

Clarke County



PLANNING COMMISSION BUSINESS MEETING MINUTES

REVISED DRAFT

FRIDAY SEPTEMBER 6, 2019

A Business Meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, September 6, 2019.

Attendance

Present: Randy Buckley (Vice-Chair); Robina Bouffault; Anne Caldwell; Mary Daniel; Bob Glover; Scott Kreider; Doug Kruhm; Frank Lee; Gwendolyn Malone; and Pete Maynard

Absent: George L. Ohrstrom, II

Others: Cathy Kuehner (Public Information Director); George Condyles (County Telecom Consultant); Tracy Themak (representing Crown Castle).

Staff Present: Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator and Debbie Bean, Recording Secretary

Called to Order

Vice Chair Buckley called the meeting to order at 9:00 a.m.

Approval of Agenda

The Commission voted to approve the revised agenda.

Yes: Bouffault (moved), Buckley, Caldwell, Daniel, Glover, Kreider (seconded), Kruhm, Lee, Malone and Maynard

No: No one

Absent: Ohrstrom

Approval of Minutes

The Commission voted to approve the Planning Commission Work Session Meeting minutes of July 9, 2019.

Yes: Bouffault (seconded), Buckley, Caldwell (moved), Daniel, Glover, Kreider, Kruhm, Lee, Malone and Maynard

No: No one

Absent: Ohrstrom

The Commission voted to approve the Planning Commission Business Meeting minutes of July 7, 2019.

Yes: Bouffault (seconded), Buckley, Caldwell (moved), Daniel, Glover, Kreider, Lee, Malone, and Maynard

No: No one

Absent: Ohrstrom
Abstained: Kruhm

Public Hearing Item

SUP-19-01/SP-19-01, Crown Castle. Request approval of a Special Use Permit (SUP) and Site Plan to construct a new 185-foot Class 4 Wireless Communication Facility (WCF) that would replace an existing 84-foot monopole per §3-A-2-a-3-r of the Zoning Ordinance. The property is located on the west side of Mt. Carmel Road (Rt. 606) approximately 450 feet from its intersection with U.S. 50/17 (John Mosby Highway), Tax Map #39-A-74, is 84.55 acres in size, and is zoned Forestal-Open Space-Conservation (FOC).

Mr. Fincham explained that Crown Castle (Applicant) is requesting to construct a new 185' monopole, Class 4 Wireless Communication Facility (WCF) on a portion of the subject property. He said that the Applicant obtained a lease on a portion of the subject property containing the easement and compound area. He stated that the lease grants the ability for Crown Castle to construct towers, install equipment, etc., through a Wireless Communication Easement and Assignment Agreement. He said that the proposed Tower will replace the existing 84 foot monopole. He said that the proposed facility is designed to accommodate AT&T antennas at a centerline height of 181' and T-Mobile antennas at a centerline height of 171'. He stated that the facility will be accessed by the existing entrance shown on the site plan. He said that the parking area will be the gravel easement which serves only the compound. He said that there are no water supplies or sewage disposal systems existing or proposed. He stated that a landscaping plan is provided satisfying the perimeter buffer requirements for a WCF. He said that the Applicant has responded to the comments from George Condyles (County Telecom Consultant) and Brian Lichty (County Emergency Services Director). He said that the Applicant provided a response letter on July 10, 2019 which was forwarded to Mr. Condyles. He stated that Staff discussed the response letter with Mr. Condyles by phone and he is present today to answer questions from the Commission.

He said that the Applicant has also been working with the Virginia Department of Transportation (VDOT) to satisfy their requirements. He said that the revisions required by VDOT are minor and they anticipate approval once those revisions are reviewed. He stated that the Applicant did apply for a setback variance with the Board of Zoning Appeals and the public hearing is scheduled for September, 10, 2019. He said that the fall zone is 92 feet and there is 61.5 feet from the property line where the cemetery lot is and that is what the variance is for. He stated that the height limit of a tower stops at 199 feet. Mr. Stidham said this is due to the fact that we prohibit towers that have to have lights on them.

Mr. Fincham stated that this proposal will not cause undue adverse effects on neighboring properties. He stated that this proposal will not cause an undue adverse effect on wildlife and plant habitats. He said that no karst plan is necessary and an Erosion and Sediment plan is not needed. He stated that the tower will not cause undue air pollution. He said that security fencing will be provided for the life of the tower. He said that Staff recommends approval for this proposal with conditions contingent upon final VDOT written approval of the site plan, the posting of the required removal bond and a variance approval from the Board of Zoning Appeals. After discussion with Staff and the Commission, Vice Chair Buckley opened the public hearing.

Tracy Themak, (Donohue & Stearns, PLC), zoning council for Crown Castle, stated that the primary purpose today is to answer any additional questions the Commission might have. She said that with her today are representatives from Crown Castle site acquisition, construction, and engineers for AT&T and they can answer the more technical questions. She said she is going to give a brief power point as Mr. Fincham basically covered everything in his power point. She said we are proposing a replacement monopole for the existing stealth flagpole that was approved in 2003. She stated that the Applicant at that time was Omni Point and T-Mobile which were located on the original tower. She said the need is driven by T-Mobile and AT&T needing more height on the monopole to improve service in the area. She stated that AT&T will be the lead antenna and then T-Mobile. She said as soon as the new monopole is in place and AT&T & T-Mobile have migrated to the tower the old tower will be removed. She stated that they plan to put up a 185 foot monopole with two carriers and their upgraded equipment on the monopole. She said that this is clearly demand driven to meet the needs of the subscribers in Clarke County. She stated that this would be the minimum height necessary to be able to do this for both carriers. She said that in terms of optimal space and landlord approval and in terms of mitigating any additional disturbance to this parcel, this is the best area for the monopole. She stated that they are currently planning to be at the Board of Supervisors meeting later this month and then again at the October meeting. She said that Mr. Fincham stated that variance needs to be approved through the Board of Zoning Appeals which needs to be done before moving forward. She stated that she just learned that the VDOT bond and removal bond will be provided by Crown Castle later next week. She said that Mr. Fincham basically explained everything in his presentation. She showed where the proposed monopole will be located and said that the old tower will be removed. She stated that the monopole needs to be vertical and have two carriers with updated equipment in order to meet the needs of the customers in Clarke County. She showed photos where the tower will be visible and where it will not be visible. She provided hard copies for the Commission to review. She said that when Staff was presenting she noticed two things she would like to address. She stated the first item is on the American Tower facility that is located about a thousand feet to the southeast and primarily the reason that AT&T and T-Mobile are not on that one is a private business arrangement between AT&T, T-Mobile and Crown. She said that they have existing lease agreements with Crown and not American Tower. She stated that the reason they have the existing lease agreements is because the structure where American Tower has co-location opportunities is not at a height that would achieve effective propagation or Crown would have gone there. She said that Crown does not have the opportunity to interfere with that. They have a pole and they can bump it up and give these two carriers the heights that are required to maintain the service and what is currently being provided in the County and future service.

She said that the second item is that Commissioner Caldwell brought up the photographs of the other site of the look at the current proposed tower if it is increased by 20' and she did not get to put them in the presentation because it is not what we are proposing now. She said she did not want to keep the photos in the presentation showing the higher tower but she does have hard copies of the pictures and will hand them out to the Commission. She said that we do have members of our team available today to answer any questions. She stated that is all she has for her presentation.

Commissioner Maynard said that on pages 79 and 80 are pictures of the proposed future tower with a future extension that is 10% of current proposed height with future co-location antenna arrays. He added that on the proposal as it stands now there are two antenna arrays and on the future tower extension there is a third at the very top of the 203'-6" monopole. He stated that he would like

verification on the ability of Crown Castle to add that extension. He asked if it is a by-right extension and would you have to comply with the lighting requirements above the 199 feet.

Ms. Themak replied that the company is allowed by-right to increase the monopole height by 10% or 20 feet whichever is higher. She stated that in a jurisdiction like Clarke County where we have a maximum height of 199 feet and a prohibition on lit towers we could come up to 199 feet. She said that Crown is going to come here and invest the money and install this tower at 185 feet today. She added that the cost does not justify another 10 or 15 foot height increase on the tower. She stated that this will give AT&T & T-Mobile what they need. Commissioner Maynard asked does your right to go to 10% overrule the County's right to have a 199 feet. Mrs. Themak said that there are carriers that would take this and say that it is a federal law trumps the local jurisdiction. She said that in the counties that she has dealt with (Albemarle County and a couple more of the other jurisdictions) we encouraged them not to do that). She said if you do not want to pursue litigation and it is not something that they can come in and do it administratively by right in the County and they have height like here using the federal law to override local regulations is something they try to avoid.

Commissioner Bouffault asked that you are talking about the possibility of going to 203 feet on the tower and we have kept it to 199 feet, would it be technically feasible for you to add a third carrier and respect the 199 foot limit. Ms. Themak stated that with AT&T at the top centerline at 181 feet she believes it would be because there is a 10 foot separation between the centerline rings and they could still squeeze one more in at the top. Commissioner Bouffault said that you could still squeeze one more in and still respect the 199 foot limit. Ms. Themak said that the other benefit of this is that AT&T & T-Mobile have designated their needed centerline heights at 171 feet and 181 feet but given that this was originally an 85 foot stealth flagpole there may be carriers that come in and accept the 161 foot centerline.

Commissioner Bouffault asked if they have a fiber backhaul and if it is Shentel. Mrs. Themak asked a member of their technical team to answer this question. He said he believes so and he met with them about 3 months ago. Commissioner Bouffault said she thinks that Shentel is close to merging with T-Mobile and they are currently working through some difficulties. She knows that Shentel has the backhaul for T-Mobile on Route 50 which is close to Waterloo and across from Blandy Farm. She said she thinks they have a current 100 foot or possibly 80 foot or 90 foot tower. She stated that she knows that backhaul is Shentel because Shentel is also servicing with fiber at Blandy Farm.

Commissioner Maynard asked that in regard to the by-right extension to 203 feet would Crown Castle entertain a voluntary condition that in order to prevent future litigation would they cap the height at 199 feet in accordance with County Ordinance. He said he does not want to see that 5 years from now Crown Castle would want the extra 15 feet claiming that we have a right to do this and then we get into the legal situation that we have to say we are enforcing our regular ordinance and you say that you have the by-right that trumps our local ordinance.

Mrs. Themak said that unfortunately Crown Castle does not want to set the precedent that we come to our hearings and leave our legal rights under federal law. She said that she could take this to them but cannot speak to it right now. She added that she did not think that it is a precedent they

want to set to waive their rights under the law because that would be used as an across the board condition where the law would be very helpful and is not so vehemently opposed. She stated that she thinks that the County's cap is the biggest deterrent and coming in and trying to litigate a matter that would be overly expensive for the additional 10 feet it would provide.

Commissioner Glover asked where the dead zones are now for AT&T and T-Mobile around Route 50 and Route 606.

Ms. Themak said that we did not provide those in the application. She said she could speak generally to that but recently there was Virginia legislation passed that stated providers do not have to provide their maps or demonstrate need in the area. She said that there is a need here and Crown, AT&T and T-Mobile do not invest the funds and if there is a need we go on customer complaints and 911 for emergency services. Commissioner Glover asked if someone could speak at all about the dead zones just for personal use. She said that we do not live in the jurisdiction so we do not have the information. Commissioner Glover said he just wants to know where the dead zones are now for AT&T and T-Mobile around Route 50 and Route 606. She said she can speak generally but legally we have not submitted those materials because they are not part of the application. Commissioner Glover stated that the customers that are complaining are the customers that are commuting. He said that his next question which he believes you will not be able to answer is how many homeowners will benefit from the proposed tower. Ms. Themak said this information is not part of the application and the commuters working and living in the area and the emergency services depend on carriers like AT&T and T-Mobile to keep the towers current. She stated that we have agreed to leave space on the tower for emergency services and that is all in the interest of maintaining services for Clarke County.

Commissioner Glover stated that he is confused because Ms. Themak said there is demand and he said we still do not know how much demand there is for the local folks. He said that Ms. Themak cannot speak about this so he will let it go.

The Engineer for AT&T stated that we have a need for this site. He said from this proposed site it is 2.6 miles to the east and 5 to 6 miles in other directions. He said that there is a big area which we do not cover well. He said that there are spots that we miss especially on Route 50 straight through to Route 602 and Route 606. He stated that to the northwest there is a Blue Ridge Wildlife Center and that is an area we are trying to improve.

Commissioner Caldwell said that she understands that Crown Castle is primarily dealing with cell phones and part of your application mentions the possibility that the County could help to expand broadband access through location on your tower. She stated that this is usually provided by local WISPs and the question is that obviously Crown Castle owns many towers throughout the country so what percentage of our rural towers have WISPs co-located on them. *A technical representative from Crown Castle said that he thinks the answer to that would be yes because there are independent wireless networks on our cell towers above and beyond the carrier.* Ms. Themak stated that she does not know the answer to that question but she will find out and get back to her.

Commissioner Glover said that with WISPs you get unlimited data and you do not get choked. He said that AT&T, Verizon, T-Mobile are all hot spots but after 15 gigabytes you get choked. He said that is why the WISPs are more of an advantage to us than having a hot spot with a carrier. Commissioner Bouffault replied that is not quite accurate. She said that the WISPs that we

currently have are dealing with the same problem with choking as we have with cellular. She said she was just researching a new system called Bit Haulers. She said that what they are doing is bouncing off of all the cellular networks using all of them to provide what they are saying is going to be very fast 5G cellular internet. She said the reality is they are small companies and they are very interested in selling equipment that you can put on your house to receive this 5G. She stated that they are subject to the same choking problems as everyone else.

Fred Tavenner, property owner in the area, stated that the existing tower does not provide good service to an area that is about 900 feet. He said a picture was presented showing the new tower was visible going down Route 50 and on another picture it showed that the tower was not visible. He asked if the tower has to be visible in order to get service. Commissioner Bouffault stated that cellular does not have to be in direct line of sight in order to get service. She said that WISPs have to be in direct line of sight for service. Mr. Tavenner said that there is an existing tower that looks like a Christmas tree so AT&T and T-Mobile could use the existing tower instead of having additional towers all over the county. Commissioner Bouffault said that the existing tower belongs to Verizon and they have indicated that they are not willing to share the tower with a competitor. She said that this is truly a business decision that they have made. She stated that Crown Castle is keeping AT&T and T-Mobile happy by providing this proposed new tower.

Chris Collins, property owner in the area, stated that he heard it said that it is not going to be a problem and you will not see it and it will not be a visual disturbance. He said that this is not true. He stated that he drives up and down that road a couple times a day and sees it every time he drives by. He said the proposed tower is going to be twice the height of the existing tower. He stated that it is going to be very intrusive and it will look like Loudoun County. He stated that it will impede the view shed. He said make no mistake about it this is a money making proposition. He stated that people want to build that tower to make money and this is the easiest way to do it. He said that there is an existing site here and lets bend the regulations and increase our profitability quickly. He asked how far they have gone to explore other alternatives. He asked if there has been a lot of research on this proposed tower. He said he would like to know. He stated that he gets 4G service and he guesses he picked the right carrier and I am lucky because I am sure a lot of commuters get a dead zone. He said that he has always liked Clarke County for holding the line and taking their time to make the right decision for everyone. He stated that he would like the Commission to take the view shed into consideration.

Steve Tavenner, property owner near the proposed new tower. He asked if for some reason in the future someone wants to go beyond the current 199' foot limit on the tower would they be able to have a light on top of it. Vice Chair Buckley stated that the County has an ordinance that bans lights and it states when a tower reaches 200 feet or more there is a requirement for a light on the top. Mr. Tavenner was concerned if a light was allowed it would shine on his property. He said that he likes the way the existing tower looks and it is very well done. He said that he has Sprint service and this tower will not help him at all. He said he does not understand why these companies cannot consolidate some of their equipment and add more companies to use the same tower.

Fred Tavenner asked if it would be possible to do this tower like the existing tower. Mr. Stidham said that he has seen examples elsewhere of using the stealth tree approach and in this particular location it would probably stick out even worse because they work best when they blend in with surrounding foliage and it would have a significant portion of the tower above the tree tops.

George Condyles (County Telecom Consultant, President of the Atlantic Group) stated that he is the County Consultant and has been for a number of years. He stated that his purpose in reviewing these applications is to make sure you have an objective and unbiased opinion of facts of what the application says. He said that the Applicant has submitted all of their technical data that they are required to by law and that includes the local, Federal and State requirements, FCC, Commonwealth of Virginia and Clarke County require. He stated as far as ownership goes the existing tower (Christmas tree) is owned by American Tower and in the world of tower and tower leasing there are various competitors. He said that SBA is one, American Tower, Crown Castle are large nationwide providers of infrastructure and in addition to that they own fiber optic cable and these companies are into it heavy and deep and they are traded on the New York Stock Exchange. He said that across the street there is a stealth tower which we call the Christmas tree and it still has not been answered on why they cannot build over there. He stated that what he has heard is that from a business stand point its competition and all of that is true. He said that all of these carriers have what is called a master lease agreement with every facility provider. He stated that if one of the providers see a location they want to go on the first thing they do is see who has a tower in that area. He said that the only question he has is why one of these providers cannot go to where the American Tower Christmas tree is located. ***He said this would be more advantageous to go there as it is on higher ground elevation and the slot is available at the 80 foot position. He said that in the spirit of trying to position these towers with branches, camouflage, etc. and doing this to a 180 foot structure, it will look very bad. He said that camouflage only hides up to about 120 feet without looking really bad. He said that another item is the ability to raise the tower by 10% and Commissioner Maynard and Commissioner Glover have expressed some concerns about that. He said what the Federal law will allow is a one-time bump but if it is going to happen it will require lighting and the FCC will tell you the intensity of light that will be needed. He stated that he is not against this application at all other than he would like to have the question answered in a technical way not a business way. He said if I lived on the street where this tower would be going up he would not want it to happen either. He said he has no problem with the variance. He said that the application has merit and you should consider it.***

Commissioner Maynard said in looking at the placement of the antenna arrays at 171 feet and 181 feet technically would it be almost as feasible to lower the overall height of this pole from 185 feet to a point where the federally authorized increase would bring it to a maximum off 199 feet. He said you could just lower those arrays slightly so that when they come in to exercise their Federal right of a one-time bump of 10%, they would fall within the County guidelines and the arrays instead of being at 171 feet and 181 feet would initially start out at 165 feet and 175 feet. Mr. Condyles stated he is going to guess because he has not studied the data but you would be looking at a 5 to 8% penalty to do it exactly like your scenario. He said it is not a bad strategy. Commissioner Maynard said that he just does not want to see the county spending a million dollars of county funds to fight a by right exercise in the federal courts.

Commissioner Lee stated that he wants to say something about the procedure of the Planning Commission in giving conditional approval to the proposed Special Use Permit/Site Plan before the Board of Zoning Appeals (BZA) has the public hearing and the opportunity to vote on the variance. He stated that the BZA is a separate body from the Planning Commission and he thinks it is premature for the Planning Commission to move forward in giving conditional approval on this request until such time that the BZA has the Public Hearing on the variance.

Mr. Stidham stated that as we talked at the Work Session the recent changes in the General Assembly level have limited the overall time frame for review of cell towers to 150 days which would terminate around mid-December. He said that given how the months have fallen since the application was filed that allows for essentially one deferral for a one month period which would end the 150 day review clock. He stated if the Planning Commission would defer to the October meeting action would need to be taken in October in order to get it on the Board of Supervisors schedule to set public hearing at the Board October meeting for their November meeting. He said if the Planning Commission is considering a deferral to next month he always recommends continuing the public hearing so it can remain open and that also saves on advertising costs because if you close it and then reopen it we would need to re-advertise again and it would still give the public time to come back and speak again.

Vice Chair Buckley asked Mr. Stidham to clarify the timeline if we choose to defer. *Mr. Stidham said that changes to State law have limited the overall review time for cell towers to 150 days which would end at some point in mid-December. He said that based on how the months have fallen since the application was first reviewed, it would leave room for one deferral for a one month period within the 150 day review period. He said that if the application were deferred to October, the Commission would have to act in October in order for it to go on the Board of Supervisors' agenda in October to schedule public hearing for November. Commissioner Bouffault asked whether the Commission would continue the public hearing to October, and Mr. Stidham replied that Staff always recommends continuing the public hearing when a matter has been deferred to a future meeting to allow for additional public comment and to save on advertising costs.*

Commissioner Kreider moved to defer action for one month to the October Commission Business Meeting and to continue the public hearing in order to consider the outcome of the Board of Zoning Appeals variance request. The motion was seconded by Commissioner Glover. Mr. Stidham said that the Commission might want to ask the applicant to request the one month deferral. He added that if the Applicant were to accept and take on the burden of deferral and provide that acceptance in writing that would stop the review clock. He stated that the General Assembly also gives the ability for the Applicant to voluntarily agree to a time extension of that 150 day period so it might be worth asking the Applicant's agent if that was something they would consider.

Vice Chair Buckley asked Ms. Themak if this is something they would consider. She said that she is curious given that Crown Castle will not be able to act on the Special Use Permit or Site Plan without BZA approval. She asked if this were to be acted upon today and the BZA were to deny the variance on September 10th then this would be null and void. *She said that in 2003 the special use permit was conditioned upon approval of the variance request by the BZA. She added that Crown Castle is anxious to start this project and asked what the risk would be if we held to the timeline with the condition that the variance request be approved in order to approve the special use permit request. Commissioner Glover said that he would like to get more information based on the presentation. Ms. Themak said that she would accept the deferral if it is built into the review timeline and would be happy to come back in October to answer the Commission's questions. She added that she wants to stick to the original timeframe of having the final Board hearing in November. Mr. Stidham noted that this would be a Commission deferral and the review clock would continue to run. Ms. Themak asked if she would be receiving a list of the additional items that the Commission wants to see. Commissioner Bouffault noted the tower height question raised by Commissioners Maynard*

and Glover. Commissioner Glover said that he would like to speak with some of the residents in the area about the application. Commissioner Bouffault said that one of the first questions raised was about the need for the tower and propagation maps. She added that there is a definite need for good service especially in the mountain areas and that it is frustrating to not know what the benefit in service would be. She said we would probably be a lot more comfortable if we knew how this would benefit the citizens.

Commissioner Maynard said that he wants to see additional information on the by-right extension possibilities for the proposed tower. He said that clearly by the pictures shown here that this extension is in the plans and that the pole will be built to add that third array. Commissioner Bouffault said that we already know that it would go against us if we went to court because Federal law does trump our local ordinances. Mr. Stidham said that to Commissioner Maynard's point, there are two options. Crown Castle could lower the tower height or they could accept a condition that the tower would not be extended beyond 199 feet. He said that absent these two options, we would have to enforce our Ordinance if an extension were proposed in the future and would go to litigation if it comes to that. Mr. Stidham also noted Mr. Condyles's concern as to why the applicant cannot co-locate on the American Tower site from a technical standpoint and not a business standpoint. He said a third point is in regards to visual impact and asked Ms. Themak if Crown Castle would be willing to schedule a balloon test during the deferral period. Ms. Themak replied yes and Mr. Stidham added that we can work on scheduling a date for that test and an alternate date for bad weather.

Commissioner Bouffault said that the tower is presented at 185 feet and Federal law allows for an extension of 10% of the tower height or 20 feet. She asked if the tower height were reduced to 179 feet, would this make everyone happy. Ms. Themak asked about amending the special use permit application to 179 feet and simultaneously applying for the administrative increase of 10% or 20 feet, and whether both applications could be considered and acted on at the same time. She added that this would provide the height that AT&T needs. Mr. Stidham asked for confirmation that Ms. Themak would be trying to obtain an approval height of 199 feet. A representative from the Crown Castle team stated that from a construction and maintenance perspective, they do not want to have a lighted tower for an additional three feet. She added that they apply for towers frequently at 199 feet because they do not want to have to maintain a lighted tower. She said that AT&T needs 185 feet and that they will not come back and request to extend the tower height to 203 feet.

Commissioner Bouffault asked the representative from AT&T whether they could accept a height of 179 feet instead of 185 feet. She added that she understands he may not be able to answer the question now but we are talking about a difference of six feet. The AT&T representative said that six feet should not be that big of a deal. Commissioner Kruhm asked if they could give us the information on the resultant degradation from the reduced height. Commissioner Maynard said that they do not give that information out but they have to make a business decision on how it impacts their request. Ms. Themak said that she would not be comfortable with bumping AT&T down to a lower height but would be comfortable with the special use permit and simultaneous administrative approval of the tower height at 199 feet. Mr. Stidham said that he is uncomfortable with doing a simultaneous administrative approval. He suggested that consideration be given to a condition that the height of the tower will not be increased to a height that would require FAA lighting. Ms. Themak replied that is fine and asked for confirmation that we would essentially be

capping the height at 199 feet. Mr. Stidham replied that there would be no extension of the tower height that would require FAA lighting. Ms. Themak said that she thinks this would solve all of the problems.

Commissioner Caldwell noted that we have a motion and second on the floor. Mr. Fincham noted that for the Commission's information, the Zoning Ordinance requires the applicant to provide photosimulations of the proposed tower with a by-right extension shown. Ms. Themak said that they do not have engineered drawings showing a third carrier on this proposed tower. The Commission voted to defer action and continue the public hearing until the October Planning Commission meeting.

Yes: Bouffault, Buckley, Caldwell, Daniel, Glover (seconded), Kreider (moved), Kruhm, Lee, Malone, and Maynard

No: No one

Absent: Ohrstrom

Boundary Line Adjustment

Approval of a boundary line adjustment for the properties identified as Tax Map #3-A-3C and 4-A-2A, located off Old Charles Town Road in the Russell Election District zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham stated that the Zoning Administrator normally approves boundary line adjustments but in cases where the proposed boundary line adjustment would exceed area limitations, the Planning Commission is the approval authority for the purpose of allowing such area limitations to be exceeded. He said that Staff has reviewed the site and the half acre adjustment area is minimal and is not used for agriculture and is not suited for agriculture. He said that Tax Map #3-A-3C is currently at 3.975 acres and after the adjustment it will be 4.475 acres. He stated that Tax Map #4-A-2A is currently at 53.2272 acres and after the adjustment it will be 52.7272 acres. He said that the total area in the boundary line adjustment is 57.2022 acres which remains the same and 0.500 acres were adjusted. He said that a LESA score was calculated on the agricultural lot Tax Map #4-A-2A and the score was 67.58 which is considered low quality. He stated that there are no issues pertaining to the existing well and onsite sewage systems. He said that the Health Department approval and signature of the plat will be required. He said that a karst plan/resistivity test is not required for the existing septic system. After discussion with Staff and the Commission, ***Vice Chair Buckley*** called for a motion.

The Planning Commission voted to approve this request

Yes: Bouffault (moved), Buckley, Caldwell, Daniel, Glover, Kreider (seconded), Kruhm, Lee, Malone and Maynard

No: No one

Absent: Ohrstrom

Board/Committee Reports

Board of Supervisors (Mary Daniel)

Commissioner Daniel stated that last week the entire Board of Supervisors were overwhelmed with the concerns about Loudoun County and the Town of Hillsboro who are thinking about closing Route 9. She said that the Board is all over this and are going to have a work session dedicated to this issue on Tuesday. She said that in her opinion it is a tremendous safety issue. She said we are waiting for our

safety audit on Route 7. She said that the census is coming up and they are hoping to be able to do most of it on line. She stated that a traffic study report is being done for the Town of Berryville and we will probably get the results back for the October Board meeting. She said we have several citizen positions available and you can find the information on line.

Board of Septic & Well Appeals (George Ohrstrom, II)

No Report.

Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell said there is a public hearing meeting scheduled for September 10, 2019 at 9:30 a.m. for a variance request from Crown Castle.

Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm said that there is a public hearing meeting scheduled for September 18, 2019.

Conservation Easement Authority (George Ohrstrom, II)

Vice Chair Buckley stated that Alison Teetor, George Ohrstrom and myself recently attended a celebration of the 100th Conservation Easement partially funded by the Virginia Farmland Preservation Fund. He said that Alison and two other PDR Managers were recognized by Governor Northam and the Secretary of Agriculture for their work in farmland preservation and he said that he thinks it was a really well deserved recognition. He stated that it was a very nice event and George was one of the speakers. He said that we have also submitted a grant application to the Virginia Land Conservation Fund to leverage some matching Federal funds for an easement on a portion of Smithfield Farm and have three other easement applications pending.

Broadband Implementation Committee (Mary Daniel)

No meeting recently.

Other Business

Mr. Stidham stated as we discussed at the work session on Tuesday, everyone should have a copy of the document that you had not had a chance to review. He said this is the original submission from Len Capelli containing the recommendations of the Economic Development Advisory Committee and the Industrial Development Authority (IDA). He said that it is dated May 15th and we received it sometime in June. He said that this has been presented to us as those two bodies recommendations on revising the Economic Development Strategic Plan. He said that you already have the information from Commissioner Bouffault and her draft that she has provided at the work session as well and we talked about taking this month and picking it up back in October. He stated as a reminder the five year review resolution needs to be adopted by the Planning Commission by October 21st which is the anniversary date of the adoption of the Economic Development Strategic Plan.

Commissioner Bouffault said she wants to make some comments. She stated that the Comprehensive Plan Committee met on August 19th and it was discussed and decided to take what you are now receiving today to the rest of the Commissioners. She said that Mr. Stidham was talking about the final recommendation of the EDAC and IDA that they were passing on to us. She said that she worked with Len Capelli on the 22nd and they incorporated the main part. She said the only thing they found was that the EDAC and the IDA had separated the County Economic Development and the agencies such as

the Commissioner of the Revenue and any of the other elected agencies. She said we consolidated that with the view that this is such a tiny county the communication between all of us needs to be much closer than if we were to be a large city or a big county where you have very different buildings and so we are all in the same building. She said what is obvious is we really did not have a discussion concerning the draft you received from us on the 26th. She said she did send it out to EDAC and IDA on the 26th so if they had any comments or they wanted to post a recommendation to make changes we could do so but we did not receive anything back from them. She said she would like for this draft plan to be discussed at the October Work Session and if we can agree on it, we could adopt it for public hearing. She asked Mr. Stidham if it does have to go through a public

Mr. Stidham stated if you are going to amend the Comprehensive Plan or any other component plans it requires public hearings for both the Planning Commission and the Board of Supervisors.

She said that we could set a public hearing at our level for October. She said that we need a new plan and it is neat and tidy and everybody has had a chance to read it. She stated that last year the Board of Supervisors wanted this plan updated. She said she would argue that it is probably the most important implementing plan that we have right now. She said we need to increase our tax revenues and that is the basis why we need to have this plan approved. She stated she wants to get this off our plate and Mr. Stidham's plate and move it on to the Board of Supervisors before the end of the year if possible.

Vice Chair Buckley asked Mr. Stidham if we need to take any action on this resolution.

Mr. Stidham said he does not think we need to take any action today. He stated we can continue to add this item to the October regular meeting agenda which would enable us to discuss it at the work session. He said that he wants to apologize on behalf of all county Staff as to the confusion of this process. He said that the excerpt from the Board minutes from May that was handed out on Tuesday does clearly state that the Board has delegated the update to the Strategic Plan to the EDAC and the IDA and that was dated back from Spring of 2018. He said that for whatever reason that directive was never communicated to the Planning Staff. He stated that as he described on Tuesday he met with Mr. Capelli in January of this year to talk about the need for this five year resolution to be adopted and he was not told at that point that the Strategic Plan was being rewritten. He said he was aware that the Board was with working with Mr. Capelli and associated groups on EDAC priorities but at no point was it communicated across departments that this Strategic Plan was being revised and that he should expect the Planning Commission to receive a revised Strategic Plan for consideration. He said had we been made aware of this that early on he would have talked about process and procedure. He stated that the fact that we have a Comprehensive Plan update coming up soon that contains an objective with our big picture strategies for Economic Development used to inform the update of the Economic Development Strategic Plan, and that the process would be to work through these priorities with the Comprehensive Plan update and then decide what to do with the Strategic Plan. He said that the outcome of the Comprehensive Plan could take away the current practice to maintain a Strategic Plan as a component plan that we could detach that and make it a free standing document that can be worked on by the Economic Development and the Board independently of the Comprehensive Plan. He said we would have to work with Mr. Capelli and County Administration on any modifications and changes. He said that since Staff was not involved with the creation of this we would guide you through the Public Hearing process and make sure all those requirements are filed. He said that his

concern right now remains and is making sure that some sort of resolution is adopted in October that reflects if we want to do work or not do work on the current Economic Development Strategic Plan. If there is a resolution to have a Public Hearing to amend either this document or some other version of the document that satisfies my check box.

Commissioner Bouffault asked to comment. She stated we cannot disassociate from the Comprehensive Plan. She said that the Comprehensive Plan shall consider strategies to provide broadband, infrastructure to the future needs of the residents and businesses in our locality. She said that we do have the right to amend the plan at any time according to the Code of Virginia if it is deemed sufficient.

Vice Chair Buckley stated that he wants this to go on the October Agenda if everyone agrees.

Mr. Stidham said that any time you are working on a Comprehensive Plan or implementing other component plans it is prescribed that you do a careful and a deliberate consideration and we added language in the Comprehensive Plan when we updated it to be sure that piece mill amendments are not done. He said he agrees with Commissioner Bouffault that our current plan says almost nothing about broadband and one of the major things we should do is create an objective on broadband in our Comprehensive Plan and that is where it would have the most punch.

Vice Chair Buckley said he thinks we are all in agreement that we need to discuss this. He said to please be prepared and we will discuss it in October. He asked for a motion to adjourn.

On motion by Commissioner Caldwell and seconded by Commissioner Kruhm the meeting was adjourned at 11:00 a.m.

Randy Buckley, Vice Chair

Debbie Bean, Recording Secretary