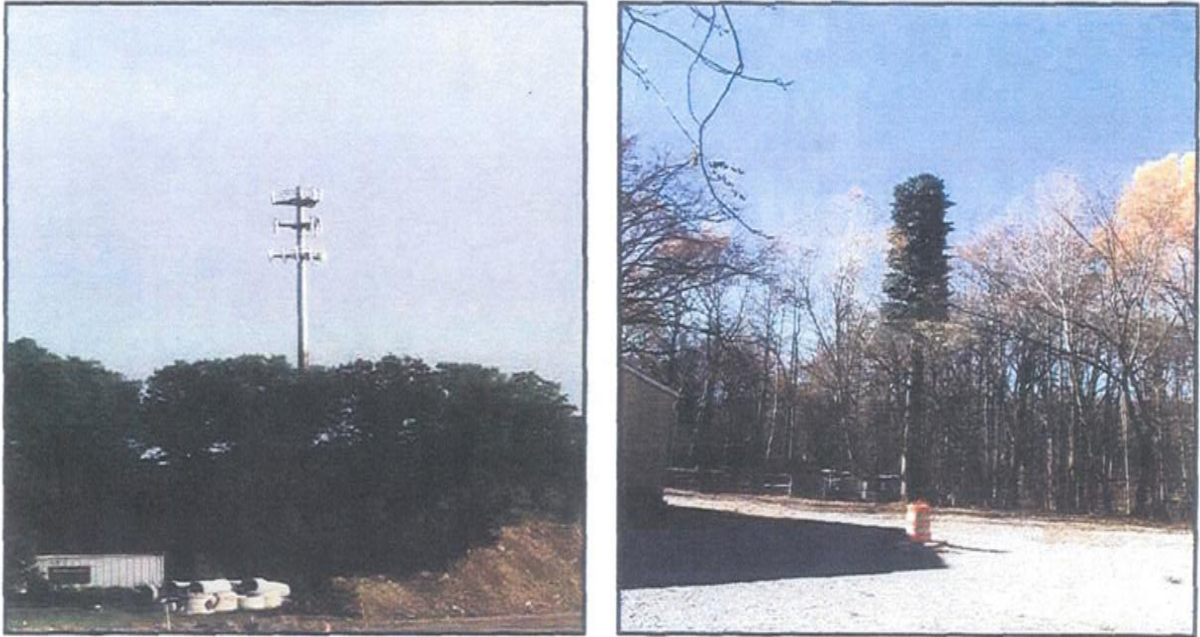


△ = tree monopole location

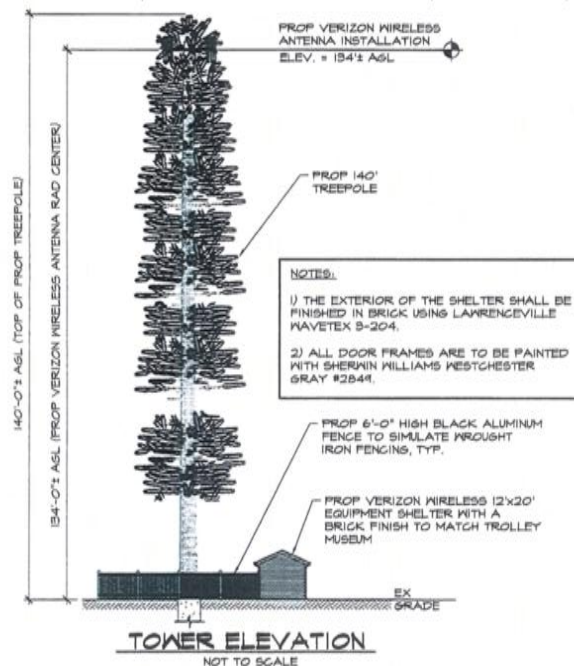
B. Proposed Special Exception Use

The proposed use is an unmanned wireless telecommunications facility with a 140-foot stealth tree monopole. Twelve panel antennas will be attached at the 135-foot level. Although the antennas only rise to 135 feet, artificial branches and pine tree needles may reach an additional five feet in height to give a more authentic appearance to the faux structure. Additionally, the exterior of the monopole will be covered in a synthetic material designed to appear like pine

tree bark. In regard to safety-engineering, Verizon has confirmed that the 140-foot monopole will be designed to fold upon itself at the 70-foot level in the rare event of a failure (collapse).⁶ Below is an example illustrating the difference in appearance between a stealth tree monopole and a typical monopole, followed by the elevation for the subject stealth tree monopole.



Typical monopole and Tree Monopole



⁶ See Verizon Memorandum at attachment 4.

A 45' x 50' compound (2,250 square feet), enclosed by a 6-foot wrought iron fence, will be constructed around the base of the monopole. This compound will contain an equipment building that encloses Verizon's technical equipment. The equipment building will measure 12' x 20' (240 square feet) and will have a brick façade that is to match the construction detail of the new Trolley Museum. Landscaping in accordance with details provided by the Department of Parks will surround the perimeter of the iron fence.

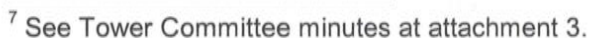
Although the facility will be unmanned, it will be in continuous operation 24 hours per day. The only visits to the monopole will be for emergency repairs or regularly scheduled maintenance visits one or two times per month. Access to the facility will be provided from existing roadways within the park, with the exception of an extension from the future Trolley Museum parking lot to the monopole's equipment compound. Verizon has agreed to construct the driveway extension in accordance with MNCPPC standard pavement detail. Enough space within the equipment compound has been provided to accommodate two future co-locators on the monopole.

C. Need for the Proposed Facility

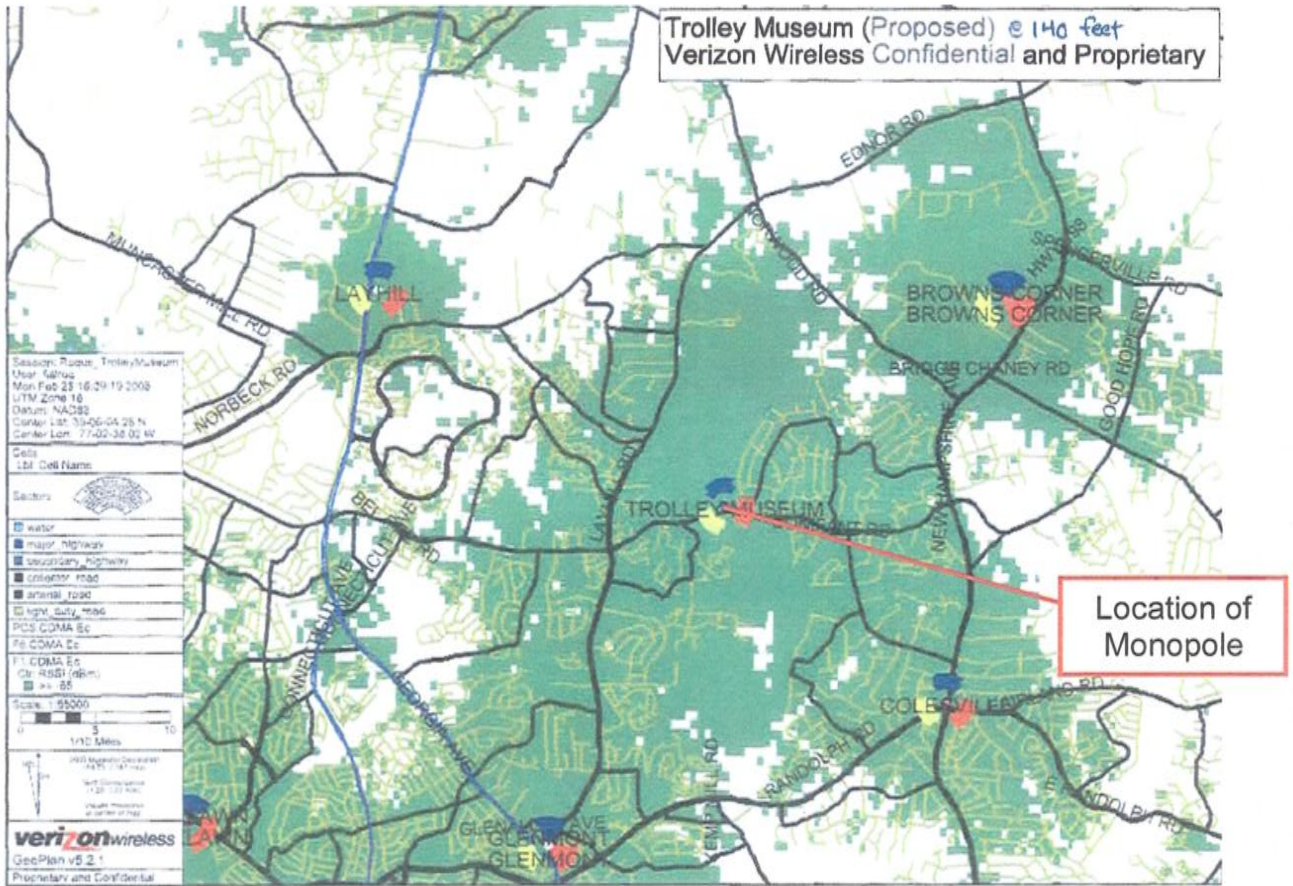
Zoning Ordinance § 59-G-2.58(a)(12) requires the Planning Board to make a separate, independent finding as to the need for the proposed telecommunications facility even though the application has already undergone review by Montgomery County's Tower Committee.

As mentioned in section I., the Tower Committee has recommended the placement of the 140-foot monopole inside the Northwest Branch Park on two separate occasions. On June 8, 2005, and again on May 2, 2007, the Tower Committee discussed testing results and coverage maps that illustrated whether a monopole would be necessary at this particular location to provide adequate coverage for cellular phone users. On both occasions, the Tower Committee decided that the necessary coverage objectives could be met with the placement

Current Coverage in Area



Projected Coverage in Area



D. Master Plan Compliance

The property is located within the area covered by the 1994 *Aspen Hill Master Plan*. Although the Master Plan is silent as to telecommunications facilities, the Planning Department concludes that because the Plan recommends the RE-2 Zone for this site, and because the RE-2 Zone allows a telecommunications facility by special exception, the proposed use is consistent with the goals and objectives of the *Aspen Hill Master Plan*.⁸

E. Visual Impact of the Proposed Telecommunications Facility

⁸ See Community-based Planning Memorandum at attachment 5.

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. The three photographic simulations that were composed at the three nearest properties to the proposed monopole are reproduced below.

Photo Simulation from Bonifant Park Drive



Photo Simulation from Layhill Road

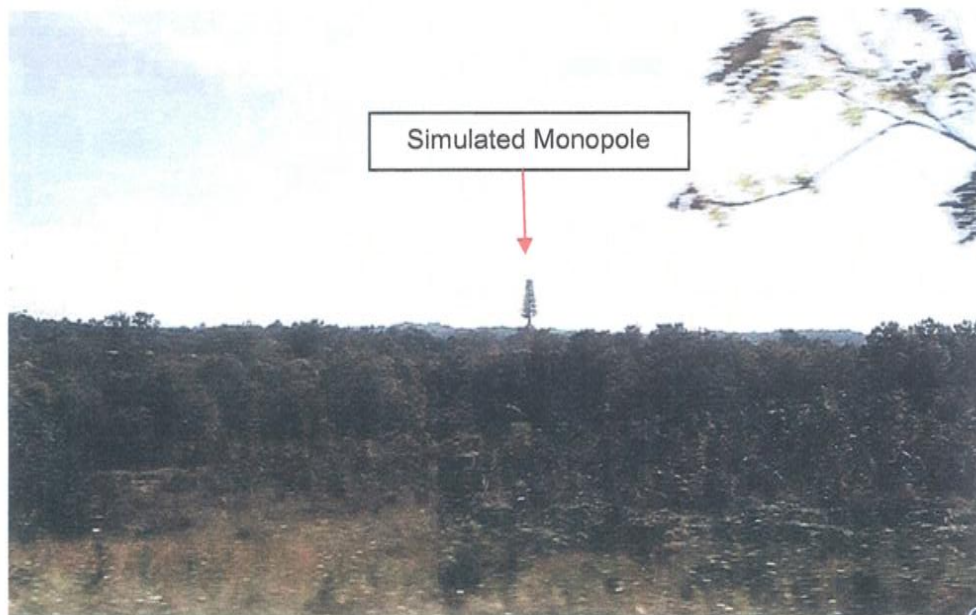


Photo Simulation from Jaystone Drive



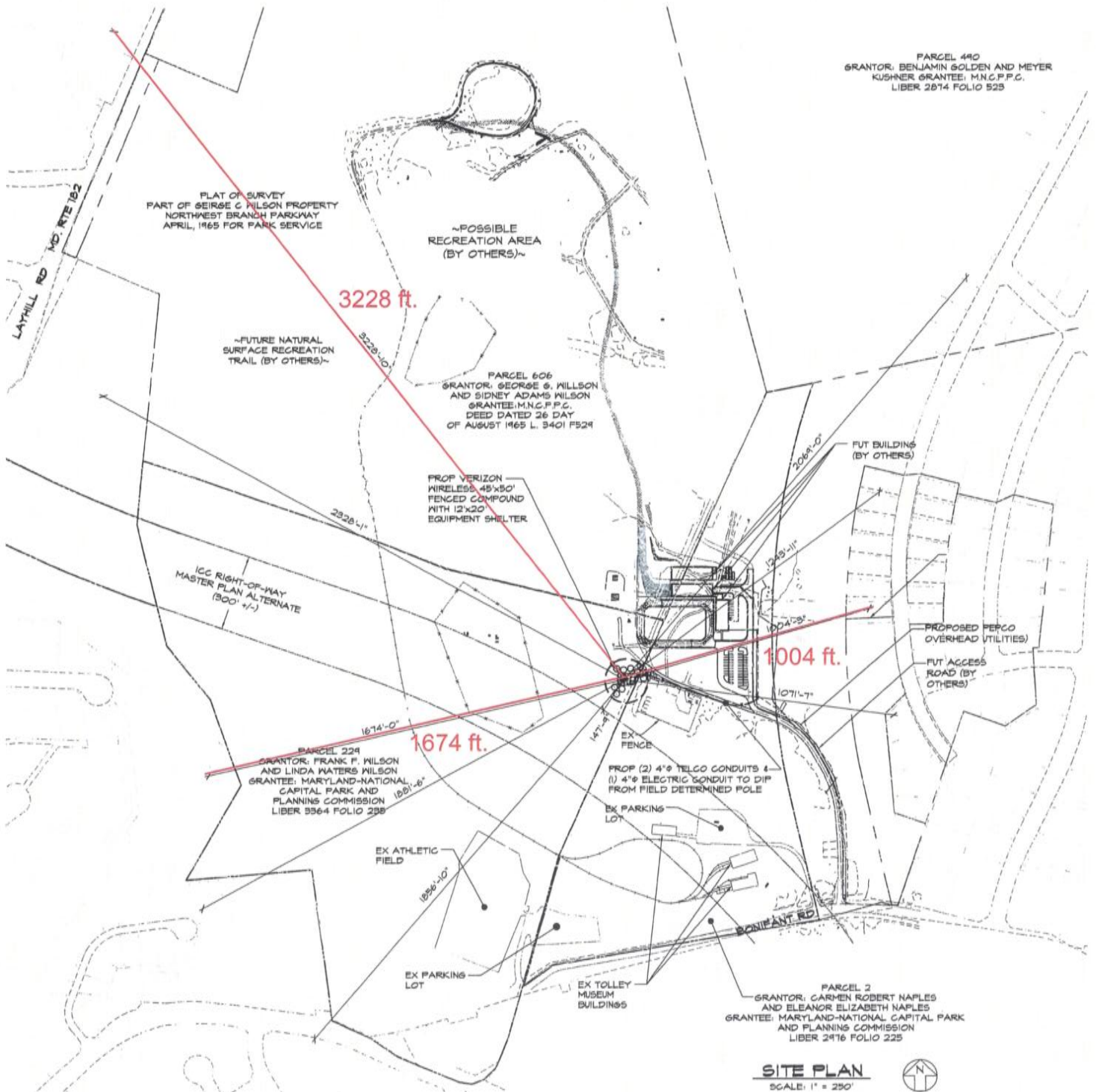
As represented from the simulations, the proposed monopole will blend into the surroundings of the area. The area's natural terrain and vegetation and the placement of the monopole on parkland helps minimize the monopole's visual impact on the surrounding neighborhood.

As established by zoning regulation, 300 feet is the minimum distance required to buffer a monopole's visual impact from adjacent single-family homes.⁹ With this particular application, the closest single-family home is over 1,000 feet away from the monopole in the eastern direction. To the north, the tower is located over 3,000 feet away from the nearest single-family home and over 1,600 feet to the nearest home to the west. These extensive setbacks help lower any visual impact. Additional parkland lies to the south across Bonifant Road, further lengthening the vista in this direction. Specific residential setbacks are illustrated below.

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⁹ § 59-G-2.58(a)(2)(a).

Residential Setback Plan



To further minimize the visual impact to the immediate community, Verizon has designed the monopole in the form of a stealth pine tree. This will conceal the apparatus located on top of the typical monopole and will help better protect the character of the surrounding neighborhood. With the above reasoning, Staff finds that the proposed monopole will not have an unacceptable visual impact on the defined neighborhood and outlying areas.

No lighting or sound will be associated with the telecommunications facility. The only signage will be a two square foot sign as required by zoning regulation.¹⁰

F. Traffic Impacts

Access to the telecommunications facility will be from Bonifant Road, an arterial with an 80-foot right-of-way and two proposed travel lanes. No substantial increase in traffic is associated with the proposed facility as it will require only one or two routine maintenance visits per month. No peak-hour vehicular trips are associated with the use during the weekday morning and evening periods, therefore no traffic study is required to satisfy the LATR test. Likewise, the applicants are exempt from the PAMR test as the use generates fewer than four peak hour trips.¹¹

G. Environmental Impacts

This subject site is in the Northwest Branch watershed (Use IV). The site is not located within a special protection area. There are perennial and intermittent streams on site along with areas of 100-year floodplains and wetlands. However, based on the locations of these existing natural resources and the proposed placement of the monopole, no natural resource will be adversely impacted. No existing trees are located where the facility is proposed.

¹⁰ § 59-G-2.58(a)(8).

¹¹ See Transportation Planning Memorandum at Attachment 6.

The Montgomery County Forest Conservation Law is applicable to this application. However, on August 24, 2007, a Final Forest Conservation Plan (FFCP) was approved that included both the telecommunications facility proposal and the future Trolley Museum. The approved FFCP consists of 37.19 acres of saved forest and 0.07 acres of removed forest.¹²

H. Community Involvement in Application

As of the date of this memorandum, Staff has not received any correspondence from the community in regard to this matter. However, in reviewing the procedural history of the application, Staff has noticed that the Stonegate Citizens Association was heavily involved during the *Site Location Review* that went before the Board on March 16, 2006. In particular, after holding numerous community meetings, the Stonegate Citizens Association voted not to oppose the monopole's placement on the Northwest Branch Recreational Park.

III. ZONING ORDINANCE ANALYSIS

A. Inherent and Non-inherent Adverse Effects

The standard of evaluation for a special exception requires consideration of the inherent and non-inherent adverse effects on the nearby properties 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

¹² See Environmental Planning Memorandum at Attachment 7.

¹³ § 59-G-1.2.1.

¹⁴ *Id.*

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 associated with a particular special exception use. As established by past cases, the following are the inherent physical and operational characteristics necessarily associated with a telecommunications facility use: (1) antennas installed on or within a support structure with a significant height; (2) a technical equipment area that may or may not be enclosed within a fence; (3) visual impacts associated with the height of the support structure; (4) radio frequency emissions; (5) a very small number of vehicular trips per month for maintenance; and (6) some form of back-up power.

Any adverse effects of the proposed telecommunications facility that result from the above six characteristics are considered inherent adverse effects. Alone, inherent adverse effects are not sufficient to constitute a denial.¹⁶ On the other hand, adverse effects that are not characteristic of a telecommunications facility use, or inherent effects that are accentuated due to distinctive site 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 state that the monopole will comply with all FCC regulations relating to radio frequency emissions, bringing the facility within the federal standards promulgated to ensure safety with these types of uses.

Although there will be a generator and multiple batteries on site for a back-up power source in the event of a disruption of the power grid, Verizon has provided details about the safety of these back-up power sources and has stated that the back-up power sources are compliant with all federal, state, and local

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

laws. Further, Verizon has stated that they register all back-up power sources with Montgomery County and obtain Hazardous Materials Use Permits for each of their facilities. This permit certifies that all substances are disclosed to the proper officials and that emergency responders are aware of any hazardous material stored on site in the event of an emergency.

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. However, visual impact has been minimized because the telecommunications facility will be set back significantly from the nearest dwelling units and will be adequately buffered by long setbacks and natural terrain. All technical equipment associated with the use will be contained within a wrought iron fence surrounded by trees selected by MNCPPC's Department of Parks. A small building, designed with a brick façade to match the nearby Trolley Museum, will house mechanical equipment cabinets. Lastly, a stealth treepole design has been put forth to further reduce visual impact. There are no unusual characteristics associated with the subject site.

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 RE-2 Zone pursuant to § 59-C-1.31(b).

- (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. 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 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 covered by the 1997 *Aspen Hill Master Plan*. The Master Plan does not directly address telecommunications facilities. However, the Plan does recommend the RE-2 Zone for the Northwest Branch Recreational Park, and the RE-2 Zone allows telecommunications facilities by special exception. Therefore, it follows that the proposed telecommunications facility is consistent with the goals and objectives of the *Aspen Hill 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. The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.

Analysis: Large setbacks and natural terrain help protect the character of the surrounding neighborhood. Also, the monopole is proposed to be designed as a stealth pine tree to further bring the monopole into harmony with its natural parkland 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. Public facilities and services are adequate to serve the proposed telecommunications facility.

- (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. The only impact present in this case will be of a visual nature, but the applicants have designed the site to include large setbacks and a natural terrain buffer. Additionally, the stealth treepole design will help minimize any visual impact associated with the monopole. Because of the above reasons, Staff finds that there will be no unacceptable visual impact associated with the proposed monopole. Again, no noise, traffic, or lighting will be present with the use; federal regulations have been complied with in regard to RF emissions.

- (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: The proposed special exception will not substantially increase the scope or intensity of special exception uses to adversely affect the area as there is only one other special exception in the neighborhood – an accessory apartment. Designing the monopole as a stealth treepole to help the use fit in with its natural surroundings will also help preserve the residential nature of the area. Staff has established that the proposed use is consistent with the Aspen Hill Master Plan.

- (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 is no evidence of record to suggest that the proposed use will adversely affect the health, safety, security, morals, or general welfare of the community.

- (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.
 - (A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.
 - (B) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the

proposed development under the growth Policy standards in effect when the application was submitted.

- (C) With regard to public roads, the Board or the hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.

Analysis: This special exception application will not require approval of a preliminary plan of subdivision, therefore this application must be analyzed under subsection (B) above. The subject site is adequately served by public facilities. The proposed use, by its nature, does not require water or sewer services. Because the proposed use will require only one or two service trips per month and generally no peak-hour trips will be generated, impact on traffic will be negligible.¹⁸

- (b) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department which approves or licenses the project.

Analysis: No finding necessary.

- (c) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.

Analysis: The applicant has satisfied the standard.

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:

¹⁸ See Transportation Planning Memorandum at Attachment 6.

- 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 140 feet tall and is to be placed in a residential zone. Therefore, a minimum 140-foot setback from the base of the monopole to all perimeter property lines is required under subsections (a) and (c). As proposed, the monopole is set back over 140 feet from all perimeter property lines (staff estimates that the nearest perimeter lot line is approximately 600 feet away from the base of the monopole).

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

Analysis: Because the subject application is in a residential zone, a minimum 300-foot setback from the base of the monopole to any off-site residential dwelling applies. The proposal satisfies this requirement as the facility will be located at least 300 feet from the nearest off-site dwelling units (the nearest residential dwelling is over 1000 feet from the monopole).

- (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 is proposed to be a height of 140 feet.

- (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: The telecommunications facility satisfies this standard. As previously mentioned, the proposed facility will be located in an area chosen by the applicants to reduce any visual impact upon the surrounding neighborhood. This location was chosen over other nearby areas because it is near the center of the

one-half mile wide Northwest Branch Park and adjacent to an existing tree stand. The monopole will be designed as a stealth treepole to help the use blend in with the natural surroundings of the park. Additionally, the proposed location of the monopole was chosen because of its proximity to the future Trolley Museum. This allows the applicants to construct a wrought iron fence and brick façade for the equipment compound design, matching the architectural detail to be used for the future Trolley Museum and further helping the telecommunications facility blend in with its surroundings. Photographic simulations provided by the applicants indicate 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 in this application is MNCPPC. MNCPPC is also a co-applicant in the special exception proceeding. The facility has been designed to be capable of supporting a total of 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 sign or illumination is 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 applicants have been advised that the proposed telecommunications facility must be removed from the park within 12 months of cessation of operations.

- (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 the applicants.

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

Analysis: No outdoor storage of equipment is proposed.

- (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 May 2, 2007, was filed with the Board of Appeals in the special exception application materials. The application materials were filed with the Board of Appeals on March 3, 2008, less than one year from the Tower Committee recommendation.

IV. STAFF RECOMMENDATION

Based on the forgoing analysis, Staff recommends that application S-2729 be approved.

V. ATTACHMENTS

1. Summary of Planning Board Action on March 16, 2006
2. Department of Parks Internal Memorandum
3. Tower Committee Minutes from May 2, 2007
4. Verizon Memorandum regarding Engineering Standards
5. Community-based Planning Internal Memorandum
6. Transportation Planning Internal Memorandum
7. Environmental Planning Internal Memorandum

9. **Site Location Review - Verizon Wireless Proposed Telecommunications Facility for Northwest Branch Recreational Park, 14901 Layhill Road, Aspen Hill, Maryland 20906**

Staff Recommendation: Approval with conditions

BOARD ACTION

Motion: ROBINSON/BRYANT

Vote:

Yea: 5-0

Nay:

Other:

Action: Approved staff recommendation for approval of the site location application to construct a 140-foot artificial “stealth” evergreen tree monopole antenna in Northwest Branch Recreational Park next to the new National Capital Trolley Museum site, subject to the following conditions: A.) Verizon Wireless execute an approved ground lease with the Commission; B.) Verizon Wireless comply with the site development requirements identified by M-NCPPC’s Park Development Division and obtain a park construction permit from Department of Permitting Services and Park Development Division prior to construction of their proposed facility; and C.) All Verizon Wireless ground lease fees be placed in the Enterprise Fund as approved by the Board in 2003.

The Special Program Coordinator presented highlights of the March 16 technical staff report, which reviewed adopted policies and procedures for the administrative review and evaluation of the telecommunications facility, the existing conditions of the site, and details of the application, public outreach, and the review process. The staff recommended approval with Condition C modified.

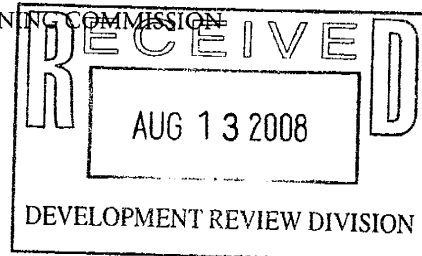
Mr. M. G. Diamond, attorney for the application, introduced Verizon Wireless Real Estate Manager Robert Posilkin and R.F. engineer Tigst Gorems. Mr. Diamond accepted the staff recommendation as modified and presented details on the service areas covered by a monopole of 120 feet or one of 140 feet. The 140-foot tower would provide needed relief also for the nearby Glenmont service area, he explained. The applicant, at the request of the Board, provided a copy of an excerpt of the June 8, 2005, minutes of the Telecommunications Transmission Facility Coordinating Group.

Mr. Michael Quinn of Silver Stone Drive a resident of the Naples Homeowners Association area, submitted a statement of support into the record and urged imposition of a co-location requirement.



MONTGOMERY COUNTY DEPARTMENT OF PARKS

THE MARYLAND - NATIONAL CAPITAL PARK AND PLANNING COMMISSION



August 11, 2008

MEMORANDUM

TO: Damon Orobona, Development Review Division

VIA: John Hench, Chief, Park Planning and Stewardship Division *John Hench*
Douglas Alexander, Acting Chief, Park Development Division *DA*

FROM: Tanya K. Schmieler, Park Planning and Stewardship Division *TKS*
Parvis Izadjoo, Park Development Division

RE: **MONTGOMERY COUNTY DEPARTMENT OF PARKS COMMENTS ON SPECIAL EXCEPTION S-2729- VERIZON MONOPOLE IN NORTHWEST BRANCH RECREATIONAL PARK**

The Department of Parks has reviewed the most recently submitted Special Exception Application S-2729 and find it is in conformance with revisions previously requested by the Department. (See Attachment 1). The tower will be constructed near the new relocated Trolley Museum at Northwest Branch Recreational Park. The Trolley Museum staff have been aware and involved in the process.

The Department of Parks recommends approval of the Special Exception with the condition that a Park Construction Permit be requested and obtained prior to any clearing, grading or construction on the site, from Mitra Pedoeem, Park Development Division, 9500 Brunett Avenue, Silver Spring, MD. 20901. To facilitate obtaining approval of the Park Permit, as this project's review coordinator for the Park Development Division, Parviz Izadjoo has reviewed the development plans with the following park Staff.

Mike Little- Northern Region
Holly Thomas - Horticultural Services
Lauryn McNeill- Park Police
Parviz Izadjoo- Park Development
Herb DeHoff- Park Development

Attachment I-

Previous Park Department comments that have been satisfied by the most recent special exception application.

Meeting May 22, 2008 with Verizon representatives.

Driveway Comments:

It was suggested by M-NCPPC staff and agreed upon by Verizon representatives that the existing gravel access road between the proposed Trolley Museum's parking lot and the proposed driveway to Verizon tower site, be paved with asphalt. The new asphalt pavement should be constructed according to M-NCPPC standard details.

Landscape comments:

1. Remove shrubs
2. Replace Maple with Red Oak or White Oak
3. Replace Crape Myrtle with Serviceberry (*Amelanchier canadensis*).
4. Show limits of disturbance (LOD) on the plan. Plantings occur outside of the (LOD) so that the trees are not planted in a soil that has been compacted by heavy construction equipment.

Meeting October 18, 2007

Park Staff Comments:

1. The fence height should not exceed 8'. We would prefer a 6' high fence.
2. Please provide make and model for the fence at the time of park permit application.
3. Use less evergreen and more deciduous trees outside the fence in order to prevent hiding opportunities for intruders. Also do not plant the trees too close to the fence. Park police would like to be able to see the fence through the trees under their canopy.
4. Pave entrance road from Trolley Museum

ATTACHMENT 3

Excerpts from May 2, 2007
TFCG Meeting Minutes

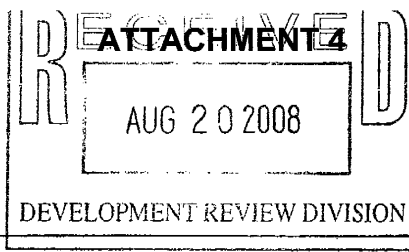
Action Item: Verizon Wireless application to construct a new 140' monopole and attach 12 panel antennas (six 48" high and six 71" high) at the 138' level at the Trolley Museum property located at 1313 Bonifant Road in Colesville. (Application #200505-07)

Bob Hunnicutt explained that this application was on the agenda because the TFCG Recommendation from June 8, 2005, which was conditioned on attaining an approval of a Special Exception from the Board of Appeals, had expired. He noted that the applicant needed a current record of action on this application in order to file for the Special Exception pursuant to the Zoning Ordinance requirements.

M.G. Diamond commented that the application as proposed by Verizon had not changed and that the reason for the delay in filing for a Special Exception was due to the time it took to negotiate a lease with the M-NCPPC. The monopole proposed will be 140' high and disguised as a tree at the Trolley Car Museum on property owned by the M-NCPPC. There was some discussion regarding the height of the monopole but based on the review of the minutes from that meeting, it was determined that the TFCG recommended the structure at the 140' level to meet Verizon's coverage requirements.

Motion: David Niblock moved that the application be recommended conditioned on obtaining a Special Exception from the M-NCPPC. Mary Pat Wilson seconded the motion and it was unanimously approved.

Mc-Tower\Documents\Special Exception_MR Ltrs\Verizon_Trolley Museum_May 2007 Minutes Excerpts_200505-07_082807.doc



Verizon Wireless
9000 Junction Drive
Annapolis Junction, MD 20701
(301) 512-2000
(301) 512-2186 - FAX

M.G. Diamond
Law Office of M. Gregg Diamond, P.C.
7500 Woodmont Ave., Suite 902
Bethesda, MD 20814-5379

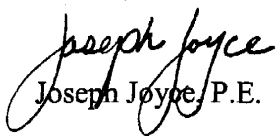
M.G:

In response to your email dated August 15, 2008 regarding the concerns of Damon Orobona, Montgomery County Park & Planning about the structural integrity of the proposed Tree Monopole to be located at the Northwest Branch Park (Trolley Museum).

1. Concern: That the tree monopole will be constructed in accordance with all applicable engineering standards. Response: Verizon Wireless (VZW) will use the latest Building Code Standards including EIA/TIA design criteria in the design and construction of the proposed tree monopole at the Northwest Branch Park.
2. As a result, in a catastrophic event, will a monopole designed to all applicable engineering standards collapse upon itself? Response: The current design calls for a 140' high tree monopole. The pole can be designed to fail (fold over on itself) at the 50% point on the pole (70').

If you have any additional questions please call me at 301-512-2438.

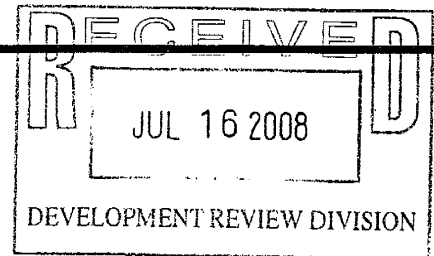
Thank you,


Joseph Joyce, P.E.

ATTACHMENT 5

Orobona, Damon

From: Afzal, Khalid
Sent: Wednesday, July 16, 2008 11:00 AM
To: Orobona, Damon
Cc: Wilson, Ralph
Subject: S-2729, Verizon monopole at Trolley Museum site



Damon,

The proposed 140-foot high treepole and a telecommunication structure at the Trolley Museum site within the Northwest Brach Recreational Park is consistent with the goals and objectives of the 1994 Aspen Hill Master Plan. CBP has no further comments.

Khalid

Khalid Afzal
Montgomery County Department of Planning
Community-Based Planning Division
8787 Georgia Avenue
Silver Spring, MD 20910
301-495-4650
khalid.afzal@mncppc-mc.org



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

July 25, 2008

MEMORANDUM

TO: Damon Orobona, Analyst
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: David Paine, Coordinator
Transportation Planning

SUBJECT: Board of Appeals Petition S-2729
Verizon Monopole
1313 Bonifant Road
Aspen Hill Policy Area

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject application for a telecommunication facility with 140-foot tall monopole.

RECOMMENDATION

We recommend no condition to satisfy the transportation-related requirements of this special exception use. Staff finds that the proposed special exception use satisfies the Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR) tests and will have no adverse effect on area roadway conditions or nearby pedestrian facilities.

DISCUSSION

The project is located at 1313 Bonifant Road, on the Trolley Museum site, in the Aspen Hill Policy Area. Vehicular access to this site is via driveway from Bonifant Road. The proposed use will not change the vehicular site access or pedestrian facilities.

Master-Planned Roadways and Bikeway

According to the Aspen Hill Master Plan, Bonifant Road is classified as an Arterial, with an 80-foot wide right-of-way and two proposed travel lanes. Bonifant Road has bike lanes (BL-17) listed in the 2005 Countywide Bikeways Functional Plan, accommodated in the wide road shoulder area.

Adequate Public Transportation Facilities Review

The proposed unmanned telecommunication facility 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. Therefore, no traffic study is required to satisfy the Local Area Transportation Review for APF purposes.

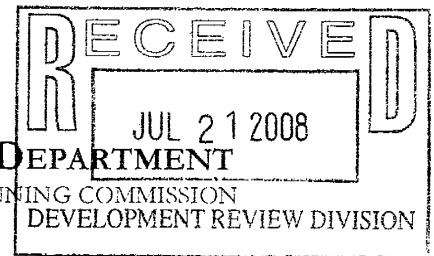
The application does not need to take any action to satisfy the PAMR test as it generates fewer than four peak hour trips.

DP:ft

s2729 mmo to orobona.doc



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

**MEMORANDUM**

TO: Damon Orobona, Senior Planner/Zoning Analyst, Zoning Section

VIA: Stephen D. Federline, Supervisor, Environmental Planning *[Signature]*

FROM: Lori Shirley, Planner Coordinator, Environmental Planning *[Signature]*

DATE: July 18, 2008

SUBJECT: Special Exception S-2729 – Verizon Wireless telecommunications facility
1313 Bonifant Road, Silver Spring

Recommendation

Environmental Planning staff recommends **approval** of S-2729. Previous review of Sediment Control permit SC2008004, for the National Capital Trolley Car Museum included the subject Verizon Wireless proposal and its proposed limits-of-disturbance (LOD) on the site's final Forest Conservation Plan (FFCP). No aspect of this proposal is in conflict with the required finding in Section 59-G-1.21(a) (6) of the Montgomery County Zoning Ordinance.

Background/Proposal

Verizon Wireless proposes to construct a telecommunications facility to include a 140-foot high monopole with stealth tree branches and an unmanned, on-grade equipment shelter at the Northwest Branch Recreational Park. The site is located on the north side of Bonifant Road and is zoned RE-2. A 30' by 12' equipment shelter and monopole are proposed to be enclosed by a metal security fence. The proposed telecommunications facility location will be southwest and in the immediate vicinity of the Trolley Car Museum on Park and Planning property owned by the M-NCPPC Department of Parks.

On May 22, 2008, Environmental Planning staff participated at a meeting with the applicant and their attorney. Other staff members from the Planning Department and the Department of Parks were also present. The purpose of the meeting was to discuss all aspects of the proposal and its details as these relate to the pending staff reviews. At this meeting, it was noted during the previous review for the proposed Trolley Car Museum in Sediment Control permit SC2008004, said plan contained the proposed details of the Verizon Wireless proposal in the FFCP, including the proposed limits-of-disturbance (LOD). The FFCP for both proposed facilities (i.e., the Trolley Car Museum and the subject telecommunications facility) was approved at staff level on August 24, 2007.

The subject application's description of the stealth tree monopole states by design the monopole will have a pine tree-like, rubberized bark appearance and artificial pine tree branches that extend as much as five feet above the top of the monopole to blend in with the surrounding trees at the park site. In addition, the monopole by design will have the capacity for co-locators for other antennas and cables of Verizon Wireless. Any subsequent co-locators will not require future separate special exception review.

The site is in the Northwest Branch watershed, a Use IV watershed. The site is not located in a

Special Protection Area (SPA). A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD), 42008006, associated with the park site, was approved on August 24, 2007. There are perennial and intermittent streams on-site along with areas of 100-year floodplain and wetlands, all of which are subject to various floodplain and wetland protection regulations and the M-NCPPC's Environmental Guidelines. However, based on the locations of these existing natural resources and the proposed telecommunication facility, none of these natural resources will be impacted.

Special Exception Required Finding

Section 59-G-1.21(a) (6) of the Montgomery County Zoning Ordinance reads as follows:

(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.

The proposed telecommunications facility consists of an on-grade equipment shelter and a 140-foot high monopole, and both are to be enclosed by a wire security fence. The proposal will not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity. No aspect of this proposal is in conflict with the above required finding. In this instance the applicant has proffered to construct a stealth monopole design to minimize the visual impact of the monopole in relation to the surrounding view shed.

Forest Conservation

The Montgomery County Forest Conservation law is applicable to the site. In 2007, a final Forest Conservation Plan (FFCP) which includes this proposal, and was reviewed and approved at staff level in permit SC2008004 for the proposed Trolley Car Museum. The approved FFCP consists of 37.19-acres of forest saved, 0.07-acres of forest removed, and 0.00-acres of afforestation required.

The site plan submitted in the subject Special Exception is consistent with the proposed locations of the telecommunications facility and the limits-of-disturbance (LOD) on the previously approved FFCP for the Trolley Car Museum. No existing forest or trees are located where the telecommunications facility is proposed. However, one specimen tree, a 30-inch Black Cherry is located approximately 80 feet for the approved LOD for the telecommunications facility. This tree is identified in 42008006 as in poor condition. Separate regulatory review of FFCP SC2008004 by the Planning Board concurrent with the subject Special Exception is not required under the circumstances; therefore, only this subject memorandum has been prepared for the Special Exception.

Stormwater Management

One proposed stormwater management outfall extending from an on-site stormwater management pond is shown on the FFCP on the south side of the telecommunications facility. It appears this concept was approved during the review of SC2008004 for the Trolley Car Museum. No other information regarding the Concept Plan was included in this proposal.

If you have any questions regarding these comments, please contact me at either extension 4551 or electronically at lori.shirley@mncppc-mc.org.

SDF:LS

G:DEVREV/se/zon/mr/S_2729_1313BonifantRd_SilverSpring_monopole_ls_docx