

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON JULY 10, 2013 IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG, VIRGINIA:

CALL TO ORDER:

Mr. Rice, Chair, called the meeting to order.

DETERMINATION OF A QUORUM:

Ms. Disney established the presence of a quorum.

Present: Bryan Rice, Chair
Joel Donahue, Vice-Chair
Cindy W. Disney, Secretary
Coy Allen, Member
Chris Tuck, Board of Supervisors Liaison
Dari Jenkins, Planning & Zoning Administrator
Erin Puckett, Senior Program Assistant
Steven Sandy, Planning Director

Absent: Bryan Katz, Member
Scott Kroll, Member
Brea Hopkins, Development Planner

APPROVAL OF AGENDA:

On a motion by Mr. Donahue, and seconded by Ms. Disney, and unanimously carried the agenda was approved.

APPROVAL OF CONSENT AGENDA:

On a motion Mr. Donahue, and seconded by Mr. Allen, and unanimously carried the consent agenda was approved.

PUBLIC ADDRESS:

Mr. Rice opened the public address; however, there being no speakers the public address was closed.

PUBLIC HEARING:

Telecommunications Ordinance Amendment: An ordinance amending Chapter 10 entitled Zoning, Section 10-61 of the Code of the County of Montgomery, Virginia by amending the language defining the term telecommunication tower, attached, by prohibiting the co-locating of telecommunication antennas on flag poles and private utility poles and by extending how high the antenna may extend above to twenty (20) feet.

Mr. Rice introduced the request.

Ms. Jenkins reviewed the issues leading to the proposed ordinance amendment. She explained that staff had received complaints from nearby property owners regarding the construction of what appeared to be a telecommunications tower on Harding Avenue. It was evident that the tower was being constructed without a special use permit being obtained. Based on conversations with involved parties, planning staff obtained sufficient evidence to sustain those allegations that the pole was in fact intended to be used as a cell tower. Currently, a hole has been dug on site and the pole is laying there. The pole itself is approximately two (2) feet in diameter.

Ms. Jenkins said that she has talked with the County Attorney about the possible ordinance amendment. Currently the ordinance encourages co-location of telecommunications antennae (on billboards, water towers, etc.) but not the creation of a new structure with the sole intent of co-locating telecommunications equipment later without having to get the necessary special use permit as required for the erection of new telecommunications towers. The proposed ordinance amendment would prevent this circumvention of the zoning ordinance requirements. This is also an opportunity to update the existing ordinance to meet the newest federal legislation, which allows telecommunications facilities to extend twenty (20) feet above an existing structure. The proposed ordinance amendment would modify the definition of telecommunications tower, attached. Ms. Jenkins read the proposed change in definition as follows:

Telecommunications tower, attached: A telecommunications antenna which is placed on an existing building, existing telecommunication tower, or other existing non-telecommunications structure including but not limited to a billboard sign, public utility structures, silos, and church steeples. ~~and increasing the height of the existing structure by not more than ten (10) feet.~~ Unless owned by federal, state, or local government agencies or public utilities, private flag poles and/or and/or private utility poles shall not be utilized for telecommunications antenna. The top of any antenna array shall not extend more than twenty (20) feet above the existing facility.

Ms. Jenkins stated that a notice of violation has been sent to the involved parties. The County Attorney has recommended that the amendment be approved and that the Planning Commission give its recommendation to the Board of Supervisors to discuss at their meeting on the 22nd of July. Ms. Jenkins then requested questions or comments.

Mr. Donahue expressed a concern that this ordinance amendment may affect HAM radio operators (or amateur radio), and some action may need to be taken to prevent this.

Ms. Jenkins assured Mr. Donahue that amateur radio is exempt under the State Code, and allows towers of up to 75 feet. Mr. Sandy confirmed this, citing the section of the state code (15.2-2293.1) that states no local ordinance can restrict amateur radio tower height to less than 75 feet.

Mr. Donahue requested that some language reflecting the State Code exemption be included in the updated amendment proposal before sending a recommendation to the Board of Supervisors.

Mr. Rice asked if there is anything currently in the zoning ordinance that prevents people from erecting flagpoles.

Ms. Jenkins stated that there is nothing in the ordinance to prevent flagpoles. There is no permit needed to install a private flagpole. She stated that it is her opinion that this current situation is a case of someone bypassing the code, not trying to install a flagpole or antenna for private use. The property owner would be welcome to go to the Board of Zoning Appeals if they would like to appeal her determination.

Mr. Rice asked if pictures are available of the alleged pole.

Ms. Jenkins indicated that she does have photographs of the pole.

Mr. Rice recommended that the Planning Commission recommend approval of the amendment with the addition of language referencing the state regulations. Mr. Donahue agreed. Mr. Rice asked for any additional questions or comments.

Mr. Tuck stated that there is a big difference between HAM radio and telecommunications companies and he is therefore not concerned with the impact on amateur radio operators as the State Code protects them. He stated that in this case the true intent was obvious.

Mr. Rice opened the public hearing.

Mr. Paul Ruzsler states that he lives adjacent to the property in question. He stated that according to federal regulations, nothing can be placed above the American flag on a flagpole, and if this is the case then it is no longer a flagpole as per the federal flag code.

Ms. Gregg Moneyhun (1408 Meadowbrook Dr., Blacksburg) spoke as the liaison to the Town of Blacksburg's Planning Commission. She stated that a cell tower was proposed in 2010 just down the road from the current flagpole site at 1455 Harding Avenue. At that time the Blacksburg Planning Commission sent a letter to the Montgomery County Planning Commission expressing concerns, and those concerns still apply. The Blacksburg Planning Commission does not believe that the proposed pole site meets regional guidelines for proper tower placement, due to a desire to protect viewsheds. Appropriate procedures should be followed for those who wish to erect telecommunication towers, which allow for all affected parties to weigh in. Ms. Moneyhun thanked the planning staff for being proactive in closing a loophole that would potentially also have an impact on the Town.

There being no additional comments, Mr. Rice closed the public hearing.

Mr. Rice opened the issue for discussion among commissioners.

Mr. Donahue stated that he was still concerned and did not want to approve the ordinance amendment without specific language referencing the exemptions under the State Code.

Mr. Sandy said that this may be possible but staff will need to discuss the change with the County Attorney to ensure that the language is right. Mr. Sandy asked that the Planning Commission recommend approval of the amendment with the State Code reference, subject to attorney review.

A motion was made by Mr. Donahue, seconded by Ms. Disney to recommend approval of the ordinance amendment with the addition of a reference to State Code exemptions, subject to attorney review.

Ayes: Allen, Disney, Donahue, Rice
Nays: None
Abstain: None

OLD BUSINESS:

None presented.

NEW BUSINESS:

PC Member Resolutions of Appreciation

Mr. Rice read the following resolution of appreciation for Frank Lau:

WHEREAS, Frank Lau has provided dedicated and distinguished service to the people of Montgomery County as a member of the Montgomery County Planning Commission from 2005 to 2013; and

WHEREAS, Mr. Lau has provided leadership while serving as Chair (2012), Vice-Chair (2007) and Secretary (2006) of the Planning Commission; and

WHEREAS, Mr. Lau's commitment to better planning is evidenced by his participation in the development of all six (6) Village Plans and VITL Plans, by his service as liaison to the Town of Blacksburg Planning Commission and the Town of Christiansburg Planning Commission, and by his certification by the Citizens Planning and Education Association of Virginia; and

WHEREAS, the wise council of Mr. Lau has always been for the betterment of the citizens of Montgomery County.

NOW THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Commission hereby expresses its appreciation to Frank Lau for eight (8) years of outstanding service to the people of Montgomery County.

The Planning Commission members, staff, and public applauded Mr. Lau, who was in attendance.

Mr. Rice read the following resolution of appreciation for Robert Miller:

WHEREAS, Robert K. Miller has provided dedicated and distinguished service to the people of Montgomery County as a member of the Montgomery County Planning Commission from 2005 to 2013; and

WHEREAS, Mr. Miller has provided leadership while serving as Chair (2008-2009) and Secretary (2007) of the Planning Commission; and

WHEREAS, Mr. Miller's commitment to better planning is evidenced by his participation in the development of all six (6) Village Plans, and VITL plans, by his service as liaison to the Agricultural and Forestal District Committee and the City of Radford Planning Commission, and by his certification by the Citizens Planning and Education Association of Virginia; and

WHEREAS, the wise council of Mr. Miller has always been for the betterment of the citizens of Montgomery County.

NOW THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Commission hereby expresses its appreciation to Robert K. Miller for eight (8) years of outstanding service to the people of Montgomery County.

Mr. Rice read the following resolution of appreciation for John Tuttle:

WHEREAS, John Tuttle has provided dedicated and distinguished service to the people of Montgomery County as a member of the Montgomery County Planning Commission from 2009 to 2013; and

WHEREAS, Mr. Tuttle has provided leadership while serving as Secretary (2012) of the Planning Commission; and

WHEREAS, Mr. Tuttle's commitment to better planning is evidenced by his service as liaison to the Economic Development Committee and by his certification by the Citizens Planning and Education Association of Virginia; and

WHEREAS, the wise council of Mr. Tuttle has always been for the betterment of the citizens of Montgomery County.

NOW THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Commission hereby expresses its appreciation to John Tuttle for four (4) years of outstanding service to the people of Montgomery County.

Liaison Appointments

Mr. Allen volunteered to be liaison to the Blacksburg Planning Commission. Ms. Disney will continue to be the liaison to the Christiansburg Planning Commission, and Mr. Rice is liaison for the Economic Development Committee Mr. Donahue will continue as liaison to the PSA meetings.

Liaison appointments to the Parks and Recreation meetings and the Radford Planning Commission are still vacant.

Mr. Katz is currently liaison to the School Board. Mr. Rice is currently liaison to the Tourism Council but there may be a scheduling conflict, so he may ask that a newer member take his place.

Mr. Donahue will be liaison to the Agricultural and Forestal District Committee, and Mr. Sandy reminded him that they will be meeting July 30th.

Mr. Sandy suggested that Mr. Rice ask Scott Kroll (absent) if he wants to take on one of the vacant appointments. There being three (3) vacancies at this time, he suggested waiting until the Planning Commission gets some new members, and can assign the remaining spots at that time.

LIAISON REPORTS:

Board of Supervisors: Mr. Tuck first thanked the Planning Commission and staff on behalf of the Board of Supervisors for their action on the ordinance amendment. He said that while we need cell phone towers, the act of putting a flagpole in a yard with the intent of using it for telecommunications equipment without any notice is not appropriate. Using existing towers, steeples, etc. is good but in this case the intent is obviously to circumvent the ordinance.

Mr. Tuck reported that the County had joined the Water Authority, and called it the most important thing the Board has done in 50 years. This ensures the County will have a reliable source of safe, high-quality water for the future.

He also reported that the developer on the old Blacksburg middle school site has withdrawn his application. There is also the chance that the school board may give the old Blacksburg High School site to the County.

Agriculture & Forestal District: No report. Mr. Donahue stated that the committee has not met yet.

Blacksburg Planning Commission: No report.

Christiansburg Planning Commission: Ms. Disney reported that Christiansburg is in the final stages of their comprehensive plan update, and are expected to complete the process in the next few months.

Economic Development Committee: No report.

Public Service Authority: No report. Mr. Donahue explained that they did not meet at the normal time.

Parks & Recreation: No report.

Radford Planning Commission: No report.

School Board: No report.

Tourism Council: No report.

Planning Director's Report: Mr. Sandy reported that there will be no Planning Commission meeting next week. He also introduced Erin Puckett, the new Senior Program Assistant, and asked that Planning Commission members use her as a contact for any questions.

There being no further business the meeting was adjourned at 7:50 pm.

Chairman

Secretary