**Albemarle County Planning Commission**
**April 15, 2003**

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 15, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Jared Loewenstein; Rodney Thomas; Pete Craddock; Tracey Hopper, Vice-Chairperson; Bill Edgerton and William Rieley, Chairman. Absent was William Finley.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Greg Kamptner, Assistant County Attorney; and Steven Waller, Senior Planner.

***Call to Order and Establish Quorum***

Mr. Rieley called the meeting to order at 6:00 p.m.

***Other Matters Not Listed on the Agenda from the Public***

Mr. Rieley invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded.

***Consent Agenda***

**Approval of Planning Commission Minutes** – February 25, 2003.

Ms. Hopper moved for the approval of the consent agenda.

Mr. Loewenstein seconded the motion.

The motion carried (6:0). (Finley - Absent)

***Items Requesting Deferral***

**SP-02-56 Canaan Church (Sign #53)** - Request special use permit to allow a 200-member church, in accordance with Section 10.2.2.35 of the Zoning Ordinance, which allows for churches. The property, described as Tax Map 80 Parcel 21, contains 6.903 acres, and is located in the Rivanna Magisterial District on Rt. 744 (860 Hacktown Road), north of I-64 and east of Keswick Road (Rt. 731). The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Joan McDowell) ***APPLICANT REQUESTS DEFERRAL TO MAY 20, 2003.***

Mr. Rieley opened the public hearing and asked if anyone would like to address this issue. There being none, he closed the public hearing to bring the matter back to the Commission for action.

Mr. Edgerton moved to approve the applicant's request for deferral of SP-02-56 to May 20, 2003.

Ms. Hopper seconded the motion.

The motion carried unanimously (6:0). (Finley - Absent)

Mr. Rieley stated that SP-02-56, Canaan Church, was deferred until May 20, 2003.

***Public Hearing Items***

Mr. Rieley stated that they have several public hearing items that are so similar that the Commission will hear them as a group, but take separate actions.

**SP-03-21 Bucks Elbow Mountain/County of Albemarle – Extension (Sign #28, 29)** - Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing an existing 100' communication tower, which was allowed a 20-foot increase in the height. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 39, Parcel 1B1, contains approximately .23 acres, zoned RA Rural Areas. This site is located off Rt. 611 (Jarman's Gap Road), on Buck's Elbow Mountain, in the White Hall Magisterial District. The Comprehensive Plan designates this property as Rural Area 1. (Stephen Waller)

**SP-03-22 Carters Mountain/Crown Orchard – Extension (Sign # 36, 52) -** Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility with a 250 foot high lattice tower. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 91, Parcel 28, contains 234.165 acres, zoned RA, Rural Areas. This site is located in the Scottsville Magisterial District, on Carter's Mountain Trail, approximately 1 mile south of the intersection with Rt. 53 (Thomas Jefferson Parkway). The Comprehensive Plan designates this site as Rural Area 4. (Stephen Waller)

**SP-03-23 ECC Tower/UVA Extension (Sign #83)** – Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility with a 110 foot high monopole tower. This application is being submitted in accordance with Section 13.2.2.6 of the Zoning Ordinance, which allows microwave and radio wave and microwave transmission towers and their appurtenances by special use permit. The property, described as Tax Map 60, Parcel 30F, contains approximately 2.073 acres zoned R-1, Residential and is located on the south side of Rt. 250 (Ivy Road), adjacent to the Route 250/29 Bypass, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Institutional in Neighborhood 6. (Stephen Waller)

**SP-03-24 Fan Mountain/UVA Extension (Sign #67, 68)** - Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing a 120-foot tall self-supported, lattice communication tower replacing a 120-foot tall guyed tower. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 109, Parcel 60, contains approximately 111.5 acres, zoned Rural Area District (RA). This site is located in the Scottsville Magisterial District on Fan Mountain Road approximately 4.5 miles from the intersection with U.S. Route 29S, past the University of Virginia's Fan Mountain Observatory. The Comprehensive Plan designates this property as Rural Area 3. (Stephen Waller)

**SP-03-25 Klockner Stadium/UVA Extension (Sign #14)** - Request to amend an existing special use permit by extending the period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing an existing 105 foot high

stadium light pole. This application is being submitted in accordance with Section 13.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 76A, Parcel J3, contains approximately 30.4 acres zoned R-1, Residential and is located in the Jack Jouett Magisterial District at Klockner Stadium. The Comprehensive Plan designates this property as Institutional in Neighborhood 7. (Stephen Waller)

Mr. Waller stated that on April 18, 2000, the Board of Supervisors granted approval for five special use permits to allow the Emergency Communications Center to construct a County-wide communications system for the public 911 services. The County of Albemarle, the City of Charlottesville, the Charlottesville-Albemarle Airport and the University of Virginia will provide this communications system. At its January 9, 2002 meeting, the Board of Supervisors granted approval for the sixth County facility for that system at Peter's Mountain. The applicant, which consists of the Emergency Communications Center, has began to undertake some licensing and environmental assessment processes for the Federal Communications Commission and for the Virginia Department of Historic Resources. In going through those processes, they found that they have not been able to keep on schedule with the construction of the first five facilities that were approved. At this point, they are requesting approval of an extension to allow additional time to construct all six of those facilities, including the Peter's Mountain Facility, with consideration for the time that it would take to finalize their licensing for Peter's Mountain. Staff has reviewed this request and found that there are no significant changes in the circumstances from the original time when these five facilities were approved outside of the additional approval for the sixth facility. In addition to the request to allow an extension of the period of the validity for the first five facilities that were approved, the applicant is also requesting permission to allow an increase of 6 feet for the equipment buildings at the Carter's Mountain Facility and the Fan Mountain Facility. In their original approvals, they were approved at 12 feet by 26 feet and they would like the ground equipment now to be allowed at 12 feet by 32 feet. Page 2 has a minor error in stating that as being originally approved for 12' by 32' and now being requested for 12' by 26'. He noted that it should be the reverse of that. The true size of what they want to build is reflected on the plans that are attached on pages 27 through 30. The size of the buildings that they want to use are also identical as that which was approved for the Peter's Mountain Facility back in January of 2000. Staff has recommended approval of this request with conditions that are very similar to those that were originally approved at the time that the special use permits were issued with an extension of up to two additional years. Also, keep in mind that the Peter's Mountain Facility would expire, if not constructed, or if construction has not begun, by January 9, 2002. He stated that he would be happy to answer any questions.

Mr. Rieley asked if there were any questions for Mr. Waller. He noted that when the Planning Commission heard these five special use permits previously in 2000, they heard them as a group and the Peter's Mountain Facility had not come to them at that time. He stated that a number of Commissioners asked if these five were in any way contingent upon the Peter's Mountain site, and they were assured that they were not and the system would work whether or not the following one was approved at Peter's Mountain. Now it seems like they are linked and that the delay in moving the Peter's Mountain Facility along has delayed the implementation of all of these. In fact, that has necessitated the request for an extension of the special use permits. He asked if that was accurate.

Mr. Waller stated that he was not sure as far as how the system itself would work. It seems that has been the case as far as the sequence of construction and Mr. Campagna could answer any detailed questions about how the up and running system would work. At this time, it appears that the applicant has attempted to wait until they were clear on everything before they began construction. They have gone through some of the processes as far as providing staff with the Certified Arborist Report and things of that nature as far as following in line with what was required with the special use permit.

Mr. Rieley asked why were they reviewing these as a new special use permit number rather than giving it an extension to the previously existing numbers. He asked if there was a legal reason for that.

Mr. Cilimberg stated that is the way Zoning processes these applications by giving them a new special use permit number.

Mr. Edgerton asked why condition # 2 was included for all of the applications since they have been signed off by an arborist.

Mr. Waller stated that they were included because they have not been constructed on the site and that there could be some type of change in the field. He pointed out that the Arborist reports have not been approved by the Director of Planning, and is something that would have to take place before a building permit could be issued for these.

Mr. Kamptner stated that when special use permits typically come back for an amendment or in this case an extension, the conditions that were originally approved are not being changed. The conditions continue so that the whole package is kept together.

Mr. Rieley asked if there were other questions for Mr. Waller. There being none, he opened the public hearing and asked if Mr. Campagna would like to address the Commission.

Wayne Campagna, Projects Coordinator for the Charlottesville-UVA-Albemarle County Emergency Communications Center, stated that he would like to just follow up on Mr. Waller's presentation. Clearly the extension request is a result of not only the licensing process for the Peter's Mountain site, but the lengthy amount of time it has taken them to work through a contract negotiation process with Motorola which was until the last day of last year. In that process part of the negotiation was that, they would not issue a notice to proceed at least until 120 days upon contract signing. Clearly, that 120-day period took us beyond the construction timeline. That was a factor in this along with the lengthy licensing process that they have gone through on Peter's Mountain. All six sites were actually tied together by the fact of that contract and that the contract for Motorola is for six communication tower sites and equipment to create a regional 800 MHz radio public communications system for all the entities within the geographical boundary of Albemarle County. It is linked in that respect. He noted that this system could be built and operated with these five sites, but it would not be at its optimum coverage. The Peter's Mountain site or other alternative sites that had been under discussion when they went through that process pointed out the fact that it would take a number of sites all together. When this was before the Commission two years ago, it was on the Peter's Mountain site. At that time, they pulled it out of the process because the particular tower site that they were looking at was under a lease with AT&T, which was not favorable. Therefore, they had to pull out of that negotiation. The intent has been all along to link all six sites together in the overall design of this radio communications system and to have the optimum system possible. At this point, he felt that the reason why they needed the extension has already been stated, and he would be happy to answer any questions.

Mr. Rieley asked if there were any questions for Mr. Campagna.

Mr. Thomas asked if the license has already been issued for the use.

Mr. Campagna noted that they have the license for these five sites. The license for Peter's Mountain has not been issued. Currently, they were waiting to hear from the FCC after a very lengthy process with them because of the presence of its being in a Federal Historic District and the environmental assessment implications that come with that process. That license application was accepted by the FCC in November of last year, but because of the implications it had to be advertised publicly to give anybody an opportunity to object to it if they so saw the need to. There

was actually two informal letters filed by the National Historic Trust and the Piedmont Environmental Council in objection to that. The letters were filed almost at the very end of the 30-day window of opportunity. We, as the applicant, have responded to their petition to deny the application within a 15-day period. The initial filers of letters had another 5-days to file a counter letter to that, which they did. All that said and done, this was taken under consideration by the FCC on February 11, 2003. Therefore, they have been waiting over 60 days to hear from the FCC on what their ruling will be for the Peter's Mountain site.

Mr. Rieley asked if there were any other questions for Mr. Campagna. There being none, he asked if there was anybody else who would like to address these five special use permits.

Jeff Werner, representative for Piedmont Environmental Council, stated that they don't offer any opposition to these requests. However, the PEC would like to make clear some of the facts that attributed to this delay. As you know, they have been often publicly and not so publicly pilloried for delaying this project. Also, they did not file a petition to deny the license with the FCC. The National Trust for Historic Preservation provided their own letter and they can answer to that. Their letter was a memo expressing some concerns, which was filed prior to the deadline in the appropriate manner. He pointed out that he wanted to make some things clear. As of March of 2001, the County was informed of the requirement of compliance with the applicable federal regulations relevant to the National Historic Preservation Act and the National Environmental Protection Act. This was repeated in greater detail in a memo from PEC to the County in August 2001. In September 2001, the County acquired a site on Peter's Mountain. On January 9, 2002, the County approved this tower proposal. On February 6th, one month later, an application was sent to the Department of Historic Resources to return their comments on February 25, 2002. The County Attorney's Office sent a draft memorandum of agreement to VDHR on March 12, 2002. On March 25th, VDHR responded that the draft MOA was not the correct document. On April 12, 2002, the County Attorney's Office was sent the letter from the FCC clearly outlining the necessary federal review process. On April 29th, the County forwarded a second draft of the MOA to VDHR. This draft contained several errors including reference to correspondence with a federal agency, Advisory Council on Historic Preservation, which had not yet occurred. When corrected for consultation with VDHR, the County released a third draft MOA on May 23, 2002. VDHR comments were made and a final fourth draft prepared and released on May 24th. On July 15th, VDHR agreed to the terms of the MOA. When the County got the documents right, it took VDHR six weeks to approve them. The last major part in the review process prior to the FCC licensing action is the completion of the environmental assessment. As of November 5, 2002, according to the FCC the ECC had not yet filed this application. This is unfortunate as federal guidelines suggest compliance with both NEPA and the NHPA and should be done concurrently. He was trying to say that there have been some delays here, but it has not been due to VDHR's action. He pointed out that they have repeatedly suggested to the County to get them involved early on in the process. When they were finally consulted with properly, it only took them six weeks to do it. He noted that the 200-foot buffer was very clearly marked on the other five towers, and he found it ironic that condition was not being upheld on the Peter's Mountain tower.

Mr. Rieley asked if anyone else would like to speak to these applications (SP-03-21 through SP-03-25). There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Ms. Hopper stated that she was in favor of approving the extensions with the changes to Fan Mountain and Carter's Mountain as recommended by staff.

Mr. Loewenstein concurred with Ms. Hopper.

Mr. Thomas concurred with Ms. Hopper.

Mr. Rieley stated that he did not vote in favor of the ECC tower at UVA the first time, and that it has not improved with age. Therefore, his votes would remain consistent with the last time.

Mr. Craddock concurred with the approval of the towers noting that he was disappointed in the whole way that this thing has come down with the delays. He pointed out that the proposal was sold to the Commission as an immediate need and project. He stated that he did not know if they were any closer to having this system and that within the next couple of years technology is advancing. He pointed out that the little Nextel phones work pretty well for their fire department. He stated that he was just disappointed in the whole process.

Mr. Rieley asked if anyone wanted to make a motion.

**SP-03-21 Bucks Elbow Mountain/County of Albemarle – Extension (Sign #28, 29)** - Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing an existing 100' communication tower, which was allowed a 20-foot increase in the height. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 39, Parcel 1B1, contains approximately .23 acres, zoned RA Rural Areas. This site is located off of Rt. 611 (Jarman's Gap Road), on Buck's Elbow Mountain, in the White Hall Magisterial District. The Comprehensive Plan designates this property as Rural Area 1. (Stephen Waller)

Ms. Hopper moved for approval of SP-03-21 with the conditions recommended by staff.

1. The site development shall be in substantial compliance with the plans titled "Bucks Elbow Mountain Site Plan and Elevations", prepared by Rivanna Engineering, dated 1-23-01; and,
2. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicle 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 installation associated with the pole and equipment building, 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 pole and equipment building. A special use permit amendment shall be required for any future tree removal within the two hundred (200)-foot buffer, after the installation of the subject facility.

Mr. Thomas seconded the motion.

The motion carried unanimously (6:0). (Finley – absent)

**SP-03-22 Carters Mountain/Crown Orchard – Extension (Sign # 36, 52) -** Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility with a 250 foot high lattice tower. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances by special use permit. The property, described as Tax Map 91, Parcel 28, contains 234.165 acres, zoned RA, Rural Areas. This site is located in the Scottsville Magisterial District, on Carter's Mountain Trail, approximately 1 mile south of the intersection with Rt. 53 (Thomas Jefferson Parkway). The Comprehensive Plan designates this site as Rural Area 4. (Stephen Waller)

Mr. Loewenstein moved for approval of SP-03-22 with the conditions recommended by staff.

1. The site development shall be in substantial compliance with the plans titled "Carters Mountain Site Plan and Elevations", prepared by Rivanna Engineering, dated 1-23-01 and last revised March 27, 2003; and,
2. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicle 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 installation associated with the pole and equipment building, 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 pole and equipment building. A special use permit amendment shall be required for any future tree removal within the two hundred (200)-foot buffer, after the installation of the subject facility.

Mr. Craddock seconded the motion.

The motion carried unanimously (6:0). (Finley – absent)

**SP-03-23 ECC Tower/UVA Extension (Sign #83)** – Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility with a 110 foot high monopole tower. This application is being submitted in accordance with Section 13.2.2.6 of the Zoning Ordinance, which allows microwave and radio wave and microwave transmission towers and their appurtenances by special use permit. The property, described as Tax Map 60, Parcel 30F, contains approximately 2.073 acres zoned R-1, Residential and is located on the south side of Rt. 250 (Ivy Road), adjacent to the Route 250/29 Bypass, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Institutional in Neighborhood 6. (Stephen Waller)

Ms. Hopper moved for approval of SP-03-23 with the conditions recommended by staff.

1. The site development shall be in substantial compliance with the plans titled "ECC Site Plans and Elevations", prepared by Rivanna Engineering, dated 1-23-01;
2. Landscape screening consisting of evergreen and deciduous trees shall be installed alongside and parallel to the Route 250 right-of-way, between the ECC building and the westernmost property line, subject to the approval of the Planning Director or designee; and,
3. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicle 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 installation associated with the pole and equipment building, 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 pole and equipment building. A special use permit amendment shall be required for any future tree removal within the two hundred (200)-foot buffer, after the installation of the subject facility.

Mr. Thomas seconded the motion.

The motion carried (5:1). (Rieley – No) (Finley – absent)

**SP-03-24 Fan Mountain/UVA Extension (Sign #67, 68)** - Request to amend an existing special use permit by extending its period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing a 120-foot tall self-supported, lattice communication tower replacing a 120-foot tall guyed tower. This application is being submitted in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances by special use permit. The property, described as Tax Map 109, Parcel 60, contains approximately 111.5 acres, zoned Rural Area District (RA). This site is located in the Scottsville Magisterial District on Fan Mountain Road approximately 4.5 miles from the intersection with U.S. Route 29S, past the University of Virginia's Fan Mountain Observatory. The Comprehensive Plan designates this property as Rural Area 3. (Stephen Waller)

Mr. Edgerton moved for approval of SP-03-24 with the conditions recommended by staff.

1. The site development shall be in substantial compliance with the plans titled "Fan Mountain Site Plan and Elevations", prepared by Rivanna Engineering, dated 1-23-01, last revised on March 27, 2003; and,
2. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicle 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 installation associated with the pole and equipment building, 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 pole and equipment building. A special use permit amendment shall be required for any future tree removal within the two hundred (200)-foot buffer, after the installation of the subject facility.

Mr. Loewenstein seconded the motion.

The motion carried unanimously (6:0). (Finley – absent)

**SP-03-25 Klockner Stadium/UVA Extension (Sign #14)** - Request to amend an existing special use permit by extending the period of validity and allowing a minor increase in the size of an equipment building for an emergency communication facility utilizing an existing 105 foot high stadium light pole. This application is being submitted in accordance with Section 13.2.2.6 of the Zoning Ordinance, which allows microwave and radio-wave transmission towers and their appurtenances, by special use permit. The property, described as Tax Map 76A, Parcel J3, contains approximately 30.4 acres zoned R-1, Residential and is located in the Jack Jouett Magisterial District at Klockner Stadium. The Comprehensive Plan designates this property as Institutional in Neighborhood 7. (Stephen Waller)

Mr. Thomas moved for approval of SP-03-25 with the condition recommended by staff.

1. The site development shall be in substantial compliance with the plans titled "Klockner Stadium", prepared by Harris Corporation, dated 10-18-00.

Ms. Hopper seconded the motion.

The motion carried unanimously (6:0). (Finley - Absent)

Mr. Rieley stated that the Board of Supervisors would hear the special use permits on April 16th.

***Old Business***

Mr. Cilimberg stated that next week's meeting will begin at 4:00 p.m. in Room 241 with the public hearing on relegated parking. The regular meeting will begin at 6:00 p.m., which at this time only has one item.

***New Business***

There being no new business, the meeting proceeded.

***Adjournment***

With no further business, the meeting adjourned at 6:32 p.m. to the next meeting on April 22nd.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Recording Secretary.)