

VIRGINIA: MINUTES OF THE REGULAR MEETING OF THE DINWIDDIE COUNTY PLANNING COMMISSION HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING ON THE 8th DAY OF JULY 2009 AT 7:00 P.M.

PRESENT:	SAMUEL W. HAYES	CHAIRMAN	AT-LARGE
	BUTCH CUNNINGHAM	VICE CHAIRMAN	DIST #4
	DR. MARK MOORE		DIST #1
	PATRICIA HAMILTON		DIST #3
	DANIEL LEE		DIST #5
	THOMAS TUCKER		AT-LARGE
	DEAN McCRAY		DIST #2
OTHER:	MARK BASSETT	PLANNING DIRECTOR	
	JOHN BLAIR	COUNTY ATTORNEY	

IN RE: CALL TO ORDER

Mr. Hayes called the meeting to order at 7:00 p.m.

IN RE: PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Mr. Hayes asked everyone to stand for the pledge of allegiance and remain standing for a moment of silence.

IN RE: ROLL CALL

Mr. Hayes asked for the roll to be called and all members were present.

IN RE: MINUTES

Mr. Hayes said the members have before them the minutes from the June 10, 2009 regular meeting. He asked if there were any corrections. He said since there are none he would entertain a motion to accept the regular meeting minutes as presented.

Upon a motion by Mr. Cunningham and a second by Dr. Moore with, Mr. Lee, Dr. Moore, Ms. Hamilton, Mr. McCray, Cunningham, Mr. Hayes voting "Aye" and Mr. Tucker "abstaining" the regular minutes for June 10, 2009 were approved.

IN RE: APPROVAL OF AGENDA

Mr. Hayes said the members have before them the agenda and asked if there were any corrections. He said since there are none he would entertain a motion to accept the agenda as presented.

Upon a motion by Mr. Cunningham and a second by Dr. Moore with Mr. Lee, Ms. Hamilton, Dr. Moore, Mr. Cunningham and Mr. Hayes voting “Aye” the agenda was accepted as presented.

RE: CITIZEN COMMENTS

Mr. Hayes opened the citizen comment portion of the meeting and asked if anyone had signed up to speak. He said since no one has signed up to speak he was closing the citizen comment portion of the meeting.

IN RE: PUBLIC HEARING

Planning Staff Report

File#:	P-09-1
Applicant:	First Management Co., LLC & Brian C. Mitchell, Agent
Rezoning Request:	Agricultural, General, A-2 to Residential, Limited, R-1
Property Address:	7613 & 7617 Blue Tartan Road (Route 615)
Tax Map Parcel #:	21-67
Acreage:	88.89 acres
Magisterial District:	Rohoic District
Planning Commission Mtg.:	July 8, 2009
Related Meetings:	Agent held a community meeting on Mon. June 29, '09

CASE OVERVIEW

The applicant, First Management Company, LLC, through its agent, Brian C. Mitchell, is requesting to rezone with proffers a parcel containing approximately 88.89 acres from Agricultural, General, A-2 to Residential, Limited, R-1 in order to create a development of approximately 50 single family homes. The Residential, Limited, R-1 zoning classification allows for single-family residential development at a minimum density of one and one-half acres or more for lots with on-site septic and water facilities. The property is located at 7613 and 7617 Blue Tartan Road, Petersburg, Virginia 23803, and the property is further defined as Tax Map Parcel 21-67. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Planned Growth Area, which recommends low to medium density residential development for this general area.

ATTACHMENTS

- Rezoning Application and Applicant’s Attachments
- Attachment A - Tax Map
- Attachment B – Proffer Statement

LAND USE AND ZONING ANALYSIS

The subject property is located on the north and south sides of Blue Tartan Road (Route 615). The applicant is seeking the rezoning of the 88.89 acres from Agricultural, General, A-2 to Residential, Limited, R-1 to develop an approximately 50 lot single-family residential subdivision with lot sizes ranging from 1 and ½ acres to 3 acres as shown on the applicant's conceptual development plan.

The surrounding land uses include open space and predominately large lot, low density established and stable single-family residential development, and the general area is zoned A-2, Agricultural, General. The property under review is designated by the Comprehensive Land Use Plan (the "Plan") as being within the Planned Growth Area. As such, the general area is expected to accommodate future residential development. The Comprehensive Plan also sets forth that the overall density of single-family residential development within the Planned Growth Area should not exceed the Ordinance required 1 and ½ acre minimum acreage requirement for lots not served by public water and sewer. Where suitable soils and Health Department regulations for siting water and sewer systems are met, the Plan also allows for on-site individual wells and septic systems for areas not served by public water and septic systems.

Chapter XI of the Comprehensive Plan outlines the policies, goals and objectives of the County, policy statement (3) states "maintain and enhance the County's ability to coordinate a balanced land-use program among various types of residential, commercial, and industrial interests by encouraging development within areas defined as growth centers and/or growth corridors." As previously stated, this general area is designated as Planned Growth Area; thus, it may be considered a growth center.

Generally, the composition of the Residential, Limited, R-1 District is to be composed of "certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur". Within this general area, there is anticipated residential development that will occur along with future commercial services developing in the area.

OVERVIEW OF DEVELOPMENT IMPACTS

Public Utilities, Public Safety & School System Impacts

The use of public water and sewer utilities is not proposed by the applicant as it is the intention of the applicant to develop the property with individual private wells and individual septic systems. With the closest public water and sewer facilities over ¾ of a mile away from the subject property, the applicant has requested that the Dinwiddie County Water Authority (DCWA) grant a waiver from requiring a common centralized water and sewer system for the proposed development. As set forth in Chapter 21 of the Dinwiddie County Code, a developer or subdivider is permitted to request a waiver from providing a centralized water and sewer system for a development that is located outside of the Urban Planning Area. If a waiver is not granted by the DCWA, the minimum lot size required for the development then becomes two acres if it is developed utilizing individual private wells and septic systems on each individual lot.

With an estimated fifteen (15) Fire/EMS calls annually, the impacts on public safety services should be minimal. Dinwiddie County Public Safety (the Fire Marshall) recommended that each home be installed with a residential sprinkler system to help reduce the homeowners' insurance premiums. Fire protection services would be provided from the Namozine Fire Department, which is approximately five miles from the subject property dictating an ISO rating of "10". The Fire Marshall suggested extending public water service to the proposed subdivision to enhance fire protection; however, as previously outlined with the cost prohibitive nature of extending 4,700 linear foot of waterline to the subject property, the developer is requesting a waiver from the DCWA. The Fire Marshall also suggested that Blue Tartan Road should be connected through to Duncan Road to provide additional access to the proposed subdivision. The developer is indicating on the conceptual subdivision layout that a cul-de-sac is to be constructed at the end of Blue Tartan Road to prevent cut through traffic coming from Route 1 and accessing Duncan Road. Staff has received public comments from nearby residents requesting that the cut through traffic be prevented from accessing Duncan Road via Blue Tartan Road.

The impact on the public school system should be minimal based on the school system's Census information, which estimates 0.5 students per household, and at build out (three to five years in normal economic housing market conditions) this development would add 25 students to the school system with one-third attending elementary, one-third attending middle, and one-third attending high school. Dr. Maranzano indicated that this development would not over stress the school system's current operations.

Transportation Impacts

The impacts on the existing transportation network would warrant a 200-foot left hand turn lane on the southbound lane of Route 1 for making the left turn onto Frontage Road. Based on the turn lane analysis, no right hand turn lane would be required on the northbound lane of Route 1 for making the right turn onto Frontage Road. In addition, the VDOT Resident Engineer, Mr. Ray Varney, indicated that there are concerns with the intersection at Frontage Road and Blue Tartan Road in that at the intersection of the two curves sight distance is limited. VDOT did have additional concerns regarding the sight distances where the proposed subdivision streets intersect Blue Tartan Road there is a knoll in Blue Tartan Road that may limit sight distances for future residents entering Blue Tartan Road. Additionally, the conceptual layout of lots 26 through 30 and lots 37 through 42 should not front on Blue Tartan Road, but should face inward to the proposed development and front on a subdivision street, and the same can be said for lots 12 through 17. Mr. Varney indicated that "reducing the number of lots fronting on Blue Tartan Road should be a high priority". Mr. Varney also indicated that right-of-way should be dedicated along Blue Tartan to allow for the future improvement/widening of Blue Tartan Road when other properties are developed. The applicant will also be required to provide the proper radiuses for the cul-de-sacs needed to meet requirements for Public Safety and the School System as set forth within the Department of Transportation (VDOT) subdivision street design standards.

PROFFER STATEMENT

The applicant has submitted a proffer statement to the County. The applicant has offered a voluntary cash proffer of \$9,688.00 per lot, which shall be paid prior to the issuance of a building permit. The applicant will limit the number of lots within the proposed development to fifty (50) lots.

Staff Recommendation:

The Staff has reviewed the rezoning request and conceptual subdivision plan, and the applicant needs to further address some of the impacts of rezoning the property for development of a fifty (50) lot subdivision. The proposed subdivision development will further diversify the housing inventory of Dinwiddie County and will contribute to the residential density needed to support future commercial and service commercial development within the County. However, the developer needs to further address the impacts of the proposed rezoning and subdivision development plan.

The configuration and orientation of the proposed subdivision lots needs to be addressed to limit the number of lots fronting on Blue Tartan Road. There is no indication of the dedication of right-of-way on Blue Tartan Road for future road improvements, and no assurances for the left hand turn lane warranted on Route 1. Additionally, there are no assurances that a cul-de-sac will be constructed on Blue Tartan Road to prevent the flow of cut through traffic from Blue Tartan Road to Duncan Road. The housing types are not addressed as well as any subdivision amenities and a homeowner's association to handle community amenities, open space, and infrastructure.

Therefore, Staff's recommendation is to table the request until the impacts of the development can be further reviewed by staff and the Planning Commission.

Since this is a zoning matter, the standard statement regarding the Planning Commission's recommendation to the Board of Supervisors is set forth below:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that rezoning P-09-1 be recommended for (approval, approval with proffers OR disapproval) to the Board of Supervisors.

The Chairman asked the Commissioners if they had any questions for Mr. Bassett. He said since there are none the applicant could come forward and present what they have.

Brian Mitchell, representing the applicant, of Townes Site Engineering presented the following:

- Applicant is seeking to rezone the property from A-2 (3 acre lot minimum with 300' of road frontage) to R-1 (1.5 acre lot minimum for lots with well and septic) with the intention of not developing more than 50 lots on the 89 acres.
- R-1 district is composed of certain quiet, low density residential areas plus certain open areas where similar residential development appears likely to occur.

- This rezoning request is in keeping with the Comprehensive Plan which calls for this area as a Planned Growth Area.
- The average lot size is 1.78 acres
- The project is planned to have individual well and septic systems with public roads
- The plan is to build approximately 50 single family dwellings brick foundations
- The square footage of the dwellings will be in the 1800-2200 sq. ft range
- We submitted our rezoning application at the beginning of June and had a voluntary public input meeting prior to coming before this Planning Commission meeting. We also have had a number of meetings with public officials in reference to this case and here are some of the highlights of those meetings:

The Public Safety and Fire Director stated that the impact of this development to Fire/EMS will be as follows:

- Approximately 15 calls per year
- The Public Safety and Fire Marshall stated that they would require a 45' minimum edge of pavement radius cul-de-sac turn around if a street has over a 150' length to the dead end.
- Roadways would be required to be built to support the Fire Department apparatus.

The School System Superintendent, Dr. Charles Maranzano, stated that the impact of this development to Dinwiddie County Schools will be as follows:

- Dr. Maranzano stated that this type of development would likely yield the 0.5 students per unit that is typical for Dinwiddie County.
- Therefore at full buildout the proposed 50 lots would add 25 students to the school system.
- Dr. Maranzano offered that of the students that this development added to the school system that the split would likely be a third (1/3) to elementary, a third (1/3) to middle, and a third (1/3) to the high school and that currently Dinwiddie has space available at the secondary level but that the elementary schools are operating at capacity.
- Dr. Maranzano discussed that while all children added to the system are an impact that adding 8 students to the elementary school system over the buildout of this development is a relatively small impact and should not yield a significant stress on the Dinwiddie County school systems current operating/education conditions.

The VDOT Resident Engineer, Ray Varney, stated the following:

- VDOT said that no improvements would be required to the existing road infrastructure to accommodate this development.

Mr. Mitchell went on to say that the applicant has proffered to limit the total number of lots within the subject property to a maximum of 50 and that all roads would be designed and constructed to VDOT standards. He said the applicant has agreed to pay the full \$9,688 cash proffer per lot which would be a total of \$484,000 dollars. Mr. Mitchell said

that a community meeting was held on June 29, 2009 and here are some issues that were of utmost importance to the local residents:

- Traffic Generation – Residents feel the additional traffic will impact their quality of life. There is a good bit of cut through traffic from Duncan Road (currently being done illegally via the private lane, Merten Lane).
- Historic Preservation – Preservation of the Civil War breastworks located on the property
- Requested common area (by Board of Supervisor John Talmage)
- Overall Density – (residents thought the development was too dense)
- Assurance that the standard of the development would be maintained
- Traffic Generation – Developer is willing and a revised proffer has been submitted to eliminate the cut through traffic that is coming from Duncan Road (currently being done illegally via the private lane) by adding a cul-de-sac and plantings at the end of Blue Tartan Road
- Historic Preservation – Developer has met with the National Park Service and plans to install a trail access and reasonable signage/barriers for the Civil War fortifications and breast works located on the property. Developer has also added a revised proffer to place restrictions in the homeowners' association documents that will restrict development where the breastworks are located.
- Common Area – Developer is agreeable and a revised proffer has been added providing a half acre common area for the use and enjoyment of the community.
- The Developer is agreeable and a revised proffer has been added to establish a homeowners association to oversee the Common Area and provide continuity for the neighborhood

Mr. Mitchell went on to say that the applicant is not willing to decrease the proposed density. The area is a planned growth area and 1.5 acre lots are not out of keeping with the Comprehensive Plan for the County or other lot sizes in this area. He said the proposed development is in keeping with the Comprehensive Plan. He said the Developer has attempted to address many of area resident's concerns by modifying proffers to incorporate some of the items discussed and they hope that Dinwiddie County shares our vision of this development. He said this project will be a benefit to the county while providing needed housing to families wishing to locate in Dinwiddie County.

The Chairman asked the Commissioners if they had any questions for the applicant.

Mr. McCray asked if there was going to be curb and gutter. He also asked why the developer was against a cut through to Duncan Road. He asked if the developer is willing to put in writing that they are going to build 1800 to 2200 square foot homes. He asked if the homes were going to have sprinkler systems in them. He asked him if the School System Superintendant, when asked about how this development would impact the school system, considered all the other lots that have been approved in the county. He asked if the additional right-of-way was proffered.

Mr. Mitchell said it would not be curb and gutter it will be roadside ditch. He said the reason for no cut through is because when they meet with the community the cut through was a problem for them adding additional traffic from Duncan Road through a private lane to Blue Tartan and the community wanted the cut through eliminated. He said he would not have a problem with putting in writing the size of the homes. He said the sprinkler systems will be handled at the construction phase. He said when he conversated with the School System Superintendant they only talked about this development.

Mr. McCray asked Mr. Bassett what percentage of the homes must be done before they can start moving people in the homes of this development.

Mr. Bassett said 80 percent of the roads have to be fully paved before persons can move into there homes.

The Chairman said since there are no more questions of the applicant he is opening the public hearing portion of the case. He asked if there was anyone signed up to speak.

Jacqueline Scott – 6823 Blue Tartan Road – Petersburg VA said she wants the Commissioners to deny the rezoning because she would like to see the area remain A-2. She said if they are allowed to put these 50 houses up you will have about 100 more cars on a road that is already busy with traffic.

Melodie Dittman – 7015 Blue Tartan Road – Petersburg VA said she would not like to see 50 homes built on that road. She said 25 would be a lot better. She said she is not in support of this rezoning.

Richard Dittman – 7015 Blue Tartan Road – Petersburg VA said he is not sure what meeting the people proposing this rezoning attended, but they certainly have not addressed any of the issues that the citizens are concerned about. He said his biggest concern is about the traffic. He said it is already busy and dangerous and adding more vehicles does not help. He said he is not in support of the rezoning.

Deborah Johnson – 7301 Blue Tartan Road – Petersburg VA said her concern is the traffic and loud music that comes on their road. She said there have been numerous accidents on the road. She said she is not in support of the rezoning.

Sandra Johnson – 7301 Blue Tartan Road – Petersburg VA said her concern is like her sister's. She said there is just too much traffic as it is on the road. She said she is not in support of the rezoning.

Allison Tilley – 7101 Blue Tartan Road – Petersburg VA said she would like to address the traffic also. She said her property has one of the blind drive ways that you approach as you come around the curve. She said this poses a danger to her and her husband. She said it was at this curve that someone lost their life. She said she also has a problem with the size of the properties. She said she would like to see larger lots. She said she is concerned about the addition of fifty new wells being added.

Joanne Farmer – 7104 Blue Tartan Road – Petersburg VA said she would like to see the size of the lots larger. She said this would help greatly with the traffic on Blue Tartan Road. She said the applicant does not seem to be willing to change so she is counting on the Planning Commissioners to help with this rezoning.

Cynthia Bennett – 7105 Blue Tartan Road – Petersburg VA said she agrees with everyone about the traffic, which is terrible. She said she does believe the school system will be affected in some way with these added children. She said she would like to see a compromise of some sort from the applicant.

Rex Bennett – 7105 Blue Tartan Road – Petersburg VA said he is a retired fire fighter and a retired certified safety professional. He said he used to evaluate subdivisions for insurance companies making sure the ingress and egress rate was set correctly. He said this subdivision based on his information would have an ISO rating of 10. He said that is the worst ISO rating a subdivision could have. He said at his home his ISO rating is 9. He said this subdivision would cause his and other insurance rates to go up.

Patrick Olienyk – 6125 Boydton Plank Road – Dinwiddie VA, who is Director of operations at the Pamplin Historical Park, said he had a couple of things to say. He said he was glad to hear that the earthworks would be protected. He said he wanted the Commissioners to consider future traffic that would be using Duncan Road. He said getting in and out at present is difficult and as the County further develops it will only get worst.

Daniel Davis – 7390 Blue Tartan Road – Petersburg VA said his concerns are pretty much like those who have spoken already. He said he did want to make a comment about the wells. He said he has not seen a study reflecting the affect on existing wells with the addition of fifty new ones. He said in other counties they are going to deeper wells and he would like to know what the affect would be.

Carl Calhoun – 7400 Blue Tartan Road – Petersburg VA said he is not opposed to a subdivision; he would just like to see bigger lots so there will be less traffic.

Brenda Sexton – 7617 Blue Tartan Road – Petersburg VA said she has the same concerns as everyone else who spoke today. She said she is opposed to the subdivision coming in the area.

Tina Lopez – 6208 Duncan Road – Petersburg VA said she agrees with everyone else who has spoken today. She said she doesn't believe that .5 children per household is accurate nor is 1 car per household accurate. She said she has two kids and her neighbor has two kids so that kills that theory of .5 children per household right there.

Franklin Zitta – 24019 Merten Lane – Petersburg VA said he doesn't feel that it is necessary for him to speak because most of the residents on the road have addressed the issue of density. He said he is not opposed to the applicant developing his property he would just like to see less density.

The Chairman said since there is no one else signed up to speak he was closing the Public Comment portion of the case. He asked the applicant if he wanted to respond to the citizens' concerns.

Mr. Mitchell said the wells dug in the subdivision will be deep water wells. He said they operate on a different aquifer than the shallow wells that are present with most of the homes on Blue Tartan Road. He said he certainly understands the traffic issues, but to his understanding it is not the homeowners on Blue Tartan Road it is the people driving through. He said that is why the cul-de-sac was suggested to the homeowners. He said he understands the citizens wanting less density, but the area is in the Planning Growth Area and it allows for the density he has presented. He said if the Commissioners have some thoughts in their open discussion on these matters he would listen.

The Chairman asked the Commissioners if they had any more questions of the applicant.

Mr. Cunningham asked Mr. Mitchell if there is any land available so that Blue Tartan Road could be extended to Duncan Road and he asked if he would be willing to put in writing that the wells will be deep wells.

Mr. Mitchell said the applicant does not own any properties on the other side of the railroad bed to make something like that happen and he as far as the deep wells they would not have a problem with putting it in writing.

The Chairman said since there no more questions for the applicant he was opening it up for the Commissioners comment or make a motion.

Mr. Lee said he has been on the Planning Commission since 1994 and he has seen a lot of subdivisions come to the County. He said if the citizen living on Blue Tartan Road would think about what they have there, they would see that people would want to come to that area to live. He said it is a desirable place to live. He said what he sees is a golden opportunity to design a subdivision that really fits the land in that area. He said he walked a piece of property with Will Green where the earthworks are and this subdivision could have been designed to emphasize that Civil War history and heritage. He said because you are creating a community with the fifty homes, some open space could be developed for kids to play in. He said he is not opposed to the property being developed he is disappointed that something a little better has not been presented. He said he would like to see another attempt at a design that would put a community on the property instead of putting fifty lots. He said he would like to see the possibility of a gate being put up at the cul-de-sac and he would like to see something addressing where Blue Tartan Road, Frontage Road and Route 1 intersect.

Dr. Moore said we have an opportunity to put an imprint on Dinwiddie County that we will be proud of. He said he agrees with Mr. Lee and believes the County can make a jewel out of a piece of property as compared to just another subdivision. He said he has been down the road a variety of times and there are difficulties with Frontage Road and Blue Tartan Road at Route 1. He said there has to be a safety issue with that intersection whether it has

been addressed or not. He conclude by saying the applicant needs to figure out a way to make this subdivision something that he would want to live in verses just homes to sell.

Ms. Hamilton said she would like to see more imagination from the developer instead of all the homes being right on top of each other. She said maybe imagination is not the right word, but it should be something different than what has been presented. She said the development should be something that a person would be proud to buy a lot and build a home in.

Mr. McCray said he walked the earthworks and agrees with Mr. Lee about incorporating them in with the subdivision. He said it would make the subdivision something that people would want to live in. He said he cannot support this rezoning without the second egress. He said he understands that the developer has some kind of limited budget.

Mr. Tucker said he remembers that somewhere close to this area we were looking at a Historic Overlay District around Pamplin Park. He said the idea was to make that area pleasant and pleasing to the eye and he does not believe these shot gun lots are going to be attractive to that Overlay District. He said an Overlay District brings an atmosphere to the County. He said the lot size that the applicant has presented tonight and the statement of lot size being none debatable creates an issue for him. He said if this case came to a vote tonight he could not support it.

Mr. Hayes said an idea came to VDOT's mind when they were repaving Blue Tartan Road that Duncan Road was only a short distance away. He said the thought was if Blue Tartan Road was realigned at the end with Duncan Road it could provide a better access out to Route 1 getting people to Highway 85. He said the day will come when Blue Tartan will need to be a through road for the safety and convenience of the citizens of Dinwiddie County. He said he would like to see the earthworks preserved as well. He said he believes the applicant has presented accurately the number of vehicle trips and the number of children per household. He said by offering the cash proffer amount required the applicant has met that impact requirement. He said on the density, for the record, he voted for the Comprehensive Plan that does reflect this density and the applicant is exactly right in his presentation. He said one thing he did not like, that was not documented, was the timing of the plan. He said the applicant showed a great picture identifying all the half acre lots in the area, but to him it looks like leap frogging. He said he would like to see the build out timed so that the places closer to town get more densely developed first as opposed to leap frogging the length of the Blue Tartan Road.

Mr. Mitchell said he certainly appreciates the Commissioners' thoughts and from the stand point of the applicant it sounds like they need to go back to the drawing board and discuss some of the issues that were mentioned tonight. Mr. Mitchell asked that the Planning Commission defer the case.

Mr. Hayes asked Mr. Bassett to explain what it means to the applicant if the Planning Commission and not the applicant requests a deferral.

Mr. Bassett said if the Planning Commission defers the case it is on the clock for 100 days, which means the applicant has until the September Planning Commission meeting to make a decision.

Mr. Cunningham made a motion to table P-09-1 until the August 12th 2009 Planning Commission meeting. It was seconded by Mr. Lee with Mr. Tucker, Dr. Moore, Mr. Lee, Ms. Hamilton, Mr. McCray, Mr. Cunningham and Mr. Hayes voting "AYE"

Planning Staff Report

File #:	P-09-2
Applicant:	Southside Electric Cooperative
Rezoning Request:	Residential, Rural, RR-1 & Residential, Conservative, R-R to Industrial, Limited, M-1
Property Location:	South side of Lakeland Road
Tax Map Parcel #'s:	Portion of 2-4A, 2-4B, 2-5
Property Size:	5.031 acres
Magisterial District:	Namozine District
Planning Commission Mtg.:	July 8, 2009

CASE OVERVIEW

The applicant, Southside Electric Cooperative, is requesting to rezone with proffers property containing approximately 5.0 acres from Residential, Rural, RR-1 and Residential, Conservative, R-R to Industrial, Limited, M-1 in order to construct and operate a transformer substation. The Industrial, Limited, M-1 zoning classification allows for utility transformer substations pursuant to the Zoning Ordinance allowed density. The property is located on the south side of Lakeland Road which is northeast of Sutherland Road, Church Road, Virginia 23833, and the property is further defined as a portion of Tax Map Parcels 2-4A, 2-4B, and 2-5. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Planned Growth Area, which recommends public service facility development for this general area.

ATTACHMENTS

Attachment A - Rezoning Application
Attachment B - Statement of Proffers

LAND USE/ZONING ANALYSIS

The properties in the immediate area surrounding this land parcel include low density single-family residential land uses, agricultural, and open space land uses. The surrounding residential property is zoned R-R and RR-1. The RR-1 zoned properties are a part of the Chesdin Point subdivision that is in the recently approved construction design phase.

The Industrial, Limited, M-1, zoning district is for specific industrial related uses to locate in areas adjacent to residentially zoned areas, and the proposed transformer substation is a compatible use for this low density residential area. The transformer substation is needed to provide for new and future electricity demand and load requirements within this portion of the County that include new residential development and the new Dinwiddie High School.

The subject property is located within the Planned Growth Area as defined by the Comprehensive Land Use Plan. This portion of the Planned Growth Area is expected to accommodate public service facilities needed to provide the necessary infrastructure to support limited development within this general area of the County.

OVERVIEW OF IMPACTS

Public Utilities, School System, Public Safety, & Land Use Impacts

The impacts on the subject property are minimal. The proposed rezoning to M-1, Industrial, Limited, with proffers limits the permitted use of the subject property to the transfer substation only. There is no impact to the public utility system and the new substation will enhance the County's power grid. There is no impact on the public school system with the addition of the substation providing needed power to serve the schools. The potential impact on public safety will not be further impacted with the rezoning of the property and addition of the substation.

Transportation Impacts

The impacts on the existing transportation network are negligible with the only trips generated by the proposed substation coming from the facility maintenance visits. The subject property has adequate access to Sutherland Road via Lakeland Road. The road system in this particular area is adequate to handle the limited traffic generated by the proposed use and when the Chesdin Point subdivision road network is constructed access to Lakeland Road will be improved.

PROFFER STATEMENT

The applicant, Southside Electric Cooperative, did proffer to limit the use of the subject property to construct, operate, and maintain the electrical utility system comprised of transmission lines, distribution lines, and substations including attendant poles, guy wires, transformers, and other related structures, equipment, and appurtenances.

Staff Recommendation:

The planning staff has reviewed the rezoning request and is satisfied that the applicant has addressed the impacts of rezoning the subject property.

Staff recommends APPROVAL WITH PROFFERS of the request to rezone the subject property based on:

1. The zoning classification requested, M-1, Industrial, Limited, with the proffer limiting the use of the property to the proposed substation is compatible with the surrounding zoning pattern. In addition, the subject property is separated from the planned subdivision, Chesdin Point, by Lakeland Road and the configuration of the subject property allows for the Ordinance required fifty foot buffer around the perimeter of the facility utilizing a portion of the existing vegetation thereby screening it from the surrounding properties.;
2. The requested zoning classification with the proffered use limitation conforms with the underlying uses outlined in the Planned Growth Area in the Comprehensive Land Use Plan for this general area.

PLANNING COMMISSION RECOMMENDATION

Since this is a zoning matter, the standard statement regarding the Planning Commission's recommendation on this zoning matter must be read. In order to assist, staff prepared the following statement:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that rezoning P-09-2 be recommended for (approval, approval with proffers, OR disapproval) to the Board of Supervisors.

The Chairman asked the Commissioners if they had any questions for Mr. Bassett.

Mr. McCray asked if the substation would be going directly under the power line.

Mr. Bassett said the substation would not be going directly under the power line, but it would definitely be directly adjacent to it.

The Chairman said since there are no more questions for Mr. Bassett he would like for the applicant to come forward and present anything they would have at this time.

George Phelps, the manager of engineering and operating services for the Cooperative, said with the application they tried to give the Commissioners as much information about the project. He said every two years they go through a thorough planning process for reviewing their system based on requirements, capacity and reliability. He said going through that process it was identified that they needed to apply some additional capacity and address some reliability issues they had in that portion of Dinwiddie County, Chesterfield County and Amelia County. He said the station that currently serves the members of Dinwiddie County in that area is about at 90 percent capacity. He said they determined that now is the time to look at addressing that need. He concluded by saying the request is solely for a distribution station and the appropriate inbound transmissions and outgoing distribution to serve or allow us to interconnect with the existing system.

Mr. Cunningham asked how many pieces of equipment they will have with oil fill in them.

Mr. Phelps said they will have four oil fill pieces of equipment of any magnitude inside the fence and there will be three outside the fence.

Mr. Hayes asked what substation serves that area at present.

Mr. Phelps said currently that area is serviced off of Gill substation, which is just off of River Road in Chesterfield County and that substation is at 90 percent capacity.

Ms Hamilton asked how long it will take to build that station.

Mr. Phelps said a station this size typically takes six to eight months.

Mr. McCray asked how much does the substation that feeds the new high school allow for and are there any other substations feeding off of the substation. Mr. McCray also asked how the 90 percent load of the Gill substation is broken out.

Mr. Phelps said the new high school is serviced off of the Center Star substation. He said what they had to do before the new high school was built was build a substation in Nottaway County and a load was transferred from the Center Star station to the Nottaway County Station. He said that gave them the cushion to allow the new high school to be brought on line. He said the Center Star station has a capacity of 10 MBA and the new high school uses about 3 MBA of that station. He said the new substation will allow them to transfer additional loads off of Center Star, while leaving the high school on that station causing the life of that station to be extended. He said in addition it allows them to have some flexibility if they were to lose the Center Star station. He said to date Gill substation services 3000 members and 865 of them are in Dinwiddie County which, comes up to about one third.

The Chairman said since there are no more questions for the applicant he was opening the public hearing portion of the case. He asked if there was anyone signed up to speak. He said since there is no one signed up to speak he was closing the Public Comment portion of the case. He asked the Commissioners if they had any more comments involving the case.

Dr. Moore made a motion and read the following BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that rezoning P-09-2 be recommended for approval with proffers to the Board of Supervisors. It was seconded by Ms. Hamilton with Dr. Moore, Mr. Lee, Mr. Tucker, Mr. McCray, Ms. Hamilton, Mr. Cunningham and Mr. Hayes voting "Aye" P-09-2 was approved.

Planning Staff Report

File #: C-09-1

Request: Conditional Use Permit: Telecommunications Tower
Applicant: New Cingular Wireless PCS, LLC (t/a AT&T)
Property Address: 8312 Halifax Road Petersburg, VA 23805
Tax Map Parcel #: 36-3A1
Acreage: Lease area 2025 square feet
Magisterial District: Rohoic District
Existing Zoning: A-2, Agricultural, General
Public Hearing Date: July 8, 2009

APPLICATION OVERVIEW

The applicant, New Cingular Wireless PCS, LLC (t/a AT&T), through its agent, Lisa M. Murphy, is seeking a conditional use permit to allow the construction and operation of a 199-foot unlit monopole wireless telecommunications tower and related equipment to satisfy a coverage gap on Halifax Road and the surrounding area including the campus of Richard Bland College. The property is located at 8312 Halifax Road, Petersburg, Virginia 23805. The property is designated as Tax Map Parcel 36-3A1 and is zoned Agricultural, General, A-2 which allows such use upon receiving a conditional use permit. The County Comprehensive Land Use Plan places this property within the Planned Growth Area which recommends public service facility development for this general area.

INFORMATION INCLUDED

The following information is included for your review:

- Conditional Use Permit Application (**See page 2 in black book**)
- Attachment A – Applicant’s Supporting Information (**See Page 1, 3-17**)
- Attachment B – County’s Telecommunication Consultant’s Technical Review

CASE SUMMARY

The applicant needs to locate a tower in this area of the County to fill in a gap in their existing coverage area along Halifax Road and to provide coverage for the Richard Bland College campus and surrounding area. The possibility of co-location on the existing State Police tower was pursued by the applicant, and the State does not permit co-locations on this 384-foot communications tower. It is apparent that a gap in adequate coverage exists and the addition of the proposed tower will fill in any “dead” areas enhancing the coverage area along Halifax Road and Johnson Road.

ZONING AND LAND USE ANALYSIS

The property under review is designated by the Comprehensive Land Use Plan as Planned Growth Area. As such, the area is expected to accommodate future public service facility development for this general area.

The properties around this land parcel have mixed uses which include commercial (the veterinary clinic which is a conditional use, the State Police tower, and Richard Bland College), open space, agriculture, and residential. Additionally, the Collier Railroad Yard is located to the east and the properties surrounding the tower site are zoned Agricultural, General, A-2.

Section 22-71 (2) (45) of the Dinwiddie County Zoning Code allows for the location of “communication towers with stations” within the Agricultural, General, A-2 district provided that a conditional use permit is approved.

Additionally, Article IX of Chapter 22 of the Code of Dinwiddie, Virginia sets forth guidelines for the setting of telecommunication antennae and towers. Section 22-269 outlines the purpose and intent of the article, and within this section the goals of the ordinance are set forth. The goals are as follows:

- a. encourage the location of antennae and towers in areas where the adverse impact on the community is minimal;
- b. to accommodate wireless telecommunication services to county residents, businesses, and travelers;
- c. strongly encourages the co-location of telecommunication equipment on existing towers;
- d. maximize the use of existing structures;
- e. make available public property to facilitate the deployment of wireless telecommunication facilities;
- f. minimize adverse visual effects of wireless telecommunication facilities through careful siting and design and;
- g. minimize adverse impacts on the natural, scenic, environmental, historic, cultural, and recreational resources of the county.

As previously noted the applicant explored the opportunities for co-locating on the existing State Police tower, but co-locating on the tower is not permitted by the State Police. The applicant’s plan does comply with all federal, state, and local regulations regarding providing future co-location of equipment on the existing telecommunications tower and equipment site.

It is the applicant’s intent to develop their telecommunication network within the framework established by the above stated goals. Additionally, there will be no impact on the subject and adjacent properties concerning by-right agricultural and forestal uses.

As per the Zoning Ordinance, Article IX, Section 22-274 (3) Setback requirements, “Towers must be setback a distance equal to 200% of the height of the antenna or tower to the nearest residential structure and in no case less than 400 feet”. The distance from the proposed tower to the nearest residential structure is approximately 800 feet. In addition, Section 22-274 (4) requires that “All antenna support structures must be setback 110% of the height of the structure from all property lines”. The proposed location of the tower does not meet this setback requirement; therefore, a setback waiver is needed to allow the

tower to locate closer to the front (eastern), side (southern), and rear (western) property lines than allowed by Section 22-274 (4). The existing State Police tower and veterinary clinic building are both located closer to the road than the proposed tower would be, and the proposed tower would comply with and exceeds the setback requirements for an accessory structure in the A-2, Agricultural, General Zoning District.

IMPACTS

Public Utilities, School System, Environmental & Historic Recourses, & Surrounding Properties

The potential impacts on the subject property are minimal. Electricity is the only utility needed to develop the site for a telecommunications tower. There is no impact on the public school system, and there is no adverse effect on environmental or historic resources. Looking southward from Fort Wadsworth the tower will be slightly visible, and looking west from Richard Bland College the tower will not be visible above the existing tree cover. Furthermore, letters of support were submitted from the owners of the adjacent Paws and Claws Veterinary Clinic, from the developers of the Fort Dushane residential subdivision, and from the President of Richard Bland College. Finally, there is no hazard to air space navigation.

The tower will be designed to collapse upon itself once wind loads exceed the required limits, and the tower does require monthly site maintenance visits.

COUNTY CONSULTANT'S RECOMMENDATION

The County's telecommunications consultant, Atlantic Technology Consultants, Inc., has reviewed the conditional use permit application and is satisfied that the applicant has addressed the impacts of the tower on the subject property and has recommended approval of the request subject to granting the property line setback waiver.

STAFF RECOMMENDATION

The Staff has reviewed the conditional use permit and finds that the applicant has successfully addressed the impacts of the telecommunication tower.

1. The impact of the proposed tower will be minimal given that the proposed tower will not have a direct effect on public utilities, the transportation network, public safety, schools, and water quality.
2. The subject property already houses a commercial building and the State Police communications tower, and locating the 199-foot unlit monopole tower will not adversely impact the surrounding land uses and will allow for the clustering of communications towers thereby reducing the visual impact of communications towers within this general area.

The proposed tower will improve the service coverage area for citizens traveling along Halifax Road and within the general area.

Therefore, staff recommends APPROVAL of the request for a conditional use permit to construct the subject telecommunications tower based on the following conditions:

1. The applicant shall limit the height of the tower to 199 feet as stated in the application.
2. If requested by the county, the applicant will provide space to Dinwiddie County, at no cost to the county, to co-locate communication equipment on the proposed tower.
3. Before obtaining a building permit, the applicant shall post a bond equivalent to the cost of removal of the tower with the Dinwiddie County Planning Department.
4. The tower shall be engineered to accommodate a minimum of an additional four (4) service provider antennae.
5. The applicant shall install the landscaping around the base of the tower facility as shown on the site plan submitted to the County.
6. The tower will be constructed to meet the setbacks as shown on sheet number C-2 of the site plan and titled "Detailed Site Plan".
7. The conditional use permit must be reviewed at least every two (2) years for compliance with stated conditions.
8. The applicant shall maintain compliance with all federal, state, and county rules and regulations related to the tower use.

Since this is a zoning matter, the standard statement regarding action on this zoning request must be read. In order to assist, the motion statement reads:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A)(7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit C-09-1 be recommended for (approval OR disapproval) with conditions and with a waiver from the setback requirements of Zoning Ordinance Section 22-274 (4) by the Board of Supervisors.

The Chairman asked the Commissioners if they had any questions for Mr. Bassett.

Mr. McCray asked if the Conditional Use Permits are being review every two years and if Dinwiddie County is still being allowed to co-locate on cell towers without any charge. Mr. Bassett said Conditional Use Permits are being reviewed every two years. He said in the past it was the Zoning Administrator and the Code Compliance Officer. He said since the County does not have a Zoning Administrator he has been fulfilling that task. He also commented that the County is being allowed to co-locate on cell towers with no charge.

The Chairman said since there are no more questions for Mr. Bassett he would like for the applicant to come forward and present anything they would have at this time.

Lisa Murphy – An Attorney for Leclair Ryan representing New Cingular Wireless PCS LLC which trades as AT&T – 283 Constitution Drive, Ste 525, Virginia Beach VA said it is interesting that we are segued between a highly intense rezoning use and a power substation which she considers to essentially be another utility. She said some interesting

facts and data that goes to the capacity issue which the substation folks were talking about has to do with the recession. It has accelerated the move in households in residential areas to use wireless only phones. So now 20 percent of one in 5 Americans have done away with their land line. She said in addition to that 15 percent of those who have both lines only answer the wireless one at home. She said the CBC did a report and determined that one in three households are basically reachable only on wireless phones and over fifty percent of the 911 calls are made from wireless phones. She said it used to be something nice to have a wireless phone in your car when traveling on a major road but now people expect to have it in their homes and for it to be reliable. She said the tower would benefit the citizens with good in building and in vehicle reliable service. She said this tower would enhance the County's wireless grid. She said there is no cost to the County for the installation of the tower. She said since the consultant has recommended approval and staff has recommended approval with conditions, she respectfully requests approval of this application. She said they would be more than happy to modify the one condition granting the County right of first refusal to co-locate on the tower.

The Chairman asked the Commissioners if they had any questions for the applicant's representative.

Mr. Tucker asked what the wind speed resistance was for the tower.

Ms. Murphy said it varies from jurisdiction to jurisdiction but in the packet there is some information that notes the wind load for Dinwiddie County being 110 miles per hour.

Mr. McCray asked the applicant if there was going to be a generator at this site.

Ms. Murphy said space was provided for a generator on the pad, but not every site has a generator. She said what typically happens in a hurricane area is they will engineer and design a pad so that if one has to be deployed then the site is equipped for it.

The Chairman said since there are no more questions for Ms. Murphy he would like for the County's consultant to come forward and present what he has at this time.

Mr. George Condyles – President & COO of Atlantic Technology Consultants – 10197 Maple Leaf Court, Ashland VA said he has been the County's consultant for at least six years. He said he would answer the questions each commissioner had. He said the first concerns the two year review of the County's Cell Towers. He said new builds and co-locations with all ancillary equipment that goes on the sites are audited, with his participation, every two years and a database is kept with the results. He said the second concerns the County's antenna on the State Police Tower, which the County is on and there is no need for them to be on the AT& T, tower. He said the reason the State Police is reserving the rest of the capacity on their tower has to do with them adding three microwave dishes as a part of the Stars Project. He said this benefits the County because we will have a microwave link into the entire State's radio system with a talk route assigned to Dinwiddie for all fire rescue and public safety entities. He said the third concerns the wind speed for the tower, which is 100 miles per hour 3 second gust with one

inch radial ice. He said the fourth concerns the setback position of the tower and he agrees with the applicant that a variance is needed for the setback. He said the fifth concerns the tower collapsing and he agrees with the applicant that if it did it would collapse at the fifty percent level of height of the tower, which is at the 100 foot level and bend right over. He said the sixth concerns the site plans for the tower and they should be labeled the generator pad as "temporary or portable generator site." He said that answers all of the Commissioners' questions, but he would like to talk a little about the water tower on the Campus of Richard Bland college. He said the tank was not built for housing a wireless communication antenna. He said they have discovered, by checking with other localities that have towers similar to theirs, that it would not be cost effective to retrofit the tower for wireless antenna use. He said it does however have two VHS antennas, which are there for the Campus Police. He concluded by saying he has studied and confirmed all parts of the applicant's application and he agrees with their data. He said therefore he feels the application should be approved.

Mr. McCray asked the Mr. Condyles to explain what the colors yellow, green and blue were on the attachment he had in his packet.

Mr. Condyles said green represents anything within the building and blue and yellow represents anything outside the building.

Mr. McCray asked Mr. Condyles what is trying to be accomplish with the building of this new tower.

Mr. Condyles said this tower has a dual purpose. It has the coverage of land mobile radio, which is outside the building and they are doing their best to get better coverage inside the building. He said eventually Richard Bland will have to put what is called "in building repeaters" in their building to get better coverage inside if there is enough demand.

Mr. McCray said it looks to him that the water tower does the same thing that the new tower would do and he does not see the need for it according to the attachments he has. He said if we are trying to get Richard Bland College and cover the inside of buildings we are missing the mark with the new tower proposed for Halifax Road.

Mr. Condyles said the attachments are showing a computer generated model of the applicant's expectations for coverage. He said in order to get the precise coverage you will need a spectrum analyzer. He said this device measures the exact signal strength being received by a cell phone.

The Chairman said since there are no more questions from the Commissioners he was opening the public hearing portion of the case. He asked if there was anyone signed up to speak.

Daniel Blaha – 2324 Squirrel Level Road, Petersburg VA said he is the property owner of this parcel and he would like for the Commissioners to approve this request for a Conditional Use Permit.

He said since there is no one else signed up to speak he was closing the Public Comment portion of the case. He asked the Commissioners if they had any more comments involving the case.

Dr. Moore made a motion and read the following: BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A)(7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit C-09-1 be recommended for approval with conditions and with a waiver from the setback requirements of Zoning Ordinance Section 22-274 (4) to the Board of Supervisors. It was seconded by Mr. Tucker with Ms. Hamilton, Dr. Moore, Mr. Tucker, Mr. Lee, Mr. Cunningham, Mr. Hayes voting "AYE" and Mr. McCray voting "No" C-09-1 was approved.

IN RE: OLD BUSINESS

Mr. Bassett mentioned that the Bird Ordinance case would probably come back to the Planning Commission at their August 12, 2009 meeting.

IN RE: NEW BUSINESS

Mr. Bassett mentioned that a Special Exception case may come before this Commission in August.

IN RE: COMMISSIONER'S COMMENTS

Mr. Tucker said a citizen asked him if he heard whether or not high speed internet would be coming through Dewitt.

Mr. Bassett told Mr. Tucker that to answer his question he would need to talk to someone in the County's IT (Information Technology) Department.

Mr. Cunningham said he appreciates everybody's effort in the subdivision case that was before us tonight. He said he believes when it is brought back to the Commission it will be something worth seeing.

Mr. McCray said he also appreciates all the information brought to him concerning these cases tonight.

Dr. Moore said we have talked about cluster subdivision in the past and this could possibly be one of those. He said with that said the applicant has an opportunity to come back and showcase this piece of land with that in mind and it is up to us to keep his feet to the fire.

Ms Hamilton said she just wished that the applicant, concerning the subdivision, would have been a little more imaginative with what he was proposing.

Mr. Lee said what disappoints him so much is that we have a developer that has the land and the where-with-all to do a commercial development all the way down to residential development in probably one of the hottest spots in Dinwiddie County. Instead he brings us a proposal like the one tonight. He then asked Mr. Bassett what is the status of the committee for the overlay district involving Pamplin Park.

Mr. Bassett said it is still on staff's work program and after conferring with the Board of Supervisors they still want staff to continue to pursue it.

Mr. Hayes said he had a couple of things with the first being a reminder for staff to send the Agenda to Commissioners informing them of upcoming the Land Development Committee meetings. He said the second thing is he would like for the Commissioners to give some consideration toward having the briefer cases appear on the Agenda ahead of the longer cases giving those citizens the opportunity leave and not stick around. He said thirdly he agrees with Mr. Cunningham about the diversity of Planning Commissioners' experience on this board. He said he likes it and it does make a big difference when decisions have to be made.

IN RE: ADJOURNMENT

There being no further business Dr. Moore made a motion to adjourn the meeting and Mr. Lee seconded it with all members voting "Aye" the meeting adjourned at 11:16 p.m.

Respectfully submitted,

Mark Bassett
Planning Director

Signed: _____
Planning Commission Chairman

Dated: _____