APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
June 12, 2002

MEMBERS
Spencer W. Semmes, Chair
Andrew A. Simasek, Vice Chair
Robert E. Beil, Jr.
Robert D. Heavner
Michael H. Hendricks
Alfred E. Ptasznik, Jr.
Ann F. White

CALL TO ORDER

Chair Spencer Semmes called the regular meeting to order at 7:00 p.m. The roll was called and all members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, and Amy Parker.

REMARKS

Mr. Semmes explained the legal mandate of the Planning Commission, its composition of citizen volunteers, and its mission as an advisory body to the Board of Supervisors for land use issues.

APPROVAL OF MINUTES

Ms. White noted that the unapproved minutes of the May 8, 2001 regular meeting referred to it as a "special meeting," and moved to amend them to read "regular meeting" and to adopt the amended minutes. They were adopted unanimously by roll call vote.

CITIZEN COMMENTS

There were no citizen comments**.**

PUBLIC HEARINGS

Application No. PD-14-02, Villa Development, LLC and The Villas on Shady Banks, LLC: Request to amend the York County Zoning Map by reclassifying approximately 63.8 acres of land located on the north side of Hampton Highway (Route 134) approximately 370 feet east of its intersection with Ascot Drive (Route 1676) from RR (Rural Residential) to PD (Planned Development) subject to voluntarily proffered conditions. The applicant seeks to develop a 92-unit quadruplex development.

Tim Cross gave an audiovisual presentation summarizing the staff memorandum to the Planning Commission dated June 4, 2002, in which the staff recommended denial of this application.

The members asked about emergency response. Mr. Cross said the staff had concerns about increasing demands on the County's emergency response teams due to increased population density. He stated that the Fire and Life Safety Department has indicated that the average emergency response time in Yorkshire Downs is between four and five minutes. He said the County participates in mutual aid agreements with all surrounding jurisdictions for emergency assistance.

The Commissioners asked if there had been an increase in emergency calls since Rainbrook Villas was occupied. Mr. Cross said there had not been.

Chair Semmes opened the public hearing.

Paul Garman, Mid-Atlantic Commercial Realty, represented the applicant. Mr. Garman said the success of Rainbrook Villas is evidence of its consistency with the Comprehensive Plan. Mr. Garman said the population aged 55 and over will continue to grow in number and percentage of population in the County. The applicant requests one unit more per acre than the Comprehensive Plan calls for, he acknowledged, and said if the project is not approved the developer will build it with 57 or 60 units. He displayed renderings and explained that no back yards are planned but the front yards run the entire length of the project. This type of development in the southern end of the County is consistent with the Comprehensive Plan, according to Mr. Garman, and the subject site is the only land available for the project. He believed the development would enhance the view of the southern entrance to the County. He said no tidal wetlands or areas protected by the Chesapeake Bay Preservation Act would be disturbed. He said the County could realize tax gains from the project amounting to approximately $500,000.

The Chair opened the public hearing.

Elwood L. Bland, 16 Timberline Loop, said that as a resident of Rainbrook Villas, he could support the application. Mr. Bland served on the Comprehensive Plan Review Committee and recalled that the area in question was proposed for high-density development. He and his wife have resided at Rainbrook Villas for two years, he said, and would consider the proposed development to be as great an asset to the County as Rainbrook Villas is. He did not think the proposal would present any demands on schools or transportation services nor decrease the residential property tax revenues. Mr. Bland believed it would be "the right project in the right place," would enhance the visual statement upon entering York County from Hampton, and would be an asset to current and future residents. He recommended approval.

Lillian M. Deloney, 306 Timberline Loop, has resided at Rainbrook Villas for one year. She has been disappointed in the promises made but not kept by the developer, including yard and garden not finished on time and still not maintained, leaves not raked, gutters not cleaned, and work that needs to be done that has not been scheduled. She said drainage problems result in ankle-deep water that stands in the yards and in some garages. Ms. Deloney recommended denial to the developer for this and any other project until Rainbrook Villas is completed.

Lois P. Moore, 224 Timberline Loop, said the developer has been responsive, the neighbors are friendly, and the amenities are considerable. She believes the County would benefit from having another development similar to Rainbrook Villas, and recommended approval.

Edna Haggerty, 403 Timberline Loop, moved back to York County after having lived temporarily in Florida. Ms. Haggerty spoke of the abundant active adult communities in Florida and all of the amenities they afford their residents, including shopping, banking and other services. She believes that Virginia is losing retirees to Florida because Virginia does not cater more to senior citizens. The retired military population in York County is a "gold mine," she said. Seniors are providers of funds, not users, according to Ms. Haggerty.

Tim and Sandy Patterson, 128 Ponsonby Drive, Yorkshire Downs, noted the development would be directly behind their house and adjacent to wetlands, and expressed concern about disturbing the ecosystem and possible flooding. The existing wetlands provide a beautiful entry to York County, they said. The Pattersons said the proposed development "is all about money" and provides no protection for homeowners. They want York County to protect its current residents and the value of their property.

Joseph Haggerty, 403 Timberline Loop, read aloud a letter from a citizen unable to attend this meeting, Janice Meredith Wood, 239 Timberline Loop, in which Ms. Wood "expressed how important a community like Rainbrook Villas can be to its residents….This type of housing is desperately needed."

Joseph Wallace, 113 West Woodland Road, stated that his grandmother has owned the subject property since 1939. The property has been rezoned to RR, easing the tax burden on his grandmother, Mr. Wallace said, although her property taxes are still 43 percent of her fixed income. The wildlife in the marsh disappeared after Yorkshire Downs was developed, he said. He did not think the area had ever flooded. Mr. Wallace requested approval of the application because it would allow better utilization of the land and at the same time help his grandmother maximize her long-term investment. He added that the County should continue to think of its elderly citizens in all its deliberations.

Ronda Onware, 6410 Summer Ridge Drive, Missouri City, Texas, has relatives at 37 Wythe Creek Road and asked if the development would include that property.

Myra Dixon, 21 Sacramento Drive, represented the property owner at 37 Wythe Creek Road. She was concerned that the proposal includes that property and stated that the owner would not agree to that. Ms. Dixon said she thought traffic would increase and the surrounding marshland would be negatively impacted by the development. She said she has seen the water levels rise in the marsh and recommended that new construction there be elevated above ground level. Ms. Dixon said that she enjoys the wildlife and the beauty of the land, and requested denial. Mr. Semmes explained that 37 Wythe Creek Road is not part of the proposed development.

Roberto Cana, 124 Ponsonby Drive, lives 25 feet from the proposed development. He feared reduced property values for his own home and wanted to protect trees, wildlife and the view that he and his neighbors enjoy.

Rich Engle, 130 Ponsonby, has lived on a cul de sac that borders the wetlands since it was developed. Mr. Engle said he has witnessed the water from the wetlands rising to the level of his house's 10-foot-high foundation, which also caused sewers to back up. He enjoys the beauty and wants to protect the wetlands.

Willie Grace, 205 St. George Drive, was opposed to a fence being constructed at St. George Drive because it would go through his yard and impact his landscape. He purchased his home for the privacy the cul de sac afforded and wanted to maintain the same level of privacy. He favored denial.

Chad Hill, 126 Ponsonby Drive, stated they had found their home after a long search for a house "that had nothing behind it" and became convinced the Resource Protection Area behind it would never be developed. They were concerned about the required 25-foot-buffer and six-foot-privacy fence that would border the rear of their property, 25 feet from their house. Mr. Hill thought the fence would reduce their property value but if it is necessary it should be on the developer's side of the property.

Kim Hill, 126 Ponsonby Drive, thought families might be attracted to the development and said there is nothing in the applicant's market plan to prevent homebuyers under the age of 55, who could impact the schools.

Judy Burke, 206 Timberline Loop, said Rainbrook Villas affords a very enjoyable lifestyle but she would like for the developer to correct its problems before he is allowed to proceed with the subject proposal.

Hearing no others, Chair Semmes closed the public hearing.

Charles Newbaker, The Sirine Group, Gloucester, responded for the applicant to Mr. Semmes' question about the flood zone of the subject property. The property is in AE flood zone up to Elevation 8, he explained, and none of the area proposed for construction or land disturbance lies in a Resource Protection Area. All proposed development would be above Elevation 8. The property on Ponsonby Drive is below Elevation 8, he added.

Mr. Semmes asked why a turn lane with a taper is recommended along Hampton Highway. Mr. Newbaker said that consultation with the Virginia Department of Transportation and other traffic experts convinced the developer to recommend a turn lane and taper from Hampton Highway because of the speed of traffic in that area.

Mr. Semmes inquired about the zoning of the nearby properties that lie in the City of Hampton. Mr. Garman replied they are a mix of uses, including an industrial park and a trailer park.

Mr. Hendricks expressed appreciation for public comments and believed there are valid arguments on both sides. He spoke of the work of the Comprehensive Plan Review Committee and what it envisioned for the Hampton Highway corridor: preservation of the greenbelt and nodal commercial development. He felt the vision is coming to fruition. There is a need for housing targeted to seniors and by most measures Rainbrook Villas has met some of that need. The location selected for the proposed Villas on Shady Banks is consistent with the vision of the Comprehensive Plan, the development would have a low impact on that property and low impact on County citizens, and the

relevant issues were adequately addressed. He noted that in similar circumstances property values in Coventry actually held steady or rose above the Peninsula average. He cautioned about the maintenance required for mulch trails, which also are impractical for wheelchairs and carts. Mr. Hendricks supported approval of the application.

Mr. Ptasznik believes managed growth that encourages citizen involvement has drawn many homeowners to York County. However, the southern end of the County has experienced a dramatic increase in density and York County overall has experienced a 32% population increase in the past 10 years, he said. He believed that seniors are interested more in lifestyle than location, and the lower County, particularly District 5, is already overpopulated. Mr. Ptasznik also believed some residents of the proposed development would be in the work force and thereby increase traffic. For all of those reasons, he could not support approval.

Ms. White believed the proposal is first class and the developer would be sensitive to environmental issues, but she could find no compelling need to recommend excessive population density.

Mr. Simasek commended the staff as competent and experts in their field, but felt that the applicant had adequately addressed concerns about the environment and emergency response times, along with other issues. Mr. Simasek believed the project make good use of the land and he favored approval.

Mr. Heavner mentioned the success of Rainbrook Villas and said he favored approval of this application.

Mr. Beil was concerned about encouraging U-turns on Route 134 and about population density in the lower County, but could support approving 56 units instead of the requested 92.

Mr. Semmes noted the success of Rainbrook Villas, but said he could not support the project because of traffic and density concerns, and he did not believe it was the best use of the property.

Mr. Ptasznik moved adoption of PC02-18, "A Resolution to Recommend Approval of a Planned Development of Quadruplex Homes on Hampton Highway." It was defeated by roll call vote of 3:4 (Yes – Simasek, Hendricks, Heavner; No – Ptasznik, White, Beil, Semmes).

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RECESS/RECONVENE

Chair Semmes called a recess at 9:10 PM and reconvened the meeting at 9:22 PM.

PUBLIC HEARINGS, continued.

> **Application No. UP-598-02, Michelle Garcia:** Request for a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane.

Tim Cross, following a brief audiovisual presentation, summarized the staff memorandum to the Commission, in which the staff recommended approval. Mr. Cross noted that the York County Utilities Division is not concerned that such a home occupation would impact the water system.

Traffic and parking impacts were discussed, during which Mr. Cross noted that a maximum of 18 vehicle trips per day could be generated by this home occupation, and on-street parking would not be permitted. Two client vehicles could be parked in the applicant's driveway at any one time, he added.

Chair Semmes opened the public hearing. Hearing no one, he closed the public hearing.

Mr. Hendricks stated there should be virtually no impact on the applicant's neighborhood if she were approved for this home occupation, and he supported approval.

PC02-19

On motion of Mr. Beil, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 104 ALABAMA LANE

WHEREAS, Michelle Garcia has submitted Application No. UP-598-02 requesting a special use permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane (Route 1617) and further identified as Assessor's Parcel No. 2F-3-3-89; 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 given careful consideration to the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2002, that Application No. UP-598-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a special use permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to establish a beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane and further identified as Assessor's Parcel No. 2F-3-3-89, subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane and further identified as Assessor's Parcel No. 2F-3-3-89.

2. The conduct of such home occupation shall be limited to an area within the existing attached garage not to exceed 200 square feet.

3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.

4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.

5. The days and hours of operation shall be limited to Monday through Saturday from 9:00 AM to 5:00 PM.

6. No more than one (1) customer at any one time shall be served within the applicant's home.

7. Retail sales on the premises shall be limited to incidental sales of shampoo and other hair care products.

8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.

9. In accordance with the terms of the Zoning Ordinance, a minimum of one (1) off-street parking space shall be provided on the premises to accommodate customers. This space shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.

10. 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.

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Application No. UP-599-02 Konstantin and Marina Fotiadis: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 3) of the Zoning Ordinance, to authorize an automobile service and sales establishment on a 2.67-acre parcel of land located at 110 Oaktree Road between East Rochambeau Drive (Route F-137) and Oaktree Road. (Route 786).

Tim Cross presented a summary of the staff report to the Commission dated May 29, 2002, in which the staff recommended approval.

Chair Semmes opened the public hearing. Hearing no one, he closed the public hearing.

Ms. White agreed with the recommendation for extended buffers and setbacks.

Mr. Ptasznik said he is familiar with the location and thinks the project would be a welcome addition.

Mr. Heavner inquired as to the type of landscaping that is recommended along East Rochambeau Drive. Mr. Cross said the staff is recommending a landscaped buffer with 20-foot screening.

Ms. White moved to adopt PC02-20 to recommend approval.

<u>PC02-20</u>

On motion of Ms. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST FOR A SPECIAL USE PERMIT TO AUTHORIZE AN AUTOMOBILE SERVICE AND SALES ESTABLISHMENT AT 110 OAKTREE ROAD

WHEREAS, Konstantin and Marina Fotiadis have submitted Application No. UP-599-02 requesting a Special Use Permit to authorize an 8,750-square foot automobile service and sales establishment on a 2.67-acre parcel of land located at 110 Oaktree Road between East Rochambeau Drive (Route F-137) and Oaktree Road. (Route 786), across from the intersection of Oaktree Road and Red Dirt Road (Route 1420), further identified as Assessor's Parcel No. 2-59A; 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 12th day of June, 2002, that Application No. UP-599-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize an 8,750-square foot automobile service and sales establishment on a 2.67-acre parcel of land located at 110 Oaktree Road between East Rochambeau Drive (Route F-137) and Oaktree Road. (Route 786), across from the intersection of Oaktree Road and Red Dirt Road (Route 1420), further identified as Assessor's Parcel No. 2-59A, subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of an 8,750-square foot automobile service and sales establishment on a 2.67-acre parcel of land located at 110 Oaktree Road between East Rochambeau Drive (Route F-137) and Oaktree Road. (Route 786), across from the intersection of Oaktree Road and Red Dirt Road (Route 1420), further identified as Assessor's Parcel No. 2-59A.

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 York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land clearing or development activities in connection with the use. Said site plan shall be in substantial conformance with the conceptual plan titled "European Cars of Williamsburg Auto Service & Sales," prepared by Simmons Engineering, Inc. and dated April 16, 2002, a copy of which shall remain on file in the Department of Environmental and Development Services.

3. The development shall be constructed and operated in conformance with the performance standards set forth in Sections 24.1-475 and 24.1-477 of the Zoning Ordinance except as modified herein.

4. Notwithstanding the provisions of Section 24.1-221 of the Zoning Ordinance, the minimum building setbacks measured from both the East Rochambeau Drive and Oaktree Road rights-of-way shall be 45 feet.

5. The development shall be limited to a single entrance on East Rochambeau Drive. No entrance to the development from Oaktree Road shall be permitted.

6. 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.

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Application No. UP-600-02, VoiceStream Wireless: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 400-foot self-supporting communications tower with associated ground-mounted equipment at the York High School campus located at 9300 George Washington Memorial Highway (Route 17).

Tim Cross presented the staff summary to the Commission and noted the staff recommendation of approval by the adoption of Resolution No. PC02-21. He noted the staff had studied two possible options. Option A, which the staff prefers, would locate the proposed tower near Falcon Road approximately midway between Route 17 and Cook Road and mitigate the visibility of the tower from either road. Option B is a site 250 feet from Surrender Road, approximately 300 feet west of its intersection with Cook Road.

Ms. White asked if the proposed tower would replace the existing 350-foot tower located at the school, and Mr. Cross replied that it would.

Terry Hall, York County Communications Manager, added that there would be a six-month construction period during which both towers would be standing. The applicant will pay the expense of erecting the new tower and present the title to the County, according to Mr. Hall. Mr. Semmes asked if a 50-foot-taller tower is needed, and Mr. Hall said the additional height is necessary to provide the advanced technology and greater coverage needed for public safety and public service. He said the taller tower would also have to be approved by the Federal Aviation Administration.

Mr. Ptasznik asked about ownership of the 200-foot buffer around the proposed tower, and Mr. Mark Carter advised that the School Division is negotiating to acquire that parcel between Falcon Road and the current main entrance to York High School off Route 17.

Richard Hixson, York County School Division Deputy Superintendent of Operations, added that the School Board believes the acquisition of that property is a good opportunity, but has not determined its exact use.

Chair Semmes opened the public hearing.

Nathan Holland, representative of VoiceStream Wireless, 5041 Corporate Woods Drive, Virginia Beach, said the VoiceStream network will be launched in this part of Virginia in the next few months, allowing unbroken service between the District of Columbia and the Southside. He offered to answer questions.

Mr. Hendricks asked what the alternative would be if this tower is not approved. Mr. Holland said the applicant would need to co-locate its antennas on an existing tower, requiring a modification of the tower.

Mr. Ptasznik asked about the number of users on the existing tower. Mr. Hall said the tower accommodates four paging stations, a radio station, two wireless communication providers, PCS cellular provider, and the entire County network. Mr. Ptasznik said he is concerned about what it would look like with all the antennas.

Bill Ambrose, 3801 McTyres Cove Road, Midlothian, Virginia, owns property adjacent to York High School and is opposed to approving this application. It would be next to and in full view of Surrender Field, a national historical park. Every effort should be made to preserve the atmosphere and historical significance of Surrender Field as it was in 1781, he believed, and noted it had been the last battlefield of the Revolutionary War. He said it appears that York High School is "becoming an antenna farm." He recommended denial.

Dick Ambrose, 205 Marl Ravine Road, owns adjacent property and also was concerned about the visibility of the proposed tower from Surrender Field. He said what he thought had been built for educational purposes for York High School had eroded into a commercial use, and the tower is an eyesore. Option B was out of the question for Mr. Ambrose, and Option A, if selected, would be close enough to his own property to restrict its possible uses. His property is in the Tourist Corridor Management Overlay District, he said, which should encourage the development of tourist-related uses. Mr. Ambrose said the County should support private property owners and should restrict use of school property to educational enterprises.

Karen Reem, Chief Historian, Colonial National Historical Park, said the National Park Service (NPS) has serious concerns about the existing tower's impact on the view shed at Surrender Field, which is an important historic site. She said preparations are underway for the 225th anniversary of the surrender for which the Park Service plans to upgrade the site to enhance the whole experience of Surrender Field.

Tom Nash, Chief Ranger, Colonial National Historical Park, added that the Park is willing to work with the County and applicant on tower height and visibility for Option A, but the NPS is very much opposed to Option B.

The Chair then closed the public hearing.

Mr. Holland said the desired coverage could be provided while the other site is being built with a "C.O.W. location" of a maximum [additional] 120-foot height. Mr. Hall added that a dual balloon test will be conducted, one at 350 feet and one at 400 feet.

Mr. Beil inquired about the use of strobe lighting, and Mr. Hall said no strobe lighting would be used during darkness. The night lighting will be red and strobe lighting will be used during the day, as it is now.

Mr. Ptasznik asked if there is another place that would be suitable. Mr. Hall said the York High School location meets all of the County's current and future needs and there are no other sites available where maximum coverage would be attained.

Mr. Semmes said to approve Option A would be preferable to Option B, but it would still replace one eyesore with another. He thought an alternative should be researched and suggested further study before the Commission makes a recommendation.

Mr. Hendricks asked what the Comprehensive Plan recommends, and Mr. Carter said the County's policy has been to have taller and fewer towers. Mr. Hendricks said, in view of no viable alternative, he would support approval in order to provide the backbone for all of the services needed while affecting as few residents as possible.

Mr. Simasek suggested that School Division and the County staff find a place other than a school ground for the tower. If no alternative were to be found, he would support it.

Mr. Ptasznik said because of the type of tower it is, comparing it to a flag pole tower, and the proximity of the proposed site to a church and a motel, Route 17, and the historical area, he thought a wooded site would be preferred.

Mr. Semmes suggested the Commission consider tabling the application until after the balloon test, and Mr. Ptasznik agreed that would be a worthwhile action.

Mr. Hall said he and staff had looked at other options in the County and considered other vendors, but there are negative issues related to coverage if the towers are too far away. There are a number of sites that would permit a 200-foot tower, but not for a 400-foot-tower. He stressed the need for the taller public service and public safety antennas, and reiterated his opinion that Options A and B represent the best sites available.

Mr. Hendricks moved adoption of Resolution PC02-21 to recommend approval and endorse Option A.

PC02-21

On motion of Mr. Hendricks, which carried 6:1 (Mr. Semmes opposing), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A 400-FOOT SELF-SUPPORTING COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT YORK HIGH SCHOOL

WHEREAS, VoiceStream Wireless has submitted Application No. UP-600-02, which requests 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 400-foot freestanding communications tower with associated ground-mounted equipment on the parcel located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6; 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 carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2002 that Application No. UP-600-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of a 400-foot freestanding communications tower with associated ground-mounted equipment on the parcel located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6, subject to the following conditions:

1. This use permit shall authorize the construction of a self-supporting communications tower on 49.6 acres of land located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6.

2. The height of the tower shall not exceed 400 feet.

3. 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 any land clearing or construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the conceptual plans titled either "New County Tower (Option A) or "New County Tower (Option B)", prepared by GEM Engineering Company and dated May 16, 2002, a copy of which is on file the York County Department of Environmental and Development Services. 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.

4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.

5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.

6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

7. The tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennae and comparable antennae for at least two additional users.

8. Advertising or signage other than warning, equipment information, or emergency notification signs on any portion of the tower or accessory facilities shall be prohibited. A sign measuring 6 square feet or less, clearly visible identifying the owner(s) and operator(s) of the communication tower, the telecommunication provider(s) name, and a contact telephone number and address shall be placed on the site at a location acceptable to the County.

9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.

10. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is being constructed.

11. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County.

12. The communication tower shall have either a galvanized finish or a similar finish deemed acceptable to the Zoning Administrator. Should the Federal Aviation Administration or the Federal Communications Commission, subsequent to the approval of the use permit, require special finishes which conflict with this requirement, such use permit shall be void until such time as the Board shall have conducted a public hearing. After such hearing, and after considering whether the Federal Aviation Administration or the Federal Communications Commission requirement is appropriate for the subject location, the Board shall either reinstate the use permit, or deny its reissuance.

13. The base of the tower and any accessory structures shall be appropriately landscaped to effectively obscure views from adjacent properties. Existing on-site vegetation shall be preserved to the maximum extent practicable.

BE IT FURTHER RESOLVED that the Commission endorses Option A as the preferred tower site.

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STAFF REPORTS

Mr. Carter reported on recent actions of the Board of Supervisors. He reminded the members that election of Chair and Vice Chair will be on the July meeting agenda. Also, in July the staff will distribute draft amendments to the Commission bylaws for review and recommendation in August.

Mr. Hendricks suggested offering more than 10 minutes, perhaps 15 or 20 minutes, for the presentation of any applicant whose application is recommended for denial. Mr. Carter said, alternatively, the staff could be asked to limit its presentation to 10 minutes, and Mr. Ptasnik and Ms. White commented that they didn't think the staff time should be limited. Mr. Simasek suggested flexibility be granted to the Chair in those situations.

Mr. Carter expressed thanks and appreciation to Mr. Bob Beil, whose term is expiring, for his commitment and for his cooperation in working with the staff. He told the Commissioners that Mr. Nick Barba was appointed to the Planning Commission to represent District 4.

COMMITTEE REPORTS

Mr. Simasek said the design guidelines citizen review committee anticipates it will present draft Yorktown design guidelines to the Commission in July.

FUTURE BUSINESS

Mr. Carter noted the application on the Commission's agenda for the July public hearing.

ADJOURNMENT

Adjournment was called at 10:50 PM.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____ **DATE:** July 10, 2002
Michael H. Hendricks, Chair