

From: Charlton Smith, President of the Stroudwater Farms Homeowners Association
To: The Portland Zoning Board of Appeals
Re: Conditional Use Application of Verizon Wireless dated October 21, 2015
Dated: February 1, 2016

Verizon Wireless has applied to the Zoning Board of Appeals for approval of a conditional use appeal to allow Verizon Wireless to construct a 1650 square foot equipment building with a large external diesel generator and other external equipment at 1877 Congress St.

The description of the proposed facility as being located at 1877 Congress St. is misleading because that address only describes the location of the entrance road or driveway that leads to the facility. The facility itself is located several hundred feet from Congress St. adjacent to the Stroudwater Farms residential subdivision known as River's Edge and the Stroudwater Historic District and two historic homes located at 1859 and 1871 Congress St. Please refer to the aerial photo with a portion of the plan for the proposed facility superimposed on the aerial photo in Appendix A.

The proposed facility would be close to and clearly visible from several houses in the River's Edge subdivision as well as from portions of River's Edge Drive and it would also be close to and clearly visible from the houses at 1859 and 1871 Congress St. It would have a substantial adverse impact on both the residential character and market value of the houses that will look directly at the facility and to a lesser but still significant extent on all the other properties in River's Edge.

The Stroudwater Farms Homeowners Association through its Board of Directors is working in conjunction with the owners of the homes in River's Edge that would be most directly impacted by the proposed facility to oppose the granting of this appeal. We have been advised by the owners of the adjacent properties on Congress St. that they are strongly opposed to having a substantial commercial facility constructed immediately behind their homes. It is also our understanding that the Stroudwater Village Association opposes the construction of this facility that would be bordered on two sides by the Stroudwater Historic District.

Legal issues relating to the requested conditional use by Verizon Wireless:

Attorney David Silk has submitted a legal opinion to the Board that makes very clear that Verizon Wireless is not entitled to the rights and powers over private property that are afforded to regulated public utilities. Verizon Wireless is a purely commercial company competing with numerous other wireless communications companies. To allow Verizon Wireless to take advantage of ordinances intended to enable companies that are legally obligated to provide service in areas that are not profitable in return for the advantages of having monopoly power would be a serious injustice to our neighborhood. Verizon Wireless is seeking the benefits of a monopoly without its burdens.

Recently the Board approved a conditional use appeal for Verizon Wireless at a church property in a residential zone, but it is our understanding that no one challenged Verizon Wireless's assertion that it was a public utility. Further, the installation of an antenna designed to look like a flagpole and a small shed in a Portland church complex is not even remotely similar to the impact and scale of a 30 x 55 foot, 18-foot-high commercial building with an external industrial generator placed immediately adjacent to numerous residential properties. It would be a grave injustice for the Board to use this flagpole case as a precedent in our case.

The proposed Verizon Wireless facility is not an essential service to the community.

Verizon Wireless has not offered any evidence that the proposed facility will provide an essential service to the immediate community or the Portland area, nor have they provided us with a detailed written description of the functions or business purpose of the equipment that is to be housed in the proposed building. In Portland it is beyond dispute there is ample cellular service available through Verizon Wireless, US Cellular, ATT and/or Sprint. There are no gaps in coverage in our neighborhood or in the City. We have been told only that the facility will allow Verizon Wireless to compete better in the market place and gain more customers. We conclude that this is not an essential service for the community but simply a commercial advantage for a competitive supplier of cellular phone service.

Verizon Wireless has not offered any evidence that the proposed facility must be located at this location or at any location that is not currently zoned for similar commercial purposes. We have only been told verbally that this location meets the company's own criteria for a good location, with a key aspect being proximity to cables currently existing on Congress St. When pressed Verizon Wireless did not indicate that there are no other suitable locations for the facility but rather that it is a site that best met their own business criteria.

We have no reason to believe that this facility provides any essential service to the community and must conclude that this location simply provides a commercial advantage to Verizon Wireless over its competitors in the Portland area. Our neighborhood should not be asked to accommodate this facility (and others like it) without a clear demonstration that this is actually an essential service that cannot be accomplished at a properly zoned location. A renewed request for additional information that would better serve the Board and our neighborhood in making a determination of the essential nature of this facility is attached as Appendix B.

Our attempts to work with Verizon Wireless:

At our request a meeting was held near the site of the proposed facility on Saturday January 16th at which approximately ten residents of River's Edge met with a representative of Tower Resources Management, Inc., the company responsible for

construction of the proposed facility, to discuss our concerns about the impact of the building and its equipment on the residential character of our neighborhood.

There was considerable give and take in the discussion and Verizon Wireless requested a list of our proposed changes to the construction plans that would be necessary to provide a natural visual barrier so that the residents of River's Edge would not have to look at the proposed commercial building and its associated equipment. We have submitted such a list to Verizon Wireless, including other items relating to the building and its equipment, which is attached to this memo as Appendix C.

We raised several other issues at the January 16th meeting that are not directly related to the construction process but are of crucial importance to us that have not yet been adequately addressed by Verizon Wireless.

Most important of these issues is our concern that once a substantial commercial facility has been constructed on this property the possibilities for residential use for the balance of the approximately four acres will be greatly diminished if not eliminated entirely. At a time when Portland is attempting to deal with a housing shortage this should not be allowed to happen. Our concern is not only the prospect of having to see and hear a large commercial facility immediately next to our residential community. We are also very concerned with the impact on our property values of having a major corporation owning approximately four acres of undeveloped land immediately adjacent to us on which a conditional use for a commercial building has already been approved.

We recognize that any further commercial development on the property by Verizon Wireless or others would be subject to the same residential zoning that Verizon Wireless presently seeks a conditional use to avoid. However, common sense dictates the conclusion that once a substantial commercial use has been approved by this Board and built on the property there will over time be considerable pressure to extend such commercial uses on the property or to rezone all of it to commercial. The conditional use being requested at this time could be the turning point in an irreversible process of commercialization immediately adjacent to both the Stroudwater Historic District and a 29-lot residential subdivision that is otherwise completely free of any commercial elements.

While Verizon Wireless denies any present plans for future commercial use for this land footnote #17 on the plans for the currently proposed facility submitted to the Board with its application for the conditional use refers to a tower planned for the premises and the name of the construction company for the current proposed project is Tower Resources Management, Inc. Though Verizon Wireless maintains that it has no plans for a future tower, the explicit reference to a planned tower in the plans and the fact that its contractor's name begins with "Tower" make it difficult for the residents of River's Edge not to be concerned about being faced with a tower proposal for this land in the future.

Based on the verbal assurances of Verizon Wireless that it has no plans for further commercial development of this land we proposed as part of our offer to accept the Verizon Wireless building (subject to the visual screening and other provisions described

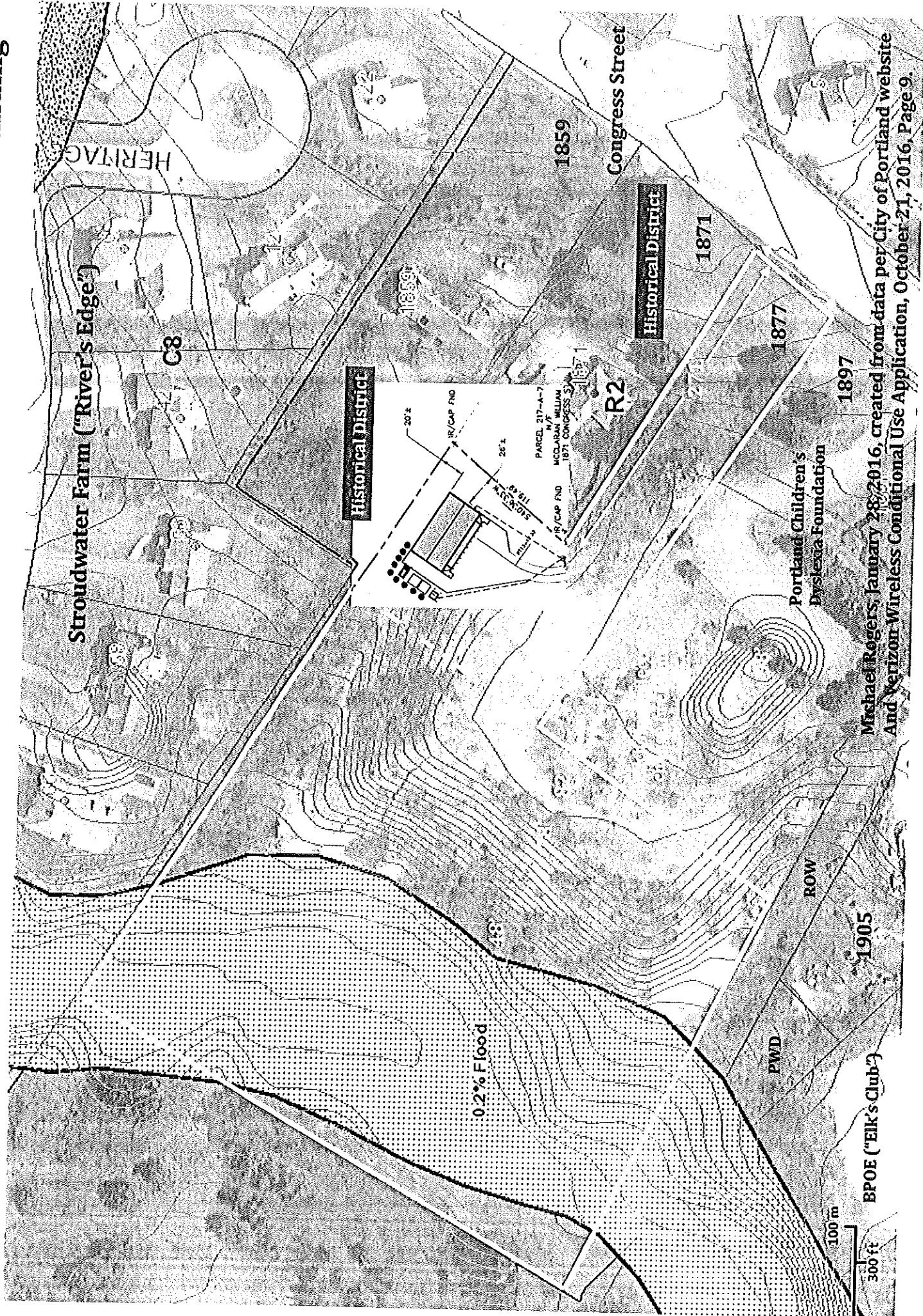
in Appendix B) that Verizon Wireless through various ways formally agree that the remaining unused land will never be used for commercial development. Unfortunately no such agreement has been made.

We also have requested substantially more information about the nature of the equipment and electronic activity planned for the proposed building that we have not yet received. We were given some very general information at the January 16th meeting – that the facility will house radio equipment to power antennas -- but not enough detail for us to make an informed assessment of our own as to whether the operation would have any deleterious effects on our homes, such as interference with our existing cable, phone or television service. As indicated above the information that we have requested appears in Appendix B.

We are pleased that Verizon Wireless has requested the list of our requests for modifications and additions to the proposed building and landscaping, but we are disappointed that Verizon Wireless has failed to address our concerns about the future commercial development of the remaining property and our requests for more detailed and comprehensive information about what will take place in the proposed building and its possible impact on us.

Until all the matters outlined in this memo have been satisfactorily addressed the Board of Directors of Stroudwater Farms Homeowners Association remains opposed to the pending conditional use appeal.

1877 Congress Street, Portland - Proposed Verizon Wireless Commercial Building



Michael Rogers, January 28, 2016, created from data per City of Portland website
And Verizon Wireless Conditional Use Application, October 21, 2016, Page 9.

APPENDIX B

1. The Conditional Use Application (CUA) indicates that Verizon Wireless (VW) proposes “a wireless telecommunications facility” consisting of “a 1,650 square foot equipment shelter” accompanied by “an external generator on a 5 x 10 concrete pad”. The CUA indicates the type of Conditional Use proposed to be “utility substation/telephone electronic equipment”. The CUA provides site plots to indicate the proposed location of the building and the generator, which includes a designation of the facility as a “Head End” (undefined) facility. The site plan (CUA Sheets Z-1 and Z-2, note 17) refers to a tower to be located on the property.
 - i. At the meeting on January 16th, VW representatives indicated that the plan will not include a tower or any other facilities outside of the proposed building for sending or receiving data. Please provide written confirmation that VW agrees as a condition of the application to preclude any such facilities and limit the mode of data communications to or from the facility to underground cables.
 - ii. Please provide a full description of the telephone electronic equipment to be contained in the facility. Please confirm that VW agrees to preclude uses of the facility for any purpose other than for containing telephone equipment.
 - iii. Please provide a full description of a Head End facility as the term is used in reference to the proposed facility.
 - iv. In the January 16th meeting, we understood the VW representatives description of the facility would be used in association with a new wireless phone service option using technology currently not in service in the Portland area. Please provide a written description of the new wireless phone service that will be provided with the implementation of this facility.
2. The CUA does not provide any information on the nature of the equipment and the potential for interference with radio, television, telephone, or other electronic devices employed in abutting residential properties. Please confirm that VW represents that operation of the facility will cause no electronic interference with any such devices used in the neighborhood.
3. The Photo Simulations package includes a proposed view (page 13 of 13) of the proposed driveway access and utility service drop. This was discussed at the January 16 meeting with VW representatives.
 - i. Please describe the power and cable facilities that will cross Congress Street and verify that all utility cables will proceed underground to the facility from Congress Street.
 - ii. Please explain the basis for an overhead crossing of Congress Street vs. underground.
 - iii. Please describe any off-site utility facilities required other than those necessary to cross Congress Street.

APPENDIX C

To: Verizon Wireless
From: Charlton Smith
January 25, 2016

Verizon Wireless has requested a list of requested changes to the existing plans for an equipment facility proposed by Verizon Wireless to be built on land adjacent to River's Edge subdivision. In providing this list Charlton and Mary Smith acting on their own behalf and on behalf of members of Stroudwater Farms Homeowners Association are not waiving their right to oppose this project if they are unable to settle other matters with Verizon Wireless not included in this list of issues relating specifically to the construction of the building.

1. The proposed building should be moved 15 feet further from River's Edge in order to provide space to add two staggered rows of 12 foot high White Pines and Norway Spruce trees 8 feet apart on both the side and end of the building visible from River's Edge. Due to the extreme variability in quality of trees suitable for transplanting the trees should come from O'Donnell's Nursery in Gorham, Maine and be planted by a contractor approved by O'Donnell's Nursery. Being 12 feet high at the time of planting the trees will soon grow higher than the 18-foot roof peak. We were advised by O'Donnell's Nursery against using larger trees because if the trees are more than 12 feet in height transplanting is not as successful. Verizon Wireless would be responsible for making sure that these trees are properly cared for until they are fully established.
2. Verizon Wireless will not cut any of the mature trees on its own land in the entire area behind River's Edge unless cutting them is essential to the construction of the proposed building. The larger trees have been marked with yellow "caution tape" but all trees of any size located near River's Edge that do not need to be cut to construct the building will be left standing.
3. The diesel generator and all other exterior equipment related to the proposed facility presently shown on the plans will be relocated to the side of the building furthest from River's Edge to minimize its impact on the River's Edge neighborhood. The generator will not exceed 150 KW and will be inside a Level 2 enclosure. There will be no external antennas, satellite dishes, towers or any similar kinds of equipment used in connection with the building.
4. Because the building will not be occupied and will be visited by a representative of Verizon Wireless only once a week, the building will include security devices that will enable Verizon to remotely monitor and detect any improper activity that may occur at the building that could adversely impact the residents of the River's Edge neighborhood.

We look forward to an opportunity to resolve the matters listed above, as well as other matters not directly relating to the construction of the proposed building, with representatives of Verizon Wireless prior to the February 4th Zoning Board meeting. For this purpose we would be happy to provide Verizon Wireless with a list of questions and issues that are not related to the construction of the building but which are pertinent to our concerns relating to the overall operation of the proposed facility. These additional questions and issues should be addressed prior to the February 4th Zoning Board of Appeals meeting.