

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Telecom Capital Group, LLC
45878 Strickland Road
Great Mills, Maryland

Case No. CUAP # 15-135-004

DECISION AND ORDER

Introduction

Telecom Capital Group, LLC (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 45878 Strickland Road, Great Mills, 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 an unimproved, fully wooded, agricultural lot which was recorded as part of a larger agricultural subdivision in 2003 (see Plat Book folio 56, liber 43). The Property fronts Strickland Road, which is off Chancellors Run Road. As an agricultural lot, the Property cannot legally be used as a building site until the Property is created as a subdivision lot in accordance with the County's Subdivision Ordinance. Accordingly, a utility easement will be established on the Property to accommodate the lease area, and the easement must be recorded in the Land Records for St. Mary's County prior to final Site Plan approval.

The Applicant proposes to construct a monopole-style commercial communication tower on the northeast corner of the Property, at an elevation of one hundred ninety-five (195) feet above ground level. The Tower will be constructed within a gravel lease area measuring seventy feet by seventy feet (70 x 70), or four thousand nine hundred (4,900) square feet. The lease area will be enclosed by a ten (10)-foot high chain link fence to prevent accidental contact with the Tower or its equipment shelters. The lease area will be surrounded by the existing mature woods except for that portion of the site that will be cleared for the lease area and for access. The tower's design and structural capacity will support five (5) service providers, including Verizon Wireless. The County does not intend to locate antennae on the Tower as the Tower site is not needed to support its 911 service.

The Property is served by a ten (10)-foot wide gravel driveway extending north-northeast from Strickland Road. The Applicant also intends to construct a twelve (12)-foot wide gravel drive off of the existing ten (10)-foot drive to access the fenced lease area housing the Tower and equipment cabinets.

The nearest property boundary is approximately two hundred five (205) feet south of the proposed Tower, and the paved surface of Strickland Road is further south at approximately five hundred seventy-two (572) feet. The closest structure is a house on an adjacent lot, which is located approximately six hundred ninety-two (692) feet from the Tower. Accordingly, the Tower's setbacks from all property lines exceed the Tower's height.

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.