

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Telecom Capital Group,
45020 Patuxent Beach Road, California,
Maryland

Case No. CUAP #14-135-002

DECISION AND ORDER**Introduction**

Telecom Capital Group (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 45020 Patuxent Beach Road, California, Maryland (hereinafter the "Property"). The application seeks a permit to construct a commercial communications tower.

After due notice, a public hearing was held at 6:30 p.m. on October 9, 2014, and February 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;

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 the Patuxent River Assembly of God Church (the "Church") and contains a playground and volleyball court in addition to the Church and accompanying parking areas. The Property is significantly constrained by steep slopes and is nearly entirely covered in mature forest. The Church site is the only cleared area of the Property and the only large, relatively flat portion of the Property. A few smaller, comparatively flat areas are scattered throughout the Property. The Property also contains a stream, but this feature is west of the proposed development and will not be affected by any disturbance to the Property. The Applicant proposes to construct a monopole style, commercial communication tower at an elevation of 175 feet above ground level. The tower will be constructed within a gravel lease area measuring 80 feet by 80 feet or 6,400 square feet. The lease area will be enclosed by an eight-foot (8') high, chain link fence and will be surrounded by the existing woods except for that portion of the site which will be cleared for the lease area and for access. The tower's design and structural capacity will support five (5) service providers. The Applicant plans to construct a 12-foot wide gravel drive, which will tie into the existing parking and drive aisle areas of the Church, to provide access from Md. Route 4 to the tower site. An average one visit every one to two month may occur after construction has been completed. The tower will be located in one of the more level areas of the Property, approximately 410 feet west of the Church. The nearest house is 390 feet away on an adjoining property, and the closest property lines, located on the southeast and southwest sides of the Property, are approximately 185 feet away. The tower will be located about 280 feet from the paved surface of Md. Route 4 to the south.

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.
3. The RF Report containing the information required by Article 5, Section 91.b.(1) (a) through 91.b.(1)(d) of the St. Mary's Comprehensive Zoning Ordinance was submitted by the Applicant.