



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item # 1

Date: June 12, 2003

**MEMORANDUM**

**DATE:** June 5, 2003  
**TO:** Montgomery County Planning Board  
**VIA:** John A. Carter, Chief, Community-Based Planning *JAC*  
**FROM:** Callum Murray, Potomac Team Leader, Community-Based Planning  
**SUBJECT:** Board of Appeals Petition No. S-2572 (Special Exception), Telecommunications Facility – Sprint PCS/APC Realty and Equipment Company LLC and Nicholas D. and V.A. Petrucelli, 14120 Darnestown Road, O-M Zone with Rural Village Overlay, Darnestown.

**FILING DATE:** February 20, 2003  
**PUBLIC HEARING:** June 18, 2003

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

1. The applicant is bound by all submitted exhibits and plans, subject to the following modification: the flagpole must be set back 20 feet to make the front setback 141 feet and the rear setback 105 feet.
2. The flagpole and equipment compound must be removed at the cost of the applicant if the telecommunication carrier does not use the facility for more than 12 months.
3. The flagpole must follow approved federal regulations governing the flying of the United States flag.
4. Lighting of the flagpole will consist of two ground mounted narrow beam spotlights of not greater than 150 watts each.
5. The applicant must install a sign not more than 2 square feet affixed to the equipment compound identifying the owner and maintenance service provider of the support structure and a telephone number of a contact person.

6. The applicant must submit documentation on height and location of the flagpole to the Department of Permitting Services prior to final inspection of the building permit.
7. The applicant must obtain an access permit from the Maryland State Highway Administration.
8. The applicant must submit a Tree Save Plan to staff, prepared by a certified arborist, prior to issuance of a sediment and erosion control or building permit. This plan shall include a detailed evaluation of the condition and critical root zones of any specimen trees (trees 30" diameter breast height (dbh) and larger) affected by building encroachment. The Plan must include a detailed evaluation of the condition and critical root zones of specimen trees; construction techniques and schedules designed to minimize impact to specimen trees during the construction process; tree save measures for all specimen trees with 30% or greater impact to their critical root zones, and a timeframe for implementing all tree-save measures. Tree save measures shall include, but not be limited to, pre-construction watering and fertilizing, fencing, root pruning and dead wood pruning of any trees impacted by construction activities.

## **PROJECT SUMMARY**

The applicants, Sprint PCS/APC Realty and Equipment Company, LLC, and Nicholas D. and V.A. Petrucelli have requested a special exception to install a telecommunications facility located at 14120 Darnestown Road in Darnestown in the O-M Zone with Rural Village Overlay. This telecommunications facility will consist of a 105-foot high flagpole that will house three telecommunication antennas inside the structure. The flagpole will be lit with 2 ground mounted narrow beam spotlights. Nicholas D. and V.A. Petrucelli, co-applicants for the special exception application, own the subject property. Access to the site will be from Darnestown Road, a public right-of-way.

**Neighborhood Description** - The surrounding neighborhood consists of the commercial heart of Darnestown Village with a Food Lion grocery store, gas station, and small-scale retail and office uses. These commercial properties are zoned C-1 with the exception of the adjoining property at the southwest quadrant of Darnestown and Seneca Roads, which is split zoned O-M and C-1. The commercial center is bordered by low-density residential uses in the R-200 and RC Zones (to the north) and in the RE-2 Zone (to the east). The subject property is bordered to the south and west by a 186-acre parcel in the RC Zone. This parcel is owned by the Archdiocese of Washington and is the site of Our Lady of Visitation Church and a private educational institution.

Special exceptions approved by the Board of Appeals in the area include: Case No. 1620 for a service station, approved on 9/21/64; S-1 for an animal hospital and veterinary clinic, approved on 12/2/71; S-417 for a home occupation (lawn mower repairs), approved 9/11/75; S-836 for a private educational institution, approved 9/6/84; and S-1455 for a child day care facility, approved 10/30/87.

**Subject Site** – The site is located on the south side of Darnestown Road west of the intersection with Seneca Road. It is trapezoidal in shape with approximately 410 feet of frontage along Darnestown Road. The site consists of 1.65 acres of O-M zoned land. It is heavily wooded along the south (rear) and west property lines and has a gentle slope along Darnestown Road gradually sloping down from east to west. The site is developed with a single-family dwelling unit with a large shed structure to the rear. Access to the site is via a gravel driveway from Darnestown Road that terminates in a gravel parking lot to the rear of the large shed.

**Project Description and Elements of the Proposal** - A summary of the applicant's statement is as follows:

The applicants, Sprint PCS APC Realty and Equipment Company, LLC and Nicholas D. and V.A. Petrucelli, request a special exception to construct a telecommunications facility with 3 panel antennas and related coaxial cables inside a 105 foot high flagpole. The equipment compound will contain 6 equipment cabinets enclosed by a 7-foot high wooden board-on-board fence. Sprint proposes to lease approximately 2,500 square feet of the site for this facility.

Sprint proposes to install 3-panel antennas at the centerline elevation of 100 feet inside the proposed 105-foot high flagpole. The flagpole will be 38 inches in diameter at the base and taper to 26 inches at its top and will fly the American flag. Each antenna measures approximately 56 inches long, 8 inches wide and 2.75 inches deep. The antennas are white in color and will be hidden inside the flagpole. Sprint's related equipment cabinets will be placed on concrete piers within a 50-foot by 50-foot compound, which will be screened by a 7-foot high board-on-board fence. Six cabinets are proposed which each measure approximately 6 feet high by 3 feet wide and 3 feet deep and will be beige in color. The flagpole will be constructed to accommodate two additional carriers whose antennas would also be installed inside the flagpole. The antennas will not generate any noise dust, fumes, odors, light, glare, vibrations, or interfere with radio, television or telephone reception. The proposed lighting for this facility will consist of 2 ground mounted narrow beam spotlights at the base of the flagpole. Each light will be 150 watts and will be located 5 feet from the base of the proposed flagpole.

Access to the facility will be via a 12-foot wide gravel driveway extending from the existing gravel driveway and parking lot on the property. There will be periodic visits of one or two times per month to check or repair equipment. The only utilities required will be electricity and land telephone lines. The facility will operate 24 hours a day, 7 days a week.

The coverage objective of the telecommunications facility proposed in the application is to serve Route 28/Darnestown Road, Seneca Road, and the surrounding areas. As a licensee of the Federal Communications Commission (FCC), this facility is needed by Sprint to provide telecommunication services to its users, which entails building out a seamless network of wireless communications facilities throughout the Washington-Baltimore region.

## ANALYSIS

**Tower Coordinating Committee** - On November 6, 2002, the Telecommunications Transmission Facility Coordinating Group (TTFCG) reviewed the subject application and recommended approval of this proposed facility. The Tower Coordinator's recommendation of October 14, 2002 found that use of a PEPCO transmission line tower north of the site would be too distant to meet the coverage needs in the area where the monopole is proposed to be located. Use of the PEPCO towers to the east would also be too distant and too close to existing Sprint antennas at Route 28 and Quince Orchard Road. There are no existing tall structures in the vicinity to which Sprint could attach antennas to obtain the desired coverage except perhaps a bell tower on Our Lady of Visitation Church. However, Nextel has already been recommended by the TTFCG to attach its antennas to that site.

Furthermore, the RF contours submitted by Sprint show a need for antennas to serve this area and antennas as proposed would provide the desired coverage. The proposed monopole will be partially screened by trees approximately 40 feet to 50 feet in height. A lower monopole would widen coverage gaps where signal strength levels are predicted to occur. The top half of the flagpole will be plainly visible from the Darnestown commercial area, and from the Archdiocese property to the south and west. It may also be visible from some residences in the vicinity and along Route 118.

The Tower Committee also discussed lowering the flag every night in accordance with procedures for public display. The applicants propose to light the flag at night by two ground mounted 150-watt bulbs and are willing to remove the flag and lights after a trial period of 30-60 days if so desired by the Darnestown Citizen's Association. Because there are federal rules for flying the flag such as either lighting it at night or raising or lowering every day, staff recommend, as a condition of approval, that the applicant follow the approved federal regulations governing flying the United States flag. A copy of TTFCG's recommendation and minutes from the November 6, 2002 meeting is contained as an Attachment to this report.

**Master Plan** - The property is located within the Potomac Subregion and is subject to the April 2002 Master Plan. The Master Plan classifies Darnestown Road between Seneca Creek and Riffle Ford Road as a major highway with a minimum right-of-way of 120 feet with two travel lanes. The existing right-of-way fronting the subject property is 40 feet less than the Master Plan minimum and dedication will be required when the parcel undergoes subdivision. (Telecommunication facilities are exempt from subdivision). The plan as submitted meets development standards for the front setback but would require a 24-foot waiver upon dedication (see Development Standards below). Staff recommend moving the proposed flagpole 20 feet to the south, changing the rear setback to 105 feet and recommend that a waiver of 4 feet be granted for the front setback pending subdivision of the property.

Staff considered recommending that conveyance of the right-of-way be a condition of approval, but decided against it, given that a subdivision application, which will entail dedication, is reasonably imminent. (See attached letter from applicant).

The Master Plan recommends retention of the existing O-M zoning for the property, with a Rural Village Overlay to ensure site plan review with specific development standards promoting the objectives of the rural village center. The proposal is not in conflict with these standards, which pertain to density and green space. The Master Plan does not make a specific recommendation regarding use of the subject property.

**Community Concerns** – With the exception of the concerns expressed above regarding the visual impact of lighting the flag, no community opposition has been raised to date by the proposed application. Sprint has held two community meetings with the Darnestown Citizens Association and the local community is very cognizant of the application, having vigorously opposed other applications for cell towers in the past.

### **Lighting and Landscaping**

Staff has reviewed the flag illumination plan submitted by the applicants. The applicants have proposed ground-mounted spotlights, with bulbs no greater than 150 watts, positioned 5 feet from the base of the pole. The spotlights are aimed upward to illuminate the flag at an angle slightly less than 90 degrees from the ground plane. The spotlights have a narrowly focused beam, use a 100-watt metal halide lamp and are appropriate for flag illumination purposes.

Staff believes that the proposed light fixture will minimize glare due to the beam of light being narrowly focused on the flag. The applicant cannot control for sky glow as a result of the spotlights being aimed upward. Staff believes that the light levels projected on the flag itself are appropriate and not excessive.

The applicant has also submitted photographs with a simulated flagpole viewed from the west, the north and the east. These are included in the attachments. As stated in the Tower Committee's written comments and as determined by staff in a site visit to the subject property, the proposed flagpole will be visible from surrounding nearby properties. To operate effectively, a freestanding telecommunication facility requires height but this facility will be located among existing trees where the full impact of its height will be reduced. The intervening terrain, the presence of existing on-site trees, and significant setbacks will serve to mitigate the visual impact.

A landscape plan is not necessary for the following reasons:

- 1) Existing mature vegetation provides substantial screening, and,
- 2) The property owner intends to develop the property in the near future. (See attached letter). Development will be subject to submission and approval of both a site plan and a landscape plan.

**Environmental Analysis** – Environmental Planning staff has reviewed the submitted request and recommends approval of this special exception with the following condition:

1. The Applicant must submit a Tree Save Plan, prepared by a certified arborist, to the Environmental Planning Division of the M-NCPPC prior to obtaining building and sedimentation and erosion control permits.

Forest Conservation

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) has been approved for this site. A Forest Conservation Plan (FCP) exemption has been granted because this is a special exception with a total disturbance of less than 10,000 square feet and forest clearing of less than 5,000 square feet. A Tree Save Plan is required because the proposed location of the SPRINT compound encroaches on the critical root zone of a Pecan (Carya Illinoensis) specimen tree. The Plan must include a detailed evaluation of the condition and critical root zones of specimen trees (30-inches dbh and larger); construction techniques and schedules designed to minimize impact to specimen trees during the construction process; tree save measures for all specimen trees with 30% or greater impact to their critical root zones, and a timeframe for implementing all tree-save measures. Tree save measures shall include, but not be limited to, pre-construction watering and fertilizing, fencing, root pruning and dead wood pruning of any trees impacted by construction activities.

Environmental Guidelines

This site is not located within a Special Protection Area or inside a 100-year floodplain boundary. There are no streams or stream valley buffers within the property.

Watershed Protection

The property is in the Lower Great Seneca subwatershed of the Great Seneca Creek Watershed. The Countywide Stream Protection Strategy (CSPS) lists Lower Great Seneca as having good stream and habitat conditions. Existing imperviousness is low at 10% to 15%, as large areas of the subwatershed are in parkland and forest cover is prevalent. The Department of Permitting Services (DPS) does not require a Storm Water Management Plan because the proposal disturbs less than 5,000 square feet.

**Development Standards** - The subject site is located in the O-M Zone with a Rural Village Overlay. The application conforms to the Development Standards in the Zoning Ordinance but the proposed front setback will not conform pending a future subdivision. The following lists the standards applicable to this telecommunications facility application:

	<u>Required</u>	<u>Proposed</u>
Lot area	No minimum	1.6 acres
Building Setback		
Front	105 feet	121 feet *(See below)
Side (East)	52.5 feet	138 feet
Side (West)	105 feet	105 feet
Rear	105 feet	125 feet **(See below)
Off- Site		
Dwellings	300 feet	460 feet

Note: \* 81 feet after future dedication or 101 feet if flagpole is set back 20 feet.

Note: \*\* 105 feet if flagpole is set back 20 feet.

Staff recommends that the flagpole be set back 20 feet, entailing present and future (after dedication) front setbacks of 141 and 101 feet respectively. Staff supports a

waiver of 4 feet to the future front setback. This will preclude the necessity for a new application after subdivision.

**Historic Preservation** - Historic Preservation staff has reviewed the subject request and found that there would be no impact on historic sites.

Staff undertook a site visit to determine if any impact to a historic resource would result from the proposed use. Staff viewed the site of the proposed tower and the Darnestown Presbyterian Church, the nearest historic resource, to assess impact on viewsheds. The proposed flagpole will extend approximately 50 feet above the existing trees and will be lit from the base, but not along the length.

From this field visit, staff determined that the flagpole would be minimally visible from the historic site. The proposed flagpole will be approximately 2,400 feet from the Presbyterian Church (almost half a mile) and is separated from the historic site by rolling terrain and substantial tree cover. From the submitted information and site visit, staff finds that the proposed flagpole will not have an adverse impact on the above noted historic site.

**Transportation** - Transportation Planning staff has reviewed the subject request. The Potomac Subregion Master Plan classifies Darnestown Road, MD 28, from Seneca Creek to Riffle Ford Road, as a major highway, M-22, with a recommended minimum 120-foot right-of-way. Right-of-way dedication will be required when the site becomes subject to subdivision, because the existing right-of-way is less than the Master Plan recommended minimum.

The proposed telecommunications facility is expected to generate approximately two trips per month for routine maintenance or emergency repair. The number of weekday peak period trips generated by the site will not increase. Under the LATR Guidelines, this use is considered de minimis and no traffic impacts are anticipated. No Local Area Transportation Review is required. The site is located in a rural policy area where the Policy Area Review test is not applicable. Staff finds that the proposed installation of the telecommunication facility will have no adverse effect on area roadway conditions.

Finally, Darnestown Road is a state maintained right-of-way. The applicant will therefore need to obtain an access permit from SHA and any issues of driveway standards and sight distance will be reviewed at that time.

### **Inherent and Non-Inherent Effects**

**59-G-1.2.1. Standard for evaluation.** 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 general neighborhood surrounding the proposed use has inner and outer perimeters. The commercial area of Darnestown, zoned O-M and C-1, defines the inner perimeter. Residences on Turkey Foot Road to the north, Darnestown Local Park to the west, the Archdiocese property to the south/southwest, and Darnestown Urban Park to the east defines the outer perimeter. These properties are zoned RC, RE-2 and R-200 and are either developed with low-density residential uses or institutional uses.

The physical characteristics associated with a telecommunications facility are the placement of antennas on a structure of substantial height above grade, supported by equipment and a power source on the ground. The significant operational characteristic is the generation and receipt of radio waves to and from the antennas located inside the flagpole. Periodic maintenance checks for the proposed use are typical, and although minimal, there will be vehicular traffic to the site associated with monthly routine maintenance. All of the above are inherent adverse effects.

A non-inherent physical characteristic of the proposed use not necessarily associated with a telecommunications facility is the design of a 105-foot high flagpole with the antennas inside the pole. In addition, flying the American flag and its illumination at night are not necessarily associated with a telecommunications facility. These are non-inherent adverse effects.

Staff believes that a flagpole of 105 feet and the daytime flying of an American flag will not be detrimental to the character of the neighborhood at this location. One characteristic of Darnestown Village is minimal artificial ambient light in the sky. The illumination of the proposed flag could change this characteristic of the neighborhood.

'Stealth' designs of telecommunications facilities have been encouraged by the Tower Committee, the Planning Board and Board of Appeals in approving previous such uses to mitigate adverse impacts. Moreover, the recent changes to the Zoning Ordinance encourage 'stealth' design as submitted under this request.

The height of the structure, the size of the equipment compound, and the proposed lighting are non-inherent physical and operational characteristics associated with the proposed use. The proposed equipment cabinets will be enclosed by a 7-foot high board-on-board fence and not visible to the surrounding area.

The height of the proposed flagpole and the proposed lighting will pose some visual impact. However, its height and appearance will not be as visually intrusive as a typical cell tower. While the top of this structure will be visible to some residences, its complete or full visibility from the surrounding area will be somewhat mitigated by its proposed location among mature trees 40 to 50 feet tall, intervening distance and rolling terrain,



and the presence of other significant trees on site. If the applicant did not fly the flag at night or flew it only on federal holidays, the operational characteristic of lighting would be eliminated. Staff does not believe there are significant non-inherent impacts from this use to warrant its denial.

## **CONCLUSION**

Staff finds that the proposed special exception can satisfy all of the general and specific requirements for this use found in Sections 59-G-1.21 and 59-G-2.43 of the Zoning Ordinance and recommends approval, subject to conditions. The Tower Committee also determined that the proposed telecommunications service is necessary at this location for public service and convenience and provided a favorable recommendation for the requested use.

## **ATTACHMENTS**

- General and Specific Conditions
- Letter from Applicant
- GIS Site Map
- Site Survey (Site Plan)
- Flag Illumination Plan
- Equipment Compound
- Zoning Map
- Tower Committee Recommendations
- Photographic Simulations

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**MONTGOMERY COUNTY ZONING ORDINANCE**

**Sec. 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 use is so allowed in the O-M 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 use if approved will comply with the standards and requirements for a telecommunications facility under Section 59-G-2.43 of the Zoning Ordinance.*

(3) Will be consistent with the general plan for the physical 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 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 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 2002 Potomac Subregion Master Plan covers the subject property. The master plan supports the existing O-M Zone with a Rural Village Overlay for the property and telecommunication facilities are allowed by special exception in that zone.*

(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.

*There is minimal activity and traffic associated with the proposed use. The design of this monopole to look like a flagpole, its location on the site among extensive and mature trees of 40 to 50 feet in height and other on-site vegetation will allow the proposed structure*

*to be more in harmony with the general character of the Darnestown Village area than if a traditional cell tower were constructed.*

- (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 applicant has submitted information showing that telecommunications facilities do not prove detrimental to the economic value or development of surrounding properties. Staff has reviewed this information and found these conclusions acceptable.*

- (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 use will not cause adverse effects with respect to any of these criteria.*

- (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 proposed use will not increase the intensity or scope of special exception uses, affect the area adversely or alter the character of neighboring areas.*

- (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.

(i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must

be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

*The special exception does not require approval of a preliminary plan of subdivision. Public facilities are adequate. The proposed installation will not increase the number of weekday peak period trips generated by the site. Therefore, no Local Area Transportation Review is required. The site is located in a rural policy area where the Policy Area Review test is not applicable. Staff finds that that the proposed facility will have no adverse effect on area roadway conditions.*

- (i) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

*The proposed use will not reduce the safety of vehicular or pedestrian traffic into this site.*

**Sec. 59-G-2.43. Public utility buildings, public utility structures and telecommunication facility.**

- (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. 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.

*As stated in the Tower Committee recommendation, the proposed use at this location is necessary for public convenience and service.*

- (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 proposed use will have a visual impact but it will not endanger the safety and health of area residents. The facility is proposed to look like a flagpole. This 'stealth' design along with its location among trees in excess of 40 feet will serve to mitigate the visual impact. The use will have less of a detrimental impact on neighboring properties than other similar uses without this 'stealth' design.*

- (b) A public utility building allowed in any residential zone, must, whenever practicable, have the exterior appearance of residential buildings and must have suitable landscaping, screen planting and fencing, wherever deemed necessary by the Board.

*Not applicable.*

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

*The height limit in the O-M Zone is 72 feet; the proposed monopole will be 105 feet in height. The Tower Committee recommended approval of this request based on the need for a telecommunications structure in this area and the absence of any other tall structures in the vicinity to accommodate the applicant's antennas. The top 40 to 50 feet of the proposed flagpole/monopole will be visible to nearby residential developments but will not adversely affect these developments as most of this view will be mitigated by distance, the pole's location among trees 40 to 50 feet tall, and intervening rolling terrain.*

- (d) Any proposed broadcasting tower must 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, and may be continued, structurally altered, reconstructed or enlarged; provided further, that any structural change, repair, addition, alteration or reconstruction must not result in increasing the height of such tower above the then existing structurally designed height.

*Not applicable.*

- (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).

*The subject application is a special exception use as defined in the statement.*

- (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 of approval are given.*

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

*Not applicable.*

- (i) A petitioner under this section is considered an interested person for purposes of filing a request for a special exception if the petitioner states in writing under oath that a bona fide effort has been made to obtain a contractual interest in the subject property for a valid consideration without success, and that there is an intent 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) A support structure must be set back from the property line as follows:
    - a. In agricultural and residential zones, a distance of one foot from the property line for every foot of height of the support structure.

*Not applicable.*

- 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.

*The proposed flagpole/monopole will be 105 feet in height. As submitted it would have the following setbacks, 121 feet, 125 feet, 105 feet, and 138 feet from the northern (front), southern (rear), eastern, and western property lines respectively. This requirement has been met. (Also see (d) above).*

- c. The setback from a property line is measured from the base of the support structure to the perimeter property line.

*This setback was measured from the base of the proposed flagpole 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.

*Staff supports a minimal reduction (4 feet) in the front setback requirement pending a future subdivision. (See (d) above).*

- (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.

*Not applicable.*

- b. In all other zones, one foot for every foot in height.

*The proposed monopole/flagpole will be 460 feet from the closest off-site dwelling. There are no off-site dwelling units on the adjacent properties.*

- c. The setback is measured from the base of the support structure to the base of the nearest off-site dwelling.

*This setback was measured from the base of the proposed flagpole to the nearest off-site dwellings.*

- 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.

*Not applicable.*

- (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 and before the final inspection of the building permit, the applicant must submit documentation to the Department of Permitting Services as to the height and location of the support structure.

*The proposed structure will be 105 feet in height. As a condition of approval, the applicant will submit documentation to the Department of Permitting Services regarding and height and location of the proposed monopole.*

- (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.

*Based on the site's shape, the flagpole has been sited to minimize its visual impact. The applicant has incorporated a 'stealth' design flagpole that will be less visually obtrusive than a normal cell tower on this subject site. The applicant proposes to screen the equipment compound with a 7-foot high board-on-board fence.*

- (5) The property owner must be an applicant for the special exception for each support structure. A modification of a telecommunication 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 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 equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with the telecommunication facility for all the carriers.

*The property owner is a co-applicant for the subject application. The applicant is proposing to construct this flagpole to hold 3 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.

*No signs or illumination are proposed to be placed on the antennas or support structure. However, two ground mounted narrow beam spotlights will provide illumination of the flag at night and will be placed on the ground 5 feet from the flagpole.*

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

*This is a condition of approval.*

- (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.

*The applicant proposes to install a sign, which will provide the required information. This is a condition of approval.*

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

*There is no outdoor storage of equipment or items proposed.*

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

*The applicants have stated that they will comply with this requirement.*

- (11) The applicants for the special exception must file with the Board of Appeals a recommendation from the Telecommunications Transmission Facility Coordinating Group regarding the telecommunication facility. The recommendation must be no more than one year old.

*The applicants have filed the recommendation from Telecommunications Transmission Facility Coordination Group issued on November 6, 2002.*

- (12) 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 Telecommunications Transmission Facility Coordination Group reviewed the special exception application and recommended approval at its November 6, 2002 meeting based on need and location of the facility.*

- (13) Any telecommunication facility special exception application for which a public hearing was held before November 18, 2002 must be decided based on the standards in effect when the application was filed.

*This memo addresses these standards.*

- (14) Any telecommunication facility constructed as of November 18, 2002 may continue as a conforming use.

*Not applicable.*