

**Tax Map/Block/Parcel
No. 24/11/2**

**Building Permit/Zoning
Certificate No. 99-1770**

Case 4416

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Sprint PCS
6905 Rockledge Drive, Suite 300
Bethesda, Maryland 20817

ATTORNEY: John T. Maguire, Esquire
Hollman, Hughes, Finch & Maguire
189 East Main Street
Westminster, Maryland 21157

REQUEST: A request for a conditional use for a 250 foot tall telecommunications tower and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence.

LOCATION: Located at 3333 Falls Road on property zoned "A" Agricultural District in Election District 8.

BASIS: Article 4, Section 4.11(c)(2); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: July 26, 1999

FINDINGS AND CONCLUSION

On July 26, 1999, the Board of Zoning Appeals (the Board) convened to hear the application by Sprint PCS for a conditional use for a 250 foot tall telecommunications tower and accessory support structures to be located at 3333 Falls Road on property zoned "A" Agricultural District in Election District 8. This case was consolidated for hearing with Case 4417 due to the similarity of the applications. The Board's findings and conclusions follow.

The Applicant (Sprint PCS) wants to build a telecommunications facility at 3333 Falls Road. The adjoining neighborhood generally consists of agricultural and forest properties with residences with large tracts of land. Sprint PCS requires multiple antenna sites for radio links in the construction of its wireless personal service communication system. The proposed site is a critical component of the Sprint's nationwide wireless PCS system because it covers an area not currently served by a

Sprint facility.

The Applicant presented the testimony of Ryan Conaway (a radio frequency engineer), Al Ott (site acquisition specialist) and Timothy Burns (project manager who prepared the site plan) and developed the following facts. Sprint PCS conducted a search for desirable locations in Carroll County to place antennas in order to avoid coverage gaps or “dead spots” in its wireless PCS system and to provide “seamless coverage” to its users in the County. The 3333 Falls road site was determined by Sprint to be ideal, as it consisted of a large farm field where the natural contours of the land and its natural tree buffers would help reduce visual impacts on the surrounding area. A 250 foot tall, self supporting telecommunications tower made of galvanized steel with a 37 foot base and accessory equipment cabinets is proposed for the location. The facility would be enclosed in a 50 foot by 50 foot chain link fence with barbed wire along the top. The tower will be designed to meet Federal, State and local laws and industry standards. A ten foot wide landscape buffer will be installed around the facility. The site will be unmanned and will be serviced by electric with a 250 gallon propane storage tank for auxiliary power in the event of an outage. A gravel access road will be installed to facilitate planned monthly inspections by Sprint. The tower will be illuminated in accordance with FCC regulations, but the lights will be designed to have a minimal impact on the neighboring residents. Mr. Conaway referred to a report by Jules Cohen, P.E., in which he determined that the amount of radio-frequency energy emanating from facilities similar to the one proposed by Sprint is far below the maximum permitted by law.

Mr. Terrence W. McPherson, MAI, SRA, a real estate appraiser, testified for Sprint that the installation of the tower facility would have no effect on the land values in the surrounding residential area. Mr. McPherson told the Board that he performed a study of land values in residential communities where similar transmission towers existed. Mr. McPherson said that the cellular transmission tower in the residential communities he studied had no effect on property values within those communities. He opined that the proliferation of communications towers has resulted in a general acceptance of them by residential property owners.

Mr. Tom Farver, a volunteer firefighter in Carroll County, testified that the lack of such facilities has made emergency services communications difficult in the area. He believes the proposed tower could facilitate emergency communications and he supports it.

Several neighbors testified in opposition to the request, namely: Barbara Kearns, Virginia Rinehart, John Foley, Dorothy Nickerson, Robert Hubley, Glenn Linthicum, and Brenda Covey. Concerns voiced by the protestants can be summarized as follows: 1.) The tower may decrease

property values; 2.) The radiation emitted from the tower may cause adverse health effects to residents and animals in the area¹; 3.) Lightning may strike and cause injury to residents and animals in the area; 4.) The tower site will become a dumping ground and attract loiterers; 5.) The noise from the auxiliary power sources will be excessive; 6.) The tower will be an unsightly and unappealing eyesore and a blight on the pristine rural landscape of the area.

The Board has considered all of the testimony and makes the following conclusions. The legal test is not whether a conditional use is compatible with permitted uses in a zone or whether a conditional use will have adverse effects. Adverse effects are implied in all conditional uses. The standard to be considered by the Board is whether the adverse effects at the proposed location would be greater than the adverse effects ordinarily associated with that use elsewhere in the zone. The Board finds that Sprint PCS has proven a need for the proposed telecommunications tower, which will greatly facilitate wireless phone service in the area. This use will not generate adverse effects greater than those ordinarily associated with this use irrespective of its location within the zone. The Board agrees with Sprint PCS that property values in the area will not decline if the request is granted. The natural tree buffers surrounding the proposed use will provide significant screening. The Board notes the concerns of Ms. Covey whose property backs up to the proposed use, and suggests that Sprint PCS meet with her to discuss screening to lessen the impact on her property. In addition, the Board suggests that the access road to the site be gated or otherwise enclosed, if permitted by law. The other concerns raised by the neighbors can be addressed through the County site plan process. The Board hereby grants the conditional use for a 250 foot tall telecommunications tower and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence located at 3333 Falls Road on property zoned "A" Agricultural District.

8/6/99

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman

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August 4, 1999

¹ The Telecommunications Act of 1996 explicitly preempts local consideration of the environmental effects of radio emissions when making determinations as to the placement, construction, or modification of telecommunications towers. U.S.C.A. Const. Art. 6, cl.2; Communications Act of 1934, Section 332(c)(7)(B)(iv) as amended, 47 U.S.C.A. Section 332(c)(7)(B)(iv).