

**CORRECTED NOTICE  
CLERICAL CORRECTION:  
EXHIBIT NUMBERS**

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

**Case No. S-2475**

**PETITION OF WILLIAMS COMMUNICATIONS, INC.**

OPINION OF THE BOARD  
(Hearing held July 11, 2001)  
(Effective date of Opinion: November 13, 2001)

Case No. S-2475 is a petition for a special exception for a telecommunications facility pursuant to Section 59-G-2.43 of the Montgomery County Zoning Ordinance. The request is for an unmanned telecommunications facility consisting of an equipment building, a generator building, and a fence.

The subject property is Parcel P760, Subdivision 502, located on Cashell Road, Olney, Maryland, in the R-200 zone.

A hearing was held pursuant to Section 59-A-4.11(a) of the Zoning Ordinance, at which time evidence and testimony was submitted to the Board in support of the petition.

**EVIDENCE PRESENTED TO THE BOARD**

The Board finds by a preponderance of the evidence that:

1. The applicant, Williams Communications, Inc., requests a special exception for an unmanned telecommunications facility at 17500 Cashell Road, Olney, Maryland (the site).
2. The applicant leases property at the site, which is owned by Transcontinental Gas Pipe Line Corporation (TransCo), and contains five high-pressure gas mains, a gas main valve station, and two fiber optic lines.
3. The facility is designed to operate as an unmanned automated fiber optic signal booster, and is needed to support the increased demand for fiber optic service in the Northeast corridor between Washington, D.C. and Baltimore, Maryland.

4. The site, which has already been subdivided, contains approximately 4.08 acres of land and is located on the East side of Cashell Road approximately 1,000 feet south of its intersection with Bready Road.

5. North of the site, the properties are zoned R-200 and developed with single-family detached dwellings. Northeast of the site, the property is zoned R-200 and developed as the Cashell Road local park. South and east of the site, the properties are zoned R-60 and are undeveloped or developed with townhouses. Across Cashell Road and west of the site, the property is zoned RE-1 and developed by special exception as the Norbeck Country Club. In addition to the Country Club, there is one other special exception in the neighborhood, an accessory apartment.

6. The facility will consist of three structures: (1) an equipment building to house fiber optic cables (2) a building for a standby generator, and (3) a chain link fence in front of the two buildings. **[Exhibit No. 18(c)].**

7. The equipment building will have a footprint of approximately 1,440 square feet and will be setback 46 feet from Cashell Road. The generator building will have a footprint of approximately 200 square feet and will be setback 104 feet from Cashell Road. Both buildings will be setback in excess of 65 feet from the side lot line and will be 10 feet in height.

8. The applicant's proposed stormwater management plan using two ground water recharge trenches is adequate for quality and quantity control of stormwater, and has been approved by the Montgomery County Department of Environmental Protection

9. The two buildings will have a textured concrete finish, in a bone or ivory or similar color. In accordance with the landscaping plan, the buildings will be screened by evergreens and flowering shrubs around the chain link fence. **[Exhibit No. 18(d)].**

10. In accordance with the landscape and lighting plan, the two buildings will have motion detection lights mounted above the doors for maintenance purposes only. The proposed exterior lighting amounts to the equivalent of porch lighting adjacent to the equipment room door. **[Exhibit No. 18(d)].**

11. The standby generator will automatically cycle on if the main grid experiences an outage and the battery reserves become depleted. It will need to be exercised approximately once per month for a brief duration. Enclosing the generator in a building will mitigate any noise caused by the operation of the generator.

12. There will be infrequent site visits for maintenance. Occasionally, a light duty truck will enter the site, pull along the side of one of the buildings, and perform

the necessary maintenance. Routine maintenance will be scheduled for daylight hours.

13. The subject property is covered by the 1980 Olney Master Plan, which supports the existing R-200 zoning for the property. Telecommunication facilities are allowed by special exception in that zone.

14. The Maryland-National Capital Park and Planning Commission (M-NCPPC) reviewed the special exception application and recommended approval of the application, subject to certain conditions.

15. The Montgomery County Planning Board reviewed the special exception application and recommended approval of the application, subject to the conditions set in the M-NCPPC technical staff report.

## **FINDINGS OF THE BOARD**

The proposed special exception meets the specific conditions set forth in Section 59-G-2.43, specifically:

1. The applicant has demonstrated the increased demand for fiber optic service in the Northeast Corridor. Therefore, the proposed buildings and fence are necessary for public convenience and service, in accordance with Section 59-G-2.43(a)(1) of the Zoning Ordinance.

2. The equipment and generator buildings will be set back in excess of the 40 and 25 feet setbacks for front and side yards, respectively, required in the R-200 zone. The buildings will be unmanned, and require only infrequent maintenance visits. The buildings will be screened by evergreens and shrubbery and will have minimal lighting. Any noise from the generator will be mitigated by the building enclosure. Therefore, the buildings 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, in accordance with Section 59-G-2.43(a)(2) of the Zoning Ordinance.

3. Because of the buildings' color and textured concrete finish and the landscaping screening, the buildings and fence, the buildings will have the exterior appearance of residential buildings and will have suitable landscaping, in accordance with Section 59-G-2.43(b) of the Zoning Ordinance.

4. Because the proposed special exception is not a broadcasting tower, the requirements of Section 59-G-2.43(d) of the Zoning Ordinance are not applicable.

5. Because the proposed special exception will not have overhead electrical power and energy transmission and distribution lines, the requirements of Section 59-G-2.43(f) of the Zoning Ordinance are not applicable.

6. Because the proposed special exception is not an antenna or support structure, the requirements of Section 59-G-2.43(j) of the Zoning Ordinance are not applicable.

The proposed special exception meets the general conditions set forth in Section 59-G-1.2.1 and 59-G-1.21, specifically:

7. The inherent physical and operational characteristics of the proposed use are the two buildings. The non-inherent effects include the location of the buildings, the traffic impact, the lighting and the landscaping. Because the facility will be unmanned, it will have almost no traffic impact. Because of the generous setbacks and the extensive screening and landscaping, the view of the buildings will be mitigated from the adjacent residential uses. Because of the minimal lights activated only by motion detectors, the lighting will not cause any adverse effects. Therefore, there are no inherent or non-inherent adverse effects sufficient to justify a denial of the special exception under Section 59-G-1.2.1 of the Zoning Ordinance.

8. The proposed telecommunications facility is permitted by special exception in the R-200 zone. Therefore, it is a permissible special exception in the zone, in accordance with Section 59-G-1.21(a)(1) of the Zoning Ordinance.

9. As the proposed use complies with the special conditions for buildings within telecommunication facilities, it satisfies the requirements of Section 59-G-1.21(a)(2) of the Zoning Ordinance.

10. The proposed use is covered by the 1980 Olney Master Plan, which supports telecommunications facilities in the R-200 Zone by special exception. Therefore, the proposed special exception is consistent with the general plan for the physical development of the District, in accordance with Section 59-G-1.21(a)(3) of the Zoning Ordinance.

11. The buildings will have a textured concrete finish and will be bone or ivory or similar in color, resulting in a residential appearance. In addition they will enjoy generous setbacks from the property lines, will be screened from the view of neighboring properties, will generate minimal noise due to the enclosure of the generator, will have minimal lighting and glare, and almost no traffic impact, and will be unmanned. Therefore, the proposed special exception will be in harmony with the general character of the neighborhood in accordance with Section 59-G-1.21(a)(4) of the Zoning Ordinance, will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties, in accordance with Section 59-G-1.21(a)(5) of the Zoning Ordinance, and will not cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or

physical activity, in accordance with Section 59-G-1.21(a)(6) of the Zoning Ordinance.

12. When evaluated in conjunction with the two other special exceptions in the neighborhood, the Norbeck Country Club and the accessory apartment, the proposed special exception will not affect the area adversely or alter the predominantly residential nature of the area. Therefore, the proposed special exception satisfies the requirement of Section 59-G-1.21(a)(7) of the Zoning Ordinance.

13. Since the proposed special exception has no inherent or non-inherent adverse effects, it will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site. Therefore, the proposed special exception satisfies the requirements of Section 59-G-1.21(a)(8) of the Zoning Ordinance.

14. Since the buildings and fence do not require the use of public services and facilities, the requirements of Section 59-G-1.21(a)(9) of the Zoning Ordinance are not applicable.

The Board grants the special exception for the proposed telecommunications facility, subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record and the testimony of its witnesses, to the extent that such testimony and representations are identified in the Board's opinion granting the special exception.

2. The applicant must obtain approval of a Final Forest Conservation Plan prior to release by the Department of Permitting Services of a sediment and erosion control or building permit, as appropriate.

3. The applicant must comply with requirements set by the Department of Permitting Services for stormwater management.

4. The applicant must obtain approval by the M-NCPPC technical staff of its final landscape and lighting plan. The plan must include, among other things, that there will not be signs at the facility, except for warning signs on the proposed fence.

On motion by Donna L. Barron, seconded by Louise L. Mayer, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled case.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 13<sup>th</sup> day of November, 2001.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four month period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.