Albemarle County Planning Commission

The Albemarle County Planning Commission held a work session on Tuesday, July 22, 2003, at 4:00 p.m., at the County Office Building, Room 235, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Rodney Thomas; Bill Edgerton; and William Finley. Absent from the meeting were Tracey Hopper, Vice-Chairman, Pete Craddock and Jared Loewenstein.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Greg Kamptner, Assistant County Attorney; Steven A. Allshouse; Fiscal Impact Planner; and Elaine Echols, Principal Planner.

Mr. Rieley called the meeting to order at 4:15 p.m. He pointed out that a quorum was not present, but that the Commission could hold the work session without taking any official action.

Second Work Session:

ZMA-002-09: North Pointe PD-MC and SP-02-072: North Pointe Residential Uses –
Work session to discuss the nine outstanding issues relative to streams, topography, and a proposed school site, the proposed trail system and greenways, open space and amenities, the boundary with the rural areas, relegated parking, affordability, internal street character, physical design of the buildings, Route 29 impacts, and proffers. North Pointe is a requested rezoning of 269.4 acres from RA, Rural Areas to PD-MC with special use to allow a mixture of commercial and residential uses with a maximum of 893 residential units and approximately 664,000 square feet of commercial and office space use, approximately 177,000 square feet of public/semi-public use, and a 250 room hotel. (Elaine Echols)

Persons present for the application included: Chuck Rotgin, Don Wagner, Kristin Peura, and Ron Keeney of Keeney & Company, Architects.

Mr. Rieley stated that last week the Commission discussed North Pointe, but only got about mid-way in their discussion of the items put before them. Today, Steven Allshouse will give a presentation about this particular project's impact relative to the retail absorption capacity in the County. He pointed out that the applicant's will be given a chance to weigh in on this issue. After Mr. Allhouse's presentation, the Commission will go back to our list of items for discussion.

Ms. Echols summarized the staff report:

Background:
At the Planning Commission work session held on June 10, 2003, the Commission was concerned about the amount of retail space proposed in both North Pointe as well as in other place along Route 29 North. Albemarle Place proposed approximately 1 million square feet of commercial and office space. Hollymead Town Center proposes 575,000 square feet of commercial and office space with most of it being retail space. North Pointe proposes approximately 600,000 square feet of commercial space. Commissioners wished to know about the County's ability to absorb so much additional retail commercial space and asked for any information that was available.

The attached analysis is from Steven Allshouse, the County's Fiscal Impact Planner. In summary, Mr. Allshouse says that he believes that the County can absorb an additional 1 million square feet over the next ten years. This figure does not include any capture of the "leakage" to the Richmond or Northern Virginia markets which is extremely difficult to quantify. The report explains a previous estimate of "capture" and why Mr. Allshouse believes that the methodology to

develop that earlier estimate may no longer be reliable. (See the attached copy of the staff report that includes the reports.)

Steven Allhouse, the County's Fiscal Impact Planner, stated that the report was first done in 2001 when Albemarle Place was being discussed. The County had asked him to project how much retail space that the County could absorb in ten years. He pointed out that he produced two separate items that he included in the Commission's packet for reference. One is a memorandum dated October 22, 2001 titled Projected Demand For Retail Space in Albemarle County For the Years 2002-2011. The second memorandum is dated December 21, 2001, which was an addendum to that discussion. He pointed out that Ms. Echols came to him recently and asked for an update to this report because of several projects being discussed that included Hollymead Towne Center and North Pointe. Ms. Echols asked him to update the report to see if anything had changed. He stated that he completed a new analysis of the demand for retail space in the County and produced a report in a memo dated July 11, 2003 titled Update of Projected Demand For Retail Space In Albemarle County. He summarized his report:

- Albemarle presently has a little more than 4,700,000 square feet of retail space. By 2013, I estimate that this number will increase to roughly 5,700,000 square feet.

- Based on growth trends of the past ten years, this figure should increase by roughly 1,000,000 square feet (21%) by 2013.

(See the attached copy of the staff report that includes the reports.)

Mr. Edgerton arrived at 4:25 p.m.

The Commission discussed the report and asked questions of Mr. Allshouse.

Mr. Rieley asked if the applicants had anything to add regarding retail absorption.

Chuck Rotgin, of Great Eastern Management, stated that he had served on the Fiscal Impact Committee with Mr. Allshouse. He pointed out that there were some very significant issues with the Fiscal Impact Model and the outcome at this point was problematic. He pointed out that if time was available that they could pick apart Mr. Allshouse's theories, and he could probably do the same to his. He introduced Cecil Sears, an Economic Consultant from Richmond, who was with him and available for questions. He stated that it was beyond dispute and they should all agree that Albemarle County is woefully short of its fair share of retail sales. He presented a slide of the table that comes out of the Roundtree Draft of Fiscal Impact Report that will be provided to the County, but it has not been completed yet. He pointed out that the purpose of the table was to display where Albemarle County fits in with a comparison with other localities around the state. He provided financial information of which the Planning Commission asked questions. (He did not provide anything in writing.) He pointed out that his report indicates that there is a need for more retail space in Albemarle County. He stated that the location of the retail space was very important. He asked that they be treated fairly and in the same manner as the other pending projects. He pointed out that they are seasoned local shopping canter and apartment operators who have been in the business for thirty years. They understand the market and understand how the retail environment works. If they did not think there was a market for this, they would not be pursuing this request.

Mr. Rieley stated that they left off last week after the discussion about Pritchett Lane on page 5 of the staff report. The questions that they will come back to include:

- Should the Route 29 streetscape include a narrow landscaped strip between the back of the curb of Route 29 and a sidewalk with buildings facing the sidewalk?

- Should a different form of relegation take place, and if so, what should it be?

Ms. Echols stated that staff tried to break the plan down in to three areas of commercial. She pointed out that she failed to put relegated parking in the non-commercial sections or the multi-unit residential sections. The three commercial sections include:

- Area 1 is along Route 29.
- Area 2 is along the big box area or shopping center, which is located in the back.
- Area 3 is the town center, which is located in the middle.

In breaking this up, staff feels that the relegated parking needs to be discussed for each of these sections. She asked the Commission to discuss the different ways to handle the relegated parking depending on the location of the streets. To date, staff has not come up with what they feel the most appropriate streetscape for Route 29 should be. In absence of that, staff is putting something out as a possibility for discussion. She stated that to relegate parking along this area of Route 29, they need to get pedestrians off Route 29 a little bit. She suggested potentially putting in a green strip between the back of the curb on Route 29 by suggesting an urban section at the back of the curb with a green space in there of 10 or 15 feet and then a sidewalk. Then the relationship of the buildings to the sidewalk would be what would be emphasized rather than the parking in front of the buildings. That is what staff is suggesting in through here. Staff would like to know what the Commission thinks about this. She pointed out that was not what was shown on the current plan. She stated that some people do jog on the sidewalk.

Mr. Keeney questioned whether that sidewalk should be located next to Route 29.

Mr. Thomas stated that he liked the green strip, but questioned what Route 29 would be in the future. If Route 29 becomes a boulevard or if VDOT makes an overpass, then the traffic would go so fast that it would be scary to use the sidewalk.

Ms. Echols stated that currently Route 29 is trying to service two functions: (1) To handle through traffic function, and; (2) To handle local function. She noted that it would probably continue to do that unless there is another solution is reached. She pointed out that they have learned from Hollymead Towne Center that it will not be two lanes, but actually four lanes.

Mr. Thomas favored having a green space area, and suggested that they not allow VDOT to decide what they wanted in Albemarle County.

Mr. Edgerton stated that he would like to see some green relief between the dual functioning Route 29. He noted that this project might be built before the infrastructure was put in. He favored putting the green space with trees and a sidewalk away from the tractor-trailers for safety purposes. He pointed out that he did not understand the need for the parking spaces between the buildings and Route 29. He asked if the applicant could have a façade-facing Route 29 that would architecturally give some buffer to the large parking in the back and front of store.

Mr. Keeney asked if he was saying to use those buildings as the buffer for the building behind them.

Ms. Echols asked if there was a single row of parking along there.

Mr. Keeney stated that they did on this plan, but pointed out that they had offered three or four different scenarios because it was unclear what the County wants. He stated that they put in a little bit of parking all the way around the building in order to reduce the sea of parking behind the building. He pointed out that they were caught between two roads, and asked how they would

relegate the parking from both roads.

Mr. Finley asked what the real purpose was for the sidewalk?

Ms. Echols stated that the sidewalk was to walk from center to center and for the relationship from the building to the street.

Mr. Finley stated that the sidewalk would get them down to the building.

Mr. Keeney pointed out that they removed the pedestrian element from Route 29 because of the high speed of the cars and put in a path in the green space. He stated that the applicant would be happy to put in a green space. He stated that all of these, with certain topographical conditions, could be adjusted all the way out to Route 29 or they could be pushed back to the spine road depending on what road you are trying to relegate parking away from.

Mr. Edgerton asked if a bike lane would be part of that.

Mr. Keeney stated that they could internally, but not on Route 29.

Mr. Rieley stated that this was not as clear as some of the others because of the existing character of Route 29. However, he felt that they were at the point where they have to try to change that character.

Mr. Rieley supported the sidewalks that should be linked with the street trees and streetscape.

Mr. Thomas supported the first bullet.

Mr. Rotgin asked if Hollymead was required to have sidewalks.

Mr. Benish stated that they did not get sidewalks with the proffers for Hollymead, but instead they were presented with two new lanes.

Mr. Rieley pointed out that there was a big embankment at Hollymead.

Mr. Graham stated that there were many questions. He pointed out that there were two lanes with one lane going on the inside and the other lane that would go on the outside. Due to the issues with the terrain, it is a possibility that both lanes might have to go on the inside, and to do any kind of walkways, retaining walls along Route 29 would have to be used to make it work.

Mr. Rieley stated that the consensus of the Board was yes for bullet number one, and they did not need to go into any alternatives. He stated that regarding Area 2 relative to the spine road, the issue had a caveat that their discussion of this should not per-suppose that this general configuration is something that we should do again if major redesigns are necessary. These are not minor twits but general principles and apply to any roads. The next bullets are:

- Should the buildings be brought up to the street and made accessible form the sidewalk?
- Should a different form of relegation take place and if so, what should it be?

Ms. Echols stated that the issue of the location of the spine road would be discussed further with the issue of transportation. VDOT would like to be sit down and talk with the applicant a little bit more about their problems in this particular area. The access that is shown on the plan is the elite road, which is being set up as a public road. There are some big issues with the distance between that intersection and Route 29. The applicant and VDOT need to talk a little more about that. She stated that it was probably safe to say that at some point along that end of the property

that there should be a connection into Profit Road. There probably will be a road that will come through there in some form or fashion. If commercial is to be in this end, even noncommercial, what should the relationship be between the buildings and the road that will provide access all the way to Proffit. She stated that the caveat that Mr. Rieley just provided is a very good one because there does not necessarily have to be a great big commercial center where it is and it does not have to be in this configuration. The question remains the same. Should the buildings come up to the spine road wherever it is located or should it act more of a parking lot road and let the parking lots come off of that as if it were a driveway? It would be very hard for that to be a public street. Staff firmly believes that the buildings ought to be what you see or the parking should be behind the plane of the buildings. There should be buildings up along that street and not stretched back from it. That means that there needs to be a reconfiguration of that entire area.

Mr. Thomas asked if the buildings were built into the hill.

Mr. Keeney stated that they were built into the hill, particularly in the one corner.

Mr. Thomas asked if he could move the buildings to the street and put the parking lot back in that area or the parking behind the buildings.

Mr. Keeney stated that with a retaining wall because this building was about 12 to 15 feet into the grade. If they moved the building and put the parking in the back, then they would have to build a retaining wall there for the parking. He pointed out that they would be looking at the retaining wall.

Mr. Rieley suggested that they bring a sketch back.

Mr. Keeney stated that it was easier to build a building back into the bank.

Mr. Edgerton requested to see a redesign that would respect what they had asked for here as far as the buildings to address the streets. He asked that the applicants attempt to do this with a different approach.

Mr. Rotgin stated that they were certainly cognitive of the Commissioner's feelings. He pointed out that there was a letter on file from prime tenants that says that they will not come if the parking is relegated. He pointed out that this was really no different from Hollymead or the north section of Albemarle Place, and they just want to be treated fairly.

Mr. Rieley stated that he felt that they had buildings in locations that don't fit the topography, that don't fit the relationships to the roads that they are looking for, and that it was going to require stepping back and reorganizing the plan. He pointed out that they were not going to achieve that by taking the same plan and pushing little things around. He pointed out that the largest building was in the most difficult location demographically that was one of the apparent examples of that. The point is that there is a building in a location that requires putting it in a hill or moving it 200 feet to the north where it could be done easily.

Mr. Edgerton agreed with Mr. Rieley. He stated that with no disrespect for the applicant's efforts, he sees this as a test to the Neighborhood Model that the County is trying to encourage the development mode to go to. Once he pulls back and looked at the big picture, of which staff has done a wonderful job putting together, we have a piece of property here that has 51 development rights right now. This property is zoned for rural development. What that is being asked for is about a 6,000 increase in use and what they are being presented with is a very traditional development. He pointed out that this project did not have a master plan as Hollymead did.

Mr. Rieley stated that there was not a unanimity opinion about this. They need to go to bullet 2 because in Area 2 they do not have a unanimous opinion. For those who think that having the building space where the street is was not appropriate in this, then the question is which one should the relegation take? He stated that it probably does not. If you feel that that it is alright to have the buildings back from the road, then are we giving up on relegated parking altogether or is it a different form that relegation will take.

Mr. Thomas stated that the applicant has the option of moving the larger buildings closer to the spine road, but he favored the buildings being back like they are. Due to the terrain problem, he did not think that all of the buildings should be moved forward.

Mr. Finley stated that he had no set feeling either way. He asked what would be more practical and feasible in constructing those large buildings on the hillside.

Mr. Rieley asked Mr. Rotgin if he had anything to add.

Mr. Rotgin stated that Area 3 which was the towncenter and bullet 3. He stated that the towncenter was really their effort to integrade the pure Neighborhood Model in Northe Point. Their desire was to have a fully integraded community with people who live, work, play and shop. One area uses vertical integration with mixed uses.

Mr. Rieley stated that he was discussing some areas that the Commission has not discussed tonight. It was obvious that they did not finish their list of questions and they were going to have continue this work session. He pointed out that he would give ample time to Mr. Rotgin to finish at the next session.

Mr. Cilimberg stated that the next work session would be scheduled as soon as possible.

In Summary:
The Planning Commission held a work session to discuss outstanding issues relative to streams, topography, a proposed school site, the proposed trail system and greenways, open space and amenities, the boundary with the rural areas, relegated parking, affordability, internal street character, physical design of buildings, Route 29 impacts, and proffers. In response to the Commission's request about the County's ability to absorb the additional retail commercial space, Steve Allshouse, Fiscal Impact Planner, made a presentation. He presented an updated report dated July 11, 2003 that projected the demand for retail space in Albemarle County during the course of the years 2004 through 2013 inclusive. Chuck Rotgin, of Great Eastern Management, made a presentation concerning the fiscal impact and the amount of retail commercial space that could be absorbed by the County. He pointed out that Cecil Sears, an Economic Consultant from Richmond, would be available for questions. The Commission discussed the various methods of determining the retail absorption capacity in the County and then continued the discussion questions from the previous work session starting with relegated parking. No formal action was taken. Another work session will be scheduled in the future to finish the discussion of the major points.

The meeting adjourned at 5:55 p.m. for a dinner break.

The meeting reconvened at 6:14 p.m. for the regular meeting in Room # 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, July 22, 2003 at 6:00 p.m. at the County Office Building, Room 241, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas; Bill Edgerton; William Rieley,

Chairman; and William Finley. Absent were Tracey Hopper; Vice-Chairman; Jared Loewenstein; and Pete Craddock.

Other officials present were Wayne Cilimberg; Director of Planning & Community Development; David Benish; Chief of Community Development; Stephen Waller, Senior Planner; Elaine Echols; Principal Planner and Greg Kamptner, Assistant County Attorney.

Call to Order And Establish Quorum

Mr. Rieley called the meeting to order at 6:14 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 - June 3, 2003 and June 17, 2003.

Mr. Thomas moved to approve the consent agenda as presented.

Mr. Edgerton seconded the motion, which carried unanimously (4:0). (Hopper, Loewenstein, Craddock - Absent)

Public Hearing Items:

Mr. Rieley stated that there are several public hearing items. He asked Mr. Waller if he wanted to give a presentation on all of these requests, and then the Commission would take separate actions.

Mr. Waller stated that he would do three presentations. He pointed out that he would take care of the last seven requests with one presentation and separate the first two. Basically they are all for the exact same equipment going in on similar types of facilities that are being used by one personal wireless personal provider.

SP-03-26 Clear Channel Broadcasting Amendment (Sign #10 & 11) – Request for a special use permit to allow the co-location of an array of nine (9) additional antennas at approximately 155 feet on an existing 180-foot tall lattice tower, with three (3) additional ground equipment cabinets. This request 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 their appurtenances in the Rural Areas. The property, described as Tax Map 46, Parcel 15, contains approximately 10.31 acres, zoned RA, Rural. This site is located in the Rio Magisterial District, west of U.S. Route 29 North on Rt. 643 (Rio Mills Road), approximately 1/2-mile north of South Fork of the Rivanna River. The Comprehensive Plan designates this property as Rural Areas 1. (Stephen Waller)

Mr. Waller summarized that staff report as follows.

- Staff requests that the name on the special use permit application be changed to Clear Channel (Omnipoint). The applicant is proposing the co-location of one new array of antennas consisting of nine new antennas mounted at the approximate top height of 155 feet on a 180-foot tall lattice tower. The applicant is also requesting approval to install three equipment cabinets that would be approximately 5 feet in height on a 10' X 20' concrete pad

with an existing fence compound. The tower for this facility is owned by the American Tower Corporation and has been located on property that is owned by Clear Communications. The site of this last tower is also shared with five other guide towers that are used for Clear Communications radio broadcast. Although this site is located outside of the Entrance Corridor Overlay District, the tallest portions of the tower are visible from various points along Route 29 and also from other public roads and properties surrounding it. But because of its proximity to the Entrance Corridor, it is staff's opinion that certain conditions that were recently recommended by the Architectural Review Board for another Omni-Point proposal, which was approximately 2 ½ miles north, should be applied to this application. The reason for the recommendation to implement those conditions is that the application is for the use of mounting brackets as opposed to the flush mounting of the antenna array on this site. At the time when the ARB reviewed that similar request, which was the site located on Airport Road, the ARB recommended that because these antennas were not flush mounted that the owner of the tower be limited to allowing a maximum of 4 co-locations on that tower. He stated that he would be happy to answer any questions from the staff report.

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

Mr. Thomas asked if the other five towers that are located in that area are required to have lighting on top of the tower, and if not, why would this not be required.

Mr. Waller stated that it was because the height is so much lower than the other ones. The other towers are closer to 250 feet in height. This tower was built at 180 feet when it was originally done. In 1987, the tower was approved with a maximum height of 200 feet, but when they installed the tower, they found that they only needed the 180 feet.

There being no further questions for Mr. Waller, Mr. Rieley opened the public hearing and asked if the applicant would like to address the Commission.

Mike Buddy, representative for Omnipoint Communication, stated that the staff report does a nice job of summarizing the application. All of the details are included in the staff report. This particular installation will complement the previous two that he had brought before the Planning Commission this year. He stated that the two sites included the previously mentioned Airport Road site and the Piney Mountain site. He pointed out that this would complete Omnipoint's near term build out on Route 29 entering Albemarle County. He stated that he would be happy to answer any questions.

Mr. Rieley asked if anyone else would like to address SP-03-26, Clear Channel Broadcasting Amendment. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Thomas asked for some clarification since there are five other towers in the same area. He asked if the towers would be in the way of any right-of-ways that would be coming through that area. He asked if they were creating a tower farm in an area that possibly will be used for a road.

Mr. Waller stated that he had seen some of the maps from the Comprehensive Plan that shows a possible parallel road to Route 29 in that area. Due to fact that the structures were existing, he thought this was more of a situation where they would cross that road when they get to it.

Mr. Cilimberg stated that there was a potential that there would be a road extension, and they have talked about the possibility of the road coming through this area. He noted that again it would have to take into account the existing structures that are there if the roads are constructed.

Mr. Rieley stated that a building or anything else could be moved.

Mr. Thomas pointed out that he knew of one project that they voted on that was a subdivision just south of Forest Lakes South which was dead center in the middle of the proposed Meadow Creek Parkway Phase 2.

Mr. Cilimberg stated that came to the Commission as a subdivision and the most that they could require was a note on the deed.

Mr. Waller stated that the Airport Road tower request had an additional condition added that if the parallel road was extended from the Hollymead Town Center that the applicant would install additional landscaping to the satisfaction of staff to screen the ground equipment from the road. He noted that could be something that they could go back in the records if they wanted to add that condition.

Mr. Rieley and Mr. Thomas supported adding that condition.

Mr. Finley moved for approval of SP-02-26 for Clear Channel Broadcasting Amendment with the conditions recommended by staff with the condition that the ground equipment be screened as articulated by Mr. Waller.

(In the event, that the Board chooses to deny this application staff offers the following comment: In order to comply with the provisions of the Telecommunication Act, staff requests consensus direction from the Board regarding the basis for denial of the application and instruction to staff to return to the Board with a written decision for the Board's consideration and action.)

Recommended conditions of approval:

1. All work shall be done in general accord with that described in the applicant's request and site construction plans, entitled "Omnipoint (ATC-Charlottesville)", last revised on February 5, 2003.

2. The tower shall not be increased in height.

3. The additional array of panel antennas may be attached only as follows:
   a. All equipment attached to the tower shall be painted to match the color of the tower. The cables extending from the ground equipment may remain black.
   b. The antennas shall not exceed seven (7) feet in height and two (2) feet in width.
   c. The antennas shall be set at the minimum distance that is allowed by the mounting equipment, and in no case shall any of the new antennas project from the structure to a distance that is greater than that of the existing antennas.
   d. The antennas and dishes attached to this tower may be replaced administratively, provided that the sizing, mounting distances and heights of the replacement equipment are in compliance with these conditions of approval and in accordance with all applicable regulations set forth in Section 5.1.40 of the Zoning Ordinance. The note on page C-2 of the construction plans, which implies that the size and height of the antennas may be adjusted to meet RF requirements, shall be deleted from the construction drawings or amended to remove this consideration for size and height.

4. With the exception of any safety lighting required by Federal Aviation Administration regulations, outdoor lighting shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire that is not required for safety

shall be fully shielded as required by Section 4.17 of the Zoning Ordinance.

5. No existing trees within 200 feet of the facility shall be removed for the purpose of installing the proposed antennas or any supporting ground equipment.

6. The current owner and any subsequent owners of the tower and its supporting facilities shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.

7. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

8. The tower shall be limited to a total of four (4) vertical arrays of panel antennas. No additional relay, satellite or microwave dish antennas shall be permitted on the tower without an amendment of this special use permit.

9. This special use permit must be amended to allow either of the two existing arrays of panel antennas to be:
   (a) relocated on the structure;
   (b) modified to increase the number or size of panel antennas; or,
   (c) modified to increase the distance of the panel antennas from the structure.

10. No existing trees within 200 feet of the facility shall be removed for the purpose of installing the proposed antennas or any supporting ground equipment. Should any of the trees within 200 feet of the tower be removed for the purpose of creating a public or private right-of-way, the party or company holding the tower in ownership shall install trees to adequately screen the facility's ground equipment from adjacent properties and roadways.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Craddock, Hopper, Loewenstein – Absent)

Mr. Rieley stated that the SP-03-26 would go to the Board of Supervisors with a recommendation for approval.

SP 03-33 Orrock (Ntelos) (Sign #23) - Request for an extension of the period of validity for an existing special use permit that was approved to allow the installation of a personal wireless service facility with a 95-foot tall steel monopole and related ground equipment. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance which allows for microwave and radio wave transmission and relay towers in the Rural Areas. The property, described as Tax Map 92, Parcel 5, contains approximately 15.61 acres and is located in the

Scottsville Magisterial District off of State Route 53, approximately 1/8 mile west of the intersection with Rt. 732 (Milton Road). The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

Mr. Rieley pointed out that this was a request for an extension for the period of validity for an existing special use permit.

Mr. Waller summarized the staff report as follows:

- He asked to make one correction to the background section in the first paragraph. In the history section, SP-2000-77 should be listed as Orrock (Triton), which was a Triton facility when it was originally approved on the property directly north of the site. Even though it was not on the exact same property, it was listed for background because it was in close proximity to this tower. The balloon test was part of the early discussion when this site was originally approved.

- The applicant has indicated this request for an extension is in response to some delays that the applicant's company has faced due to the state of the economy and the state of the telecommunications industry. The applicant stated that in their requests that the financial restraints did not make the installation of that site feasible at this point.

- Despite those issues, the applicant has attempted to satisfy some of the requirements that were set with the original special use permit. This includes the submittal of a tree conservation plan prepared by a certified arborist and also the completion of a falls zone easement on an adjacent property. Because the applicant is requesting approval of a facility that would be in the same location and it would have virtually the same equipment, staff has reviewed this petition for the reapproval of the special use permit which would actually result in a two-year extension. Staff's recommendation for approval of this request is being made with the consideration for the current format of the standard conditions. In consideration if that, staff has updated the recommended conditions to reflect those conditions that are currently being used as opposed to the ones they were using two years ago.

- Staff has noticed in the conservation plan that the two tallest trees within 25 feet of the site have actually been recommended for removal by the arborist. While looking at the conditions, the Zoning and Planning staff added a few additional conditions that would allow the applicant to move the facility and to make minor amendments of the facilities within the existing lease area that has been delineated on the plans. In addition, it would also require an amended certified arborist report to take into consideration the updated location of the pole if the applicant chose to move the pole as opposed to cutting those trees down. The applicant would then have to come down to 7 feet of the next tallest tree within 25 feet. Staff has also added a condition that would require the submittal of two additional arborist reports within three years of the completion of the facility and again within six years of the completion of the facility. The reports need to give an account of the health of the two tallest trees to ensure that the construction that was done when the facility was installed did not cause the death of those trees or any substantial decline in the health of those trees. He stated that he would be happy to answer any questions.

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

Mr. Finley asked what would happen if the trees were in trouble.

Mr. Waller stated that if the health of the trees as designed have declined to a point that the arborist can't recommend any type of remedy, then staff's recommendation would be that the

applicant would have to apply for an amendment to the existing special use permit. The main reason for that is when they reviewed the special use permit two years ago, staff based their recommendation on the height of the balloon test that took those trees in consideration. If those trees are gone or even if they were to rely on the next tallest trees within twenty-five feet, there is no way of telling whether or not it would be all right. By amending the special use permit, it would give staff the opportunity to require a new balloon test and have all of that information in hand when they make their recommendation.

Mr. Rieley asked if there were other questions for Mr. Waller. There being none, he opened the public hearing on SP-03-33 and asked if the applicant would like to address the Commission.

Debbie Balser, representative for Ntelos, stated that they were applying for an extension of their existing special use permit. She pointed out that staff had covered everything that she was going to say. After contacting the arborist regarding condition # 5, they found that the excavation only has to be moved several inches so that tree will not have to come down. The arborist suggested that they take three times the diameter of the tree, and then the excavation has to be that many inches from the tree. She noted that they would work very diligently with the arborist to ensure that they are well within that area so they do not have to remove any of the trees. Condition # 3 states that the diameter of the pole shall not exceed thirty (30) inches at its base, and eighteen (18) inches at the top. The Board was gracious enough to grant an exception when they granted the special use permit so that they could use an existing pole that they had in their inventory so that they don't have to purchase another pole. She noted that they still have that pole that they have been holding to use at this particular site and ask that same exception be allowed this time. If they have to go out and purchase a new pole that meets those dimensions, and then they would have to spend quite a lot more money, which could delay their construction further. Depending on the budget approval process that takes place in early 2004, they hope to construct the site in 2004. She respectfully requested that the Commission approve the extension.

Mr. Edgerton asked what the size was of the existing pole.

Ms. Balser stated that the existing pole was 50 inches at the base and 20 inches at the top with the same height.

Mr. Thomas asked if the Board of Supervisors had approved the pole, and Ms. Balser stated that was correct.

Mr. Rieley asked if there were any questions for Ms. Balser. There being none, he asked if anyone else would like to address SP-03-33. There being none, he closed the public hearing to bring the matter back to the Commission for discussion.

Mr. Thomas asked if they had anything in writing to indicate that the Board of Supervisors approved the pole.

Mr. Cilimberg stated that would be in the Board's action letter, which was Attachment B and listed in condition 2(I).

Mr. Rieley supported the application with all of staff's recommendations. He pointed out that he did not understand the thought behind the accommodation of the pole that happens to be in stock since it could set a bad precedent. This pole would be a lot more visible. He noted that this site was down the hill from Monticello. He stated that he did not support having larger poles just because they happen to be in stock.

Mr. Edgerton asked staff why he went along with that.

Mr. Waller stated that in going over the application with Ms. Sprinkle of the Zoning Department, they both felt that since they started using the standard conditions that this was the only request that had been granted a waiver. Since it has been nearly two years, staff's opinion was that the standard condition should be applied as has been applied in all similar cases with metal poles afterwards.

Mr. Thomas asked if they were reapplying or if this was an extension.

Mr. Waller stated that the request was for an extension to the special use permit.

Mr. Cilimberg stated that in reality that this is an extension of an approval that has already been made. He stated that this action would be a new action by the board and the conditions can be changed to meet current conditions.

Mr. Rieley stated that they have tried so hard over the last few years to standardize their conditions to make it easier for applicants, but also to be fair. He stated that if they start differing from that because of issues like what parts happen to be in stock, then that would be wrong.

Mr. Finley noted that it was originally approved two years ago.

Mr. Edgerton moved for approval of SP-03-33 to be consistent with staff's recommended conditions.

The facility shall be designed, constructed and maintained as follows:

1. With the exception of any minor changes that would be required in order to comply with the conditions listed herein, the facility including the pole, the ground equipment building, and any antennas shall be sized, located and built in general accord with the application plan entitled, "Orrock (CV 327)", and dated July 12, 2003.
2. The total pole height shall include any base, foundation or grading that raises the pole above the pre-existing, natural ground elevation.
3. The diameter of the pole shall not exceed thirty (30) inches at its base, and eighteen (18) inches at the top.
4. The top of the pole, as measured Above Sea Level (ASL), shall never exceed seven (7) feet above the top of the to of the tallest tree within 25 feet. This condition currently refers to the 89-foot tall tree, which is identified as number 37 in the construction plans. In no case shall the pole exceed 95 feet in total height without prior approval of an amendment to this special use permit or personal wireless facility permit.
5. If the tree identified as number 37 dies, or is removed or damaged beyond any reasonable form of remedy that can be recommended by a certified arborist, the maximum pole height shall either be reduced to meet the limitations set in condition number 4, or an amendment to this special use permit shall be filed within 90 days.
6. The monopole shall be painted a natural brown that is consistent with the color of the bark of trees surrounding the site.
7. The ground equipment cabinets, antennas, concrete pad and all equipment attached to the pole shall be the same color as the pole and shall be no larger than the specifications set forth in the application plans.
8. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
9. No satellite or microwave dishes shall be permitted on the monopole.
10. No antennas or equipment, with the exception of a grounding rod, shall be located above the

top of the pole.

11. No guy wires shall be permitted.
12. No lighting shall be permitted on the site or on the pole, except as herein provided. 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.
13. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Before the issuance of a building permit the following must be met:

14. Certification by a registered surveyor stating the height of the reference tree that has been used to justify the height of the monopole shall be provided to the Zoning Administrator.
15. Before beginning construction or installation of the pole, the equipment cabinets or vehicular or utility access, an amended tree conservation plan, developed by a certified arborist shall be submitted to the Zoning Administrator for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
16. With the Building Permit Application, the applicant shall submit the final revised set of site construction drawings for the facility. During the application review, planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.

After the completion of the pole installation and before the issuance of a Certificate of Occupancy or to any facility operation, the following shall be met:

17. Certification by a registered surveyor stating the height of the pole, measured both in feet above ground level and in elevation above sea level (ASL) using the benchmarks or reference datum identified in the application shall be provided to the Zoning Administrator.
18. Certification confirming that the grounding rod: a) height does not exceed two feet above the tower; and, b) width does not exceed a diameter of one-inch, shall be provided to the Zoning Administrator.
19. No slopes associated with construction of the facility shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the County Engineer are employed.

After the completion of the pole installation and issuance of a Certificate of Occupancy, the following shall be met:

20. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment on both the tower and the ground are associated with each provider.
21. The applicant, or any subsequent owners of the facility shall submit a report detailing the health and stability of the tallest tree within 25 feet of the monopole, prepared by a certified arborist, to the Zoning Administrator by July 1 in the years of 2006 and 2009. Within 90 days of submitting those reports, the owner shall be responsible for performing any additional tree

conservation and protection techniques as recommended by the arborist and approved by the Zoning Administrator.

22. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Thomas seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Rieley stated that SP-03-33 would go to the Board with a recommendation for approval.

Mr. Rieley stated that the following seven special use permits would be heard all together with separate actions.

SP 03-34 Wood (Triton PCS) (Sign #24) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 88, Parcel 26, contains approximately 71.34 acres and is located in the Samuel Miller Magisterial District on Rt. 745 (Arrowhead Valley Road), just east of U.S. Route. 29 South. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

SP 03-35 Jensen (Triton PCS) (Sign #25) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 62, Parcel 91, contains 3.01 acres, and is located in the Rivanna Magisterial District on Rt. 20 (Stony Point Road), approximately 3 miles from the intersection of Route 250 and Route 20. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 2 in the Comprehensive Plan. (Stephen Waller)

SP 03-36 Orrock (Triton PCS) Sign #28) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 92, Parcel 5A, contains approximately 15.61 acres and is located in the Scottsville Magisterial District off of State Route 53, approximately 1/8 mile west of the intersection with Rt. 732 (Milton Road). The property is zoned RA, and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

SP 03-37 Moyer (Triton PCS) (Sign #29) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 92, Parcel 56B3, is located in the Scottsville Magisterial District on Rt. 53 (1863 Thomas Jefferson Parkway), between Gobblers Ridge and Mountain Brook Drive. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

SP 03-38 Sweeney (Triton PCS) (Sign #30) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 94,Parcel 17, is located in the Scottsville Magisterial District on Rt. 53 (2670 Thomas Jefferson Parkway), east of State Route 729. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

SP 03-39 Winston (Triton PCS) (Sign # 33 & 36) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 106, Parcel 7 is located in the Scottsville Magisterial District on the north side of Rt. 53 (Thomas Jefferson Parkway) approximately 2,000 feet from the Fluvanna County Line. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 4 in the Comprehensive Plan. (Stephen Waller)

SP 03-40 Tomlin (Triton PCS) (Sign #40) - Request for special use permit approval to allow the installation of new ground equipment supporting new digital technology, E-911 services and the replacement of antennas at an existing personal wireless services facility. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers and their appurtenances in the Rural Areas. The property, described as Tax Map 75, Parcel 9, contains 10.326 acres, and is located in the Samuel Miller Magisterial District at 1064 Goodwin Farm Lane. Goodwin Farm Lane is off 29 South, approximately 2 miles south of I-64. The property is zoned RA, Rural Areas and EC, Entrance Corridor and is designated as Rural Areas 3 in the Comprehensive Plan. (Stephen Waller)

Mr. Waller summarized the staff reports.

- He stated that the applicant is requesting approval to replace antennas in seven sites owned by Triton Communications throughout the County. The equipment would support upgrades in their digital technology and E911 services as well as the installation of a 2-foot long, ¾ inch diameter GPS antenna. The applicant would be replacing existing antennas with larger antennas, all of which would be 4 ½ feet in length and 1 foot in width with 4 inches in depth. All of these antennas would be flush mounted on existing tree top monopoles that are again currently located throughout the County.

- Staff recognizes that the Board of Supervisors approved seven similar special use permits at the May 7th meeting. Several other requests were allowed by right because all of the ground equipment could be installed on existing concrete pads and all of the antennas were

decreasing in size. With those decreases, the sizes of those antennas were still consistent with what is being requested at this time.

- Each of these facilities were established in accordance with the Tier II of the Wireless Policy and none of the proposals will require an increase in the height of the monopoles that have already been constructed. Staff recognizes that several plans need to be amended to show that none of the antennas will extend above the tops of the monopoles and that the antennas will be attached to meet the current definition of flush mounting. The antennas need to be 12 inches from the face of the pole to the face of the panel antenna.

- All of these proposals are for the amendment of existing facilities and have already been allowed by the special use permit in process. It is also staff's opinion that none of them would require any significant disturbance outside of the areas that are immediately surrounding the equipment pads. However, there is a condition that would address those concerns if that were not to be the case with some of the sites. In the conditions, he pointed out that condition # 1 for three of the sites should be the title of those plans to be changed to include the names of the property owners. Some of them have been given different names such as Snow Hill where the property owner's name is Winston in that case. It is staff's opinion because of the way that they name the applications when they are filed that the plan should now be updated to meet those standards.

- Also, several conditions have been added under several of these requests under the heading of prior to the issuance of the building permit the following requirements shall be meet. In that section is where you would find the recommendations to add the conditions regarding the way that the mounting of the antennas are shown on the poles as far as the flush mounting and not showing that the antennas would be mounted above the heights of the poles.

Mr. Rieley stated that he presumed that in all of the requests that the intention is that the antennas not extend above the top of the monopole.

Mr. Waller stated that was correct.

Mr. Rieley asked since they were making some minor modifications to these plans anyway that all the plans show that condition.

Mr. Waller stated that one of the additional conditions could be found listed under prior to the issuance of a building permit, the following requirements shall be met. He stated that under Moyer it states, "The "new tower elevation" on Page C-3 of the construction plan shall be revised to show that no portion of the antennas will extend above the tallest portion of the monopole in accordance with condition # 6 of this special use permit." He noted that was the case in three of the requests. Then there are several other requests that need to show the flush mounted distance in accordance with the definition that is in the Wireless Policy.

Mr. Rieley pointed out that someone who has the plans but does not necessarily have the conditions might install the poles. He asked that they add a note to the plans that the antenna shall not extend above the top of the pole.

Mr. Waller stated that staff would take care of adding that language to the conditions of approval.

Mr. Rieley asked if there were further questions for staff. There being no further questions for staff, he opened the public hearing on all of the seven remaining special use permits for SP-03-34, SP-03-35, SP-03-36, SP-03-37, SP-03-38, SP-03-39 and SP-03-40, and asked if the applicant would like to address the Commission.

Dan Finocchi, representative for Triton PCS, stated that the requests were similar to the other ones as Mr. Waller has pointed out, and they did not have any problems with the conditions and plans as recommended.

Mr. Rieley asked if there was anyone else who would like to address any of these seven items. There being no further public comment, he closed the public hearing to bring the matter back before the Commission for discussions and possible action. He stated that the Commission would have to take separate actions on each of the requests.

Mr. Edgerton moved for approval of SP-03-34, Wood, with the conditions as recommended by staff.

(In the event, that the Board chooses to deny this application staff offers the following comment: In order to comply with the provisions of the Telecommunication Act, staff requests consensus direction from the Board regarding the basis for denial of the application and instruction to staff to return to the Board with a written decision for the Board's consideration and action.)

SP 03-34 WOOD (TRITON PCS)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Wood-Arrowhead (Triton PCS)", last revised April 21, 2003 and provided with Attachment A in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed six (6) feet above the tallest tree within 25 feet, as measured Above Sea Level (ASL), and shall be sized as originally approved with special use permit SP 01-03.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.
6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted except as provided by the existing livestock fencing shown on the plan.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan, developed by a certified arborist, to the Director of Planning and Community Development for

approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 one thousand (1,000) feet of the pole and equipment pad. A special use permit amendment shall be required for any future tree removal within two hundred (200) feet of the facility site, after the installation of the subject facility.

11. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

12. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
13. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Thomas seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Finley moved for approval of SP-03-35, Jensen, with the conditions as recommended by staff.

SP 03-35 JENSEN (TRITON PCS)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, “Jensen (Triton PCS)”, last revised April 15, 2003 and provided with Attachment B in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed sixty-nine (69) feet in height, and shall be sized as originally approved with special use permit SP 01-05.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.

6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
11. The antenna details entitled “tri-bracket mount plan” and “isometric tri-bracket mount plan” on Page C-5 of the construction plans shall be revised to demonstrate that the antennas will be flush-mounted as defined with condition number 4 of this special use permit.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

12. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
13. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.
14. No trees or significant vegetation shall be removed from the area bounded by the access easement from State Route 20 to the facility site, the utility easement across Parcels 89 and 91, the westernmost boundary of Parcel 91, and property lines of Parcels 89 and 91 along Route 20. The area subject to this condition was originally addressed specifically with the approval of special use permit SP 01-05 and is shown on page C-1 of the latest revised plans entitled, “Jensen (Triton PCS)”, last revised April 15, 2003.
15. The trimming, cutting, or removal of the eighty-eight (88) foot tall tree located five hundred-eighty-five (585) feet from the monopole, as identified on the attached plan Page SP-2, date stamped May 10, 2001, from the originally approved special use permit (SP 01-05) plan entitled Jensen, is prohibited. Any occurrence that destroys or reduces the height or volume

of the tree shall constitute grounds for the Board of Supervisors to void the special use permit if it determines that the change in condition of the trees requires a modification of the facility to mitigate its visibility.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Cilimberg stated that just for the record, these are conditions that were modified from the original conditions, but what staff is recommending are actually the modified conditions. He suggested that the Commission not make a reference to add modified.

Mr. Edgerton pointed out that the only modification would be for the notes to be added to the plans.

Mr. Kamptner clarified that it was for all those requests that need to have those notes.

Mr. Waller stated that it was already included in the conditions.

Mr. Rieley asked that modified be taken out of the previous motions.

Mr. Kamptner stated that the minutes would reflect accurately the discussion.

Mr. Thomas moved for approval of SP-03-36, Orrock, with the conditions as recommended by staff.

SP 03-36 ORROCK (TRITON PCS)

<u>The facility shall be designed, constructed and maintained as follows:</u>

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Orrock (Triton PCS)", last revised April 15, 2003 and provided with Attachment C in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed eighty (80) feet in height, and shall be sized as originally approved with special use permit SP 00-77.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.
6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.

9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
11. The antenna details entitled "tri-bracket mount plan" and "isometric tri-bracket mount plan" on Page C-5 of the construction plans shall be revised to demonstrate that the antennas will be flush-mounted as defined with condition number 4 of this special use permit.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

12. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
13. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Finley moved for approval of SP-03-37, Moyer, with the conditions as recommended by staff.

SP 03-37 MOYER (TRITON PCS)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Wentworth Farm (Triton PCS)", last revised April 15, 2003 and provided with Attachment D in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the

antennas. The monopole shall never exceed seven (7) feet above the tallest tree within 25 feet, as measured Above Sea Level (ASL), and shall be sized as originally approved with special use permit SP 00-44.

3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.
6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
11. The antenna details entitled “tri-bracket mount plan” and “isometric tri-bracket mount plan” on Page C-5 of the construction plans shall be revised to demonstrate that the antennas will be flush-mounted as defined with condition number 4 of this special use permit.
12. The “new tower elevation” on Page C-3 of the construction plans shall be revised to show that the no portion of antennas will extend above the tallest portion of the monopole in accordance with condition number 6 of this special use permit.
13. The title and heading on the construction plans for this application shall be revised to include the property owner’s name.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

14. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.

15. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within

ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Thomas seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Edgerton moved for approval of SP-03-38, Sweeney, with the conditions as recommended by staff.

SP 03-38 SWEENEY (TRITON PCS)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Carroll Creek (Triton PCS)", last revised April 15, 2003 and provided with Attachment A in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed six (6) feet above the tallest tree within 25 feet, as measured Above Sea Level (ASL), and shall be sized as originally approved with special use permit SP 00-45.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.
6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.

11. The "new tower elevation" on Page C-3 of the construction plans shall be revised to show that the no portion of antennas will extend above the tallest portion of the monopole in accordance with condition number 6 of this special use permit.
12. The title and heading on the construction plans for this application shall be revised to include the property owner's name.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

13. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
14. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Finley seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Thomas moved for approval of SP-03-39, Winston, with the conditions as recommended by staff.

SP 03-39 WINSTON (TRITON)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Snow Hill (Triton PCS)", last revised April 16, 2003 and provided with Attachment A in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed seven (7) feet above the tallest tree within 25 feet, as measured Above Sea Level (ASL), and shall be sized as originally approved with special use permit SP 00-46.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.

6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan, developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
11. The antenna details entitled “tri-bracket mount plan” and “isometric tri-bracket mount plan” on Page C-5 of the construction plans shall be revised to demonstrate that the antennas will be flush-mounted as defined with condition number 4 of this special use permit.
12. The “new tower elevation” on Page C-3 of the construction plans shall be revised to show that the no portion of antennas will extend above the tallest portion of the monopole in accordance with condition number 6 of this special use permit.
13. The title and heading on the construction plans for this application shall be revised to include the property owner’s name.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

14. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
15. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Finley moved for approval of SP-03-40, Wood, with the conditions as recommended by staff.

SP 03-40 TOMLIN (TRITON PCS)

The facility shall be designed, constructed and maintained as follows:

1. The ground equipment, including the concrete pad, shall be sized, located and maintained in general accord with the plans entitled, "Tomlin (Triton PCS)", last revised April 16, 2003 and provided with Attachment A in the July 22, 2003 staff report. Panel antennas shall not exceed 5 feet in height and 1-foot in width.
2. The height and size of the monopole shall not be increased for the purpose of replacing the antennas. The monopole shall never exceed ten (10) feet above the tallest tree within 25 feet, as measured Above Sea Level (ASL), and shall be sized as originally approved with special use permit SP 00-50.
3. All ground equipment, antennas, equipment pads, external wires and equipment shall be a color that closely matches that of the existing pole and ground equipment.
4. 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 distance between the face of the pole and the faces of the antennas be more than 12 inches.
5. No satellite or microwave dishes shall be permitted on the monopole.
6. No antennas or equipment, with the exception of a grounding rod, shall be located above the top of the pole.
7. No guy wires shall be permitted.
8. No lighting shall be permitted on the site or on the pole, except as herein provided. 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 through 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.
9. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

Prior to the issuance of a building permit, the following requirements shall be met:

10. Submittal of a statement that no tree removal is necessary or a tree conservation plan, developed by a certified arborist, to the Director of Planning and Community Development for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation 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 pole and equipment pad. 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.
11. The antenna details entitled "tri-bracket mount plan" and "isometric tri-bracket mount plan" on Page C-5 of the construction plans shall be revised to demonstrate that the antennas will be flush-mounted as defined with condition number 4 of this special use permit.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

12. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning

Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.

13. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Loewenstein, Hopper, Craddock – absent)

Mr. Rieley stated that all seven special use permits would go to the Board of Supervisors with a recommendation for approval.

Mr. Rieley stated that the next item was the work session on relegated parking. He asked Ms. Echols to explain why she brought this item back to the Commission.

Work Session:

ZTA-03-01 Relegated Parking – Modifications to the Zoning Ordinance to achieve relegated parking in accordance with the recommendations of the Land Use Plan. (Elaine Echols)

Ms. Echols presented the staff report as follows:

Background:

At the last Planning Commission work session held on May 27, 2003, the Commission discussed the comments received from the public and answered the questions posed by staff. The Commission concluded that the standard should require that parking be located to the rear or side of a building. Where provided to the side of a building, the parking should be no closer than the plane established by the façade of the building facing the street. Opportunities for exceptions should exist for 1) infill situations that might be different than greenfield situations, especially on Route 29 North and 250 and 2) some uses which have different display or parking needs than others.

At the end of the meeting, staff was instructed to develop language for future ordinance amendment for the situations above. Staff also was asked to bring back a map of both Route 250 and Route 29 North that could be used as the basis on which to identify where certain exceptions could apply.

Analysis:

Staff reviewed the discussion of the Commission and concluded that the Commission would like a standard requirement for relegated parking. The Commission wishes to grant exceptions on a case-by-case basis, only. The Commission wants a set of criteria by which to evaluate exceptions, and those criteria should be different for different geographic areas.

Staff has had particular difficulty with developing exceptions based on the geography rather than on use and on particular site characteristics. After looking at the maps of developed and undeveloped properties on Route 250 East and Route 29, no unique patterns emerged that gave staff sufficient direction to establish "exceptions". Staff also wondered if establishing areas in which to "continue the pattern" of non-relegated parking would mean that parking would never become relegated in the future. Staff also worried that, by providing a long list of "exceptions", applicants who did not wish to provide relegated parking would concentrate more on how to get an exception than to find design solutions.

Staff believes that it will be difficult to focus on specific geographic areas before a "vision" is established for the corridors. It is possible that master plans for the specific development areas could help to both define the vision for the corridors as well as recommend design standards. Staff stated that until the Commission really knows what type of streetscape to use and what they want those roads to do, it is going to be very hard for staff to put down on paper what the revisions should be.

Until the master planning is done for the specific neighborhoods with design direction for the corridors, staff is unable to develop the criteria. The Planning Commission may wish to provide more specific direction to staff with regards to geographic exceptions. For now, staff offers the following general language for the Commission to review and consider for relegated parking:

> In the development areas designated in the comprehensive plan, at-grade parking shall be located no closer to the street than any existing or proposed structure. Such parking shall be located to the rear and/or side of all buildings adjacent to the street. On corner lots, the building shall be placed at the corner of the two streets. Where parking is to be provided to the side of the building on an interior lot:
>
> - Parking aisles shall be screened with heavy shrubbery or street walls comprised of materials such as but not limited to masonry, wrought iron, and board at a height not to exceed 4 feet. Street walls shall be augmented with landscape vegetation.
>
> - Where heavy shrubbery is used as the screen, it shall measure 24" in height at time of planting. At maturity, these shrubs shall be three (3) to five (5) feet in height. Shrubs shall be planted between three (3) and five (5) feet on-center, depending upon the species selected.
>
> The Planning Commission may allow such parking to be located between a street and a building upon a finding that:
>
> - There are unusual physical characteristics of the site that make it impossible or unfeasible to provide parking to the side or rear of a building or
>
> - Potential safety of patrons and employees cannot be achieved with adequate lighting and design solutions or
>
> - Unique circulation requirements of the use make parking areas between a street and a building appropriate.

Staff believes that language such as this would allow the Commission to review requests on a case-by-case basis without making the list so inclusive as to encourage anyone not wishing to relegate parking to request a waiver. Staff would need to add language to the zoning ordinance that indicates paved or paved and striped surfaces used for outdoor storage, display and/or sales

serving or associated with a permitted use would not be subject to the relegated parking requirement.

Recommendation:

Staff recommends that the Commission reviews the recommended language above and advises staff on whether or not it generally accomplishes the Commission's goals. Once the Commission is satisfied with the concepts, staff will ask the County Attorney to provide the "legal language" for a public hearing. Staff also asks the Commission to provide advice on how to best deal with any geographic exceptions. Staff requests that the Commission provide comments.

Mr. Finley questioned the first bullet regarding whether there would be a safety issue regarding the shrubbery and street wall if that provided a shield from the view of the public.

Ms. Echols stated that the height of the wall would be no taller than 4 feet and would be relatively low to the ground. She referred the Commission to Option A since that was the direction that they were headed. The idea was that what you see from the street primarily is the building and not the parking lot. If the parking lot were going to be from the side of a building, the building would be screened so that it is not the prominent feature that would be seen from the street.

Mr. Finley asked if staff was referring to the screening from the street, and Ms. Echols stated that was correct.

Ms. Echols stated that staff sees some development that has a lot of buildings and internal roads. For example, if you had a situation with an internal street where the only thing visible from the street would be the parking, staff feels that you would need something along that street to which that parking could be on the side of. At the next meeting, staff will bring some illustrations of that if the Commission would like. Staff's thinking has been that you would not have a street that just looks at a parking lot. She noted that situation would occur in a deeper situation than shown in the illustrations such as in a city block.

Mr. Rieley asked if one of these provisions would work if Mr. Thomas wanted to advance the same argument that he made very well at their previous meeting. He asked if these would fit or would he be precluded from making that argument.

Ms. Echols stated that the closest would be the first bullet in if there were unusual characteristics at the site that make it impossible or unfeasible to provide parking to the side or rear of the building.

Mr. Rieley stated that the argument would be that they were using the building for part of the site; and, therefore there was only one place left over for the parking.

Mr. Thomas stated that one of his notes was to require the parking to be located to the rear or the side of the building. He asked if the intent was that there would not be any parking in front of the establishment.

Ms. Echols stated that was correct for new development because there would not be any parking in the front of the establishment except by exception. She pointed out that would be with the Planning Commission granting the exception

Mr. Rieley asked how structured parking fits into this framework? He asked if it would be considered a building?

Ms. Echols stated that structured parking would be a building, which was why at the beginning they put in at grade parking to make it real clear that staff was not trying to hold structured parking to the same standards.

Mr. Edgerton stated that the Commission had struggled a lot in the past months trying to apply relegated parking to the proposed projects. The Commission has been trying to provide a new idea using all of the old pieces. An example is the Target Store whose marketing model requires one entrance in the front of the store to control access and a large one-story structure with the service bays in the rear with the ability to bring in tractor-trailers for deliveries. Both of these requirements do not have a lot to do with the planning. He pointed out that if they mandate relegated parking, it would require a different form of development

Ms. Echols stated that if the County wants to accept the franchise argument that in order to have it that it has to be done this way, then she felt that this would not work. She noted that as they see a lot of infill sites with franchises that there are other options that are available. She felt that it would require more work and would be more expensive. She pointed out that was something that the Commission would have to weigh in with your discussions about whether or not that was appropriate. There are ways to make a site work and meet many of these requirements. If there is something so unusual about it, then there is an exception in your court. In regards to the argument about the big box needing a single point of entry, she felt that might be unique to certain types of big boxes. She pointed out that Walmart has three points of entry in a supercenter, but some of them are a little more controlled than others. In cities, you can find some very unusual versions of large food chains and of big boxes where you have a more compact area in which to build.

Mr. Finley asked if the County opted to accept franchises, then this will not work?

Ms. Echols stated that was correct because franchise businesses have a prototype that they would like to lay down anywhere. The County can either accept the prototype and what comes along with it or they can ask for something different. The point is not to keep the franchise out, but to make the design work better for our community.

Mr. Rieley stated that one of the things which he was mulling over relative to this was trying to visualize how this criteria works within some of the real things that they have been dealing with. He suggested that this might be is a temporary situation, but they have found that in their best efforts on large commercial projects that they have been ending up with something of hybrids between an old and a new pattern. He asked if they want to leave enough flexibility so that there is some criteria in which you could say if we get this much in the pattern that they are really looking for, then we will give up this much. This is what they have essentially done with several of these projects because one is a proven economic model which developers often see as a trade off against the perceived risk of the Neighborhood Model type of development. He asked if they have the flexibility if this is passed in this form to tailor those types of hybrid projects, which they would have to live with for a while.

Mr. Edgerton stated that he felt that with the first bullet a good lawyer could make an exception out of almost everything due to the word unfeasible. He asked if economic feasibility applied? He pointed out those bullet leaves the door open. He suggested that the Commission work on the wording.

Mr. Rieley stated that he was probably right, but that he would like to leave the door open enough so that the kind of conversation that they were having a hour ago could continue on all kinds of projects. He stated that future Planning Commissions could discuss among themselves the relative merits of these things and try to hammer out what makes sense. It would be a double-

edged sword if you build in so much flexibility that everything becomes an argument or an exception.

Mr. Thomas stated that the only word that he could come up with was criteria. The Commission would question on a case by case basis whether the property meets the criteria. He supported Mr. Rieley's prior comment about leaving the door open enough so that they could have those discussions, but yet has enough guidelines to lead us in the direction that they were trying to take the County in. He stated that they were using all of the old tools with the new method in trying to do things.

Mr. Edgerton asked if he was suggesting a fourth bullet that would give the Commission the ability to negotiate with the developers.

Mr. Rieley stated that it was not quite that. He noted that his reading of the first bullet makes him think that provides the flexibility. He suggested that it might be something other than just the physical characteristics.

Mr. Edgerton stated that they were trying to determine which street the parking should be relegated from. He asked if it should be relegated from Route 29, from the spine or internal street. He pointed out that was going to come up over and over again. If you are going to build a string of buildings along two streets, then you are going to have to make a choice. He questioned what they would do to relegate parking from an internal street.

Mr. Cilimberg stated that within the first bullet right now it is so linked to unusual physical characteristics on the site that they may be need to work on and start talking a little bit about beyond just the site. He suggested possibly discussing the street layout or building orientation.

Mr. Edgerton stated it would be the specific requirements of the property.

Mr. Cilimberg stated that in other words to link the impossible or unfeasible statement to more characteristics than just the site. He noted that staff could work on that to open it up a little bit to be more flexible.

Mr. Rieley stated that was a good idea, but that the pitfall was that many of the other characteristics could be part of the design. He pointed out that you build your own problems by the configuration that you start with.

Mr. Cilimberg pointed out that they would have to be careful.

Ms. Echols asked if the Commission had any suggestions for key words to be used to clarify the statement. She stated what she thought she heard Mr. Rieley say about a hybrid is that there is something more than what is going on the site that would lead the Commission to want to give some parking in the front because you are getting something else. That would be similar to a negotiation. Some of the things that she could think of that might relate to that are some unique characteristics of the use.

Mr. Thomas pointed out that use was exactly what he had written down.

Ms. Echols questioned if they include that in their list if everybody would say that their use was unique to get the exception. She asked if there were some other words that the Commission could give staff that would be unique about a use that would prevent everybody from making the same claim. She asked for the key words to use for the exceptions so that staff could come back with a modified bullet.

Mr. Finley stated that the last two bullets are clear. He asked what they meant by unusual circumstances or characteristics. At the beginning, they had stated a few things such as topography.

Mr. Edgerton stated that the physical characteristics of a site the way that bullet is written, is site specific and would open the unfeasible part. He felt that would take care of the site if it was too narrow, then there might not be enough room to have relegated parking. He asked what they would do with the reoccurring response that "my project will not work unless you allow a portion of it to be done the old way"?

Mr. Rieley asked about using some of the language that they already use for waivers in which it says something along the lines of in the judgement of the Commission it does not further the intent of the ordinance.

Mr. Cilimberg suggested the intent of the section.

Mr. Rieley suggested something along those lines that would give future Commissions the latitude to make reasonable exceptions with some latitude, but also make it clear that there are exceptions. He pointed out that he worried about tying it to use or trying to explain the use.

Mr. Cilimberg stated that a perfect example was Target. They have a standard operation in which the interiors of their buildings drive the location of their front door and the parking associated with it. He pointed out that Target does vary from that design and has done so in cases in the Washington area, not only in a downtown situation, but also in a fairly suburban setting in the Washingtonian Center where it was linked to parking decks. Basically, they have a two-story department store on a street. He pointed out that it was like the old McDonald's with the golden arches. As time passes, they will start varying based on conditions and circumstances.

Mr. Edgerton suggested that one position that the County could take was to say if you want to come into our community the you are going to have to respond to our community's needs. He stated that he argued that point rather directly with some of the representatives. He pointed out that their answer was that our community was something that we want, but it is not big enough yet for us to spend that extra money.

Mr. Cilimberg stated that ultimately there was a formula for the relationship of the cost of construction to the cost of the land. When the cost of land is still cheap, they are not going to go with an expensive structural approach that would condense the site. That is the way the economics works. It does not mean that it would not be profitable, but they will not do that because it does not meet their formula.

Mr. Rieley stated that they did not know what the answer would be because they were not asking that.

Mr. Cilimberg pointed out that there was some merit in avoiding the use aspect here because it can be argued in many different ways depending on where you sit. He pointed out that you could argue that Target uses sites differently in different places. He stated that the Commission should not necessarily tie it to use.

Mr. Edgerton suggested that the fourth bullet include that in extenuating circumstances when in the opinion of the Commission it would not further the intent of the ordinance. That would leave the door open for trying to do better and not second-guessing all of the projects that may be submitted.

Mr. Kamptner stated that they have the standard language on all of the modifications. He noted that they could add that to support the bullet.

Mr. Rieley stated that it seemed like that would be enough.

Ms. Echols questioned whether they should call it an exception, modification or a waiver.

Mr. Kamptner stated that modifications or waivers were subject to the same standard. He stated that the third modification, waiver or substitution was when they were actually just proposing an alternative way of doing something. The language that they used was, "that upon finding that the strict application of a standard would not forward the purposes of this chapter or otherwise serve the public health, safety, welfare or that the alternatives proposed by the owner would satisfy the purposes of these particular regulations at least to some degree".

Mr. Rieley agreed with the suggested language.

Ms. Echols passed out some drawings, which were provided with some illustrations that were done by an intern. She asked the intern to do some research in how to deal with the loading areas in the more complex forms of development. She stated that it was safe to say that they have not seen anything so compact with the exception of Albemarle Place. She pointed out that the pictures were taken from Reston Town Center. There is not a lot written about loading in relationship to both buildings and parking in T&D or TOD types of development. Staff has taken some drawings to see if they can get some ideas from them. It appears that the places where the loading areas are either in sort of an indentation in the building as sort of an architectural solution either interior to the building or on the edge of the building as seen in the two middle illustrations. Alternatively, the loading areas could be from a secondary street where it is pretty well separated from the parking isles and parking lots. The bottom left should not have the planter boxes since she did not know how you would maneuver in that area. There was some pretty tight places in which loading was provided. She pointed out that it was either between buildings or with some type of architectural solution. She noted that they could use that for an illustration when people ask how to separate parking.

Mr. Finley left the meeting at 7:30 p.m.

Mr. Rieley asked where they stood with this. He asked if the Commissioners were comfortable having staff craft what they have just been talking about and to run it through the County Attorney's Office to bring it back in a form of a solid proposal. He stated that his only hesitation was that there were three Commissioners absent.

Mr. Cilimberg suggested taking the language that staff develops to a public discussion meeting to obtain comments. He pointed out that staff generally takes all the proposed amendments to a public discussion meeting and invites public comment before bringing it back to the Commission. Therefore, the Commission would have the benefit of that input.

Old Business:

Mr. Rieley asked if there was any old business. There being none, the meeting proceeded.

New Business:

Mr. Rieley asked if there was any new business. There being none, the meeting proceeded.

Adjournment

Mr. Cilimberg stated that next week's meeting on July 29th has been cancelled.

With no further business, the meeting adjourned at 7:36 p.m. to August 4, 2003.

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V. Wayne Cilimberg, Secretary

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