

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES

December 28, 2011

Present: Chair Philippa Proulx, Commissioners Linda Russell, Michael Tapager, Michael Harman, and Emily Hunt.

Staff Present: Fred Boger, Tim Padalino, Melissa Thompson

Call to Order: Chair Proulx called the meeting to order at 7:30 P. M. in the Board of Supervisors meeting room, County Courthouse, Lovingston. Chair Proulx announced that the county administrator had asked that she give directions for leaving the new facility. She also explained the procedure to be followed for the public hearing.

Approval of Minutes – November 16, 2011: Commissioner Tapager asked for a correction of the following sentences: (1) Chair Proulx announces announced that Mr. Boger has confirmed that County Administrator, Steve Carter asked that the Planning Commission postpone their decision with respect to the county's application to permit placement of a 144 foot communication tower in Afton, application #2011-005. (2) She suggested the applicant peruse pursue a Special Use Permit. (3) He further stated the precedence precedent we would be setting would be that if it's a residential neighborhood we could carve out a special agricultural area right in the middle. (4) The Planning Commission reminded Mr. Larsen a tower in is under consideration by AT&T which is 1.8 miles away from the one and that Nelson County requires a minimum distance of 2 miles. (5) AT&T should be aware that the Planning Commission might not look favorably on a row of towers located 2 miles apart immediately adjacent to Richmond Road. Motion was seconded by Commissioner Russell, and motion passed 4-0, with Commissioner Hunt abstaining.

Class III Communications Tower, Application #2011-008, County of Nelson

Consideration of an application by the County of Nelson for a 144 foot total AGL (Above Ground Level) communications tower as part of the Nelson County Broadband Project funded by BTOP (Broadband Technology Opportunity Program) grant from the U. S. Department of Commerce. The tower will be located on property owned by Rockfish Valley Volunteer Fire Dept. and located at 11100 Rockfish Valley Highway, Afton, Va, Tax Map #7-A-9B.

Mr. Boger presented staff reports for Class III Communications Tower applications #2011-008 and #2011-009 and reminded the Commission that application #2011-005 had previously been considered and deferred at the request of the applicant. He stated that the Rockfish Valley Volunteer Fire Dept. location would work but the property owned by Dr. Andrew and Patricia Hodson, 10368 Critzer Shop Road, Afton, VA, Tax Map #4A-3-106 cited in application #2011-009 was better. This parcel is zoned M-2 which has no restriction on tower height. Mr. Boger also stated that all three proposed locations would need exceptions and/or waivers.

Chair Proulx asked Mr. Boger what the elevation difference was between the Rockfish Valley Volunteer Fire Dept. location and the American Fibers location. Supervisor Harvey responded that the difference was 10'. Commissioner Russell also asked Mr. Boger if the American Fibers location would serve the residents better than the Rockfish Valley Volunteer Fire Dept. Mr. Boger said it is a possibility due to dips in the terrain but he could not be sure. Commissioner Russell then asked if Mr. Boger could expand on why he thought the American Fibers site would be a better location. He answered saying because it is zoned M-2 and there is no height restriction.

Commissioner Hunt asked Mr. Boger about the property zoned M-2 and the tower fall area. Mr. Boger explained that the tower will be designed to collapse within the fall area.

Commissioner Russell asked Mr. Boger if there had been any communication with the owner of the property located twenty-five feet from the proposed tower location at the fire department. Mr. Boger stated that no communication had been received to date.

Commission Tapager asked Mr. Boger if the 140 foot tower height was needed mainly for co-location. Mr. Boger said he thought so.

Chair Proulx asked Steve Carter, county administrator if he had anything to add. Mr. Carter spoke to the grant funds received by Nelson County for the broadband project. He also remarked on the Rockfish Valley Vol. Fire Dept. location, asking the Planning Commission to rank the three sites in order of preference in their recommendation to the BOS. Chair Proulx thanked Mr. Carter for being willing to consider a site other than property near Magnolia Acres Lane. Commissioner Russell asked Mr. Carter if he would explain what "Afton funded service area" as referenced in correspondence from Judy Bentley (Icon) Mr. Carter said that term means an underserved area. Commissioner Russell then asked Mr. Carter if the RVFD location would cover that area. Mr. Carter said the RVFD location will work. The public hearing was opened on the RVFD site and the following people spoke:

Tommy Harvey- Chief of the RVFD

Mr. Harvey said that he had spoken with several property owners but had not spoken directly with Betty Garey, the landowner but a family member had indicated there was no opposition. Mr. Harvey also stated that the fire department had plans to purchase additional property behind the tower location.

Mark Shachtman, 85 Magnolia Acres Lane, Afton

Mr. Shachtman stated that any funds from the proposed communication tower would benefit the Rockfish Valley Vol. Fire Dept. He added that when people drive along Route 151 the view would be better with the tower being located on fire department property.

Mark Rosenthal, 140 Magnolia Acres Lane, Afton

Mr. Rosenthal said he knew the Magnolia Acres location was not being discussed but he wanted the commission to know that moving the communication tower location from his view to somewhere else within Magnolia Acres is still a problem. Mr. Rosenthal also stated that he was in agreement with the location at the RVFD.

Suzann Rosenthal, 140 Magnolia Acres Lane, Afton

Mrs. Rosenthal said that she has access to multiple internet carriers and that if a communication tower had to be installed she preferred the RVFD location.

Michael Tancus, 10288 Critzer Shop Road, Afton

Mr. Tancus spoke on behalf of his wife and parents who could not attend the meeting. He stated that moving the tower site to the fire house would mean approximately \$20,000.00 in revenue for the RVFD. Mr. Tancus further stated that the money could be used for training that would lead to even better community services.

Ralph Miller, 24 Magnolia Acres Lane, Afton

Mr. Miller stated that he is in favor of the communication tower being located at the RVFD. He stated that the Fire Department site is farther from the existing towers than either of the yarn factory sites.

The public hearing was closed on the Rockfish Valley Vol. Fire Dept. location.

The public hearing was opened for the M-2 site at the yarn factory location, application #2011-009 and the following people spoke:

Mark Rosenthal, 140 Magnolia Acres Lane, Afton

Mr. Rosenthal stated that he would like to read a letter from Mr. Ray Koon. Chair Proulx told Mr. Rosenthal that a copy of the letter has been shared with the Planning Commission. County After thanking Mr. Rosenthal she stated that there was no need for him to read the letter. Mr. Rosenthal agreed.

Mark Shachtman, 85 Magnolia Acres Lane, Afton

Mr. Shachman stated that if the communication tower was placed on the American Fibers site that it could possibility fall on his property. He also spoke about the possible loss of equity in his property if this location was chosen.

Michael Tancus, 10288 Critzer Shop Road, Afton

Mr. Tancus stated that if the communication tower was placed on the American Fibers site it would be even closer to his home and could possibly fall on his property. He also stated that the tower could fall into his lake. Mr. Tancus further stated that he was concerned about the variances needed after looking into communication tower building in Nelson County.

Suzann Rosenthal, 140 Magnolia Acres Lane, Afton

Mrs. Rosenthal made the commission aware of a sprinkler system in the American Fibers storage building. She has concerns about the drainage of water onto the property. Mrs. Rosenthal also stated that she is very much in favor of the RVFD location.

David Graves, RVFD, Project Manager for Veritas

Mr. Graves stated that the sprinkler system is no longer in use as the building is used for basic storage.

Suzann Rosenthal, 140 Magnolia Acres Lane, Afton

Mrs. Rosenthal stated that the fact the property could be sold and the sprinkler system needed again should be considered when choosing the tower location.

Michael Tancyus, 10288 Critzer Shop Road, Afton

Mr. Tancyus stated that he agrees with Mrs. Rosenthal concerning the use of the sprinkler system and that a future business at the American Fibers location may need temperature control

David Graves, RVFD, Project Manager for Veritas

Mr. Graves stated that Dr. Andrew and Patricia Hodson are in favor of the RVFD location believing it is best for the community.

The public hearing was closed.

Chair Proulx asked Steve Carter, County Administrator to share information concerning the study on the underserved area in Nelson County. Mr. Carter briefly spoke to the study saying the information is available to the public. Commissioner Russell stated that the broadband service study in Afton, VA can be viewed at <http://acceleratevirginia.org>

Chair Proulx stated that there were three applications to consider and asked if the commissioners had any comments or concerns.

Commissioner Hunt asked if anyone had spoken to Betty Garey, adjoining property owner. Chair Proulx said that Tommy Harvey had spoken to a family member. She further stated that all adjoining property owners had been contacted by mail. Commissioner Hunt said she would have liked direct communication with Ms. Garey.

Commissioner Tapager said he would like to restate some of his comments from the last Planning Commission meeting. He stated that he would like to see some kind of coming together with Dr. Hodson. Commissioner Tapager further stated that he understands how people might feel blindsided by the tower proposal. He continued to state that Dr. Hodson did not contact the county concerning the tower location but rather felt like he was doing a service for the community. Commissioner Tapager said one of the things learned from this process is that we should get community buy-in/buy-out before selecting property for a communication tower location. He stated that this would do away with some ugliness that comes out when people feel taken advantage of. Commissioner Tapager also stated he would like to see the legal notices

mailed earlier as it appears some residents did not have adequate notice. He stated that variances are needed as the commission has to work within the ordinance and that amendments to the ordinance are being considered. He asked that we go home and think about how we acted and how this could be avoided going forward.

Chair Proulx was of the opinion that clearly the RVFD location was the better site. She further stated that she had driven around the balloon test area and that the tower would not be very visible.

Commissioner Russell stated that all three sites would require exceptions. She continued to say that there are still issues with height, fall zone and the Scenic By-Way. Commissioner Russell continued to say that the Veritas location was in the middle of a highly dense residential area. She agreed the RVFD location would be the most appropriate.

Commissioner Harman stated that he was clearly in favor of the RVFD location.

Commissioner Tapager asked Steve Carter, County Administrator what would happen if the RVFD location did not work. Mr. Carter stated that he didn't have any concerns in obtaining the necessary approvals for the RVFD site.

Commissioner Hunt said that she would like to go on record asking Steve Carter, County Administrator, if the tower happened to fall on the property of Betty Garey that there would be insurance coverage. Mr. Carter stated that the county has full liability coverage.

The following resolution was made:

The Nelson County Planning Commission recommends approval of a tower permit to construct a 144 foot communication tower as submitted in application #2011-008 for the Nelson County Broadband Project on property owned by the Rockfish Valley Volunteer Fire Dept., 11100 Rockfish Valley Highway, Afton, VA, Tax Map #7-A-9B. In addition the Planning Commission approves the waiver of the landscaping requirement as stated in 20-7-5k(1) of the Nelson County Zoning Ordinance. It is further recommended that the Board of Supervisors grant the following exceptions: fall zone requirement (20-7-2a), two mile tower separation (20-8-3), required setback from Scenic By-Way (20-7-2e), excess height over 130' (20-8-1). In view of the tower's proximity to a Virginia Scenic By-Way, the Planning Commission strongly recommends that the tower be painted a color acceptable to the Planning and Zoning Director.

Motion was made by Commissioner Russell, seconded by Commissioner Tapager and carried 5-0.

Chair Proulx stated the two applications for a communication tower location at Magnolia Acres Lane would be deferred at the request of Mr. Carter.

Other Business

1. The Planning Commission reviewed the amendments to the Subdivision Ordinance and asked Staff to advertise a public hearing for the February Meeting. Motion made Commissioner Russell seconded by Commissioner Harman and carried 5-0.

2. Discussion of the Transportation Section of the Comprehensive Plan was deferred until Will Cockrell from the TJPDC could be present, hopefully the regular January meeting.

3. Since some of the PC members did not have current copies of the proposed addition to the Zoning Ordinance allowing temporary structures for caregivers, this item was deferred to the regular January Meeting.

Adjournment

Commissioner Russell made the motion to adjourn the meeting at 8:50 PM.

Next Meeting: January 25, 2012

Respectfully submitted,

Melissa M. Thompson, Secretary

Planning & Zoning

**A RESOLUTION RECOMMENDING APPROVAL OF A
CLASS III COMMUNICATIONS TOWER PERMIT #2011-008
FOR COUNTY OF NELSON**

WHEREAS, the County of Nelson has submitted an application for a Class III Communication Tower Permit, pursuant to Article 20, Subsection 20-8 of the Nelson County Zoning Ordinance to construct a 144 foot communications tower as part of the Nelson County Broadband Project funded by BTOP grant from the U. S. Department of Commerce; and

WHEREAS, the proposed communications tower site is located on property owned by Rockfish Valley Volunteer Fire Dept., 11100 Rockfish Valley Highway, Afton, VA, Tax Map #7-A-9B; and

WHEREAS, the applicant is requesting the following Zoning Ordinance waivers and exceptions: (1) fall zone requirements as stated in §20-7-2a; (2) landscaping requirements as stated in §20-7-5k; (3) two mile tower separation requirement as stated in §20-8-3; and (4) required setback of one mile from a designated Scenic By-Way as stated in §20-7-2e; and

WHEREAS, a notice of the required Public Hearing by the Nelson County Planning Commission was published in the Nelson County Times on December 8 and 15, 2011; and

WHEREAS, a notice to adjacent property owners was mailed on December 12, 2011; and

WHEREAS, on December 28, 2011 the Nelson County Planning Commission held the required public hearing on said application; and

WHEREAS, the Commission has considered the Planning Director's report and comments from the applicant and citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE NELSON COUNTY PLANNING COMMISSION as follows:

The Nelson County Planning Commission recommends approval of a tower permit to construct a 144 foot communication tower as submitted in application #2011-008 for the Nelson County Broadband Project on property owned by the Rockfish Valley Volunteer Fire Dept., 11100 Rockfish Valley Highway, Afton, VA, Tax Map #7-A-9B. In addition the Planning Commission approves the waiver of the landscaping requirement as stated in 20-7-5k(1) of the Nelson County Zoning Ordinance. It is further recommended that the Board of Supervisors grant the following exceptions: fall zone requirement (20-7-2a), two mile tower separation (20-8-3), required setback from Scenic By-Way (20-7-2e), excess height over 130' (20-8-1). In view of the tower's proximity to a Virginia Scenic By-Way, the Planning Commission strongly recommends that the tower be painted a color acceptable to the Planning and Zoning Director.

Motion made by Commissioner: APPROVED: _____

Linda Russell Planning Commission Chair

Motion seconded by Commissioner: ATTEST:

Michael Tapager Planning Commission Secretary

Motion Passed: 5-0 DATE: December 28, 2011