

Department of Planning & Community Development



A public hearing of the Franklin County Planning Commission was held on Tuesday, August 9, 2016, in the Franklin County Board of Supervisors meeting room located in the Franklin County Government Center.

THOSE PRESENT:

Earl Webb – Blackwater District
C. W. Doss, Jr. – Blue Ridge District
Edmund “Doc” Low – Rocky Mount District
James Colby – Gills Creek District
Deborah Crawford – Union Hall District

THOSE ABSENT:

Angie McGhee – Boone District
Sherrie Mitchell – Snow Creek District

OTHERS PRESENT:

B. James Jefferson, County Attorney
Steven Sandy - Director
Lisa Cooper - Principal Planner
Terrance Harrington - Senior Planner
Tina H. Franklin - Clerk

The public hearing was called to order by Chairman Earl Webb at 6:00 PM in Board of Supervisors conference room. The first order of business was roll call; five (5) members were present and accounted for. The next order of business was the approval of the minutes from the July 12, 2016 Planning Commission public hearing. Chairman Webb asked if there were any comments or corrections to the minutes as written. With no additions or corrections, Mr. C. W. Doss, Jr, representative of the Blue Ridge District, made a motion to approve the minutes as written. The motion was seconded by Mr. Edmund “Doc” Low, representative of the Rocky Mount District. Chairman Webb noted we have a motion and a second for the approval of the minutes as written, all in favor say aye. Those opposed say nay; motion carried.

MOTION: Doss

SECONDED: Law

Voting on the motion was as follows:

AYES: Doss, Webb, Law, Colby, Crawford

NAYES:

ABSENT: McGhee, Mitchell

ABSTAIN:

Chairman Webb introduced the next item on the agenda as a public hearing for petition of Appalachian Power Company requesting a Special Use Permit for a 4 acre portion of 38.136 total acres currently zoned A-1, Agricultural District, to allow the construction and operation of a new Redwood 138kv substation to replace the Glade Hill substation, in the Union Hall District of Franklin County, and further identified as Franklin County Tax Map/Parcel # 0530012101. The Future Land Use Map of the Comprehensive Plan of Franklin County identifies this area as designated as Agriculture Forestry/Rural Residential. (Case # SPEC-6-16-15384).

Mr. Terry Harrington, Senior Planner represented staff stating that the pad for the substation cover 1.2 acres and it will be constructed 50’ below the Powell’s Store Road. He indicated there would be down lighting, dusk to dawn security lighting with one (1) access road. He stated that VDOT had not commented but will have to approve the proposed entrance. He stated AEP looked at a number of sites around the Glade Hill area and chose this site to be the best because it was situated below the road.

Mr. Harrington stated the applicant has provided information describing the current system design. The information states that the development of a new substation in this area of the county is necessary to continue to provide reliable electric service in the Rocky Mount, Redwood and Glade Hill areas of Franklin County. He indicated the new substation would be connected to an existing 138kv line that is adjacent to the site and connection would be made via a new 600 foot transmission line tap. He stated the substation upgrade project will also involve replacement of approximately four (4) miles of existing distribution line.

Mr. Harrington stated that construction access to the site was proposed to be off of Powell's Store Road with the same access location to be used for periodic maintenance personnel. He indicated VDOT had not yet formally reviewed the access location, but will do so after receiving information on the level of traffic anticipated during construction.

Mr. Harrington read Section 15.2-2232 of Virginia Code which is the public facility review section for conformance with the Comprehensive Plan.

Mr. Harrington stated that staff was recommending approval of the request with conditions.

Mr. Paul Hanson, representative for Appalachian Power, stated they would like to relocate to a site that was less visible from the road. He indicated this site would only serve Franklin County and the project would cost approximately \$6 million and they were expecting to start in the fall and complete the project by October 2017.

Mr. Hanson stated the tallest structure would be 50' tall which would create a two way feed. He indicated this site would only be intended to be a distribution station. He indicated the Redwood station would go on the 138kv line. The current Glade Hill station is on a smaller distribution line in which 2000 homes and businesses utilize. He stated that any point of failure puts the station down.

Ms. Debbie Crawford, representative of the Union Hall district, asked how long it would take to dismantle the old station. Mr. Hanson stated it would take less than one (1) year.

No one else spoke from the public.

Ms. Crawford stated she thought everyone would benefit in the area especially Glade Hill.

With no further questions or comment, Chairman Webb closed the public hearing.

Chairman Webb asked if there was a motion on the Appalachian Power Company special use permit for a new substation. Mrs. Debbie Crawford, Union Hall District, made a motion to **approve the request to allow the construction and operation of a new Redwood 138KV substation to replace the Glade Hill substation with conditions.**

1. The substation site and proposed access road will be developed in substantial accord with the submitted concept plan titled Redwood 138 KV Substation concept plan dated June 28, 2016, prepared by Earth Environmental and Civil.
2. All site lighting shall be of a downward directed design. No site lighting shall exceed .5 foot candles at any property line.
3. VDOT shall approve the location and design of the proposed access road's connection to Powell's Store Road prior to commencement of construction.
4. The County shall approve all required site plans, erosion and sediment control plans, and storm water plans prior to commencement of construction.

5. The existing Glade Hill Substation will be dismantled and the equipment will be removed from the site within 18 months of the completion of the system upgrades associated with the proposed Redwood 138 KV Substation.

Mr. James Colby, Gills Creek District, seconded the motion.

MOTION: Crawford
SECONDED: Colby

Voting on the motion was as follows:

AYES: Doss, Law, Colby, Webb, Crawford
NAYES:
ABSENT: McGhee, Mitchell
ABSTAIN:

The Commission's recommendation is to **approve the request to allow the construction and operation of a new Redwood 138KV substation to replace the Glade Hill substation.**

Chairman Webb asked if there was a motion on the Section 15.2-2232 compliance review of the Comprehensive Plan. Mrs. Debbie Crawford, Union Hill District, made a motion to approve the compliance review.

Mr. C. W. Dass seconded the motion.

MOTION: Crawford
SECONDED: Dass

Voting on the motion was as follows:

AYES: Doss, Law, Colby, Webb, Crawford
NAYES:
ABSENT: McGhee, Mitchell
ABSTAIN:

Chairman Webb noted this petition would be heard by the Board of Supervisors on September 20, 2016.

Chairman Webb introduced the next item on the agenda as a public hearing for petition of Lakewatch Plantation Property Owners Association, Inc. and Lakewatch Plantation Homeowners Association for property currently zoned PCD, Planned Commercial District, to amend or remove any proffer or portion thereof that requires the construction of a public bike path or public walking trails along Firstwatch Drive, Lakewatch Circle, and Watchtower Drive and delete from the accepted proffers any requirement that the developer or any successor create a biking trail/walking path paralleling aforesaid roads as envisioned by the concept plan for the Lakewatch PCD dated August 12, 2005. The proffers requested for amendment or removal were accepted and established by the Franklin County Board of Supervisors by Final Order dated December 12, 2005, said Final Order rezoned Tax Parcel #'s 15-39, 15-41 and 15-42 from A-1 Agriculture to PCD Planned Commercial District. The Future Land Use Map of the Comprehensive Plan of Franklin County identifies this area as designated as Unincorporated Towns. (Case # REZO-7-16-15395)

Mr. Steven Sandy, Planning Director represented staff stating the petitioner's would like to remove a proffered condition which was included in the original rezone request for Lakewatch Plantation development. He indicated the final order from the original approved rezoning with proffered conditions was dated December 12, 2005. He stated the desire to remove the condition stems from an issue involving acceptance of residential streets into state highway system. He indicated the required trails were installed

by the developer within the public right-of-way as a paved shoulder rather than outside of right-of-way as depicted on the proffered conceptual plan. He stated VDOT had indicated that the paved shoulder (trail) could remain in the right-of-way however; the maintenance of said shoulder (trail) would be the responsibility of the County and not VDOT. He indicated the County would be expected to enter into a maintenance agreement with VDOT obliging the County to maintain the shoulder however; since the County does not have the staff designated to such maintenance and the proffered conditions of the rezoning state that this would be a responsibility of the applicant or assignees, County staff had directed the homeowner's association that they would be responsible for such maintenance. He stated the homeowner's associations have met and voted to have the paved shoulders removed from the current streets in order to allow the streets to be taken into the state system without any maintenance agreement for paved shoulders.

Mr. Sandy indicated the homeowners were advised that the removal of the paved shoulder (trails) would not relieve the homeowners from the proffered condition(s) requiring public trails within the development. He advised that only the Franklin County Board of Supervisors could remove the condition since it was accepted as part of the rezoning approval.

Mr. Sandy stated the development was started around 2006 and some infrastructure was installed including streets, water and wastewater lines and prior to completing all improvements, the developer, Lakewatch LLC, filed for bankruptcy and ultimately the bank decided to hold a property auction in 2015 to sell all remaining property. He indicated since all improvements were not completed and the developer claimed bankruptcy, the County has had difficulty enforcing proffers and in 2015, the County called the remaining letter of credit in the amount of two hundred ninety-two thousand (\$292,000) dollars to help complete the paving of residential streets to allow the streets to be offered for acceptance in the state system. He indicated the company that bought all remaining residential lots also posted a surety in the amount of two hundred twenty-six thousand five hundred forty dollars and five cents (\$226,540.05) to ensure that the remaining residential street could be improved and offered for acceptance in the state system. He stated that County staff has contracted engineering work necessary to identify deficiencies to be corrected in order for the streets to be eligible for acceptance by VDOT and invitations for bids have been processed for paving work to be completed. He indicated a notice to proceed would be issued for paving work once the Planning Commission and Board of Supervisors determine whether the proffers would be amended.

Mr. Earl Webb, Chairman, asked if the contract for pavement took up all of the bond or the letter of credit or is there more money in that bond that will be leftover. Mr. Sandy stated currently the bond money that the County received just for this small portion and he showed the locations on the concept plan which roads the bond money would be used to improve. He indicated another developer had bought a number of residential lots in which the developer had posted a separate bond to cover the section of paving in the Estate lots and would not cover the paving on the nonresidential streets in this development.

Ms. Crawford asked about the bond money used for the project and if the County would have to fork out any more money to do the project. Mr. Jim Jefferson stated no.

Mr. John Stroebel, president of Homeowner's Association for the waterfront lots, indicated that the 64 waterfront lots are owned by 24 different owners. He stated the roads have been private but are always used by other folks to access Route 122. He indicated the final coat of asphalt was never applied and within the last seven (7) years there has been no snow removal and they have to pay someone to plow and get no state maintenance and roads have deteriorated. He stated it would be in the interest of the County as well as the homeowners of Lakewatch Plantation to get the roads into the state system.

He stated the developer added an eight (8') foot wide asphalt bike/walk trail in the public right-of-way and they are not safe and usually go in the same direction as the vehicular traffic. He indicated VDOT determined the path was constructed with inadequate foundation, with approximately two (2) miles of bike path that would be real expensive for the Homeowners Association to cover and maintain.

Mr. Charles Boyd, owner within the development, stated you could not even tell there was a bike path there; it is not labeled from the roadway. He indicated there is not a lot of traffic on those roads.

Mr. Bill Cooper, waterfront owner, knew there would be trails and considers them important. He indicated he felt that if you remove the trails it would hurt the property values. He stated there was not a significant reason to drop a proffer and there are remedies in order to have trails.

Mr. Don Smith, Franklin County Public Works Director stated he was not for or against the application and if we were to miss this paving season it may cost more down the road.

Mr. and Mrs. Randy and Marie Flippin stated they did not know about the bike lanes and that area would never be a high traffic area. They indicated there could be greater issues and people would not build there. They indicated they were in favor of the removal of the proffer.

Mr. Greg King, owner in Lakewatch, stated there would never be high traffic in that area and he was in support of the removal of the proffer.

Mr. Sherman Foutz stated he was in favor of taking the bike trail out. He asked why money was released when the project was never completed.

Mr. Clyde Spencer stated he was working for Don Smith and indicated the asphalt would be ground up. He indicated there would still be a trail there and he did not think the cost of installing bike trails were included in the original bond.

Mr. James Colby, Gills Creek district, stated this was a complicated case and hard to understand and it was ambiguous. He indicated on the 3rd of August he raised questions to the Planning Director and the answers came before the meeting and he had to read them prior to the meeting. He stated they needed to look at the proffers as a group and see how the paths sit with other proffers and he thought the Planning Commission should table the request.

He stated if tabling was not possible, he thought regardless of which way the Planning Commission recommends, he feels the roads would be taken care of and would get into the state system. He indicated he did not believe the Planning Commission had enough data and information and he did not support the application to remove the proffer. He stated the removal of the pathways would be detrimental to Lakewatch Plantation. He mentioned precedence and asked wouldn't the County be creating and setting precedence for other developments, a precedent would be set by removing the proffer and would weaken or reduce the way the County looked at things.

Mr. Colby read a list of reasons to not approve this request as follows:

1. **Primary desired outcome unaffected.** It was our understanding that the outcome of this application would have no effect on property owner's primary objective. The service roads will be improved to standards and will be incorporated into the VDOT system for future maintenance. The matter of the pathways seems to be a side issue.
2. **Motivation.** Applicants seem to be motivated solely by a desire to avoid the cost of maintaining the installed pathways.
3. **Dimension of the issue is unknown.** Commissioners were not presented with a quantification of the maintenance burden. What is the projected average annual maintenance cost? This is a key unknown. On balance, why would we delete an important proffer for an unknown?
4. Petitioners have asked the County to: "delete from the Proffers and Conditions any requirement that the developer or any successor create a biking trail/walking path paralleling the aforesaid roads as envisioned by the Concept Plan." Pathways are a key feature defining Lakewatch Plantation. Applicants request to strip all proffered pathways – a move that would radically alter the nature of the present and future Lakewatch Plantation.

5. **Rationale lacking.** There is a complete lack of rationale in the record for change of the proffers at this time. If the proffers made sense in 2005, why would they not make sense in 2016 and beyond? This question remains unanswered.
6. **Maintenance Responsibility.** Existing proffer 10 accepted by Franklin County in 2005 we believe clearly signals the County's intent to be primarily responsible for maintenance of the pathways. "The easement, subject to such necessary cross-overs as may be required to support the other developmental purposes, will be offered/donated to the County, in whole or part, and thereafter such accepted part, if any, shall be maintained by the County. Any section not accepted by Franklin County shall be maintained by the applicant or assigns." [emphasis added]
7. **Precedence – part 1.** What about this concern of precedence? Would County maintenance of these pathways set a precedent for maintenance in other developments? Not likely. This is a unique development in scale and complexity with its own set of proffers customized to this planned mixed use development. It's highly unlikely that a matching set of circumstances can or will be identified. Especially when the particular proffer has already been constructed and including a statement indicating intent of the County to maintain.
8. **Precedence – part 2.** Of more concern to the Planning Commission is the precedent that could be set by removing this proffer upon request of the homeowners. Wouldn't the action of removing this proffer, if approved by the County, undermine to some degree the integrity of our zoning process insofar as proffers are concerned?
9. **General health, safety and welfare.** Commissioners were unable to make the connection that deletion of public pathways for bicycle and pedestrian use would somehow "promote the general health, safety and welfare" – a finding suggested by staff's suggested motion for approval. This seems especially important as improvements have already been constructed.
10. **Public Safety.** We were unable to conclude that deletion of this proffer would contribute to safer conditions.

Mr. C. W. Doss, Blue Ridge district, stated he didn't think the Board of Supervisors intended for the County to maintain these types of things and if they can't be maintained by the homeowners then they should be taken out.

With no further questions or comment, Chairman Webb closed the public hearing.

Chairman Webb asked if there was a motion on the Lakewatch Plantation Property Owners Association and Homeowners Association request to remove a proffer. Mr. James Colby, Gills Creek District, made a motion to **deny the request to amend or remove the proffer for the construction of a public bike bath or public walking trails along Firstwatch Drive, Lakewatch Circle, and Watchtower Drive.** Ms. Debbie Crawford, Union Hall District, seconded the motion.

MOTION: Colby
 SECONDED: Crawford

Voting on the motion was as follows:

AYES: Doss, Law, Colby, Webb, Crawford
 NAYES:
 ABSENT: McGhee, Mitchell
 ABSTAIN:

The Commission's recommendation is to **deny the request to amend or remove the proffer for the construction of a public bike bath or public walking trails along Firstwatch Drive, Lakewatch Circle, and Watchtower Drive.**

Chairman Webb noted this petition would be heard by the Board of Supervisors on September 20, 2016.

Chairman Webb gave the floor to Mr. Sandy for the work session. Mr. Sandy gave a brief summary that Staff has been continuing to work on the Westlake Hales Ford Area Plan. He indicated there would be an Open House at the Westlake Library on September 1, 2016 from 5-7pm.

He also discussed that Westlake Advisory Committee had met to review the Westlake Halesford Area Plan and had some suggested revisions to the Plan. Mr. Sandy presented a summary of those changes to the Commission dated August 9, 2016. The Planning Commission directed staff to make revisions and prepare the final draft by September 2nd for the Commissioner's to review. Furthermore, the Commission directed staff to prepare appropriate legal notice to hold a public hearing on the Westlake Halesford Area Plan on September 13, 2016 at 6:00pm at the Trinity Ecumenical Parish in Westlake.

Mr. Harrington talked briefly regarding the Bousman petition for the Auto Graveyard in A-1.

Mr. Harrington advised that he would introduce draft language for consideration by the Commission at their meeting in October.

Mr. Sandy briefly explained the Dollar General Variance Application and asked the Commission if they had any comments. The Commission asked that staff advise the BZA of the reasons the Commission voted to recommend denial of the rezoning application.

With no further business the work session was adjourned at 8:00pm.

Tina H. Franklin

Clerk

August 29, 2016

Date