

AT A SPECIALLY SCHEDULED MEETING OF THE DEVELOPMENT REVIEW COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN THE BUILDING F BOARD ROOM AT 4 P.M. ON THE 18th DAY OF JUNE TWO THOUSAND EIGHT.

ROLL CALL

ABSENT

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

Mr. Tony Obadal

Mr. George Billups (present at meeting as an observer)

STAFF

Ellen Cook
Marvin Sowers
Adam Kinsman

MINUTES

Following a motion by Mr. Poole, seconded by Mr. Fraley, the DRC approved the minutes from the May 28, 2008 meeting, with one correction.

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

Ms. Cook stated that staff's determination as stated in the May 28, 2008 staff report remained as it was before. The staff report for this meeting listed issues which were brought up at the May 28th meeting, most of which are best addressed by information provided by the applicant. On the issue of photosimulations, Ms. Cook stated that staff had had a chance to learn more about the methods used by both the applicant and interested citizens, and that details were attached to the staff report. Staff felt that the methods used were generally reasonable, and that there were likely sources of error with both. Ms. Cook stated that staff would emphasize that in making a determination, staff did not rely on photosimulations alone, but also on balloon tests and field visits, which allowed for judging the site and proposal in context. Staff continued to suggest that the DRC members also consider the balloon test they were able to attend just prior to the May 28th meeting as they evaluated the information that had been provided to them.

Mr. Craig Young, representing the residents of Moody's Run, stated that many of the issues they had with the application had been resolved, such as the berm at the site and additional landscaping, but that a complete agreement had not been reached on the pond and the timeline for pond improvements. Mr. Young stated they were not yet satisfied due to that issue.

Mr. Tim O'Connor of Busch Properties mentioned that an agreement had not yet been reached, but noted that he had commissioned an engineer to look at improvements to the pond to determine what needed to be done.

Mr. Stephen Romine of LeClair Ryan, representing Verizon Wireless, introduced the members of his team. He made a PowerPoint presentation that displayed a list of items that DRC members had requested additional information on at the May 28th meeting. Mr. Romine first addressed the measures Verizon was taking to meet the camouflaged criteria, including the tower height, type, berming and color matching. Mr. Romine stated that the carriers were now committed to moving the AT&T monopine closer to the Verizon monopine. Mr. Romine described the landscaping that would be put in place along the Moody's Run side of the project. Mr. Romine then addressed the possibility of re-locating the access road and discussed the different options that had been considered. Following the analysis, the carriers felt that the best option was what had been presented on the original site plan, i.e. to relocate the access road over slightly. They also proposed to add understory landscaping on the existing berm along Frances Thacker. Mr. Romine stated that the carriers felt this provided the best overall screening for adjacent residences.

Mr. Romine continued by talking about the differences between the photosimulations provided by the carriers versus those provided by interested citizens. He presented several photosimulations and talked about the methods their engineering firms had used, and the possibility that PhotoShop (used by interested citizens) could introduce sources of error. Mr. Romine presented several sight profile drawings, and concluded by saying that the carriers were now committed to planting 28' trees along the new Francis Thacker berm, as opposed to the 20' previously shown on the site plan. Finally, Mr. Romine talked about the additional coverage information which the carriers were able to put together based on a drive test. Mr. Romine presented a propagation map for Verizon showing versions with and without the proposed monopines. Mr. Romine noted that Verizon had a strategy for achieving more complete coverage by locating additional antennas at the government complex and at a location on the east side of Kingsmill such as on a power pole.

Ms. Lisa Murphy of LeClair Ryan, representing New Cingular Wireless (AT&T), discussed AT&T coverage based on the drive test, and presented a map showing service on a street by street basis. Ms. Murphy stated that the drive test confirmed what the software had projected, that the proposal would achieve improved coverage but, like Verizon, they would also need additional sites to fully cover Kingsmill. Ms. Murphy then talked about the historic and archaeological issues, stating that the carriers were working on a Memorandum of Agreement (MOA) with the Virginia Department of Historic Resources (VDHR) covering how to protect the slave quarters foundation. She stated that this would include having an archaeologist on site during earth moving activities, and also stated that the carriers are committed to giving the County a copy of the approved MOA prior to issuance of permits.

Ms. Murphy continued by presenting information on several other items, starting with the height certification, stating that the carriers were committed to providing stamped tower designs to the Planning Director, and committed to dropping tapes to confirm the tower heights prior to issuance of Certificate of Occupancy. With regard to the color of the monopines, Ms. Murphy showed a picture of the manufacturer's specifications for the tower, and stated that the carriers committed to showing the color of the bark and needles to the Planning Director. Ms. Murphy concluded by talking about the timeline for the landscaping, stated that for landscaping that was part of the site work and shown on the site plan, it would be installed prior to issuance of

Certificate of Occupancy, and that for off-site landscaping which would be addressed by Busch Properties, it would be addressed prior to completion of Verizon and AT&T construction activities.

Mr. Poole asked whether the colors of the monopine bark and branches fade with time due to sunlight and UV exposure, and also what would happen if branches blew off.

Ms. Murphy replied that materials used to construct monopine towers had improved with time and were generally UV resistant. The monopines would be subject to routine maintenance, and the carriers were also willing to replace the branches if they became faded.

Ms. Sarah Kadic of 3504 Hunters Ridge spoke on behalf of the JCC Citizen's Commission. She expressed concern about the implications of this case for residential areas all over James City County. She stated that she believes the proposal violates environmental and aesthetic stipulations in the sales agreement with Busch Properties. Ms. Kadic recommended support of the appeal.

Mr. William Halteman of 109 Randolph's Green spoke. Mr. Halteman stated that he supported better cellular coverage, but not placement of towers within Kingsmill. Mr. Halteman did not believe that the towers met the objectives in Section 24-121 of the Zoning Ordinance for the following reasons:

1. Thinks that the residential setback has not been met
2. Does not believe that the Greensprings Office Park or the Christian Life Center towers should be considered camouflaged
3. Cited an arborists report that that the monopines would be taller than surrounding trees
4. Believed that the proposal is not camouflaged.

Mr. Bob Weber of 108 Moody's Run spoke. Mr. Weber stated that he would not have purchased the home had he known about the tower. He stated that he believes the monopines would be visible from his house. He was concerned about health issues and, real estate values decreasing. Mr. Weber stated that he had not had a chance to fill out the survey, and asked that the appeal be upheld.

Mr. Lewis Mirmelstein of 108 Broomfield Circle spoke, stating that he had problems with the photosimulations provided by the applicant. He was especially concerned about the winter view from Broomfield Circle. He also noted that for the Moody's Run side, the view was different from the street as opposed to from the rear of the residences. He felt the monopines were not camouflaged.

Mr. Peter Maxwell of 309 Frances Thacker showed pictures of the view of the proposed monopines from the resident's decks on the Frances Thacker side. He stated that he did not believe the increase in landscaping height will solve the problem, and felt that the proposal was not camouflaged.

Ms. Evelyn McKenney of 516 Fairfax Way cited a 1970 agreement of sale which states that structures will be low rise in character and not more than seven stories (approximately 84 feet),

and that items should be reviewed by a Review Committee. Ms. McKenney suggested that the lease documents should be submitted to the County and the DRC.

Ms. Dorothea Neiman of 105 Broomfield Circle cited the staff statement of determination finding on the Broomfield Circle photosimulation view, and suggested that the applicant should not be able to show that picture to the DRC. Ms. Neiman stated that the balloons were visible from many locations in Kingsmill (more so than just from roads), and went through the criteria in the Zoning Ordinance, stated that she disagrees that the proposed towers meet the criteria.

Mr. James Elliot of 125 Randolph's Green stated that he was in favor of improved cellular service in Kingsmill. Mr. Elliot discussed how the survey was administered, and asked those in favor of better service to raise their hands.

Ms. Mary Clair Asten of Curdle's Way stated that she wanted to know if there were alternative technologies that could be proposed, and stated that cellular service is not a luxury, but something that is used for emergencies.

Mr. James Hurst of 121 Harrup's Glen stated that he believed cellular service was not a luxury, and that he thought the engineering equipment and towers should not have to be camouflaged as an evergreen tree.

Mr. Robert Richardson of 2786 Lake Powell Road stated his concern about the implications for the rest of the County presented by this case. He also expressed concern about the landscaping and trees remaining in place over time.

Mr. Poole stated that he had had a hard time getting up to speed on all the past issues and what the Kingsmill community has been through. He stated that he closely observes trees throughout the County and doesn't think the monopine is the way he'd ideally like to see the issue addressed. However, with the assurances provided by the applicant on the color, he felt he could support the Planning Director determination.

Mr. Fraley began by thanking those that had emailed him so that he could respond to questions. He stated that he listens to all residents closely, and does not just go with whatever a majority opinion may be. Mr. Fraley felt that the applicant had made several improvements and had provided the additional information that the DRC had asked for. He noted the carrier's willingness to move the AT&T tower, which he saw as an improvement by providing more tree cover. He stated that like Mr. Poole, he has driven around the County observing tree cover and thought carefully about the situation, and felt he could support the Planning Director determination.

Mr. Krapf spoke, acknowledging the complexity of the issues. Mr. Krapf stated that he would refer those who had brought up contract and legal issues to another pathway, noting that the County Attorney's office handles legal issues for the County. Mr. Krapf stated that he was happy that the AT&T tower would be moved, providing more tree coverage. He stated that felt the taller trees on the Frances Thacker berm would be a significant improvement. He stated that with these measures, he felt he could support the original determination.

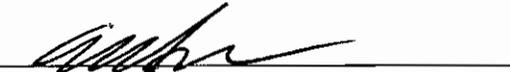
Following a motion by Mr. Fraley, seconded by Mr. Poole, the motion carried by a vote of 3-0.

ADJOURNMENT

Motion to adjourn made at 6:15pm



Mr. Rich Krapf, Chairman



Mr. Allen Murphy, Secretary