

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON MAY 21, 2014 IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG, VIRGINIA:

**CALL TO ORDER:**

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

**DETERMINATION OF A QUORUM:**

Ms. Puckett established the presence of a quorum.

Present: Bryan Rice, Chair  
Frank Lau, Vice-Chair  
Coy Allen, Member  
Sonia Hirt, Member  
Bryan Katz, Member  
Scott Kroll, Member  
Trey Wolz, Member  
Chris Tuck, Board of Supervisors Liaison  
Karen Drake, Planning Director  
Brea Hopkins, Development Planner  
Dari Jenkins, Planning & Zoning Administrator  
Marty McMahon, County Attorney  
Erin Puckett, Senior Program Assistant

Absent: Cindy W. Disney, Secretary  
Joel Donahue, Member

**APPROVAL OF AGENDA:**

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

**PUBLIC ADDRESS:**

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

**PUBLIC HEARING:**

An ordinance amending Chapter 10, entitled Zoning, of the Code of the County of Montgomery, Virginia by amending Section 10-31 (3) by allowing a contractor's service establishment as a by right use in M-L Manufacturing Light zoning district and by amending Section 10-61, the definition of contractor's service establishment to clarify that the outdoor storage of equipment and/or materials is prohibited.

Ms. Puckett presented the background information on the uses and the proposed amendment.

Mr. Kroll asked for clarification as to whether storage yards were meant for sale of materials or for contractor's storage and use of those materials.

Ms. Puckett answered that these are generally sites where contractors store their own materials.

Mr. Rice asked if contractor's service establishments were allowed any enclosed storage.

Mr. Katz asked if service establishments could have any outdoor storage, for example, one piece of large machinery. He also asked if the storage yard use is allowed currently in the Manufacturing Light (M-L) district.

Ms. Puckett stated that storage yards are only allowed in Agricultural (A-1) and Manufacturing (M-1) by special use permit (SUP).

Mr. Rice commented that the limited locations may be an issue because they are in areas where neighbors may not want them.

Mr. Katz suggested that there may need to be a use in between the two that would allow for minimal outdoor storage.

Ms. Jenkins commented that adding such a consideration may be hard to enforce and/or to distinguish between the uses. She further confirmed that service establishments could have indoor/enclosed storage.

Mr. Katz asked if contractor's storage yards could be added in M-1 by SUP

Ms. Puckett answered that a subsequent ordinance amendment would be required; however, staff could prepare a proposal if desired.

Mr. Katz stated that he was comfortable with the current amendment; however, would like the option to revisit some of these concerns with an additional amendment.

Mr. Rice suggested that the proposed outdoor storage restriction be left out of the definition at this time to revisit at a later date.

Ms. Puckett said that the proposed modification to the definition is meant to clarify the Zoning Administrator's interpretation of that service establishment use. It has been interpreted that it does not allow outdoor storage.

Mr. Kroll commented that these uses could still store materials inside.

Ms. Jenkins presented aerial images to clarify the difference between contractor's storage yards and service establishments. The Ferguson Drive service establishment site is very neat and clean with no outdoor storage, while the storage yard on Seven Mile Tree Drive is not.

Mr. Rice opened the public hearing.

Cat White, NRV Homebuilders Association, stated that he has concerns with the change to the definition that would restrict outdoor storage, as he has large vehicles and cannot afford to build a large garage for them.

There being no additional speakers, Mr. Rice closed the public hearing and opened the matter up to discussion among the commissioners.

Mr. Katz reiterated that he is not comfortable with limiting the outdoor storage of items.

Mr. Rice proposed that the commission does not recommend approval of the definition change at this time until the Commission has time to review whether some amount of storage needs to be allowed.

Mr. McMahon commented that the Zoning Administrator has made it clear that the definition's current intent is not to allow outdoor storage. The Commission should consider the amended definition as proposed to allow Ms. Jenkins more power to enforce that use. The definition can be further revised at a later date if necessary.

Mr. Katz asked if outdoor equipment associated with service establishments could be allowed under SUP.

Mr. McMahon said that may be possible.

A motion was made by Mr. Katz, seconded by Mr. Allen to recommend approval of allowing contractor's service establishments as a by-right use in the M-L zoning district, and to modify the definition to state that outdoor storage shall not be permitted except by SUP.

Ayes: Bryan Rice  
Frank Lau  
Coy Allen  
Sonia Hirt  
Bryan Katz  
Scott Kroll  
Trey Wolz

Nayes: None

Abstain: None

An ordinance amending Chapter 10, entitled Zoning, of the Code of the County of Montgomery, Virginia by amending Section 10-21 by allowing the removal or filling of clean earth fill by special use permit in the A-1 Agricultural district, by amending section 10-48 creating certain additional regulations applicable for a special use permit allowing the removal or filling of clean earth fill and by amending Section 10-61 by creating a definition of clean earth fill defining what soil material make-up shall be considered clean earth fill.

Ms. Drake explained that staff has received inquiries about locating fill sites in the county. Staff has also received complaints regarding noise, dust, etc., as related to existing fill sites. She described the proposed amendments, which included adding a definition for clean earth fill, allowing clean fill activities by SUP in the A-1 district, and establishing some associated regulations. She further explained that these regulations do not apply to fill activity which already has an approved building permit or subdivision plat, or is at a volume of less than 200 cubic yards or 1,000 square feet in a twelve (12) month period; i.e., for driveway repair.

Ms. Drake added that Mr. Donahue could not be in attendance; however, suggested that the Commission consider a 300 cubic yard limit (rather than 200).

Mr. Kroll asked about materials that may fall outside of the proposed definition; i.e., chunks of debris or concrete, stating that this proposed amendment may not address all potential issues.

Ms. Drake stated that there are two separate issues. One of these is clean fill, which the proposed amendment is defining. When fill includes concrete and construction materials, it becomes a landfill, which falls under a separate set of regulations under DEQ.

Mr. Kroll commented that the proposed definition addresses a very narrow type of material that most construction sites will not fall into.

Mr. Kroll asked if other stormwater regulations, erosion and sediment regulations, etc. are already enforced, is this amendment necessary.

Ms. Drake explained that E&S permits do not address the land use concerns. If clean fill is allowed under a SUP, it allows the county to determine on a site by site basis whether the use will negatively impact adjoining properties.

Mr. Rice commented that it appears that this amendment would capture all fill and borrowing from permitted uses. There may be a need to differentiate between residential and other uses. The draft amendment also limits time frame to six (6) months after obtaining a building permit; this should be modified to state "active building permit" instead of limiting the time frame.

Mr. Kroll asked if there are situations in which a zoning permit or site plan approval may be obtained but a building permit is not needed.

Ms. Jenkins stated that there are a few examples, such as a parking lot.

Mr. Rice commented that these regulations may make sense for large operations but would put a burden on smaller operations.

Mr. Katz asked how many dump truck loads would be equivalent to 200 cubic yards of fill.

Ms. Drake answered that it would be approximately twelve (12) and stated that she had discussed limitations with the Building Department and County Attorney. Other localities were researched and found to have the 200 cubic yard limit.

Mr. Rice opened the public hearing.

Donny Woods asked at what level these fill operation would fall under county or state codes. He added that certified dump sites have DEQ and DCR approvals, and noted concerns that the proposed county ordinance would conflict with those requirements. He asked if these requirements would override a site's E&S plan.

Cat White, NRV Homebuilders Association, commented that he is worried about the cost associated with these regulations. He added that this ordinance is probably not meant to regulate small operations but they would probably still fall under these requirements. He stated that several area businesses remove soil from local farms which is then processed into top quality soils. Those operations may fall under new regulations which may be unaffordable. He added that the existing state regulations may already achieve the desired goals.

There being no further comments, Mr. Rice closed the public hearing and opened the issue for discussion among the Commission.

Mr. Rice said the cost of a SUP is currently around \$700, not including the cost to hire an engineer, surveyor, etc. He added that he is concerned that these regulations may place a burden on people for whom this ordinance is not intended.

Ms. Hirt asked if the issue could be tabled and relegated back to staff for additional research.

Mr. Katz agreed but suggested that the Planning Commission give some direction. For example, the time frame may need to be changed, the number of trucks allowed per year, and the threshold for fill (200 cubic yards) under which a SUP is not required. He further stated the limit on fill volume could be relative to lot size.

Mr. Wolz commented that during site visit, the Commission viewed a fill site that is already in violation of multiple regulations. These additional proposed regulations would add another layer of regulation.

Ms. Hirt suggested that staff may need to do more research to come up with a reasonable standard, and that there may be another nearby locality discussing similar issues.

Mr. Rice commented that the proposed regulations do not allow concrete as fill. As it is expensive to dump concrete, there may need to be some provisions for where it can be dumped.

Mr. Kroll asked that staff also look at narrowing down what is not otherwise regulated via existing regulations to ensure that the amendment is not in conflict with other regulations.

Mr. McMahon stated that unless a specific use is listed in a zoning district, it is not allowed. So at this time large fill sites are not allowed. This ordinance is intended to shut down illegal large fill sites and establish what should be allowed by SUP.

Mr. Rice commented that some of the requirements could be determined during the SUP process instead of applying to all of them.

A motion was made by Mr. Allen, seconded by Ms. Hirt to table discussion of the proposed ordinance amendment regarding clean earth fill.

Ayes: Rice, Lau, Allen, Hirt, Katz, Kroll, Wolz

Nayes: None

Abstain: None

## **OLD BUSINESS:**

A request by the City of Radford (Agent: Verizon Wireless) for a Special Use Permit (SUP) on approximately 100 acres in an Agricultural (A-1) zoning district to allow a 199 ft. monopole telecommunications tower. The property is located at 5480 Peterson Drive and is identified as Tax Parcel No. 102-A 16, 17 (Account No. 071097) in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan.

Ms. Jenkins stated that the concerns raised previously by the Planning Commission have been communicated to the applicant. Staff has also provided revised conditions.

Mr. Rice asked if the fourteen (14) day deadline for the county to respond regarding the intent to occupy a colocation space would be sufficient time.

Mr. Kroll asked if there was currently a need to locate Emergency Services in that area of the county.

Ms. Drake said that Neal Turner has no immediate need but does want the right to collocate in case the need does arise.

Mr. Rice asked if the county has approved anything other than flush mount antennas since the Comprehensive Plan telecommunication tower policies were passed.

Ms. Jenkins stated that she is not aware of any platforms being approved, and added that staff's recommendation is to allow a modified flush mount which will allow antennas to be mounted up to 24 inches from the pole.

Mr. Rice invited the applicant to speak.

Mr. Geiger, attorney with Verizon, reviewed some proposed changes to the conditions. He also requested language to allow full array antennas and cables on the outside of the pole if they run out of space within the tower. Mr. Geiger added that if the county approves flush mounted antennas, there will be fewer colocation opportunities. He further requested that microwave dishes be allowed above the tree line. Verizon will remove dishes if/when fiber becomes available.

Mr. Kroll commented that in condition eight, the language does not say "until fiber is available" but "until fiber is located on property", which is a different requirement.

Mr. Geiger assured the Commission that he will expend the money to bring it onsite once available, but he is open to a change in the language if desired. He further noted that if it is not in the area they plan to put out a Request for Proposals.

Mr. Lau commented that a different of twenty-five (25) feet should not have a large impact on viewsheds, and would prohibit multiple smaller towers. He expressed a desire to approve the 199 foot tower with flush mount antennas.

Ms. Hirt stated that her understanding from the previous meeting is that antenna type is more of a concern to Verizon than height.

Mr. Geiger confirmed this, stating that Verizon would prefer a 150 foot tower with a full array to a 199 foot tower with flush mounted antennas.

Mr. Rice expressed a concern that the propagation maps are created with proprietary software that can be made to look however the user wants.

Mr. Kroll asked for a clarification on how many colocation spots would be available at various heights.

Mr. Geiger presented this information.

Mr. Rice commented that he would prefer flush mount antennas even if more poles would be required in the long run, which is also what the county has normally approved in the past.

Mr. Kroll stated that he agreed with Mr. Lau that towers are becoming a necessity. Taller towers may be more beneficial to citizens in that they provide better coverage and more colocation spots for other carriers. He added that he would be in favor of the original request for a 199 foot with a full array, although some conditions may need to be modified.

Mr. Rice commented that such a tower would be a change from the guidelines established by the Board of Supervisors.

Mr. Kroll commented that those guidelines do not stipulate flush mount antennas. He added that he did not see much of a difference between the full array and flush mount in terms of viewshed impacts. One tower with more equipment may be preferable to many towers.

Mr. Lau, Mr. Wolz and Mr. Allen expressed support for the original proposed tower at 199 feet with a full array.

Mr. Katz added that the location along I-81 may be more appropriate for the larger towers with wider arrays.

Ms. Hirt mentioned that the difference in coverage between 145 and 195 feet was minimal and a full array may be less intrusive at the lower height.

Mr. Katz commented that the taller tower would allow for more colocations and possibly fewer towers overall.

Mr. Lau commented that the Comprehensive Plan is ten years old and technology has changed since the adoption.

A motion was made by Mr. Kroll, seconded by Mr. Lau, to approve the request by the City of Radford (Agent: Verizon Wireless) for a Special Use Permit to allow a 199 ft. monopole telecommunications tower with a full array, subject to the following conditions:

1. Tower shall not exceed a total overall height of 199 ft. inclusive of the proposed lightening rod with a maximum ground elevation of 2,032.6 feet. Tower shall not have lighting unless required by the FAA. Tower pole shall have a base diameter not to exceed 8'-0" and a top diameter not to exceed 4'-6".
2. Site development shall be in substantial conformance with the concept plans entitled, "Peterson Drive, 5480 Peterson Drive, Radford, VA 24141", prepared by Clark-Nexen Architecture & Engineering, revised, January 10, 2014 and received by Montgomery County on February 7, 2014 and any site plan submitted by the applicant prior to construction and approved by the County as required by the County Code.
3. Verizon shall access the site using an existing private driveway off State Route F056 (Peterson Drive).
4. Verizon shall construct a 12 ft. wide gravel access road within a 20 ft. wide access easement to the proposed telecommunications tower site.
5. Tower shall be of a "monopole stealth design". Tower shall be painted matte brown (Umbra). All wiring and cables shall be located inside the pole structure until there is no room left inside for the wiring and cables. If wiring and cables must be mounted on the outside of the pole structure, then the wiring shall be painted matte brown (Umbra).
6. Existing site vegetation shall not be cleared beyond the proposed lease area, except for that necessary for construction of an entrance road and utilities.
7. Engineering plans signed and sealed by a licensed engineer in the State of Virginia shall be submitted to and approved by the Building Official prior to the issuance of a building permit.
8. Any satellite dish and microwave dish antennas attached to the telecommunications tower pole shall not exceed six (6) feet in diameter and shall be painted matte brown (umbra) with no logos, but dishes are allowed on the tower pole only as long as there is no fiber optic utility line located adjacent to the property.
9. A landscaping screen of a double row of evergreen trees, six ft. in height at the time of planting, shall be provided around the compound fence to provide screening of the ground equipment from any future development of the 100-acre site by the City of Radford.
10. Tower shall meet all regulations found in Section 10-48(6) of the Montgomery County Zoning Ordinance.
11. Backup generator, if applicable, shall not be fueled by a liquid fuel source.
12. Owner/agent shall provide police, fire and rescue services antenna space on the proposed tower pursuant to a non-transferrable "no-rent" license agreement with the tower owner allowing non-commercial use for emergency communication services at the location for Condition 13 below subject to (i) submittal of an application, (ii) the structural capacity of the tower, and (iii) provided that emergency service antennae do not provide radio frequency interference to other antennae located upon the tower, together with related ground space. Emergency Service providers shall provide equipment. Tower owner/agent shall install the antennae at market rate.
13. The second highest colocation space on the tower shall be made available to the County. In the event that Montgomery County has not used this space and another cellular carrier wishes to co-locate on the same tower, the tower owner shall give the Montgomery County Administrator fourteen (14) days' notice by Certified Mail of the other cellular carrier's intent to occupy this location and if the Montgomery County Administrator does not respond with an application to occupy such space on the tower, the tower owner may lease such space to the other cellular carrier and, subsequently, the next highest colocation space on the tower shall be made available to the County. The forgoing process may repeat until the County elects to collocate on the tower.

Ayes: Lau, Allen, Hirt, Katz, Kroll, Wolz

Nayes: Rice

Abstain: None

**NEW BUSINESS:**

None presented

**LIAISON REPORTS:**

- Board of Supervisors – Chris Tuck reported that the Board discussed the relocation of the Falling Branch Park and Ride. Completion of the project is expected within 1.5 years but the new site has not yet been identified.
- Agriculture & Forestal District – No report.
- Blacksburg Planning Commission – Coy Allen reported that he had attended two meetings. The Commission had approved its annual report and they are currently reviewing two conditional use permit requests, but neither should affect the county. They are currently discussing some issues in the Prices Fork area.
- Christiansburg Planning Commission – No report.
- Economic Development Committee – No report.
- Public Service Authority – No report.
- Parks & Recreation – Scott Kroll reported that Parks and Recreation is having issues with funding and maintenance needs. They have also elected for their meals budget allocation to go to the scholarship fund due to the tax issues associated with meals.
- Radford Planning Commission – Frank Lau reported that there had been a discussion of future housing and issues a mixture of student housing and residential housing.
- School Board – Bryan Katz reported that the School Board met on May 20 to distribute awards and recognition. There was some discussion about the Falling Branch park and ride and the Auburn Middle School completion scheduled for November.
- Tourism Council – Vacant.
- Planning Director’s Report – Karen Drake reminded the Commission that Wednesday, May 28th is the annual NRVPC training. She further explained that due to a limited budget, the Planning Department would not be able to offer the upcoming legal seminar to all members at this time. There may be enough money in the budget to pay the registration fee for two members to attend and inquired who was interested in attending. Finally, she mentioned the Planning Commission meeting in June may be canceled if no public hearing cases were submitted and the Planning Department would be short staffed.

**MEETING ADJOURNED:**

There being no further business the meeting was adjourned at 9:45 PM.

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Chairman

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Secretary