

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



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SPECIAL EXCEPTION APPLICATION 4433

Application	General Data
Project Name: Newbury Square Apartments Location: Southeast quadrant of Riggs Road and Amherst Road, known as 6803 Riggs Road. Applicant: Nextel Communications of the Mid-Atlantic 12510 Prosperity Drive, Suite 200 Silver Spring, Maryland 20904	Date Accepted: 8/16/01
	Planning Board Action Limit: N/A
	Tax Map & Grid: 041 D-1
	Plan Acreage: 5.755 Acres
	Zone: R-18
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 65
	Council District: 02
	Municipality: None
	200-Scale Base Map: 208NE2

Purpose of Application	Notice Dates
Place a telecommunications antenna on an existing structure and alteration of a certified nonconforming use	Adjoining Property Owners: 8-20-2001 (CB-15-1998)
	Previous Parties of Record: None (CB-13-1997)
	Sign(s) Posted on Site: N/A
	Variance(s): Adjoining Property Owners N/A
Staff Recommendation	Staff Reviewer
APPROVAL	Jimi Jones
APPROVAL WITH CONDITIONS	
DISAPPROVAL	
DISCUSSION	
X	

February 2, 2002

TECHNICAL STAFF REPORT:

TO: The Prince Georges County Planning Board
The Prince Georges County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Special Exception Application No. 4433**

REQUEST: **Place a telecommunications antenna on an existing structure and alteration of a certified nonconforming use**

RECOMMENDATION: **APPROVAL**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection: The subject property is located on the east side of Riggs Road (MD 212), south of Amherst Road and north of Van Buren Street. It is developed with two- and three-story brick garden apartments. This relatively old apartment complex has parking located along a circular drive (Riggs Manor Drive) with an entrance near the southern end of the property and exit near the northern end. Toward the rear of the property (eastern property line), is an existing brick smokestack that is attached to building no. 6813. The smokestack is visible from adjacent single-family homes to the east along 20th Avenue. A series of fences (chain link and wood) separate the apartment complex from the single-family homes.
- B. History: The property was placed in the R-18 Zone by the Langley Park-College Park-Greenbelt Sectional Map Amendment adopted in May 1990. It was certified as a nonconforming use via 40195-200-81U on December 23, 1981.
- C. Master Plan Recommendation: The 1989 Approved Langley Park-College Park-Greenbelt Master Plan recommends that the property be developed with multifamily residential uses at **urban** density with a maximum of 12.0 dwelling units per acre.
- D. Request: The subject Special Exception is requested to place an antenna on a smoke stack located on an existing apartment building of three to four stories in height. A special exception is required because, pursuant to Section 27-445.04, this use is permitted only if the antenna is placed on a multifamily dwelling of at least five stories. A special exception is also required to modify a certified nonconforming use. An associated equipment structure will be located at the base of the building adjacent to the smoke stack. Such use is a permitted use if the apartment building were five stories tall. The smoke stack in question is 67 feet tall, and therefore is generally the height of a 5-story apartment building. However, because the apartment building only contains three to four stories, the building does not qualify under the ordinance as a five-story structure. The antenna will be placed at a height of 67 feet and the structure on the smoke stack will accommodate three antennas, thereby providing for co-location.
- E. Neighborhood and Surrounding Uses: The property is surrounded by the following uses:
- North - Across Amherst Drive are garden apartments in the Newberry Square development in the R-18 Zone and single-family homes farther north in the R-55 Zone.
- East - Single-family detached homes in the R-55 Zone.
- South - Across Van Buren Street is the Green Meadows Shopping Center in the C-S-C Zone.
- West - Across Riggs Road are single-family homes to the northwest in the R-55 Zone, an accountant, tax preparer's office, fast-food restaurant and a car audio/alarm installation facility to the west and southwest of the subject property in the C-S-C Zone.

The neighborhood can be defined by East West Highway on the south, Riggs Road on the west, University Boulevard on the north, and the stream valley park to the east. This neighborhood generally constitutes the northeastern quadrant of Subcommunity Three (Chillum-Takoma Park) in the Langley Park-College Park-Greenbelt Master Plan. The neighborhood is characterized by

multifamily uses and commercial uses fronting on the major highways (Riggs Road, East West Highway, University Boulevard) and interspersed throughout the neighborhood. Institutional uses and single-family uses are generally located to the interior of the neighborhood.

F. Specific Special Exception Requirements: Section 27-416 provides the following criteria for a tower, pole, monopole, or antenna:

- (a) **A tower, pole, monopole, or antenna (electronic, radio, television, transmitting, or receiving) may be permitted, subject to the following:**
 - (1) **In the Commercial and Industrial Zones, and for land in a Residential Zone owned by a public entity, the structure shall generally be set back from all property lines and dwelling units a distance equal to the height of the structure (measured from its base). The District Council may reduce the setback to no less than one-half (1/2) the height of the structure based on certification from a registered engineer that the structure will meet the applicable design standards for wind loads of the Electronic Industries Association (EIA) for Prince George's County. In the Residential Zones, on privately owned land, the structure shall be set back from all property lines and dwelling units a distance equal to the height of the structure (measured from its base);**
 - (2) **On privately owned land, the structure shall not be used to support lights or signs other than those required for aircraft warning or other safety purposes;**
 - (3) **Any tower or monopole which was originally used, but is no longer used, for telecommunications purposes for a continuous period of one (1) year shall be removed by the tower or monopole owner at the owner's expense; and**
 - (4) **Any related telecommunication equipment building shall be screened by means of landscaping or berming to one hundred percent (100%) opacity.**

The subject request is to locate an antenna on an existing building and a small (12 feet x 20 feet) equipment structure. No tower or pole for the support of the antenna is requested as the antenna will be supported on the existing smokestack. Therefore, the criteria of Section 27-416, which apply to tower, pole or monopole for the support of an antenna, do not apply. However, the related telecommunications equipment building will be screened as required in Section 27-416(a)(4) as reflected on the site plan.

Specific Special Exception Requirements- Nonconforming buildings, structures and uses: alteration, enlargement, extension, or reconstruction: Section 27-384(a), provides the standards for permitting the alteration, enlargement, extension, or reconstruction of a nonconforming building, structure or certified nonconforming use. The relevant provisions are as follows:

- (a) **The alteration, enlargement, extension, or reconstruction of any nonconforming building or structure, or certified nonconforming use (except those certified nonconforming uses not involving buildings, those within the Chesapeake Bay Critical Area Overlay Zones as specified in paragraph 7, below, unless otherwise provided, and except for outdoor advertising signs), may be permitted subject to the following;**

- (1) **A nonconforming building or structure, or a building or structure utilized in connection with a certified nonconforming use, may be enlarged in height or bulk provided that the requirements of Part 11 are met with respect to the area of the enlargement.**

Not applicable.

- (2) **A certified nonconforming use may be extended throughout a building in which the use lawfully exists, or to the lot lines of the lot on which it is located, provided that:**

- (A) **The lot is as it existed as a single lot under single ownership at the time the use became nonconforming; and**

The property in question has existed as a lot (two subdivided lots) since its certification in 1981 as a nonconforming use. The lot has not changed its configuration since it became nonconforming.

- (B) **The requirements of Part II are met with regard to the extended area.**

The site plan demonstrates compliance with the requirements of Part 11 (Off-Street Parking and Loading).

- (5) **Any new, or addition to, or alteration or relocation of an existing building or other improvement (which is either nonconforming or utilized in connection with a certified nonconforming use), shall conform to all building line, setback, yard, and height regulations of the zone in which the certified nonconforming use is located. The District Council may further restrict the location and bulk of the building or structure where the evidence so warrants. If the use is presently permitted by Special Exception in the zone, the new building, improvement, or addition shall conform to all the physical requirements of the specific Special Exception use.**

The proposed equipment building and antenna conform to the requirements of the R-18 Zone. The subject property is in the R-18 Zone. The front, side and rear yard requirements for this zone are a minimum of 30 feet. The proposed equipment building and antenna have a front yard of 270 feet, side yards of 290 feet (from the north property line), 330 feet (south property line), and a 75-foot rear yard. With respect to height, the proposed modification falls under the ■All allowed uses■ category in Section 27-442(f) Table V- Building Height. The maximum height for such uses in the R-18 Zone is 40 feet. The proposed antenna would be 67 feet high when mounted on the existing smokestack. Staff notes however, that pursuant to footnote 5 for Table V, for a lot with more than 5 acres, the height may be increased to 80 feet. The subject lot is 5.75 acres in size and therefore meets the height requirements.

- (6) The District Council may grant this Special Exception for property within a one hundred (100) year floodplain only after it has determined that the proposed enlargement, extension, reconstruction, or alteration will:
- (A) Not require additional filling in the floodplain;
 - (B) Not result in an increase in elevation of the one hundred (100) year flood; and
 - (C) Conform with all other applicable requirements of this Subtitle and of Division 2 of Subtitle 4, ■Building,● of this Code, entitled ■Construction or Changes in Floodplain Areas.●

The property is not in the floodplain.

- (7) In a Chesapeake Bay Critical Area Overlay Zone, a Special Exception shall not be granted where the existing impervious surface coverage exceeds that allowed by Section 27-548.17, and which would result in a net increase in the existing impervious surface coverage. In addition, a Special Exception shall not be granted which would result in converting property which currently meets the impervious surface coverage requirements of Section 27-548.17 to a nonconforming status regarding impervious surface coverage, except if a finding of extenuating circumstances is made, such as the necessity to comply with other laws and regulations.

The property is not in a Chesapeake Bay Critical Area Overlay Zone.

- (b) Applications for this Special Exception shall be accompanied by a copy of the Use and Occupancy Permit for the certified nonconforming use, as provided for in Section 27-241(b).

A copy of the use and occupancy permits has been supplied.

- G. Parking Regulations: No parking or loading spaces are required for the proposed unmanned use.
- H. Landscape Manual Requirements: The Urban Design Section, in a memo dated October 9, 2001, determined that the proposed use is exempt from the *Landscape Manual* because the construction of the modular equipment building and antenna does not increase the intensity of the current use nor does it generate a need for additional parking spaces. The Urban Design further requests additional information regarding fence and equipment building design. The applicant has submitted a revised site plan dated 2-1-02 that provides this information.
- I. Zone Standards: No variances are required for the proposed use. The site plan indicates that the proposed equipment building will be totally enclosed by a 10-foot-high, board-on-board fence. The fence meets the 30-foot setback from property lines for the R-18 Zone.
- J. Sign Regulations: No signs are proposed with this application.
- K. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle.

The proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The 15 purposes of the Zoning Ordinance, which are provided in Section 27-102, can be summed up by the first purpose: ■o protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County.■ The applicant's proposal to place an antenna on an existing structure (the smokestack) provides a link in the telecommunications network that is needed to deliver adequate coverage for cellular and other wireless communications. These facilities are an important element in addressing public service and safety needs. This proposal also avoids the proliferation of unsightly monopoles or towers in the vicinity.

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.

The proposed use conforms with all the applicable requirements and regulations of the Zoning Ordinance. The applicant has revised the site plan to address concerns raised previously by staff. The proposed use does not require any variances or departures.

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.

The proposed use will not substantially impair the integrity of 1989 Approved Langley Park-College Park-Greenbelt Master Plan. The plan recommends multifamily residential development at ■Urban■ densities with a maximum of 12.0 dwelling units per acre. The proposal to erect an antenna and equipment building on the subject site maintains the existing multifamily use without detracting from its functionality.

(4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.

The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. The impact of the proposed use is minimal. There is nothing in the record that suggests that the proposed chimney-mounted antenna would pose a risk to the health, safety or welfare of residents or workers in the area.

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The subject chimney-mounted antenna is the only thing that will be visible to adjacent properties. Generally, antennas and equipment buildings for telecommunications facilities are innocuous uses that co-exist with many types of uses in urban and rural areas. Nothing in the record suggests that the proposed facility is any

different from the telecommunications facilities throughout the region that help telecommunications companies provide telephone and other wireless services to the public.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

The subject property is exempt from the Woodland Conservation Ordinance as the proposal does not require the disturbance of any existing woodlands, and there is no previously approved TCP for the site. See exemption letter of May 9, 2001, attached.

CONCLUSION:

The request meets all requirements to add the proposed antenna to the existing nonconforming apartment building and for the minimal alteration of that structure. Staff therefore recommends APPROVAL of Special Exception 4433.