

**ST. MARY'S COUNTY GOVERNMENT  
DEPARTMENT OF LAND USE  
AND GROWTH MANAGEMENT**

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**MEMORANDUM**

**Date:** July 25, 2014  
**To:** Board of Appeals  
**From:** Yvonne Chaillet, Zoning Administrator  
**Subject:** CUAP # 13-135-001, Sotterley Commercial Communication Tower  
Board of Appeals Hearing of, August 14, 2014

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**SECTION I. Development Data:**

**Request:** The Applicant requests Conditional Use Approval pursuant to Chapter 25 of the Comprehensive Zoning Ordinance to construct a commercial communication tower.

**Owner:** Stephen R. Conner    **Applicant:** Verizon Wireless

**Agent:** Harold Bernadzikowski, Zoning Manager, Network Building and Consulting, LLC

**Location:** 24844 Sotterley Road, Hollywood, MD

**Tax Map:** 27    **Grid:** 07    **Parcel:** 295    **Election District:** 6

**Acreage:** 25 acres

**Zoning:** Rural Preservation (RPD) District

**SECTION II. Notification:** The property and conditional use request were advertised in *The Enterprise* on July 30, 2014 and, August 6, 2014

**SECTION III. Applicable Regulations:**

**St. Mary's County Comprehensive Zoning Ordinance (Ordinance)**

1. Chapter 25. Conditional Uses
2. Schedule 50.4. Use Classifications, Use Types and Location within Zoning District
3. Section 51.3.91. Communication Tower, Commercial

**SECTION IV. Recommended Motion:** Staff recommends the following motion (with modifications and additions following discussion):

“In the matter of CUAP #13-135-001, Sotterley Commercial Communication Tower, having made a finding that the standards for granting a conditional use and the objectives of Section 51.3.91 of the St. Mary's County Comprehensive Zoning Ordinance (**have / have not**) been met, I move to (**approve /**

**deny**) the request to build a monopole style commercial communication tower at a height of 190 feet above ground level.”

**SECTION V. Property and Case Information:**

1. The subject property (the “Property”) lies within the Patuxent Watershed and contains a single-family dwelling and four additional buildings, all of which are located on the relatively flat portion of the Property fronting Sotterley Road. The remaining two-thirds of the Property are encumbered by steep slopes and consist of woodlands densely populated with mature trees, shrubs and underbrush.

A farm pond can be found in the southwest corner of the Property and non-tidal wetlands are located along a portion of the Property’s east and southeast boundaries. A watershed stream traverses the Property from the southwest and meets with a second watershed stream just north of the Property.

2. The Applicant proposes to construct a monopole style, commercial communication tower (the “Tower”) at an elevation of 190 feet above ground level (AGL), approximately 700 feet from Sotterley Road. At its closest point to the adjacent properties, the Tower will sit approximately 275 feet from the Property’s southeast boundary.

The Tower will be constructed within a gravel lease area measuring 50 feet by 50 feet or 2,500 square feet. The lease area will be enclosed by an eight-foot (8’) high, chain link fence and will be surrounded on three sides by the existing woods. The woods are dense and will serve as a natural buffer from the adjoining properties. The Tower’s design and structural capacity will support a minimum of three (3) service providers and will enable the County to place antennae on the Tower to support its public safety communication system, if the County deems this necessary.

3. The Applicant plans to construct a 12-foot wide gravel drive, which will tie into the existing residential driveway, to provide access from Sotterley Road to the Tower compound.
4. The Applicant provided copies of the Federal Aviation Administration’s (FAA) Determination of No Hazard to Air Navigation and the Radio Frequency Engineering Study which the Federal Communications Commission (FCC) requires to determine compliance with emissions standards and noninterference with public safety frequencies.
5. Pursuant to Section 25.9 of the Ordinance, “Limitations on Conditional Use Approval,” “Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall be valid for a period longer than one year unless a site plan is approved, a building permit is issued, construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is issued and use commenced within that period.

**SECTION VI. Standards for Granting a Conditional Use:** Pursuant to Section 25.6 of the Ordinance no conditional use shall be approved by the Board of Appeals unless the Board finds that:

- a. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use.*

In order to find that the Applicant has met this standard, the Board must determine whether or not the documentation submitted by the Applicant and the Technical Evaluation Committee's (TEC) review of the site plan for the proposed cellular tower indicate that the application complies with the standards of Section 51.3.91 of the Ordinance and the standards for developing in the Rural Preservation District (RPD).

- b. 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.*

The Federal Communications Commission (FCC) regulates the radio frequency (RF) radiation emissions of telecommunication towers. Under federal law, the Applicant must demonstrate to the FCC that it meets these RF limits.

An eight-foot (8') high, chain link, security fence will surround the lease area for the Tower and equipment cabinets.

In order to find that the Applicant has met this standard, the Board must determine whether or not the establishment, maintenance, and operation of the conditional use will be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare.

- c. 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.*

In order to find that the Applicant has met this standard, the Board must determine whether or not the location of the Tower on the Property, the height of the Tower, and the associated equipment shelters will 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. The Tower must be set back a minimum of 100 percent of the height of the Tower from adjoining properties, and the lease area must be surrounded by a planted buffer area to minimize visual impacts. The proposed conditional use will be surrounded on three sides by the mature woods, which provide a natural buffer.

Additionally, prior to obtaining federal approval for the Tower, the Applicant must have demonstrated to the FCC that the RF Analysis meets FCC standards for emissions and that the Tower and proposed equipment will not provide local interference.

- d. 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.*

The Applicant has strategically located the proposed Tower in a wooded area of the Property in an effort to reduce to the greatest extent possible any adverse effects, keeping in mind that the Tower's location is chosen, in part, to provide the desired coverage. Inherent with any telecommunication tower is an unappealing visual impact.

In order to find that the Applicant has met this standard, the Board must determine whether or not the location of the Tower on the Property, the required setbacks from property lines, and the required buffers will minimize any adverse impacts above and beyond those inherently associated with a telecommunication tower.

*e. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.*

A new 12-foot wide gravel access road, which will tie into the existing residential driveway as shown on the site plan, will be constructed to provide access to the Tower from Sotterley Road. Drainage will be addressed through the site plan process and in accordance with stormwater management and erosion and sediment control requirements.

*f. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets.*

The existing entrance off Sotterley Road will be used as the point of ingress and egress for the Tower compound. Traffic to the Tower site will be minimal once construction has been completed. Any equipment problem can typically be handled remotely. On average one visit every month or two may occur.

*g. The proposed conditional use is not contrary to the goals, objectives, and policies of the Comprehensive Plan.*

Section 10.2 of the Comprehensive Plan, "The Plan for Public Utilities," establishes policies for providing public facilities, infrastructure and services in growth areas and outside growth areas. One such policy stipulates the following: "Accommodate the efficient and equitable distribution of energy and communication utility services to meet the needs of the population and support the land use, design, and environmental concepts of this plan." A second policy calls for providing a full range of utility services to all areas of the County and for establishing requirements to insure fair access to these services.

In order to find that the Applicant has met this standard, the Board must determine whether or not the proposed Tower and its proposed location are designed to best preserve these established policies.

*h. 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.*

In order to find that the Applicant has met this standard, the Board must determine whether or not their reviews of the site plan and accompanying technical documents indicate that the proposed project is substantially in compliance with applicable regulations of the RPD and the conditional standards of Section 51.3.91 of the Ordinance.

**SECTION VII. Attachments:**

- Attachment 1: Letter addressing Conditional Use standards
- Attachment 2: Letter addressing conditional standards pursuant to §51.3.91 of the Ordinance
- Attachment 3: April 23, 2014 letter from Luke Neiswander, RF Engineer for Verizon Wireless
- Attachment 4: April 25, 2014 letter from Paul Dugan, P.E., Millennium Engineering
- Attachment 5: FAA Determination of No Hazard to Air Navigation
- Attachment 6: FCC Registration Search Results
- Attachment 7: Antenna Specifications
- Attachment 8: Targeted Coverage Maps
- Attachment 9: Location map for tower site and attached photographs
- Attachment 10: Site Plan

Conditional Use Application Date: June 24, 2014