November 27, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, November 27, 2001 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Dennis Rooker, Chairman; William Rieley, Vice Chair; Rodney Thomas, William Finley, Tracey Hopper, Jared Loewenstein, and Pete Craddock. Other officials present were Juandiego Wade, Margaret Doherty, Stephen Waller, Greg Kamptner, and Wayne Cilimberg,

Mr. Rooker called the meeting to order and established a quorum

Other Matters

Mr. Rooker asked for other matters from the public. There being none, the meeting proceeded.

Board

Mr. Cilimberg reviewed the November 14th meeting. He said that the Beverage Tractor permit was approved as was recommended. He said that the Food Lion outdoor display at Branchlands, Forest Lakes and Mill Creek was approved. At the Forest Lakes site the Board allowed three feet rather than four feet for the walkway because of some limitations in terms of width. The Augusta Lumber shed construction was approved. St. John the Baptist Episcopal Church was approved, as was Mott Bros. Handcrafted Furniture, both as you had recommended.

Consent Agenda

a. **SUB-01-172 Blandemar Phase 4 Boundary Adjustment (Lots 35, 36, 37, 38, and 39)** – Request to change/revise an approved final plat.

Mr. Rooker asked if any commissioner wished to pull an item from the consent agenda.

Mr. Thomas moved for approval of the consent agenda.

Ms. Hopper seconded the motion, which passed unanimously.

Deferred Items

a. **SP-2001-045 Seven Oaks Farm (Sign # 26 & 27** - Request a for special use permit to allow a Home Occupation Class B for an artist management company in accordance with Section 10.2.2.31 of the Zoning Ordinance which allows for home occupation. The property, described as Tax Map 55 Parcel 15, contains 98.54 acres, and is located in the White Hall Magisterial District at 200 Seven Oaks Farm, off Route 250 approximately 1 mile west from I-64/Crozet interchange. The property is zoned Rural Areas (RA) and Entrance Corridor (EC). The Comprehensive Plan designates this property as Rural Area. (Juandiego Wade)

Mr. Wade presented the staff report.

Ms. Hopper asked if a limit on employees had been set.

Mr. Wade replied that the limit was 2.

Mr. Loewenstein asked what the age of cottage was.

Mr. Wade replied that he did not know.

Mr. Rooker opened the public hearing and invited the applicant to speak.

Mr. Andy Dondero said that he had nothing to add but would be willing to answer questions.

Mr. Rooker said he that there was a question about the age of the cottage.

Mr. Dondero replied that it was at least 40 years old.

Mr. Loewenstein verified that this was not an historic structure.

Mr. Dondero replied that it was not. He said that it is not part of the main house, which is an historic structure.

Mr. Lou Chiarello, an adjacent landowner, said that there was a fair amount of activity, including new construction. He asked if that was something separate from this application.

Mr. Wade replied that they are working on all three of their structures, making improvements and upgrades. He said he was sure some of that was doing some upgrades to the cottage as well.

Mr. Chiarello asked if the work was being done to the cottage as well as the main house.

Mr. Wade replied that it was. He said that it probably would have been done regardless of the application, to keep it maintained.

There being no further comment, the hearing was closed.

Mr. Rooker said this seemed to be a fairly straightforward application.

Mr. Rieley moved for approval with the condition.

1. The home occupation shall be located in an existing 1,076 square feet accessory structure (Coleman Cottage).

Ms. Hopper seconded the motion, which passed unanimously.

b. **SP-01-50, Tomlin (Triton PCS - CVR 385D) (Sign # 87) -** Request for special use permit to allow an 105 foot high wireless telecommunications steel monopole in accordance with Section 10.2.2.6 of the Zoning Ordinance which allows for wireless towers and appurtenances. The property, described as Tax Map 75 Parcel 9, contains 10.32 acres, and is located in the Samuel Miller Magisterial District at 1064 Goodwin Farm Lane. Goodwin Farm Lane is on the east side of 29 South, approximately 2 miles south of I-64. The property is zoned Rural Areas (RA). The Comprehensive Plan designates this property as Rural Area. (Margaret Doherty)

Ms. Doherty presented the staff report.

Mr. Rooker asked what the reason was for the change to the condition.

Ms. Doherty replied that it was actually an issue of interpretation. The applicant is showing the pole being twelve inches from the face of the pole to the inside of the antenna. We realize that that is how some have been shown in previous applications. The policy actually says from the face of the antenna to the face of the pole. From this distance, 2.7 inches will not make too much of a difference. We will have further discussions about this to make sure that we are all interpreting the twelve inches the same way.

Mr. Rooker said that his concern is that this has been a standard condition and we really have no change in nomenclature that goes with this in terms of descriptiveness. At a minimum we should have some description of where the measurements start and stop.

Ms. Doherty suggesting adding "from the face of the pole". She added that staff could also require the standard twelve inches.

Mr. Rooker said that a way to do that would be to leave it at twelve inches and specify that we are measuring from face of the pole to the inside of the antenna.

Ms. Doherty said that the other changes were to remove conditions 13 and 14.

Mr. Craddock noted that the application said the antenna would match the color of the pole, but it did not say what color that would be, nor did it specify the color of the ground equipment.

Ms. Doherty said that she thought it was in the materials, but perhaps not. She said that we do have the language in condition #4C.

Mr. Rooker asked if there was anything in the application that limits the diameter of the pole.

Ms. Doherty replied that that was included in 2g.

Mr. Rooker asked how that compared with the wooden poles we've looked at before.

Mr. Cilimberg replied that the wooden poles vary.

Ms. Doherty stated that one of the intents of the metal poles is to make them skinnier at the top.

Ms. Hopper suggested that the colors specified in the "petitions" section, on page 1, paragraph 2, be incorporated into the conditions.

Ms. Doherty said that it would reaffirm that to include it in the conditions.

Mr. Rieley said that this proposal has a mounting height of 10' above the tallest tree, but we routinely approve applications at 7'. He asked if there was a reason for the increase in this one.

Ms. Doherty replied that the reason is for their purposes. We decided it was acceptable at that height because the visibility was so minimal.

Mr. Rieley asked if the photo on page 18 showed the balloon at the height of the pole.

Ms. Doherty replied that was correct.

Mr. Rieley stated that this is a situation in which the pole is skylined and higher than we normally approve.

Ms. Doherty replied that staff was concerned at first, but after visiting the site, they realized that visibility was not really an issue. The ARB's approval confirmed that.

Mr. Rieley asked if the ARB had ever not approved a tower.

Mr. Rooker replied that they had not.

Mr. Rooker pointed out that in condition 1, the height of the tower does not seem to be limited by the height of the trees. So if you lost the tallest tree, it would not require adjustment. We have generally tied the tower height to the height of the tallest tree.

Ms. Doherty replied that he was correct, there is a standard sentence that should be in the conditions. She asked Mr. Kamptner if he knew the specific language.

Mr. Rooker said that we could make it clear that that needed to be incorporated before the application goes to the Board of Supervisors. He said he would like staff to make certain that all the standard conditions are incorporated into each application.

Ms. Hopper said that condition 3 says that the facility will be located as shown on the plan, but it does not state that all the conditions stated on the plan will be incorporated.

Mr. Rooker suggested changing the language to "the facility shall be located and built as shown on the attached plans".

Ms. Hopper said she thought the plans were excellent.

Mr. Rooker opened the public hearing and invited the applicant to address the commission.

Ms. Valerie Long, representing the applicant, pointed out that the landowners are here today. She said that they are agreeable to all the conditions with a few minor modifications. The ARB has approved our application at the requested height. We are applying for the facility at 10' above the tallest tree; it has a wooded backdrop behind the pole. We have had at least one application approved at that height. As far as tree removal, although it appeared additional trees might need to be removed; we will only need to remove one. In terms of visibility, the balloon was only visible for approximately 4/10 of a mile in the northbound lanes. With the exception of 100 yards, it was visible with the wooded backdrop of the trees. It is a very favorable view. She circulated photographs.

Mr. Loewenstein said that the view from Woodland Farm Lane is the most visible. He asked if there were residences located at the bottom of that hill that will see this all the time. He asked if the applicant had contacted the owners of those properties.

Ms. Long replied that the Tomlin family owns all the residences that are visible. There is one other house on the other side of the road that would see that view. Regarding the distance between the pole and the antenna panels, it was her understanding that the measurement was between the pole and the inside face of the panel. The ARB determined that the extra distance would not add any adverse impact on the visibility. The space is required in order to tilt antennas to achieve optimum propagation of the signal. The only additional change would be to condition 12, which required obtaining an easement from the adjacent landowner. The new ordinance provides an option for applicants to obtain the easement. We are still requesting the commission to waive the setback requirement. In this case, the adjacent parcel is under common ownership. The Tomlin family does not object to the setback waiver.

Mr. Rooker asked what objection the Tomlin family would have to agreeing to the easement on their own property in order to protect subsequent owners.

Ms. Long replied that she did not believe they had an objection. No one has any plans to build on that property. We did not believe that it was necessary. She said that she was not certain of what benefit it provided.

Mr. Rooker replied that he thought the only benefit was to future owners of the land.

Ms. Long reiterated that this application complies in all requests with the County's wireless policy.

Ms. Marcia Joseph, the chair of the ARB, said that they do not have the power to approve or deny special use permits, we act as an advisory. There have been some towers that they have had an

objection to at which point we negotiate with the applicant. She said that she is glad to know you are looking at adjacent owners.

There being no further comment, the hearing was closed.

Mr. Finley asked if the reason for the easement was because it was a separate parcel.

Mr. Rooker replied that was correct. He pointed out that it is what staff recommends here.

Mr. Finley asked if that was because it was a separate parcel.

Mr. Rooker replied that that was his understanding.

Mr. Finley verified that if it had been the same parcel that would not be required.

Mr. Rooker said that this application meets most of the requirements of the wireless policy. We have discussed some changes to the conditions. One of the proposed changes was limiting the tower height to 7' above the tallest tree.

Mr. Rieley said that in the cases, in which a higher elevation has been approved, there has typically been a transmission issue. This application does not seem to have that problem. Also, for a portion of time, the pole is skylined. He said that he believes that 7 feet is the appropriate number.

Mr. Rooker asked if there was anyone who disagreed with changing the height to 7' above the tallest tree, which would bring the height to 102' and the elevation down to 777'.

Mr. Rooker said that the other changes were to condition 2, with the inclusion of the color requirement, and to condition 3 with the added language. In condition 4, we need to deal with the offset of the antenna from the pole. He asked if everyone agreed that we needed to deal with the thickness of the antenna as a consideration.

Mr. Rieley said that he thought we have been pretty clear in these conditions in the past that the measurement was from the face of the pole to the outside face of the antenna. He said that we should stay with that same measurement, accept this variation of 2.7 inches and be explicit about it. There does seem to be a good reason for it in this instance, with the tipping of the antenna.

Mr. Rooker asked if everyone agreed with that.

Mr. Loewenstein said he agreed, but it would behoove us to find out what the frequency of such cases might be.

Mr. Loewenstein suggested that staff looks at this issue and come back with a suggestion.

Mr. Rooker said that to accommodate this particular case, the change would be in 4C, in the last sentence on page 7. We do not want to see the standard condition changed to 14.7 inches, we would prefer to deal with the instance as an exception.

Ms. Hopper said that we might want to describe in the standard conditions that we are referring to the outside edge of the antenna.

Mr. Rooker suggested eliminating condition 13 and 14. All commissioners agreed.

Mr. Loewenstein asked what we were doing with condition 12.

Mr. Rooker replied that he was in favor of leaving condition 12 in. In this case, you have a separate parcel that could be sold as a separate piece of property. There should be no problem in the owner placing an easement on this property.

Mr. Rieley said that seemed reasonable.

Ms. Hopper agreed.

Mr. Finley moved for approval with conditions as amended.

1. As shown on the construction plans, the top of the monopole shall not exceed a total height of 102 feet, nor shall it exceed a top elevation of 777 feet, as measured Above Sea Level (ASL) nor shall it ever be more than 7 feet taller than the tallest tree within 25 feet of the monopole, whichever is less. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.

2. The facility shall be designed, constructed and maintained as follows:
   a. Guy wires shall not be permitted;
   b. No lighting shall be permitted on the site or on the pole, except as provided by condition number nine (9) herein;
   c. The ground equipment cabinets, antennas, concrete pad and all equipment attached to the pole shall be no larger than the specifications set forth in the attached plan entitled Triton PCS, Tomlin, dated November 6, 2001;
   d. A grounding rod, whose height shall not exceed two feet and whose width shall not exceed one-inch diameter at the base and tapering to a point, may be installed at the top of the pole;
   e. Within one month after the completion of the pole installation, the permittee shall provide a statement to the Planning Department certifying the height of the pole, measured both in feet above ground level and in elevation above sea-level (ASL);
   f. The pole shall be no taller than the height described in the attached plan entitled Triton PCS, Tomlin, dated November 6, 2001, without prior approval of an amendment to this special use permit;
   g. The diameter of the pole shall not exceed twenty six (26) inches at its base, and twelve (12) inches at the top; and
   h. The pole, antennas and ground equipment shall be painted a flat, dark brown color.

3. The facility shall be located and built as shown on the attached plan entitled Triton PCS, Tomlin, dated November 6, 2001.

4. Equipment shall be attached to the pole only as follows:
   a. The number of antennas shall be limited to two, at the sizes shown on the attached plan entitled Triton PCS, Tomlin, dated November 6, 2001 ;
   b. No satellite or microwave dishes shall be permitted on the monopole;
   c. Only flush mounted antennas shall be permitted. No antennas that project out from the pole beyond the minimum required by the support structure shall be permitted. However, in no case shall the outside edge of the antennas project out from the face of the pole more than 14.7 inches. The antennas shall be painted to match the color of the monopole.

5. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicles or utilities, a tree conservation plan, developed by a certified arborist, specifying tree protection methods and procedures, and identifying any existing trees to be removed on the site both inside and outside the access easement and lease area shall be submitted to the Director of Planning and Community Development for approval. All construction or installations associated with the pole and

equipment pad, including necessary access for construction or installation, shall be in accordance with this tree conservation plan. Except for the tree removal expressly authorized by the Director of Planning and Community Development, the permittee shall not remove existing trees within two hundred (200) feet of the lease area, or the vehicular or utility access. A special use permit amendment shall be required for any future tree removal within the two hundred-foot buffer, after the installation of the subject facility.

6. The pole shall be disassembled and removed from the site within ninety (90) days of the date its use for wireless telecommunications purposes is discontinued.

7. The permittee shall submit a report to the Zoning Administrator one time per year, no later than July 1 of that year. The report shall identify each user of the pole and shall identify each user of the pole and identify each user that is a wireless telecommunication service provider.

8. No slopes associated with construction of the pole and accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the County Engineer are employed.

9. Outdoor lighting shall be limited to periods of maintenance only. Each outdoor luminaire shall be fully shielded such that all light emitted is projected below a horizontal plane running though the lowest part of the shield or shielding part of the luminaire. For the purposes of this condition, a luminaire is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

10. The permittee shall comply with section 5.1.12 of the Zoning Ordinance.

11. The permittee shall submit a revised set of site drawings to the Department of Planning and Community Development. Prior to the issuance of a building permit for construction of the facility, Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed in the final revisions of the construction plans.

12. The applicant shall obtain an easement, acceptable to the county attorney, prohibiting development on the part of the abutting lot sharing the common lot line that is within the wireless facility's fall zone.

13. If trees exist along the EC, outside the right-of-way, that contribute to the screening of the pole, include a note on the plan indicating that these trees will remain.

Mr. Thomas seconded the motion, which passed unanimously.

c. **SP-2001-039 The Clifton Inn (Sign #68)** - Request for special use permit to allow increased seating in the dining area of the Clifton Inn in accordance with Section 10.2.2.27.a of the Zoning Ordinance which allows for restaurants and inns located in historic landmarks. The property, described as Tax Map 79 Parcel 23B, contains 7.85 acres, and is located in the Scottsville Magisterial District on Route 729 approximately 0.25 miles from its intersection with US 250. The property is zoned Rural Areas (RA). The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

Mr. Cilimberg presented the staff report.

Ms. Hopper said she would abstain from this matter due to the fact that her law firm represents the applicant.

Mr. Rooker opened the public hearing.

Mr. Larry McElvoy, representing the applicant, said that they have an historical property that is in need of additional income in order to maintain the level of excellence. It needs additional seatings and additional revenue from the outside public. We have found that this is the only viable way to generate enough income to provide for repairs and maintenance. We do want to be able to serve the guests of the inn both breakfast and lunch.

There being no further comment, the hearing was closed.

Mr. Craddock asked if, according to this, they were giving up occasional events, but not special events. He asked what the difference was.

Mr. Benish replied that there are a limited number of events a bed and breakfast can have under the code, exclusive of a special permit.

Mr. Rooker said that this seems to be a reasonable request in an area that is close to 250, and it maintains an historic property. He said that the changes to the conditions seem appropriate.

Mr. Finley moved for approval with conditions as amended.

1. Approval is limited to a 52-seat restaurant with full dinner hours available (no limited seating) plus 14 guestrooms. At no time shall the aggregate of guests of the Inn, the restaurant, and any special events on the premises exceed 80.
2. Hours of restaurant operation for the public, other than the guests of the Inn, shall be from 6 p.m. to 11 p.m.

Mr. Rieley seconded the motion, which passed unanimously.

d. **SP-2001-048 Regional Public Safety Radio Project (Peters Mtn.) (Sign #77 & 78)** - Request for special use permit to allow a 110-foot tall lattice, self-supporting, emergency communications tower with antennas extending up to approximately 125 feet, ground equipment and a 12-foot by 32-foot equipment shelter, on 2 acres zoned Rural Areas (RA). The proposal is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for micro-wave and radio-wave transmission and relay towers within a 60-foot by 60-foot lease area. The property, described as Tax Map 50/Parcel 1D and is located on Peter's Mountain Road approximately 4.5 miles from the intersection with Turkey Sag Road (State Route 640). This site is located on Peter's Mountain in the Rivanna Magisterial District and designated as Rural Area 2 in the Comprehensive Plan. (Stephen Waller)

   Also, public hearing to solicit public input and comment regarding potential effects of the proposed tower on properties located in the Southwest Mountains Rural Historic District.

Mr. Waller presented the staff report.

Mr. Thomas asked if that would be condition #9.

Mr. Waller replied that it would.

Mr. Rooker stated that this hearing serves a dual purpose. It is a hearing before the planning commission regarding the special use permit request and a hearing pursuant to section 106 of the National Historic Preservation Act. He asked Mr. Trank to address the Section 106 issues.

Mr. Mark Trank, Deputy County attorney, said that Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties. The law also requires that the federal advisory council and the state department of historic resources be given opportunity to

comment. The purpose of that is to afford members of the public the opportunity to give input. The role of the commission is essentially to allow members of the public to express their views. The role of the department of historic resources is that once input has been gathered an application for review of this project will be filed with the department and DHR will have 30 days to review and assess this project. Once the agency has done that, it will report back to the applicant and will give its views whether any adverse effects have been identified. DHR's role is advisory only.

Mr. Rooker said that as he understands it, that's the scope of the DHRs role. The FCC could choose to deny the application based on the historic impact.

Mr. Trank stated that the FCC does have a number of options in front of it. It making its determination to issue a license, it will review any environmental effects and will consider them as part of its analysis. The FCC will often balance the pros and cons of a particular application and will look at the public safety aspects and will assess what the regional communication center is attempting to accomplish and weigh that against any possible environmental impacts.

Mr. Rooker said that, assuming the process is similar to that of Section 4F in regards to highways, one of the things they look at is whether or not there is reasonable alternative to doing something that has an impact on an historic district or property. It is possible the application could go a long way and ultimately not be approved by the FCC because of the impacts on historic properties, though it could also be approved, subject to mitigation requirements.

Mr. Thomas asked if the County would file for the 106 if the commission does not recommend approval of the SP.

Mr. Trank replied he was not sure.

Mr. Rooker said he didn't think that was a question Mr. Trank could answer in his role as counsel.

Mr. Trank said he would not be the decision-maker.

Mr. Thomas asked if, by law, you could file for the 106 if the SP is not in place.

Mr. Trank replied yes. The Section 106 review is advisory, local land use denial would not prevent DHR from giving comment.

Mr. Finley asked if it was the applicant who was responsible for filing the 106.

Mr. Trank replied yes.

Mr. Rooker stated that a large portion of the information requested at the recent worksession has not been supplied. Because the 106 hearing was previously scheduled, we will go forward with the hearing. We are not compelled to make a decision tonight on the special use permit application.

Mr. Rooker opened the public hearing.

Mr. Leonard Sandridge, Chair of the ECC Board, which oversees the dispatch system for the region, spoke on behalf of the applicant. He suggested that this decision is related to safety and how far we are able to go in providing safety for the population and the public servants. The current system cannot reach providers in sections of the County, and providers cannot be reached in many buildings in the Region nor can they communicate with one another. Literally, there have been years of work toward this proposal. All reasonable and responsible alternatives have been considered. This proposal is the right one for four reasons: it provides coverage as close 100% as possible in the rural areas; it gives in-building coverage within the population

areas; it is less costly than some of the options that would be less effective; and this is a solution that is sensitive to the environment, it locates the tower in an area that is difficult to see and that already has a conspicuous tower. Other options shortchange our citizens and our providers. We ask for your support. He presented a letter to the commission for distribution and inclusion.

Mr. Rooker said that when this matter came before us some time ago and we recommended approval of the other sites, we specifically asked if the system could go forward without Peters Mountain and were told at that time that it could, and that there were alternatives that would be feasible. He asked if that was not the case.

Mr. Sandridge replied that we are not saying that there are not other options. What we are saying is that we have not been able to find another option that works at the same efficiency level in the County and in building. It is our judgment that this is the best configuration with the least impact on the environment. We could come up with another system that could do it, but not as effectively.

Mr. Finley verified that the one time extension expires in September.

Mr. Morgan replied that the current license expires in September of next year. He said that they have filed for extension of that date.

Mr. Rooker asked if he knew the date of the extension grant.

Mr. Morgan replied that it would be sometime in 2004.

Ms. Hopper asked if there were any pictures from balloon tests.

Mr. Sandridge asked staff to respond to that.

Mr. Morgan said that the current license does expire in September of next year. We have requested an extension to 2004, but the actual extension has not yet been granted.

Mr. Rooker pointed out that the current license expires in September 2002, but all information indicates that it will take 18 months to build the system. He said that the system has to be built in order to use the license.

Mr. Morgan said that the cut over date is in the latter part of 2003, any outstanding issues will be resolved by 2004.

Mr. Rooker asked if the system could be built without the extension being granted.

Mr. Morgan replied that it could not.

Mr. Rooker said that he was trying to clarify the timeline. He verified that the current date is gone, so we are looking at someday in 2004.

Mr. Morgan replied that was correct, the new date would be probably be in August of 2004.

Mr. Rooker said that it might be helpful to hear a little bit about the alternatives.

Mr. Morgan said that the current application includes the alternative sites primarily for protecting the RF contour so that no other applicants can apply for those frequencies.

Mr. Rooker asked if he had information to present on the coverage areas of various towers.

Mr. Morgan replied that he did not.

Mr. Rooker stated that the principal alternative is the Piney/Whitlock combination, which would replace Peters.

Mr. Morgan said that they have looked at that design a number of times, but we would not endorse it because there exists a much more efficient and reliable system. That design costs more money, is less reliable, and provides less performance. There is one other potential combination and that is the Piney/Whitlock and a third site in the city. That third site would augment the reduction in performance by Piney/Whitlock in comparison to the Peters Mountain site. That design has not been thoroughly investigated. The cost increase would be in the millions of dollars.

Mr. Rooker said he thought it would be helpful to point out the levels of differences in the coverage with the Piney/Whitlock alternative.

Mr. Morgan and Mr. Rooker reviewed the technical information presented at the work session.

Mr. Campagna pointed out that if for some reason Peters was not able to be used and we were talking about implementing a 3-site system with two microwaves, we would clearly have to go back to determine if in fact that would be acceptable to the ECC.

Mr. Rooker stated that one of the complicating factors is that this is not purely a County matter.

Mr. Campagna added that the microwave path analysis was a paper analysis that is not necessarily reliable and would require additional analysis.

Mr. Rooker said that what you know right now is that there is no terrain interference.

Mr. Campagna replied yes.

Mr. Rieley asked if they had examined the possibility of a microwave tower at Fashion Square.

Mr. Campagna replied that they had not examined it in a new configuration.

Mr. Hansen, Director of the ECC, clarified the contract with the consultant. Because the ECC is not a public body and therefore cannot enter into contracts, the County is our fiscal agent and handles all of our fiscal responsibilities.

Ms. Hopper said she would like to see the pictures of the balloon test at Peters Mountain.

Mr. Rooker said that the commission would probably not act on the special use permit tonight because we do not have all of the information we requested at the worksession.

Ms. Hopper asked if the applicant was in agreement to deferral.

Mr. Rooker said he thought they could come to that at the end of the meeting.

Mr. Waller pointed out that the planning staff was also there for balloon tests on two occasions and we were able to assess that the balloons were not visible.

Mr. Thomas said that he was there and could not see it without binoculars.

Mr. Waller said he would be happy to provide photos in the future.

Mr. Rooker stated that one of the things we had discussed was a photo simulation of the tower added to the pictures. We would also like to see the addition of any stealth techniques for disguising the tower.

Mr. Loewenstein

Mr. Rooker opened the public hearing.

Mr. John Moore, a resident of the County, lives in direct view of Peters Mountain. He approves of the enhancement of public safety, but he does not support the request for a tower on Peters Mountain. He submitted that there is no substantial difference between this and the Dudley Mountain case. The job of the commission is to analyze the competing interests. He would submit that the citizens of the are have already made their sacrifice in accepting the AT&T tower.

Ms. Pat Napoleon said she realizes that the commission has difficult choices to make. She feels strongly that it would be a mistake to locate the tower in this area. It is her belief that our children and families have already been afforded excellent opportunities for coverage in regards to health and safety. In this time of economic uncertainty, why not wait before committing to the one costly system that has been proposed. The money allocated could be better spent on additional staff and education. These ridges have been home to Native Americans and presidents. She has a collection of artifacts found in this area. Six generations of her family have lived on Peters Mountain; we need to move to protect this area. She asked the commission to deny this application.

Mr. Paul Katz, a resident of the County, is an engineer. His concern is with the taxes he has to pay. He does not want to increase taxes, but he also doesn't want to endanger our public safety officers. He said that he is willing to pay extra taxes, but he does not want to pay for extra sites that are not necessary.

Mr. Manfred Nettek is a resident of the County within view of Peters Mountain. He said that he and his wife located here because it is a unique area. He said that they would see this tower because it is 110' high. The tower would stick out 50-60 feet above the tree line. The balloon that was used was so small that you couldn't see it. It is important to consider the historic value as well as the scenic value. He said that the laws should apply to everybody.

Mr. Tony Vanderwalker, representing PEC said the PEC has protected almost 30% of the land in the Southwest Mountains in conservation easements. This is one of the most conserved areas of land in the United States. We are talking about millions of dollars of commitment here. He asked what signal it gives to those who don't have the right to develop their property anymore. What does it say to those who are considering placing their land in easement? He said that the difference in coverage between Peters and the alternative is not that great. The incremental coverages and redundancies do not justify the sighting on Peters. Instead of seeing alternative sites as costing money, we should look at it as an investment. He asked the County to continue to explore the alternatives.

Mr. Art Veltron said he needed to talk to the commission about an historical resource. Over the last two years, the history of a well-known civil war event has unfolded within the shadows of Peters Mountain. It was the spring of 1864 and the historic battle of the Wilderness was about to begin. Longstreet and about 10,000 troops road trains to Charlottesville, they marched to the woods and fields around Peters Mountain, which was used as an observation post. The Confederates were stationed around Rt. 22. They stayed in camps for almost a week. In early May 1864, Robert E. Lee traveled to the campground to review the troops. The historic review by Lee was described in memoirs. This was one of only two such reviews during the entire war. Almost 140 years after that review, traces have been found in the area. Indication of firing practice have been found. Please consider the history that is being uncovered.

Mr. Joe Flamini said he has a history of getting involved in tower matters in the County. He said that technology marches ever onward and we talk about the greater good. He is a deputy. He has experienced the lack of communication signals while on the job. We all want technology, but we want it to be invisible. The alternatives are grossly unsatisfactory. The tower will be unobtrusive; it is really very little extra on top of the AT&T site. He wants to be able to know that the dispatcher or another officer will be available when he keys his microphone. He encouraged the commission to approve the application tonight.

Mr. James Walker, is a member with the state of Virginia for emergencies in case of disasters for communications? As far as the Piney/Whitlock site, we tried it as a radio club for an antenna and it just never proved satisfactory. Piney Mountain did not afford good coverage. This tower is to serve people that are living today.

Mr. Elmer Scott had a repeater on Piney Mountain that did not work. The communication company he works for has systems on Carters, Afton, Blakey Ridge and Clark Mountain, which are reliable. This tower is really important to have reliable communications in this area.

Mr. Lanney Moore, chief of the East Rivanna Volunteer Fire Department, has been in the County most of his life. He joined the fire department in 1976. The radio system we have now was in service when he joined the department. The problem is that the regulation is getting ready to expire. We need to do something and we need to do it now. He said that they have to go through the dispatcher to communicate with the police. We need the redundancy they are talking about. On our portables, many times we cannot talk to Charlottesville. Peters Mountain is a landmark, the tower might possibly be seen. From the emergency services end, we need the system and we need it now.

Mr. Alan Norfred, chief of the Stony Point Volunteer Fire Department, lives in the Southwestern Mountains. Emergency services in the region do not have a communications system at this time. At times we have to have 5 or 6 radios in front of us in order to communicate. There are already towers and houses on Peters Mountain. He is in favor of making the tower as invisible as possible. But it won't be at the crest of the mountain, most people won't know the tower is there. Redundancy is important to us, when we are inside fighting fire, it is important to be able to communicate with the dispatcher and the other units. He urged the commission not to delay this tower.

Mr. Richard Martin, has been with County law enforcement for 31 years. Our current communication system still does not meet our needs. We are asking to provide our public safety officers with adequate communications. AT&T slammed the door in our face. This site was identified because of its penetration of buildings. We are a community. We don't stop at the City/County lines. The redundancy issue is important to us from the standpoint that when a site fails, it fails during a disaster or major incident. We still have to serve even in those difficult situations. He urged the commission not to defer, to pass it on to the Board of Supervisors.

Mr. Bill Pahouta, is the Director of Operations at the airport. He said that we have had numerous emergency preparedness exercises. He said that the current communication system is woefully inadequate. With the added security requirements imposed upon airports, effective communications is of the utmost importance. We request that this special use permit be granted and not delayed further.

Ms. Judith Summer is a recent arrival to the County. She said that consideration of this permit is a step in the wrong direction. Millions of people enjoy the drive along the scenic byways of Virginia. This tower would be visible for 20 miles or more on both sides of the mountain. Peters Mountain is in a rural historic district and in the backyard of Castle Hill. A number of landowners have enrolled their properties in the County's easement program. At the worksession, it was indicated that the ECC can build an effective system without the Peters Mountain site. Even if the original system costs a little more, the benefits more than offset the costs by protecting the

integrity of the County's scenic and historic resources. Land use regulation, including public parkland, can at once make an area more attractive and stimulate growth. The shaping of amenities is what policy and market can do. The challenge is yours.

Ms. Marcia Joseph complimented Mr. Waller on the staff report. She asked if there was a representative from the DHR here tonight. She said it would be nice to have someone from the department here. She asked if there was a written agreement to use the existing access road. Within the conditions of approval, you should take a look at #1. She would like the planning commission to review any mitigating features. The commission should also review condition #7, which talks about a conservation plan. She would like to see a statement in writing that no lighting will be required.

Mr. Jim Balheim is a resident of the SWMHD, they were the second people to put their farm under conservation easement. He said that he does not believe the real issue is public safety, the issue is protecting the SWMHD. If the consultants had been told from the beginning that the SWMHD was off limits, we would probably all be here tonight talking about a tower someplace else. He said he would like to hear the County say we won't go along with a site in the Southwest Mountains. The consultant should be presenting you with alternatives and the pluses and minuses of each. We all want cost to be a factor, but it is just one part of your job. Another goal is to preserve open space. If you look at the value of the property in easement, you could make the case that at least 12 million dollars has been given to the County. He said his biggest concern is that if you start chipping away at it, it becomes harder to say no. He asked the commission to find another alternative that serves the public.

Mr. Charles Warner is the Deputy Chief of the Charlottesville Fire Department. Reliability and redundancy are key to this system's effectiveness. We have done as much as possible in our considerations because we do care about the SWMHD. We have talked about lowering the tower so it wouldn't be seen and wouldn't require lighting. We asked Motorola to present us with information on Stealth towers. We have the delayed the system to the point we've almost lost our frequencies. He was astonished to hear the suggestion that it is goldplated and over-engineered. Our current radio system endangers the safety of our community. We had a radio failure during hurricane Fran, at the worst possible time. We are asking that you allow us to put a radio system in place. The radio committee does not recommend the reconfiguration at this date because of the delays. We request that you make a decision tonight. Any delay at this point will result in a domino effect of delays. This is an issue of lives and safety and time is of the essence.

Mr. Rooker pointed out that there has been no delay on this matter from the planning commission. This matter was not heard with the first five towers. This is the first time we've had a hearing on this particular site. He pointed out that the existing FCC license cannot be met without an extension. Whether or not we make a decision tonight, it will not delay this system.

Mr. Warner said that if you delay the decision tonight, that is a delay before it goes before the Board of Supervisors. Additionally, you are asking that you reconsider reconfigurations. That is not acceptable. We don't plan to go back and make any changes to this system.

Mr. Rooker said that whether we act on this tonight or in three weeks would not make a difference. The Board will act on it long before the FCC will act on it.

Mr. Warner stated that there are pieces that have to come into play long before it even gets there.

Mr. Rooker said that this will be approved or denied long before we have a final decision and in plenty of time to build the system out within the required time.

Mr. Warner stated that if we don't make a decision tonight and we have to investigate other configurations, that will create a delay.

Mr. Rooker pointed out that there was a long list of items we've asked for that has nothing to do with other configurations. There is only one other configuration being discussed.

Mr. Warner believes that it does have an impact, and I speak for the collective voice of the fire departments of Charlottesville to request that you make a decision tonight.

Mr. George Stevens is the chief of the North Garden volunteer fire department. We experience low performance levels from our current system everyday. Our citizens pay the price for that by delayed response. Our units on the road cannot understand the transmission. He said he would like for this to move on, whether it's one or three weeks. He wants to be able to provide that service for all the citizens.

Mr. Julian Taliafero thanked the commissioners for their time. He said that he has been a member of the fire service community for almost 40 years. For the past 10 years he's been a member of the Board of Directors of the International Association of Fire Chiefs. In that capacity, on an almost daily basis I receive calls about firefighter fatalities. One common thread is the failure of communications. He does not want to have to tell a family they've lost someone because of a communications failure. He said that he would like the commission's support.

Mr. Harold Young is a resident of Peters Mountain who was on site for the balloon tests. He said that the balloon was visible with and without binoculars. There are no towers on Peters Mountain. The largest structure is no more than 40 feet high, which is below the treeline. As far as the coverage is concerned, the Piney/Whitlock system gives the same coverage. It is just the redundancy that suffers. As far as the 106 regulation is concerned, there are major archaeological structures on Peters Mountain. There have been Native American religious and ceremonial activities on this site.

Mr. Ed Robb commended the commission for their time and concern. He said that he wants the commission to be very demanding with regards to the SWMHD. But he also demand that the commission agree somehow to a system that protects the lives of the public in this area. I don't know what is the best way to do it technology-wise. The current system is downright dangerous. He said that he would have to stand in two years before the citizens of Albemarle County and justify his position. He said that only the very best will do.

Mr. George Condelios is the Chief Operating Officer of Atlantic Technologies, based in Ashland, Virginia. He represents the PEC. This system will cost 15 million dollars. The alternative of Piney/Whitlock is about 1.2 million. As far as reliability and performance, the numbers really don't gel. This system and what is proposed will meet and exceed their expectations with the Piney/Whitlock solution. Peters Mountain may be the best technical solution, but other issues must be weighed in the matter.

Mr. Rooker asked about his firm and background.

Mr. Condelios said that his company specializes in public safety radio. We serve the public safety community, additionally, we write ordinances for Counties, and are usually working on 4 or 5 public safety projects at any one time. Our primary market is in rural Counties.

Mr. Rooker asked that having looked at all the technical information, is it your opinion that both sites satisfy the minimum technical requirements?

Mr. Condelios replied that Peters would give a slight edge into the Charlottesville topography and city limits. The Piney/Whitlock site would cover that, but the redundancy issue would be slightly less. Redundancy is kind of a fuzzy number there.

Mr. Rooker asked if there is a major building that has a fire, is there a portable communication unit you would take with you to the site.

Mr. Condelios replied that typically the commander would keep in contact with the dispatcher and there would be coverage from handheld to handheld and handheld to mobile.

Mr. Rooker said that coverage is really being provided by the mobile units at that point.

Mr. Condelios replied that it is part of a network. In-building coverage is a very fuzzy number.

Mr. Finley asked if the lower redundancy at Piney/Whitlock would give us the best system.

Mr. Condelios replied that the best system would be the Peters site.

Mr. Finley asked if Motorola would concur with the analysis he used.

Mr. Condelios replied that they use different software from RCC, but the two are very similar. Motorola will likely do some redesign of the system.

Mr. Rooker asked if he had heard of any situations in which Motorola has recommended additional towers.

Mr. Condelios replied absolutely. He said that usually they have to add something, they do not move towers. Whatever you've designed stays, they suggest an additional piece of equipment.

Mr. Rooker verified that there may be another tower site that Motorola recommends.

Mr. Condelios said he is confident that they won't do that.

Mr. Finley pointed out that in their report Motorola has already approved this configuration.

Mr. Condelios said that Motorola and their design professionals will be able to solve the problem. He said his bigger concern was the 25-mile safe harbor rule. He pointed out that a tower on Peters Mountain will probably have to be lit. The FAA performs airspace studies on a daily basis. They also have to respond to complaints from pilots.
Mr. Rieley said that it seems that the areas of difference that are most critical are the areas of redundancy and how critical that is, and the penetration into the Charlottesville area. Is there a mechanism by which we can quantify the differences in some way?

Mr. Condelios replied that the data you see in front of you is given without field verification. Motorola and the fire/rescue communities will perform field-testing. Until you get to that point, it is a calculation-based decision.

Mr. Rooker verified that he was saying we were probably not going to get anymore data.

Mr. Condelios replied that the commission had a lot of data. The County is working on some additional information. The sense of frustration with the public safety community is that this has been going on for 6 or 7 years. The extensions will probably be granted. The design professional has to deal with the fact that there may be different frequencies that require a change in channel selections. If you have half the information that we have, you have a lot of information.

Chief John Beller of the Albemarle County Police Department has been in law enforcement since the mid-60s. Redundancy is very important. The radio the officer's carry is the most important piece of equipment they have. He urged the commission to take the problem very seriously; it is critical. We need to be able to talk with other agencies and have the confidence of our people.

Mr. Tim Longo, Chief of the Charlottesville police department, has 20 years experience in law enforcement. At the risk of being dramatic, whether you act tonight or 21 nights from now, you must act. It did my heart good to hear PEC's consultant say that the Peters Mountain site is the best solution. If that's not the solution you pick, he fears for his officers. Redundancy is absolutely imperative.

Mr. Paul Norris, Chief of Police at UVA, gave his support to the system. The radio is the most important tool for law enforcement and emergency response. He is very aware of the history of the area, but he is also conscious of the safety of the individuals in the community. He asked the commission not to delay this any further.

Mr. Hansen said that this is a very busy community. We processed over 400,000 telephone calls last year, including over 170,000 911 calls, of which over 30% of which were life-threatening emergencies. It is not just a tower site, it is more than some commercial carrier, and we are talking about life and death. He asked for some qualification of what we need to go back and do in regards to the work session.

Mr. Rooker replied that we asked for a number of things in the work session. We have gone forward with the hearing because of the 106 issue. The understanding was that we would most likely defer tonight for several weeks until the information we have asked for can be made available. We would like to have in this application, steps that will be taken to mitigate visibility. The interests of public safety also have to be weighed. We asked for pictures that would show simulations of the tower and how it would look with various mitigation techniques.

Mr. Hansen said that was addressed to some extent in Mr. Sandridge's letter and would be provided to the Board of Supervisors.

Mr. Rooker said he thought it was unfair to ask us to make a decision without all the information. Visibility is the most important factor to look at in the location of the towers. What is the viewshed to this site in the historic area? We need to have a period of time to get this information before we make a final decision. This is not any different than what we request of other tower applications.

Mr. Trank stated that while it is true that the applicant is free to file with DHR at any time, the course of action that the center had decided to do was to submit the information once all the public hearings had been held on the land use. There is no plan at this time to file with DHR prior to the Board of Supervisors meeting. While it is possible, there is not a requirement that the applicant do one or the other.

Mr. Rooker said that we decided to go ahead with this hearing. If it were only a special use permit hearing, we would have deferred the issue. We agreed to go ahead with it because you wanted the public hearing comment from this meeting to send to the DHR so that their review could take place pretty quickly.

Mr. Trank replied that there are no plans to take the public comment and input from this hearing and immediately file with DHR. You need to focus on your time requirements with respect to making a recommendation on the SP. He said he does not believe there is any way they could complete their review in time for it to be included in the SP.

Mr. Rooker stated that the commission found out about the 106 hearing from PEC. He said that we have bent over backward to accommodate the hearing in a timely manner so that we would not delay that process. We are talking about trying to reschedule this matter for about three weeks out.

Mr. Loewenstein pointed out that this process began in 1995 or 1996, it is a significant issue, and a lot of the land use issues could have been debated from the beginning. To compound that by asking us to make a decision without the necessary information is ridiculous.

Ms. Hopper pointed out that this is not the first time this has come up when the County's been the applicant.

Mr. Trank said that he merely wanted to comment on the 106 issue. He said he thought that the DHR might consider the application incomplete without the hearing from the Board.

Mr. Rooker said that is somewhat different than what you told me this morning. You said that there is no requirement that even this hearing be held.

Mr. Trank replied that was true.

Mr. Rooker said that we have gone forward with it in order to start the process. We have never had a private applicant come to us like this and demand an immediate decision. Originally, it was represented to us that September 2002 was a drop-dead date. We were told at that time that the system could operate on 5 towers.

Mr. Trank said that when the commission considered the original applications, that information was accurate at that time. In August of this year, there was a meeting in which we pleaded our case for an extension to the FCC. We have no formal notification.

Mr. Rooker pointed out that the system is lost without the extension. A three-week delay is not unjustified.

Mr. Kamptner stated that a 3-week deferral would take us to December 18th, at which time the commission will need to act to stay within the timeframe for the application.

Mr. Sandridge said that we are not in a position as the ECC to undertake further investigations that will obligate us to additional expenditures. We are prepared to submit information as it relates to the pictures and the enhancements of the site. We have a proposal that represents in many ways a very difficult undertaking. I will absolutely assure you that I am convinced that we are underestimating the importance of redundancy here tonight. We will provide the additional information as rapidly as we can. We will do what is necessary to mitigate the visibility of the tower. There are implications of delay. We have been working on contractual matters and there are time limits in our negotiations with vendors. There are cost implications with that. It is in the best interest of the ECC to move forward as quickly as possible.

Mr. Thomas asked what additional information the commission had requested.

Mr. Rooker replied that we had asked for photo simulations, visibility mitigation's, stealth tower information, and viewshed information. He said he would like to have a copy of the list.

Mr. Rieley said that after this long process, it is troubling that there is such a bad application in front of us. We are trying to make a land use decision without a good idea of what that will look like.

Mr. Finley said he thought mitigation was to come back after the application went to the DHR.

Mr. Rooker pointed out that we have to make a land use decision. Visibility is the primary focus of that decision.

Mr. Finley asked what about the safety of the officers.

Mr. Rooker said there is no argument about the importance of safety. The land use considerations should also be given priority. We need to get some additional information on the land use side. We are talking about a 3-week deferral. They've indicated they will get that information together.

Mr. Finley asked if the 3-week delay would annul the best system.

Mr. Loewenstein said that our role is to provide for public safety while minimizing the impact on other County resources. This is not a black and white issue, this is about striking a balance.

Ms. Hopper stated that it's not about us not wanting to make a decision. We need information in front of us in order to make a decision on the land use issues. She would like to have all the information about Piney Mountain, comparisons with the Peters site, as well as a true application for Peters Mountain.

Mr. Loewenstein stated that the assumption appears to have been made that because this is an emergency communications system, it doesn't have to meet the same land use standards. That's not true.

Mr. Tom Foley said he thought it was clear that the commission intended to defer. He said he thought that we had submitted a complete application. He asked the commission to define what other things we need to prepare. He said he is unsure about a viewshed analysis and would like a definition of the expectations. I understand that the photo simulations are needed. The real question is if the ECC needs to hire a consultant to do that. We would not have been able to do either of those things within the timeframe of the work session.

Mr. Rooker replied that that was the reason we wanted to defer the hearing.

Mr. Foley said that there another important reason for the public hearing as it relates to the things you requested at the last meeting. You requested information on the Piney/Whitlock site and the third site combination. The letter from the ECC management board states that that combination would not provide an acceptable alternative.

Mr. Rooker stated that the worksession focused on the alternatives to Peters Mountain. If there are items that cannot be provided because of cost or whatever, that is a response.

Mr. Foley pointed out that they don't believe they'll be able to respond to that request. The letter also acknowledges the need for photo simulations and the viewshed analysis. We will also provide further information on the Piney/Whitlock combination.

Mr. Foley said he would work with Mr. Cilimberg to accomplish the listed requests.

Ms. Hopper asked Mr. Foley to include information about the access road. There are standard things that a private application will look at.

Mr. Foley said it is clear what the commission is looking for. There have already been conversations about shared maintenance of the road with AT&T.

Mr. Rieley said that we need assurances of the mechanisms so that we have a good understanding of what this is going to look like.

Mr. Foley said that he recognizes that.

Mr. Rooker said that right now you have an AT&T site that is highly noticeable. Part of the problem with that is the color. Can you obtain an agreement from AT&T to repaint their site?

Mr. Foley replied that there is no reason we cannot ask that question. The focus of all the questions is mitigating the visual impact of a tower on Peters Mountain.

Ms. Hopper said that she has the sense that your expert has decided on Peters Mountain. She would like to see the best application possible for the Peters Mountain site. She said that she is not sure there is a lot more that you are planning to provide on Piney/Whitlock.

Mr. Rooker stated that we need information specifically on the visibility issues. We have a substantial amount of information on the technical side. The only thing that is not included is the possible microwave path at Buck's Elbow Mountain.

Mr. Foley said it is reasonable to say that there is a path. The question then becomes what are the coverages.

Mr. Rooker said it might be helpful to break it out.

Mr. Foley said that we will have to focus on redundancy issues.

Mr. Finley asked if he was confirming that this delay would not be that critical in terms of time.

Mr. Foley replied that he is acknowledging that the planning commission has asked for additional information. The real issue is when this will go before the Board of Supervisors. There are contractual issues to consider if the hearing is delayed into January.

Mr. Rooker said that if you can have all the information before us on the 11th then we would be willing to consider it at that time.

Mr. Rieley said that there is no reason for an applicant to have assumed that they could give us a package that did not portray in any way the visual impact on this site. We have never approved any application without that kind of information. He said that we had nothing in our packets except the elevation of the tower.

Mr. Rooker stated that there is no information in this packet regarding the information needed to make a judgment on the visibility of this tower. That is the primary consideration from a land use standpoint.

Mr. Finley moved to defer this request to December 11th

Ms. Craddock seconded the motion, which passed unanimously.

With no further business, the meeting was adjourned at 10:45 p.m.

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V. Wayne Cilimberg, Secretary

Recorded and transcribed by Lynda Myers, Recording Secretary