

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
September 9, 2009

MEMBERS

Christopher A. Abel
Nicholas F. Barba
Anne C. H. Conner
John R. Davis
M. Sean Fisher
Alexander T. Hamilton
Alfred E. Ptasznik, Jr.

CALL TO ORDER

Chair John R. Davis called the meeting to order at 7:00 PM.

ROLL CALL

The roll was called and all members were present with the exception of Anne. C. H. Conner. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl W. Anderson.

REMARKS

Chair Davis stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

APPROVAL OF MINUTES

Mr. Ptasznik moved to adopt the minutes of the regular meeting of August 12, 2009, and they were adopted (6:0).

CITIZEN COMMENTS

There were no citizen comments

PUBLIC HEARINGS

Application No. ZM-127-09, E. Neil Pickett: Request to amend the York County Zoning Map by reclassifying two parcels totaling 25.4 acres of land on the west side

of Route 17 and north of the CSX rail spur from IL (Limited Industrial) to conditional RMF (Residential Multi-Family, which allows up to 10 dwelling units per acre or 20 units per acre for "senior housing"). The property owner has voluntarily proffered that the property will be developed with up to 300 senior housing apartments (approximately 12 dwelling units per gross acre) consisting of a combination of independent living and assisted living units. The properties, further identified as Assessor's Parcel Nos. 24-123 and 24-123A, are designated Conservation in the *Comprehensive Plan*. The property owner also seeks to reclassify an adjacent 1.2-acre parcel located at 7701 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24C-1-7A from IL to GB (General Business). This property is designated General Business in the *Comprehensive Plan*.

Application No. UP-771-09, E. Neil Pickett: Request for a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 9b and Category 6, No. 3), to authorize senior housing/independent living and/or senior housing/assisted living on three parcels totaling 30.6 acres of land located on the west side of Route 17 and north of the CSX rail spur. Two of the parcels, further identified as Assessor's Parcel Nos. 24-123 and 24-123A, are designated Conservation in the *Comprehensive Plan*, and the third parcel, located at 7715 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24C-1-8, is designated General Business in the *Comprehensive Plan*.

Timothy C. Cross, AICP, Principal Planner, summarized the staff report to the Commission dated September 2, 2009, in which the staff recommended that the Commission forward both applications to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution Nos. PC09-16 (for the rezoning) and PC09-17 (for the use permit).

Mr. Abel asked if the citizen who called the Planning Division to speak against the application was related to the applicant as they share the same last name. **Mr. Cross** stated that they are not related.

Mr. Ptasznik asked what would be the advantage of rezoning the 1.2-acre parcel at 7701 George Washington Memorial Highway from IL to GB and asked if it is wide enough to support commercial development. **Mr. Cross** said that the property would likely be combined with the adjacent parcel between the proposed entrance road and the Hart Building/RV storage facility and would make up for the land area taken up by the roadway. He stated that the combined acreage would be sufficient to accommodate commercial development.

Mr. Ptasznik pointed out that the proposed senior housing development is closer to the existing multi-family development than it is to the adjacent non-conforming home. **Mr. Cross** said that was correct and noted that the housing types are compatible. He added that a 50-foot perimeter buffer would be required around the senior housing development.

Mr. Ptasznik noted that the plan shows only one entrance into the proposed development and yet the County is moving against entrances such as the one proposed. **Mr. Cross** said the access road would be a private road that is not subject to the new interconnection requirements for public roads and that it would serve as joint entrance to the commercial property, the adjacent property owned by David Pickett, and the undeveloped parcel fronting the Pickett property on Route 17.

Mr. Abel stated that Mr. Ptasznik's concern is that without a second access to the property, emergency vehicle access could be problematic if the road were blocked during an emergency.

Mr. Ptasznik added that an existing stub street in the multi-family development on General's Way – Ellis Drive – could potentially serve as an additional access to the proposed development.

Mr. Cross responded that when there is only one way into and out of a development, the County requires that the road be designed as a boulevard with a landscaped median.

Mr. Ptasznik said he had thought that the County was getting away from boulevard entrances.

Mr. Cross stated that two problems with requiring a connection to Ellis Drive are that it is a private street and also that to tie into it the proposed road would have to cross Newport News Waterworks property.

Mr. Ptasznik said that to have only one entrance into the development was a safety concern, especially since the residents would be senior citizens. He noted that the County typically requires adjacent subdivisions to have street interconnections to allow a second way in and out and that the proposed development does not provide for one. He said the potential for the single access road being blocked was a concern. **Mr. Cross** agreed that ideally there would be a second entrance but that there are various exceptions both in the VDOT regulations for public streets and in the Subdivision Ordinance that allow a single means of access.

Mr. Hamilton asked where the proposed pump station would be located as well as the recreation space. **Mr. Cross** said the applicant's engineer would be able to address the location of the proposed pump station as it is not shown on the sketch plan. He indicated that senior housing is required to have a minimum of 200 square feet of common active/passive outdoor recreation space per dwelling unit. He said that sidewalks and the walking paths on the perimeter of one of the stormwater ponds are included in those calculations as well as that portion of the area labeled "Park Area" that includes benches and a gazebo, which amounts to a combined total of approximately 61,200 square feet and is slightly more than the Zoning Ordinance requires.

Mr. Hamilton asked when the proposed sidewalk along the entrance road from the development to Route 17 would be built. **Mr. Cross** responded that the sidewalk would have to be completed when the adjacent 5.2-acre commercial property to the east is developed or when transit service becomes available, whichever occurs first.

Mr. Abel asked if the proposed sidewalk to Route 17 would also qualify as recreation space. **Mr. Cross** said that it could. **Mr. Abel** commented that the definition of recreation space seemed generous and was surprised that it would encompass sidewalks. **Mr. Cross** responded

that walking is considered recreation, especially in senior housing facilities, and that the same approach has been taken with other senior housing developments, such as the Villas at Yorktown.

Mr. Ptasznik asked if the units would be rentals only. He said that the proffers do not indicate that and wanted to know what would keep the applicant from selling units to people who do not meet the age restrictions. **Mr. Carter** explained that whether the units are rented or sold, both the proffered conditions and the Special Use Permit would require the units to be age-restricted and that this would be enforced through a deed restriction.

Chair Davis opened the public hearing.

Paul Garman, 109 Chisman Point Road, agent for the applicant, introduced E. Neil Pickett, Lamont Myers, and Charlie Newbaker. He thanked the staff for its feedback during the application process, which he said made it a much better proposal. He provided zoning history of the property, stating that the industrial zoning made sense originally because of the rail access but that environmental constraints that were later identified dictate a less intensive type of development. Mr. Garman quoted excerpts of the *Comprehensive Plan* stating a phone survey conducted at that time indicated that over half of the County population supported housing designed for citizens over age 62. He indicated that the proposed senior housing development would not increase the County's overall population if all of the residents were to come from the County. Mr. Garman said that amendments to the Zoning Ordinance in 2003 to allow senior housing confirm that there is a rapidly growing senior population with housing needed for independent living, congregate care, assisted living, and continuing care retirement communities. He gave statistics about projected senior population increases over the next several years and added that the project is expected to provide net revenue to the County of over \$80,000 per year along with approximately 45 new jobs. Mr. Garman concluded by saying that the site is well-suited for the project as it is surrounded by nature and screened from view, and he offered to answer questions.

Mr. Hamilton asked where the proposed pump station would be located. **Charlie Newbaker**, P. O. Box 1298, Yorktown, spoke as the surveyor for the project, stating that the pump station would be built next to the wetlands. He indicated that County staff had agreed on the location and that all requirements of the Watershed Management and Protection Area overlay district would be met.

Mr. Fisher asked if gravity sewer would be extended from Route 17 and if there is enough topography to make it work. **Mr. Newbaker** responded that there is a 15-foot drop in elevation between Route 17 and the wetland bottom, so there would not be a problem.

Mr. Garman added that the property is flat at the road but does drop down toward the stream before rising toward the rear of the property.

Mr. Fisher asked again about the plans to have gravity sewer from Route 17 reach the proposed pump station. **Mr. Newbaker** said the gravity sewer line will be extended to the adjacent parcel owned by Yorktown Properties and that there will be sufficient depth.

Mr. Barba asked how many residents in the existing age-targeted or age-restricted housing developments moved there from within the County. **Mr. Garman** responded that roughly 85 percent of the original residents in Rainbrook Villas were already County residents but that that general senior housing market data indicates that approximately 60 to 70 percent of the residents come from an eight-mile radius, which in the case of this site would include portions of Hampton and Newport News as well as York County.

Mr. Barba asked the applicant if he felt the property was viable for development in view of the various environmental constraints it has. **Mr. Garman** said he was confident that senior housing was a much better use of the property than the type of development for which it is currently zoned.

Mr. Hamilton asked what the distance is between the proposed buildings and the CSX railroad track and asked if it would have any impact on the development. **Mr. Garman** said that that the residents will know the railroad track is there, but he noted that it is not heavily used.

Mr. Davis asked what the finished floor elevation would be. **Mr. Newbaker** apologized for not having that information at present but he believed it was approximately 45 feet.

Mr. Davis asked the applicant, Mr. Pickett, if it would be feasible to have a second access road onto the property. **Neil Pickett**, 2984 Kitchums Close, Williamsburg, said that to alleviate concerns about the road becoming blocked during a disaster situation, tall trees could be cleared along the boulevard entrance into the development to prevent them from falling on the roadway.

Mr. Davis asked if the Department of Fire and Life Safety had expressed any concerns about the proposed access arrangement. **Mr. Cross** said the application was reviewed by the Department of Fire and Life Safety and that no such concerns had been expressed.

Mr. Davis said he was concerned about the access road being the only way into a development where the residents would be older and might need special assistance during a catastrophic event. **Mr. Pickett** explained that in designing the project they did not want to increase the impact on the headwaters of the Poquoson River by building a second access road across it.

Mr. Lamont Myers, development consultant with Mid-Atlantic Commercial, said the County has approved boulevard entrances in cases where the topography or other features of the land warrant it and noted that Creekside Landing and Clairmont Apartments have similar entrance designs. He said the boulevard road would have two 14-foot travel lanes with a median of approximately 16 feet, so a tree would have to be quite tall to block both lanes. He said the travel lanes could be widened to 16 feet, which, combined with the additional clearing suggested by Mr. Pickett, would eliminate the possibility of a tree falling across the entire road while providing enough room for a vehicle to pass a disabled vehicle. He did not think it would be feasible to have a second means of access because it would require a second crossing of the stream and the adjacent wetlands and a conservation easement on the Newport News Waterworks property prevents a road from being built across it.

Mr. Davis expressed concern about the potential for flooding at the road crossing during a major storm. **Mr. Myers** responded that a detailed hydrologic and hydraulic analysis would be

done to determine the flood elevation for the property and that the road would be elevated to avoid inundation.

Mr. Fisher noted existing problems with the culverts under the CSX railroad track and recommended that the applicant consider using larger culverts than would ordinarily be needed so as to prevent similar problems from occurring with this project. **Mr. Myers** said he has met with staff in the Stormwater Division and has been made aware of the problem.

Mr. Hamilton asked where the salamander habitat is on the property. **Mr. Myers** indicated that the breeding habitat is to the west of the tributary stream in two isolated wetland areas that are part of the Grafton sinkhole complex. He explained that a variable-width buffer of approximately 100 to 450 feet between the wetland areas and any development would limit any potential impact on the habitats. He said the proposed housing units would be concentrated on a small portion of the property, resulting in only 27 percent of the site being impervious surface.

There being no one else who wished to speak, **Chair Davis** closed the public hearing.

Mr. Abel opined that if the property were viable for industrial development it would have already been developed as such. He said the proposal addresses the *Comprehensive Plan* vision on senior housing but was concerned that a developer was not named for the project. Mr. Abel said he was concerned about the ingress/egress into the development, however, was pleased to see that the Department of Fire and Life Safety did not see any problems with it. He said he could support the proposal.

Mr. Barba said that while the application looked appealing, he was concerned that a developer had not been selected for the project and that there were many environmental restrictions on the property. He noted that despite those concerns, he was inclined to support the proposal.

Mr. Fisher recommended that the applicant install median breaks in the entrance road and said he was inclined to support the proposal.

Mr. Ptasznik reviewed the negative and positive aspects of the proposal and concluded that while the project did not have a developer, he was inclined to support it. He said he would have liked to see the building elevations for the development and stressed the importance of adhering to the County's total build-out population.

Mr. Hamilton opined that the use is appropriate for the land and he was inclined to support the application, although he was concerned about the proximity to the railroad tracks. He stressed the importance of making sure that the units would be affordable, especially during the current economic downturn, and said that the facility should be required to have a generator for emergency situations. Mr. Hamilton added that there seemed to be a good balance of a good project and a natural buffer.

Mr. Davis described the adjacent railroad as being low impact to the proposal and indicated that the use was appropriate.

Mr. Barba moved adoption of Resolution No. PC09-16

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO REZONE APPROXIMATELY 25.4 ACRES ON THE WEST SIDE OF ROUTE 17 FROM IL (LIMITED INDUSTRIAL) TO CONDITIONAL RMF (RESIDENTIAL MULTI-FAMILY) AND AN ADJACENT 1.2-ACRE PARCEL AT 7701 GEORGE WASHINGTON MEMORIAL HIGHWAY FROM IL TO GB

WHEREAS, E. Neil Pickett has submitted application ZM-127-09, which seeks to amend the York County Zoning Map by 1) reclassifying 25.4 acres of land on the west side of Route 17 and north of the CSX rail spur, further identified as Assessor's Parcel Nos. 24-123 and 24-123A, from IL (Limited Industrial) to RMF (Residential Multi-Family subject to conditions voluntarily proffered by the property owner, and 2) reclassifying a 1.2-acre parcel located at 7701 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24C-1-7A from IL to GB (General Business); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of September, 2009, that Application No. ZM-127-09 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by 1) reclassifying 25.4 acres of land on the west side of Route 17 and north of the CSX rail spur, further identified as Assessor's Parcel Nos. 24-123 and 24-123A, from IL (Limited Industrial) to RMF (Residential Multi-Family subject to conditions voluntarily proffered by the property owner, and 2) reclassifying a 1.2-acre parcel located at 7701 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24C-1-7A from IL to GB (General Business).

BE IT FURTHER RESOLVED that the reclassification of Assessor's Parcel Nos. 24-123 and 24-123A, from IL (Limited Industrial) to RMF (Residential Multi-Family shall be subject to the conditions set forth in the proffer statement titled "PROFFERS, E. Neil Pickett," signed by E. Neil Pickett and dated August 21, 2009, a copy of which shall remain on file in the office of the York County Planning Division.

BE IT STILL FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the Ordinance accepting the proffered condition, together with a duly signed copy of the proffer statement referenced above, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the motion was approved (6:0).

Yea: (6) Hamilton, Fisher, Barba, Ptasznik, Abel, Davis
Nay: (0)

Mr. Barba moved adoption of Resolution No. PC09-17

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A 300-UNIT SENIOR HOUSING
COMPLEX ON THE WEST SIDE OF ROUTE 17 NORTH OF THE CSX RAIL
SPUR

WHEREAS, E. Neil Pickett has submitted Application No. UP-771-09, which requests a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 9b and Category 6, No. 3), to authorize senior housing/independent living and/or senior housing/assisted living on 30.6 acres of land located on the west side of Route 17 and north of the CSX rail spur and further identified as Assessor's Parcel Nos. 24-123 (GPIN# Q08d-3324-1594), 24-123A (GPIN# Q08d-3974-1505), and 24C-1-8 (GPIN# Q08d-4331-2134); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of September, 2009, that Application No. UP-771-09 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize senior housing/independent living and/or senior housing/assisted living on 30.6 acres of land located on the west side of Route 17 and north of the CSX rail spur and further identified as Assessor's Parcel Nos. 24-123 (GPIN# Q08d-3324-1594), 24-123A (GPIN# Q08d-3974-1505), and 24C-1-8 (GPIN# Q08d-4331-2134):

1. This Special Use Permit shall authorize senior housing/independent living and/or senior housing/assisted living on 30.6 acres of land located on the west side of Route 17 and north of the CSX rail spur and further identified as Assessor's Parcel Nos. 24-123 (GPIN# Q08d-3324-1594), 24-123A (GPIN# Q08d-3974-1505), and 24C-1-8 (GPIN# Q08d-4331-2134).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land disturbing or development activity on the subject property. Said site plan shall be in substantial conformance with the sketch plan titled "Conceptual Plan,

Property of E. Neil Pickett,” prepared by C. E. Newbaker Surveying & Planning, Inc., dated August 28, 2009, except as modified herein.

3. The maximum number of residential units shall be three hundred (300).
4. The maximum height of multi-unit buildings shall be 45 feet.
5. The development shall be constructed and operated in accordance with the performance standards set forth in Section 24.1-411, Standards for Senior Housing (Housing for Older Persons), of the York County Zoning Ordinance.
6. Development of the property shall be in accordance with the provisions of Sections 24.1-373, FMA-Floodplain management area overlay district, and 24.1-376, Watershed management and protection area overlay district, of the York County Zoning Ordinance.
7. The entrance road into the development shall be designed as a shared entrance serving the properties located at 7715 George Washington Memorial Highway (Assessor’s Parcel No. 24C-1-8), 7727 George Washington Memorial Highway (Assessor’s Parcel No. 24-98A), 7801 George Washington Memorial Highway (Assessor’s Parcel No. 24-88) in addition to the senior apartment complex located on Assessor’s Parcel No. 24-123 and 24-123A.
8. Any proposed filling of wetlands on the property shall require a fill permit from the Army Corps of Engineers and the Virginia Department of Environmental Quality. All remaining wetland areas shall be protected with a conservation easement granted to the County or some other entity in accordance with the provisions of Section 24.1-118 of the Zoning Ordinance. In lieu of establishing a conservation easement, the Zoning Administrator, with the concurrence of the County Attorney, may authorize other arrangements that would effect the same purpose as a conservation easement.
9. To accommodate the U-turning traffic generated by the development, the developer shall construct a 200-foot left-turn lane and 200-foot taper on northbound Route 17 at the existing or a relocated median break in accordance with Virginia Department of Transportation (VDOT) requirements and subject to VDOT approval.
10. The developer shall design and construct the proposed sanitary sewer in a manner capable of serving adjacent properties, provide any necessary utility easements necessary for the extension of utilities to adjacent properties, and perform any necessary upgrade to the existing County’s sanitary system to support the anticipated sewage flows for this development.
11. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the Resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Use Permit is severable and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

On roll call the motion was approved (6:0).

Yea: (6) Fisher, Barba, Ptasznik, Abel, Hamilton, Davis
Nay: (0)

* * *

Application No. UP-769-09, New Cingular Wireless PCS, LLC (t/a “AT&T”): Request to amend an approved Special Use Permit (UP-688-05), pursuant to Section 24.1-115(d) of the York County Zoning Ordinance, to authorize a 73% expansion (from 600 to 1,039 square feet) of the compound area housing ground-mounted equipment at the base of a 137-foot self-supporting communications tower located on a portion of the property (Dare Elementary School) located at 300 Dare Road (Route 621) and further identified as Assessor’s Parcel No. 30-2. The 15-acre property, located on the north side of Dare Road approximately 1,500 feet east of its intersection with George Washington Memorial Highway (Route 17), is zoned RC (Resource Conservation) and is designated for Medium Density Residential development in the *Comprehensive Plan*.

Earl W. Anderson, AICP, Planner, summarized the staff report to the Commission dated September 1, 2009, in which the staff recommended that the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions in proposed Resolution No. PC09-18.

Mr. Abel noted that the originally approved compound area was supposed to be large enough to accommodate additional carriers’ equipment and yet now there is no space available. He asked what would prevent the same thing from happening again if the current application is approved. **Mr. Anderson** explained that the applicant would be required to adhere to the approved sketch plan and stated that the original applicant used more space for its ground equipment than was originally anticipated. He said that if the application is approved, staff will look for any discrepancies between the detailed site plan that is ultimately submitted and the approved sketch plan.

Mr. Ptasznik asked why some landscaping along the fence line would have to be removed and asked if the proposed addition would have canopy fencing. **Mr. Anderson** stated that there cannot be any vegetation within the sewer easement and additional landscaping would be removed to accommodate the expansion and the access to the easement. He added that the area between the adjacent houses and the site is heavily wooded and the addition would include a fenced canopy cover similar to the existing one.

Mr. Fisher pointed out that the site plan shows proposed screening fabric along the entire length of the outfield fence. **Mr. Anderson** said that it is not the applicant’s intent to screen the entire outfield fence and that it was an error on the drawing. He clarified that the applicant is only proposing to install screening fabric from the edge of the left field corner to the southern edge of the compound and that information was also noted on the site plan.

Mr. Hamilton asked for confirmation that this would be the last application for an expansion of the compound facility. **Mr. Anderson** believed that there would not be a need for a future application for expansion of the site.

Chair Davis opened the public hearing.

Lisa Murphy, an attorney with the firm LeClair Ryan, 283 Constitution Drive, Virginia Beach, spoke as the applicant's agent, thanking the staff for its assistance. She said she believed that Sprint used the entire facility for its equipment because of a decision to use an equipment building rather than equipment cabinet. She added that most carriers use the buildings as they are climate-controlled and during Sprint's merger with Nextel, the type of compound design needed for the Nextel equipment changed from what was originally proposed.

Ms. Murphy indicated that the newer AT&T equipment allows for the use of cabinets as well as a reserved space for a generator. She showed propagation maps demonstrating the need for coverage in the selected area as well as aerial photos showing the existing tower and tree detail surrounding the compound. Ms. Murphy pointed out that Sprint had approval to build a tower to a maximum of 137 feet but it was only constructed to a height of 127 feet. She added that it is not the intent of the applicant to screen the entire length of the outfield fence and that the error on the plans would be removed. She showed elevations of the tower and noted that AT&T's design would not affect the lighting currently placed on the tower. Ms. Murphy said all conditions of approval would be followed and offered to answer questions.

Mr. Hamilton asked for confirmation that another carrier would not request to expand the facility. **Ms. Murphy** indicated that the York County School Division is the lease holder for the tower facility and would have to extend support for another carrier to expand the compound if needed.

Mr. Abel pointed out proposed tower sites on the propagation map "Overall Site" map provided by Ms. Murphy and asked her if they represented future tower sites in York County. **Ms. Murphy** said only one of those sites is located in York County. **Mr. Anderson** added that the sites mentioned are located in Newport News, and Poquoson, and that the one in York County is not a future tower but rather a co-location site on an existing slick-stick monopole tower located at the Stor-Moore mini-storage facility on Big Bethel Road.

Mr. Abel asked if there would have been room for an additional carrier had Sprint constructed the tower to the approved maximum height of 137 feet. He also asked if there were FAA restrictions on the height of the tower. **Ms. Murphy** opined that if the tower were 137 feet tall, another carrier could have been added. She said it would be impossible to increase the height of the existing tower. **Mr. Anderson** clarified that the original proposal from SprintCom was to build a 127-foot tower with an additional ten-foot (10') lightning rod, but the rod does not appear to be on the tower.

Mr. Davis asked how long a generator would last to support wireless connection during a disaster situation and asked if the generators are diesel-operated. **Chip Floyd**, with AT&T, said that while his expertise is site acquisition, the generators would be operated by either propane or diesel fuel and could provide approximately five to seven days of additional service.

Ms. Murphy added that there is a project to bring generators to cell tower sites in Hampton Roads. She said the site plan shows space for a generator should funding become available in the future and that currently all tower sites are equipped with battery backups and that portable generators are typically deployed to tower sites when a major storm appears imminent.

Mr. Hamilton asked if she had any information about the next generation of cell tower technology. **Ms. Murphy** indicated that the newest technology is the more data-intensive 3G system. She said while more antenna systems are necessary for the 3G data systems, most of them are on a much smaller scale.

Mr. Davis opined that satellite phone systems could be the direction of the future. He added that while they are currently available, they are expensive to use.

There being no one else who wished to speak, **Chair Davis** closed the public hearing.

Mr. Hamilton said he would be willing to support the application but wanted to be assured that the site could not be expanded again.

Mr. Barba, Mr. Abel, and Mr. Davis expressed their support for the proposal.

Mr. Ptasznik moved adoption of Resolution No. PC09-18

A RESOLUTION TO RECOMMEND APPROVAL OF A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE PERMIT (UP-688-05) TO AUTHORIZE A 73 PERCENT EXPANSION OF THE COMPOUND AREA HOUSING GROUND-MOUNTED EQUIPMENT AT THE BASE OF A 137-FOOT SELF-SUPPORTING COMMUNICATIONS TOWER LOCATED ON A PORTION OF THE PROPERTY LOCATED AT 300 DARE ROAD (ROUTE 621)

WHEREAS, the York County Board of Supervisors on January 17, 2006 adopted Resolution No. R06-10 to approve Application No. UP-688-05 which requested a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize construction of a 137-foot freestanding monopole communications tower with associated equipment on the parcel located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN# S06b-2936-4399); and

WHEREAS, New Cingular Wireless PCS, LLC (t/a "AT&T") has submitted Application No. UP-769-09, pursuant to Section 24.1-115(d) of the York County Zoning Ordinance, to amend the conditions of approval for the above-referenced Special Use Permit set forth in Resolution No. R06-10 to authorize a 73% expansion (from 600 to 1,039 square feet) of the compound area housing ground-mounted equipment at the base of a 137-foot self-supporting communications tower; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments with respect to this application; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of September, 2009 that Application No. UP-769-09 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the Special Use Permit granted by Resolution No. R06-10 by authorizing a 73% expansion (from 600 to 1,039 square feet) of the compound area housing ground-mounted equipment at the base of a 137-foot self-supporting communications tower located on a portion of the property located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN S06b-2936-4399), as set forth below:

1. This approval shall authorize a 73% expansion (from 600 to 1,039 square feet) of the compound area housing ground-mounted equipment at the base of a 137-foot self-supporting communications tower located on a portion of the property located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "AT&T, Site Name: Dare, Site Number: NF487B, Site Address: 300-Z Dare Road" dated 7/29/09, prepared by Allpro Consulting Group, Inc, and received by the Planning Division August 3, 2009. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
3. Evergreen planting material shall be installed for screening surrounding the facility as shown on the above referenced sketch plan Sheets L-1 and pursuant to Section 24.1-240 et. seq.
4. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that the applicant's antennas have been added to the tower.
5. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator. Furthermore, the applicant shall install PolyPlus Windscreen (MT6LPXXX) along the existing six-foot (6') high outfield fence located in front of the existing and proposed

communication tower compound, stretching from the edge of the left field corner to the southern edge of the proposed compound.

6. If modifications to the existing lighting system are proposed, written verification and a lighting drawing from a Musco Lighting representative shall be submitted prior to site plan approval showing that the same lighting levels (foot candles) are provided on the field upon completion of the proposed tower. In addition, the applicant shall submit a written statement from Musco Lighting (the supplier of the baseball field lighting system) verifying that there will be no detrimental effects on Musco Lighting's manufacturer warranty for the lighting system prior to site plan approval.
7. If changes are to occur to the existing lighting system, installation of the proposed antennas and ground-mounted equipment shall occur only during the following times: November 1st through February 28th or August 1st through 31st. Completion of the antenna installation may take place only during these periods and all lighting must be working and approved by the York County Division of Parks and Recreation. The applicant shall repair any damage to the irrigation systems for the fields.
8. Prior to site plan approval for the co-location, the applicant shall be responsible for recording with the Clerk of the Circuit Court, a copy of the resolution approving this use permit. A court-certified copy of the document shall be submitted to the County at the time of site plan application.

BE IT FURTHER RESOLVED that this Special Use Permit is severable and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

On roll call the motion was approved (6:0)

Yea: (6) Hamilton, Fisher, Barba, Ptasznik, Abel, Davis
Nay: (0)

OLD BUSINESS

There was no old business

NEW BUSINESS

There was no new business

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated September 9, 2009 and offered to answer questions. He also reminded the Commission of the work session scheduled for Wednesday, September 30.

COMMITTEE REPORTS

There were no committee reports.

COMMISSION REPORTS AND REQUESTS

Mr. Abel commented that it is his understanding that construction of the IHOP restaurant on Route 17 is expected to resume soon. **Mr. Davis** said that some of those issues would be discussed at the upcoming work session.

ADJOURN

The meeting was adjourned at 9:07 p.m.

SUBMITTED:

JoAnn R. Witt, Secretary

APPROVED:

John R. Davis, Chair

DATE: _____