

**AMHERST COUNTY
PLANNING COMMISSION MEETING
THURSDAY, DECEMBER 17, 2015
MINUTES**

VIRGINIA

A public meeting for the Amherst County Planning Commission was held on Thursday, December 17, 2015, in the School Board Room located in the Administration Building at 153 Washington Street, Amherst, VA.

MEMBERS PRESENT: Beverly Jones, Chairman
Lillian Floyd
Les Irvin
Derin Foor
Michael Martineau
David Pugh, Board of Supervisors Liaison

MEMBERS ABSENT: George Brine, Vice Chairman

STAFF PRESENT: Jeremy Bryant, Director of Planning/Zoning
Austin Mitchell, Assistant Zoning Administrator/Planner
Stacey Stinnett, Administrative Assistant

Agenda

1. Call to Order
2. Approval of Agenda
3. Citizens Comments
4. Milestone Communication – Elon Elementary Wireless Tower – 15.2-2232 Vacate Prior Decision
5. Public Hearing
 - A. 2015-10 Joshua Adam Huffines
 - B. 2015-11 Patricia Gibbons
 - C. Milestone Communications – Elon Elementary Wireless Tower
6. Site Plan
 - A. Milestone Communications – Elon Elementary Wireless Tower #0415-SP-001
 - B. Nueva Asamblea De Dios – Class Room Addition #1115-SP-001
7. Old/New Business
8. Approval of Minutes for November 19, 2015
9. Adjournment

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m.

2. APPROVAL OF AGENDA

The agenda was amended.

Planning Commission Action:

Motion: Irvin I move that the Amherst County Planning Commission amend the agenda as follows: first, to add as a new item 4 (four) following Citizen Comments a closed session pursuant to § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding review of the Elon wireless communications tower under Virginia Code § 15.2-2232, and second, to renumber the balance of the agenda items five (5) through ten (10).

Second: Martineau

The motion carried by a 5-0 vote

3. CITIZENS COMMENTS

There were none.

4. CLOSED SESSION

Planning Commission Action:

Motion: Martineau I move that the Amherst County Planning Commission convene in closed session pursuant to Section 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding review of the Elon Elementary School wireless communications tower under Virginia Code Section 15.2-2232, which matter requires the provision of legal advice by the County Attorney.

Second: Foer

The motion carried by a 5-0 vote

The Planning Commission left at 7:03 p.m. to convene in closed session in the Board of Supervisors Room.

The Planning Commission returned out of closed session at 7:35 p.m.

Planning Commission Action:

Motion: Martineau I move that the Amherst County Planning Commission come out of closed session.

Second: Foor

The motion carried by a 5-0 vote

Planning Commission Action:

Motion: Floyd I move that the Amherst County Planning Commission certify by a recorded vote that, to the best of each Commission member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed, or considered in the closed session.

Second: Irvin

The motion carried by a 5-0 vote

5. MILESTONE COMMUNICATION – ELON ELEMENTARY WIRELESS TOWER – 15.2-2232
VACATE PRIOR DECISION

Ms. Jones requested a motion to vacate the previous decision from the November 19, 2015 meeting regarding the proposed wireless communication tower at Elon Elementary School.

Planning Commission Action:

Motion: Martineau I move that the Planning Commission rescind its determination of November 19, 2015, that the Elon wireless communication tower project is in substantial accord with the Comprehensive Plan.

Second: Foor

The motion carried by a 5-0 vote

6. PUBLIC HEARING

• A. 2015-10 Joshua Adam Huffines

Request by Joshua Huffines for a special exception request in the B-2 General Commercial District. The purpose of the special exception is to allow a used automotive and motorcycle sales lot. The parcel is located at 3713 South Amherst Highway and is further identified as tax map number 148-1-2.

Mr. Bryant presented the Staff report and concluded his comments by stating that Staff recommends the following conditions:

1. Trash Disposal: If an outdoor trash facility is used, the trash disposal facility shall be placed in an area that is not visible from a public right-of-way and in an area that is not objectionable to neighboring properties. If it is visible from a public right-of-way (as determined by the Zoning Administrator) or objectionable to a neighboring property owner, a wooden privacy fence shall be erected around the trash facility. The fence shall be a wooden slat fence that is a minimum of six (6) feet in total height.
2. Lighting: Lighting facilities shall be so arranged that light is reflected away from adjacent properties and streets.
3. Sight Distance: The placement of all automobiles for sale shall be located in an area that does not affect any vehicular sight distance.
4. Outdoor storage: No miscellaneous items shall be stored outside the building other than vehicles that are for sale.
5. Operative Motor Vehicles: All vehicles for sale must be in operating condition.
6. Vehicles for Sale: The maximum number of vehicles for sale shall not exceed the minimum required parking spaces required in Section 602 of the Amherst County Zoning Ordinance.

One amendment to number (4) four – no miscellaneous items shall be stored outside other than vehicles for sale and uses that existed prior to the special exception.

Ms. Jones opened the public hearing.

No one spoke in favor or opposition, therefore Ms. Jones closed the public hearing.

Planning Commission Recommendation:

Motion: Foor Motion to approve special exception request 2015-11
Joshua Huffines in B-2 General Commercial District with
staff recommendations and additions.

Second: Floyd

The motion carried by a 5-0 vote

B. 2015-11 Patricia McAdams Gibbons

Request by the Patricia McAdams Gibbons for a special exception request in the A-1 Agricultural Residential District. The purpose of the special exception is to allow a venue for weddings as well as short term tourist rental of a dwelling (vacation rental). The parcel is located at 1769 High Peak Road and is further identified as tax map number 107-A-35.

Mr. Bryant presented the Staff report and concluded his comments by stating that Staff recommends the following conditions.

1. Lighting: All outdoor lighting will be glare-shielded and directed so as to prevent illumination across the property line.
2. Parking: A parking attendant shall be directing traffic with events greater than seventy-five (75) guests.
3. Entrance: Applicant shall contact the Virginia Department of Transportation (VDOT) to determine if a commercial entrance permit will be required prior to the issuance of a zoning permit. If a change in the entrance permit is required, the applicant shall provide the Amherst County Planning and Zoning Department an approved entrance permit number to be included on the zoning permit.
4. Sewerage Facilities: The applicant shall follow all regulations prescribed by the Virginia Department of Health.
5. Short Term Tourist Rental: The applicant shall meet all requirements of Section 916 which regulates short-term tourist rental of dwellings.
6. Safety Fence: A fence shall be erected around the pool that meets the Virginia State Building Code.

Ms. Jones opened the public hearing.

Ms. Patricia McAdams Gibbons, applicant, spoke in favor of the request. Ms. Gibbons stated that there would be no shared driveway and that the vacation rental has its own private

driveway. Ms. Gibbons also stated that she had a letter from the Virginia Department of Health for approval of the septic system and that she is currently working with Mr. Kessler at VDOT. Ms. Gibbons stated that she would not be renting to hunters.

There being no further speakers Ms. Jones closed the public hearing.

Planning Commission Recommendation:

Motion: Irvin Motion to approve special exception 2015-11 request for Patricia McAdams Gibbons with staff conditions

Second: Martineau

The motion carried by a 5-0 vote

C. Milestone Communications – Elon Elementary Wireless Tower

Mr. Bryant read a memorandum he wrote to the Planning Commission dated December 14, 2015, stating that on December 1, 2015 the Board of Supervisors considered the Planning Commission's decision regarding the Wireless Communication Tower at Elon Elementary School and the decision to proceed without a public hearing. During the Board of Supervisor's meeting, a motion was made and a majority vote cast to direct the Planning Commission to hold a public hearing on the matter.

Mr. Bryant explained that as a result of the Board's direction, the Planning Commission must vacate their prior decision from the November 19, 2015 meeting and shall hold a public hearing on the matter and determine if the wireless communications facility proposed on public land will be in compliance with the Comprehensive Plan (Virginia Code 15.2-2232).

In a memorandum dated November 13, 2015 staff highlighted specific goals, objections and strategies that could aid the Planning Commission in their review. Mr. Bryant gave examples of the goals, objectives and strategies.

Mr. Bryant explained that in the application, Milestone provided propagation maps that show existing and proposed coverage; recently staff received a letter from VDOT that addressed that the proposed right-of-way access was within VDOT Right-of-Way. Milestone appears to be certified and in compliance with historical federal and environmental laws, staff received information on the reasoning for the antenna arrays and stormwater. Mr. Bryant stated that staff finds the application by Milestone Communication ripe for Planning Commission consideration.

Mr. Bryant explained that if the Planning Commission finds substantial compliance with 15.2-2232 and Planning Commission approves the site plan with staff conditions, staff must still undergo a by-right review of the application to ensure compliance with the Zoning Ordinance.

Staff has received copies of letters from citizens that are opposed and in favor, letters from the

County Attorney and the Economic Development Authority (EDA) letter of approval to support the Wireless Communication Tower at Elon Elementary School.

Mr. Hershal Keller, attorney with Gentry Locke located at 801 Main Street in Lynchburg, Virginia, represents the applicant Milestone Communications. Mr. Keller introduced Jennifer Bond, Project Manager with Milestone Communication and Trent Snarr from NB&C Engineering Firm. Mr. Keller stated that the application complies with the site plan ordinance as well as the Comprehensive Plan. Mr. Keller stated that the site plan application was not relevant to the public hearing and that the public hearing should stick to reasons as to why the application is or is not in accord with the Comprehensive Plan Section 15.2-2232. Mr. Keller responded to a letter that staff had received from Mr. Friedman, an attorney that represents a group of residents, stating that Milestone had "some burden of proof to supply". Mr. Keller stated that there is no proof that Milestone needs to reference to a Section 15.2-2232 review; however, this is clearly up to the Planning Commission to determine if the application is in accord with the Section 15.2-2232.

Ms. Jones opened the public hearing.

Mrs. Susan Cash, resides at 340 Ruth Drive in Madison Heights, Virginia, spoke in favor of the request. Mrs. Cash stated that the Elon Wireless Tower would support four (4) areas of the Comprehensive Plan: Public Safety, Information Technology, Education and Economic Development. "I feel that a few voices of the minority are overshadowing the thoughts and opinions of less vocal majority." "Please don't let this be your legacy."

Mrs. Lesley McPhatter, resides at 242 Lea Beth Drive in Madison Heights, Virginia, spoke in favor of the request. Mrs. McPhatter represented eighteen (18) of her family members that live in the district speaking on their behalf as well. "The cell tower would promote reading, literacy and lifelong learning for all residents and to do this we have to keep up with technology to move forward."

Mrs. Abby Thompson, resides at 214 Camden Drive in Madison Heights, Virginia, spoke in opposition. Mrs. Thompson provided a petition with 236 citizens that were opposed to the Elon Wireless cell tower. "We are the local majority." Mrs. Thompson stated that an alternate site had not been vetted and the alternate site would be "proactive" in providing better and safer service for the citizens.

Mrs. Florence Nixon, resides at 123 Younger Drive in Madison Heights, Virginia, spoke in opposition to the request. "An alternate tower site on Monacan Park Road would be less intrusive and provide better service."

Mr. Holcomb Nixon, resides at 123 Younger Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Nixon gave a brief history of the site, school, church and Elon village. Mr. Nixon expressed concerns with theft at the site, safety, future school expansion, health concerns, stormwater conditions, and access easement.

Mr. Ted Campbell, resides at 292 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Campbell stated that Elon is a "Byway to the Blue Ridge Parkway" and that Elon is the homeplace of the Elon Monacan Indians. Mr. Campbell asked that the Planning Commission take into consideration the local citizens concerns and reconsider and look into the alternate site. "We need businesses but this cell tower is not going to be the answer to getting businesses in our County."

Mr. Alan Nixon, resides at 124 Manse Road in Madison Heights, Virginia, spoke in opposition to the request. Mr. Nixon expressed concern with safety and the school currently having limited space with traffic. Mr. Nixon stated that the property that would be tied up with the cell tower may possibly be needed in the near future for expansion of the parking lot.

Mrs. Melanie Harris, resides at 340 Monacan Park Road in Madison Heights, Virginia, spoke in opposition to the request. Mrs. Harris stated that the tower was not in accord with the Comprehensive Plan and that the tower was not safe because it was near a playground. "There are many, many angry citizens and that doesn't sound a whole lot like working collaboratively with the citizens of the County when you're angering them by trying to put a tower in the middle of their village." Mrs. Harris also spoke of the alternate site on Monacan Park Road that would be the more ideal site for coverage.

Mr. Clay Campbell, resides at 270 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Campbell stated that the same reasons the citizens do not want the tower are the same reasons why it is not in substantial accord with the Comprehensive Plan. Mr. Campbell expressed concern for the school needing additional space for future expansion if other elementary schools in the County close.

Mrs. Promise Campbell, resides at 270 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mrs. Campbell stated that no citizen is a "distraction." Mrs. Campbell was concerned for the beauty, mountains, scenery and community.

Mr. Kenny Smith, resides at 221 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Smith stated that "valuable real estate would be lost for additional space for the school and Mr. Les Irvin on the Planning Commission agreed in the last meeting". "The septic system for the school has failed once and the proposed site encroaches on the future septic site." Mr. Smith also expressed concerns about cutting down trees, "beauty that is surpassed". "Let's put an end to this cell tower and make this community whole again."

Mr. Sam Davis, resides at 2279 Elon Road in Madison Heights, Virginia, spoke in opposition to the request. Mr. Davis is a member, deacon and trustee of Elon Baptist Church. Mr. Davis is concerned that the tower could hinder future expansion for the church as well as the scenic view shed being affected by the cell tower. Mr. Davis asked the Planning Commission to consider the alternate site so that the current proposed site would not alienate the Elon village.

Mr. Greg Franklin, resides at 201 Camden Drive in Madison Heights, Virginia, spoke in

opposition to the request. Mr. Franklin expressed concerns about safety, aesthetic, and health risks by allowing the Elon Wireless Tower. Mr. Franklin asked the Planning Commission if insurance premiums would increase on the school property since the property will have more risks by allowing a cell tower near a playground and does the school pay these extra insurance premiums because the children are exposed to more risks.

Mr. Jedd Campbell, resides at 314 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Campbell asked the Planning Commission to consider the alternate site and take into consideration all the reasons why it is not in accordance to the Comprehensive Plan.

Mr. Martineau left the meeting at 9:05 p.m.

Mr. Christian Campbell, resides at 314 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Campbell expressed his concern for the alternate site and for this site alienating the Elon community.

Mr. Martineau returned to the meeting at 9:07 p.m.

Mr. Jim Thompson, resides at 214 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Thompson asked the Planning Commission if they had all received and reviewed Mr. Freidmans letter. The Planning Commission replied that they had. Mr. Thompson stated that 15.2-2232 came about after the School Board Meeting and that this means the "County was off the rails." Discussion about environmental concerns that Mr. Thompson has filed a complaint with the FCC for the drainage issues in this area.

Mr. Jim Massie, resides at 218 Maple Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Massie said this was a condemnation suit and Milestone is condemning Camden Drive by lowering property values by 15% to 20%. Mr. Massie stated that the property owners should be compensated and the money Milestone Communications gives the School Board for the tower should be dispersed amongst the residents of Camden Drive that have lost property value on their homes due to the wireless cell tower.

Mr. Jason Ferguson, resides at 164 Camden Drive in Madison Heights, Virginia, spoke in opposition to the request. Mr. Ferguson said, "this is a problem that I can see from my house." Mr. Ferguson expressed concern over the residents at the river that could not get coverage and said that the alternate site would be the better fitted location and that the County should have a third unbiased party look at all sites to determine the best location.

There being no further speakers, Mrs. Jones closed the public hearing.

Ms. Jones directed the Planning Commission to make a decision based on whether the Milestone Communication Wireless Cell Tower at Elon Elementary School would be in compliance with the Comprehensive Plan.

Mr. Irvin asked Mr. Bryant what the projected coverage was for Monacan Park Road and Johns Creek Road. Mr. Bryant referred to the "coverage maps" that Milestone Communication provided to staff.

Mr. Irvin asked if the coverage would get to the Monacan Park area. Mr. Bryant referred to Milestone.

Mr. Keller replied that a radio frequency engineer from Milestone Communications would need to answer that question.

Mr. Irvin also asked if Verizon had made any commitment with Milestone to use the proposed tower. Ms. Jennifer Bond, project manager with Milestone Communications, replied that Verizon had inquired but Milestone has not yet received a signed lease.

Mr. Irvin stated that the cell tower, its utilities and service road could cause complications and additional construction costs should there be need to expand Elon Elementary School in the future. Mr. Irvin also asked the Planning Commission to consider that any new cell tower that serves Monacan Park Road and Johns Creek Road areas should provide adequate coverage, both voice and data, to residences using these roads and the Monacan Park Recreation area.

Martineau asked who made the determination that expansion would be necessary in the future.

Mr. Irvin replied that to Martineau's question saying that sooner or later the School Board is going to be faced with a decision to add more students to other schools. Mr. Irvin said that currently Pleasant View Elementary School only has (53) students.

Mr. Pugh asked Milestone who would receive the lease funds. Mr. Keller replied that they would be paid to the School Board. Mr. Irvin commented that they would be appropriated back to Amherst County and the Board of Supervisors appropriates the school budget. Mr. Pugh agreed.

Mr. Keller stated that the fee is \$25,000, and \$5,000 per additional carrier and Milestone gives 40% of the rent to the Amherst County School Board. Mr. Keller said that this lease had been discussed and reviewed by the Amherst County School Board.

Planning Commission Recommendation:

Motion: For

Motion to affirm that the Planning Commission has made a determination in the course of its review that the proposed wireless communication facility at Elon Elementary School is in substantial accord with the Amherst County Comprehensive Plan. Following sections of the Comprehensive Plan summarize why the proposed

facility is in substantial accord. This facility will aid in fulfilling the demands of Amherst County residents, employees, and visitors and will meet both current and future needs. The ability to collocate public safety devices and deliver 911 communications is imperative to the residents of Amherst County. These can be referenced on page 104 Goal #1 Objective #1 and #2 of the Comprehensive Plan. Improving response times for law enforcement, medical assistance, and other emergency services highlights the need for this communication facility where coverage is scarce. This can be referenced on page 106 Goal #1 and page 107 Goal #2 and Objective #2 of the Comprehensive Plan. Where economic development is concerned, this facility will aid in the attraction and retention of both large and small businesses, with no financial burden to the County. Broadband technology is the backbone on which our information technology will be built and it is imperative that this infrastructure be in place to move the county forward. This can be referenced on page 115 Objective #1 and page 118 Goal #3 and page 121 Goal #1 and Objective #1. New business prospects will require three major things: public water, public sewer and broadband access. This proposed tower will, without a doubt, provide the latter. The Amherst County Economic Development Authority supports the construction of a cell tower at Elon Elementary School. A letter is available for review. For all of the aforementioned reasons, the proposed wireless communications facility at Elon Elementary School is in accord with the Comprehensive Plan and should be approved by the Board of Supervisors.

Second: Martineau

The motion carried by a 4-1 vote (Irvin)

The Planning Commission took a short recess at 9:38 p.m. and reconvened at 9:45 p.m.

7. SITE PLAN

A. Milestone Communications – Elon Elementary Wireless Tower # 0415-SP-001

In accordance with Sections 919 and 1103 of the Zoning & Subdivision Ordinance, Milestone Communications Management III, Inc. has submitted a site plan for the construction of a one-hundred twenty (120) foot tall new personal wireless service

facility at Elon Elementary School on property owned by Amherst County School Board, and located on tax map parcel number 121-A-53. Copies of the plans have been reviewed by the Development Review Committee on November 25, 2015. The following sections summarize staff and agency comments with respect to the major elements of the plan.

Mr. Mitchell presented the Staff report and concluded his comments by stating that Staff recommends the following conditions.

1. The Erosion & Sediment Control plan must be approved and a bond must be established with Amherst County in the total amount of the cost of implementing the erosion and sediment control measures shown in the plan.
2. Revision of the site plan to show the existing VDOT right-of-way and the proposed revised access to VDOT right-of-way approved by a representative of the Virginia Department of Transportation (through site plan approval).
3. Virginia Department of Health approval of the site plan.
4. Per Section 602.02(2), all lighting facilities must be arranged so that light is reflected away from adjacent properties and streets.
5. Landscape bond must be established with Amherst County in the total amount of the cost of implementing the proposed landscaping per Section 1602.

Mr. Irvin asked if number two (2) on staff recommendations should be revised. Mr. Mitchell stated that the condition could be changed to state "Virginia Department of Transportation approval of the siteplan," since the right-of-way has been updated on the December 15, 2015 revised siteplans.

Mr. Pugh expressed concern over how close the easement was to the adjoining properties. Mr. Bryant explained that roadways do not have setbacks.

Mr. Trent Snare from NB&C Engineering replied that they had provided at least two feet to get silt fences below the roadway for construction purposes. Mr. Snarr also stated that he had gotten approval from Mr. Kessler at VDOT to connect to the established state right-of-way on school property. Mr. Bryant explained that the site plan had to go through the Development Review Committee and VDOT worked closely with the County and has provided the County with written approval of this project.

Ms. Jones stated that if the church has any issues with the right-of-way then they should contact the Virginia Department of Transportation.

Planning Commission Recommendation:

Motion: Martineau Motion to approve site plan #0415-SP-001 Milestone Communications Elon Elementary Wireless Tower with staff conditions as amended.

Second: Foor

The motion carried by a 5-0 vote

B. Nueva Asamblea De Dios – Class Room Addition #1115-SP-001

In accordance with Section 1103 of the Code of Amherst County, a minor site plan has been submitted by James C. May Jr., agent for Nueva Asamblea De Dios, for the construction of a 620 square foot classroom addition to the existing church, on property located at 151 Elon Road. The proposed addition will not result in the addition of any seats to the sanctuary and, in accordance with Section 602.03.2.a, will not require any additional parking spaces. Copies of the plans were reviewed by the Development Review Committee on November 25, 2015. The following sections summarize staff and agency comments with respect to the major elements of the plan.

Mr. Mitchell presented the Staff report and concluded his comments by stating that Staff recommends approval of the site plan.

Planning Commission Recommendation:

Motion: Irvin

Motion to approve site plan #1115-SP-001 Nueva Asamblea De Dios – Class Room Addition with addition of rapid key box included.

Second: Floyd

The motion carried by a 5-0 vote

7. OLD/NEW BUSINESS

There was none.

8. APPROVAL OF MINUTES FOR NOVEMBER 19, 2015

Mr. Irvin had a question and Mrs. Stinnett stated she would go back and research and the minutes would be reviewed at the next meeting.

9. ADJOURNMENT

There being no more business to discuss, the meeting was adjourned at 10:19 p.m.

Planning Commission Recommendation:

Motion: Irvin Motion to adjourn.

Second: Martineau

The motion carried by a 5-0 vote.

/ss/1.13.16


Chairman