Advisory Neighborhood Commission 4A

DISTRICT OF COLUMBIA GOVERNMENT
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October 5, 2001

FROM: **James H. Jones, Chairman**
Advisory Neighborhood Commission 4A

TO: **Ms. Sheila Cross Reid, Chairperson**
Board of Zoning Adjustment
Office of Zoning
441 4th Street NW, Suite 210
Washington, DC 20001

SUBJECT: **ANC 4A REPORT RE: BZA APPLICATION NO. 16784**

(a) THE IDENTIFICATION OF THE APPLICATION:

BZA Application No. 16784

(b) WHEN THE PUBLIC MEETING OF THE ANC TO CONSIDER THE APPLICATION WAS HELD:

Tuesday, October 2, 2001, at 7:00 PM

(c) WHETHER PROPER NOTICE OF THAT MEETING WAS GIVEN BY THE ANC:

Yes, ANC 4A provided proper notice of the October 2, 2001, meeting to its residents. Notices were mailed to over 1500 residents approximately 10 days prior to the meeting. Meeting notices were also published in an ANC 4A community newsletter. Further, notices were hand delivered to residents living in the immediate impact area of this application. The information on all meeting notices include: date, time, location, agenda, names of the ANC Commissioners and the ANC 4A office telephone number.

BZA
Case No. 16784
Exhibit No. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.16784
EXHIBIT NO.41

(d) THE NUMBER OF MEMBERS OF THE ANC THAT CONSTITUTE A QUORUM AND THE NUMBER OF MEMBERS PRESENT AT THE MEETING:

There are seven ANC 4A Commissioners. Four ANC members constitute a quorum. All seven Commissioners were present at the ANC 4A meeting on Tuesday, October 2, 2001.

(e) THE ISSUES AND CONCERNS OF THE ANC ABOUT THE APPLICATION AS RELATED TO THE STANDARDS AGAINST WHICH THE APPLICATION MUST BE JUDGED:

Standard No. 1: ***Comcast must demonstrate that the building will be in harmony with the general purpose and intent of the Zoning Regulations and Maps. (Title 11, DCMR 3104.1);***

Standard No. 2: ***Comcast must demonstrate that the building will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps. (Title 11, DCMR 3104.1);***

Standard No. 3: ***Comcast must demonstrate that the building meets the special conditions for antennas listed in Section 211 of Title 11 DCMR***

BUILDING IS OUT OF CHARACTER WITH NEIGHBORHOOD

The ANC 4A Commission received substantial statements and documents from Brightwood residents indicating that the building is out of character with the community residences, that it will lower property values, that it will cause increased vehicular and pedestrian traffic, that it will have a negative impact on the environment and cause health and safety risks. The Brightwood Community Association submitted a petition with 364 signatures and 109 letters opposing the construction of the Comcast shelter in their community for the reasons mentioned above. Moreover, 200 or more residents attended the ANC 4A meeting on October 2, 2001. Numerous residents indicated their opposition to the Comcast shelter while only one person voiced support.

Unlike most developments that are usually in the conceptual stage and require conjecture, this development is 70% complete and stands in plain view. No guesswork is required to figure it out. It is a 1500 foot one story windowless concrete bunker designed for commercial purposes and placed in an R-1-B neighborhood of detached colonial and Victorian homes. It is more than apparent that this shelter is out of character with the residences in the community. Further, it is not in harmony with the general purpose and intent of the Zoning Regulations for R-1 Districts which indicate that the R-1 District is designed to protect quiet residential areas now developed with one-family dwellings and adjoining vacant areas likely to be developed for those purposes. Further, the R-1 provisions are intended to stabilize the residential areas and to promote a suitable environment for family life. The Comcast shelter stands in violation of these regulations.

BUILDING RUNS COUNTER TO COMPREHENSIVE PLAN

Ward 4 Councilmember Adrian Fenty indicated that the Comcast application should be denied because the proposed use of the site is non-compliant with the Comprehensive Plan for Ward 4. He indicated that one of the stated goals of the Comprehensive Plan for Ward 4 is that "land use planning for the ward must protect and enhance the low density character, open spaces and stable neighborhoods for which the ward is known." A second key goal of the Plan involves controlling the encroachment of commercial and other nonresidential uses in residential areas. He observed that Piney Branch Road runs intermittently from the 4600 block to the 7200 block and is entirely residential. There is currently no commercial fronting on Piney Branch Road. He concluded that the Comcast application to erect a bunker for commercial purposes on this site is in direct conflict with the Comprehensive Plan for the ward.

BUILDING FAILS TO COMPLY WITH ANTENNA REQUIREMENTS

A bunkerlike structure that serves as a shelter for optical transmission nodes does not appear to fit into any of the classes of antennas permitted in an R-1 district. If, in fact, that is the case, then this application is outside of the scope of the zoning regulations and deserves no further consideration. On the other hand, if this application is found to be within the scope of the regulations, then Comcast still fails to demonstrate that the building meets the special conditions for antennas listed in Section 211 of Title 11 DCMR.

BUILDING FAILS TO COMPLY WITH ANTENNA REQUIREMENTS - continued-

Specifically, Section 211.6 indicates that no transmission equipment shall be located in a residential district unless location in the district is necessary for technically satisfactory and reasonable economic transmission. Councilmember Fenty indicated that Comcast has made no such showing of necessity. He stated that the facility can be re-located in a non-residential area and still provide satisfactory and reasonably economical transmission. To support his point, he offered as an example Starpower, a cable competitor of Comcast that has located its Optical Transmission Node facility in the 5700 block of Georgia Avenue, a commercial district that is only six blocks away from the Piney Branch Road site. From all indications, according to Councilmember Fenty, Starpower serves the Ward 4 community quite adequately. It is apparent from the foregoing that this application fails to meet any of the standards for a special exception.

HUMAN EXPOSURE TO RADIOFREQUENCY EMISSIONS

Comcast failed to make available an authority on the subject of health and safety risks of human exposure to radio frequency emissions. Further, they failed to make available the author of their study on this subject.

At the ANC 4A meeting on October 2, 2001, Comcast representatives indicated that at a previous community meeting residents had raised the issue of health and safety risks from exposure to radio frequency emissions from the optical transmission node (OTN) shelter. In response to that concern, Comcast representatives handed out a 5 page report entitled, *Engineering Statement Analysis of Human Exposure To Radiofrequency Emissions.* The study was certified and conducted by Robert W. Denny, Denny & Associates, Consulting Engineers, Oxon Hill, Maryland. The Comcast Representative merely told the residents that the OTN will not present any health and safety risks. That statement, alone, was insufficient to allay the residents' questions and concerns which require the expertise of authorities in the field of RF emissions. Comcast failed to provide these resource persons.

(h) THE RECOMMENDATION, IF ANY, OF THE ANC AS TO THE DISPOSITION OF THE APPLICATION:

ANC 4A recommends that the Board of Zoning Adjustment deny this application. The Commissioners adopted the motion to oppose the application of Comcast Cablevison for a special exception to allow construction of an optical transmission node equipment shelter at 6336 Piney Branch Road on the basis of its adverse effects on the residential community.

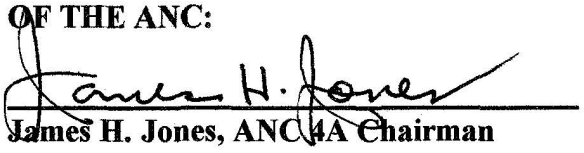
(g) THE VOTE ON THE MOTION TO ADOPT THE REPORT TO THE BOARD:

ANC 4A Commissioner voted 7 to 0 on this motion.

(h) THE NAME OF THE PERSON WHO IS AUTHORIZED BY THE ANC TO PRESENT THE REPORT:

Commissioners Riddick Vann and James H. Jones

(i) THE SIGNATURE OF THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE ANC:



James H. Jones, ANC 4A Chairman