

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, NOVEMBER 21, 2000, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: John D. Miller, Jr., Saluda District
Fred S. Crittenden, Pinetop District
Kenneth W. Williams, Pinetop District
Lenora O. Weber, Saluda District
Frank Jessie, Jamaica District

Charles M. Culley, Jr., County Administrator
Michael T. Soberick, County Attorney

CALL TO ORDER

The Chairman, Mr. Miller, called the meeting to order at 7:30 P.M., and opened with a prayer.

PUBLIC HEARING – ZONING ORDINANCE AMENDMENT APPLICATION, #2000-06, SPECIAL EXCEPTION – RETAIL STORES

Planning Director, Tim Wilson, presented an application from Larry Pritchard, who requested to amend Article 8-3, Special Exception uses of the Village Community Zoning District, to add “retail stores and shops with greater than 5000 square feet, with no outside display or storage of materials or merchandise.” Current regulations permit this use by right in the General Business District Retail; retail stores and shops 5,000 square feet or less, are permitted uses, subject to administrative review and approval, in the VC District.

Mr. Wilson presented the Planning Staff report including information from the Comprehensive Plan and zoning history. Mr. Wilson noted that any proposed project for retail stores and shops with buildings greater than 5,000 square feet would also be subject to submission of a Major Site Plan Application, with review and approval in accordance with Article 17A-5 of the Zoning Ordinance. Mr. Wilson commented that the proposed amendment is not in conflict with the state purposes of the VC District in that the amendment, if approved, could aid in promoting future development around existing communities and is considered within the meaning and context of a moderate density mixture of uses, including low-intensity commercial. The amendment would allow review and approval on a case-by-case basis, which could encourage development of attractive and functional communities with minimal and flexible regulations. The Planning Commission, at their meeting on November 9, voted unanimously to recommend approval of the application.

Mr. Miller opened the public hearing for comments. Mr. James H. Ward, representing the applicant, presented the following comments. According to Mr. Ward, the applicant currently has a tenant that wishes to expand their store. Rezoning to

General Business to allow the expansion by right was not an option. Mr. Ward noted that while this is a district-wide amendment application and not specific to one site, his client has started to address complaints that have been addressed at his specific site of interest. Complaints have been issued regarding current maintenance and management of the site. Being there were no further comments, the public portion of the hearing was closed.

Mr. Crittenden, Mr. Williams and Mrs. Weber all commented with concerns regarding existing trash and maintenance of the applicant's commercial property. Mr. Williams noted that the manager of the store, not by the property owner, has created the outside trash problem, however, it was felt that the problems would be corrected. The motion to approve the application for amendment of the zoning ordinance to add "retail stores and shops with greater than 5,000 square feet, with no outside display or storage of materials or merchandise" to the special exception uses of the VC District, was made by Mr. Williams, seconded by Mr. Crittenden and carried unanimously.

PUBLIC HEARING – SPECIAL EXCEPTION PERMIT APPLICATION, #2000-06, TRITON PCS, INC.

Mr. Wilson presented the application submitted by Triton PCS, Inc., requesting proposed co-location of wireless communication antennas on an existing communication tower and the locating of a 10' x 12' equipment building, at Tax Map Parcel 26-22, off Highway 17, just north of Saluda. This site is the location of an existing 250' communication tower approved under Special Exception Permit #1999-08. The property is zoned Low Density Rural, with the location of the proposed equipment building meeting the minimum LDR District setback requirements. The Planning Commission and Staff recommended approval of the application.

Mr. Miller opened the hearing for comments from the public. Mr. Glen Hampton, representing Triton, was present to respond to questions from the Board. There were no other comments and the public hearing was closed.

The motion to approve the application as submitted was made by Mr. Crittenden, seconded by Mrs. Weber and carried unanimously.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION #2000-07, SBA TOWERS AND VERIZON

Mr. Wilson presented the application submitted by SBA Towers & Verizon., requesting proposed co-location of wireless communication antennas on an existing communication tower and the locating of a 12' x 30' equipment building, at Tax Map Parcel 37-4A, off Highway 33, just east of Harmony Village. This site is the location of an existing 250' communication tower. The property is zoned Low Density Rural, with the location of the proposed equipment building meeting the minimum LDR District setback requirements. The Planning Commission and Staff recommended approval of the application.

Mr. Miller opened the hearing for comments from the public. Mr. Curtis McMillon, representing SBA, was present to respond to questions from the Board. There were no other comments and the public hearing was closed.

The motion to approve the application as submitted was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously.

PUBLIC HEARING - RECLASSIFICATION OF PROPERTY FROM LDR TO R DISTRICT

Mr. Wilson presented a request from Spindle Corporation for the reclassification of property from Low Density Rural (LDR) District to Residential (R) District, to allow the permitting of major subdivision lots and expansion of North Shore Subdivision, at Tax Map 28-4-2, 5.7 acres, located at State Road 619 and North Shore Road. Mr. Wilson noted that this property had been included as part of Rezoning of Property Application #98-002, by the Planning Commission, but was withdrawn because it was undeveloped at that time.

Mr. Miller opened the hearing for comments from the public. Mr. Robert Bunch, property owner and developer requested the Board's approval of the request. Being there were no further comments, the public portion of the hearing was closed. Board members complimented Mr. Bunch on his existing development of the North Shore Subdivision. The motion to approve the rezoning application as approved was made by Mrs. Weber, seconded by Mr. Williams and carried unanimously.

PUBLIC HEARING - ZONING ORDINANCE AMENDMENT APPLICATION 2000-07

Mr. Wilson presented a request submitted by SBA Towers to permit the co-location of communication antennas on existing towers as a permitted use rather than by special exception request. This would eliminate the requirement for public hearings by the Planning Commission and Board of Supervisors. Mr. Wilson recommended approval of the amendment request, provided that (1) co-location does not result in the increased height of the tower and (2) installation of communication equipment and related structures and improvements are located within the designated boundaries and use area of the original tower approval. The Planning Commission recommended approval of the application by an 8-1-1 vote, with Commissioner Sibley opposed and Commissioner Miller abstaining.

Mr. Miller opened the public hearing for comments from the public. Curtis McMillon, on behalf of SBA Communications Corporation, commented approval of the amendment would encourage co-location on existing towers, because the approval process would be streamlined. There being no further comments, the public portion of the hearing was closed.

Mr. Crittenden commented that he did not want to give up the right to require a public hearing. Mr. Miller and Mr. Williams agreed. The motion to deny the application

was made by Mrs. Weber, seconded by Mr. Williams and carried unanimously. Mrs. Weber noted that the Board needed to stay on top of this type of application and use.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION 2000-08, AMERICAN TOWER

Mr. Wilson presented an application for special exception submitted by American Tower Corporation for construction of a 250' self-supporting communications tower and accessory equipment cabinets at Tax Map Parcel 12-98B, at the Jamaica Convenience Center, owned by Middlesex County. Mr. Wilson and Planning Commission recommended approval of the application with the conditions placed on similar applications:

- Review and approval of the tower location and height by the Federal Aviation Administration;
- Applicant to provide opportunity for the co-location of additional antennas and communication equipment by other telecommunication providers and potential users;
- Removal of the tower from the property should the communication use of the tower become inactive or ceases for a period of two years. The applicant shall post a bond or other form of acceptable surety with the County to cover the cost of tower removal.

Mr. Miller opened the hearing for comments from the public. Mr. Joe Vidunas, of Atlantic Tower Corporation, Ashland, representing the County and American Tower, requested the Board's approval of the application. This tower location is part of the radio system plan previously approved by the Board, along with the next two locations.

The motion to approve the application as submitted and conditioned was made by Mrs. Weber. This motion was amended to eliminate the condition to remove the tower, because equipment to support the County's emergency services radio system will be located on the tower. Mr. Crittenden seconded by motion, which was unanimously approved.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION #2000-09, AMERICAN TOWER CORPORATION

Mr. Wilson presented a request for special exception submitted by American Tower to remove and replace an existing tower located behind the Sheriff's Office, with a 300' self-supporting communications tower and accessory equipment cabinets. This tower would be located at Tax Map Parcel 26B-1-82 and 83, off State Road 618. Mr. Wilson noted that the same conditions should be placed on this request as above, along with the condition that the existing tower be removed upon completion and activation of the new tower.

Mr. Miller opened the hearing for public comments. Jan Creekmore, an adjoining property owner, commented in favor of the improvements to the radio system, however, requested the Board consider re-location to a more rural area. Mrs. Creekmore questioned the impact of microwaves, the tower falling and property depreciation. Jeff Davis, Saluda, requested the Board's careful consideration of safety impacts 10-15 years from now; moving the tower to a more rural site to accomplish the same goal; and a hypothetical situation of jail inmates claiming health problems as a result of proximity to the tower. There being no further comments, the public portion of the hearing was closed.

According to Joe Vidunas, Atlantic Tower, the energy emitted from the equipment is 5-10 watts, similar to that of a cellular phone. The tower is constructed to withstand a minimum 120-mile per hour wind. In this case, surrounding property values should not depreciate; because this is a tower already exists.

Board members questioned a picture of a regulatory sign at a tower site presented by a citizen. George Condyles, President of Atlantic Tower, explained that there are differences between a public hazard and occupational hazard, and different levels of signage - notice, caution, or warning, which are placed more as a deterrent for kids. Mr. Condyles also noted that in April 1999, the Virginia Board of Appraisers discussed the tower situation and could not standardize an amount to deduct as depreciation.

Mr. Culley commented that moving the tower was considered, however, a microwave or T-1 connection would still be required to connect the signal from the tower to the communications office, both of which were cost prohibitive. The only other option would be to move both the tower and Sheriff's Office to a new location. The current proposal is to hardwire the connection between the new tower and Sheriff's Office.

The motion to approve the application with the following conditions was made by Mrs. Weber, seconded by Mr. Jessie and carried unanimously:

- Review and approval of the proposed tower location and height by the Federal Aviation Administration;
- The applicant shall provide the opportunity for the co-location of additional antennas and communication equipment by other telecommunication providers and potential users.
- Removal of the existing communication tower upon completion and activation of new tower.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION #2000-10, AMERICAN TOWER CORP.

Mr. Wilson presented an application from Atlantic Tower Corporation for construction of a 250' self-supporting communications tower and accessory equipment cabinets at Tax Map Parcel #38-66A, behind the Hartfield Fire Department, on

property owned by Hartfield Fire Department. The property is zoned General Business. Mr. Wilson noted that the development area shown on the submitted application would remain the same, however, access to the area would be from Route 3, rather than an existing private right-of-way. A revised site plan will be required before final approval is granted.

Mr. Miller opened the hearing for comments. Peggy Dail questioned the ability of the attached equipment to sustain high winds and expressed concerns with the proximity to Revere Gas. William Dail was pleased to see that the entrance had been changed. Pete Robins commented that the proposed tower would be located directly behind his property and would be a detriment to his property value. Sarah Robins also expressed her disapproval with the tower location, and noted that it would be located 110' from the property line. Roger Walton, an adjoining property owner, expressed his concern with the proximity to Revere gas and impacts the radio waves could have on his children.

Joe Vidunas, from Atlantic Tower, commented that the appendages were designed with the same criteria as the tower. There being no other comments, the public portion of the hearing was closed.

Mr. Williams questioned whether other sites were considered. Mr. Culley explained that other sites were considered, including the Wilton School property, which was opposed by the School Board. E. H. Revere, of Hartfield Fire Department, noted that other locations on the fire department property were considered. This current location was not the site originally considered by the Department and County, however, the original site was considered unsuitable for tower development.

The motion to approve the application subject to the following conditions was made by Mr. Crittenden, seconded by Mr. Jessie and carried unanimously:

- Review and approval of the proposed tower location and height by the Federal Aviation Administration;
- The applicant shall provide the opportunity for the co-location of additional antennas and communication equipment by other telecommunication providers and potential users.

PROPOSED REGULATIONS - CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

Mr. Wilson presented regulations proposed by the Chesapeake Bay Local Assistance Department (CBLAD), which provide for more stringent and comprehensive requirements to be administered and enforced by local governments. Written comments may be submitted to CBLAD for consideration until December 8th. Mr. Wilson commented that if the changes are adopted as written, there would be significant procedural problems and cost implications for Middlesex County and other local governments.

The motion was made to endorse Mr. Wilson's comments as the Board's and to submit the request for further review to the Virginia Association of Counties, the County's legislators and to CBLAD, was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously.

COMPREHENSIVE SERVICES

No action was taken at this time regarding a request to appoint Mrs. Dianna Watts as the parent representative on the Comprehensive Services Community Policy and Management Team and the Family Assessment and Planning Team.

AIRPORT - FOREST LAND

Board members considered proposals received for cruising timber on County property near the airport. No action was taken at this time.

MEETING LOCATION

Due to the large potential attendance for four (4) public hearings scheduled for the December 19th Board meeting, it was suggested that the Board meeting be held in the Courtroom. The motion to advertise the public hearings to be held in the Courtroom on December 19th was made by Mr. Williams, seconded by Mrs. Weber and carried unanimously.

CLOSING SCHEDULE

The motion to approve the following additional days to be closed was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously:

- Noon, Wednesday, November 22nd
- Noon, Friday, December 22nd
- All day, Tuesday, December 26th
- All day, Tuesday, January 2nd

Due to the above closing, the motion to schedule the Board's annual organization meeting for Wednesday, January 3, 2001, was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously.

CLOSED MEETING

The motion to conduct a closed meeting for the purpose of discussing personnel issues, pursuant to §2.1-344.a1 of the Code of Virginia, was made by Mr.

Crittenden, seconded by Mr. Jessie and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously:

- To the best of the members' knowledge, only public business matters lawfully exempted from open meeting requirements under Code of Virginia §2.1-344.a1, and identified in the motion by which the Closed Meeting convened, were heard, discussed, or considered by the public body.

Action:

There was no action as a result of the Closed Meeting.

ADJOURN

The motion to adjourn the meeting was made by Mr. Williams, seconded by Mr. Crittenden and carried unanimously. The next regular meeting would be held on Tuesday, December 5, 2000, beginning at 9:00 A.M.

John D. Miller, Jr., Chairman
Board of Supervisors