

AT A REGULARLY SCHEDULED MEETING OF THE DEVELOPMENT REVIEW COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN THE BUILDING A CONFERENCE ROOM AT 4 P.M. ON THE 28th DAY OF MAY TWO THOUSAND EIGHT.

ROLL CALL

Mr. Jack Fraley  
Mr. Joe Poole  
Mr. Rich Krapf

ABSENT

Mr. Tony Obadal  
Mr. George Billups

STAFF

Ms. Ellen Cook  
Bruce Goodson  
Marvin Sowers  
Allen Murphy  
Zuzanna Lesniak

MINUTES

Following a motion by Mr. Poole, seconded by Mr. Fraley, the DRC approved the minutes from the April 30, 2008 meeting.

C-0030-2008 Stonehouse Land Bay 3

Ms. Cook presented the staff report and the background information.

Mr. Poole asked if there were any concerns raised by the applicant regarding comments.

Ms. Cook stated she had not received any concerns from the applicant.

Mr. Fraley stated he was pleased to see the developer chose to place fewer homes on the site than the density of the parcel permits.

Following a motion by Mr. Fraley and seconded by Mr. Poole, the DRC recommended 3-0 to grant preliminary approval subject to agency comments.

SP-0127-2007 Verizon Wireless, SP-0131-2007 New Cingular Wireless

Mr. Krapf described the applicants' proposal for two separate 120' mono-pine style cellular communication facilities. Mr. Krapf stated the Planning Director has determined that the proposed towers are camouflaged. Mr. Krapf stated that three letters of appeal contesting the Planning Director's decision have been received. Mr. Krapf stated the next step in the appeal process is to have the DRC determine if the Planning Director's decision could be upheld. Mr. Krapf suggested that the appellants could speak first in this meeting.

Mr. Arthur David Neiman of 105 Broomfield Circle represented Kingsmill Wireless Communications Advocacy Group. Mr. Neiman stated that the proposed wireless facilities do not meet ordinance standards to be considered camouflaged. Mr. Neiman stated the proposed Loblolly mono-pine is not consistent with other eastern Virginia trees, and would be out of scale from other existing vegetation. Mr. Neiman stated that the proposed landscaping will not significantly aide in buffering the wireless facilities and will not fulfill ordinance requirements for “unnoticeable to the casual observer.”

Mr. Craig Young, representing the residents of Moody’s Run, spoke. Mr. Young stated the residents of Moody’s Run are concerned with the visual impact the proposed facilities will create as well as anticipated losses in property values.

Mr. Young stated New Cingular Wireless and Verizon Wireless have agreed to install a berm with landscaping that is similar to the proposed Frances Thacker berm. Mr. Young stated New Cingular Wireless and Verizon Wireless have agreed to add more branches to the tower, look into improving the pond adjacent to the site of the proposed facilities, and add Junipers to the shore line at the north end of the pond.

Mr. Young requested the DRC defer any ruling on this case to allow greater time for the residents of Moody’s Run to negotiate with the applicants, and ensure a satisfactory agreement between the two parties.

Mr. Fraley asked Mr. Young to clarify why the residents of Moody’s Run are requesting the applicant make the proposed improvements to the pond.

Mr. Young stated that by improving the pond the visual impact of the cell towers would be diminished, since the viewers eyes would be drawn down to the attractive setting around the pond rather than up to the cell tower.

Ms. Ina Friedman of 213 Frances Thacker spoke. Ms. Friedman stated her concern for the proposed cell tower site as it would relocate the entrance to the existing soccer fields closer to certain homes on Frances Thacker.

Ms. Ellen Cook presented her staff report. Ms. Cook stated the cell towers are a permitted use within the R-4 zone designation provided they are determined by the Planning Director to meet the criteria outlined in the zoning ordinance for a camouflaged facility.

Ms. Cook stated that by examining materials provided by the applicant as well as field studies the Planning Director, Mr. Sowers, has concluded that the proposed cell towers meet the criteria for camouflaged facilities. Ms. Cook stated Mr. Sowers has encouraged the applicant to place additional landscaping in the general area east of the site.

Mr. Poole asked Ms. Cook why the applicants chose to propose two cell towers rather than co-locate on the same tower.

Ms. Cook stated she would defer the question to the applicant.

Mr. Krapf asked Ms. Cook if there are similar towers in style already existing within a residential neighborhood in the county.

Ms. Cook stated there are similar towers within the residential subdivision Greensprings Plantation and others located in the general area of residential lots which are not part of a specific subdivision.

Mr. Stephen Romine of Verizon Wireless spoke. Mr. Romine stated the tower does meet the criteria for being camouflaged. Mr. Romine stated the 120' towers will be less visible than the initially proposed 180' tower. Mr. Romine stated its mono-pine construction will serve as camouflage. Mr. Romine stated the structure will further be camouflaged in its proposed location situated within existing trees.

Mr. Romine presented a video displaying what the proposed towers would look like from various locations.

Mr. Romine stated the proposed site plan will redirect the access road across from Broomfield Circle to eliminate the direct view of the towers. Mr. Romine stated to further mitigate any negative impact to the viewscape there will be new berms established with mature trees.

Mr. Fraley asked Mr. Romine if there was any way to resolve the problems related to the viewscape without relocating the road.

Mr. Romine stated the applicant is flexible on this point. Mr. Romine stated the purpose of relocating the road is strictly to improve the viewscape for the benefit of Kingsmill residents.

Mr. Fraley asked Mr. Romine if the applicant is committed to a timeline for the installation of the proposed viewshed elements.

Mr. Romine stated there is a necessary sequence in which construction must follow. The area would first be cleared, then the installation of the berm contemporaneously to the installation of the tower.

Mr. Dave Wadsworth, construction manager of Verizon Wireless, spoke. Mr. Wadsworth stated the foundation of the pole and shelter would be put in place first. Mr. Wadsworth stated the utilities would then be next, followed by the berm and landscaping. Mr. Wadsworth stated that for permits to be obtained all landscaping would need to be completed.

Mr. Fraley stated that he wanted a clear understanding of when all landscaping improvements would be installed. Mr. Fraley stated he wants a confirmed timeline.

Continuing his presentation, Mr. Romine stated the proposed cell tower style was specifically chosen for this location as it is the closest representation of other existing vegetation.

Mr. Fraley asked if the color of the tower would be similar to existing vegetation.

Mr. Romine stated the applicant is willing to find the best match to coordinate with existing vegetation. Mr. Romine stated bark color and needle color can be chosen to best suit the surrounding vegetation.

Mr. Fraley asked Mr. Romine what type of trees will be placed within the proposed landscaping.

Mr. Romine stated that Loblolly pines, Southern Wax Myrtle, and possibly some other species would be placed in the proposed landscaping. Mr. Romine stated that the proposed landscaping will provide a notable improvement to the existing viewshed.

Mr. Romine stated that by resolving this issue the public will benefit in having access to cellular service during times of emergency. Mr. Romine stated that at this time there are many gaps in the cellular service within Kingsmill.

Ms. Lisa Murphy representing New Cingular Wireless spoke on existing camouflage Wireless Communication Facilities (WCF's). Ms. Murphy stated towers are deemed camouflage in one of two ways a) camouflage by design or b) camouflage by landscaping buffer. Ms. Murphy discussed several existing administratively reviewed camouflaged towers within the County. Ms. Murphy stated the two towers should meet the needs of all cellular service carriers interested in providing service within Kingsmill.

Ms. Murphy stated there are new initiatives to build a retaining wall and a berm that is not noted on the plans before the DRC members. Ms. Murphy stated that the retaining wall and berm are a partial solution the applicants have offered to resolve the viewshed concerns raised by the Moody's Run residents.

Mr. Poole asked Ms. Murphy to speak on the coverage that would be provided by the proposed towers. Mr. Poole also asked Ms. Murphy if the applicant had researched co-locating on other tall structures within the area.

Ms. Murphy stated New Cingular Wireless thoroughly exhausted the concept of utilizing other existing structures. Ms. Murphy stated that there are several structures within the county where cellular antennas have been mounted, though in this particular case there is not a suitable structure to meet the needs of propagating a signal within Kingsmill.

Mr. Romine spoke to Mr. Poole's question. Mr. Romine stated that a number of options had been examined before the determination was made that the proposed plan is the most suitable. Mr. Romine stated while reviewing the suitability of the proposed plan, Verizon Wireless considered customer cellular service coverage as well as the visible impact created. Mr. Romine stated that nine other sites had been considered before the applicant settled on this particular plan.

Mr. Krapf asked if the applicant had considered installing a single tower rather than two. Mr. Krapf asked how the signal degradation would be impacted should the tower be shorter in height.

Mr. Krapf also asked what takes place when a cell phone user tries to operate their phones while in an area that has cellular coverage though, not with the carrier they subscribe to.

Mr. Romine stated that initially the applicants considered placing on the site a single 180' tower, though the Kingsmill residents opposed the proposal due to it being more visible. Mr. Romine stated that once it was determined that the residents opposed the 180' tower the next solution was to install two 120' towers. Mr. Romine stated two towers are needed to accommodate multiple carriers. Mr. Romine stated that the carriers would not find it a suitable investment to erect a tower at 100' or less considering the degradation in the propagation of a signal that takes place with a tower shorter in height. Mr. Romine stated that at this time four carriers would be accommodated on the proposed cellular towers. Mr. Romine stated that those customers subscribing to a carrier that does not have an antenna on the tower would experience poor coverage.

Mr. Lee Hurlin, Radio Frequency Engineer for New Cingular Wireless spoke, stated the most important factor in propagating a strong frequency is the height of the transmitter. Mr. Hurlin stated even the proposed towers at 120' in height will transmit a weaker signal as opposed to the originally planned 180' tower. Mr. Hurlin stated that the topography in James City County exhibits many challenging features, most notably the existing tree coverage. Mr. Hurlin stated that the demand for coverage in this area is high.

Mr. John Rilley, Radio Frequency Engineer of Verizon Wireless spoke. Mr. Rilley stated that while the proposed towers are in fact 120', the transmitters will be placed lower on the tower.

Mr. Fraley asked to see a simulated picture of the proposed towers and surrounding environs within a winter view.

Mr. Fraley asked staff if there is a way to certify the height of a tower. Mr. Fraley stated that in the past towers had exceeded the proposed height.

Mr. Romine stated that they have intentions to execute the plans as described on the site plan.

Mr. Fraley asked staff to look into a certification process to ensure the applicants do not exceed the proposed height.

Ms. Murphy stated that the proposed tower will not exceed the 120' height. Ms. Murphy stated that in the past some carriers were placing the radcenter at 120' height and would then exceed the 120' by placing design features (simulated branches) above it.

Mr. Romine provided a simulated picture of the tower within a winter landscape, without the proposed berm.

Mr. Krapf opened the public hearing.

Mr. Fraley asked how many signatures were included on the newest communications received that day by Mr. Krapf.

Mr. Krapf stated that there are 34 signatures in support of the proposed towers.

Mr. George Cook of 129 Greens Way spoke. Mr. Cook stated he feels the proposed towers are sufficiently camouflaged. Mr. Cook stated he wants better cell phone coverage.

Mr. Hugo Rathkamp of 100 Elizabeth Page spoke. Mr. Rathkamp quoted an article written by Mr. Halteman that stated that there are less obtrusive alternatives to the proposed towers which the carriers have not investigated.

Mr. William Hoover of 209 Frances Thacker spoke. Mr. Hoover stated his impression is that the majority of Kingsmill residents want better cellular service coverage. Mr. Hoover stated that he is satisfied with the proposed plans.

Mr. Alfred McKenney of 516 Fairfax Way spoke. Mr. McKenney stated that the coverage that would be provided is not sufficient. Mr. McKenney provided some photographs he had taken as a comparison to the simulated photos the applicant provided.

Ms. Ruth Ann Wilson of 205 Frances Thacker spoke. Ms. Wilson stated she is concerned with the visible impact the proposed towers would create. Ms. Wilson stated she is also concerned with the treatment of the grounds as artifacts have been found at the proposed site. Ms. Wilson provided a picture that indicates locations where artifacts have been found including a historically significant foundation to a structure. Ms. Wilson stated in September 2007 that the Virginia Department of Historic Resources gave the site an official designation of 44JC 1140, and determined it was eligible for a listing on the National Register of Historic Places. Ms. Wilson stated the Virginia Department of Historic Resources recommended to the Federal Communications Commission that a finding of adverse affects be given relative to the proposed towers. Ms. Wilson stated the Virginia Department of Historic Resources also recommended that a treatment plan be developed to properly handle the site and the artifacts. Ms. Wilson stated to her knowledge that these concerns have not been addressed by the applicant.

Mr. Krapf called for a 15 minute recess to reconvene in building C.

Mr. Krapf reconvened the meeting.

Mr. Krapf asked Ms. Cook to discuss how the archeological concerns might be addressed should the application be approved.

Ms. Cook stated the applicant would be subject to state and federal laws. Ms. Cook stated that there is an archeological policy that is enforced by the county thru the Board of Supervisors, but that in this case the jurisdiction for enforcing archeological laws lies in the hands of the Virginia Department of Historic Resources and the Federal Government.

Ms. Kathy Faulkner of Verizon Wireless spoke. Ms. Faulkner stated that Verizon Wireless has obtained the approval of the Virginia Department of Historic Resources. Ms. Faulkner stated Virginia Department of Historic Resources would expect a management plan prior to receiving

any further approvals. Ms. Faulkner stated there is a management plan that is required by Verizon Wireless, New Cingular Wireless, and Busch Properties. Ms. Faulkner stated this plan is being worked on presently. Ms. Faulkner stated Verizon Wireless has conducted a study of the entire area, and that this encompasses the New Cingular Wireless compound as well.

Mr. Fraley asked Ms. Cook if she would receive a letter of approval if in fact it was granted by the Virginia Department of Historic Resources.

Ms. Cook stated that the county generally receives notice of such approvals.

Mr. Allen Murphy spoke and stated that the county has no purview in this matter. Mr. Murphy stated that the state would be enforcing their regulations.

Mr. Fraley asked if the applicant would have to wait until they receive final approval from the state before any work on the site would begin.

Mr. Murphy stated that staff would request the approval be granted prior to permits being issued although, if all other requirements have been met by the applicant the county has no ability to prevent the applicant from proceeding.

Ms. Murphy stated that the FCC would not allow the applicant to proceed without having garnered approval from the Virginia Department of Historic Resources.

Ms. Ann Kahn of 201 Frances Thacker spoke. Ms. Kahn stated she objects to the proposed towers. Ms. Kahn stated the survey Kingsmill residents had taken in June did not fully disclose the coverage anticipated from the proposed towers. Ms. Kahn stated she understood that the cellular coverage would not go beyond Warham's Pond and Tutter's Neck. Ms. Kahn stated that by her count, there would be 350 Kingsmill residents and about 30 streets that will still receive poor cellular coverage with the proposed towers in place. Ms. Kahn stated she would like to see the cellular providers look further into alternatives.

Mr. Krapf stated he wanted to point out that the DRC is reviewing this case on the basis of determining if the towers are adequately camouflaged.

Ms. Kathleen Halteman of Kingsmill spoke. Ms. Halteman stated she wanted the cellular service providers to further look into DAS technology (Distributed Antenna System). Ms. Halteman stated she believes the proposed towers will work to the detriment of the resale value of homes adjacent to the proposed towers.

Mr. Roger Simpson of 313 Frances Thacker spoke. Mr. Simpson stated he is opposed to cellular towers placed in residential developments. Mr. Simpson stated he believes that the towers will negatively impact the property values.

Ms. Mary Henson of 313 Frances Thacker spoke. Ms. Henson stated she is opposed to the proposed towers.

Mr. Rathkamp asked why the applicants were intent on erecting the proposed towers when according to reports the technology will be obsolete within 5-10 years.

Mr. Romine stated the most effective means to propagate a signal is with cellular towers, such as the two proposed. Mr. Romine stated there is no indication that this technology will be replaced anytime in the near future. Mr. Romine stated one alternative to a tower is satellite technology, though it has several defects that inhibit its use for general purposes. Mr. Romine stated that land-based antennas will be in use for the next 30 years. Mr. Romine stated that DAS technology also has several defects that restrict the localities in which it may be placed and work effectively. Mr. Romine briefly summarized a report which had been done stating that the DAS technology would not be appropriate for the proposed site.

Mr. Tim O'Connor of Busch Properties spoke. Mr. O'Connor stated that a survey was sent out to Kingsmill residents regarding the proposed cellular towers. Mr. O'Connor stated that the survey did state that the proposal included two towers and the location.

Mr. Romine stated there was a 60% response to the survey, and 79.5% responded in favor of the proposed towers.

Mr. Krapf asked Mr. Romine to clarify where the enhanced cellular service is anticipated.

Mr. Romine provided propagation maps to illustrate where cellular service will be improved.

Mr. Fraley stated that the DRC is reviewing this case on the basis of whether or not the towers could be considered camouflaged. Mr. Fraley stated that the purpose of the cellular towers is to meet the needs of coverage for Kingsmill residents. Mr. Fraley stated he is concerned that the coverage provided by the proposed towers will not be adequate.

Mr. Romine stated that by reducing the tower from 180' to 120' it will not produce optimum results. Mr. Romine stated the two 120' towers will offer compromised coverage compared to the originally proposed 180' tower, but that it was the best compromise solution they could find.

Mr. Fraley stated that the results of the survey may be skewed as residents were not aware that the proposed towers would not provide full coverage for the neighborhood.

Mr. Krapf reminded the audience that the DRC is reviewing the case to establish if in fact the applicant is proposing to install camouflaged towers.

Mr. Fraley asked if New Cingular Wireless had considered moving the proposed towers more to the north where the tower may be more easily concealed within denser tree coverage.

Ms. Murphy stated there are a number of issues in placing the site where Mr. Fraley proposed. Ms. Murphy stated that by moving the location closer to the trees the site would impact the historically significant building foundation at the site. Ms. Murphy stated another issue would be the angle in which the two antennas are situated. Ms. Murphy stated as the towers come closer

in proximity to one another there may be an undesirable signal overlap which would negatively impact signal propagation.

Mr. Fraley asked Mr. O'Connor if Busch Properties is committed to addressing the concerns raised by Moody's Run residents.

Mr. O'Connor stated he has been in contact with the Moody's Run representative, Mr. Young. Mr. O'Connor stated Busch Properties is prepared to follow thru with the five requests related to the viewshed of the site.

Mr. Fraley asked the applicant if they would be capable of providing a timeline for the installation of the five features.

Ms. Murphy stated the completion of items one and two related to the Verizon Wireless berm and landscaping can be made a condition to final approval being granted. Ms. Murphy stated that the third request including the landscaping around the maintenance shed and shoreline could also be included as a condition requiring completion before final approval is granted.

Mr. O'Connor stated Busch Properties is committed to taking down the two trees on the bank of the pond. Mr. O'Connor remarked that the stability of the pond does not directly relate to the viewshed. Mr. O'Connor stated Busch Properties is committed to hiring a local engineering firm to examine the condition of the pond.

Mr. Young stated that receiving a commitment to have an engineering firm examine the pond is not enough to satisfy the concerns of the Moody's Run residents. Mr. Young stated in the past Busch Properties made promises that were unfulfilled. Mr. Young stated a firm commitment to actions that would be completed is what the residents of Moody's Run want.

Mr. O'Connor stated that without knowing the cost related to stabilizing the pond, Busch Properties is not prepared to commit to specific actions at this time. Busch Properties will first need the results of the engineering study.

Mr. Fraley stated he is concerned that the proposed towers will not provide coverage for all of Kingsmill.

Mr. Poole stated his thoughts about the proposal meeting the criteria for camouflage and concern about whether the proposal provides uniform camouflage.

Mr. Krapf stated that he also had concerns about the proposal demonstrating uniform camouflage. Mr. Krapf stated he too has concern with not all of Kingsmill receiving cellular coverage with the proposed towers. Mr. Krapf stated that the New Cingular Wireless site may not have enough trees to conceal the tower. Mr. Krapf asked why there is such a disparity between applicant photos and citizen photos.

Mr. Romine stated that in the past, simulated photos have been a very accurate depiction of the completed site.

Mr. Romine stated the objective of Verizon Wireless is to meet the needs of their customers.

Mr. Poole asked Mr. Romine if all the alternatives have been fully explored and, whether some sort of solution could be worked out through further examination.

Mr. Romine stated that the proposed towers are a compromise to meet the needs of their customers and satisfy the residents of Kingsmill. Mr. Romine stated there is not an available alternative that would meet the needs for adequate signal propagation.

Mr. Romine stated that additional propagation studies could be conducted if the panel felt they were necessary.

Mr. Fraley stated the premise of the proposal to place the towers is flawed as the coverage is less than complete.

Mr. Fraley stated he would support a deferral.

Mr. Fraley requested staff examine the differences between the photo simulations provided by the applicant and those provided by the residents.

Mr. Krapf stated he supports a deferral.

Mr. Fraley asked Ms. Cook to read off all the items that she will look into further and report on at the next meeting.

Ms. Cook read off the following items:

- Staff will present a timeline that the applicants are committed to following as a condition to final approval.
- Staff will further review the proposed access road.
- Staff will report on how the applicant proposes matching the colors of the bark and pine needles to the existing trees.
- Staff will report on height certification of the tower prior to installation.
- Staff will confirm that the Virginia Department of Historic Resources will approve the applicants' plans prior to permits being issued.
- Staff will examine the differences between the photo simulations submitted by the applicant and those of the residents.
- Staff will report on the anticipated coverage provided by the proposed towers.

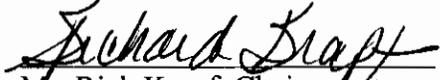
Mr. Krapf proposed a special meeting take place on June 18<sup>th</sup> at 4:00 to further discuss this case.

Mr. Fraley motioned for a deferral.

Mr. Poole seconded the motion.

ADJOURNMENT

Motion to adjourn made at 7:30pm

  
Mr. Rich Krapf, Chairman

  
Mr. Allen Murphy, Secretary