

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

CUAP NUMBER 19-135-002

**HERITAGE OAK FARM PARTNERSHIP (Owners);
TELECOM CAPITAL GROUP, LLC (Agent)**

SIXTH ELECTION DISTRICT

DATE HEARD: May 7, 2020

ORDERED BY:

**Mr. Hayden, Mr. Brown, Ms. Delahay,
Mr. Miedzinski, and Mr. Richardson**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: June 11, 2020

Pleadings

Heritage Oak Farm Partnership (the “Owners”) through Telecom Capital Group, LLC (the “Applicant”) seek conditional use approval (CUAP NUMBER 19-135-002) for a 199-foot monopole¹ Commercial Communication Tower (the “Tower”) within the Rural Preservation District.

Public Notification

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County, on April 22, 2020 and April 29, 2020. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished by the Department of Land Use and Growth Management. The agenda was also posted on the County’s website on May 1, 2020. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

Public Hearing

A public hearing was conducted at 6:30 p.m. on May 7, 2020 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed conditional use requested by the Applicant.

The Property and the Tower Site

The Applicant leased from the Owners a portion of the Owners’ 16.45-acre property (the

¹ Standing alone, the monopole is 195 feet tall, but the Applicants will install a 4-foot lightning rod at the top of the monopole, thus totaling 199 feet.

“Property”) at 41220 Oakville Road, Mechanicsville, MD. The Property is located in the Rural Preservation District (“RPD”) and is identified on Tax Map 14, Grid 22, Parcel 79.

The proposed conditional use would encompass an 80’ x 80’ area (the “Tower Site”) of the Owners’ 16.45 acres. Located 635 feet north of the paved surface of Oakville Road, the Tower Site is 450 feet west of the Oakville Road intersection with Maryland Route 235. The nearest structure is a home located approximately 330 feet from the proposed Tower, and the Tower Site is approximately 200 feet from the nearest western boundary line of the Property. *See* Exhibit 2, Attachment 1a.

The Conditional Use Requested

The Applicant seeks a conditional use pursuant to Chapter 25 of the St. Mary’s Comprehensive Zoning Ordinance (“CZO”) for the purpose of constructing, operating, and maintaining a 199-foot monopole Commercial Communication Tower, Use Type 91, for lease to third-party wireless service providers.

The St. Mary’s County Comprehensive Zoning Ordinance

Pursuant to Schedule 50.4 of the CZO, Use Type 91, “Communication Tower, Commercial” is defined as a “[c]ommunication tower that supports commercial uses or non-commercial uses when the structure exceeds 100 feet in height.”

The Evidence Submitted at the Hearing by LUGM

Harry Knight, Deputy Director of the St. Mary’s County Department of Land Use and Growth Management (“LUGM”), presented the following evidence:

- The Property is 16.45 acres in size, according to the Maryland Department of Assessments and Taxation. The Property is principally used as a commercial nursery and garden center with two buildings, seasonal high tunnels, nursery plants, hardscape/landscape material