

**County of Spotsylvania  
Department of Planning**



**Board of Supervisors  
Staff Report**

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**Special Use #SUP16-0011  
Courtland Voting District**

**I. Recommendations**

**Staff:** Approval with conditions.

**CTTC:** The Spotsylvania Cable TV and Telecommunication Commission recommended approval with the condition that the tower be lit on February 9<sup>th</sup> 2017.

**Planning Commission:** The Spotsylvania Planning Commission recommended denial by a vote of 6-0 on March 1<sup>st</sup> 2017. They noted concerns regarding whether or not the tower was actually needed to address coverage or capacity concerns; whether existing county facilities could be used in lieu of a new tower (including the Cherry Road Water Tank, or further improvements to T-Mobile equipment at the Chancellor Convenience Center); and whether a new tower could instead be built on county property (including Fire Station 6 or the Salem Elementary School). An excerpt of letter was read which included feedback from Spotsylvania's Information Technology; the letter identified a discrepancy in the application regarding the structural capacity of the Chancellor Convenience Center tower and an error with the propagation map scaling and lack of a 'no build' scenario.

The letter in its entirety is included within the May 9<sup>th</sup>, 2017 agenda packet, along with the following supplemental materials from the applicant:

1. A response letter addressing the Planning Commission's, Information Technology Departments, and Planning Departments noted concerns;
2. A brief document about their site selection process;
3. A powerpoint style presentation about the applicant's siting process; and
4. Excerpted propagation maps from the above presentation.

These four materials were submitted following the denial recommendation by the Planning Commission.

## **II. Overview**

**Applicant:** Eco-Site

**Request:** Special Use approval for a 150' tall monopole style Wireless Telecommunications Tower with a 10' tall lightning rod within a secured 63' x 40' equipment area in a Commercial 2 (C-2) zoning district.

**Tax Map Parcel(s):** 23-22-2

**Location:** The tower and equipment area are proposed on a 1.4 acre parcel of unaddressed land located approximately 400 feet south and behind Loanmax Title Loans at 3914 Plank Rd. The tower is proposed to be located approximately 560 feet south of Plank Rd. The property on which the tower and equipment area are proposed is zoned Commercial 2 (C-2) and is within the Primary Development Boundary. The property is currently improved with a deteriorating parking area.

**Character of Area:** The tower is proposed in a generally commercial area which includes a shopping center located adjacent to the west, offices and retail uses to the north, and an assisted living facility to the east. The neighborhood of Maple Grove is located to the south approximately 250 feet away. The Maple Grove neighborhood consists of approximately 450 single family lots starting at just over 10,000 sq.ft. in area. Maple Grove is separated from the proposed site by another medical office with wooded lands approximately 190 feet wide. The nearest major intersection is located approximately 1,250 feet to the NE, where Plank Rd. intersects with Taskforce Dr. The subject parcel and all surrounding parcels are zoned Commercial 2 (C-2).

**Community Meeting:** A community meeting was held on July 26<sup>th</sup>, 2016, at the Chancellor Community Center. Prior to the first community meeting, balloons were flown on July 18<sup>th</sup> and 19<sup>th</sup>, 2016. County staff was present at the community meeting. The meeting was lightly attended with approximately 10 attendees. The concerns expressed included: proximity to Maple Grove neighborhood, visibility, property values, and health concerns.

**Comprehensive Plan:** The subject property is located within the Primary Development

Boundary and has a Commercial Future Land Use designation, which is intended for a variety of retail and office uses.

Properties adjacent to the subject parcel to the west, north, and east, all share the Commercial Future Land Use designation. The office parcel located immediately south has a Future Land Use designation of both Commercial and Low Density Residential.

**Historic Resources:**

No impacts are expected on historical resources. The site is already improved with an existing parking lot and the applicant has provided correspondence dated July 8<sup>th</sup>, 2016 from the State Historic Preservation Officer finding that the proposal poses no adverse effects (direct nor visual) on historic properties in the area.

**Zoning Overlay:**

A small portion of the property on which the site is proposed is within the Highway Corridor Overlay District; however, the proposed tower and equipment area are located outside of its boundary.

The project is also within a Technology Zone, which encourages growth in high tech. businesses through tax incentives. Although the proposed tower is not subject to those incentives, it does further the goal of the Zone. The proposed tower also lies within the Primary Development Boundary, an area of the county in which higher density residential and non-residential development can be expected relative to properties outside of the Boundary. Lastly, the property is located within the Airport Overlay District. The tower does not require lighting nor FAA registration due to its proposed location and height.

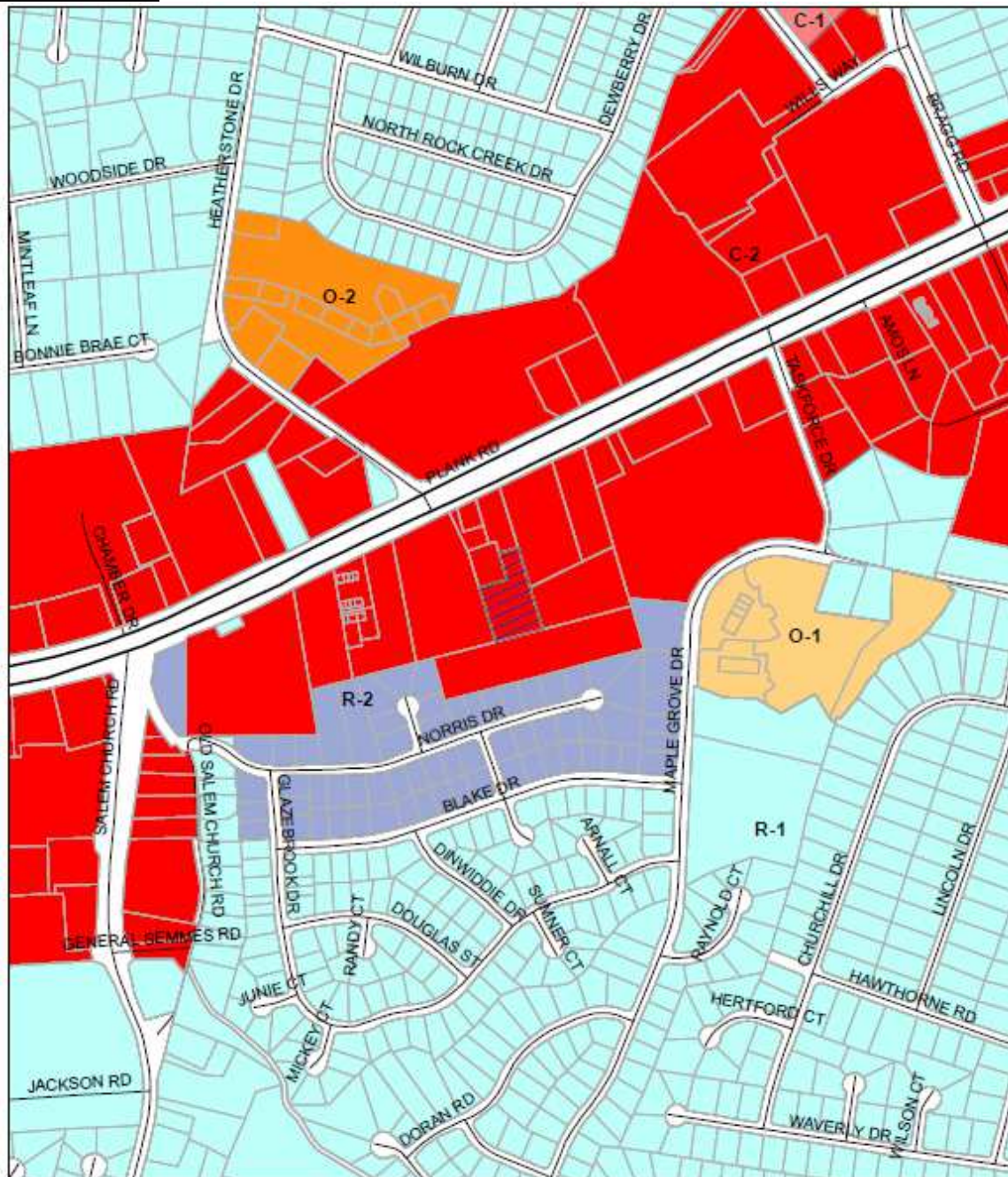
**Transportation:**

Access to the site will be provided through an existing drive and curb cut onto Plank Rd and an existing 24' access easement. The applicant estimates 10 trips a month. There are no significant traffic or transportation concerns related to this project.

**Date Application  
Deemed Complete:**

November 28, 2016

**Zoning Map:**





The map displays the City of Harrison, Virginia, with concentric circles representing fire service areas centered on Fire & Rescue Station 6. The areas are color-coded: 1.5 Miles (light blue), 2 Miles (light green), 2.5 Miles (light yellow), and 3 Miles (light orange). Key landmarks and roads include:

- Water Bodies:** Potomac River, Motts Run Reservoir, Motts Run Water Treatment Plant, Little Back Creek, and various smaller ponds and streams.
- Roads:** Rt 208, Rt 28, Rt 29, Rt 30, Rt 31, Rt 32, Rt 33, Rt 34, Rt 35, Rt 36, Rt 37, Rt 38, Rt 39, Rt 40, Rt 41, Rt 42, Rt 43, Rt 44, Rt 45, Rt 46, Rt 47, Rt 48, Rt 49, Rt 50, Rt 51, Rt 52, Rt 53, Rt 54, Rt 55, Rt 56, Rt 57, Rt 58, Rt 59, Rt 60, Rt 61, Rt 62, Rt 63, Rt 64, Rt 65, Rt 66, Rt 67, Rt 68, Rt 69, Rt 70, Rt 71, Rt 72, Rt 73, Rt 74, Rt 75, Rt 76, Rt 77, Rt 78, Rt 79, Rt 80, Rt 81, Rt 82, Rt 83, Rt 84, Rt 85, Rt 86, Rt 87, Rt 88, Rt 89, Rt 90, Rt 91, Rt 92, Rt 93, Rt 94, Rt 95, Rt 96, Rt 97, Rt 98, Rt 99, Rt 100.
- Landmarks:** Motts Run Reservoir, Motts Run Water Treatment Plant, Vacant County Land, Harrison Church Library, Virginia Central Trail, Chancellor Middle High & Harrison Road Elementary, Battlefield Elementary, Battlefield Middle, Lorinda Park, Oak Grove Terrace, Green Area, and various other parks and recreational areas.
- Other Features:** A compass rose in the top right corner, a scale bar, and various labels for streets and landmarks throughout the city.

Map Prepared by:  
Spotsylvania County Planning Department  
November 30, 2016

The subject application is for a special use permit for a 150' tall telecommunication tower with a 10' lighting rod on property currently improved with a disused parking lot. The tower is designed with break point technology so that in the event of a failure no portion of the tower will fall further than 50' from the tower base. The tower is setback 55' from the nearest property lines located to the west and south of the proposed tower. The tower was not proposed by the applicant to be lit and its lighting is not required by the FCC or FAA due to its proposed height. However, the Spotsylvania Cable Television and Telecommunication Commission did recommend that it be lit. This body has routinely recommended that a 'remote lighting package' be installed to allow a tower's lighting to be activated from an offsite remote location in the event of an emergency. Their recommendation is consistent with the County's own code requirement 23-7A.4.1.7.e, although this condition has been identified as a safety concern in conflict with FAA regulations related to lighting. This recommendation and requirement have routinely been omitted due to the Board of Supervisor's power to waive or modify requirements of telecommunication codes found within 23-7A.

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The area where the compound and tower are proposed is improved with a degraded and unused parking lot. The applicant notes that they will preserve onsite trees with the exception of two trees located in an existing parking lot landscaping island, which must be removed to accommodate the equipment area. The applicant requests relief from the 15' landscaping buffer required per code due to the existing site already being impervious, and adequately screened by existing structures to the north and west, and existing landscaping to the east and south. The siting of the tower prohibits conformance with the 100' tree save radius typically required for communication towers, as the proposed location of the tower on the property is proposed snugly 55 feet from the south and west property lines.

The proposed tower is a freestanding monopole structure designed to accommodate three service providers, the first of which being T-Mobile. The proposed site was identified by the applicant following efforts to upgrade equipment at the Central Park and Chancellor Convenience Center installations. The applicant notes that the proposed site satisfies T-Mobile's coverage goals to improve service within the vicinity of the proposed location and expects that the facility will serve future demand from other carriers. Staff recently attended a community meeting for an additional proposed tower at the Peace United Methodist Church. Communication with that potential future applicant indicates that they will possibly co-locate to this tower in lieu of pursuing an additional tower deeper within the Maple Grove neighborhood at the Peace United Methodist Church, although staff cannot legally condition this action. The Cable TV and Telecommunications Commission also inquired regarding potential county owned lands in the area which might be used, notably the Salem Elementary School. The applicant noted that a search radius was provided by T-Mobile to Eco-site which encompassed the geographic area in which a new tower could reasonably be placed that could effectively offload traffic at the overcapacity Central Park tower and also meet reasonable coverage improvement goals between the Central Park tower and the Chancellor Convenience tower. The applicant noted that County's school property was outside of that site search radius and would not be a viable alternate location.

#### **IV. Special Use Standards of Review**

Sec. 23-4.5.7 of County Code outlines eight standards that shall be met by an application for consideration of approval. The following table details those standards with staff comments.

<b>STANDARDS OF REVIEW FOR SPECIAL USE APPROVAL</b>	
<b>STANDARD</b>	<b>STAFF COMMENT</b>
1. Proposed use is in accord with the comprehensive plan and other official plans adopted by the county.	The use is in conformance with the Comprehensive Plan as detailed within this report.
2. Proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area.	The proposed tower is within an existing commercially developed area. The residential neighborhood of Maple Grove is located approximately 250 to the south.

3. Proposed use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.	The tower is proposed to be located on a site currently improved with a parking lot which is deteriorating and is likely disused. Properties within the immediate area are already improved with varying commercial and office uses, and the tower was sited on the subject property to accommodate future commercial improvements. The tower will be visible from some residential properties within the Maple Grove subdivision which carries at least a perception of property value impairment.
4. Proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood.	The Federal Communication Commission provides safety standards and limits for Radio Frequency Electromagnetic Exposure and this site will be designed to meet them. The use will not adversely affect the health or safety of persons residing or working in the area.
5. Proposed use will not be detrimental to the public welfare or injurious to property or improvements within the neighborhood.	The use will not adversely affect the general public welfare; rather, it should benefit them through the provision of better telecommunication and internet connectivity. No injury to property or improvements should result from the proposal.
6. Proposed use is appropriately located with respect to transportation facilities, water supply, wastewater treatment, fire and police protection, waste disposal, and similar facilities.	The use will have no impact on County facilities and should benefit wireless telecommunication services that may be used for emergency communications.
7. Proposed use will not cause undue traffic congestion or create a traffic hazard.	The proposed use is expected to have no impacts on the traffic and transportation infrastructure.
8. Proposed use will have no unduly adverse impact on environmental or natural resources.	County and State requirements for erosion and sediment control along with stormwater management must be adhered to for the construction of the facility. The NEPA review conducted supports that the proposal should not affect any protected species.

## **V. Comprehensive Plan Analysis**

This proposal is consistent with the Comprehensive Plan. Specifically, it meets General Policy A.2: “[to] encourage the provision of ... telecommunication infrastructure” and Land Use Policy 7: “[to encourage] the provision of... other technological infrastructure throughout the Primary Development Boundary...” The proposal also meets Land Use Policy 8: “Redevelopment and investment in existing developed areas should be encouraged provided that the development does not adversely impact adjoining properties.” Although staff notes some room for argument may exist

due to staff's interpretation of 'adjoining' being synonymous with 'abutting', and that visual impacts are regularly objected to by neighboring residents. Also, from a Land Use perspective the proposal meets Policies 6 and 7 of the Commercial Land Use Designation: "[To] encourage the retention and expansion of existing business operations..." and "[To] encourage non-retail commercial operations."

The tower is proposed within the Salem Church Battlefield area and the Fredericksburg II Battlefield area however neither of these Battlefields will be impacted from the proposed equipment area or tower. The State Historic Preservation Officer has opined that the proposed tower will have neither adverse direct affect nor any adverse visual effect on either battlefield, pursuant to Historic Resources Policy 2: "... [to] support projects that consider and mitigate the impact of development projects on historic and cultural resources..."

Pursuant to Natural Resources Policy 1, "[to] balance the protection of environmental resources and natural wildlife habitats with development", a National Environmental Policy Act Screening Report (NEPA Report), conducted by Advantage Environmental Consultants LLC (AEC) was provided during the course of this review. This study reviews the project for potential environmental concerns which may trigger further environmental assessment requirements by the FCC. AEC found no suitable habitats capable of supporting the Northern long-eared bat, a federally listed threatened species. AEC further found no federal proposed or listed endangered or threatened species known to exist in the project area. AEC also reported the Department of Conservation and Recreation (DCR) notification that the proposal will cause no effect on plants or insects. DCR did recommend the "implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations, establishment/enhancement of riparian buffers with native plant species and maintaining natural stream flow." They further recommended the voluntary implementation of USFWS interim guidelines for Communication Tower Siting, Construction, Operation, and Decommissioning." The development of the site will require a Minor Site Plan permit, during which E&S measures are strictly enforced pursuant to the State and local law, notably the Chesapeake Bay Preservation Act. No impacts or changes are proposed to streams or riparian buffers. Staff has requested the applicant to voluntarily complete the USFWS guideline worksheet; it was completed and is included within the May 9<sup>th</sup> agenda packet.

## **VI. Findings**

1. The Commercial 2 (C-2) zoning district allows structures up to 55 feet in height by-right however this may be exceeded through 23-6.18.3, Special Use Permits.
2. The proposal serves the County's most dense commercial area which includes multiple arterial roadways within its estimated service area. The tower also unloads demand from the Central Park tower and the Chancellor Convenience Center tower.
3. The proposal enhances T-Mobile wireless telecommunications coverage and capacity and provides room for two additional co-locating providers pursuant to the County's requirements to accommodate as many co-locators as possible.
4. It is possible, although not guaranteed, that this tower may be colocated upon in lieu of a separate new tower application. Staff attended a community meeting for an additional proposed tower at the Peace United Methodist Church deeper within the Maple Grove neighborhood.



5. The tower is sited snugly in the SW corner of the site to allow the applicant to build another commercial structure on site, but outside of the fall zone of the tower. The tower could hypothetically be snugged in the NW corner to obtain an additional 80+-feet of distance from the nearest residential unit although this would place a driveway within the fall zone; the applicant does not wish to alter the proposed location.
6. Although the tower is proposed in a commercial area and on property zoned Commercial 2 (C-2), the tower will be visible from multiple neighboring residences. The tower is proposed above the existing tree-line to the south, those trees are on private property, and are not protected through this application. Although experts disagree about telecommunication towers' effect on property values, the perception of value impairment from aesthetic degradation is a frequent concern of neighboring residential land owners.
7. The tower will not be required to be lit per FCC regulations. However, the Spotsylvania Cable Television and Telecommunication Commission did recommend that it be lit.
8. The Virginia Department of Historic Resources opined that the tower will have no adverse direct or visual effect on historic properties in the Area of Potential Effects.
9. The request satisfies the Special Use Standards of Review as detailed within this report.
10. The proposal is consistent with the Comprehensive Plan as detailed within this report.
11. A petition of 118 signees was provided by a neighbor in opposition of the project. The signees included their home address and staff was able to identify 56 signees living on roadways within the Maple Grove neighborhood.
12. The applicant's submitted materials were verified by Spotsylvania County consultant Atlantic Technology Consulting Inc. who independently verified via RF analysis that the proposed installation will resolve coverage concerns existing to the north and south of the proposed installation; and will additionally resolve capacity concerns at the Chancellor Convenience Tower Site and the Central Park Tower. Lowering the maximum height of the tower to 120' can adequately resolve capacity concerns, but reduces coverage improvements by 5-15%.

## **VII. Conclusions and Staff Recommendation**

Staff concludes that the applicant's Special Use request for a wireless telecommunications tower at this location is appropriate. Staff recommends approval with conditions as noted below.

The Planning Commission recommended denial of the subject application on March 1<sup>st</sup> 2017 as discussed on page 1 of this report. The minutes of that meeting are also included within this May 9<sup>th</sup> 2017 agenda packet.

## **X. Recommended Conditions**

1. The telecommunications tower and compound shall be developed in conformance with the Generalized Development Plan titled "GDP for Special Use Permit, ECO Site T-Mobile 150' Monopole" dated October 25<sup>th</sup>, 2016 and last revised December 22<sup>nd</sup>, 2016.
2. The County shall have first right of refusal for the installation of components for the County's communication system, at no cost to the County. The applicant shall make

space available/license on the proposed new communication tower for a Spotsylvania County emergency services antenna and waive the typical annual rent, if the antenna installation is feasible from an engineering perspective as determined in good faith by the applicant. Any costs to install and provide access will need to be borne by future co-locators, including the County. In addition, after the original County equipment is installed, if an escort is required for any future visits to the site for maintenance or equipment changes, the County will be billed for the related costs. The County will sign any requisite non-disclosure agreement for this co-location.

3. The final site design and operation of the facility must be in compliance with all other standards outlined in Sec. 23-7A.4.1 of the Code, except for Sec. 23-7A.4.1.10 as modified as a condition of this permit, and 23-7A.4.1.6.
4. If the operation of this site causes any interference to surrounding broadcast television receivers, amateur radio operations, or County radio system operations, the applicant shall investigate the complaint within thirty (30) days of notice and work with the Spotsylvania County Cable TV and Telecommunications Commission to determine remediation to correct the problem, if it is found to be the fault of the one of the tower vendors.