

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Verizon Wireless
24337 Hollywood Road
Hollywood, Maryland

Case No. CUAP # 14-135-0005

DECISION AND ORDER**Introduction**

Verizon Wireless (hereinafter "Applicant") filed an application for a conditional use permit pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 24337 Hollywood Road, Hollywood Maryland (hereinafter the "Property").

After due notice, a public hearing was held at 6:30 p.m. on November 12, 2015, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. The proceedings were recorded electronically.

Legal Standard

The Board shall not approve a conditional use unless it finds, based on the evidence, that:

1. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use;
2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare;
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood;
4. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district;
5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
6. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets;

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7. The proposed conditional use is not contrary to the goals, objectives, and policies of the Comprehensive Plan; and
8. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in Chapter 51.

Findings of Fact

The Property is the site of Dorsey Park, a County-owned park containing athletic fields, a basketball court, playground, and two parking lots. The perimeter of the Property is wooded. The Applicant proposes to construct a monopole-style commercial communication tower on the northeast corner of the Property, at an elevation of one hundred twenty-five (125) feet above ground level. The tower will be located approximately one hundred twenty-nine (129) feet from the Property's northeast boundary, which will be the tower's closest point to any shared property line.

The Tower will be constructed within a gravel lease area measuring fifty feet by fifty feet (50 x 50), or two thousand five hundred (2,500) square feet. The lease area will be enclosed by a seven (7)-foot high chain link fence, which will be topped by one (1) vertical foot of barbed wire. The lease area will be surrounded on three (3) sides by the existing mature woods. The woods are dense and provide a natural buffer between the tower and the athletic fields and between the tower and the adjoining properties. The tower's design and structural capacity will support three (3) service providers, including the Applicant.

The Applicant plans to construct a ten (10)-foot wide gravel driveway off Hillcrest Drive, which will end in a twelve (12)-foot wide T-turn-around, to serve the tower facility. Hillcrest Drive is a private right-of-way, and the Applicant has obtained an easement from the owner to use the right-of-way.

Traffic to the tower will be minimal once construction has been completed. Any equipment problem can be handled remotely. On average, one (1) or two (2) site visits per month may occur.

Drainage will be addressed through the site plan process and in accordance with stormwater management and erosion and sediment control requirements.

Additional specific findings of fact are as follows:

1. There is a gap in the coverage provided by existing towers in the geographic area to be served by the proposed tower.
2. The proposed tower would provide coverage in the geographic area for which coverage is not provided by existing towers.