

MCPB
Item # 3
11/2/05

MEMORANDUM: SPECIAL EXCEPTION

DATE: November 2, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Development Review Chief
Carlton Gilbert, Zoning Supervisor *Handwritten initials*

FROM: Joel A. Gallihue, AICP (301) 495-2119 *Handwritten signature*
Development Review

SUBJECT: Special Exception No. S-2652: Rooftop wireless telecommunication facility. (Modification of S-567)

ZONE: R-60

MASTER PLAN: Kensington Wheaton Master Plan, Approved and Adopted in May 1989 and Amended in April 1990

FILING DATE: June 14, 2005

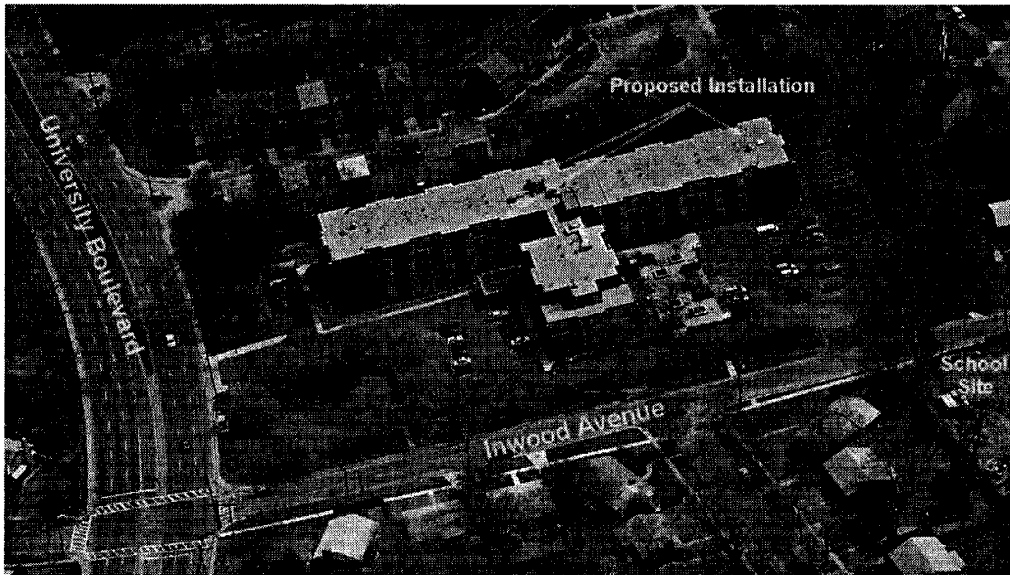
PUBLIC HEARING: November 15, 2005

STAFF RECOMMENDATION: APPROVAL with the following condition:

1. All evidence, testimony and exhibits of record shall bind the petitioners.

Project Summary - The applicants, Inwood House Development Corporation and Omnipoint Communications CAP Operations, LLC, which is a subsidiary of T-Mobile, USA are requesting special exception approval to permit the installation of a telecommunication facility on the roof of a building less than fifty feet in height. Inwood House Development Corporation owns the existing multi-family residential building located on 10921 Inwood Avenue in Kensington. This facility provides housing for handicapped adults per S-567. No changes to the operation of the existing special exception are proposed. No tower or monopole is proposed. Proposed rooftop equipment will be disguised within faux appurtenances that look typical for such a building.

Site and Neighborhood Description - The site approximately 3.7 acres in area (158,994 square feet) and has frontage on University Boulevard and Inwood Avenue. The multi-unit housing on the site has existed for approximately 25 years. The site is located in an area of residential and some institutional land uses. Surrounding land is zoned R-60 with the exception of the adjacent property to the east, which is zoned RT-12.5 and RT-10, per G-147 & G-469. These adjacent parcels have been developed with town houses on Pebble Run Drive and Rocky Mount Way. To the north is University Boulevard with single-family homes on the opposite side of this divided highway. The property to the south is single-family dwellings off of Wheaton Lane and Henlopen Court. Behind and to the southwest of the property is the Glen Haven Elementary School

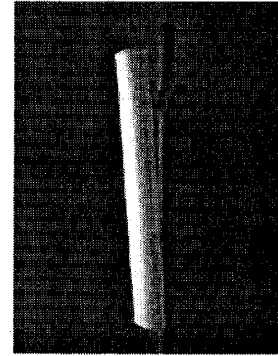


The property has been zoned R-60 since the mid fifties. An attempt to zone the property to RT (F-64) was denied by the District Council in 1969. In 1977 a special exception for housing for the handicapped was proposed for the site (S-567). This special exception was approved for 150 apartments for the handicapped and operates on the site today.

Staff notes that special exception S-567 that governs the building on which these antennas are proposed would need a modification simply to acknowledge that the construction will occur on the roof. In anticipation that the Board will agree staff notes that the addition of these structures would have no noticeable effect on the existing special exception. The use of screening walls that look like the existing structure is an important factor to ensuring compatibility.

Elements of the Proposal -

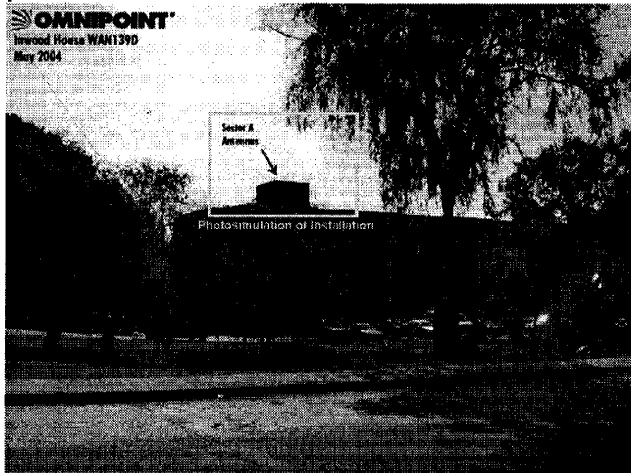
Nine panel antennas measuring 54" x 12"x4" are proposed. They will be mounted atop the existing building. A screened 10' x 20' rooftop equipment platform will be built with three equipment cabinets inside the screened platform. On screening walls, panel antennas will be flush mounted. Antennas will transmit radio frequency signals twenty-four hours a day for the T-Mobile network. No lighting or sound will be associated with the activity. Staffing will only be bimonthly service calls.



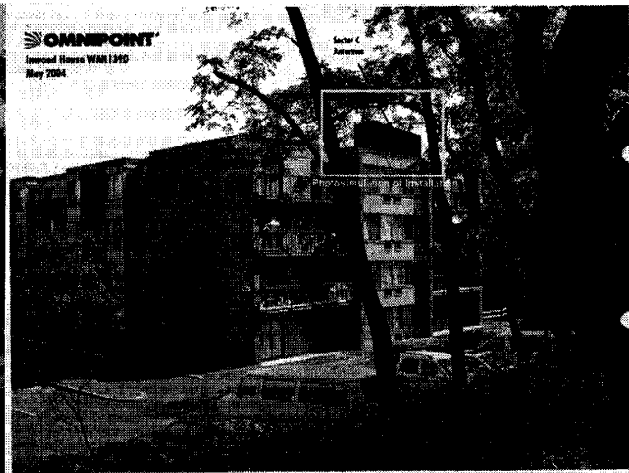
Panel antenna.

Appearance – Visual Impact

The antennas and screening will be visible but of a neutral design and finish to mimic the existing "elevator penthouse" as shown on plans and in submitted visual simulations. The elevator penthouse is a typical appurtenance for buildings. It houses the motor and drive wheel for drawing the elevator. The proposal is to screen the mechanical shelters for the equipment with material that looks like the elevator penthouse. Additional screening will be installed on the wings designed again to mimic the elevator housing as shown in the pictures below.



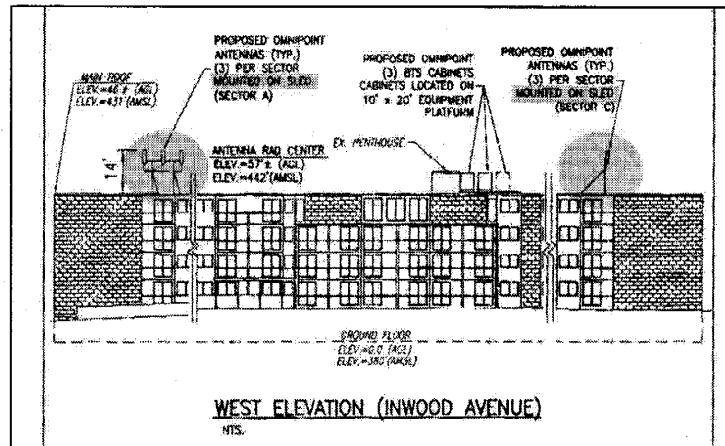
University Boulevard Perspective.



Perspective from south wing.

Antennas will be flush mounted to this screening material. So the antennas will be visible but not as easy to perceive as if they were simply mounted on a steel "sled" or stand. The applicant's submission to the Telecommunication Transmission Facility Coordinating Group (TTFCG) shows a sled in the Lease Exhibits. Staff notes that the special exception proposal specifies the use of screening material and condition one requires it. Extending this with screening is a design solution that has been used by this applicant recently on another property on University Avenue. While these changes to the building will be visible, staff concludes that there will be no negative visual impact from this proposal. It should be noted

The applicant's submission to TTFCCG indicates antennas would be "mounted on a sled." The applicant subsequently indicated antennas flush mounted on screening in the special exception submission, which is the preferred design. Staff notes for clarification that what is shown to the right will not be permitted by condition one.



Parking and Vehicular Circulation

The existing residential facility provides sixty parking spaces, which have not been full on various site visits during the day when the bi-monthly servicing will occur. Considering the infrequent nature of service visits, no new parking is recommended.

Lighting

No additional lighting is proposed on-site.

Sign

Only warning signs called for in use requirements are proposed.

Procedure for Approval

The proposed facility was reviewed and recommended for approval by the County Telecommunication Transmission Facility Coordinating Group. In considering approval for S-2652, the Board of Appeals and the Planning Board must make a separate, independent finding as to the need and location of the facility considering the attached recommendation of the Telecommunications Transmission Facility Coordination Group. The record for the existing special exception providing housing for handicapped adults must be opened to include reference to the special exception for communication facilities.

ANALYSIS

Master Plan – Community Planning staff has no objection to this special exception. The proposed special exception use conforms to the Kensington Wheaton Master Plan, Approved and Adopted in May 1989 and Amended in April 1990

Transportation - The Transportation Planning staff has recommended approval of this special exception based upon the negligible traffic impact of two monthly service calls. No

specific conditions are requested. APFO is now determined at the time of special exception approval. Relevant intersections will continue to operate at an acceptable level of service should this proposal be developed. Access is safe and adequate.

Environmental – Environmental staff has reviewed this application and has no issues with the application. An exemption to forest conservation law requirements was granted because modifications will be to an existing building and no new disturbance to the property is proposed.

Development Standards- The special exception modification is in compliance with the development standards for the R-60 Zone. Conformance to relevant development is summarized in Table 1.

Development Standard	Requirement	Proposal
Front Yard Setback (per use)	25'	Appx. 95'
Side Yard Setback (per use)	8' (sum 18')	Appx. 28' / 87'
Rear Yard Setback	20'	Appx. 80'
Lot Area	6,000 sq. ft.	3.92 Acres
Building Height	35'	30' 6"1
Building Coverage	35%	35%
Parking	38	60

Inherent/Non-Inherent Adverse Effects- The inherent and non-inherent adverse effects of a special exception must be considered on nearby properties and the surrounding neighborhood at the proposed location, regardless of the adverse effects the use might have if established elsewhere in the RE-1 zone. 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 are 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.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light,

¹ As noted in S-567 and confirmed with electronic oblique photography.

noise, traffic and environment. It is understood that every special exception has some or all of these effect in varying degrees. What must be determined during the course of review is whether these effects are acceptable or will create adverse impacts sufficient to result in a denial. To that end, inherent adverse effects associated with the use must be determined. In this case, a telecommunication facility may include building mounted equipment that consists of panel antennas and an enclosed equipment shelter. Antennas are often mounted on poles, towers or existing structures. Telecommunication workers periodically service these facilities. Sounds are not typically observed however lighting is sometimes required, depending upon the height and aviation requirements.

The non-inherent characteristics may include the size, height, and visibility of the installation. The proposal asks for a limited parapet wall are employed to disguise the installation and flush mounted antennas. The proposal meets all development standards. Staff also finds that the proposed size, height and appearance are compatible with existing and proposed adjacent development. Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

Compliance with General and Specific Special Exception Provisions - Staff has reviewed the application for compliance with all applicable special exception provisions and finds the following:

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

A special exception may be granted for housing and related facilities for senior adults or persons with disabilities, subject to the following provisions:

- (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.

The Board may find that the proposed installation of antennas and related equipment is necessary for the public convenience. T-Mobile has demonstrated to the Telecommunication Transmission Facility Coordinating Group (TTFCG) that the facility is necessary for the expansion of their network. (Application #200406-03) The applicant has represented that T-Mobile currently experiences a gap in antenna coverage and lack of capacity in the area surrounding this site. On June 16, 2004 The TTFCG voted to recommend this proposal.

- (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 installation is inaccessible to residents of the multi-family structure or residents of the neighborhood. Workers may access the site and work safely without interference. The design may be characterized as "stealth" a term applied to disguised telecommunication installations given the addition to the roof of a building will copy existing building features. The change from this proposal will be hard to perceive from neighboring properties so no substantial impairment or detriment to neighboring properties is conceivable.

- (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.

This installation will have the exterior appearance of residential buildings. Landscaping is not suitable for the roof as it will call unnecessary attention to the installation and create a maintenance issue.

- (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 proposal represents an improvement to an existing building. Considering the screening and design adjacent residential development and uses will not be adversely affected.

- (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 as no tower is proposed.

- (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).**

- (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.
- (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.

The subject property owner is a party to the application.

- (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.

Not applicable since the antennas are to be co-located on a building. It may be noted that the existing building is 45' 4" in height. The proposed installation will be located on this building and 58' from the nearest property line.

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

Not applicable since the antennas are to be co-located on a building.

- 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.

Not applicable since the antennas are to be co-located on a building.

(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 since the antennas are to be co-located on a building.

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

Not applicable since this is a residential zone.

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

Not applicable since antennas are to be co-located on a building.

- 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 since the antennas are to be co-located on a building.

- (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.

Not applicable.

- (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.

Not applicable because the antennas are to be co-located on a building. It may be noted that the screening, design, and location of the antennas will minimize visual impact.

- (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.

Not applicable because the antennas are proposed for co-location on a building.

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

Only a warning sign, not to exceed two square feet in size will be installed for safety purposes and to comply with FCC regulations. It will not be illuminated. No other signs or illumination is proposed.

- (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 provision is not applicable for the existing building since it is not a freestanding support structure and application of the provision would present a hardship to the residents. It may be noted that the applicant has stipulated that the proposed telecommunication antenna and equipment cabinets will be removed from the existing building rooftop within twelve months of cessation of operations.

- (8) All support structures must be identified by a sign no larger than 2 square feet affixed to the support structure or any equipment building. The sign must identify the owner and the maintenance service provider of the support structure or any attached antenna and provide the telephone number of a person to contact regarding the structure. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership.

As noted above a warning sign is proposed. It will include contact information. The applicant is advised to provide the Board of Appeals with a dated photograph of the sign when installed for the record and update the Board if there is a change of ownership per this provision.

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

No outdoor storage of equipment or other items is proposed.

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

The proposed bi-monthly maintenance visits are intended to ensure the

facility operates in a safe condition.

- (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.

A copy of the Montgomery County Telecommunications Transmission Facility Group recommendation, dated June 16, 2004 is attached.

- (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.

A copy of the Montgomery County Telecommunications Transmission Facility Group recommendation, dated June 16, 2004 is attached. Staff recommends that the Board and Planning Board may make a finding as to the need of the facility.

- (k) 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.

Not applicable as this is a new proposal.

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

Not applicable as this is a new proposal.

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 use is allowed by special exception in the R-60 zone. If the building were a little more than five feet taller, the use would be

permitted as a matter of right.

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

The use complies with these standards.

- (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 Kensington Wheaton Master Plan (Approved and Adopted in May 1989 and Amended in April 1990) covers the site. Staff finds that the proposed special exception is consistent with the recommendations in the approved and adopted master plan when considering the recommendation to map the zone, that the use is permitted in the zone by special exception, and that there are no specific policies in the plan that would recommend against this specific special exception.

- (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 use will be in harmony with the neighborhood when considering these criteria. The applicant has represented that this project will be very well integrated into the existing building.

- (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.

The use will not have a detrimental effect for any of these reasons.

- (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. Special exception uses in accord with the recommendations of a master or sector plan are deemed not to alter the nature of an area.

The proposed communication facility when evaluated in conjunction with other existing and approved special exceptions in the area will not affect area adversely or alter its residential character.

- (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 adversely affect the safety, security, morals or general welfare of area residents, visitors or workers in the area.

- (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. If the special exception use requires approval of a preliminary plan of subdivision in accordance with chapter 50 of this Code, title "Subdivision of Land," the adequacy of public facilities will be determined by the Planning Board at the time of subdivision approval. In that case, the Board of Appeals must include such Planning Board approval as a condition of the grant of the special exception.

The use is adequately served by relevant facilities including public safety services², storm drainage, and transportation. Subdivision is not required, therefore the Board of Appeals must make a finding that public facilities are adequate and also determine that the proposal does not reduce safety of vehicular or pedestrian traffic in approving the special exception. Certainly staff believes that the Board of Appeals may make this finding when the facts that no pedestrian traffic will be generated and vehicular trips will be only twice monthly and via an established access.

COMMUNITY CONCERNS

Staff is aware of no letters of concern and notes that the official notice references adjoining and confronting property owners, applicable Home Owner Associations, and applicable Civic Associations.

CONCLUSIONS

Upon reviewing the petition and visiting the subject property, staff recommends approval of the special exception and modification application subject to the condition found on page 1 of this report.

² Kensington Volunteer Fire Department, Montgomery Police – 2nd District.

Attachments:

1. Vicinity Map
2. Site Plan
3. Elevations
4. Environmental Memorandum
5. Transportation Memorandum
6. TTF CG Memorandum