

MINUTES OF TFCG MEETING

AS AMENDED PER THE AUGUST 1 MEETING

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications

A meeting of the Transmission Facility Coordinating Group (TFCG) was held on July 11, 2007. The following people were in attendance:

MEMBERS

Jane Lawton OCCS (240) 777-3724  
Mary Pat Wilson MCPS (240) 314-4707  
Martin Rookard WSSC (301) 206-8979  
Helen Mu DTS (240) 777-2804  
Dave Niblock DPS (240) 777-6252

STAFF

Marjorie Williams OCCS (240) 777-3724  
Bob Hunnicutt CTC (301) 933-1488  
Carol Watson CTC (301) 933-1488  
Bill O'Brien CTC (301) 933-1488

OTHER ATTENDEES

Matt Gilmore NB&C  
George Walker WFI, FiberTower  
Sean Hughes, Esq. Donohue & Blue (T-Mobile)  
Michael S. Molinaro Reese & Company (Counsel for MCPS)  
Delisa Coleman Sprint/Nextel

Action Item – Meeting Minutes: Mary Pat Wilson moved that the minutes be amended to reflect that she abstained from voting on item #1 on last month's agenda. Helen Mu seconded the motion and the minutes were unanimously approved as amended.

Consent Agenda Applications:

Jane Lawton asked that item #1 be pulled from the consent agenda for discussion.

2. Sprint-Nextel application to replace six existing 58" panel antennas with six new antennas (three 56", two 53" and one 48") at the 168' and 179' levels of the 160' Parkside Plaza apartment building located at 9039 Sligo Creek Parkway in Silver Spring (Application 200705-08).
3. Verizon Wireless application to replace six existing 48" panel antennas with 12 new panel antennas (six 47" and six 71") at the 180' level of an existing monopole on Dickerson Auto Center property located at 22210 Dickerson Road in Dickerson (Application #200706-02).

Motion: David Niblock moved the remaining two consent agenda items be recommended. Mary Pat Wilson seconded the motion and was it unanimously approved.

Action Item – Consent Agenda Item 1: Fiber Tower application to attach three 13" and one 24" panel antennas and one 36" dish antenna at the 142' level of an existing 696' WWDC lattice tower located at 8744 Brookville Road in Silver Spring (Application 200705-02).

Jane Lawton asked for clarification as to the location of the tower for this application. Bob Hunnicutt explained

that this was the WWDC FM broadcast tower located on Brookeville Road In response to further questions, he added that there had been several other applications to attach antennas to this structure.

Ms. Lawton asked how big the parcel was. David Niblock said it was approximately nine acres.

Motion: David Niblock moved the application be recommended. Helen Mu seconded the motion and it was a unanimously approved.

Action Item: Fiber Tower application to attach two 13" and one 24" dish antennas at the 272' level of the existing 245' Washingtonian building located at 9701 Fields Road in Gaithersburg (Application 200705-03)..

Carol Watson summarized the application and noted that the Tower Coordinator's recommendation was conditioned on addressing any problems related to cumulative RF emissions that exceeded FCC limits. Bob Hunnicutt reminded the group that on prior applications for attachments at that rooftop there had been cumulative RF emissions that had exceeded the FCC's limits. Jane Lawton commented that she recalled those applications and that the applicants had to take measures to address that issue -- some of which including signage at the rooftop entrance.

Motion: Martin Rookard moved the application be recommended conditioned on FiberTower's submission to the Department of Permitting Services and the Tower Coordinator results from a cumulative RF study that reports the attachment will not exceed the FCC limits for RF emissions. If the limit is exceeded, FiberTower must provide an explanation of how workers accessing the roof will be protected. Mary Pat Wilson seconded the motion and it was unanimously approved.

Action Item: Sprint-Nextel application to remove an existing equipment shelter and cabinets from the building rooftop and install a new shelter on the grounds of the Chateau Apartments pool house located at 9727 Mt. Pisgah Road in Silver Spring (Application 200706-01).

Bob Hunnicutt summarized the application and explained that the modification at this location is to relocate existing equipment from the rooftop to ground space near the building. Mr. Hunnicutt added that this recommendation was conditioned on compliance with Section 59-A-6.14 to screen the equipment shelter. He added that the plan showed that placement of the shelter would result in removal of some existing bushes, and that the Zoning Code required the shelter to be brick-faced and surrounded by landscaping to at least six feet.

Jane Lawton asked why the shelter was being relocated. Sprint-Nextel representative Delisa Coleman explained that there was not enough space on the roof to accommodate the additional equipment to be placed at the site.

Motion: David Niblock moved the application be recommended. Helen Mu seconded the motion and it was unanimously approved.

Action Item: T-Mobile/Montgomery County Public Schools application to construct a 120' monopole and attach up to nine 59" panel antennas at the 118' level. The monopole will be placed on Watkins Mill High School property located at 10301 Apple Ridge Road in Gaithersburg (Application 200702-04).

Bob Hunnicutt summarized the application. He noted that, except for residents who lived in the town homes directly across the street from the entrance to the school facility, it did not appear that many residents around the site would be able to see the monopole because of its proximity to the surrounding community and the many tall trees that surrounded the large school property. Mr. Hunnicutt also noted that the applicant submitted RF maps with the application showing the calculated coverage with antennas at the 120' and the 80' levels. He said that based on Carol Watson's review of those maps, it appeared that the stated coverage objective (several residential developments near the school) could be met with antennas at the 80' level. He added that this application had been scheduled for the May meeting, but just prior to that meeting the T-Mobile representative had asked that it be pulled from the agenda until the results of drive tests with antennas at the 80' level were available. He asked Ms. Watson to summarize the results of the drive tests.

Carol Watson explained that the carrier's RF drive test results indicated that signal levels in at least one of the communities in their stated coverage objective may not receive signals at the target levels. However, she noted that her review of the RF maps show that those areas appear to be well covered by an existing site. She also

said that with the drive test results, T-Mobile expanded their statement of the area intended to be covered by this site to include a number of communities more distant from the school and that the need for service to those areas is the basis for the antennas at 120' level. Based on her review of the RF maps showing existing coverage, Ms. Watson found that it appeared that one community to the south of the site did not appear to be served from existing sites at the target levels. Consequently, she agreed that to provide signal levels as desired to those communities to the south of the site, the antennas needed to be at the 120' level.

Mr. Hunnicutt added that since it appeared that the height of this monopole may not be an issue because the site is so well screened, he had no objections to recommending the monopole at the 120' level. He noted however, that his recommendation is conditioned on approval of a Special Exception. He explained that since the antennas are not being attached to an existing structure (the stadium light pole which is there today) the application does meet the requirements of Section 59-A-6.12 regarding public or private use of a facility. He added that since the existing 75' light pole was to be removed, the new monopole was being built for a private use - to attach antennas at the 120' height. He said that his determination is consistent with the information contained in a recent letter from the acting director of the Planning Department at the M-NCPPC and was also consistent with the comments voiced by County Attorney Cliff Royalty and Kathy Hart at prior TFCG meetings.

Jane Lawton asked about property setbacks and the distance from the nearest residence. Mr. Hunnicutt reviewed the site plan with Ms. Lawton and the committee members, and noted that the plans indicated that the setback was over 300' from the property line.

Mary Pat Wilson introduced Michael Molinaro, outside counsel to the public schools, to comment on the application.

Mr. Molinaro said that the public schools encouraged the TFCG to support the application but objected to the condition regarding the Special Exception requirement. He stated that the schools had determined that the TFCG does not have legal authority to determine what review process the application should go through. He stated that the schools determination was contained in a letter to the Planning Commission, whose staff agreed with that opinion. He further stated that it was the Planning Commission that had the authority to determine the type of review process for an application. Mr. Molinaro also urged the TFCG not to depart from their prior actions on stadium light pole replacements. He noted that, in the past, such applications had not been restricted to obtaining a Special Exception, and cited the Springbrook High School as the most recent example.

Ms. Lawton replied it was not Mr. Molinaro's role to decide what authority the TFCG had in their review process. She said that the Tower Coordinator's recommendation and the TFCG's action was not a final determination, but was a recommendation on the application which would go forward to the next appropriate reviewing governmental body, who could exercise whatever authority they had to take action as appropriate. She noted that the Tower Coordinator is obligated to make a determination as to whether an application is a public or private use. She noted that the public schools had recently brought applications to the TFCG for review that did not meet the criteria in Section 59-A-6.12, and that had prompted a closer review of the requirements for telecommunications sitings on school property. She agreed with the Tower Coordinator that the construction of this monopole is for a private use. She also noted that this issue had been the subject of discussion at a number of TFCG meetings over the years and that as public awareness of these kinds of facilities on school property has become more controversial in the community, there is a need for greater scrutiny on these applications. She said that she was also aware that the introduction of state legislation prohibiting these kinds of telecommunications facilities at all school sites in the state was expected – evidencing community concerns about these kinds of applications.

Ms. Lawton said the TFCG believes that this is a good use of public property in that it enables carriers to provide coverage in residential areas; however, she thought the siting needed to comply with the local Zoning Code as well. She said she did not understand why the public schools would resist these applications going through the Special Exception process which enabled greater public scrutiny of the application. Mary Pat Wilson replied that the mandatory referral process was also a public process.

T-Mobile representative Sean Hughes stated he also encouraged the group to support the application and suggested that a recommendation, if conditioned, should be required to obtain approval through the Mandatory Referral or Special Exception process, whichever process was required as determined by the appropriate body

authorized to make such a decision.

Mr. Hunnicutt stated that the recommendation for the Springbrook High School application included a condition (from the Tower Coordinator and the TFCG) that it may also require a Special Exception. He said that he had reviewed the TFCG record on this issue and found that although the TFCG had recommended these light pole replacements at school facilities without this condition in the past, the three most recent applications all contained a condition related to obtaining a Special Exception. He noted that the letter from the Acting Director of the Planning Department made reference to the fact that for the two applications addressed in that letter, the antennas were not being attached to an existing structure, and the entire costs were being paid with private funds. Therefore, those applications would need to go through Zoning review. Mr. Hunnicutt noted that for those two applications there was no existing structure at all, not even an existing light pole as was the case with this application. He noted that this application was being paid for with private funds and was not being attached to the existing light pole. In fact, the existing light pole was being removed and the new monopole and antennas were clearly for private use will serve both the applicant and the school.

Mr. Hunnicutt also reminded the group that at the 2006 meeting when these issues were discussed, Cliff Royalty stated that he agreed with Kathy Hart, the former County Attorney, who in 1999 was reported to have said that if a government entity wished to construct their own monopole for their own purposes, that would be appropriate for review through Mandatory Referral, but that telecommunications facilities are clearly for private use. Consequently, Mr. Hunnicutt said he conditioned the recommendation for this application on approval of a Special Exception. He also noted that although the Planning Director's letter did state that the ultimate decision for the review process appropriately rested with the Planning Commission, he is obliged to make a recommendation to the TFCG based, in part, on the Zoning standards. To determine the Zoning standards requires that he make some determination as to whether he believes the structure is for public use or private use, and whether the application would require a Special Exception or a Mandatory Referral. Bob Hunnicutt also noted that the information from Cliff Royalty and the information contained in the Planning Director's letter was provided after those unconditional actions were taken by the TFCG. Therefore, this application was being handled in the same manner as the last three applications. He suggested that if the TFCG believed it was important for these light pole replacement applications not to go through Special Exception, it would be appropriate to make a statement to that effect in their remarks on the Record of Action for this application, which could then be transmitted to the Planning Board and the Board of Appeals for consideration.

Ms. Lawton said that it was up to the applicant to make the case to the Board of Appeals that this application would not require a Special Exception. The applicant could also explain that once the monopole is constructed it could be used to support lights which formerly were on the existing light pole at the school.

David Niblock stated that he agreed with the recommendation as submitted by the Tower Coordinator.

Motion: David Niblock moved that the application be recommended conditioned on compliance with §59-G-2.58 of the Zoning Code and approval of a Special Exception by the Board of Appeals to construct the monopole. Helen Mu seconded the motion and it was approved: three voted in favor of the motion, Mary Pat Wilson abstained, and Martin Rookard opposed.

The next meeting of the TFCG is scheduled for Wednesday, August 1, 2007 at 2 p.m. in the second floor conference room #225 of the COB.