

Department of Planning & Community Development



A public hearing of the Franklin County Planning Commission was held on Tuesday, August 11, 2015, in the Franklin County Board of Supervisors conference room located in the Franklin County Government Center.

THOSE PRESENT:

James Colby – Gills Creek District
C. W. Doss, Jr. – Blue Ridge District
Angie McGhee – Boone District
Earl Webb – Blackwater District
Wendy Ralph – Union Hall District
Edmund “Doc” Law – Rocky Mount District

THOSE ABSENT:

Sherrie Mitchell – Snow Creek District

OTHERS PRESENT:

Neil Holthouser, Director of Planning & Community Development
Lisa Cooper - Senior Planner, Long Range Planning Manager
Lori Crouch - Clerk

The meeting was called to order by Chairman Earl Webb at 6:00 PM in Board of Supervisors conference room. The first order of business was the approval of the minutes from the July 14, 2015 Planning Commission work session. Mrs. Wendy Ralph, representative of the Union Hall District, made a motion to approve the minutes as written. The motion was seconded by Mr. James Colby, representative of the Gills Creek District. Chairman Webb noted we have a motion and a second for the approval of the minutes, all in favor say aye. Those opposed say nay; motion carried.

(RESOLUTION 08-15-1):

BE IT THEREFORE resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to approve the July 14, 2015 minutes as written and presented.

MOTION: Ralph

SECONDED: Colby

Voting on the motion was as follows:

AYES: Doss, Webb, McGhee, Ralph, Law, Colby

NAYES:

ABSENT: Mitchell

ABSTAIN:

Chairman Webb introduced the next item on the agenda as PETITION OF SPECIAL USE - Petition of Franklin County Public Safety, Petitioner and Blue Ridge Group, LLC., Owner. He invited staff to present their Staff report.

Mr. Neil Holthouser, Director of Planning & Community Development, thanked the Planning Commission. Mr. Holthouser commented that representatives from the Franklin County Public Safety were here this evening and would be available to speak to the petition's need. Mr. Holthouser characterized the need for Franklin County Public Safety upgrade in its safety communication system in the near future; money is being invested around the county for new tower sites that will improve 2-way radio communication to enable those in the field to communicate with each other and with central command. Mr. Holthouser stated that there are several existing tower sites already in the county; there are other locations where new towers will need to be built. There are eight (8) towers county wide that will be needed in order to support this new system. Mr. Holthouser stated that interestingly enough when it comes to cell towers we usually ask private cell towers to reserve space for public safety equipment on those towers. Once we have this system implemented, this will alleviate the County's need to co-locate on those private towers. Conversely, the

County's towers would have space available for the private companies to co-locate on to the towers. Allowing for a potential revenue stream to the County to lease space on the towers to the private sector.

Mr. Holthouser went on to explain that the towers that Franklin County Public Safety would like to install are unlike the mono-pole towers that people are accustomed to seeing around the County by the private cellular towers. Franklin County Public Safety would be installing a very stationary device where the microwave signal may be relayed from one tower to another. This type of tower would be unlikely to sway in wind or vibrate, therefore Franklin County Public Safety has proposed their tower be more of a lattice style towers, an Eiffel tower looking tower rather than a mono-pole tower. Mr. Holthouser continued by stating before the Planning Commission this evening is a petition for a Special Use Permit for a communications tower on property that is zoned A-1, Agricultural. This specific use of "Public Utilities - Structures, Tower, Public Water and Sewer Treatment Plants" requires a special use permit. This petition is not for a Public Water plant or a Public sewer treatment plant. This special use permit request is for a Public Utilities tower. Mr. Holthouser stated that in the past the Planning Commission and Staff have defined all cell towers as Public Utility, this is done in part due to the non-zoned area of the County where we would use the Comprehensive Plans Conformance Review procedure to regulate utilities. Therefore, we consider a cell tower part of a Public Utilities structure. Which is why we have identified this use as the use being requested. Mr. Holthouser continued to describe the parcel as being 24.4 acres located in the Scruggs Rural Neighborhood Center/Community. We have identified this area in our Comprehensive Plan in the Future Land Use Map, at the corner of Scruggs Road and Bluewater Drive. The area around this center is generally considered low density residential usage, with a density of one (1) to two (2) dwelling units per acre. Where this tower would be located is within the area that the Planning Commission and Staff have defined as a Rural Neighborhood Center with a mix of residential and commercial service uses that support the surrounding community. Mr. Holthouser continued by saying there are other zoning categories surrounding this property, those being R-1, Residential; RC-1, Residential Combined; and B-2, Business. Mr. Holthouser added a note that to the South/Southwest of the property is a residential neighborhood, believe to be Plantation Point neighborhood, which is zoned A-1 but it is residential in use.

Mr. Holthouser commented that in looking at the aerial photograph the subject parcel is cleared along its frontage along Bluewater Drive as the rest of the property is heavily wooded. There is an existing house on the subject property. There is another two (2) acre parcel of land that is located at the rear of the property which is owned by the same owner of subject 24.4 acre parcel. They do have a house currently located on it and a driveway entrance to Bluewater Drive. Mr. Holthouser reminded the Planning Commission that when the application first came in, it was the agenda at one point. The applicant had requested that the petition be pulled for further review at that time. The original proposal was to place the tower on the two (2) acre parcel of land. However, at that location, the site would meet none of the required radius set-backs for the tower. A one hundred ninety foot tower requires a ten percent (10%) set-back. The two (2) acre property was not large enough to meet those required set-backs. Mr. Holthouser stated that the proposal set before the Planning Commission this evening, has shifted the proposed site off of the 2 acre parcel onto the 24.4 acre parcel of land to allow for most of the set-back requirements to be met. Mr. Holthouser did inform the Planning Commission that the two (2) acre parcel of land should be dissolved into the 24.4 acre parcel of land. Which would allow the proposed tower to meet all set-back requirements for this sight. Mr. Holthouser stated that if the Planning Commission did decide to recommend this petition for approval, he would suggest that dissolving the lot lines be made a condition of the approval.

Mr. Holthouser went on to show the Planning Commission several maps of the proposed coverage of the towers for the Franklin County area. The tower would largely increase coverage for safety communications via the eight (8) towers to be located within the County. Mr. Holthouser showed the Planning Commission a map of Franklin County absent the "Scruggs Tower", this would critically impact the coverage. There would be some coverage from the tower in further areas of the County due to the fact that the tower site is up high enough to broadcast out toward Cahas Mountain and toward Windy Gap.

Mrs. Wendy Ralph, representative of the Union Hall District, asked Mr. Holthouser, if there was a map that would show the coverage in the area without the tower. Mr. Holthouser stated that he did not have a map with that information on it. Mr. Pat Reagan, Franklin County Public Safety, stated that they did not have a map showing coverage without the "Scruggs Tower", but the information he did have was of just the "Scruggs" site, which was shown on the map, and the "Scruggs Tower" site was important because of the lake coverage, shoreline coverage, in-building coverage, Westlake and some of the other populated areas. Mr. Holthouser explained to the Planning Commission that would not be accurate to suggest the area shown on the "Scruggs Tower" coverage map should be subtracted from the Franklin County coverage map, in order to show the Planning Commission what the "Scruggs Tower" does cover. This tower would close gaps within the county that without this tower there would be.

Mr. Holthouser showed the Planning Commission a slide of the concept plan of the proposed tower compound to be located on the 24.4 acre property. The Tower would be in an existing area of trees and woods. The concept plan does seem to meet the required set-backs of the adjoining property. There would be sufficient room for the required one hundred (100) foot tree buffer that would surround the tower compound.

Mr. Holthouser stated that he would like to go over the staff's recommendations with the Planning Commission after which he would like to show the Planning Commission the photo simulations, which are a requirement for zoning ordinance. The applicant is required to perform a photo simulation by a balloon test to visually depict what the tower would look like from different sites in the area. Mr. Holthouser apologized to the Planning Commission for the simulations not being available to the Planning Commission to be included in their packet, as the simulation photos were not available until just before the meeting, but that the photos are available to them this evening to view.

Mr. Holthouser stated that the Staff does recommend the Planning Commission recommend to the Board of Supervisors approval of this request with four (4) conditions, as follows:

1. Substantial conformity. The site shall be developed in substantial conformity with the concept plan prepared by KCI Technologies, dated June 1, 2015, and referenced in the petitioner's application as Exhibit #8.
2. Lot line vacation required. Prior to approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to vacate the lot lines of Tax Map/Parcel #33-35.2, so as to merge this +/- 2-acre parcel with the subject +/- 24.4-acre parcel. This shall be required in order to comply with the required tower setback from adjacent property lines.
3. Buffer easement required. Prior to approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to record an easement for the purpose of preserving a 100-foot wide wooded buffer around the perimeter of the tower site, consistent with the area labeled "Proposed 100'-0" Wide Tree Buffer" on the concept plan.
4. House demolition required. Prior to the approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to obtain a demolition permit for the existing residential structure located on Tax Map/Parcel #33-35.2. This shall be required in order to comply with the required tower setback from any residential structure.

After reading the conditions of recommendation to the Planning Commission, Mr. Holthouser brought up the picture slides of the balloon test for the Planning Commission to view. Mr. Holthouser explained to the Planning Commission the map they were viewing is a vicinity map of the area around the tower site. He stated that the photos that were taken were taken in a radius area around the tower site from various locations. In looking at many of the locations the tower is not visible or barely visible over trees. Over the Wilson's cemetery, and over some of private road; which the county is not required to survey, the tower was visible over the tree line in the distance. Mr. Holthouser stated he would be happy to answer in any

questions by the Planning Commission at this time. He stated that Franklin County Public Safety were at the hearing to speak, and there were a few members of the audience that would like to speak on behalf of this petition.

Chairman Webb asked the Planning Commission members if there were any further questions for Staff. Mr. Colby asked Mr. Holthouser if Staff had spoken with the applicant in regards to the four (4) conditions spoken of earlier, whether the applicant was in agreement with the conditions. Mr. Holthouser stated that he understood that to be the case, referring to Mr. Pat Reagan. Mr. Pat Reagan stated that they were acceptable.

Mrs. Ralph asked Mr. Holthouser to clarify regarding the house that sits along the road, it looks as if it is a fairly newer home, does this home belong to the applicant as well. Mr. Holthouser stated there is a house on the subject property near the road that is owned by the petitioner, the owner is imposing the conditions upon him/herself. Mrs. Ralph asked if the home will be occupied by anyone. Mr. Holthouser stated that it is currently an occupied home, by the owner's family member (mother or mother in law). Mrs. Ralph asked Mr. Holthouser regarding the right of way or drive into the property, will the drive follow the right hand side of the property, seems to be right on the property line. Mr. Holthouser stated there would have to be an access easement into the property. The proposal does not call for a property easement, but it does appear that the easement drive does hug the property adjacent to the tower site. Mrs. Ralph stated that once the tower is completed the "traffic" on that road would not be as prevalent other than monthly maintenance to the tower. Mr. Holthouser agreed and noted that the property in question is zoned B-2, Business.

There were no further questions of Staff at this time. Mr. Holthouser invited Franklin County Public Safety to speak to the Planning Commission.

Mr. Pat, Reagan, Franklin County Public Safety, stated that they had just a few things to add to the presentation. He stated the site was chosen by the vendor that Franklin County Public Safety will be using for their radio communication, based on coverage requirements that Franklin County requested. Upon those requirements, looking at 95% coverage of the population of the County. Mr. Reagan stated the only way to achieve this requirement was to chose this site in this area. He stated that this would allow for better coverage in the Lake and shoreline areas from what is currently covered. This tower is critic to the lives and safety of the citizen's of Franklin County. Mr. Reagan explained to the Planning Commission that this site would also allow better coverage for the light to medium duty buildings and supplement coverage on the other side of the Lake, allowing emergency crews to communicate with dispatch and each other. Mr. Reagan thanked the Planning Commission.

Chairman Webb asked if there were any others in attendance that would like to speak to this petition at this time.

Mr. Jim Maxwell was called to speak to the Planning Commission.

Mr. Maxwell introduced himself and his wife, Gail Maxwell, whose maiden name is Ayers. Mr. Maxwell stated that their property adjoins the property of the proposed tower. They own 56 acres. He stated they are the closest property owners to this tower. Mr. Maxwell stated that he understands that this tower will be located in this area for many, many years to come, with it being one hundred ninety-five (195') feet in the area, that puts it at one hundred thirty (130) feet above any tree line in that area. Mr. Maxwell stated that their concerns are as follows:

1. As a property owner the devaluation of the property. This land has been in the family for five (5) generation. However, he stated they do understand the importance of the communication in the area.
2. If their property is devalued, what compensation would they receive from the County for their loss.

Mr. Maxwell stated that was all he had and thanked the Planning Commission for the opportunity to speak.

Mrs. Wendy Ralph asked Mr. Maxwell to clarify, whether they have a home there now or are they planning to put a home there. Mr. Maxwell stated that they have just retired and they are planning to build a home on the land.

There were no further questions at this time. There were no further public comments at this time. Chairman Webb moved the hearing into regular session and further discussion.

Mr. Colby asked to make a comment; He stated there is no question that there is a public need. He stated that he did have some further knowledge to share with the Planning Commission Members as he attended several of the discussion at the Scruggs area Rescue Squad. There were a variety of options, as a matter of fact, this was not the first site they considered. Originally they had thought to place the tower on the property that the Rescue Squad is currently located, but the County's requirements for set-backs were not able to be met on that location. Mr. Colby stated that he had walked the property and believes that this is probably the best option, that he is aware of, for this tower to be located. He stated that the Staff's report seems very sound.

Mr. Earl Webb commented that he agreed with Mr. Colby's statement. Franklin County has been looking for the best option to meet the need and allow the network to work properly. Mr. Webb believes this tower is a key part of making that work.

Mrs. Wendy Ralph asked if Mr. Holthouser would clarify, in the proposed conditions when speaking of the one hundred (100') feet tree buffer. She asked what will be preserved would be the wooded/tree buffer that is already in place. Mr. Holthouser stated that the lot is heavily wooded, but that the one hundred (100') feet buffer would be all that would be required, but that if the Planning Commission would like to exceed that buffer to have great depth of buffer. He stated that the Planning Commission could also ask that all of the wooded area be preserved. But he felt this would jeopardize the potential lease agreement the County has with the owners. Mr. Holthouser stated he did not believe they would like to preserve the entire area, as that would limit their property rights to develop the land around. Mr. Holthouser stated to be clear that the one hundred (100') feet buffer would not protect all of the wooded area that you see currently on the property but only the one hundred (100') feet around the tower compound. Mr. Webb stated that the two hundred forty (240') feet perimeter set back would limit the development in that area. Mr. Holthouser stated his agreement to the comment and furthered by saying any structure would not be allowed to be built within that two hundred forty (240') feet area. Mr. Holthouser stated, any house would not be allowed within five hundred (500') feet of the tower. Mrs. Ralph asked for clarification that any trees outside that buffer and the property line of the adorners could in fact be removed. Mr. Holthouser stated that was correct. Mr. Maxwell asked the question if they were to build a house would the restriction of five hundred (500') feet from the tower be imposed upon their property. Mr. Holthouser thanked Mr. Maxwell for his question, and stated that he did misspeak. The requirement is for the tower to be five hundred (500') feet away from any existing residence. The tower site does not, therefore, require a five hundred (500') feet "no go zone" for any future residence. He stated in this case, the five hundred (500') feet radius clearly falls on the adjoining owners property and the tower cannot prohibit the neighbor from building a house on their property. Mrs. Ralph commented regarding the tree buffer, if something were to happen to the tree buffer, would they have to be replaced. Mr. Holthouser stated that due to the nature of the area, there would need to be maintenance of the wooded buffer as describe in the conditions.

Mr. Colby commented that the property owners question was regarding the compensation for devaluation of the property. Mr. Webb referred to Mr. Jim Jefferson, County Attorney. Mr. Jefferson stated that he is not aware of anything that is in place to take care of compensation. He is not aware of anything being

covered in any existing law. Mr. Holthouser stated the only thing he is aware of would be any future assessment of the property. Where the property was assessed at a lower value due to any flaw or defect, it may affect assessed value of the property. Mr. Holthouser stated he guessed the County's assessment is not likely to change, the property owner would have to assert or challenge the County's assessment of the lower value. There would be a need for evidence or substantiation.

Mrs. Wendy Ralph asked to see the photo of the simulation closest to the Ayer's (Maxwell) Property. Mr. Holthouser brought up the photo and explained that from that vantage point it does appear that the tower would be visible over the tree line. Mrs. Ralph commented that just the top portion would be visible. Mr. Holthouser commented that the trees would indeed shield the tower base.

With no further discussion or questions at this time, Chairman Webb asked the Planning Commission members if there was a motion. Mr. Jim Colby, representative of the Gills Creek District, motioned to approve the Special Use Permit for "Public Utilities - Structures, Tower, Public Water and Sewer Treatment Plants". The motion was seconded by Mr. Edmund "Doc" Law, representative of the Rocky Mount District.

(RESOLUTION 08-15-2):

BE IT THEREFORE resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to approve the request for a Special Use Permit for the purpose of "Public Utilities - Structures, Towers, Public Water and Sewer Treatment Plants" with the following conditions:

1. Substantial conformity. The site shall be developed in substantial conformity with the concept plan prepared by KCI Technologies, dated June 1, 2015, and referenced in the petitioner's application as Exhibit #8.
2. Lot line vacation required. Prior to approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to vacate the lot lines of Tax Map/Parcel #33-35.2, so as to merge this +/- 2-acre parcel with the subject +/- 24.4-acre parcel. This shall be required in order to comply with the required tower setback from adjacent property lines.
3. Buffer easement required. Prior to approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to record an easement for the purpose of preserving a 100-foot wide wooded buffer around the perimeter of the tower site, consistent with the area labeled "Proposed 100'-0" Wide Tree Buffer" on the concept plan.
4. House demolition required. Prior to the approval of any Site Plan pursuant to the approval of this Special Use Permit, the property owner shall be required to obtain a demolition permit for the existing residential structure located on Tax Map/Parcel #33-35.2. This shall be required in order to comply with the required tower setback from any residential structure.

MOTION: Colby

SECONDED: Law

Voting on the motion was as follows:

AYES: Law, Colby, Doss, McGhee, Webb, Ralph

NAYES:

ABSENT: Mitchell

ABSTAIN:

With no other new business, Chairman Webb opened the floor to the Staff to discuss old business on the "White Paper" concerning Short Term Tourist Rental of a Dwelling. Mr. Holthouser asked the Planning Commission if he may characterize the memorandum to the Board of Supervisors on behalf of the Planning Commission Members. He stated that there was not a consensus of the Planning Commission and therefore, several options that may be recommended to the Board of Supervisors for their direction. Mr. Holthouser gave the Planning Commission the analysis of the considerations that were proposed:

1. Maintain status quo
2. (a) Expand the use of short-term rentals as a permitted use

- (b) Contract the use of short-term rentals by eliminating it from A-1
- 3. Codify the expectations for short-term rentals, through supplemental zoning regulations
- 4. Incorporate policy guidance into the Comprehensive Plan

Mr. Holthouser stated the conclusion for the Planning Commission as follows:

"After careful consideration of multiple policy options, the Planning Commission did not reach consensus on any one policy approach for recommendation to the Board of Supervisors (other than the fact that the Planning commission agreed that the use of short-term rentals should NOT be expanded)."

"The Planning Commission agreed that it would be beneficial for the Board to review all the Planning Commissions policy considerations. The Planning Commission respectfully requests that the Board consider the options contained herein (or any other options the Board deems appropriate), and clarify its direction and intent."

The Planning Commission agreed this "White Paper" be presented to the Board of Supervisors at their meeting Tuesday, August 18, 2015 with two (2) additions to the memorandum (history of short term rentals in the Background and land use comments in the Incorporate policy guidance into the Comprehensive Plan).

Mr. Holthouser asked Chairman Webb to request the Planning Commission to make a motion for the "White Paper" memorandum to be presented to the Board with the changes requested. Chairman Webb asked for a motion.

A motion by Mr. James Colby, representative of the Gills Creek District, for Mr. Holthouser to present the "White Paper" Memorandum to the Board of Supervisors at their Tuesday, August 18, 2015 Board meeting. The motion was seconded by Mrs. Wendy Ralph, representative of the Union Hall District.

Chairman Webb noted we have a motion and a second for the presentation of the "White Paper" memorandum, all in favor say "aye". Those opposed say "nay"; motion carried.

(RESOLUTION 08-15-3):

BE IT THEREFORE resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to recommend the presentation of the "White Paper" Memorandum to the Board of Supervisors with corrections.

MOTION: Colby

SECONDED: Ralph

Voting on the motion was as follows:

AYES: Doss, Webb, McGhee, Ralph, Law, Colby

NAYES:

ABSENT: Mitchell

ABSTAIN:

With no other business, the meeting was adjourned.

Lori A. Crouch

Clerk

August 18, 2015

Date