

Planning Commission Meeting  
September 30, 2010  
Verbatim Excerpt

2232A-D09-2-1 – NEWPATH NETWORKS, LLC, AND NEW CINGULAR WIRELESS PCS, LLC

Decision Only During Commission Matters  
(Public Hearing held on September 16, 2010)

Commissioner Donahue: Thank you, Mr. Chairman. Mr. Chairman, on Thursday, September 16th - -

Commissioner Sargeant: Mr. Chairman, may I interrupt just briefly?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Sorry to interrupt, Commissioner Donahue. If you are planning to do the decision only - -

Commissioner Donahue: Correct.

Commissioner Sargeant: I just need to announce that this particular application involves the use of Dominion Virginia Power utility poles, and as an employee of Dominion I will recuse myself as - - and I did not participate in the public hearing. Thank you very much.

Chairman Murphy: Mr. Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. On Thursday, September 16th, the Planning Commission held a public hearing on 2232A-D09-2-1, an application proposed by NewPath Networks concerning 3 nodes in a 30-node Distributed Antenna System in Great Falls. After testimony, this Commission closed the public hearing and deferred decision until this evening. My intention tonight, Mr. Chairman, is to move approval of 2232A-D09-2-1, as it concerns Node GFE27A on Arnon Chapel Road and Node GFE17A on Utterback Store Road, and defer decision on Node 12A proposed for a location on Seneca Road. I concur with the staff's conclusion that the proposal for Nodes 27A and 17A satisfies the criteria of location, character, and extent, specified in *Virginia Code* Section 15.2-2232, as amended. I join other Commission members in the profound concern they expressed over the applicant's decision to construct installations on non-approved locations, but this application, as it affects Node 27A, is intended to correct this offense at the applicant's expense, and Node 17A on Utterback Store Road, satisfies our criteria and has drawn not a single opponent. Commissioner statements during the September 16th public hearing clearly displayed the Commission's dissatisfaction with the applicant's conduct and defined expectations for any future similar occurrence. Further delay on these two nodes only prevents a timely correction of the noted non-authorized conduct. Therefore, Mr. Chairman, I MOVE THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION, 2232A-D09-2-1, AS AMENDED, AS IT CONCERNS NODES GFE17A AND GFE27A ONLY, IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE

ADOPTED COMPREHENSIVE PLAN, AND APPROVE 2232A-D09-2-1 AS IT CONCERNS THESE TWO NODES.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Before we take action on the deferral, could we get confirmation that the applicant is in agreement with the deferral past tonight because I thought there was a deadline problem on the Seneca Road - - I mean on the whole thing, I thought if we didn't deny it by tonight, it was deemed approved - -

Commissioner Donahue: If, if, if - -

Commissioner Hart: And they only agreed with the deferral up until tonight.

Commissioner Donahue: They did, Mr. Chairman, yes. That's the reason I'm asking first for the approval of the two nodes. I will then go to a deferral motion on Seneca Road and will first ask counsel for the applicant to grant the deferral, which we must have.

Commissioner Hart: As long as we're going to get that answer before the vote. I thought that was all part of the same - -

Chairman Murphy: No, he just did the first two.

Commissioner Hart: I got it. I got it. Sorry.

Chairman Murphy: All right. All those in favor of the motion to approve 2232A-D09-2-1, as it applies to Nodes 7A [sic] and 17A, say aye.

Commissioners: Aye.

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

Commissioner Hart: Mr. Chairman? Excuse me, I think it's 27A and 17A.

Chairman Murphy: 27A and 17A. Thank you. I put my 2 in the wrong place. All right.

Commissioner Donahue: Thank you, Mr. Chairman. I will now make a motion to defer decision on GFE12A to October 20th, but we need the applicant's approval to extend the October 1st deadline. So, counsel, I would ask - -?

Chairman Murphy: Mr. Donohue. The other one.

Edward Donohue, Esquire, with Donohue & Stearns, PLC: Thank you, Mr. Chairman. On behalf of the applicant, NewPath Networks, we request an extension of time for consideration of - - the review of the one node, Node Number 12, to a date of October 20.

Chairman Murphy: Please identify yourself for the record.

Mr. Donohue: Ed Donohue, on behalf of the applicant.

Chairman Murphy: Thank you very much. Mr. Donahue.

Commissioner Donahue: Thank you, Mr. Chairman.

Chairman Murphy: Commissioner Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. I FURTHER MOVE THE DECISION ONLY ON NODE GFE12A ON SENECA ROAD, BE DEFERRED TO A DATE CERTAIN OF OCTOBER 20, 2010.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion? All those in favor of deferring decision on 2232A-D09-2-1, as it applies to Node 12A, to a date certain of October 20th with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Donahue: And Mr. Chairman, one other thing. Although we will be back on this one more time, David Jillson, I want to thank him so, so much for everything that he's done on this application and will continue to do. And with that, we can move on. Thank you.

Chairman Murphy: Thank you very much.

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(The motions carried unanimously with Commissioner Sargeant recused; Commissioners Alcorn, Flanagan, and Hall absent from the meeting.)

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