MINUTES OF TFCG MEETING

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications Corporation

A meeting of the Transmission Facility Coordinating Group (TFCG) was held on March 8, 2013. The following people were in attendance:

MEMBERS
Marjorie Williams    DTS
Dave Niblock    (via phone)  DPS
Bernie Fitzgerald  DGS
Martin Rookard   (via phone)  WSSC
Carlton Gilbert  (via phone) M-NCPPC
Janice Turpin  (via phone) MCPS
Joan Cole     (via phone) DTS

STAFF
Bob Hunnicutt      CTC
Marty Liebman     CTC

OTHER ATTENDEES
Rob Neely           SCE, Inc. for Verizon Wireless
M. G. Diamond     Counsel for Verizon Wireless
Harold Bernadzikowski   (via phone) NB&C for Verizon Wireless

Action Item - Meeting Minutes

Motion: Carlton Gilbert moved the minutes be approved. Bernie Fitzgerald seconded the motion and it was unanimously approved.

Action Item: Consent Agenda

Discussion: Bob Hunnicutt explained that there is an error in the item listing on the Recommendation Form and the Consent Agenda. The description of the application should say that there are eight, not six, antennas. He said he would correct the Recommendation Form, and that the minutes and Record of Action will reflect eight of each type of antenna.
1. Verizon application to attach 16 panel antennas, eight 72"-high and eight 48"-high, at the 140' and 155' levels atop the building on Gramax Associates, LP property at 8060 13th Street in Silver Spring (Application #201303-03). Co-location

Motion: Martin Rookard moved that the TFCG recommend the Consent Agenda item as corrected. Joan Cole seconded the motion and it was unanimously approved.

Regular Agenda

Action Item: Verizon application to attach 12 antennas, six 72"-high and six 48"-high, at the 100' level on a 105'-high tower on Trinity United Methodist Church property at 13700 Schaeffer Road in Germantown (Application #201212-06). Co-location

Bob Hunnicutt summarized the application, noting that because the tower is a telecommunications facility, permitted to be constructed under the guise of being a bell tower for the church, the Tower Coordinator does not recommend this application. He explained that, because this facility is a telecommunications facility, it should have had approval by the Board of Appeals; because the applicant did not secure that approval, the tower does not comply with zoning and is therefore not recommended.

Mr. Hunnicutt explained that like the monopoles, trees, and other so-called "stealth" telecommunications facilities designed and constructed to conceal antennas or otherwise disguise a facility on residential zoned property, it appears that this tower is required to have approval by the Board of Appeals for a special exception.

Mr. Hunnicutt further explained that there are faux bells added at the 50' level on the 100'-high structure as decoration only. He said the tower was designed and constructed to support antenna arrays for at least four carriers on platforms within the structure, and that it has hand holes for the cabling to the antennas. He also said that it was designed and constructed on property leased by Verizon Wireless by Stealth, a company which specializes in creating stealth, or concealment cell towers.

M.G. Diamond opined that the question for the TFCG to decide is whether the tower is a legally existing structure. He distributed a copy of the County Department of Permitting Services (DPS) permit for a bell tower and a copy of the permit with the inspection approval stamp (copies attached for reference). He said that it is up to DPS to determine if the structure is a bell tower, and that the copies of the permit verify that DPS did determine that, based on the zoning and the structural documents provided with the application that the church filed. That being the case, he concluded, it is a legally existing structure and an applicant can file a TFCG co-location application according to the zoning ordinance. He noted that there are prohibitions in the code against, for example, constructing a tower as an accessory structure to a private residence in a residential zone— but that a bell tower is a legal accessory structure to a church. Mr. Diamond went on to explain that Verizon Wireless consulted with Dave Niblock of DPS, who said that a church can build a bell tower and, once existing, it is permissible to co-locate antennas to it.

Marjorie Williams asked who actually built the tower. She explained that her understanding, based on her information from the Pastor of the church, was that the church already has an 80'-
high bell tower attached to the building; that Verizon Wireless approached the church about attaching antennas on the existing bell tower; that the existing bell tower was determined to not be high enough to meet Verizon’s needs; that Verizon then offered to build another tower which would meet Verizon’s needs to attach their antennas; and that the church then entered into a contract with Verizon to construct a tower for their antennas. Consequently, she said, the tower was built as a telecommunications facility. She added that in October she had received numerous calls from residents opposing the construction of the cell tower as it was being constructed. Dave Niblock added that he too had received calls from residents opposing the tower. On visiting the Church website in October, she noted that the Church called the structure a cell tower/bell tower and said that it was already under construction, but the Verizon Wireless TFCG application was not submitted until November.

Mr. Diamond stated that, clearly, Verizon Wireless could not construct a tower on this residential property because it could not meet the setback requirements, but a bell tower is a legal accessory structure to a church, and that it was the church that filed the permit application. He stated that Verizon Wireless entered into a 50-year lease with the church and that the church will own the tower. When a TFCG application is filed for a co-location of antennas, no one has to show a lease.

Ms. Williams asked those participating by phone if they needed to see a copy of the permit, and said that if they did, she could scan and e-mail it to them. Bernie Fitzgerald, who was at the meeting, stated that it appeared to him to be a valid permit for the benefit of those on the phone. Mr. Hunnicutt noted that it was a permit for a bell tower and showed nothing about a telecommunications facility. Mr. Diamond stated that there had been no appeals and no action pending against the tower, and that it has a right to stay there, adding that it is a working bell tower because the church plays bell music from it hourly and at the times of a call to worship.

Ms. Williams said that the Pastor of the church told her that the church would not have filed for the permit, and that it would have been Verizon Wireless that filed the application. Ms. Williams asked who signed the permit. Mr. Diamond replied that the church applied for the permit and noted that it was signed by the Director of the Church Board. Mr. Hunnicutt noted that Alex Beiro—a name he knows as being someone who has filed other telecommunications facility applications in the County in the past—also signed the permit application as an agent; he asked whether Mr. Beiro was an agent for Verizon Wireless. Mr. Diamond replied that Mr. Beiro was the general contractor for the church.

Carlton Gilbert asked if the members could get comment from DPS or the County Attorney about a determination as to what type of structure the tower would be considered. Dave Niblock stated that the application was for a bell tower only, and that a church can apply to build a bell tower which, based on the application, would have to be approved. He said Max Spicer would be the appropriate person to comment about DPS permitting.

Ms. Williams said that, if the group wanted comment from Cliff Royalty and Max Spicer from the County Attorney’s Office to answer their questions, then the application could be tabled and a meeting could be scheduled when those individuals and all of the TFCG members could attend.
Bernie Fitzgerald remarked that because of the issues with the application, he would like to hear from Mr. Royalty and Mr. Spicer. Carlton Gilbert and Janice Turpin agreed. Mr. Fitzgerald recalled that when he used to represent cell carriers before he worked with the County, and a new tower was proposed, they would properly brief the relevant agencies with all information about the proposed structure, which, in this case, he thought had not been done.

Mr. Diamond wanted to know what questions the County Attorney would answer, reiterating that it is a legal structure as evidenced by the permit and inspection. Dave Niblock noted that the inspection stamp on the permit only affirms that the structure, based on the inspection, was constructed to the plans approved with the permit. He said that the stamp is not to be interpreted as a determination of the nature of the structure or its use, only that it was built according to the plans approved with the permit. He explained that the inspector does not have that responsibility or authority.

Ms. Williams said she couldn’t say what questions would be answered but that the group was entitled to obtain additional information before they took action.

Motion: Bernie Fitzgerald said that because this application involved zoning, permitting, land use, and other issues which the group wished to know additional information about, he moved that the application be tabled until such time as a meeting with the appropriate people could attend. Joan Cole seconded the motion and it was approved with Dave Niblock abstaining.

The next regularly scheduled meeting of the TFCG will be held on April 3rd in Room #225 of the COB.
DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R Schwartz Jones
Director

BUILDING PERMIT

Issue Date: 07/24/2012

Permit No: 597442
AP Type: COMBUILD
Expires: 07/25/2013
X Ref: 
Rev. No: 
ID: 79712

THIS IS TO CERTIFY THAT: TRINITY UNITED METHODIST CHURCH
13700 SCHAEFFER RD
GERMANTOWN, MD 20874

HAS PERMISSION TO: CONSTRUCT
COMMERCIAL MISCELLANEOUS STRUC

PERMIT CONDITIONS: Construction Free Standing 105' Bell Tower. Trinity United Methodist Church

MODEL NAME:

PREMISE ADDRESS: 13700 SCHAEFFER RD
GERMANTOWN, MD 20874

LOT - BLOCK: NA - U
BOND NO.: 
PERMIT FEE: $ 4,196.15
INSPECTOR: ROY HARRINGTON

ZONE: 
BOND TYPE: 
SUBDIVISION: 
INSPECTOR MOBILE: 

ELECTION DISTRICT: 06
PS NUMBER: 

TRANSPORTATION IMPACT TAX DUE: $0.00
SCHOOLS IMPACT TAX DUE: $0.00
SCHOOLS FACILITY PAYMENT DUE: $0.00
IMPACT TAXES ARE NOT DUE.

MUST BE KEPT AT JOB SITE
AN APPROVED FINAL INSPECTION IS REQUIRED PRIOR TO USE OR OCCUPANCY

Every new one- or two-family dwelling, every townhouse and any attached accessory structure must be equipped with a fire sprinkler system. A separate sprinkler permit is required for the installation of the fire sprinkler system.

Many subdivisions and neighborhoods within Montgomery County have private deed restrictions and covenants regulating building construction. Obtaining a building permit does not relieve the property owner of responsibility for complying with applicable covenants.

NOTICE:
THIS APPROVAL DOES NOT INCLUDE PLUMBING, GAS PIPING OR ELECTRICAL OR CONSTRUCTION IN ANY DEDICATED RIGHT-OF-WAY.

NOTE:
THIS PERMIT DOES NOT INCLUDE APPROVAL FOR ANY ELECTRICAL WORK. YOU MUST HAVE A SEPARATE ELECTRICAL PERMIT TO DO ANY ELECTRICAL WORK.

Director, Department of Permitting Services

255 Rockville Pike, 2nd Floor • Rockville, MD 20850 • (240)777-0311 • (240)777-6256 TTY/www.montgomerycountymd.gov/permittingservices
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PERMIT CONDITIONS: Construction Free Standing 103' Bell Tower. Trinity United Methodist Church

**REVISION TO SITE 12/7/12**

MODE! NAME:

PREMISE ADDRESS: 13700 SCHAEFFER RD
GERMANTOWN, MD 20874

LOT - BLOCK: NA - U
BOND NO:
PERMIT FEE: $4,994.28
ZONE:
ELECTION DISTRICT: 06
BOND TYPE:
SUBDIVISION:
PS NUMBER:

APPROVED

Montgomery County
Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

EPT AT JOB SITE
REQUIRED PRIOR TO USE OR OCCUPANCY

And any attached accessory structure must be equipped with a fire required for the installation of the fire sprinkler system.

County have private deed restrictions and covenants regulating relieving the property owner of responsibility for complying with

DT INCLUDE
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Director, Department of Permitting Services

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tymd.gov/permittingservices