



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 7
10/24/02

MEMORANDUM

DATE: October 18, 2002
TO: Montgomery County Hearing Examiner
VIA: John Carter, Chief, Community-Based Planning JAC
FROM: Judy Daniel, AICP, Team Leader, Rural Area JD

REVIEW TYPE: **Special Exception**
APPLYING FOR: **Telecommunications Facility**
CASE NUMBER: **S-2540**

APPLICANT: Sprint PCS/APC Realty and Equipment Company and
Goshen United Methodist Church
ZONE: R-200
LOCATION: 7700 Brink Road / Laytonsville vicinity
MASTER PLAN: Preservation of Agricultural and Rural Open Space
MCPB HEARING: October 24, 2002
BOA HEARING: November 8, 2002

STAFF RECOMMENDATION: APPROVAL with the following conditions:

1. The applicant is bound by all submitted statements and plans.
2. The monopole must be removed at the cost of the applicant when the telecommunication facility is no longer in use by any telecommunication carrier.
3. The flagpole must follow approved federal regulations governing the flying of the United States flag.
4. A tree protection plan is required prior to release of sediment and erosion control or building permit. This would include a tree protection fence between Brink Road and the construction site to protect critical root zones of the trees designated as T2 and T3. An inspector from the Environmental Planning unit of M-NCPPC must be contacted for a pre-construction inspection of the tree protection measures.

PROJECT DESCRIPTION: Surrounding Neighborhood

This is an application for a cellular communications tower for Sprint PCS to be located on the property of the Goshen United Methodist Church on Brink Road, near the Laytonsville community. This is a residential area along Brink Road approximately 3/4 mile west of the intersection of MD 108 and Brink Road in Laytonsville, and approximately 2/3 mile east of the intersection of MD 124 (Woodfield Road) and Brink Road. It is on the edge of the Agricultural Reserve.

PROJECT DESCRIPTION: Site Description

The applicant proposes to lease a 2500 square foot portion of Parcel 890, one of four adjoining properties owned by the church that are a part of this application. The church is a co-applicant for this special exception. The church property consists of adjoining Parcels P890 and P837, Parcel 865 and Parcel 888 on Tax Map GV22, comprising 4.22 acres in the R-200 Zone. The structure is to be located on Parcel 763.

The property is generally level, sloping slightly as it falls away from the road. The site contains a one-story church building, a small shed behind the church, and a cemetery on the western portion of the property. An existing grove of trees is located between the church and Brink Road, and there are trees scattered around the property. The specific location for the flagpole monopole is approximately 93 feet southwest of the church building, adjacent to the cemetery.

Land uses adjoining the proposed use include the Laytonsville Park to the east, farmland to the north across Brink Road, and homes on varied size lots to the south and west (beyond the cemetery adjacent to the church). The farmland to the north is in the RDT Zone and has recently received Preliminary Plan approval for 8 large lots.

PROJECT DESCRIPTION: Proposal

Sprint PCS is requesting a special exception to construct a telecommunications facility on in the form of a 120-foot tall "flagpole" monopole, with six equipment cabinets enclosed in a wooded board-on-board fenced compound. The "flagpole" design was chosen because of the residential character of the surrounding area. Sprint's three antennas will be hidden inside the structure, which is to daily fly the American flag. There will be capacity for at least two additional carriers to use the structure.

The fence enclosure for the equipment cabinets is 15 feet wide x 40 feet long x 8 feet high and set on a concrete pad. The 120 foot tall pole diameter will be 19.5 inches at the top and 32 inches at the base; anchored to a concrete and steel foundation.

The proposed structure will meet all setback requirements. A setback of at least 120 feet from all property lines is required. The site of the structure is approximately 226 feet from

Brink Road (to the north), approximately 160 feet from the south property line, 319 feet from the west property line, and 142 feet from the east property line. The structure will be located approximately 92 feet from the church structure, and over 300 feet from the nearest house. The compound will be buffered from the view of area residents by intervening trees and distance. Access will be via a short 12-foot wide drive extending off the church's existing gravel drive and parking lot. As with most cellular monopoles there will be only periodic visits of one to two times per month to check or repair the equipment.

ANALYSIS

Telecommunication facilities are an allowable special exception within the RDT Zone. A telecommunication facility is defined in Section 59-A-2.1 as *“Any facility established for the purpose of providing wireless voice, data and image transmission within a designated service area. A telecommunication facility must not be staffed. A telecommunication facility consists of one or more antennas attached to a support structure and related equipment...”*

Master Plan

The Agricultural and Rural Open Space Master Plan is silent on special exceptions. The R-200 Zone allows certain special exceptions including public utility structures.

Transportation

The proposed use is located along Brink Road, which is designated as an arterial road with an 80-foot right-of-way. There are no major transportation issues related to this special exception since there will be no on-site personnel and only periodic visits to check or repair the equipment. Access to the site will be from the church driveway off Brink Road.

Environmental

This application is exempt from the Forest Conservation Law. The Natural Resources Inventory (#4-02356E) has been approved. A tree protection plan is required prior to release of sediment and erosion control or building permit. The limits of disturbance must be indicated on the tree save plan. A tree protection fence is needed between Brink Road and the construction site to protect critical root zones of the trees noted as T2 and T3 on the site plan. An inspector from the Environmental Planning Unit must be contacted for pre-construction inspection of the tree protection measures.

Historic Preservation

The M-NCPPC Historic Preservation staff has noted no specific concerns with this proposal.

Required Findings for Special Exception

As outlined in the attached full review, the application meets the standards for a telecommunications public utility use in the zoning ordinance.

Community Concerns

As of the date of this report, the staff has received no comments regarding this application. Notices were sent to 16 adjoining and confronting property owners and area civic groups registered with the M-NCPPC.

Inherent and Non-Inherent Effects

Section 59-G-1.2.1 of the Zoning Ordinance provides that:

“A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. 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.”

The staff believes that the only significant inherent characteristic for this type of use is that it must provide a means of mounting antennas at a sufficient height to accomplish the job of transmitting cellular telephone signals, and that it must have equipment shelters to protect the transmitting equipment. The means of getting the antennas to the proper altitude to accomplish their job can vary and be visible or hidden, and the altitude to which they must be raised can vary depending on ground elevation and area to be covered. Other impacts are limited as the required mechanical equipment is easily located within screened fenced compounds and employee visits are rare.

The staff does not believe there are significant non-inherent impacts from this use at this location because the proposed “stealth” flagpole design and level of use anticipated will not significantly impact the character of this area. Visibility of the structure will also be mitigated by its distance from the road. The infrequency of maintenance access indicate a use with little potential for other non-inherent impacts.

Tower Committee Report

The application has been reviewed by the Telecommunications Transmission Facilities Coordinating Group (the Tower Committee [TC]), which recommended approval of the

facility. Their review of the RF plots indicated areas in the vicinity of the site without reliable coverage which can be covered via this structure. Further, they did not find any other existing structures to which Sprint could attach its antennas. Their report noted that the "stealth" design in the guise of a "flagpole" can serve to minimize the potential for controversy over a structure of this height. As with the "flagpole" monopoles at the Wesley Grove Methodist Church (on Woodfield Road) and on Sundown Road (east of Laytonsville), this will appear to be a very tall flagpole, more commonly seen at commercial or government buildings. While it will be plainly visible from the adjacent park and area residences, the area has many trees that will screen the view.

CONCLUSION

The staff believes that the proposed special exception can satisfy all general and specific requirements for the use found in Sections 59-G-1.21 and 59-G-2.43 of the Zoning Ordinance. The "stealth" design is appropriate at this location behind a church, which is a quasi-public structure. The 226-foot distance from Brink Road will further mitigate the visual impact of the proposed use. The staff recommends approval of this application.

As with previous applications of this type, the staff also recommends that they should be required to follow federal rules for flying the American flag, and unless the flag is lighted at night, someone will have to raise and lower the flag daily.

Attachments

General Conditions

Sec. 59-G-1.21 of the Zoning Ordinance (General Conditions) provides:

(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 use is so allowed in the R-200 Zone.

(2) Complies with the standards and requirements for the use in division 59-G-2.

The use complies with these standards as noted below.

(3) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the Commission.

The proposed use is inconsistent with the Master Plan for the Preservation of Agricultural and Rural Open Space, which is silent in regard to special exceptions.

(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 "stealth" flagpole design proposed in this instance will allow the proposed structure to be in harmony with the general character of the area.

(5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity.

This use will have a visual impact on the surrounding neighborhood but it will not cause objectionable noise, vibrations or other detrimental physical activity. Because it uses the "stealth" flagpole design it will have less detrimental impact to the use, peaceful enjoyment, and economic value of the general neighborhood than similar "non-stealth" uses.

(6) Will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature.

The proposed use will not have such adverse impact on the surrounding area.

(7) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area.

The use will not have such adverse impact on the area or its residents.

- (8) 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.

Existing public facilities are sufficient and subdivision is not required.

Special Findings for a Telecommunications Facility

Section 59-G-2.43 of the Zoning Ordinance (Public utility buildings, public utility structures, and telecommunication facilities) provides:

- (a) A public utility building or public utility structure, not otherwise permitted may be allowed by special exception. 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 Tower Committee has determined that additional telecommunication service is necessary for public convenience and service and the location is appropriate.

- (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 use will have a visual impact, but it will not endanger the health and safety of area residents. Because of the proposed "stealth" flagpole design and distance from the public road it will have less detrimental impact on neighboring properties than many similar uses without a "stealth" design.

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

The base of the proposed facility will be adequately screened by a proposed board-on-board fence and shielded by the barn structure. Existing vegetation will further screen the service facility. The base of the structure will be primarily screened by its location behind the church structure.

- (c) The Board may approve a public utility building and public utility structure exceeding the height limits of the applicable zone if, in the Board's opinion, adjacent residential developments and uses will not be adversely affected by the proposed use.

The height limit of the R-200 Zone is 50 feet. Approval of the proposed 120-foot tall "flagpole" monopole is recommended. The proposed stealth design is appropriate for this location on a church property, and the use will not adversely impact the surrounding area.

- (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, is exempt from the setback limitations imposed by this subsection...

The proposed structure will be 120 feet in height. The site provides setbacks in excess of 120 feet from all property lines, and no setback less than 142 feet.

- (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,..or television transmitter towers and stations; telecommunication facilities. Additional standards for telecommunication facilities are found in subsection (j).

The proposed use is a telecommunications facility.

- (f) Reserved

- (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.

Recommended conditions are given.

- (h) Petitions for special exception may be filed on project basis.

Not Applicable.

- (i) A petitioner 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 ... 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 (59-G-2.43d) 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 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 minimum lot size in this zone is 20,000 square feet. The proposed site for the use is on a property of over 4 acres owned by the Goshen United Methodist Church, co-applicants for the special exception. The 120 foot tall structure will be setback a minimum of 120 feet from all perimeter lot lines.

(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 proposed structure 120-foot structure will be setback a minimum of 120 feet from all perimeter lot lines and no setback is less than 142 feet.

b. In commercial and industrial zones....

Not applicable for this use.

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 not less than 3 telecommunication carriers. The Board may approve a support structure holding less than 3 telecommunication carriers...

The proposed tower is designed to hold at least three carriers.

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

No signs or illumination are required for a structure of this height.

(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.

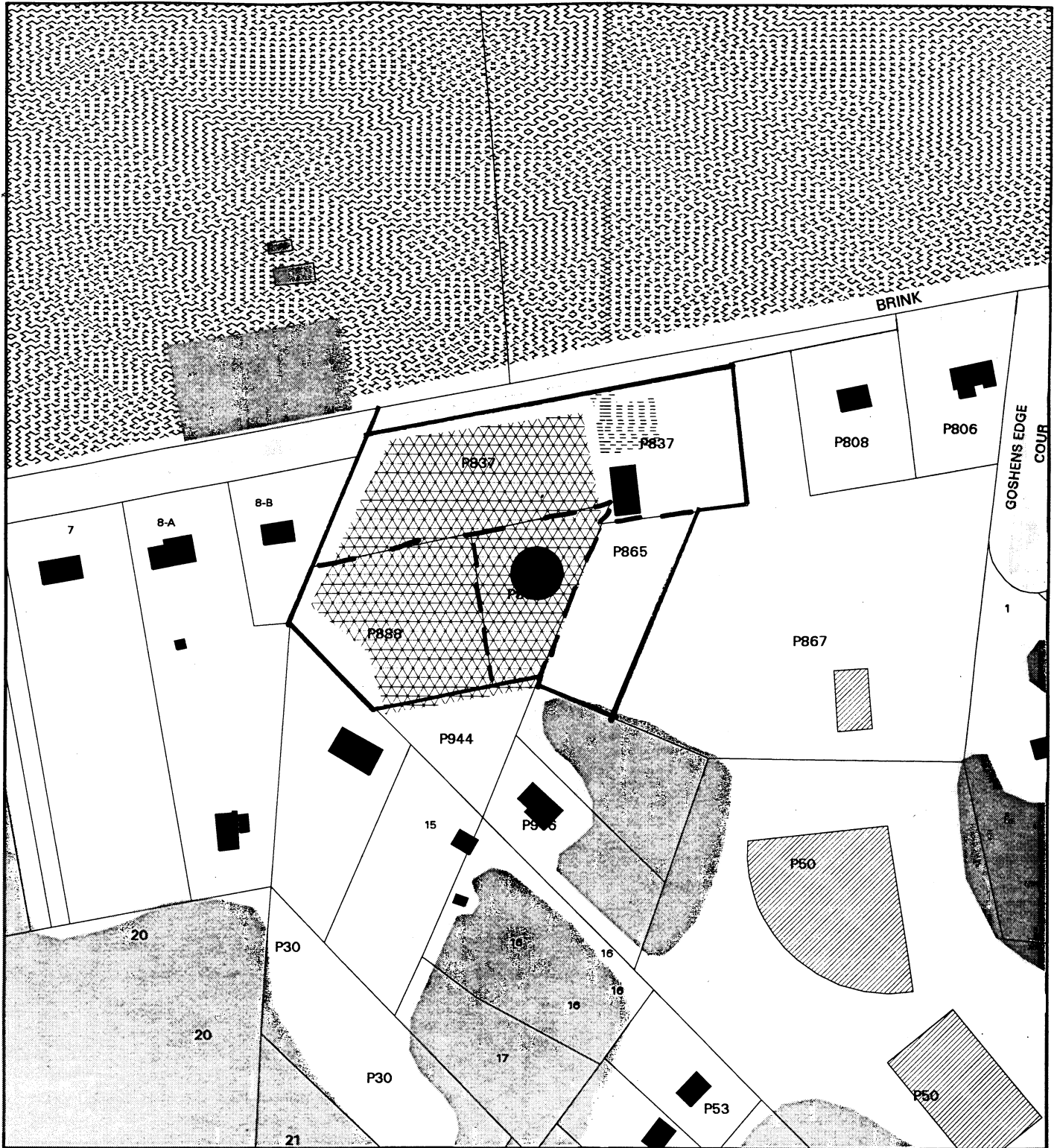
This is a condition of approval that is accepted by the applicant.

(6) Prior to the Board granting any special exception for a telecommunication facility, the proposed facility must be reviewed by the County Telecommunication Transmission Facility Coordinating Group. The Board and Planning Board must make a separate, independent finding as to need and location of the facility.

The Telecommunication Transmission Facility Coordinating Group reviewed the facility and found a need for the structure and found the location appropriate.

VICINITY MAP FOR

S-2540 GOSHEN UNITED METHODIST CHURCH



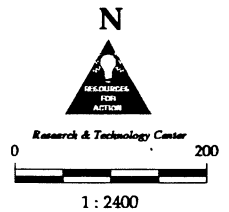
Map compiled on October 16, 2002 at 2:02 PM | Site located on base sheet no - 230NW07

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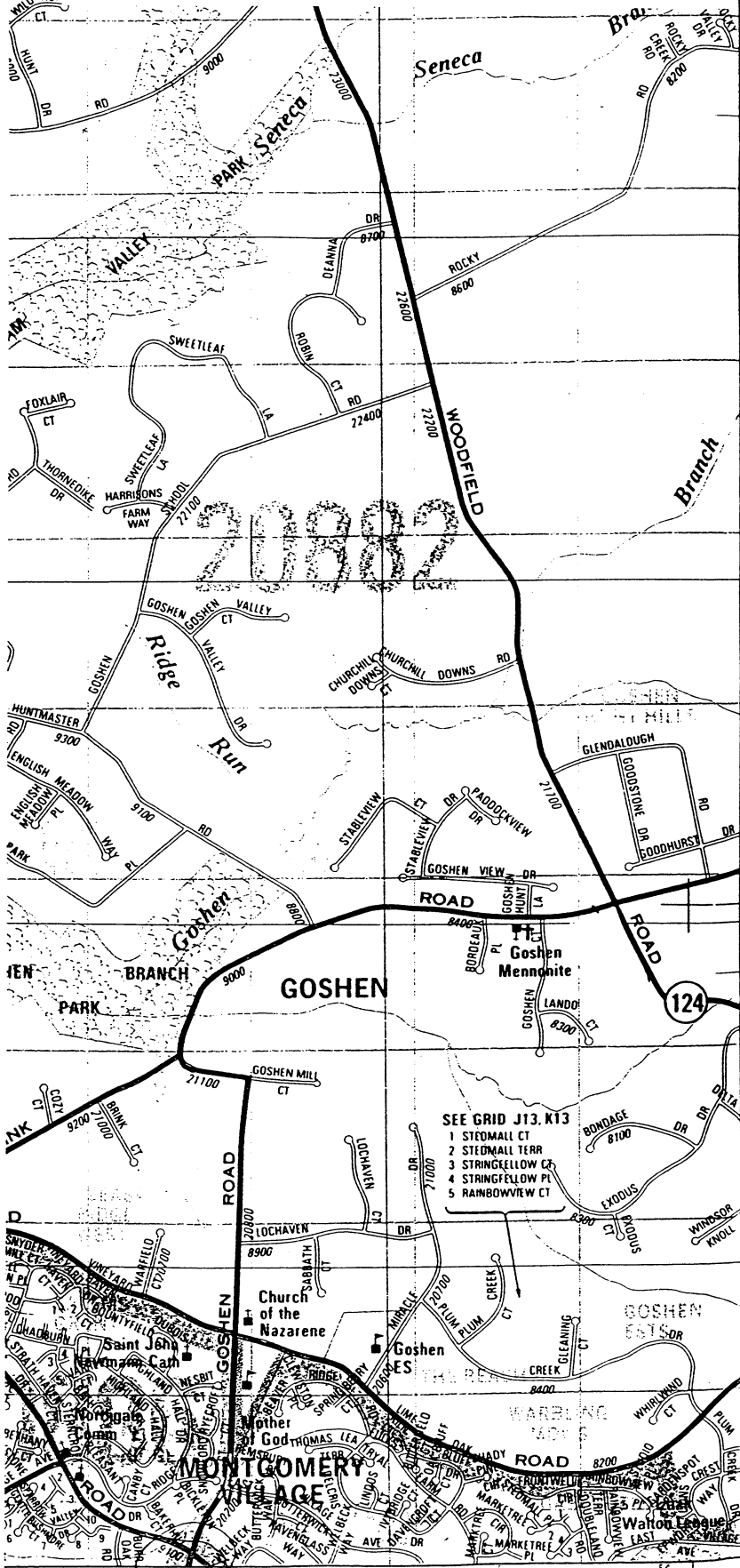
Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

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 date. 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

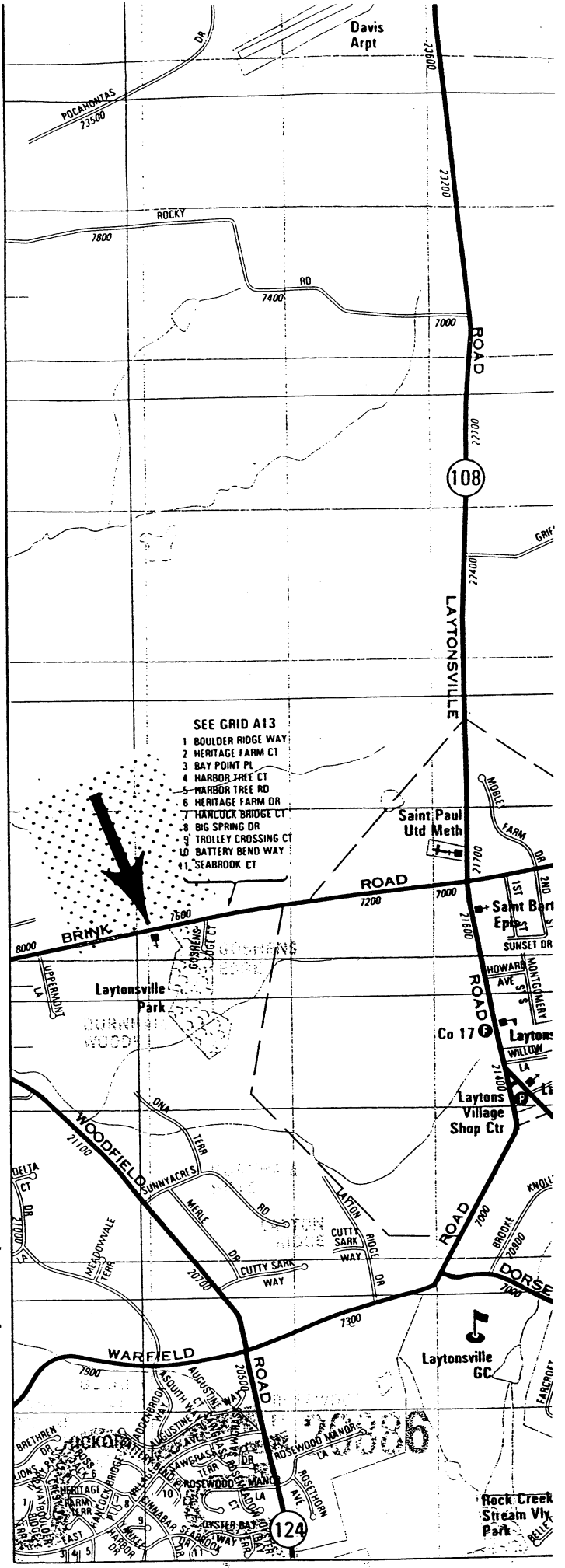


Wesley Grove Uid Meth
 GARFIELD
 CREEK

S-2540 Location Map

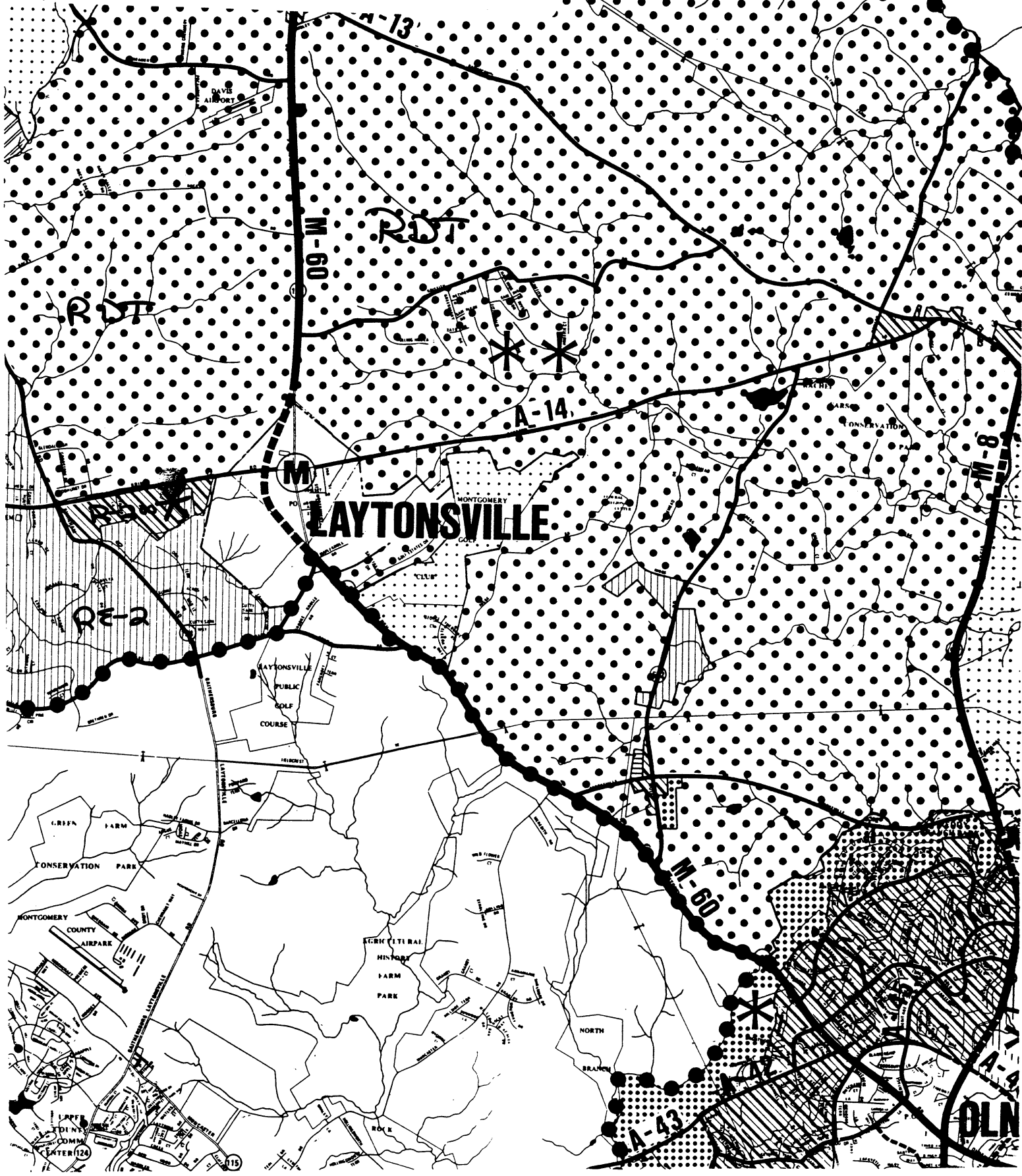


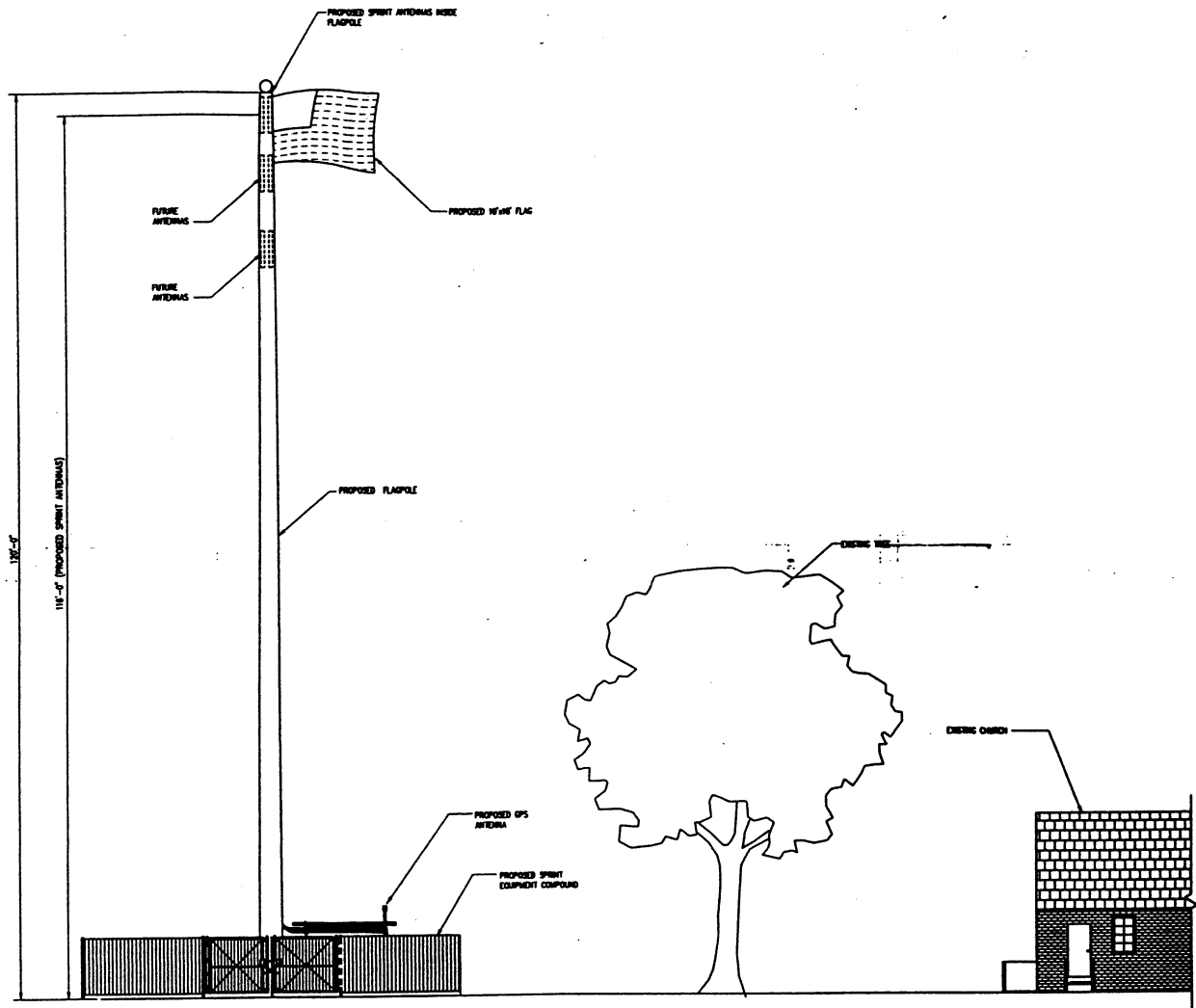
9 NW 750,000 FT 8 NW 77°10'00"



8 NW 7 NW 760,00

5-2540
Zoning Map





FLAGPOLE ELEVATION
 SCALE: 3/32"=1'-0"

S-2540 Rendering



MONTGOMERY COUNTY, MARYLAND
TOWER COORDINATOR
RECOMMENDATION

APPLICATION NUMBER: 200206-06

DATE: 12 June 2002

Application Information:		
Applicant:	Sprint PCS	
Description:	Construct a new 120' monopole.	
Site Location:	Goshen United Methodist Church 7700 Brink Road, Gaithersburg	
Property Owner:	Goshen United Methodist Church	
Classification in accordance with Zoning Ordinance: R-200		
Private Property:	<input checked="" type="checkbox"/>	By right: <input type="checkbox"/> Special Exception: <input checked="" type="checkbox"/>
Public Property:	<input type="checkbox"/>	By right: <input type="checkbox"/> Special Exception: <input type="checkbox"/>
		Mandatory Referral: <input type="checkbox"/>
Impact on land-owning agency: N/A		
Existing or future public safety telecommunications facilities and plans: None		
Co-location options: This monopole is designed to accommodate 3 sets of antennas.		
Implications to surrounding area: This monopole is a stealth design disguised as a flagpole. This may serve to minimize the potential for controversy over the siting of a structure of this height. Even though this monopole is designed to look like a flagpole, flagpoles of this size are more typically found at commercial facilities or municipal buildings. The monopole will be plainly visible from the park adjacent to the site as well as from residences in the immediate vicinity, especially the residence immediately behind the monopole. The area has many trees, which may provide screening of the monopole from some directions.		
Attachments: Application		
Comments: With its application, Sprint submitted RF plots with and without the proposed monopole. Based on our review of the plots, it appears that there are areas in the vicinity of this site which do not have reliable coverage. The antennas at this site appear to provide coverage which meet Sprints service objectives.		
Based on our site visit, we did not see any other existing structures to which Sprint could attach its antennas and provide the same coverage as from the proposed new monopole.		
We recommend this application conditioned on the granting of a Special Exception.		

Tower Coordinator Recommendation:	Recommended: <input checked="" type="checkbox"/>
	Not recommended: <input type="checkbox"/>
<i>Bob Harnett / cc</i>	6-26-02
Signature	Date

Excerpts from July 3, 2002 TTFCCG Minutes
Sprint PCS/Goshen United Methodist Church Property
Application #200206-06
Page 1 of 1

Action Item: Sprint PCS application to construct a new 120' monopole at the Goshen United Methodist Church property located at 7700 Brink Road in Gaithersburg (Application #200206-06).

Kamal Johari summarized the application. He noted that this monopole would be quite visible from many of the surrounding houses and the adjacent park property. He stated that RF maps had been submitted and reviewed by the Tower Coordinator.

Jane Lawton stated that she thought it was important for the Tower Coordinator to note in future recommendation comments that a search of the TTFCCG database and the carriers' annual plans if performed to identify any existing structures for co-location opportunities. Bob Hunnicutt agreed. He noted that the latitude and longitude of the confidential database is compared with the latitude and longitude of the application, and the distances are calculated to determine if there are existing structures that may be considered for co-location. He noted that this information, as well as the site visit, allows the Tower Coordinator to determine if there are existing structures available for co-location in lieu of new construction. He noted that this is an integral part of the review of each new facility.

Motion: Helen Xu moved the application be recommended conditioned on approval of a Special Exception. Eric Carzon seconded the motion and it was unanimously approved.



MONTGOMERY COUNTY, MARYLAND
TELECOMMUNICATIONS TRANSMISSION
FACILITY COORDINATING GROUP
RECORD OF ACTION

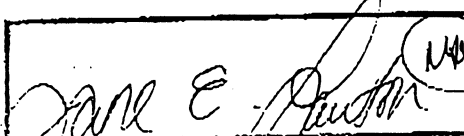
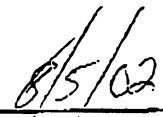
APPLICATION NUMBER: 200206-06

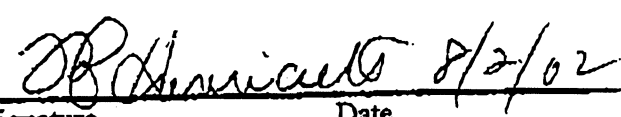
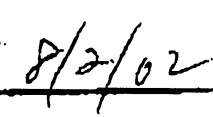
DATE: 3 July 2002

Application Review:	
Applicant:	Sprint PCS
Description:	Construct a new 120' monopole.
Site Location:	Goshen United Methodist Church 7700 Brink Road, Gaithersburg
Property Owner:	Goshen United Methodist Church
Tower Coordinator Recommendation:	Recommended: <input checked="" type="checkbox"/> Not recommended: <input type="checkbox"/>
Land-owning Agency input:	Attached: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Group Comments: Recommended was conditioned on obtaining Special Exception approval.	

Vote on recommendation of approval:	For: 5	Against: 0	Abstain: 0
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Results:	Recommended <input checked="" type="checkbox"/>	Not recommended <input type="checkbox"/>
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Chairman Signature	Date

	
Tower Coordinator Signature	Date



SITE: WA54XC514D
GOSHEN UNITED METHODIST
7700 BRINK ROAD
GAITHERSBURG, MD 20879
PHOTO No. 1

PROPOSED SPRINT
120' FLAGPOLE

