

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED

MAR 29 2005

HARFORD COUNTY COUNCIL

Case No. 5483
 Date Filed 3/14/05
 Hearing Date _____
 Receipt _____
 Fee 400

Shaded Areas for Office Use Only

Type of Application	Nature of Request and Section(s) of Code
<input type="checkbox"/> Administrative Decision/Interpretation	CASE 5483 MAP 66 TYPE Special Exception
<input checked="" type="checkbox"/> Special Exception	ELECTION DISTRICT 01 LOCATION 2104 Trimble Rd., Edgewood
<input type="checkbox"/> Use Variance	BY Century Lions Club of Edgewood, Inc., 3402 Kreitler Rd., Forest Hill, MD
<input type="checkbox"/> Change/Extension of Non-Conforming Use	APC Realty & Equipment Company, LLC, 6580 Sprint Pkwy, Overland Park, Kansas
<input type="checkbox"/> Minor Area Variance	Appealed because a special exception pursuant to Sec. 267-53.4C and Sec. 267-53.6 of
<input type="checkbox"/> Area Variance	the Harford County Code to allow a communications tower in the B2 district requires
<input type="checkbox"/> Variance from Requirements of the Code	approval by the Board.
<input type="checkbox"/> Zoning Map/Drafting Correction	

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

(d/b/a Sprint PCS)

Name APC Realty & Equipment Company, LLC Phone Number _____
 Address 6580 Sprint Parkway Overland Park Kansas 66251
Street Number Street City State Zip Code

Co-Applicant The Century Lions Club of Edgwood, Inc. Phone Number 410-515-6677
 Address 3402 Kreitler Rd., Forest Hill Maryland 21050
Street Number Street City State Zip Code

(d/b/a Sprint PCS)

Contract Purchaser APC Realty & Equipment Company, LLC Phone Number _____
 Address 6580 Sprint Parkway Overland Park Kansas 66251
Street Number Street City State Zip Code

Attorney/Representative Karl J. Nelson Phone Number 410-332-8663
 Address 100 South Charles Street Baltimore Maryland 21201
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2104 Trimble Road
Edgewood, Maryland 21040-0035

Subdivision none Lot Number 347

Acreage/Lot Size 5.92 ac. Election District A Zoning B-2

Tax Map No. 66 Grid No. 4A Parcel 347 Water/Sewer: Private Public

List ALL structures on property and current use: 2 storey meeting building for Lions Club; building occupied by Harford County Health Department; storage shed

Estimated time required to present case: 2 hours

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes No

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes No

Is this request within one (1) mile of any incorporated town limits? Yes No

Request

Special Exception pursuant to Section 267-31, to permit a 100' high monopole in the B-2 zone.

Justification

To be provided at the hearing.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

STATEMENT OF COMPLIANCE WITH ZONING REGULATIONS

267-53.5 PROVISIONS APPLICABLE TO ALL COMMUNICATIONS TOWERS.

- A. All communications towers shall be structurally designed to accommodate for co-location, which shall mean the ability of the structure to allow for the placement of antennas for 3 or more carriers. This provision may be waived by the approving body if it is determined that a co-location design will have an adverse impact on the surrounding area.

The proposed telecommunications structure and fenced compound area will be designed to accommodate up to two additional carriers.

- B. No aviation-related lighting shall be placed upon any communications tower unless specifically required by the Federal Aviation Administration or other governmental entity.

The proposed telecommunications structure is not required by the FAA to be lit since the structure will be less than 200 feet in height; accordingly, there will be no lighting on the telecommunications structure.

- C. Monopoles shall be the preferred communications tower structure type in the County.

The proposed telecommunication structure will be designed as a 100 foot monopole.

- D. To the extent practicable, communications towers shall have suitable landscaping in order to screen the site from adjoining properties.

The proposed telecommunications structure will be located near an existing mature tree line, which is located at the rear and side of the property; the structure is sited to work with the topography of the land to be naturally screened from adjoining properties.

- E. The only signage permitted on any communication tower shall be a single sign no larger than 6 square feet, affixed to the equipment building or fence enclosure that identifies the tower owner, each locating provider and the telephone number for the person to contact in the event of an emergency.

Sprint will comply with the County's requirements regarding signage.

- F. Upon completion of a communication tower and every 5 years after the date of completion, the owner of the tower shall submit to the Zoning Administrator written certification from a professional engineer verifying that the tower meets all applicable building code and safety requirements applicable at the time the original building permit was issued. Failure to submit said certification within 60 days of written notification by the Department of Planning and Zoning to the owner of the tower or any successor in interest shall result in the start of the revocation process for the tower approval.

Sprint will comply with the County's requirement to submit written certification verifying that the telecommunications structure meets all applicable building and safety codes.

G. All zoning certificate applications for the construction of new communications towers shall be subject to the DAC review process, with the following additional requisites:

- (1) Whether an applicant has satisfied the radio frequency need requirements identified in this section shall be reviewed by a radio frequency engineer. The engineer shall be retained by the County from an approved panel of such engineers to be created and maintained by the County. The engineer shall determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower;

The radio frequency information has been submitted to all of the appropriate parties.

- (2) When the communications tower is permitted by right, the engineer's determination shall be made in the ordinary course of DAC review;

Not applicable.

- (3) When the communications tower is allowed by special exception, the County's radio frequency engineering review shall be made in connection with the staff report review pursuant to Chapter A274-I.D. Such review will be completed prior to any zoning hearing and will preclude further DAC review of radio frequency issues; and

The radio frequency information has been submitted to the appropriate parties for review.

- (4) The County's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.

The proposed telecommunications structure will not interfere with or obstruct existing or proposed communications towers designed for public safety use.

H. The applicant shall be responsible for maintaining the communications tower in a safe condition.

All components of the proposed telecommunications structure are designed and manufactured in accordance with strict FCC requirements to insure against interference with other electronic devices as well as with the American National Standards Institute (ANSI) and the Institute of Electrical and Electronic Engineers (IEEE) standards for

radio frequency energy emission. Additionally, Sprint has notified and made the required applications to the FAA. The FAA has determined that the proposed tower will not exceed FAA obstruction standards or constitute a hazard to air navigation in the area. Sprint will ensure that the proposed telecommunications structure will be maintained in a safe manner on the subject property.

- I. Communications towers shall be utilized continuously for wireless communications. In the event that a communications tower ceases to be used for wireless communications for a period of six months, the approval will be revoked. In the event that the Zoning Administrator is presented with evidence that further viability of the tower is imminent, the Zoning Administrator may grant one extension of the approval for a period not to exceed 6 months beyond the revocation of the use. The applicant shall take all necessary steps to dismantle the tower and remove and dispose of all visible remnants and materials from the subject parcel within 90 days after termination. The applicant shall ensure removal of the tower and all associated accessory structures by posting an acceptable monetary guarantee with the County on forms provided by the Office of the Zoning Administrator. The guarantee shall be submitted prior to the issuance of a building permit and shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.

Sprint shall comply with all County requirements concerning the removal of the telecommunications structure if it is not used for wireless communication for a period of 6 months. In addition, Sprint agrees to post all required bonds prior to issuance of the building permit.

- J. Every application for the construction of a new communications tower shall include the following:

- (1) Information demonstrating the applicant's radio frequency need for the facility, including computer modeling information, an explanation as to why co-location is not feasible and a list of alternative sites considered;

Please see ATTACHMENT 1, RF propagation maps.

- (2) A checklist prepared in conformity with Section 106 of the National Environmental Policy Act and any other documents filed by the applicant with the FCC related to this site if requested by the department.

NEPA/SHPO will be supplied if requested by department.

- (3) A site plan, including the layout of the site, a drawing or other physical depiction of the proposed communications tower and any equipment buildings, and a map showing the area within a one mile radius of the tower;

Please see ATTACHMENT 2, Sprint's site plan of the proposed telecommunications facility.

- (4) A description of the number of carriers' equipment that the tower can accommodate and a statement as to whether the applicant will allow other carriers to co-locate on the facility.

The proposed monopole will accommodate the equipment of four carriers, including Sprint PCS. Sprint PCS will make the monopole available to other carriers for co-location.

- (5) Documentation demonstrating the tower shall be designed and constructed in accordance with any applicable American National Standards Institute standards.

Sprint will provide evidence to the County that the tower will be designed and constructed in accordance with any applicable American National Institute standards at the time of building permit filing.

- (6) Proof that the applicant owns or otherwise has permission to use the site, along with any easements necessary to access the site;

*A copy of the signed lease between Sprint and the property owner is included as **ATTACHMENT 3.***

- (7) A certification from each carrier that will utilize the facility that its equipment will meet all applicable federal standards governing the emission of energy from such facilities; and

Sprint will meet all applicable federal standards governing the emission of energy from the telecommunications facility.

- (8) A nonbonding 5-year plan showing the applicant's existing and proposed communications network with the County. In accordance with state law on access to public records, § 10-611 et seq. of the State Government Article, the department shall treat the 5-year plan it obtains as confidential and shall not permit public inspection of that information.

*See **ATTACHMENT 4.***

- K. When proposing a new communications tower, the applicant must demonstrate a radio frequency need for such a facility by showing:

- (1) That the applicant has researched the co-location possibilities in the area, including in its research a review of the County's database of structures; and

*Please see **ATTACHMENT 5.***

- (2) That due to the absence of sufficiently tall structures in the search area, the absence of structural capacity on existing structures or other valid engineering or economic factors, no viable co-location opportunities exist in the search area.

Please see ATTACHMENT 5.

267-53.6. ADDITIONAL SPECIAL EXCEPTION REQUIREMENTS.

An applicant proposing a new communications tower in the R, RR, R1, R2, VR, VB, B1, B2 or AG Districts shall demonstrate that the request complies with the following conditions:

- A. The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.

The design of the proposed telecommunications facility is compact and not of a nature that significantly alters the existing character of the church or adversely impacts nearby properties. The proposed telecommunications facility will be a monopole design, which is preferred by the County. Since the tower will be less than 200 feet in height, beacon lights will not be needed unless required by the FAA.

- B. The applicant has made a diligent attempt to locate the applicant's antenna on an existing tower or nonresidential building or structure.

Please see 267-53.5 K(1)(2)

- C. The applicant shall provide the following additional information in support of its application.

- (1) Photographs of existing site conditions.

Please see ATTACHMENT 6, photographs of the existing site conditions.

- (2) Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the tower; and

Please see ATTACHMENT 7, balloon test photographs and photo simulations of the proposed monopole.

- (3) A map describing the topography of the site and the area within a one-mile radius of the proposed tower.

Please see ATTACHMENT 8.

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

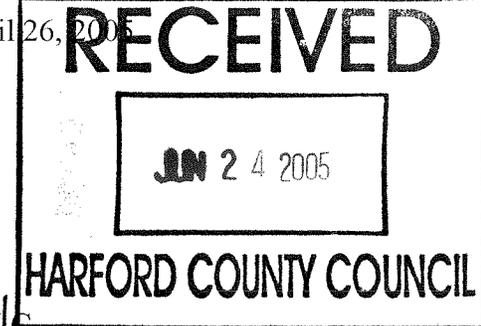


J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

April 26, 2005



STAFF REPORT

BOARD OF APPEALS CASE NO. 5483

APPLICANT/OWNER: APC Realty and Equipment Company, LLC
6580 Sprint Parkway, Overland Park, Kansas 66251

Co-APPLICANT: The Century Lions Club of Edgewood, Inc.
3405 Kreilter Road, Forest Hill, Maryland 21050

CONTRACT PURCHASER: APC Realty and Equipment Company, LLC
6580 Sprint Parkway, Overland Park, Kansas 66251

REPRESENTATIVE: Karl J. Nelson
100 South Charles Street, Baltimore, Maryland 21201

LOCATION: 2104 Trimble Road - Edgewood
Tax Map: 66 / Grid: 4A / Parcel: 347
Election District: Election District 1

ACREAGE: 5.92 acres

ZONING: B2/Community Business District

DATE FILED: March 14, 2005

HEARING DATE: July 6, 2005

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

Special Exception pursuant to Section 267-53.4C and 267-53.6 of the Harford County Code to allow a communications tower in the B2/Community Business District.

~ Preserving our values, protecting our future ~

Justification:

Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a special exception pursuant to Section 267-53.4C and Section 267-53.6 of the Harford County Code to allow a communication tower in the B2/Community Business District.

Section 267-53.4C of the Harford County Code reads:

- C. *Communications tower shall be allowed by special exception up to 199-feet, in the R, RR, R1, R2, VR, VB, B1, B2, and AG District.*

Section 267-53.6 of the Harford County Code reads:

An applicant proposing a new communications tower in the R, RR, R1, R2, VR, VB, B1, B2, or AG Districts shall demonstrate that the request complies with the following conditions:

- A. *The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.*
- B. *The applicant has made a diligent attempt to locate the Applicant's antenna on an existing tower or nonresidential building or structure.*
- C. *The Applicant shall prove the following additional information in support of its application:*
- (1) Photographs of existing site conditions;*
 - (2) Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the tower; and*
 - (3) A map describing the topography of the site and the area within a one-mile radius of the proposed tower.*

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code entitled Limitation, Guides and Standards will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The subject property is located in the southern end of the County in the community of Edgewood. The property is on the north side of Trimble Road, west of Edgewood Road (MD

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Route 755). Although the access to the property will be from Trimble Road the property also has frontage on Edgewood Road as shown on the Applicants' site plan. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 3 and 4).

The subject property is located within the Development Envelope. The land use designations in the area range from Low, Medium and High Intensities to Industrial Employment. Other designations include Chesapeake Bay Critical Area Boundary and Neighborhood and Community Centers. The Natural Features Map delineates Chesapeake Bay Critical Area Designations of Intensely Developed Areas and Limited Development Areas nearby. In addition, there are Habitats of Local Significance, Sensitive Species Project Review Areas and Stream Systems. The subject property is designated Medium Intensity, which is defined as

Medium Intensity - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Resources Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. The land uses in this area are a mixture of residential, institutional, and commercial. The residential uses include apartment/condominiums, townhomes, and single family dwellings. The institutional uses include two churches that abut the property on the northern and western boundaries, and schools located north and east of the site. Commercial uses include retail, service, and motor vehicle uses along Edgewood Road (MD 755). In addition, the site contains a mixture of service and institutional uses. Enclosed with this report are copies of the aerial photographs. (Attachments 7A-B)

The subject property consists of 5.92 acres and is an irregularly shaped parcel. Improvements on the property include three buildings, two of which are being utilized for various uses including the Harford County Health Department, a dentist's office, and church. The third building is a general storage building. The area of the proposed tower is in a lawn area and is adjacent to existing forest. (Attachment 8)

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning in this area of Edgewood ranges from R2 to R4/Urban Residential Districts. Commercial zoning is primarily along Edgewood Road (MD Route 755), which is B2/Community Business District and B3/General Business District along Pulaski

Highway (MD Route 40). The subject property is zoned B2/Community Business District as shown on the enclosed copy of the Zoning Map. (Attachment 9)

SUMMARY:

The Applicants are requesting a special exception pursuant to Section 267-53.4C and Section 267-53.6 of the Harford County Code to allow a communication tower in the B2/Community Business District.

Section 267-53.4C:

C. Communications tower shall be allowed by special exception up to 199-feet, in the R, RR, R1, R2, VR, VB, B1, B2, and AG District.

The subject property is located within the B2/Community Business District. The height of the proposed tower is 100-feet.

Section 267-53.6:

An applicant proposing a new communications tower in the R, RR, R1, R2, VR, VB, B1, B2, or AG Districts shall demonstrate that the request complies with the following conditions:

The subject property is located within the B2/Community Business District.

A. The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.

The Applicants have included photographs from balloon tests for the site. The proposed tower will be 100 feet in height. The photographs demonstrate that the visual impact from the proposal will be minimal.

B. The applicant has made a diligent attempt to locate the Applicant's antenna on an existing tower or nonresidential building or structure.

The Applicants have stated that there are no existing structures in the general area that meet engineering requirements.

C. The Applicant shall prove the following additional information in support of its application:

(1) Photographs of existing site conditions;

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- (2) *Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the tower; and*
- (3) *A map describing the topography of the site and the area within a one-mile radius of the proposed tower.*

The information described in these sections has been included in the report submitted by the applicant. (Attachment 10)

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

The land uses in this area of the County are a mixture of residential, institutional and commercial. The immediate area has some residential uses; however the subject property abuts mainly institutional and commercial uses.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The proposed tower should have no impact on the traffic in the area. Access to the tower will be via a driveway to the tower site. There will be minimal traffic to the tower and compound.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

Wireless communication companies are required by the Federal Communications Commission (FCC) to provide state of the art communications network to its customers. The new digital mobile systems require a closer network of towers to complete the loop for customers. Therefore, terrain and topography are very important when preparing site locations and in assuring that the desired coverage is maintained. The Applicant has proposed to construct the tower to accommodate at least three carriers on the tower eliminating the need for other wireless companies to construct additional towers in the general vicinity.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The proposed tower generates no noise, glare, fumes, odors, etc.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

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The local Sheriff's Office and the Maryland State Police would provide police protection. The Local Volunteer Fire Company would provide fire protection. Water and sewer facilities and trash removal are not issues in this request.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The system of towers is necessary to provide improved and complete service to customers in this area of the County. The Federal Communications Commission requires that wireless communications systems provide a "seamless" service without gaps

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

There are two church properties that abut this property; however the tower's placement in an area of existing mature vegetation minimizes the visual impacts. This proposal should have no adverse impact on the above uses.

- (8) *The purposes set forth in this Part I, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The Master Plan promotes maintaining or improving the quality of life for the citizens of Harford County. The proposed tower is to improve the digital communication facilities around the County.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

This proposal will not impact any Natural Resource District or wetlands on the site.

- (10) *The preservation of cultural and historic landmarks.*

There are no known historic or archeological sites at this location.

The Department finds that the Applicants have or will be able to meet the requirements of Section 267-53.5G. In addition to the other requirements, Section 267-53.5G requires that when the communications tower is allowed by special exception, the County's radio frequency engineer shall determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower. In addition, the County's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.

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Information pertaining to the above requirements were submitted and subsequently reviewed by the County's radio frequency engineer. The County's radio frequency engineer has determined that the request for this tower fills a gap in the co-applicant's coverage and appears to be a logical placement for the tower. In addition, the tower's location does not interfere with the current microwave paths for the Public Safety radio system. Enclosed with this report is a copy of the radio frequency review. (Attachment 11)

The County's radio frequency engineer did recommend that the County request additional information from the Applicants as to the need for tower lighting under FAA guidelines. The Applicant provided a letter from the Federal Aviation Administration stating that the proposed tower would not interfere with air navigation and therefore would not require lighting. (Attachment 12)

RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends the requested special exception be approved subject to the following conditions:

1. A site plan be submitted for review and approval through the Development Advisory Committee (DAC).
2. The Applicants shall obtain all necessary permits and inspections for the proposed facility.
3. The Applicants shall construct the facility in general compliance with the Applicants' site plan. (see Attachment 4)



Nancy Lipski, Chief
Site Plan & Building Permits Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

NL/ASM/jf