

**NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
December 18, 2013**

Present: Chair Proulx, Commissioners Linda Russell, Mary Kathryn Allen, Emily Hunt and Michael Harman

Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

Call to Order: Chair Proulx called the meeting to order at 7:01 P. M. in the General District Courtroom, County Courthouse, Lovington.

Chair Proulx opened the meeting with the approval of meeting minutes.

October 15 Work Session:

Page 2 – change first sentence to read as follows:

The Planning Commission has generally held a public hearing but it is not required by Code.

Page 3/Item #8: change to read as follows:

It was agreed by all that reference to lightning rod height would be included in the overall tower height measurement in the proposed ordinance.

Page 4 / 2nd sentence from top: She brought up a question that came up in change “a” to “the”.

Commissioner Allen made the motion to approve the minutes with the noted corrections; the vote was 4-0 with Commissioner Hunt abstaining.

October 23:

Remove Work Session from heading and change to “**Meeting Minutes**”.

Page 2 / Shipman Apartments / last sentence should read as follows:

Mr. Krieger assured the Planning Commission that Alyson Sappington had notified his Project Engineer, Jim Taggart, that changes to the proposed plan meet the requirements of the Erosion and Sediment Control Ordinance.

Page 2 / on the Motion made by Commissioner Russell:

The motion was seconded by Commissioner Harman and passed 4-0.

Page 5 – spelling correction from council to “**counsel**”.

Commissioner Harman moved that the minutes from the October 23rd meeting be approved as amended; the vote was 4-0 with Commissioner Hunt abstaining.

November 20:

Add “**Meeting Minutes**” to the heading.

Commissioner Harman moved that the minutes from the November 20th meeting be approved; the vote was 4-0.

1. Class III Tower Permit #2013-007 – Mrs. Cheryl Taylor / AT&T

Mr. Padalino stated the Planning and Zoning office received a completed application on October 30, 2013 for a Class III Communication Tower Permit application. The applicant is Ms. Cheryl Taylor of Velocitel, acting

on behalf of AT&T. The application is made pursuant to Article 20-8 of the Nelson County Zoning Ordinance. The application seeks approval for the following:

- the installation of a new steel monopole tower, with a total height of 130' above ground level (ABL) and with new antennas and associated equipment mounted on low-profile platforms;
- the installation of a new equipment shelter and associated equipment, to be located on a new 50' x 50' fenced and graveled compound, to be located within a new 60' x 60' leased area; and
- the upgrade of an existing soil road to be graveled within the proposed 20' access/utility easement.

The subject property for this application is located in the Afton area on tax map parcel #6-A-124. There is no street address; the undeveloped parcel is located past the west end of Sunrise Drive. This is an 81.0-acre property which is currently zoned Agricultural (A-1). It is owned by Ms. Adelea Polastro, who has signed the affidavit on the application.

Because the proposed tower site is 0.71 air miles of a designated Virginia Scenic Byway, the applicant seeks an exception from the Board of Supervisors for 0.29 air miles from relief from the requirement to be a minimum of one-mile for any Scenic Byway; relative to Section 20-7-2(e) as identified in the legal notice and the Staff Report.

The proposed tower location has been identified as being 1.68 miles from existing Communication Tower, which is a 144' tall Class III Communication Tower located at the Rockfish Fire Station on Rt. 151 (CV421) that was approved in 2011, and is a part of the Nelson County Broadband Project. Section 20-8-3, states that, "A Class III Communication Tower cannot be located closer than two (2) miles. The issue can be discussed and considered by the Planning Commission but if any relief were to be granted it would have to be from the Board of Supervisors.

The applicant submitted photo-simulations of the proposed tower in a galvanized steel finish and a Java Brown (Sherwin Williams). The photos were taken along Mill Lane or Glass Hollow Road, there is one taken along Route 151. Mr. Padalino also asked to draw to the attention of the Planning Commission to provision 20-7-2c, under Standards for Location, "Mountain Ridge" stipulates if a proposed tower site is on a mountain ridge or mountain peak then its subject to height limitations relative to the surrounding "existing vegetative canopy" of if there is none then the surrounding topography. A "Mountain Ridge," defined as, "A ridge with an elevation of six hundred (600) feet or higher above mean sea level and an elevation two hundred (200) feet or more above the elevation of an adjacent valley floor." Shown in Figure 5, which identifies the elevation of the proposed tower site as 1,361' (as specified in the application) and the approximate elevation of Glass Hollow as 850' (as estimated at Glass Hollow Road at the foot of the unnamed mountain ridge), or at least 500' below the proposed tower site.

In order to determine the Existing Vegetative Canopy, the applicant did provide an Existing Tree Plan (Drawing A-0A). The proposed elevation of the tower is 1,361 feet. The surveyed trees are located within 5' below (1,356') or above (1,366') of the tower's proposed elevation, which gives a 10' range of elevation on that site that can be used to determine the average tree height. There were 19 trees fall within the elevation of the proposed tower. Using the table provided, which included the tree tag number, the species, the height (feet) and the elevation relative to tower site (feet), the average tree canopy height is 93' for this proposed tower location. Per the "Mountain Ridge" provision all towers on a Mountain Ridge should be no more that 30' above the tree canopy. The proposed tower would be 37' above the existing tree canopy.

As stated in the Staff Report, there are other issues that have been identified and discussed with the applicant.

1. Standards for Location, Blue Ridge Parkway: (the site is visible from the Blue Ridge Parkway)
 - a. "No Site Plan review application for a Communication Tower to be located within the Viewshed of the Blue Ridge Parkway (BRP) shall be submitted without first notifying the BRP Community Planner in writing...."

- b. "An unobstructed sight or the range of one's sight while traveling, visiting, driving or otherwise using, the natural or man-made resources of the Blue Ridge Parkway". The Viewshed shall be defined as one air mile.
2. Landscaping Plan: the applicant has provided an Existing Tree Plan but that does not include provisions for how the site will be screened, if at all.

In reviewing the Purposes of the Ordinance, there are three things that stand out:

1. To restrict location of communication towers that adversely detract from the natural beauty of the mountains of Nelson County;
2. To minimize the negative economic impact on tourism; and
3. To protect the view from the Blue Ridge Parkway and along designated Scenic Byways in Nelson County.

Further, in the Comprehensive Plan, the County just adopted Goals and Objective for Telecommunication Infrastructure. The fifth Principle (5th) is also meant to provide protection to important scenic resources (Scenic Byways, Blue Ridge Parkway, National Forest, and Appalachian Trail).

In reviewing the particular application and tower site, Staff recommends denial of this application. There would be too much of a negative visual impact on the surrounding residential areas; the agri-tourism industries; and the natural beauty on the northern Rockfish Valley in the Afton area.

Mr. Padalino noted that Jeff Kessler (VDOT) asked for the end-of-state maintenance to be identified on the Site Plan. Also noting that Mr. David Thompson (Building Official) stated an Erosion and Sediment Plan would be required.

Commissioner Russell had questions pertaining to the existing access road (from Sunrise Drive) such as whether there would be improvements; where the existing right-of-way easements are; and how wide the road is. Mr. Padalino stated there would be improvements made to the road; there would be a re-routing of the road; and there would be a minor alteration to the layout of the excess road. Any alterations of the road layout would be to minimize the number of properties that the improved road is on. A significant portion of the road would be upgraded, which would be included in the E&S Control Plan. Mr. Padalino deferred to the applicant for more specific details.

Commissioner Russell made note that the Planning Commission does not approve any plans that require an E&S Control Plan until the Planning Commission has a tentative approval that something has been submitted so they know its in the works. Commissioner Russell also asked if a revised A-OA plan had been provided. Mr. Padalino stated that it has not been submitted but is forthcoming.

Preston Lloyd (representative of AT&T, Attorney for Williams Mullen) addressed the Planning Commission. Mr. Lloyd stated he would be deferring to the other members of the team that are present to assist the more technical questions. Mr. Lloyd offered some background information stating the Federal Telecommunications Act of 1996 was adopted by Congress, which essentially delegated to local governments the authority to deal with the siting of telecommunications facilities. It viewed the Planning Commission and the Board of Supervisors as being in the best position to determine what sort of factors are relevant to where these facilities would go. It also reflected an important concept from Congress which was that this new technology (as it was at the time) cellular technology was of tremendous importance to communities across the country. For that reason, AT&T takes a great deal of care in siting these facilities and making sure that they continue to update and provide adequate coverage and service as the technology improves and as the use of cellular technology continues to proliferate. Its tremendously important to this part of the County that AT&T continue to provide reliable service and that's what really drives their

significant investment in trying to find appropriate sites, while also continuing to update and upgrade the service they provide. AT&T works within the parameters of the County's ordinance.

Mr. Lloyd respectfully disagrees with the Staff Report, stating the proposed site complies with the Zoning Ordinance and the Policy Goals of the Comprehensive Plan, and meets the specifics of each as well. Mr. Lloyd addressed each of the specifics and also talks about why AT&T disagrees with Mr. Padalino's decision.

1. To clarify, the Site Plan does reflect where the State maintenance ends and where the private road begins.
2. New site is up the Fall Line located on the private road; currently a dirt tract that would be upgraded with gravel to allow for the construction of the facility and allow access for maintenance vehicles. To clarify, there will not be heavy diesel vehicles accessing the road on a regular basis, those will be used on the onset of the construction and then only light maintenance vehicles will be used once a month for routine maintenance.
3. To address the specifics of what's required for a Class III tower:
 - a. Board approval of a Special Use Permit
 - b. Maximum height is 130' (that's a slight error, its 130' with the lightning rod at the top of the facility).

Four major criteria as mentioned in the Staff Report:

- i. 125' minimum distance to the property line (Fall Line requirement)
 1. 252' to the nearest property line
- ii. Demonstrate no public lands is available for co-location of the facility
 1. Closest facility is located within two miles (as mentioned in the Staff Report); however, AT&T is currently pursuing co-location on that facility, in an attempt to bolster the coverage objective for this portion of the County.
- iii. 30' above existing vegetative canopy
 1. Vegetative canopy "after" construction of the facility; presented a Plan that the pouring of the pad necessary for the cabinet for the tower would require the removing of the minimal amount of trees; based on the calculations, the adjusted height of 100' (because of slope, you have to add the difference between the height to have a true reading).
- iv. Not within a Viewshed of a Scenic Byway
 1. This facility is located within the one-mile buffer

Finally, the Planning Commission is charged with considering these factors as to whether a communications tower is appropriate to be issued.

Chair Proulx asked about the coverage maps and Mr. Lloyd stated the coverage map provided was specifically for AT&T coverage only. No coverage map was produced for the tower behind the Rockfish Fire Department.

Cheryl Taylor, AT&T and Melissa Sieger, Velocital stated the equipment is at 125' and not 121'.

Applicant presented various propagation maps in support of their position. Chair Proulx requested maps detailing coverage from the Martin's Store site and the Rockfish antennas in place.

Mr. Padalino added that even though the Rockfish site does not have a co-located set of equipment on it at this time, it has been submitted, reviewed and approved by Planning & Zoning Department. He also noted the Martin's Store site has been approved for co-location as well. He is not sure where they stand with the building permit approval and construction process. Commissioner Harman asked Mr. Lloyd if the proposed tower was approved for co-location. Mr. Lloyd stated that AT&T has proposed a height that they expect would make it amenable to co-location, although it has not been tested as to what would be available at a

lower height. In further discussion, it was stated that Martin's Store co-location is AT&T (#2013-009 a 2011 approval).

Cheryl Taylor stated that both AT&T sites; (CV485) located on Rockfish Valley Hwy at Martin's Store and (CV421) located at the Rockfish Fire Station, located on Rt. 151 both have approved building permits and zoning permits for co-locations. In addition, Martin's Store has a second co-location application that has already been submitted. There are two co-locators on the Martin's Store site that are currently in the works.

Commissioner Allen asked Ms. Taylor with all the technology and with the approvals, how much more service would be provided with the new proposed tower and what is the benefit with hooking them together? Ms. Taylor stated it was consistency, to maintain consistent coverage. Ms. Taylor stated that other sites had been looked into and this site had the most natural vegetative canopy. No sites had been looked into for specific standards for location Mountain Ridges. Mr. Lloyd stated the more prominent the location, the more adequate the service, however, this increases the visibility. AT&T does not factor in whether a tower is directly on top of a ridge for the purpose of siting.

Chair Proulx opened the floor for public comments at 8:12 P.M., noting the Planning Commission, by law, is not able to take into consideration possible health issues.

1. Jane Taylor of 698 Glass Hollow Road: establishment of the tower will not enhance the value of property; tower will be visible; for about three years worked at the travel information center and people come from all over to come to the Blue Ridge Parkway because they don't have anything like this that's remotely as natural, same families come year after year just to travel the Parkway; the beauty of this, the naturalness of this wonderful County, which is rooted in tourism, agriculturalism, pastoralism, wineries, breweries and Natural History Centers, this is why they come here, they don't come for the cell phone towers. Radiation effect on birds and other critters. Run up and down a mountain on an "improved" road, that is not going to improve the run-off and the retention of water that benefits the forest. Not supposed to be within a 2-mile radius.
2. Raymond Glass of Glass Hollow Road: been all over the country and have seen towers that look like pine trees but its still ugly; effect the natural beauty; keep adding towers to make more of an eyesore.
3. Raymond Glass, Jr. of Glass Hollow Road: uses Verizon and phone works just fine; the pictures don't show the 30' difference and they don't show anything from the Parkway; people go to Humpback Rock and will look down on the 50' pad and that's a big footprint; the unnamed foothill is Johnsons Mountain; if you make an exemption for one tower, another one will be made for another tower 2-miles down the road and will ruin another Scenic Byway; obstruct the view of Humpback Rock; improvements to Sunrise Drive would use big rigs and heavy equipment and have to take down trees just for them; will effect hunting for many; any studies done if its effects the flight patterns of honeybees or other things important to the environment; have standards for what's acceptable radiation that's released from towers, these standards were set back in the 90s; is there someone that goes around and tests the coverage they are advertising.
4. Leyman Eugene Lloyd, Jr. of Glass Hollow Road: wife email the Planning Director a list of 14 or 15 questions and hope they get answered; go up to Humpback and hike all the way down to Mill Creek and end of Glass Hollow Road; haven't heard any comments from the Reps of the Blue Ridge Parkway and their thoughts about the line of sight to this particular tower; uphold the Planning Director's denial of the tower; unclear as to whether it will have a blinking light.
5. Mike Garth of Glass Hollow Road: destroys the view; once the tower is up, its never coming down; uphold Planning Director's denial.
6. Nicki Eusler of Glass Hollow Road: at the end of Glass Hollow Road and have no problem with getting cell service now; scenic view is amazing and having a tower would destroy that.

7. Dianne Garth of Glass Hollow Road: greatly impede the view of Humpback Road; would be an eyesore; artists come to Tanbark Road to paint the beautiful view of Humpback Road and down the valley; request it be denied.
8. Debbie White of 641 Glass Hollow Road: nearest property owner to the lot; corner of property has a mature and beautiful stand of Mountain Laurel; tower being put 252' away from the most valuable part of property; when the road was built from Sunrise Drive, were not made aware as property owners and trees were heavily scored and knocked down; very steep grade of road; mature trees will not grow any higher for the sight line of the tower; issues with impending on property line to get up to the site; not far enough off of property to keep sellable value of the property; haven't thought about all the sight lines; protect the Appalachian Trail; would like a picture of what the tower would look like off the Glass Hollow overlook; Verizon customer and have fabulous service and will get no service from the tower because the mountain will block any; only allowing cell tower to help those in the Rockfish Valley, why they aren't trying to get coverage on the other side of the mountain and why there is so much overlap.
9. Craig Vanderhoff of 334 Glass Hollow Road: impact on the views; taking the perspective from Humpback Road looking down into the headwaters of the Rockfish River, which is the watershed, which is a wonderful place and its unique; parking lot at Humpback Road is where the original Howardsville Turnpike came across and a lot of that was built by slave labor; the overlook down into the valley is pristine; the overlook on Rt. 250 is a clear open view of the headwaters, Mill Creek; hope the Planning Directors recommendation is approved.
10. Bobby Karnes of Pounding Branch: can't do what he wants with the property, can only do what he's told to do with the property; people coming in from out of town, building and then leaving; should be some sort of ordinance if they want to put up a cell tower, it should be for all of them, everybody can use the tower if they want to pay a fee, cut down on everyone having their own cell towers; there are places where towers can be hidden.
11. Jim Maxwell of Glass Hollow Road: technology and how useful this is compared to what might be coming along; what happened to the fiber optics that were supposed to be coming down Rt. 151; cell service with Verizon is just fine.

Chair Proulx closed the public hearing at 8:44 p.m.

The Planning Commission and Mr. Lloyd addressed the questions posed during the public hearing:

1. **Coverage**: competition; updating service; competitive rates; benefits the community; towers run on fiber.
2. **Run-off with the upgrading of the section of road that goes in to the site**: Erosion and Sedimentation (E&S) Control Plan is designed to address erosion and sediment issues during the upgrading of the road during construction, which would have to be review and approved. Upgrading of an existing forest road would be subject to the Virginia Stormwater Management Permit Program (VSMP). An E&S Plan is not required at this time, if the application gets approved the E&S Plan would be required when they get a building permit. Mr. Lloyd stated that information could be provided if it would be helpful in making this decision.
3. **Amount of road work (differing from the tower that went up from Afton towards Waynesboro on 64 accessed off of Rt. 250)**: much larger tower, the proposed tower would not require as much work or heavy equipment.
4. **Light on tower**: there is no requirement at this height and there is no plan of putting a light on top of the tower.
5. **Emissions**: Regulated by the FCC and is included in the County's Ordinance that all abide by the Federal regulations. In order for a tower to be constructed, AT&T has to go through a checklist of regulatory requirements in order to get environmental clearance, which includes a RFE sheet. Appropriate signage is put up on fencing. At the bottom of the tower, the emission is less than one percent (1%).
6. **Two-mile separation**: has to be reviewed and considered by the approving authority, which is the Board of Supervisors. The Tower Ordinance has a specific tower provision for Special

Exception (Section 20-13): *The Board of Supervisor may grant special exception to the location and height regulations contained in this chapter subject to the following standards* and it goes on to identify a hardship test. The two-mile minimum distance between the different towers is found in the Proximity to an Existing Tower (Section 20-8-3): A Class III Communication Tower cannot be located closer than two (2) miles to another Class III or Class II Communication Tower. This distance may be reduced by the Board of Supervisors upon finding that the distance reduction will not be a substantial detriment to adjacent property and that the character of the district will not be changed. The applicant has submitted a formal request for exception for the Scenic Byway distance and not for the two-mile minimum distance between towers. Mr. Lloyd stated the reason for showing the propagation maps was to demonstrate justification for meeting the hardship tests as described and stated that the coverage objective would not be achieved if it were not for this location. It could be possible to have the same propagation with two smaller towers.

Mr. Lloyd asked to postpone and revisit the application until next month. Commissioner Russell asked for a revised A-OA. Chair Proulx asked if this was suitable for the members of the Planning Commission; approved 5-0.

Chair Proulx postponed the meeting for a short break; reconvened at 9:13 P.M.

2. Proposed Increases to Dept. of Planning & Zoning Fee Schedule

Consideration of proposed increases to the Dept. of Planning & Zoning fee schedule for various applications, as directed by the Nelson County Board of Supervisors at their May 14th, 2013 regular meeting, in accordance with the provisions of the Code of Virginia §15.2-2286, as follows: from \$45 to \$200 for a Special Use Permit; from \$25 to \$300 for Rezoning; from \$25 to \$150 for a Variance; and from \$25 to \$150 for an Appeal.

Mr. Padalino stated the Board of Supervisors did not feel comfortable referring the proposed fees that were stated in the original Staff Report that was dated May 8, 2013 due to the fact they were considerably higher. The Board's primary explanation was that it would be easier and more appropriate for community residents and businesses to have a tiered approach for the fee increase than to have such a high increase all at once. These fees will be revisited in a couple of years.

Chair Proulx opened the floor for public comment; no comments were made; the hearing was closed.

Commissioner Russell made the following motion:

I make the motion that the Planning Commission recommends that the Board of Supervisors approve the adjustments to the fee schedule used in the administration of Appendix A – Nelson County Zoning Ordinance. This adjustment should be the first step in adjusting county fees to better reflect actual expenses. The Planning Commission motion of June 17, 2013 recommended a further Board of Supervisors review by December 31, 2015. The Commission continues to support this review toward aligning the fees with our overhead expenses and with neighboring municipalities.

The second was offered by Commissioner Harman, the vote was 5-0.

Other Business

1. Zoning Ordinance Amendment(s): other considerations for near-future action
 - a. Policy Discussion: Farmers Markets, Farm Stands, and Farm-to-Table issues

Mr. Padalino stated that in talks with Brady Nicks, Albemarle County provided their materials for site specific policy revisions, which could be useful in our efforts. Mr. Padalino will get with Michael Lechance and members of the Nelson Farmers Market to get a listing of the members of the farming community. In the meantime, the Planning Commission will review the Albemarle Ordinance and adapt it to meet the County's needs. A work session will be held to make any edit before sending items to members of the farming community.

2. Nelson 151 Business Group: provided a letter to the Board of Supervisors stating they wanted to see some process in regards to planning in the Rockfish Valley. Mr. Padalino attended one of the monthly meetings and stated the Comprehensive Plan had not been updated since its conception in 2002 and that it focused on the public interest. Commissioner Russell asked about the persons involved in the group itself. Mr. Padalino stated they were producers of value added products of any kind that are on or near the Rt. 151 corridor, vineyards and wineries such as Berry Hill Farm Winery; Bold Rock; and Pollock Vineyards in Albemarle. The group is not solely focused on the business or economic perspective but the concerns of long-term residents.
3. Signage: concerned with the distracting signs and the number of signs that are being placed on properties; more concerned with Commercial Signs as the development in the County increases.

Adjournment:

At 9:33 P.M. Commissioner Harman made a motion to adjourn.

Respectfully submitted,

Stormy V. Hopkins
Secretary