

Spotsylvania County Planning Commission

DRAFT

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: September 20, 2017

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Gregg Newhouse	Chancellor
Richard Thompson	Courtland
Michael Medina	Salem
Howard Smith	Livingston
Mary Lee Carter	Lee Hill
C. Travis Bullock	Battlefield

Members Absent: C. Douglas Barnes Berkeley

Staff Present:

Wanda Parrish, AICP, Director of Planning
B. Leon Hughes, AICP, Assistant Director of Planning
Paulette Mann, Planning Commission Secretary
Kimberly Pomatto, CZA, Planner III
Alexandra Spaulding, Senior Assistant County Attorney
Patrick White, Planner III
Shelia Weimer, Senior Assistant County Attorney

Announcements: Ms. Parrish informed the Commission about upcoming community meetings.

Review & Approval of minutes:

Motion and vote: Mr. Thompson made a motion, seconded by Ms. Carter to approve the minutes of September 6, 2017. The motion passed by roll call vote 6-0.

Unfinished Business: None

Public Hearing(s):

Rezoning(s)

R17-0009 Crossroads Associates, LLC (Ordinance No. RO17-0009): Requests a portion, approximately 4.77 acres, of tax parcel 37-A-41A which currently has no zoning designation be zoned Industrial 1 (I-1). Tax parcel 37-A-41A totals approximately 99.1308 acres and is zoned Mixed Use 5 (MU-5), Industrial 1 (I-1) and Rural (RU). The property is located at 9440 and 9442 Crossroads Parkway. The 4.77 acres subject to the zoning action are located at the southern end of the property, south of the Virginia Railway Express (VRE) maintenance yard. The property is located within the Primary Development Boundary. The property is identified for Mixed Use and Employment Center development on the Future Land Use Map of the Comprehensive Plan. Tax parcel 37-A-41A. Berkeley Voting District.

Ms. Pomatto presented the case. The property subject to the zoning request is approximately 4.77 acres and is part of a larger tract of land which totals approximately 99 acres and is currently zoned Mixed Use 5 (MU-5), Industrial 1 (I-1) and Rural (RU). The 4.77 acres in question is located just south of the Virginia Railway Express (VRE) maintenance yard and is part of approximately 19.5 acres which VRE intends to acquire. During the acquisition due diligence process, it was discovered that this portion of the property has no zoning designation. Research completed by County staff confirmed that the area with no zoning designation was once railroad right of way. Deed research shows that in the early 1990's several transfers took place in which railroad right of way was vacated and which ultimately created this portion of the property with no zoning designation.

The VRE is the applicant and as noted intends to acquire approximately 19.5 acres in order to expand the maintenance facility. This portion of the larger property is currently zoned Industrial 1 (I-1) (please see Figure 1: Zoning Map above) and the VRE requests the 4.77 acres also have the I-1 designation. Consistent with Code requirements, the applicant has provided a GDP as part of their application for zoning. The GDP identifies the 4.77 to be zoned I-1 and also the 19.5 acres which the VRE intends to acquire to accommodate the maintenance facility expansion. The applicant has not offered a proffer statement as part of the rezoning application.

The applicant's request to zone the 4.77 acres is necessary in order to provide a zoning designation for this portion of the property. The 4.77 acre "hole" is adjacent to I-1 zoned property to the north and Rural (RU) zoned properties to the south. While the impact to the adjacent Rural zoned properties to the south may be of concern it should be noted that this portion of the larger tract of land has historically been industrially zoned or railroad right of way. Therefore, the impact to the adjacent rural zoned properties is the same or potentially less impactful given the screening requirements for industrial uses adjacent to residential uses. A site plan for the expansion of the VRE maintenance facility is currently under review and all Code requirements will apply including but not limited to screening. A transitional screening 3 will be required along the VRE's property line adjacent to the residential properties to the south. A transitional screening 3 consists of an unbroken strip of open space a minimum of 50 feet in width and planted with one large evergreen tree with an ultimate height of 40 feet or greater for every 10 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet, plus one large deciduous tree with an ultimate height of 50 feet or greater for every 30 linear feet, plus one medium evergreen shrub with an ultimate height of 12 feet or less for every 15 linear feet. Based on the proposed property lines, staff estimates the 50' buffer will run approximately 1,160 linear feet and contain approximately 463 plantings.

Ms. Pomatto discussed the following findings in favor:

- A. The zoning designation of Industrial 1 is consistent with the employment center land use category in this area and is supportive of business retention and expansion goals.
- B. The proposed zoning will provide a zoning classification to an existing "unzoned" area as determined by the County's Zoning Administrator.

Ms. Pomatto discussed the following finding in against:

- A. The proposed zoning will allow the existing industrial use to expand closer to the residential properties.

While staff acknowledges the concerns with industrial zoning adjacent to residentially zoned properties, the subject property has historically been industrial and/or railroad right of way. The result of the subject zoning request will simply address the gap in zoning which resulted from the vacation of railway right of way. The I-1 zoning will not create additional impacts and arguably, with the property not being within the railroad right of way, Code requirements apply which can mitigate impacts specifically the screening of industrial uses to residential uses. With that and the findings in favor noted above, staff recommends approval of the zoning request.

Mr. Newhouse reviewed the public hearing procedures and opened the public hearing.

The applicant declined to speak and stated he is in support of staff's presentation.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Motion and vote: Mrs. Carter made a motion, seconded by Mr. Smith to approve the zoning. The motion passed 6-0.

Special Use Permit(s):

SUP16-0013 Milestone Communications T-Mobile Telecommunication Tower: Requests special use approval for a 150 foot tall monopole communication tower with a 6 foot lightning rod at 11100 Gordon Road on property owned by the Virginia Electric and Power Company and south of it Chancellor Substation. The property is located approximately 1700 feet west and behind the Salem Fields Community Church located at the southwest corner of the intersection of Gordon Road and Salem Fields Boulevard. The proposed tower will be within a 2,590 sq. ft. equipment area which is proposed on the same 13.62 acre parcel. The property is zoned Rural (RU) and has a Future Land Use designation of Institutional per the Comprehensive Plan. Tax map parcel 21-A-93A. Chancellor voting district.

Mr. White presented the case. The subject application is for a special use permit for a 150' tall telecommunications tower with a 6' lighting rod on property currently improved with the Chancellor Substation. The tower is designed with break point technology so that in the event of a failure no portion of the tower will disconnect from the tower, resulting in a bending or buckling over of the tower near its midsection. The top half of the tower will then stay attached but hang from the remainder of the pole. In the event of a failure, although the tower should not touch the physical ground, during the process of the tower buckling over it is possible that the tower may intrude offsite into the airspace of the neighboring property owner. Accordingly staff requested written confirmation from that property owner acknowledging their approval of this.

That letter was received and documents the approval and support of the Salem Fields Community Church.

The tower is setback 14' from the nearest property line located to the south. As discussed above it is possible that in the event of a catastrophic failure the tower could intrude into the airspace of the abutting property. The tower has been designed to swing through, but not fall on, any abutting property. Staff notes this requires a modification to code 23-7A.4.1.2, and believes the modification is acceptable due to the support of the neighboring property owner and the design of the proposed tower.

The tower is setback approximately 660' from the nearest residential structure, which is located south of the proposed tower. However, staff notes that a recently approved Special Use for an Assisted Living Facility was completed March 2017 but is not yet under construction. When the facility is constructed it will be approximately 500 feet NE from the proposed tower.

The proposed tower will be located within a 74' x 35' equipment area that will be secured by an 8' high fence, which is topped with an additional foot of barbed wire. The equipment area is accessed through an existing private road.

The area where the compound and tower are proposed is currently vegetated and 18 trees will be removed to accommodate the proposed installation. Apart from these being proposed for removal all other trees onsite will be preserved. The applicant has proposed to plant 21 replacement trees around the equipment area, and additionally supplement existing plantings on the NW of the existing substation with an additional 33 trees. Due to the location of the proposed installation, a modification is necessary to code 23-7A.4.1.6.a, which requires a 15 foot perimeter landscaping buffer. Staff has no objection to this request due to the existing landscaping, site conditions, and the supplemental plantings being proposed.

The proposed tower is a freestanding monopole structure designed to accommodate five service providers, the first of which being T-Mobile. 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. As noted within the alternative analysis, alternatives were considered but deemed not feasible due security or coverage objective concerns. Sites within this analysis included co-locating onto the existing tower within the substation, co-locating on the tower at 7502 Old Plank Rd., and installing a new tower at the Salem Station Elementary School.

Based on the input of the neighboring Ni River Village Home Owners Association, a tree pole, or Monopine design was evaluated, but determined to be unsafe by county consultant Atlantic Technology Consultants, Inc., and Dominion Power engineering staff. The relocation of the tower on the subject property was discussed but ultimately not proposed by the applicant due to engineering costs, significant expenditures being necessary to restart the federal permitting procedures, and that building on the most reasonable alternative location onsite would entail significant clearing of existing forested lands northwest of the substation.

Staff presented the proposal to the County's Cable Commission and they approved with a 4-0 vote.

Mr. White discussed the following findings:

1. The proposal enhances T-Mobile wireless telecommunications coverage and provides room for four additional co-locating providers pursuant to the County's requirements to accommodate as many co-locators as possible.
2. The tower will accompany an existing 199' high communication tower and multiple high tension electrical transmission lines presently in use at the Chancellor Substation.
3. Ni River Village HOA requested stealthed monopine tower. Could not accommodate at present location for safety reasons.
4. The tower will not be required to be lit per FCC regulations.
5. 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.
6. The request satisfies the Special Use Standards of Review as detailed within this report.
7. The proposal is consistent with the Comprehensive Plan as detailed within this report.
8. Requires modification regarding ANSI fall zone to allow zone to overlay church property to south and landscaping requirements (Church support letter was received)

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:

1. The telecommunications tower and compound shall be developed in conformance with the Generalized Development Plan titled "Special Use Permit, TAX MAP 21-A-93A, DVP CHANCELLOR SUBSTATION, 11100 GORDON ROAD, FREDERICKSBURG, VA 22407" dated November 21, 2016 and last revised August 15, 2017.
2. New evergreen trees planted south of the existing substation shall be installed at a minimum height of 4 feet.
3. Except for the first location of equipment on the tower by T-Mobile, 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 owner shall make space available/license on the proposed new communication tower for a Spotsylvania County emergency services equipment and waive the typical annual rent provided the equipment installation is feasible from an engineering perspective and county equipment does not exceed 20% of the tower's capacity as determined by a certified structural analysis report. If structural enhancements can be made to the tower to accommodate additional equipment the owner shall work with the County in good faith to accommodate the expansion at the County's expense. Any costs to install equipment and provide access will need to be borne by future co-locators, including the County. If County equipment is installed, the County will provide a minimum of 24 hours notice prior to accessing the site for planned and/or scheduled maintenance or equipment changes, and will provide notice as soon as reasonably possible for emergency maintenance.
4. 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, 23-7A.4.1.6, and 23-7A.4.1.2.

5. 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.

Mr. White advised the Commission that he received an email correspondence today from a citizen that resides in the Ni River Landing subdivision and had concerns about the proposal but was unable to attend the meeting this evening and requested tabling of the meeting

Mr. Newhouse inquired about the offset of the tower from the transmission lines.

Mr. White stated that the transmission lines are 40 feet away and 78 feet away.

Applicant, Charlie Payne, representing the applicant: Mr. Payne discussed the details of the proposed tower by providing a PowerPoint presentation. He discussed that there was comments at one time about sliding the tower to the left but that doesn't get you away from the transmission line and the proposed site is the most desirable. Mr. Timothy Dwyer stated that the tower is needed because the nearest tower is heavily congested and is too far away to provide adequate coverage. He advised that both Smith Station and Freedom school sites were reviewed but they are too far away for the best coverage.

Mr. Medina inquired how the lines go to the network.

Mr. Dwyer stated that most monopoles are connected to land lines. The future is LTE over the internet, but technology is not quite there yet.

Mr. Newhouse opened the public hearing.

Speaking in favor or opposition:

Gene Rice, President of Ni River Landing, 7407 Ni River Landing: He stated that he received a letter about the inability to camouflage the tower into a pine tree. He stated that if you review the plan the tower is very close to the power lines and has the ability to take them out if the tower were to fail. That would be a huge impact on the residents. He stated that he also doesn't understand why the tower cannot be moved to one pole to minimize the community impact.

Rebecca Tolson, 7306 Ni River Landing: She stated that she is likely the closest neighbor to the proposal and that she has concerns about the proximity to the power lines. She stated that she has a neighbor that couldn't attend tonight that has been trying to sell her home for two years now and the sale has been affected by the transmission lines and now this. She has concerns that it will lower her property value.

Peter Getts, 6112 Thayer Street: He stated that he is present representing Salem Field

Community church. He stated that we need towers and they recognize the need for coverage in this area. The tower has been engineered to fold over on itself and that the church is the most impacted property owner and they are in full support.

Jason Hiney, 7209 Ni River Landing: He stated that he is on the Ni river Landing HOA and their position is that they would like the tower camouflaged in some way and would like to see the tower moved to the NW corner of the property, even if it is more expensive.

Charlie Payne: He stated that he appreciates the comments and concerns. He stated that they were fine with the monopine concept but it was determined to not be an option for this site. He stated that they did propose to use the existing site but the utility footprint didn't work and to relocate as suggested to the NW corner creates many challenges with the topo, therefore making the only option this site. Dominion is okay with the proposed location because the design allows for the tower to buckle to the south.

Mr. Newhouse inquired if there are any materials that could be used to camouflage the tower.

Mr. Payne stated that they could paint it, but any attachments are not desired at this location.

Mr. Thompson asked about the pine tree option.

Mr. Payne stated that Dominion agreed with staff that the monopine would be a problem.

Mr. Newhouse closed the public hearing.

Mr. Newhouse stated that while he shares safety concerns but the infrastructure for cell tower use and for life/safety, education technology for our schools is necessary. He stated that he hasn't been able to find any data that cell towers hurt property values.

Motion and vote: Mr. Newhouse made a motion, seconded by Ms. Carter to approve the special use permit with proposed conditions. The motion passed 5-1, with Mr. Thompson voting no.

Code Amendment(s):

CA17-0008 (Ordinance No. 23-174) Spotsylvania County Board of Supervisors: Amendments to the Code of the County of Spotsylvania, Chapter 23, Zoning, Article 2, Definitions and Rules of Construction, in Section 23-2.1.4 Definitions, to define Recreational vehicles; Vehicle sale, rental, and ancillary service establishment, large scale (two acres or greater); and Vehicle sale, rental, and ancillary service establishment, small scale (less than 2 acres); Article 4, Development Review Procedures, in Section 23-4.5.7 Standards of Review, to add use-specific standards for Vehicle sale, rental, and ancillary service establishment, small scale; and Article 5, Zoning Districts, in Section 23-6.18.3 to designate the Special Use currently called Vehicle sale, rental, and ancillary establishment to the two new terms which will be Vehicle sale, rental, and ancillary service establishment, large scale and Vehicle sale, rental, and ancillary service establishment, small scale in Commercial 2 (C-2) zoning, in Sections 23-6.19.2 and 23-6.19.3 to add Vehicle sale, rental, and ancillary service establishment, large scale as a

Permitted Use and Vehicle sale, rental, and ancillary service establishment, small scale as a Special Use in Commercial 3 (C-3) zoning, Sections 23-6.21.2 and 23-6.21.4 to add Vehicle sale, rental, and ancillary service establishment, large scale as a Principle Use Permitted and Vehicle sale, rental, and ancillary service establishment, small scale as a Special Use in Industrial 1 (I-1) zoning, Sections 23-6.22.2 and 23-6.22.4 to add Vehicle sale, rental, and ancillary service establishment, large scale as a Principle Use Permitted and Vehicle sale, rental, and ancillary service establishment, small scale as a Special Use in Industrial 2 (I-2) zoning, Section 23-6.28.5(c) to designate the Permitted Use currently called Vehicle sale, rental, and ancillary establishment to the two new terms which will be Vehicle sale, rental, and ancillary service establishment, large scale and Vehicle sale, rental, and ancillary service establishment, small scale in in Mixed Use (MU-4, MU-5) zoning. This ordinance shall be in effect for all applications filed after the date of adoption of the ordinance.

Ms. Parrish presented the case. On August 8, 2017, the Board of Supervisors authorized public hearings to consider amendments to the Zoning Ordinance to make small scale vehicle sale establishments a special use in Commercial 3, Industrial 1, and Industrial 2 zoning.

Staff recommends that the Planning Commission vote to recommend approval of CA17-0008.

Mr. Medina inquired whether an applicant had four 1.5 acres lots side by side, could they do a vehicle sales business.

Ms. Parrish stated it is not based on the parcel size but on site size they could combine the parcels and then it could become a permitted use.

Mr. Newhouse opened the public hearing.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Bullock made a motion, seconded by Mr. Thompson to approve the amendment. The motion passed 6-0.

Mr. Bullock thanked staff and advised that the community loves this.

Discussion Item(s):

Ms. Parrish advised that she wanted to provide a brief update on the Solar Ordinance. The ordinance intent is to allow for solar facilities with a Special Use Permit in A-2 and A-3 zoning. It is not to regulate small family farms who wish to power their wells or fencing.

She explained that uses that are designated as "special uses" are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and the county as a whole, require individual consideration of their design, configuration, and/or operation at the particular location proposed.

Ms. Parrish advised that special use is appropriate for this use. She explained that when reviewing special use permits, staff reviews to make sure they are generally in accordance with other land uses. Utility Solar is new to the county and we would like to consider conditions, buffers, and other mitigating factors on an individual basis.

Ms. Carter inquired how much it would cost for a person to submit for a 2-3 acre special use permit with a solar facility.

Ms. Parrish advised that it would typically be a corporate entity that would be applying for the use; the landowner would be leasing the land. A special use permit costs approximately \$7,000.

Ms. Carter inquired if Mr. White spoke to some farmers about this.

Ms. Parrish stated that he has spoken to Mr. Fulks and the Robersons.

Mr. & Mrs. Roberson, 4738 Massaponax Church Road: They stated that they simply want to power their well and deer fencing and that they now understand that no SUP is required for that type of use.

Ms. Parrish confirmed that no SUP would be required for their use.

New Business:

Mr. Thompson stated that he feels like the Mixed Use ordinance is being abused. He stated that he thought that there needed to be 2-3 types of housing and commercial components and it appears that only one type of structure is being built.

Public Comment:

Mr. Peter Getz stated that he is a little late to the solar ordinance discussion. He stated that he has been approached by a large solar company to find suitable property in the County. He stated that he would like to see Rural zoned properties included as well. He stated that they are a low impact deal unlike a monopole. He asked the Commission to strongly take another look at not shrinking viable real estate for this use.

Ms. Parrish consulting with Ms. Spaulding and it was determined that if the Commission would like to include properties it would need to be readvertised to include that. This would not allow for us to bring back to the Commission on October 4, 2017 to allow time to advertise.

Mr. Medina stated that he believes the solar facilities to be very reflective and would like to know the impacts that could potentially occur for Shannon Airport flights.

Mr. White confirmed that airport impact is addressed in the draft code.

Ms. Carter inquired about what Mr. Fulks position was.

Mr. White stated that he wishes to see the use as a byright use for parcels 200 acres or less.

Mr. Roberson stated that he would also like to know the impacts on wildlife.

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Bullock to bring back to the Commission at the October 18, 2017 meeting to include properties, investigate impacts on the airport and wildlife. The motion passed 6-0.

The meeting adjourned at 8:15 p.m. on a motion by Mr. Smith, seconded by Mr. Thompson. The vote was 6-0.

Paulette Mann

Date