Planning Commission Meeting
July 30, 2009
Verbatim Excerpt

2232-D09-2 - NEWPATH

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed; recognize Commissioner Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. This was really all a plot. We thought this meeting was going much too fast this evening, so we wanted to deliberate a little bit more. What I would like to make sure about at this point in time concerning the process that we're going to go through, my intention is to pull that particular node, which is GFE9, out at this point in time. And what I'd like Mr. Donohue to do is come forward, if he could, for just a second. I think one of the things we have to do, Counselor, is number one, announce that we're intending to pull GFE9 out of this. And that will be part of the motion, okay, but also that you have agreed to this process at this point in time, and that you would submit in writing at your very earliest convenience. Oh, you have it here? Okay, that's even better. And I think, Mr. Chairman, we'd submit that for the record, probably. Is that right?

Chairman Murphy: Yes.

Commissioner Donahue: Okay. We will accept that letter at this point in time in order to get the process that we want going here. Thank you. And then, with that, Mr. Chairman, I'm just ready to make some comments and do a motion, if that's –

Chairman Murphy: Let me just make it clear, if you're going to make a motion, just to make sure we all have this clear here. So we'll withdraw this from this application, and I presume you're going to move for approval of the application.

Commissioner Donahue: Correct.

Chairman Murphy: That leaves this particular pole hanging out there. We're going to have to have another public hearing just on that pole to either approve it or deny it.

David Jillson, Planning Division, Department of Planning and Zoning: Mr. Chairman, perhaps Newpath could answer this, but I believe they have some other nodes that they've still been working on that they could not bring forward for this public hearing. Perhaps this GFE9 node could be combined with the other nodes when they are ready to bring those forward. But maybe the applicant would like to address that.

Edward L. Donohue, Esquire, Donohue and Blue: Mr. Chairman, I guess my suggestion would be, you've heard this entire case, including GFE9. You could, I believe, defer decision on that particular node.

Chairman Murphy: That means – oh, yeah.

Commissioner Hall: Yeah.

Chairman Murphy: I believe that would probably be the cleanest way to do it. I mean, if the County Attorney starts pulling his hair out we'll have to reinvestigate that, but I'm fine with that for the time being, since we don't have counsel here. So, in your motion I would pull that out and the motion to defer decision only on that pole, and then go ahead with the approval on the 2232.

Commissioner Hall: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hall: I'm sorry, and I do apologize, but I just have to ask one question. This is a heavily treed area, and whether you can answer it or whether the Martlings – there appears to be, the next pole down in these photographs, that the next pole down is considerably taller and has – is that true? Is this accurate? I'm looking at this photograph. You see this? Look. It doesn't have the –

Chairman Murphy: All right. We're on verbatim right now. And I think I want to deal with – Do you understand what I'm suggesting?

Commissioner Donahue: I believe so. In other words, it is not – what we do not want to do is actually take Node GFE9 out of this entirely. We want to note the fact that we are deferring that one –

Chairman Murphy: I would make a motion to defer decision on 2232 in regards to GFE9. We'll vote on that.

Commissioner Donahue: Okay.

Chairman Murphy: We'll defer decision on that. We'll come back and decide whether it's a go or no go, and then approve 2232 as it's submitted, minus –

Commissioner Donahue: – absent GFE9.

Chairman Murphy: Right.

Commissioner Donahue: Okay. All right. Yeah, we can go ahead with that. I have no further questions of the applicant, Mr. Chairman.

Chairman Murphy: All right, the public hearing is closed. It's all yours.

Commissioner Donahue: All right. Thank you. First, a lot of people that I want to thank before I actually get into the motion. Certainly, David Jillson is one of them because we've been back

and forth on this one. He has handled the comments of the various residents, including Ms. Martling, I believe, extremely well. And David, I want to thank you for your efforts on this, because I know you spent a lot of time, and I think you've done a very fine job. In dealing with these types of applications, I think this has been a very good lesson on the things that we have to consider and go through at times because according to all the policies and all the objectives that are written into the Comprehensive Plan and the Policy Plan, we are in favor of collocation; we do not want to build new things if we can possibly avoid it. And I think this application, for the most part, has been built around that objective and those directions; and I think in that case, it's good. However, in trying to limit visual impact overall of an application of this type, we run into some singular visual impacts. And I think we have that in the case; at least this is how the Martlings feel. And I think it is incumbent upon us to make sure the applicant and the resident that is going to be impacted and affected communicate to the point that we can do all we can to satisfy both needs, because all needs are serious here. The people in Dranesville District and the people in Fairfax County want to maximize the efficiency of their telecommunications services. We have to try to do that and at the same time not have too negative an impact on current residents with respect to what's going to be happening to their homes. So, with that Mr. Chairman, I am going to move deferral of this application with respect to Node GFE9 and I think I'm going to have to move that deferral indefinitely. I don't know that I can name a date.

Chairman Murphy: Right.

Commissioner Donahue: Okay. Indefinitely.

Chairman Murphy: All right. You want to do it for a date – yeah, do it – do we have a time thing on here, Mr. Jillson?

Mr. Jillson: I believe the – there's a deadline coming up, but we can take care of that.

Chairman Murphy: I would defer it to, like, the first week in September to give us a date. Then you can move on from there.

Commissioner Donahue: September 10th. I believe –

Chairman Murphy: That's fine. That's good.

Commissioner Donahue: Okay. Mr. Chairman, I WOULD LIKE to concur – TO DEFER CONSIDERATION OF ONE NODE OF THIS APPLICATION, NAMELY GFE9, TO A DATE CERTAIN OF SEPTEMBER 10th, 2009.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion? In regards to application 2232-D09-2, the motion is to defer out of that application Node GFE9 for decision only on September 10th, with the record remaining open for written comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. Mr. Chairman, I concur with staff's conclusion that, with the possible exception of Node GFE9, which now has been deferred to a date certain, the proposal by Newpath Networks LLC and New Cingular Wireless PCS LLC, as amended, to construct a telecommunications distributed antenna system along portions Arnon Chapel Road, Beach Mill Road, Georgetown Pike, River Bend Road, Seneca Road, Springvale Road, Utterback Store Road, and Walker Road in the Great Falls area satisfies the criteria of location, character, and extent as specified in *Virginia Code* Section 15.2-2232, and therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION 2232-D09-2, WITH THE EXCEPTION OF NODE GFE9, AND AS OTHERWISE AMENDED, SUBSTANTIALLY IN ACCORD WITH PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion to approve 2232-D09-2, minus GFE9, which has been deferred decision, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously with Commissioner Sargeant recusing himself; Commissioner Harsel not present for the vote; Commissioners Alcorn, Flanagan, and Lusk absent from the meeting.)

JN