Planning Commission
February 26, 2002
6:00 PM

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 26, 2002 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Jared Loewenstein, Chairman; William Rieley, Vice Chair; Rodney Thomas, William Finley, Tracey Hopper, Bill Edgerton, and Pete Craddock. Other officials present were Greg Kamptner and David Benish.

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

Other Matters Not Listed on the Agenda from the Public

Mr. Loewenstein asked for additional matters from the public. There being none, the meeting proceeded.

Review of Board of Supervisors Meeting – February 20, 2002

Mr. Cilimberg reviewed the meeting. He said that Crossroads-Waldorf School was deferred to allow conditions to be revised to reflect discussion. There was some allowance left for the orientation of the north wing of the building as well as an easement for the linear park. The John DeCarlo stream crossing was approved as recommended. The Albemarle Farm Store was also approved. Bartelt Office Park was approved with three conditions. The Board did not include the recommended condition for porous pavement after engineering comment. The Bargamin Park rezoning was deferred to allow an additional proffer from the applicant for capital improvements in Crozet. Finally, the Shopper's World rezoning was approved with the proffers.

Consent Agenda

a. **Sugar Hollow Agricultural/Forestal District Addition** – Request to add one parcel to an Agricultural-Forestal District in accordance with Chapter 3 Section 203 of the Albemarle County Code, which allows for additions of land to districts. The property, described as Tax map 40 Parcel 12B1, contains 15.367 acres, and is located in the White Hall Magisterial District on Route 811, approximately 0.3 miles west of its intersection with Route 810. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark) ***PLANNING COMMISSION MUST REFER APPLICATION TO ADVISORY COMMITTEE.***

b. **Sugar Hollow Agricultural/Forestal District Addition** – Request to add one parcel to an Agricultural-Forestal District in accordance with Chapter 3 Section 203 of the Albemarle County Code, which allows for additions of land to districts. The property, described as Tax Map 40 Parcel 46C1, contains 9.93 acres, and is located in the White Hall Magisterial District on Route 811, approximately 1 mile east of its intersection with Route 810. The property is zoned RA Rural Areas. The Comprehensive Plan designates the property as Rural Area. (Scott Clark) ***PLANNING COMMISSION MUST REFER APPLICATION OT ADVISORY COMMITTEE.***

Mr. Loewenstein asked if any commissioner wished to remove an item from the consent agenda.

Mr. Thomas moved for approval.

Ms. Hopper seconded the motion, which passed unanimously.

Items Requesting Deferral

a. **SP-2001-047 Albemarle Baptist Church (Sign #93 & 94)** – Request for special use permit to allow a church in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for churches in the Rural Areas. The property, described as Tax Map 61, Parcel 1E, contains 6.239 acres, is located in the Jack Jouett Magisterial District on the northeast corner of Hydraulic Road (State Route 743) and Roslyn Ridge Road (State Route 1390), approximately 1.5 miles northeast from the intersection of Seminole Trail (U.S. 29 North) and Hydraulic Road (State Route 743). The property is zoned Rural Areas District (RA). (Steven Biel) ***DEFERRED FROM THE JANUARY 15, 2002 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO APRIL 23, 2002.***

Mr. Loewenstein opened the item for public hearing. There being no comment, the hearing was closed.

Ms. Hopper moved to accept the applicant's request for deferral to April 23, 2002.

Mr. Craddock seconded the motion, which passed unanimously.

b. **SP-2001-033 Bethel Baptist (Sign #34 & 35)** – Request for a special use permit to allow the construction of a 6,944 square foot expansion for a church sanctuary, classroom and fellowship hall, in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for church uses in the Rural Areas. The subject parcel, described as Tax Map 21, Parcel 25, contains approximately 3.004 acres zoned RA. This site is located just east of Route 29 North at the intersection of Burnley State Road (State Route 641) and Watts Passage (State Route 600). The property lies within the Rivanna Magisterial District in the area designated as Rural Areas 2 by the Comprehensive Plan. (Steven Biel)

AND

SDP-2001-093 Bethel Baptist – Request for Planning Commission approval of a site plan waiver to allow the construction of a 6,944 square foot church addition for a sanctuary, classroom and fellowship hall. (Steven Biel) ***DEFERRED FROM THE JANUARY 15, 2002 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO MARCH 26, 2002.***

Mr. Loewenstein opened the public hearing on this item. There being no comment, the hearing was closed.

Mr. Thomas moved to accept the applicant's request for deferral to March 26, 2002.

Mr. Edgerton seconded the motion, which passed unanimously.

Public Hearing Item

a. **SP-2001-038 American Tower Site No: 10109 Ch'ville-Shadwell (Sign #66 & 67)** – request for a special use permit to allow the replacement of an existing 296-foot tall guyed telecommunications tower with a new 260-foot tall tower, which would structurally allow the collocation of additional antennae and ground-based facilities on 3 acres, zoned Rural Areas (RA). This proposal is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for radio-wave transmission and relay towers, and appurtenances. The property, described as Tax Map 78, Parcel 51C, is located approximately one mile east of Lego Drive (Rt. 1090), nearly 1/3 mile north of the intersection with Hansen's Mountain Road (Rt. 1777), and is adjacent to the Ashcroft subdivision. This parcel is located within the Rivanna Magisterial District and in the area designated as Rural Areas 2 by the Comprehensive Plan. (Stephen Waller) ***DEFERRED FROM THE JANUARY 22, 2002 PLANNING COMMISSION MEETING.***

Mr. Waller presented the staff report.

Mr. Thomas asked if the waiver was in the packet.

Mr. Waller replied that it was part of the original request.

Mr. Finley asked if we had approved setback waivers in the past.

Mr. Waller replied that they had.

Mr. Cilimberg stated that it was a routine request.

Mr. Rieley asked if anyone recalled approving a waiver request when the adjacent landowner objected to it.

Mr. Waller replied that it had not been done for a new tower.

Mr. Rieley said that the staff report says that the request should be reviewed in the same manner as a request for a new facility.

Ms. Hopper responded that if an adjacent landowner objected, they usually did not grant the waiver.

Mr. Rieley and Mr. Loewenstein agreed.

Mr. Loewenstein said that because we are talking about a new structure, we could improve the situation.

Mr. Edgerton asked Mr. Waller to show the fall zone on the map.

Mr. Waller pointed out the area on the map.

Mr. Edgerton asked if the 8 ½ foot projection was the triangular projection.

Mr. Waller pointed out the array on the existing tower.

Mr. Edgerton asked if the tower would serve its function without that array. He asked if they could be flush mounted and still is operational.

Mr. Waller said that the applicant had indicated that there was a prior lease agreement that required those types of brackets to be used.

Ms. Hopper asked if three additional antennae would be allowed to be collocated by right.

Mr. Waller said that according to the special use permit, three more would be allowed. The maximum allowed by-right is three.

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

Ms. Valerie Long said that Mr. Waller had explained the changes in the proposal. While we are adding wireless providers, the only visible change will be that the tower will be shortened. The existing arrays for NTelos are set off a distance of 8 ½ feet from the tower. Those will remain. They could probably function if they were flush-mounted, but contractually, American Tower has a lease agreement with NTelos. The antennae were attached several years ago, prior to a flush-

mounting requirement. We have agreed to require all of the new antennas to be flush-mounted to the structure and to be painted to match the color of the tower.

Ms. Long said that American Tower would voluntarily lower the height of the tower by 36 feet, which will reduce visibility. We will reinforce the existing tower, making it safer and stronger. The tower will have a 33% narrower profile. Additionally, there will never be more than one tower in the air at one time. Any new guy wires will be in the existing cleared areas; no vegetation will need to be cleared. There will only be one small new ground equipment cabinet, which will be painted brown. We will increase the amount of landscaping, replacing the existing plantings with a more shade-tolerant species. American Tower will remove the FM radio antenna and the microwave dish.

Ms. Long proposed modifications to some of the conditions. The first is with regard to how the set off distance is defined. It currently says that the flush-mounted antennas must attached to the existing structure. Once the tower is modified, new panels will need to be attached to the reinforcing structure. She circulated a document with proposed changes. Secondly, they are asking for an exception to the flush-mounting requirement for NTelos. The requested waiver of the setback requirement was a part of the original application. Regardless of whether this is passed tonight or not, the tower is not meeting the setback requirement right now. If the waiver is approved the tower can be shortened by 36 feet. While that will not fully meet the setback requirement, it will come closer. Granting the setback waiver would put the neighboring landowners in a better situation than they are already in. The closest property line is 164 feet.

Ms. Hopper asked if FAA has approved painting the tower gray.

Ms. Long replied that the reinforcing structure would be made of galvanized steel and not painted.

Ms. Hopper asked if the FAA had approved that.

Ms. Long replied that it had.

Mr. Finley asked how far the guy wires would extend.

Ms. Long replied that they would extend half as much.

Mr. Thomas asked if the tower could be shortened any more.

Ms. Long replied that it could not.

Mr. Thomas asked if the additional wireless providers could lower their antennas.

Ms. Long replied that those are the heights that will provide the connection for their networks.

Mr. Thomas asked for the length of the contract with NTelos.

Ms. Long replied that she did not know. She said that the contracts are fairly long term. Generally 5 years with automatic renewal for a total of 25 years.

Mr. Thomas asked if it could be changed after this contract period.

Ms. Long replied that she did not know.

Ms. Hopper asked if they had attempted to negotiate that contract.

Ms. Long replied that they had. That is why American Tower agreed to shorten the tower to 36 feet.

Mr. Thomas asked if the applicant had approached any of the neighbors to request an easement.

Ms. Long replied that they had not gotten that far. She has spoken with the neighbors and sent letters soliciting concerns and comments.

Mr. Thomas asked what the use of the tower would be if the special use permit was not approved.

Ms. Long replied that the tower would remain exactly as it is now.

Mr. Thomas asked if it would stay 296 feet tall.

Ms. Long replied that it would. American Tower cannot afford the additional expense without the additional funding from the collocator.

Mr. Craddock asked what the remaining life of this tower was.

Ms. Long said that she could not predict that. Modifying it would certainly lengthen its life.

Mr. Craddock verified that the microwave dish and FM antenna were not being used.

Ms. Long replied that was correct. She pointed out that there would be one fewer set of guy wires.

Mr. Craddock asked for the height limit for the lighting requirement by the FAA.

Ms. Long replied that generally, if a tower is under 200' it does not require filing with the FAA or lighting of the tower. There are some exceptions. At this elevation, there would likely be a light required regardless of the tower height.

Ms. Hopper asked if they had filed with the FAA.

Ms. Long replied that they had, but it takes several months to receive certification.

Ms. Hopper asked if they would be required to hatch the tower.

Ms. Long replied that that is usually not a requirement with modern lighting.

Mr. Thomas asked how many tree top towers would be required to replace this tower.

Ms. Long said that on average, 2-3 times as many tree top towers would be required. Ms. Long circulated photos of the site from various locations.

Ms. Hopper asked if the tower would meet FCC emission guidelines with the additional antennas.

Ms. Long replied that the wireless providers would have to ensure that they meet the safety thresholds.

Ms. Hopper asked if they would have to report on accumulation or just their particular antennas.

Ms. Long replied that they do not. Even if each provider came to 1% of the threshold, we would still be under the cumulative level.

Ms. Hopper asked if American Tower had explored the option of reducing the number and size of the equipment sheds.

Ms. Long replied that they couldn't reduce what's there now, as they are part of contractual agreements.

Mr. Finley asked what would happen if the setback waiver was not granted.

Ms. Long replied they would consider appealing the denial of the waiver to the Board. If it is not granted there, they would go to the off site landowners to work out an arrangement. The commission has the authority to condition the waiver. It could be conditioned upon the certification that the tower would collapse within the lot lines. These towers usually collapse on themselves.

Ms. Shirley Linkous is the owner of the property closest to the tower. She said that if this is being considered as a new tower, the NTelos panels should be flush-mounted. She was told by Eure Communications in 1998 that the tower was not strong enough to hold any other antennas. Eventually this tower will fall down. She has asked to see a measurement of the radio frequency emissions with the new antennas, but has not received anything as yet. She said that she would not grant an easement if the waiver is not granted.

Mr. Rieley said that the presentation by the applicant suggested the adjacent property owners would be better off it this permit was approved. He asked Ms. Linkous if she thought she would be better off.

Ms. Linkous replied that she did not think she would.

Mr. Rieley asked if she thought her property value would be negatively affected by being in the fall zone.

Ms. Linkous replied that it would likely be a detriment.

Mr. Finley pointed out that the tower is already a detriment.

Ms. Linkous said that the 36-foot reduction would make little difference. She requested that, if the plan was approved, that the landscaping be improved.

Mr. Jeff Werner, of the Piedmont Environmental Council, read a statement. (Attached)

Ms. Long said that there would be very little negative change to this tower. She said that the County did not oppose American Tower to collocation.

There being no further comment, the public hearing was closed.

Ms. Hopper asked if the applicant had explored with the other owners the painting of the other equipment sheds.

Ms. Long said that she could not speak for the carriers, but they could diligently pursue that with those providers.

Ms. Hopper suggested that be a requirement in the conditions.

Mr. Rieley said that along those lines, he would condition the flush-mounting of the antennas.

Mr. Waller said that was in the conditions.

Mr. Finley asked if they would work if they were brought it flush.

Ms. Hopper said that Ms. Long said they would.

Ms. Hopper said that Ms. Long emphasized the reduction in the height of the tower, but there has been a 24 foot increase in where the highest antenna is placed on the tower.

Mr. Rieley said he agreed with the applicant's statement that the reduction in height was substantial, but there is actually an increase in the height of the use of the tower. Combined with the opaque quality given by the structural reinforcement, the tower becomes significantly more visible. He said that he would have a hard time supporting the tower, even on the pragmatic level, because of the visibility. He said he thought it would be a terrible precedent to grant a setback waiver when the neighboring landowner does not approve.

Mr. Edgerton pointed out that Ms. Linkous built her house after the tower was there. The rebuilt tower would have less of a setback requirement.

Mr. Rieley said that wasn't the case when the tower was built.

Mr. Thomas said that we have the choice of leaving the tower as it is or trying to improve the situation with a shorter tower and more screening. It seems like it would be an improvement over the existing situation.

Mr. Rieley asked if the screening was done as a part of a previous approval.

Mr. Waller replied that he thought it might have been done when one of the buildings was put in.

Mr. Rieley said he remembered that coming before the commission and the screening was a requirement.

Mr. Thomas pointed out that that was a different, though nearby tower.

Mr. Waller said that there was a request for a special use permit that was withdrawn.

Mr. Rieley asked what generated the planting.

Mr. Waller said she did not know.

Ms. Linkous said that they were planted in 1998 when they wanted to put another building up. She said that the plantings were required by the BZA.

Mr. Waller pointed out that that occurred before American Tower owned the facility.

Mr. Finley said that he agreed with Mr. Thomas' statement.

Mr. Rieley said he had a hard time believing that the new tower would have less visibility than the current one. If this approved, this would no longer be a non-conforming radio tower with some antennas attached to it. If approved, it would then be a new 260-foot tall wireless facility in a mountain resource area fully sanctioned by the County. He pointed out that there are several options, 1) to make the tower as good as we can make it and grant a setback waiver to go along with it; 2) to make the conditions as good as we can make them and not grant the setback waiver which puts the applicant in the position of negotiating with the neighbors; or 3) vote against both of them.

Mr. Finley asked if the certification by an engineer be of any benefit with granting the setback waiver.

Mr. Rieley said that we have never done that before and that would be the wrong signal to send to County landowners.

Mr. Edgerton said that he would prefer any negotiations with adjoining landowners occur before the proposal comes before the commission.

Ms. Hopper said that it was stated as the last step.

Mr. Edgerton said he was not comfortable with that.

Mr. Loewenstein said that we would need to look at the language of the conditions if we are going to do anything.

Mr. Edgerton said that he thought the most objectionable part of the tower was the NTelos antenna. He would like to see those flush-mounted. He would like to require that the antenna be flush-mounted after the current contract expires.

Mr. Craddock said that if look at this as a new tower, we should say that it be flush-mounted and treetop height. It's non-conforming now and it will be non-conforming later. He said that you can put earrings on a pig but it's still a pig.

Mr. Edgerton asked if we would even consider this tower if it were truly new.

Ms. Hopper replied that we would not at that height above the trees. She said the between 8 and 10 feet above the treeline has been standard. The reality of the situation is that we would likely need to allow the NTelos antenna to remain as is because of the contractual obligation of the applicant.

Mr. Craddock said that was probably one of the reasons the County did not pursue that tower. The tower would not support the equipment and it is in a much more visible location.

Mr. Thomas said the tower would still be non-conforming.

Mr. Loewenstein said that even if the flush-mount issue were resolved, this tower is much more visible and in a mountain resource area.

Mr. Thomas brought up the certification of the tower and the screening. He asked if the screening was in one of the conditions.

Mr. Loewenstein replied that it was in 1d.

Mr. Rieley said that one condition he would like to see would be not allowing any wireless facility at a higher elevation than it currently exists on the tower.

Mr. Finley verified that if the special use permit were granted, the tower would be conforming.

Mr. Cilimberg replied that was correct, if they met the conditions.

Mr. Thomas said he had some concerns about Mr. Rieley's suggestion from an engineering standpoint, but he thought it was a good point.

Mr. Finley asked what color the tower would be painted.

Ms. Hopper said it was galvanized steel.

Mr. Thomas said that was the support tower, the original tower was still orange.

Mr. Hopper suggested saying “neither the tower nor the reinforcement structure shall be painted”.

Mr. Rieley said he thought that they would like to leave the tower the existing color.

Mr. Cilimberg said he thought the condition was to differentiate between the two towers.

Mr. Rieley said he thought the entire thing should be the same color. He suggested using staff’s conditions.

Mr. Loewenstein asked if the commission wanted to leave condition 2c as it is.

The commission agreed to leave the staff language as is.

Ms. Hopper asked if it stated in the conditions that the tower would stay unpainted galvanized steel.

Mr. Rieley said that it only said that the tower would not be painted orange.

Ms. Hopper suggested adding that as a condition.

Mr. Loewenstein suggested adding that in 1f.

Mr. Cilimberg stated that the commission wanted to establish the color the tower should be painted.

Ms. Hopper said that the entire facility needed to be the same color. She wondered if the commission should continue crafting the language when the permit would likely be denied.

Mr. Kamptner said that the Board appreciates the guidance even with a denial.

Mr. Rieley suggested that the dark brown color extend to the entire facility, not just the cabinets and the concrete pad.

Mr. Thomas said he trying to decide which option is the best.

Mr. Finley pointed out that it is an opportunity for collocation, which is our policy.

Ms. Hopper pointed out that it was in a mountain resource area.

Ms. Hopper moved for denial of SP-2001-038 because the proposed facility was highly visible and was inconsistent with the wireless policy.

Mr. Craddock seconded the motion, which passed by a vote of 4-3 with Mr. Finley, Mr. Thomas and Mr. Edgerton voting no.

Mr. Rieley moved for denial of the setback waiver because the public health, safety or welfare would not be better served by the granting of the waiver; in particular, the Planning Commission considered the testimony of the objecting neighbor, who said that the close proximity of the facility would adversely impact her property.

Ms. Hopper seconded the motion, which passed unanimously.

Work Session

a. **Capital Improvements Program** – Discuss upcoming revisions to the Capital Improvements Program. (Roger Hildebeidel)

Mr. Hildebeidel reviewed the staff report and the County's approach to Capital Improvements.

Mr. Rieley asked if the larger court facility's renovation and expansion would be deferred farther into the future or would it be scaled back.

Mr. Hildebeidel replied that that was largely undefined at this time.

Mr. Rieley asked where the $250,000 total commitment came from for the animal shelter.

Mr. Hildebeidel said that it was derived from conversations with the City, the County and the SPCA. He said that a substantial amount of the funding would come from private sources.

Mr. Craddock said he thought the County sends money to their operating budget for fees.

Mr. Hildebeidel said that the SPCA is contracted to run the County's animal shelter.

Ms. Hopper asked what the Crozet kitchen was.

Mr. Hildebeidel replied that it was for kitchen improvements at Crozet Elementary.

Mr. Loewenstein thanked Mr. Hildebeidel for the report.

New Business

Mr. Cilimberg for a commissioner to review the proposals for the Crozet Master Plan design project. Mr. Rieley and Mr. Edgerton both agreed to review the proposals.

Mr. Cilimberg discussed the possibility of a trip to West Palm Beach; Fl to look at a project called City Place that the developer of the Sperry property developed.

Mr. Loewenstein said that the March work schedule was jam packed. He thought that the March 5th meeting was overloaded.

Mr. Cilimberg said that the first four items have been given public notification. He said that the work session could move. He suggested scheduling the work session for 4:00 p.m.

Mr. Loewenstein agreed.

There being no further business, the meeting was adjourned at 8:30 p.m.

_____

V. Wayne Cilimberg, Secretary

Recorded and transcribed by Lynda Myers, Recording Secretary