

**King & Queen County
Planning Commission Minutes
October 7, 2019**

The King & Queen County Planning Commission met on Monday, October 7, 2019, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the General District Courtroom for their regular monthly meeting.

Planning Commission Members Present:

Sheila Morton
Milton Watkins
James Guess
Hunter Richardson
Robert Harvey

David Campbell
William Herrin
Barbara Hudgins
Robert Coleman, Jr.
James Burns

Also in Attendance:

Donna E. Sprouse, Director of Community Development
Thomas J. Swartzwelder, County Attorney

Call to Order

Chairman, Mr. Richardson called the meeting to order.

Roll Call/Determination of Quorum

Mr. Campbell took roll call and determined that a quorum was present.

**Approval of Minutes
September 3, 2019**

After review of the minutes, a motion was made by Mrs. Hudgins to accept the minutes as written, seconded by Mr. Watkins.

Voting For: Watkins, Morton, Guess, Campbell, Herrin, Hudgins, Richardson, Harvey
Voting Against: None
Abstain: Coleman & Burns

Citizens Comment Period

Mr. Richardson opened the floor for citizens comment period. Hearing no comments, citizens comment period was closed.

New Business

A. CUP19-02 & SP19-07 – Cellco Partnership’s d.b.a. Verizon Wireless *(set public hearing)*

Mr. Richardson opened the public hearing for CUP19-02 & S SP19-07 Cellco Partnership’s d.b.a. Verizon Wireless. Mr. Richardson asked staff to present the request and staff report.

Mrs. Sprouse noted that the Planning and Zoning Department received an application dated August 30, 2019 from Stuart Squire on behalf of Cellco Partnership d.b.a. Verizon Wireless, requesting approval of a Conditional Use and Level 3 Site Plan to allow the construction of a new 305’ tall self-supporting wireless communications tower (including the 5 foot lightning rod) and a 75’ x 75’ fenced compound area for the tower and associated equipment in a 100’ x 100’ leased area.

The property is located on State Route 14, The Trail, in the Stevensville Magisterial District, County Tax Map Parcel No. 1624-51L-430, located at the intersection of Route 14, The Trail and Route 631, Poor House Lane. The property is zoned Agricultural. Other surrounding land uses include agricultural and residential uses.

Mrs. Sprouse stated that Codes Compliance Officer, David McIntire, had received the site plan for review and noted that the project will be required to have a land disturbance permit as well as a construction entrance. They must install silt fence around the perimeter of the lot during construction which may be removed once vegetation is established. There is no RPA within the project area. The entrance/drive shall be graveled and maintained during and after construction and must be installed according the requirements of VDOT.

Mrs. Sprouse added that George “Bill” Sanford with the King & Queen County Health Department noted that there were no existing files found for septic and well on the subject property, nor is there a well or septic system proposed for this project. She further noted that Scott Gagnon with Virginia Department of Transportation noted that his office has reviewed the site plan of development and that all items appear to be satisfactory.

Mrs. Sprouse noted that based on the site plan requirements noted in Article 14 and the communication tower requirements noted in Article 8 of the King & Queen County Zoning Ordinance has been met, approval is recommended.

Staff and applicant recommended conditions are as follows:

CUP19-02

305 Foot Communications Tower

Route 14, The Trail, and Route 631, Poor House Lane

Parcel #1624-51L-430

Staff Recommended Conditions

- 1. The communications tower and related facilities shall be located within the lease area depicted on the Level 3 Site Plan, entitled “Stevensville Verizon New Build The Trail (ST. RT. 14), Stevensville, VA 23161”, prepared by NB&C Engineering Services, LLC, approved in connection with this conditional use permit.*
- 2. A four (4) foot strip of Leland cypress trees six (6) feet in height at planting will be planted and maintained around the exterior of the security fence throughout the term of the lease and/or completion of tower decommission, whichever is longer.*

3. *The communications tower will be a self-supporting lattice tower with a galvanized steel finish, which will be lit in accordance with FAA requirements, and may be painted a neutral color, subject to any applicable standards of the FAA.*
4. *The communications tower will be designed to accommodate a total of four (4) users and to collapse within the lot lines of the subject property. Prior to the issuance of a building permit, the applicant will submit a report from a registered structural or civil engineer indicating the tower height, the total anticipated capacity of the structure and the area of potential impact in the event of a structural failure.*
5. *Subject to federal law, the height of the communications tower, including the lightning rod, will not exceed 305 feet above ground level.*
6. *The communications tower shall be enclosed by a nine (9) foot security fence with a one (1) foot of anti-climbing device for a total height of ten (10) feet.*
7. *No advertising signage will be installed on the tower. Signage will be limited to warning signs or other signage associated with the operation of the tower and related antennas and equipment.*
8. *Any antenna or tower that is not operated for a continuous period of 6 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such removal requirement. Removal includes the removal of the tower, any and all footers; underground cables and support buildings. The buildings may remain with owner's approval. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed per this section, the county may require the landowner to have it removed.*

Mr. Richardson opened the floor for public comments and asked if the applicant wished to speak.

Mrs. Lisa Murphy, counsel representing Verizon Wireless stated that this proposal is part of a bigger investment that Verizon is committed to making in King & Queen County. She stated that should this tower be constructed, they intend to co-locate on the King & Queen Courthouse tower and construct a new tower off of Buena Vista Road, if approved. Mrs. Murphy noted that per their illustrations in their packet, as well as the map as provided by staff for public review, these areas will fill in gaps where there is little to no cell phone coverage.

Mr. Eugene Rivara, an adjacent property owner who is constructing a new home presently, stated that he is in support of the project but had questions regarding grounding the tower and if the tower will be fenced after construction.

Mr. Shawn Smith, an adjacent property owner, stated that this tower is much needed in the Stevensville area, that areas from Cumnor to Walkerton have no coverage, and you are guaranteed to drop a call up to three times when traveling in that area. He noted that coverage is so bad that you have to sit in a particular area of his father's home near a window to make a phone call.

Mrs. Lisa Murphy approached once again wishing to respond to the comments made. She noted that the tower will have a 9 foot security fence with 1' of anti-climbing device for a total of a 10' fence. She also noted that grounding will take place and all engineering details regarding its design is included in the site plan.

Hearing no further comments, public comment and the public hearing was closed.

Mr. Richardson asked if the Commission had any comments or questions.

Mr. Coleman noted that as a resident of the Stevensville district, he agrees that this tower is much needed in the Stevensville area.

A motion was made by Mrs. Morton to recommend approval of CUP19-02 with staff recommended conditions & SP19-07 as presented by staff, seconded by Mr. Coleman.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Richardson, Hudgins, Herrin, Colman, Burns

Voting Against: None

Abstain: None

B. CUP19-03 & SP19-08 – Cellco Partnership’s d.b.a. Verizon Wireless (*public hearing*)

Mr. Richardson opened the public hearing for CUP19-03 & SP19-08 Cellco Partnership’s d.b.a. Verizon Wireless. Mr. Richardson asked staff to present the request and staff report.

Mrs. Sprouse noted that the Planning and Zoning Department received an application dated August 30, 2019 from Jeff Holland, Network Building & Consulting, LLC on behalf of Cellco Partnership d.b.a. Verizon Wireless, requesting approval of a Conditional Use and Level 3 Site Plan to allow the construction of a new 199’ tall monopole wireless communications tower (including the 4 foot lightning rod) and a 50’ x 50’ fenced compound area for the tower and associated equipment in a 100’ x 100’ leased area.

The property is located on State Route 14, Buena Vista Road, in the Buena Vista Magisterial District, County Tax Map Parcel No. 1623-66L-270, located approximately $\frac{3}{4}$ of a mile from the Gloucester County line. The property is zoned Agricultural. Other surrounding land uses include agricultural and residential uses.

Mrs. Sprouse stated that Codes Compliance Officer, David McIntire, has received the site plan for review and noted that the project will be required to have a land disturbance permit. The entrance/drive shall be graveled and maintained during and after construction and must be installed according the requirements of VDOT.

Mrs. Sprouse added that George “Bill” Sanford with the King & Queen County Health Department noted that there were no existing files found for septic and well on the subject property, nor is there a well or septic system proposed for this project. She also included that Scott Gagnon with Virginia Department of Transportation noted in his review letter that his office has reviewed the site plan of development and that all items appear to be satisfactory.

Mrs. Sprouse noted that based on the site plan requirements noted in Article 14 and the communication tower requirements noted in Article 8 of the King & Queen County Zoning Ordinance has been met, approval is recommended.

Staff and applicant recommended conditions are as follows:

CUP19-03

199 Foot Communications Tower

Route 14, Buena Vista Road, approximately $\frac{3}{4}$ of a mile from the Gloucester County Line

Tax Map Parcel No. 1623-66L-270

Staff Recommended Conditions

1. *The communications tower and related facilities shall be located within the lease area depicted on the Level 3 Site Plan, entitled “Verizon Woods Crossroads, Buena Vista Road, Saluda, Virginia*

23149," prepared by Dewberry Engineers Inc., approved in connection with this conditional use permit.

2. *Tree clearing within the Applicant's lease area will be limited to the areas depicted on the site plan. In the event that the base of the tower becomes visible from any adjacent property or the public street, the Applicant will install a landscape buffer consisting of a strip of Leland cypress trees four (4) feet in width around the perimeter of the security fence, in a manner sufficient to screen the base of the tower and ground equipment from view throughout the term of the lease and/or completion of tower decommission, whichever is longer.*

3. *The communications tower will be a monopole with a galvanized steel finish, which will not be marked or lit, but may be painted a neutral color, subject to any applicable standards of the FAA.*

4. *The communications tower will be designed to accommodate a total of four (4) users and to collapse within the lot lines of the subject property. Prior to the issuance of a building permit, the applicant will submit a report from a registered structural or civil engineer indicating the tower height, the total anticipated capacity of the structure and the area of potential impact in the event of a structural failure.*

5. *Subject to federal law, the height of the communications tower, including the lightning rod, will not exceed 199 feet above ground level.*

6. *The communications tower shall be enclosed by a nine (9) foot security fence with a one (1) foot of anti-climbing device for a total height of ten (10) feet.*

7. *No advertising signage will be installed on the tower. Signage will be limited to warning signs or other signage associated with the operation of the tower and related antennas and equipment.*

8. *Any antenna or tower that is not operated for a continuous period of 6 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such removal requirement. Removal includes the removal of the tower, any and all footers; underground cables and support buildings. The buildings may remain with owner's approval. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed per this section, the county may require the landowner to have it removed.*

Mr. Richardson opened the floor for public comments and asked if the applicant wished to speak.

Mrs. Lisa Murphy, counsel representing Verizon Wireless stated that this proposal is for a 195' monopole tower and will include a 4' lightning rod. Because the tower is under 200' tall, the tower is not required and will not be lit. This tower will also be fenced with natural vegetation surrounding the site. She noted that the tower will be more than 600' from the road and about 500' feet to the closest residence. Mrs. Murphy added that this tower is shorter than the Stevensville tower because she is told by the engineers involved with the project that it has to do with its interconnect to surrounding towers and the topography in the area. The Buena Vista area is fairly flat therefore, they don't have a lot of hills or steep areas to deal with in this instance.

Mr. & Mrs. Eric Engle, who are adjacent property owners noted that he and his wife are both in support of a cellular communications tower. He hoped this would help improve wireless and internet service for that area, as he works from home and it would help out tremendously.

Mr. Eugene Rivara, a property owner in the Stevensville district stated that he wondered since the tower was so close to Gloucester that maybe Verizon could have Gloucester to co-locate on the tower to help pay for the tower.

Ms. Taliaferro who lives in the Buena Vista district noted that she had a question regarding the height of the tower and why it was much shorter than the one in Stevensville, however Mrs. Murphy answered the question prior.

Mr. Joseph Stephenson, an adjoining property owner noted that his house is 471 feet from the proposed tower. He noted that he did not get his notice until September 28th though it was mailed September 13th. Mr. Stephenson noted that he had a difficult time connecting with the mail carrier to receive his letter regarding the meeting. He added that he has not yet had the time to talk to his heirs regarding the proposal to see if they are against the request. He noted that he also did not have time to research the request. Mr. Stephenson asked if the tower would cause cancer and how it will affect the citizens both good and badly. He mentioned that many years ago settlers grew and smoked tobacco and it wasn't until 400 years later that they discovered that tobacco gives you cancer. He asked the Commission to please not vote tonight and allow him time to do more research.

Mrs. Lisa Murphy approached once again wishing to respond to the comments made. She noted that frequency is rather low transmitting from the tower to the ground. She added that using your microwave in your home has a higher transmission than the tower outside at 471' feet away. She noted that the same goes for your everyday cellular phone, your home wireless security system or even your baby monitor in the home.

Hearing no further comments, public comment and the public hearing was closed.

Mr. Richardson asked if the Commission had any comments or questions.

Hearing no comments, a motion was made by Mr. Herrin to recommend approval of CUP19-03 with staff recommended conditions & SP19-08 as presented by staff, seconded by Mr. Watkins.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Richardson, Hudgins, Herrin, Colman, Burns

Voting Against: None

Abstain: None

At this time staff requested a 5 minute recess

The meeting was called back to order by Chairman Hunter Richardson

C. ZA19-04 – Zoning Text Amendment – Article 14, Section 3-316A (y & z) (public hearing)

Mr. Richardson opened the public hearing for ZA19-04, Zoning Text Amendment for Article 14, Section 3-316A (y & z). Mr. Richardson asked staff to present the request and staff report.

Mrs. Sprouse noted that during last month's meeting, the Commission held a public hearing to add "fuel distribution" as a permitted use in the permitted use table. She noted that as part of the conversation, it was clear that there was great concern for not only hazardous issues related to such use, but the potential of there being conflicting uses next to one another, not solely for fuel distribution facilities. She noted that staff felt that it would better addressed in the preliminary site plan requirements rather than on particular land use category. She noted that this amendment would allow for the developer, staff, and the property owner to be informed of all regulatory agencies that may be involved regarding the site plan review not only for the subject parcel but possibly adjoining properties as well.

Mr. Richardson opened the floor for public comments. Hearing none, public comment period was closed.

Hearing no comments from the Commission, a motion was made by Mr. Burns to recommend approval of ZA19-04, Article 14, Section 3-316A (y & z) as presented, seconded by Mr. Watkins.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Richardson, Hudgins, Herrin, Coleman, Burns
Voting Against: None

Abstain: None

D. ZA19-05 – Zoning Text Amendment – Article 21, Section 3-496, Fees *(set public hearing)*

Mr. Richardson asked Mrs. Sprouse to please review item D.

Mrs. Sprouse noted that this is another staff requested amendment to Article 21, Section 3-496, Fees, particularly regarding erosion and sediment control fees. She noted that her request was sent to the Board of Supervisors for discussion during their last workshop and they agreed to have the Commission consider the new fees and amendment to the ordinance. She noted that this is a request to include an after the fact erosion and sediment control fee, just as there is for zoning permits and building permits that are all obtained after the fact. She noted that in the proposed text, she included a re-inspection fee as well. She noted that this is a fee that is assessed only if someone does not do as directed during the prior inspection. This particular fee would not apply to an attempt into correcting the matter and it's still incorrect.

She noted that the biggest change to the erosion and sediment control fee schedule is the inclusion of large scale land disturbance monthly assessed fees. Mrs. Sprouse noted that this is to avoid having money pulled from the general fund to pay for third party inspectors or additional hired help for large scale projects, such as the proposed solar farm. She noted that the fees and acreage break-down came from information provided from Spotsylvania County, a third party company quote for such services, and our current E&S inspector's salary breakdown per month with benefits. Mrs. Sprouse noted that there are projects that would be exempt from such permit fees such as logging, farming, and mining. Logging, farming, and mining are all regulated under another regulatory agency such as VDOF, TRSWD, and DMME.

Mr. Burns noted that he thought this was a good thing to consider because the tax payers should not pay for another developers project. He did have concerns as to what happens when the monthly fee assessed is not enough to cover the expense of a third party inspector. Mrs. Sprouse noted that it would be no different than building permit fees and zoning fees not bringing in enough funding to cover the department expenses.

Hearing no further comments, a motion was made by Mr. Watkins to set the public hearing for ZA19-05, Article 21, Section 3-496 for their November 6, 2019 meeting, seconded by Mrs. Hudgins.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Richardson, Hudgins, Herrin, Coleman, Burns
Voting Against: None

Abstain: None

E. Walnut Solar I, LLC – Counsel Timeline discussion

**At this time Hunter Richardson read the following statement:*

STATEMENT OF DISCLOSURE AND DISQUALIFICATION

Declaration of interest and disqualification with respect to the transaction known as the “Walnut Solar Project” in accordance with § 2.2-3112, and §2.2-3115 and other relevant sections of the Code of Virginia.

This declaration is made with respect to those transactions in which a Member of the Commission may disqualify himself due to having a personal interest in a transaction.

"The Virginia State and Local Government Conflict of Interests Act requires that I make disclosure of certain interests in a transaction which may affect my personal interest. Therefore, I make the following disclosure:

- 1. The transaction involved is:
Walnut Solar Project*
- 2. My personal interest affected by this transaction is:
I have a direct financial interest in the outcome of this application/transaction.*

I am the owner of a parcel of land which will be leased to the Walnut Solar Project and thus incorporated into the project. The parcel is King and Queen County tax map # 1623-134R-649A

My mother, Susan T. Richardson is the beneficiary of the Susan T. Richardson and G. Vernon Trevillian Family Trust. This Trust owns 2 parcels of land which will be leased to the Walnut Solar Project and thus incorporated into the Walnut Solar Project. The parcels are King and Queen County tax map #'s 23-134R-649 and 23-134R-649 A1.

I hereby disqualify myself from voting and from any participation whatsoever on behalf of the Planning Commission regarding the Walnut Solar Project due to my personal interest. I will not attend any portion of any closed session meeting in which the walnut Solar Project is discussed nor will I discuss, in my capacity as a member of the Planning Commission, the Walnut Solar Project with any other governmental officers, members of the Planning Commission or county employees.”

Mr. Richardson asked Mr. Watkins to finish leading the meeting as Vice-Chair and Mr. Richardson went to sit in the audience.

Mr. Chip Dicks, counsel for Walnut Solar I, LLC introduced himself to the Commission. He noted that he and his team have been working with staff over the past several months, meeting 4 times for almost 4 hours each time, except for the last meeting was 2 hours. He noted that they have been making great progress working with staff thus far. He added that they have requested that their text amendment be withdrawn as they, including staff, agree that it would be better addressed in the conditions of the Conditional Use Permit. Mr. Dicks asked the Commission to consider not holding 3 public hearings in the month of November and rather hold the one public hearing in November and another the following month during their regular scheduled meeting.

Mrs. Sprouse noted that she did not object to what the applicant is requesting but did want to be sure that all deadlines regarding their complete submission will be met so that she may prepare the legal advertisements and adjoining property owner notification letters. She noted that she will need time to review the request and to have the full complete submission for the public to review as it will be noted in the advertisement and the adjoining property owner notification that they may review the record in the office of the Zoning Administrator.

After further discussion, the Commission asked staff what would better suit her needs. Mrs. Sprouse informed the Commission that should they decide on the three meetings in November or breaking the

meetings up as Mr. Dicks suggested, she will be prepared and ready assuming the applicant meets their deadlines for submission.

A motion was made by Mr. Coleman to set the 1st public hearing for December 2, 2019 so that the developer and staff may continue to work together on conditions, seconded by Mr. Herrin.

Voting For: Watkins, Morton, Guess, Campbell, Harvey, Herrin, Coleman, Burns

Voting Against: None

Abstain: Hudgins

Mrs. Sprouse noted that now that she is aware of the public hearing schedule, she will advertise accordingly. She also noted that the applicant must submit their full submission to her office no later than November 1st. Mr. Dicks agreed.

**Mr. Richardson returned to the dais as Chair before moving on to Old Business.*

Old Business

None.

At this time, Mr. Richardson wanted to acknowledge David Dabney, who drove all the way from New York to participate in the Buena Vista tower public hearing. Though he missed the hearing, Mr. Richardson thanked him for coming and asked him if he had anything that he wanted to say regarding the proposal. Mr. Dabney noted that though he doesn't live on the property in which he owns, when he visits he has noticed that cell coverage in that area is poor. He noted that he is for the construction of the communications tower and appreciated the time to speak though he was late.

Staff's Comments

Mrs. Sprouse noted that there has been a lot of construction activity this calendar year. She added that though the year is not over, reports show that we have issued more permits this year thus far than prior years. Most of the new home construction taking place are stick built homes. Mrs. Sprouse advised the Commission of other projects that are going on in the Planning and Building Office that the Commission simply doesn't see.

Commissioner's Comments

Mr. Burns noted that he was given a petition tonight regarding the solar project and has given it to Mrs. Sprouse for inclusion in the file and to make copies for the Commission and Board. He asked the Commission to do their homework on this proposal and really research the project considering both the positive and negative. He added that he wanted the Commission to look at what others around us are doing or have experienced. Mr. Burns noted that he wants to work with the County Administrator and place a hold on future solar projects until the Commission, Board and staff are all able to get a better grip on this proposal and figure out how we will address this in the future.

Mrs. Hudgins stated that she was excited about the Rt. 33 survey and is excited to the results of such.

Mr. Herrin thanked Mrs. Sprouse for her help with all that they are presented with and the things that they don't know about.

Mr. Campbell said he thinks it's a good idea that the meetings are now pushed back with more of a space between meetings, rather than having 3 in one month.

Mr. Guess noted that he believes this new schedule for the solar project provides relief for the Commission and staff regarding deadlines.

Mr. Watkins thanked Mr. Richardson for his work tonight in leading the Commission. He noted that he had copies of the Rappahannock Times Dispatch should the Commission members care to read the Letter to the Editor regarding solar in Essex County. Mr. Watkins thanked Mrs. Sprouse for what she does.

Mrs. Morton thanked Mrs. Sprouse and noted that the solar proposal better move forward and timelines shall be met, she noted that this hearing should be done in December.

Mr. Richardson thanked the citizens for coming out and sharing their thoughts with the Commission.

Adjournment

There being no further business, a motion was made by Mr. Watkins and the meeting was adjourned by all present members stating "Aye".

Hunter Richardson, Chairman