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Special Exception Application No. 4482 (VSE-4482)

Application	General Data
Project Name: FOP SwampDawg Cell Tower Location: Southwest side of Old Largo Road approximately 900 feet north of Brock Drive, known as 2905 Old Largo Road. Applicant/Address: SwampDawg Development, LLC 2021 Research Drive Annapolis, Maryland 21401	Date Accepted: 12/2/03
	Planning Board Action Limit: NA
	Plan Acreage: 9.82
	Zone: R-E
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 79
	Tier: Developing
	Council District: 06
	Municipality: N/A
	200-Scale Base Map: 204SE12

Purpose of Application	Notice Dates
SE-4482— To add a communications tower to a private club	Adjoining Property Owners Previous Parties of Record Registered Associations: 10/29/03 (CB-12-2003)
VSE-4482— Variance of setback from rear property line	Sign(s) Posted on Site: N/A

Staff Recommendation		Staff Reviewer: Catherine H. Wallace	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

November 19, 2004

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Special Exception Application No. 4482**
Variance Application No. VSE-4482

REQUEST: Monopole and a variance from the setback requirements for a picnic pavilion

RECOMMENDATION: APPROVAL; with conditions

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 west side of Old Largo Road, 100 feet west of MD 202 (Largo Road) and about 900 feet north of Bock Drive.

The site is an irregularly shaped parcel almost ten acres in size. It includes an upper and lower plateau as well as areas of steep slopes. The upper plateau area is developed with the main lodge and parking area for the Fraternal Order of Police private club as well as a two-story former residence which is apparently used as a law office. The lower plateau, which includes the larger portion of the tract, is developed with a baseball field, a basketball court, a picnic pavilion and a gravel parking lot. The monopole is proposed to be located on the site of the existing basketball court, which is proposed to be relocated.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-E	R-E
Use(s)	Private club	Private Club and Monopole
Acreage	9.82	9.82
Parcels	Parcel 9, Tax Map 84	Parcel 9, Tax Map 84

- C. **History:** The property has been the site of a private club (Fraternal Order of Police) since the approval of SE-2602 in 1973. Modifications to the site plan were approved via two additional special exceptions (SE-2686 and SE-3607, approved in 1985).
- D. **Master Plan Recommendation:** The site is placed within the 2002 General Plan Development Pattern policies for the Developing Tier. The Subregion VI Study Area Master Plan recommends public or quasi-public uses for the site. The plan does not specifically address monopoles. However, this application is located in an area identified as a conditional reserve area (scenic vista) along Largo Road (MD 202).
- E. **Request:** The applicant requests approval of a telecommunications facility consisting of a 190-foot monopole and related equipment pad and cabinet that will measure less than 200 square feet. The applicant intends to make the monopole available for multiple tenants, for co-location purposes. The proposed site is currently intended to be used by Sprint. Sprint's wireless communication system requires facilities to be placed approximately one to three miles apart to provide adequate coverage.

When the current special exception application was first filed, the request was limited to the .36 acre of land that is to be leased for the tower. During the review of this application, it was determined that a variance is required for the location of a picnic pavilion that was outside of the area then proposed for the special exception. In addition, it was discovered that the development of the private club, including the location of ball fields and an access road, was substantially different from the approved site plan. For these reasons, the application was amended to include a review of the site plan for the entire property including the private club, as well as the required variance and the request for the addition of a monopole. The variance is requested for the rear yard setback for an existing picnic pavilion. A 25-yard setback is required, however, the pavilion is located 21 feet from the western property line.

- F. **Neighborhood and Surrounding Uses:** The neighborhood boundaries are those which were identified in SE-3607, however, it is appropriate to consider properties fronting on the east side of Largo Road as part of the neighborhood for this application. The neighborhood boundaries are:

North—University of Maryland tobacco farm
East—MD 202 (Largo Road)
South—Kent Drive
West—Western Branch

The neighborhood remains somewhat open in character, with agricultural uses and large lot subdivisions predominating. The site is surrounded by the following land uses:

North, south and west—large undeveloped parcels of land in the R-E Zone owned by Prince George's County.

East across MD 202—Brock Hall Subdivision, a large lot subdivision in the R-E Zone

Southeast and west of MD 202—a small abandoned building and a single-family detached residence in the R-E Zone

- G. **Specific Special Exception Requirements:**

Sec. 27-416, Tower, pole, monopole, or antenna:

- (a) **A tower, pole, or monopole for the support of an 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);**

The proposed tower measures 190 feet in height. The location of the proposed tower meets the setback requirement for residentially zoned, privately owned land. The tower is proposed to be setback 203 and 245 feet from the nearest property lines (to the north and east).

- (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;**

The site plan Telecommunications Facility Note 4 indicates compliance with the above requirement.

- (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;**

Telecommunications Facility Note 5 indicates the owner's intent to comply with this requirement, should it become necessary.

- (4) **Any related telecommunication equipment building shall be screened by means of landscaping or berming to one hundred percent (100%) opacity.**

The site plan indicates that a six-foot-high, opaque wood privacy fence will screen the equipment from the views from the private club site. Views into the property from neighboring properties are screened by trees and topographical features.

- H. **Parking Regulations:** There are no parking requirements for an unmanned communications tower. There are, however, several issues with regard to parking for the private club and associated uses that must be addressed prior to the approval of this special exception site plan.

The site plan correctly notes the following parking requirements:

Use	Requirement	No. of spaces required
Auditorium, 300 person capacity	1 space/4 seats	75
Lounge area, 30 seats	1 space/3 seats	10
Pavilion, 36 seats	1space/3 seats	9
TOTAL		94

The site plan indicates that 95 spaces will be provided. However, five of them are encumbered with a shed and a dumpster. In fact, these parking spaces are listed as "potential" spaces. Those spaces are required for the operation of the private club, and the site plan must either be revised to relocate or remove the shed and dumpster, or the five parking spaces should be relocated.

The site plan also references a residence. The site inspection revealed that this building is used as a legal office. According to a letter from the Fraternal Order of Police, legal services are limited to those provided as a service to the members of the FOP. Assuming that only the first floor is used for office space, at least four parking spaces are required for that use. The residential use, if any, must be provided with parking spaces and the parking schedule must be revised to reflect these requirements. According to the Permit Review Section memorandum of June 21, 2004, the parking spaces shown in front of this building may not be counted toward the parking requirements since no driveway aisle is provided between the spaces and Old Largo Road. A departure from design standards or a departure from parking and loading spaces must be approved unless these spaces can be relocated to meet the design standards of the Part 11 (Parking Regulations) of the Zoning Ordinance. The parking tabulation should be adjusted to reflect these requirements and the means to address them.

Additionally, the drive aisle width for portions of the main parking lot range from 15 to 19 feet, which does not meet the standard of 22 feet for driveways adjoining parking spaces. Also, the driveway aisle accessing the pavilion (as well as the proposed tower) is 16 feet wide. A 20-foot wide driveway is required where parking spaces do not adjoin the driveway. These driveway widths should be revised, or a departure from design standards must be obtained.

Finally, the site plan must be revised to show a minimum of five percent interior green space in the main parking lot, per the site plan previously approved under SE-3607.

- I. **Landscape Manual Requirements:** The proposed tower is exempt from requirements of the *Landscape Manual* due to the fact that no additional square footage is proposed. The District Council may impose additional landscaping or screening to assure compatibility between the proposed use and the surrounding area.
- J. **Zone Standards:** The proposed use meets the standards of the R-E Zone except for the rear yard setback for the previously constructed pavilion. The applicant has requested a variance to address this requirement. Section 27-230 provides the following criteria for granting appeals involving variances.

(a) **A variance may only be granted when the Board of Appeals finds that:**

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

The subject property is extraordinarily situated in that it is surrounded on three sides by land belonging to Prince George's County. The intended use of this land (Parcel 20, 74 acres, and Parcel 53, 59 acres in size) has not yet been determined, but their size alone indicates that a minor difference in the setback of adjoining property uses (in this case, the pavilion) will be negligible to the final development or use of these properties.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;**

The strict application of this subtitle will require the applicant to remove and reconstruct the existing pavilion, which would create practical difficulties for the property owner.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The extent of the variance (4 of the required 25 feet) is insignificant when taken in the context of the sizes of the subject property and its neighboring County-owned properties. As a result, granting the requested variance will have no impact on the intent, purpose, or integrity of the General Plan or the Subregion VI Master Plan.

- K. **Sign Regulations and Other Issues:** The proposed site plan shows no freestanding signs on the property. According to Permit Review Section staff, the private club is permitted to have one freestanding sign. The sign is permitted to have an area of 48 square feet and be 8 feet in height. At the time of the staff field inspection, a sign identifying the FOP private club and a sign identifying a law firm were located on Parcel 58, the property located between Old Largo Road and Largo Road (MD 202). This land, although owned by the Fraternal Order of Police, is not a part of the parcel on which the private club is located. A freestanding sign may only be located on the same property as

the business or organization that it identifies. Therefore, this sign should be relocated or the special exception for the private club should be enlarged to include Parcel 58.

Legal services are provided to the members of the Fraternal Order of Police in the two-story residential style building that fronts on Old Largo Road. The use of this building for legal services to members of the Fraternal Order of Police is permitted as an accessory use, so long as other legal services are not provided. An accessory use must be subordinate in purpose, area, intensity and extent to the dominant use of the property. It must also be customarily incidental to the main use on the site. There are currently two signs advertising the law firm that provides these services. One is located in front of the building on the subject property and the other is located across Old Largo Road on Parcel 58. For this use to be considered accessory to the main use on the premises, which is the private club, these signs should be removed. A generic sign attached to the building and identifying the building as the location for legal services to FOP members would be consistent with the permitted use of the building and the sign regulations.

L. 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 purposes of the Zoning Ordinance listed in Section 27-102(a) are to promote the health, safety and welfare of county residents by providing for the orderly growth and development of the county and promoting the most beneficial relationship between the uses of land and buildings. The proposed use provides a service that is beneficial to the general public, including emergency service personnel, business operations, and private individuals. The monopole compound is set back 245 feet from Old Largo Road and 340 feet from Largo Road (MD 202) with little surrounding development. Most of the surrounding properties are wooded. The proposed tower is expected to have little visual impact on the surrounding area and is, therefore, in harmony with the purposes of Subtitle 27. The private club has existed at this location for many years. The proposed site plan revisions will bring the site into harmony with the purposes of the Zoning Ordinance.

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

With the recommended conditions, the proposed tower and the private club will conform to the applicable requirements and regulations of the Zoning Ordinance.

(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 private club has existed at this location for many years and was previously found to be consistent with the Subregion VI master plan. The Community Planning Division staff notes that the proposed tower is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier. The Subregion VI Study Area Master Plan does not specifically address monopoles. However, this application is located in an area identified as a conditional reserve area (scenic vista) along Largo Road (MD 202). It is further noted that the master plan (page 19) encourages careful site planning and the use of construction techniques to minimize the adverse

impact of visual intrusion, etc., on the human environment. There are two living area guidelines relevant to this application (page 94):

- “11. Where feasible, building setbacks and/or berms...should be utilized to...screen visual impacts, especially at major road intersections and interchanges, or where conflicts may develop between land uses.
- “19. Residential and related uses fronting on major highways and scenic roads should conform to a particularly high standard of design both as individual structures and as they blend in among other buildings.”

Comment:

The proliferation of communication towers across the landscape is a national phenomenon that pits the visual environment, both natural and constructed, against the need for modern communication systems. This issue takes on greater significance in an area identified as having a scenic vista. However, there are several factors that mitigate the otherwise negative impacts of a tower of this height at this location. First of all, the site of the proposed tower is depressed almost 40 feet below the elevation of Old Largo Road. Secondly, wooded areas both on and offsite will effectively screen another 50 to 60 feet of the tower from views along Largo Road. Finally, those portions of the tower that will be visible are relatively narrow and less obtrusive than the sections near the base of the tower.

It is important to note that much of the natural screening of the tower location occurs on Parcel 58, land that is owned by the Fraternal Order of Police but is currently not a part of this application. Some wooded areas may be lost when Largo Road is widened in the future. For this reason, it is important for the applicant to retain the wooded areas on Parcel 58 to provide maximum screening between the tower site and Largo Road. It is therefore recommended that Parcel 58 be added to the property subject to this special exception. (Pursuant to Section 27-298 of the Zoning Ordinance, an applicant may amend an application for a special exception to enlarge the area of the special exception, if the amendment is requested prior to the transmittal of the case to the District Council.)

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

The proposed revisions to the site plan for the private club with the recommended conditions will bring the site into conformance with the Zoning Ordinance. The private club has existed at this location for many years. The proposed tower meets all regulations of the Zoning Ordinance and will not have a negative impact on the health, safety or welfare of nearby residents or workers in the area. The nearest residentially zoned land not owned by the county is about 400 feet from the proposed tower site. The nearest residences are located 800 to 1,000 feet away.

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

The base and much of the length of the proposed tower will be screened from the view of nearby properties. The closest nearby uses are owned by Prince George's County. The topography of the site, the generous setbacks, and the screening of the tower from MD 202 ensure that the proposed use will not be detrimental to adjacent properties or the general neighborhood. The proposed revisions to

the private club will have no impact on the current relationship between the club and the surrounding neighborhood.

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

The subject property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet, and there are more than 10,000 square feet of existing woodland on site. Because the proposed monopole will result in the disturbance of less than 5,000 square feet of woodland and there are no previously approved tree conservation plans, the property is exempt from the requirement for a tree conservation plan. However, a letter of exemption must be obtained from the M-NCPPC Environmental Planning Section, prior to the approval of this special exception.

CONCLUSION:

The addition of the proposed tower to this special exception for a private club will serve the communication needs of the community in a location that is generally well screened from view.

The special exception application has also provided an opportunity for the property owner to address some of the deficiencies in the current site plan. The addition of Parcel 58 to this application will provide a guarantee that the wooded areas on that site will continue to provide screening for the tower. It will also provide an opportunity for the Fraternal Order of Police to bring its sign into conformance with the requirements of the Zoning Ordinance.

In light of the above findings, staff recommends APPROVAL of SE-4482 and VSE-4482 subject to the following conditions:

1. Parcel 58 shall be added to the area subject to this special exception. The wooded area on Parcel 58 will be retained to provide screening of the subject property from Largo Road.
2. The freestanding signs identifying the law firm providing legal services on the property shall be removed. A generic sign identifying legal services for FOP members may be placed on the building.
3. The site plan shall be revised as follows:
 - a. The shed and dumpster which occupy the five parking spaces shown closest to the main lodge shall be removed or relocated. The dumpster shall be screened in accordance with the requirements of the *Landscape Manual*.
 - b. The use of the residence/legal office must be clarified on the site plan, including the floor area devoted to each. The parking schedule must be revised to reflect those uses.
 - c. The four parking spaces shown in front of the residence/legal office must be relocated to provide for a driveway aisle, or a departure from design standards must be obtained.
 - d. The drive aisle width for all driveways adjoining parking spaces must be 22 feet wide or a departure from design standards must be obtained. The driveway aisle providing access to the pavilion and parking area must be 20 feet wide or a departure from design standards must be obtained.

- e. A minimum of five percent interior landscaping must be shown in the main parking lot.
- f. The freestanding sign identifying the location of the Fraternal Order of Police property shall be identified on the site plan and shall meet the location, height and area requirements of Section 27-617 of the Zoning Ordinance.