

MCPB Item # 6 9/12/2002

### **MEMORANDUM**

DATE:

September 13, 2002

TO:

Office of Zoning and Administrative Hearings

VIA:

John Carter, Chief, Community-Based Planning Division

Judy Daniel, Team Leader, Rural Team

FROM:

Nkosi Yearwood, Community-Based Planning Division

REVIEW TYPE:

Special Exception

**APPLYING FOR:** 

Telecommunications Facility

**APPLICANTS:** 

Sprint PCS and Robert Beall

**CASE NUMBER:** 

S-2495

**REVIEW BASIS:** 

Chapter 59, Zoning Ordinance

ZONE:

**RDT** 

LOCATION:

13201 Lewisdale Road

**MASTER PLAN:** 

Preservation of Agricultural and Rural Open Space (1980)

**PLANNING BOARD:** 

September 19, 2002

FILING DATE:

October 30, 2001

**PUBLIC HEARING:** 

October 4, 2002 before the Hearing Examiner

#### STAFF RECOMMENDATION: APPROVAL with the following conditions:

- 1. The applicants, including owner of the subject property, are bound by all submitted statements and plans.
- 2. The applicant must submit a revise site plan illustrating a new access path that goes behind the existing garage and avoids all existing trees.
- 3. The applicant must provide a board-on-board fence, eight feet in height, that surrounds the support structures.

- 4. The applicant must submit a final Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) to Environmental Planning staff prior to issuance of building permits/and or sedimentation and erosion control permits. The final NRI/FSD must indicate all property boundaries and the new access path to the enclosed area.
- 5. Compliance with Department of Permitting Service requirements for stormwater management and sediment erosion control, prior to the issuance of building permits and/or sediment and erosion control permits.
- 6. All future telecommunications providers must utilize low-profile antennas.
- 7. The telecommunications facility must be removed, at the cost of the applicant, when the telecommunication facility is no longer in use by any telecommunication carrier.

### **Proposal Description**

Sprint PCS has requested a special exception for a telecommunications facility located at 13201 Lewisdale Road in Clarksburg. The applicants propose to construct and operate a 193-foot monopole with three telecommunications antennas and other unmanned, self-contained equipment cabinets within an enclosed area. The goal of the petition is to meet coverage objectives along Clarksburg Road and the surrounding area.

### Site Description

The subject site is identified as Parcel P700 and is zoned RDT (Rural Density Transfer). The subject site, known as the Beall farm, is approximately 75 acres in size, and the applicant will lease a 3600 square foot area for the proposed telecommunications facility. There are two existing barns, a single-family detached dwelling, a detached garage, a shed and livestock on the subject property. Most of the subject property is developed with croplands.

Roads surrounding the subject include Lewisdale Road to the south, Clarksburg Road to the east, and Prices Distillery Road. Access to the site and the proposed telecommunications facility is from Lewisdale Road.

### Neighborhood Description

Agricultural and some residential uses are the primary land uses surrounding the subject site. North of the subject site are agricultural uses, including farms in the RDT (Rural Density Transfer) zone and east of the site are residential dwellings in the R-200 zone at the intersection of Prices Distillery Road and Clarksburg Road. At the intersection of Rudale Drive and Lewisdale Road are single-family dwellings in the RDT zone. Land to the immediate south and west of the subject site is in the RDT zone and the

Frederick County and Montgomery County boundaries are further north of the subject site. Little Bennett Regional Park is further south of Lewisdale Road. A major home occupation (SE-188) and an accessory apartment (S-2119) are the approved special exceptions in the surrounding area.

### **Elements of Proposal**

Sprint PCS, a telecommunications provider, proposes a telecommunications facility with the following elements:

- A monopole that is 193 feet in height
- Three antennas and related coaxial cables
- Six equipment cabinets on a 10 feet by 20 feet concrete pad
- An eight-foot high board-on-board fence that surrounds the telecommunications compound

The proposed telecommunications facility will be housed in an enclosed gravel area that includes six cabinets, each approximately six feet in height, three feet in width, and three feet in depth. Space is available in the enclosed area to accommodate additional telecommunications providers' support equipment. Due to the proposed fence, the supporting equipment will not be visible from adjoining properties. No lights are proposed for the monopole since it is less than 200 feet and the Federal Aviation Authority (FAA) only requires lights on monopoles that are higher than 200 feet.

### **Background**

The Tower Committee has reviewed the subject petition and recommends its approval (See attachment for Tower Committee recommendation). The attached recommendation from the Tower Committee coordinator details the technical and engineering merits of the proposal, including details about height and location alternatives. Further, the applicant has submitted telecommunications coverage maps, which illustrate a "gap" in coverage, and a simulation of the proposed monopole on the subject site (See attachment for before and after coverage maps and photo simulation photos).

The applicant has had extensive discussions with surrounding property owners, which has produced the new location for the proposed monopole. During the course of the special exception review, the applicant has moved the location of the telecommunications facility-from 12900 Prices Distillery Road to 13201 Lewisdale Road. The new location requires the applicant to increase the height of the monopole from 150 feet to 193 feet because of changes in the topography. The additional height will meet the applicant's coverage needs for adequate service.

Instead of the installation of six or nine antennas, two to three per sector on a triangular platform, which is commonly used for monopoles, the applicant will utilize a low profile installation that uses three antennas mounted close to the pole.

### Master Plan

The proposed facility is located in the Preservation of Agriculture and Rural Open Space planning area. The Approved and Adopted 1980 Preservation of Agriculture and Rural Open Space Master Plan is silent on special exceptions and telecommunications facilities. The Master Plan promotes agriculture and rural open space as the primary land use for land within the planning area and is reinforced by the RDT zone. The proposed telecommunications use will not alter the existing farm or other agriculture uses surrounding the subject site. Further, the owner of the property will financially benefit from the monopole, which could assist in further maintaining the existing farm (See attachment for Agricultural Advisory letter). Therefore, the proposed petition is consistent with the Master Plan.

### Inherent/non-inherent issues

Inherent and non-inherent adverse effects of a special exception use must be considered on nearby properties and the general neighborhood at the proposed location. Section 59-G-1.2.1 of the Zoning Ordinance states:

Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception."

First, there must be a determination of the general neighborhood affected by the proposed use. The general neighborhood for the proposed use consists of properties located in an area bounded by Lewisdale Road to the south, Clarksburg Road to the east, Prices Distillery Road to the north and Haines Road to the west. Agricultural uses are the primary uses that comprise the neighborhood in the RDT zone along with some single-family dwellings.

When reviewing inherent and non-inherent adverse effects, it is recommended that seven physical operating effects be considered: size, scale, scope, light, noise, traffic, and environment. Every special exception has some or all of these effects in varying degrees.

The primary physical characteristic of a telecommunications facility is its size, scale and shape. Other physical characteristics include equipment cabinets in an enclosed area and antennas on the monopole. Operational characteristics for a telecommunications facility are limited to periodic visits by telecommunications staff and its unmanned

nature. There are no noise, traffic and environmental issues related to the proposed use. No lights are proposed for telecommunications facility.

The applicant will mitigate the non-inherent visual impact of the monopole by providing a substantial setback from neighboring properties, screening the enclosed compound with a board-on-board fence and painting the monopole in an appropriate color. The monopole is more than 1000 feet from the nearest single-family dwelling. Additionally, the existing trees, which are approximately 50 feet in height, will screen a portion of the monopole.

At the previous site, 12900 Prices Distillery Road, which is immediately to the east of the subject, the monopole was 150 feet. The increase in height for the subject site is necessary to accommodate topographical changes and to provide sufficient cellular coverage to the surrounding area. The staff does not find any non-inherent effects of height or operational characteristics that would require a denial of the applicant's petition.

### **Historic Preservation**

Lewisdale Historic District, which is located at the intersection of Prices Distillery Road and Clarksburg Road, is on Montgomery's County Locational Atlas for Historic Places (#10/26). Historic Preservation staff and Maryland Historical Trust staff has both noted that the applicant's petition will not have an adverse effect on historic properties (See attachment for Maryland Historical Trust letter).

### **Environment**

The applicant must submit a final Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the subject site that indicates all surrounding property boundaries and avoids any clearing of existing trees. There is a stand of existing trees to the immediate south of the proposed enclosed area of the monopole. Staff has informed the applicant to move the proposed access road to away from its current position. Instead, the access road should connect from behind the existing garage to the existing asphalt road. There are no other environmental issues with this special exception request.

### **Transportation**

The proposed telecommunication facility will generate minimal traffic to the telecommunications facility. Traffic to the subject use will only occur during maintenance of the facility. A monopole is an unmanned facility. Therefore, a traffic study or statement is not required in conjunction with the special exception request.

### **Community Concern**

The applicant has held several meetings with surrounding property owners, including April 9, 2002 with the People's Counsel and staff from the Tower Committee.

Some surrounding property owners have worked with the applicant to move the location of the monopole approximately .3 miles from the original site to the current site. Further, property owners have signed a letter indicating their support for telecommunications facility at its current location. Other property owners are in opposition to the petition because it is in appropriate for an agricultural area and is not necessary for the surrounding area (See attachment for supporting letter with property owners' signatures and opposing letter)

### **Compliance with Specific and General Special Exception Provisions**

Staff has reviewed the application for compliance with all applicable special exception provisions and finds the following:

## Sec.59-G-2.42. Public utility buildings, public utility structures and telecommunication facilities.

- (a) A public utility building or public utility structure, not otherwise permitted, may be allowed by special exception. The findings of this subsection (a) do not apply to electric power transmission or distribution lines carrying in excess of 69,000 volts, which are regulated by subsection (f) below. For other buildings or structures regulated by this section, the Board must make the following findings:
  - (1) The proposed building or structure at the location selected is necessary for public convenience and service.

The proposed telecommunications facility will expand and provide improved cellular coverage, including quality of reception and transmission of phone calls for the public.

(2) The proposed building or structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

The monopole will be constructed in accordance to all applicable safety standards. Further, given the nature of the use, the proposal expansion will not endanger the health and safety of residents in the community.

(b) Public utility buildings in any permitted residential zone, shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting and fencing, wherever deemed necessary by the Board.

A wooden fence will screen the enclosed area for the monopole and the monopole will be painted.

### (c) Reserved

(d) Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower; provided, that any broadcasting tower lawfully existing on September 1, 1970, shall be exempt from the setback limitations imposed by this subsection, and may be continued, structurally altered, reconstructed or enlarged; provided further, that no structural change, repair, addition, alteration or reconstruction shall result in increasing the height of such tower above the then existing structurally designed height.

The above provision is for a broadcasting tower and not for a telecommunications facility.

(e) Examples of public utility buildings and structures for which special exceptions are required under this section are buildings and structures for the occupancy, use, support or housing of switching equipment, regulators, stationary transformers and other such devices for supplying electric service; telephone offices; railroad, bus, trolley, air and boat passengers stations; radio or television transmitter towers and stations; telecommunication facilities; above ground pipelines. Additional standards for telecommunication facilities are found in subsection (j).

### Not applicable.

(f) The provisions of Section 59-G-1.21(a) shall not apply to this subsection. In any residential zone, overhead electrical power and energy transmission and distribution lines carrying in excess of 69,000 volts, where the board finds:

### Not applicable.

- (1) The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Chapter and in any master plan or portion thereof adopted by the Commission;
- (2) The proposed use will not affect adversely the health and safety of residents or workers in the area;
- (3) There is a public necessity for the proposed building, structure or facility at the location selected; and
- (4) The proposed use will have the least possible detrimental effect to the use or development of adjacent properties or the general neighborhood.

In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:

a. Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;

Not applicable.

b. Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds or other places of assembly, either existing or proposed;

This provision and none of the other provisions listed below does not apply for telecommunications facilities.

- c. The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, either existing or proposed;
- d. Any fire hazard or interference with fire fighting equipment due to the location and construction of the proposed line;
- e. Proximity of the line to public parks and recreational areas, either existing or proposed;
- f. Effect upon property values of those who will not be compensated for a taking under the laws of the state;
- g. The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and green belt areas surrounding satellite community development; and
- h. Proximity of the line to historic sites and structures.
- (g) In addition to the authority granted by Section 59-G-1.22, the Board may attach to any grant of a special exception under this section other conditions that it may deem necessary to protect the public health, safety or general welfare.

Not applicable.

(h) Petitions for special exception under this section may be filed on project basis.

Not applicable.

(i) A petitioner under this section shall be considered an interested person for purposes of filing a request for a special exception if he states in writing under oath that he has made a bona fide effort to obtain a contractual interest in the subject property for a valid consideration without success, and that he intends to continue negotiations to obtain the required interest or in the alternative to file condemnation proceedings should the special exception be granted.

Not applicable.

- (j) Any telecommunication facility must satisfy the following standards:
  - (1) The minimum parcel or lot area must be sufficient to accommodate the location requirements for the support structure under paragraph (2), excluding the antenna(s), but not less than the lot area required in the zone. The location requirement is measured from the base of the support structure to the property line. The Board of Appeals may reduce the location 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 unobtrusive location after considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, if any and visibility from the street.

The subject site is more than 75 acres in size and is large enough to accommodate the subject use. The owner of the property and Sprint PCS are co-applicants with this petition.

- (2) A support structure must be located as follows:
  - a. In agricultural and residential zones, a distance of one foot from property line for every foot of height of the support structure.

The telecommunications facility is located more than 488 feet to northern property line, approximately 905 feet to the eastern property line along Clarksburg Road, approximately 897 to northern property line along Lewisdale Road and more than 1200 to the western property line.

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.

Not applicable.

- c. These location requirements apply to perimeter lot lines and not to interior lot lines.
- (3) A freestanding support structure must be constructed to hold no less than 3 telecommunication carriers. The Board may approve a support structure holding less than 3 telecommunication 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 telecommunication carriers will promote community compatibility.

The proposed telecommunication facility will could accommodate two additional telecommunications providers.

(4) 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.

Not applicable. The proposed height of the monopole will not require any action from the FAA since the proposed height is 193 feet.

(5) Every freestanding support structure must be removed at the cost of the applicant when the telecommunication facility is no longer in use by any telecommunication carrier.

The applicant has agreed to this provision.

### Sec. 59-G-1.2. Conditions for granting.

#### 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.

The proposed special exception is permissible in the RDT zone.

(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.

The proposed telecommunications facility complies with the standards and requirements for a telecommunications facility, Section 59-G-2.42.

development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special exception must be consistent with an recommendation in an approved and adopted master plan regarding the appropriateness of s 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 the 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.

The proposed petition is consistent with the 1980 Agricultural and Rural Open Space 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.

An inherent feature of a free standing telecommunications facility is its height and scale and the proposed height has increased because of topographical changes and the need to provide adequate cellular coverage for the surrounding area. Furthermore, the general character of the neighborhood is primarily agricultural with farms, large barns and silos. The proposed use is not intense and creates no parking or traffic conditions, besides periodic technical maintenance.

(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.

The proposed petition will not have a detrimental effect for any of these reasons. The applicant has submitted real estate appraisal studies that indicate a telecommunications facility will not have a detrimental effect on property values.

(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 will not cause any adverse effects with respect to the reasons above. Physical activity will only increase at the site during periodic maintenance upgrades by telecommunications personnel.

(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.

The requested petition will not increase the number, intensity and scope of approved special exceptions in any neighboring one-family residential 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 on any adverse effects the use might have if established elsewhere in the zone.

The proposed special exception will not cause any of these effects.

(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.

Not applicable to the subject petition.

(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.

A preliminary plan is not required for the subject petition; therefore, this provision is not required.

(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 have

no detrimental effect on the safety of vehicular or pedestrian traffic.

The proposed special exception will not have a detrimental effect on pedestrian safety and vehicular traffic.

### **Conclusion**

Based upon the review of the proposed special exception, staff finds that the petition meets all of the specific and general standards for a telecommunications facility. Subsequently, staff recommends approval of the special exception with the conditions listed at the beginning of this report

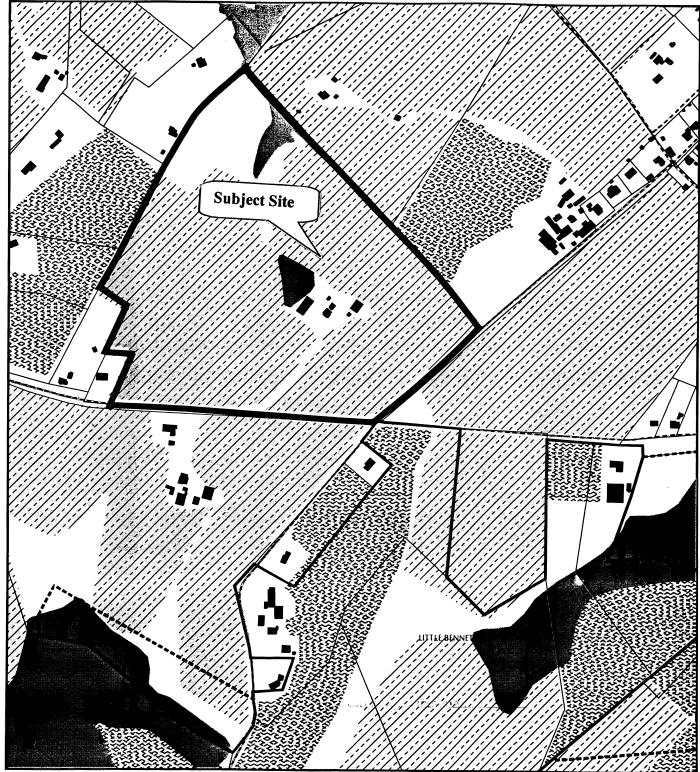
### **Attachments**

Vicinity Map	A-1
Zoning Map	A-2
Site Plan	A-3
Compound and Equipment Layout	A-4
Monopole Elevation	A-5
Proposed monopole simulation photos	<b>A-6</b>
Coverage Maps	
-Without Monopole	A-7 (a)
-With Monopole	A-7 (b)
Tower Committee Recommendation	<b>A-8</b>
Citizens Letter of Support	<b>A-9</b>
Property Owner's Letter as Co-applicant	A-10
Montgomery County Agricultural Advisory Committee Letter	A-11
Maryland Historical Trust Letter	A-12
Letter and signatures in opposition	A-13

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S-2495





Map compiled on September 10, 2002 at 2:21 PM | Site located on base sheet no - 237NW13

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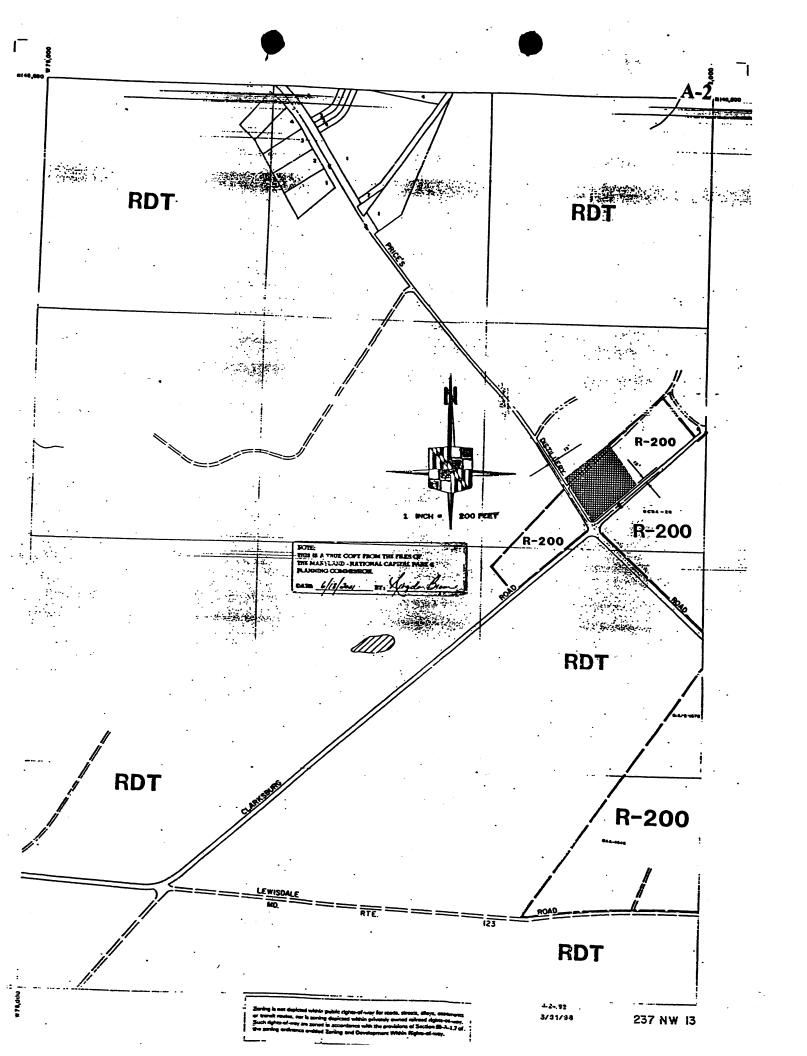
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods. This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to data. All map features are approximately within five 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. - Copyright 1998

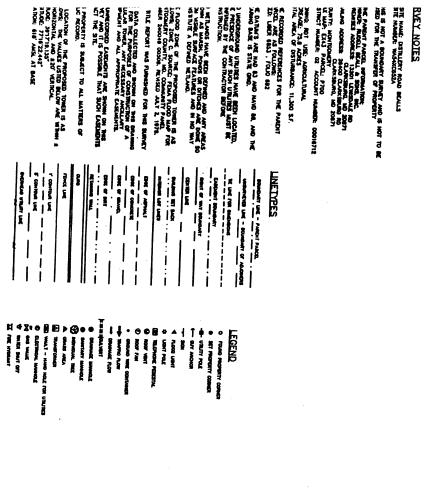




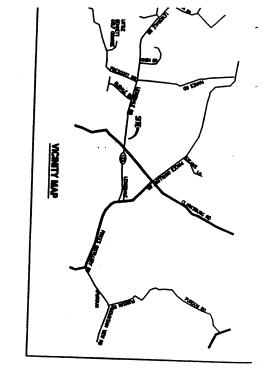


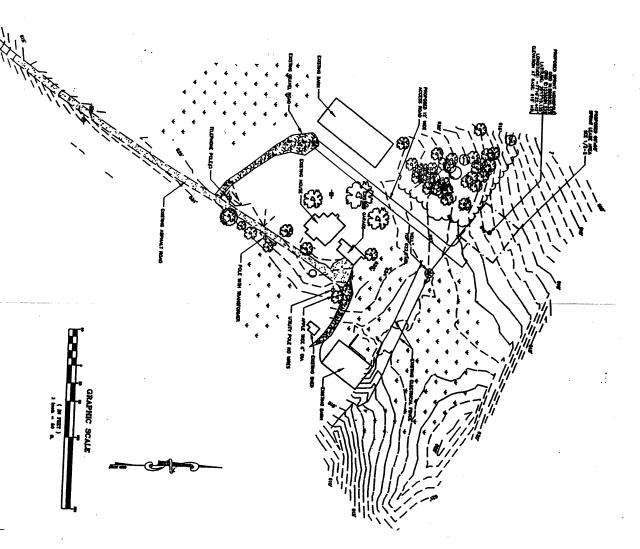
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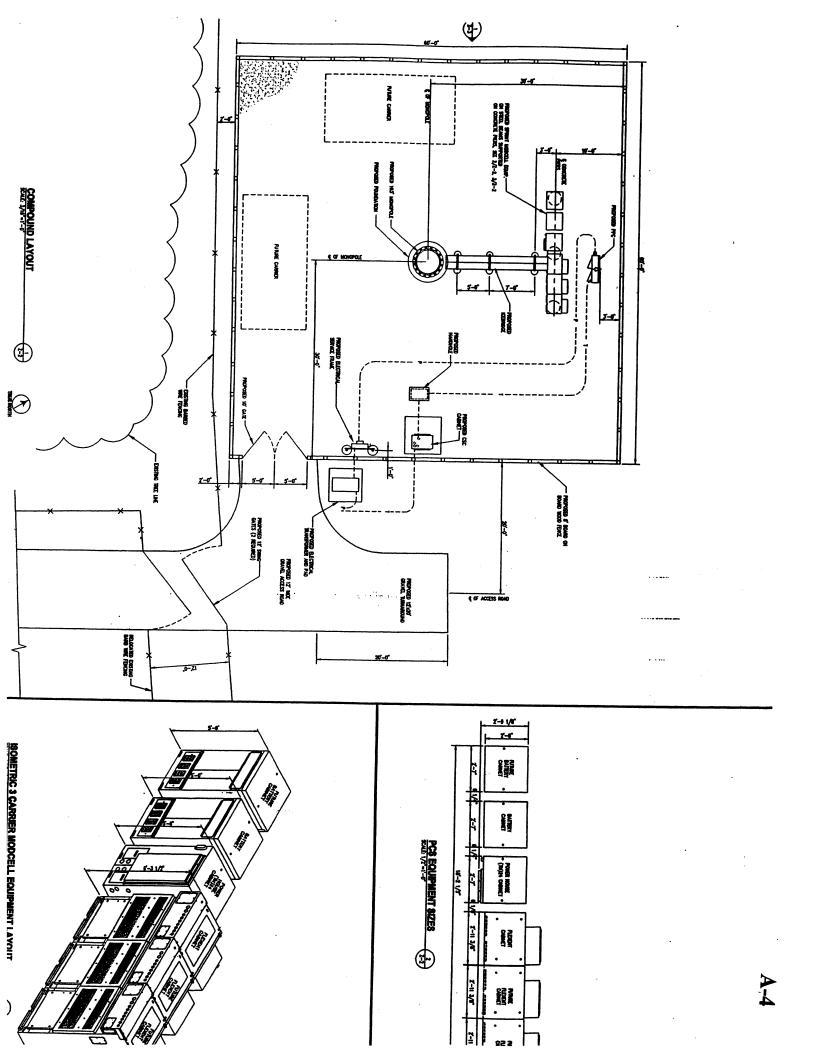


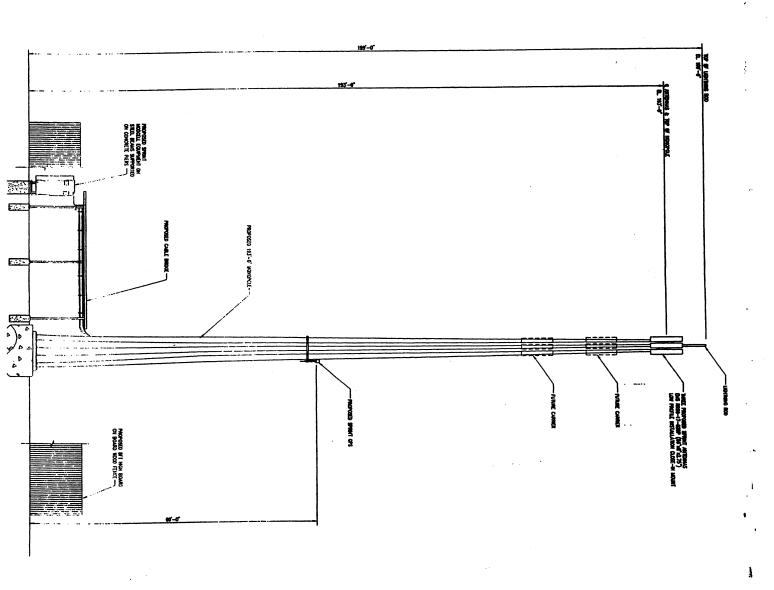


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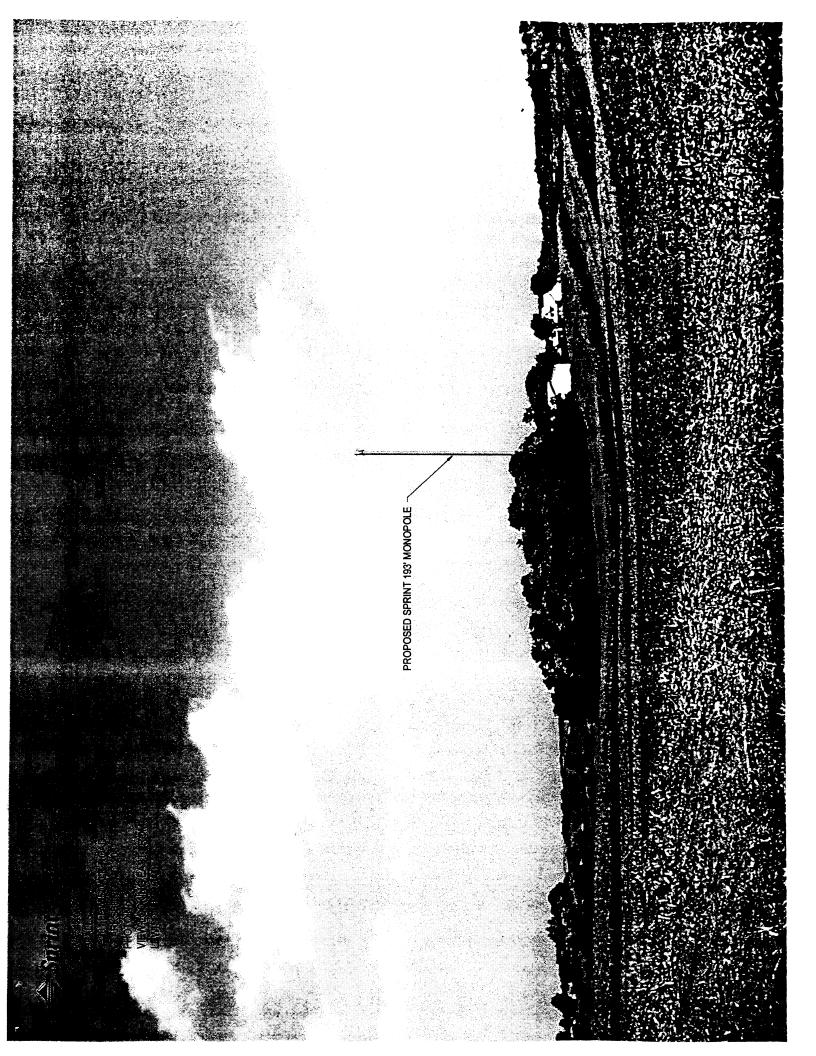




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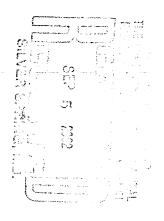


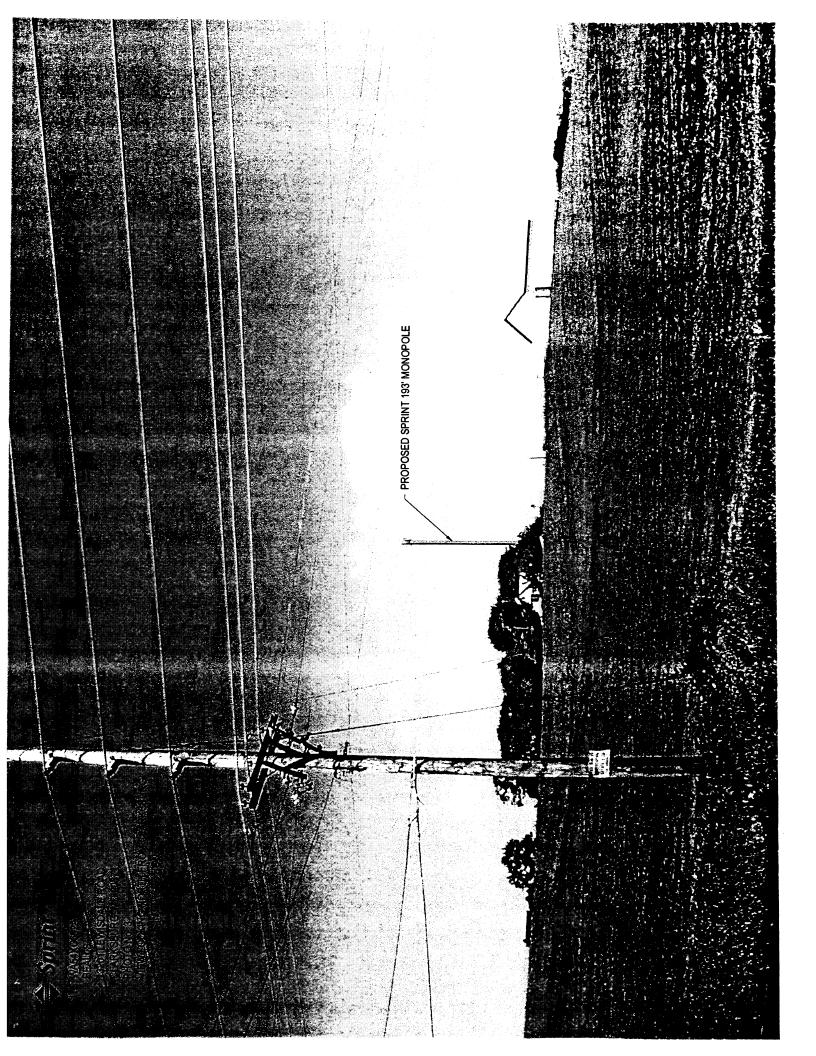
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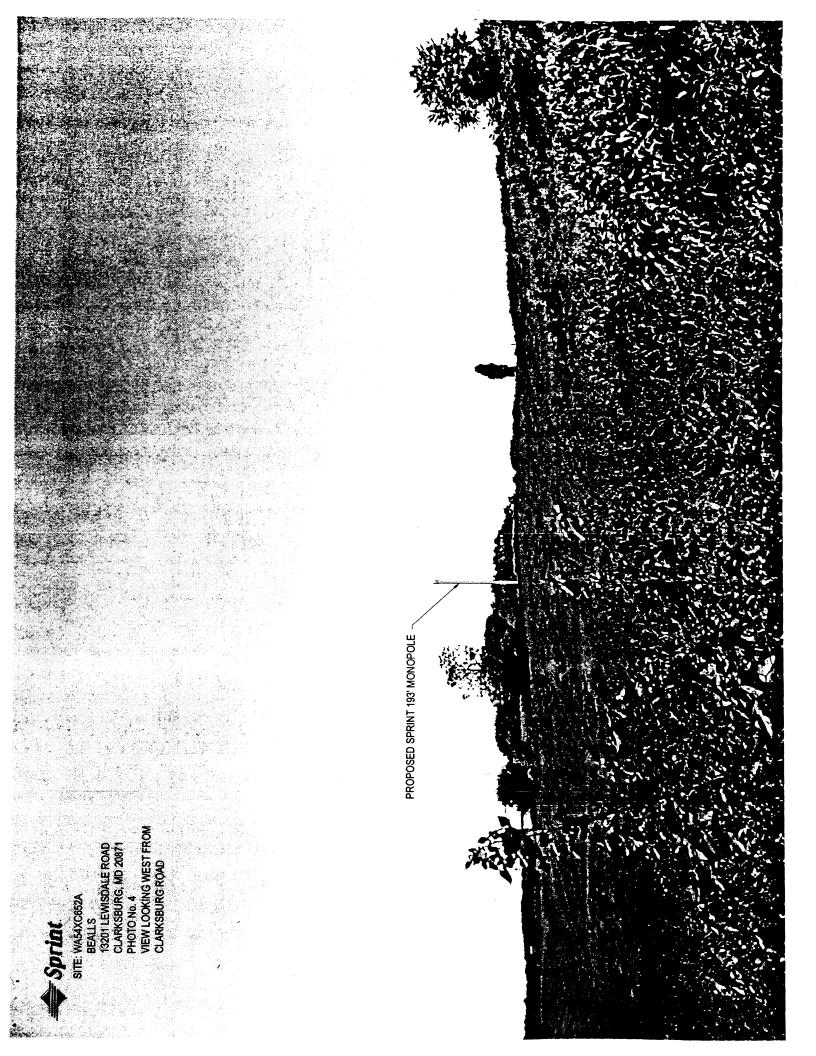


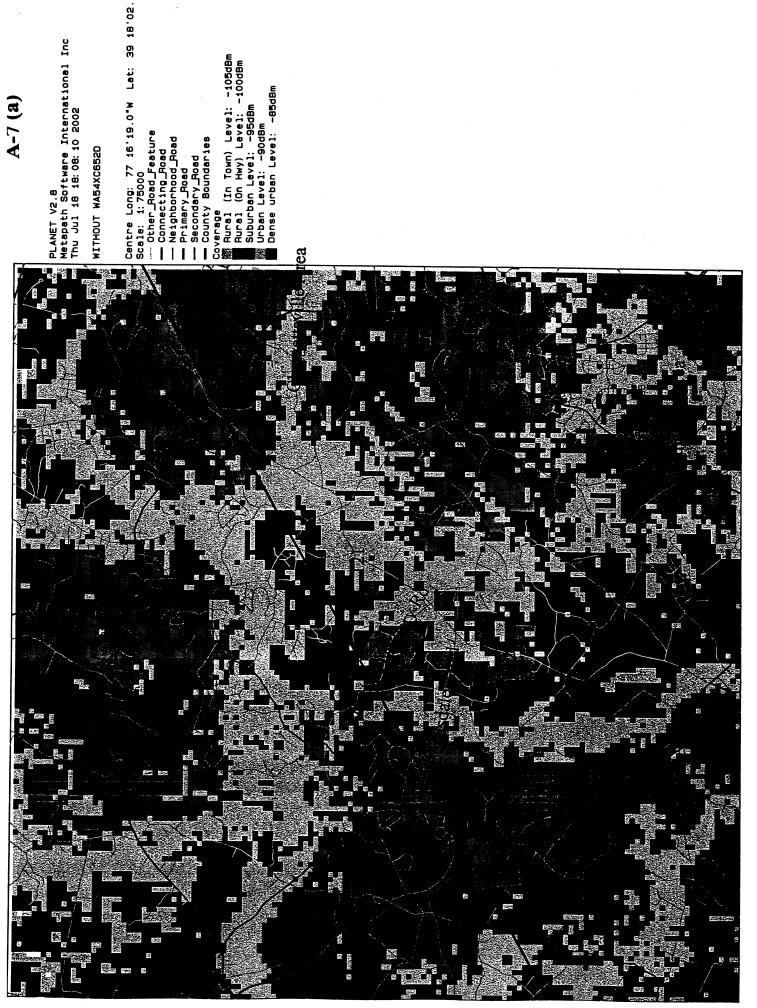






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**A-8** 



# MONTGOMERY COUNTY, MARYLAND TOWER COORDINATOR RECOMMENDATION

APPLICATION NUMBER: 200201-01

DATE: 21 January 2002 REVISED July 12, 2002

Application Information:	
Applicant:	Sprint PCS
Description:	Attach nine three antennas at the 150' 193' level on a new 150' 193' monopole to be constructed.
Site Location:	Beall Farm  12900 Prices Distillery Road 13201 Lewisdale Road, Clarksburg
Property Owner:	Rudell Beall & Sons, Inc.
	ordance with Zoning Ordinance: RDT  By right: Special Exception:
Public Property:	By right: Special Exception: Mandatory Referral:
Impact on land-own	ing agency: N/A
	blic safety telecommunications facilities and plans: None
new site (see photo # 7) which appear to be too s Power utility poles at wiphotos 6 and 12).	There are no existing tall structures nearby either the original site or the that could support Sprint's antennas (See photos 2 to 5) except for two silos, short to be capable of providing the desired coverage, and two Allegheny hat appeared to be higher ground elevations than the proposed site (see sider replacing the existing Allegheny Power transmission line 50' poles with Although Allegheny Power was interested in this option, Sprint submitted RF
contours which showed signal coverage needed even 90' in height would Replacement poles capa coverage, would most hi	that the replacement poles, despite the higher ground, would not provide to meet all of Sprints service objectives. Or, if used, antennas on a pole of d most likely create a need for additional antenna sites in the area. able of placing antennas at appropriate elevations to provide the desired likely be just as obtrusive as the proposed tower, and given the higher ground eny pole at the new site, it could perhaps be visible from a greater number of
service. We found that	ers' confidential annual plans to see if any listed this as an area planned for three carriers planned sites near this location. One has plans for a site 1.8 ed Beall Farm location, one plans for a site 2.6 miles south, and one plans for theast.
As illustrated on the late	est design plans, this monopole can accommodate up to 2 additional carriers

with antennas also mounted in a three antenna flush mount configuration. We presume that all other attachments to the monopole will be limited to the three antenna configuration, also. Since the flush mounting limits the number of antennas, it may not present as great an opportunity for others to colocate at the site. But, depending on the other carriers system designs and service needs, this may be

an opportunity for co-location.

Implications to surrounding area: In November 2001, prior to Sprint filing its TTFCG application, we began receiving calls from residents of this community about this monopole. Some callers knew about the tower because they had seen tests being conducted, others had seen the Special Exception sign (Special Exception #2495 was filed October 30, 2001). Callers expressed objection to a tower, stating that it would ruin the scenic views from their homes in what they said was a historical and agricultural preservation area.

The TTFCG application was not received until January 21, 2002. On January 22, we conducted an initial site visit and, coincidentally, met with two residents who had called to complain. They asked about an opportunity for public input and explained how the tower would ruin their view of the farm across the valley from their home (see attached photo #1). The site is an area of low rolling hills with farms and residences. This monopole, once erected, will be plainly visible to the surrounding homes.

Mr. Critzer, a resident who was referred to us by the Chair of the TTFCG, Jane Lawton, reported that he represented a number of neighbors that had held a meeting with Mr. Beall, the property owner. Mr. Critzer reported that Mr. Beall agreed that another location on a different parcel owned by the Bealls may be used in lieu of the site proposed. That alternate site is next to wooded parkland, and the neighbors suggested a tree pole might better conceal the monopole at that location. That information was provided to Sprint along with a request for Sprint to consider that site in lieu of the proposed site which the resident group found objectionable.

On April 9, a second meeting, also arranged by this group of residents, was held at the site to discuss alternative locations for the monopole. In attendance were many neighbors, the property owner, and Sprint's engineers and its legal and site acquisition team. At the request of Mr. Critzer and Ms. Lawton, we also attended the meeting along with Amy Rowan, of Ms. Lawton's office, and Martin Klauber, Peoples Counsel for the County. At the meeting, the Sprint representatives gave a presentation of the options Sprint considered, the problems with their coverage in that area, and the accommodations it had made in trying to address the residents' concerns and minimize the appearance of the monopole, including lowering the height from 190' to 150' and using just three antennas, flush mounted instead of the nine antennas attached to a triangular platform as originally proposed.

During the meeting, some of the residents expressed a preference for a third site on the Beall property and Sprint agreed to consider it. Sprint has now performed its analysis and has decided to pursue use of that alternate site. Some other residents objected to that new location because it was closer to their homes and more visible to them than the original site location. So, even though Sprint and some residents (residents from 11 properties signed an approval letter to Sprint) may agree to this new site for the monopole, there is still a potential for controversy over the siting of this monopole from other residents or property owners (there is one house under construction which directly overlooks the site - see photo #13).

Attachments: Application, photos, and map illustrating the alternative sites referenced above.

Comments: The initial TTFCG application proposed to install a typical triangular platform array of antennas atop a 150' monopole on the highest ground on the farm near the barn, silos, and a cow pen. On reviewing the Special Exception file, we find that Sprint had originally planned for a 190' monopole but, according to Sprint's letter to the Board of Appeals, had decided that a shorter 150' monopole would meet its coverage requirements because it had activated a new site to the west.

With its TTFCG application, Sprint submitted RF contour maps which showed that there is a need

for coverage for this area that antennas on the proposed monopole would meet. We reviewed the RF contours and agree with that conclusion.

During our initial site visit on January 22, we identified an existing nearby 50' Allegheny Power pole at Lewisdale Rd and Prices Distillery Rd (see photo 6) that perhaps could provide the desired coverage, if replaced with a somewhat taller pole. On February 5, after reviewing information from Allegheny Power about its existing power pole for use by Sprint, we asked Sprint to provide RF contours for a 120', 90', and 60' pole at the Allegheny site. We also asked for RF contours from the monopole as originally proposed at 120', 90', and 60' elevations, and the results from any drive tests or balloon tests already performed by Sprint. We asked for RF contours from the alternative site near the parkland proposed by some residents as well.

In its reply on March 25, Sprint provided drive test results for the proposed site at 150' which verified the results from the computer model illustrated on the RF contours at the same elevation. Sprint also provided an RF contour illustrating expected coverage at 120', which Sprint claimed showed visible reduction in coverage and therefore it did not run RF analysis at the 90' or the 60' elevation. Based on our review of the RF contours, it appeared to us that there would not be any significent difference in coverage between antennas at 120' and 150'. We also reviewed the drive test results for a replacement power pole at 120' and 150', and the RF contours at 150' at the resident-suggested location, all of which did not appear to provide as good coverage as a 150' or 120' monopole at its proposed location on the farm.

At the time of an April 9 meeting with the residents at the site, we were informed by Sprint that it now proposed only three flush mounted antennas in a "low profile" design, and there would not be any lights on the monopole. Sprint noted that it would be giving up some of its coverage and receive diversity for this location in making the antenna changes. Receive diversity means that by utilizing multiple "diverse" antennas for each of the three sectors of coverage, the radio base station will be able to select the best signal by comparing the signal strength of different antennas. The equipment then selects the strongest signal in order to provide the better reception from the cell phones. With just one antenna per sector, this "receive diversity" cannot be accomplished, so the service may not be as good as it might be for some callers.

At the April 9 meeting, some residents asked Sprint to consider another alternative location on an adjacent Beall property off Lewisdale Road (see photos 7, 8-11, and 13-14), and for us to review the RF contours and drive test results Sprint had on display during the meeting. The Sprint engineers agreed to provide us with copies of what they showed the residents, and also agreed to consider the alternative location. The Sprint engineers commented that because of the obviously lower ground elevation of the proposed new location, the monopole would most likely have to be taller, perhaps up to 190' high. At the meeting, we asked Sprint's engineers to run RF contours at 190', 160' and 140' above ground from the new location to document the need for the increased height. We also asked them to consider use of another existing Allegheny Power pole nearer the new location on Lewisdale Road at Rudale Rd., which is on higher ground than the new location. The engineers agreed to do that.

On May 2, in follow-up to a telephone convesation with Sprint's representatives to discuss the status of the results from the April 9 meeting, we sent Sprint a list of what information we expected to receive with the revised application.

On July 12, Sprint submitted a request to modify its application to install a 193' monopole at the alternative location suggested by some of the residents. With its request to revise the application, Sprint attached drive tests only (no RF contour maps were included) for the new location at 190' and 120' from two adjacent sites in Frederick County. Sprint noted, however, that it did not believe it

was within the TTFCG's authority to request information about coverage from sites outside Montgomery County.

The drive test results showed that at both 190' and 120', there were some areas receiving slightly weaker coverage as compared to the original location at 150'. Also enclosed with the letter revising its application, was a copy of a new site plan and an elevation drawing showing the antennas extending 5' above the top of the monopole, topping out at 198' high. Sprint also provided some answers to our list of questions from May 2.

Missing from the July 12 submission were copies of the RF contours maps for the new location at 190, 160', and 140' to justify the new height, which we had requested at the on-site meeting in April, and again in May. Also, the Allegheny pole Sprint looked at was the wrong pole. In addition, we noticed that part of Sprint's justification for the height was to provide coverage to areas to the east which Sprint had not previously mentioned as part of its desired coverage area. Those areas are along Bethesda Church Road and Haines Road.

On July 19, we requested the missing information and, considering the new coverage areas, we asked for drive test results, if available, from another adjacent site in Frederick County which Sprint had shown on its first set of RF contour maps submitted with its application. Sprint did not provide the drive test results because according to Sprint it was in Frederick County and also because the final site had not been selected.

On July 22, we received the RF contours for the new location at the 193' and the 160' level. Based on our review of the RF contour maps, it appeared that coverage from antennas at 160' is, with a few minor exceptions that we concluded covered from other Sprint sites, as good as that from antennas at 190 feet.

We also did a comparison of the RF contours between the new proposed location at 160' and the original location at 120 feet. In this analysis, we found that it appeared that either location will be able to provide about the same coverage.

Sprint, in reconsidering the correct Allegheny power pole, assumed it would be replaced with another tall monopole and concluded that there wasn't enough ground space for co-locators' equipment sheds at the power pole. We asked again about the possibility of attaching only Sprint's antennas to a 90' pole replacing the existing 50' power pole.

On July 25, we received the RF contours for the replacement power pole at 90'. Sprint concluded that the location of the pole and at a 90' height would result in substantially diminished and unreliable coverage to certain areas. Based on our analysis of the RF contours for this location, we agree that it appears that use of a 90' replacement pole will result in weaker coverage to the northeast.

On August 20th, we met with Sprint's engineer to discuss our findings. Sprint presented the drive test results from the additional Frederick County site as we requested earlier, as well as reviewed its detailed analysis of the present location. Based on our review of all the RF contours and drive test results for the new site and its adjacent sites (active and proposed), we conclude that antennas at approximately 190' (as presently proposed) are needed to provide service close to that which Sprint desires for this area. Antennas at a lower height would most likely result in a need for a second antenna location to properly serve the areas to the northeast of the proposed site.

Additionally, when compared to the original site, this coverage is not quite as good. The main

reason for the need for a higher facility at the new site is that the ground elevation is lower there and the antennas are farther away from the highest ground level, causing a fall-off in signal coverage on the other side of the hill from the tower at its present location - a "shadowing" effect. We conclude that Sprint makes a convincing case for coverage in this area and that a new tower is necessary to provide service.

This recommendation is conditioned on granting of a Special Exception for the new location and the new monopole and antenna configuration, and construction of the monopole.

Tower Coordinator Recommendation:	Recommended: X  Not recommended:
Signature	tt 8/27/02

12930 Prices Distillery Road Clarksburg, MD 20871 July 22, 2002

Katherine Freeman
Executive Secretary to the Board
Montgomery County Board of Appeals
Stella B. Werner Council Office Building
100 Maryland Ave.
Rockville, MD 20850

Case No. S-2495

Dear Ms. Freeman:

As adjacent and adjoining property owners to the Beall Farm, we support the proposed location for the Sprint PCS Telecommunications Monopole Facility to be located on Robert Beall's farm in Clarksburg, Maryland. Our support follows Sprint's willingness to accept the alternative location and design for the pole as detailed in their letter dated May 24 and as recommended by the community. In further communication from Sprint on July 2, it was confirmed that no lights would be required or installed on the tower. In addition, the equipment on the ground will be screened inside an 8' board on board wood fence. Mr. Beall will plant right up to the facility which will obscure the fence (letters enclosed).

Following are the signatures of adjacent and adjoining property owners to the Robert Beall Farm who support Sprint's request to the Board of Appeals (case No. S-2495) to grant an exception and allow the installation of the telecommunication facility.

Shelley and Nelson Beall

12821 Prices Distillery Road

Clarksburg, MD 20871

Carole and Paul Bergmann

12931 Prices Distillery Road

Clarksburg, MD 20871

Leonard Cave

12938 Prices Distillery Ross

Clarksburg, MD 20871

DECE VE DUL 2 9 2002 SDARD OF APPEALS

Nelson Beall i Shelley Bealf

Jan Bryen

### 2 Case No. S-2495

Lorraine Schack and Michael Critzer 12930 Prices Distillery Road Clarksburg, MD 20871

Annette Hismeh 13200 Prices Distillery Road Clarksburg, MD 20871

Barbara and George Kassler 13040 Prices Distillery Road Clarksburg, MD 20871

Barbara and David Kaufman 12941 Prices Distillery Road Clarksburg, MD 20871

Tim and Chris McDermott 26420 Clarksburg Road Clarksburg, MD 20871

Elaine and Fran Parry
13025 Prices Distillery Road
Clarksburg, MD 20871

Jennifer and Earl Stephenson 13001 Prices Distillery Road Clarksburg, MD 20871

Mary Beth and Kim Turska 13026 Prices Distillery Road Clarksburg, MD 20871 Andtolle

Heare Kanly Barbara Kanley

David Kaufman Bailua J. Kaufman

Tenothy Mederall

Jaire Pary From Pary R

Springe Lolencer

Im & Jush

#### September 5, 2002

The Honorable Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals
Executive Office Building
100 Maryland Avenue
Rockville, MD 20850

Re: Special Exception Case No. S-2495, Proposed Sprint PCS Monopole, Bealls Farm, Clarksburg

Dear Mr. Spence:

The property that is the subject of this pending Special Exception petition, as amended, is owned by Rudell Beall & Sons, Inc. who has entered into a lease agreement with Sprint PCS for its installation, maintenance, and operation of a wireless telecommunications monopole facility on the property. As President of Rudell Beall & Sons, Inc., I hereby state that we are joining in this Special Exception petition as a coapplicant with Sprint PCS.

Thank you for your attention to this matter.

Robert Beall
President, Rudell Beall & Sons, Inc.





### DEPARTMENT OF ECONOMIC DEVELOPMENT

Douglas M. Duncan
County Executive

October 3, 2001

David W. Edgerley

Director

Arthur Holmes, Chairman MNCPPC 8787 Georgia Avenne Silver Spring, MD 20910

Re: Support for Additional Communication-Phone Towers in the Agricultural zones

Dear Chairman Holmes:

The purpose of this letter is to submit the Agricultural Advisory Committee's support for additional communication-phone towers in the Agricultural zones of Montgomery County.

In the past few years, the use of mobile phones have resolutionized every segment of our society. All businesses including agriculture have benefited greatly by this technology as economic decisions are made instantly in the field. Europeanore, in light of the national tragedy from September 11, 2001, it is evident that mobile phone usage represents a critical means of communication for government, emergency personnel, and all citizens.

It is the AAC's firm belief that additional communication-phone towers are needed in the rural and agricultural areas of our County. The signal strength from the existing towers is not sufficient to meet current demand as the signal fades out often or will not work altogether. Given the increasing demand and importance for this communication technology, it should not be surprising that farmers of this County expect an effective communication network that will work in both urban and rural areas.

The AAC further acknowledges that communication phone towers located on farm properties does not represent a negative impact to agricultural operations as the towers are erected on small parcels of land usually taking up less than one acre. The rental income to the property owner also represents an economic incentive and opportunity that can be used to further support the farming operation.

In conclusion, the AAC encourages the Montgomery County Planning Board to support the construction of additional communication-phone towers in the Agricultural zones for the reasons outlined in this lener.

Thank you for your time and support on this vitally important issue impacting all citizens of our country.

Sincerely,

William Willow JVC

William Willard, Chairman Agricultural Advisory Committee

Aboleranilled (mg2001)



Maryland
Department of
Housing and
Community
Development

Division of Historical and Cultural Programs

100 Community Place Crownsville, Maryland 21032

410-514-7600 1-800-756-0119 Fax: 410-987-4071 Maryland Relay for the Deaf: 711 or 1-800-735-2258

http://www.dhcd.state.md.us

Parris N. Glendening Governor

Raymond A. Skinner Secretary

Marge Wolf Deputy Secretary April 11, 2002

Mr. James S. Meenan III, Environmental Scientist Marshall Miller & Associates 3913 Hartzdale Drive, Suite 1306 Camp Hill, PA 17011

Re: Bealls Proposed Wireless Facility, Lewisdale Road, MM&A # E66554A Clarksburg, Montgomery County, MD (Section 106 Review – FCC)

Dear Mr. Meenan:

The Maryland Historical Trust received Marshall Miller & Associates' submission regarding the change in location and height for the previously reviewed Bealls Proposed Wireless Facility. We have reviewed the project information in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, and are writing with our determination of effect.

According to the submission, Sprint PCS is now proposing to install a 190-foot monopole near the National Register eligible Lewisdale Historic District (M-10-36). Although the tower is likely visible from many of the contributing resources within the historic district, it would not significantly diminish the integrity of the district. Therefore, we concur that the proposed undertaking, at the new location, would still have no adverse effect to historic properties.

If you have questions regarding this matter, please contact Tania Georgiou Tully at 410-514-7636 or tully@dhcd.state.md.us. The federal preservation requirements for this undertaking have been fulfilled. Please contact the FCC to determine what procedures to follow.

Sincerely,

Elizabeth J. Cole Administrator

Project Review & Compliance

EJC/TGT 200201756

cc:

Dan Abeyta, Esq., FCC

Ms. Gwen Marcus Wright, Montgomery County



TO! NKosi Yearwood From: Karon dessiva 13401 Lewisdale Rd, Clarksburg. RE: Case # 5-2495

I am writting this letter in strong opposition to the amendment in case # 5-2495 requesting the site of a telecommunications tower be moved from Prices Distillery Rd. to one on Lewisdale Rd specifically, and opposing the tower being built in an Agricultural Reserve in general. I am aware that there are 20 signatures "in favor of" the tower being moved from the original requested site il am also aware that there are 29 signatures (0.9 of September 9th) who are opposed to the tower being moved to its newly proposed site. In all, as of the 9th, there are 4 signatures against the tower. If 20 signatures were enough to convince sprint of the need to move their tower site, than 94 against the tower should be more than enough to convince Sprint to forgo the tower in This area altogether.

This is an Agricultural Reserve, zoned so that people who live here are awarz of the conditions of the area in which they choose

to live. This includes slow moving farm Vehicles, farm equipment being used at all hours of the morning and night, stench from a manure collection pit, the risk of animals escaping from fields, toxic pesticides and herbicides being sprayed on a regular basis, the smell of manure being applied to fields and the risk and annoyance of hunters shooting guns in the fields. This also includes no convience stores around the corner, and no malls within walking distance, basically no commercial businesses. It's an Agricultural Reserve. Hs advantages are open space, natural scenic views, less traffic. Errecting a cell tower here is incongruous. It's out of place It's detrimental to the advantages of living in an Agricultural Reserve. His unwanted and it's un needed. It's a business looking to in crease sales at the expense of (all but one of) the residents in the area, and at the expense of the people who travel through and enjoy a deminishing quality of Montgomery County. Granting "special exceptions" in Agricultural Pleserie areas is like going back on your word, Seemingly making a jake of the zoning process. It removes trust that any one might have

In the people who are responsible for Keeping a balance in Montgomery Country.

The need for complete and total coverage by sprint in this area is unwarranted. Most of the area is open fields and parkland. The one road that lacks the quality of coverage that Sprint desires is a two lane, hilly, winding road on which notody should be using a cell phone while traveling. If their concern" is for the public to be able to make phone calls while in the park, I think that should be left to the individuce to decide. It should not be up to sprint to decide that everyone needs a (their) cell phone. A sign at the park entrances could indicate that while enjoying the quiet and serenity of the undeveloped park a cell phone may not function to the best of its ability. If someone is unable to enjoy their stay in the park without the use of a phone they may shoose to go else where.

If you could step back from the high pressure business world long enough to look at Sprints request for a special exception through fresh eyes I believe you will see that it is inappropriate to ruin the special qualities

of an area (an area that has been "saved" by Park & Planning) in order to support an unnecessary business site. It does not have to be be business as usual." This tower does not vake to go here "because other Agricultural Reserves have towers." Nothing ever improved on the basis of doing something because that's the way its been done in the past."

Help to preserve the Agnithural Reserve.

13401 Lewischlerd

Clarbsbury Md 2087/

7188.854.10E

# September 9, 2002

Board of Appeals for Montgamery County Office of Zoning & Administrative Hearings 100 Maryland Avenue Rockville, Manyland 20850

Re: Case No. 5-2495 (OZAH Referral NO. 03-2)
"Notice of Motion to Amend Defition" dated Aug 29,2002

Enclosed please find a copy of the Notice dated August 29,2002 that proposes to amend the petition for a telecommunications facility to a new location on the Beall Farm with an increased height of 193 feet. Per your notice all "Interested parties who object to the granting of the motion" must notify your office in writing no later than Eapt. 9— Please refer to the attached petition with 24 names and more to follow."

Citizens concerned for the preservation of Montgomory Co.
Tina & Marshall Jones
Country ble



CC: Robert Humicutt-/Columbia Telecommunications Corp.

### BOARD OF APPEALS for MONTGOMERY COUNTY (240)777-6600

Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660

Case No. S-2495 (OZAH Referral No. 03-2)

# PETITION OF SPRINT PCS/APC REALTY AND EQUIPMENT COMPANY, LLC

## NOTICE OF MOTION TO AMEND PETITION

Please take notice that James R. Michal, Attorney for Sprint PCS/APC Realty and Equipment Company, LLC, Petitioner, has, by letter dated August 26, 2002, filed a motion pursuant to Section 59-A-4.24 of the Zoning Ordinance to amend its petition for a special exception, which was filed pursuant to Section 59-G-2.43 (Public Utility Buildings, Public Utility Structures and Telecommunications Facilities) of the Zoning Ordinance to permit a telecommunications facility enclosed in a 60 x 60 foot compound which includes a 150 foot monopole, 9 panel antennas and six equipment cabinets. The amendment reflects a new location on the Beall farm for the proposed monopole facility and a resulting necessary increase in the height of the monopole from the proposed 150 feet to 193 feet. Included with the request are (a) letter from 20 citizens in support; (b) revised color coverage plots - Ex. 11 (2); (c) revised drawings - Ex. 7; and (d) revised list of adjoining and confronting property owner information containing original list and new list based on the New Location.

The Hearing Examiner will take the motion to amend under consideration for a period of ten days from the date of this notice, until September 9, 2002. The additional exhibits can be reviewed in the Office of Zoning and Administrative Hearings between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Interested parties who object to the granting of the motion, or who believe that granting the motion would warrant postponement of the scheduled hearing date for this matter, are requested to so notify this office in writing no later than September 9, 2002. This matter is currently scheduled for public hearing before the Hearing Examiner on October 4, 2002, in the Davidson Memorial Hearing Room, 2<sup>nd</sup> Floor, Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at 9:30 a.m. or as soon thereafter as this matter can be heard.

The subject property is Part of Parcel 500, located at 12900 Prices Distillery Road, Clarksburg, Maryland, in the RDT Zone, (Tax Account No. 00016745).

Notices forwarded this 29th day of August, 2002, to:

Sprint PCS/APC Realty and Equipment Company, LLC James R. Michal, Esquire
Charles W. Thompson, Jr., Esquire, County Attorney
Martin Klauber, Esquire, People's Counsel

petition against the request for special exception of the zoning ordinance to permit A celecommunications facility on the new proposed Location

the following people are opposed to the construction OF 193 FOOT SPRINT COULER ON the BEALL FARM:

	name:	ADDRESS:	Phone:
1	Tina Marie Joseph Jan	12656 Prices Distilleng Rd.	501-253-3015
2	MARSAME HICH This	14656 PALES DISTILLERY RL	34.253.3015
3	Dopothy / Hond's	18733 LEWISDALE RD	301-253-3335
4	CLANDIA GOLDSTEIN	12800 Lewisdal + Rd	301253 1640
5	FAUL GOLDCIEIN	MEDICALE RD	901253 /648
6	Lay Morrisson	26001 Clarksburg Rd.	301-253-1262
7	Three-leaves	13401 Lewisdale Rd	301.253.8819
8	Ree Warter Rein	13401 LEWISDALE RD	301-253-8819
9	MARK W. HILL	13435 LewisdAleRD	301-231-7543
10	Judy Lumsden	13609 Lewisdale Rd	301-253-6762
11	Dyran Lumsden	13605 Censidale Re	301-253-2768
12	Nancy Acker	13413 Lemodal, Pd.	30/94(3/3/3/
13	though K Cake	134/3 Leves cle 14	d 4463131
14	Color HCKAR	13411 LIWISDATE KD	301 946 3131
15	Washu allu	13411 Lewisdale Rd	361-946-3131
16	Mandy Eller	15501 Teursdule Pol	301-253-5582
17	Haly Osvill	26217 Rudale Dr	301-253-5646
18	Salva Conta	.6213 RULAK M-	301-991-4823
19	Kaustluller	24213 Rudale pla	3014140086
20	Stock Muly	21213 CONALD DR	301 try 0086
21	- Colward Vaylor	26209 RUDALE DR	301-253-9672

L'ave:

ADDRESS'

PHONE

22 Jen B. Engly 23 MM and

24204 Rudale Dr. 26204 Rudale Mr.

381-253-5744 30.283-5401 301253-5457