Albemarle County Planning Commission
May 11, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, May 11, 2004 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley; Rodney Thomas, Chairman; Calvin Morris; Jo Higgins; Marcia Joseph; Bill Edgerton and Pete Craddock, Vice-Chairman. Mr. Rieley arrived at 6:05 p.m.

Other officials present were Stephen Waller, Planner; David Benish, Chief of Planning & Community Development and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:00 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting - May 5, 2004

Mr. Benish reviewed the actions taken on May 5 by the Board of Supervisors.

Consent Agenda:

SUB 04-037 Montgomery Ridge Open Space Appropriateness Determination (Amended) - Request to disturb Open Space in an R-1 clustered subdivision in accordance with Section 4.7.2 of the Zoning Ordinance. (Tax Map 046, Parcels 23A, 23B & 25) (Yadira Amarante)

SDP 04-20 Old Dominion Equine Site Plan Waiver Request - Request for a site plan waiver to allow an equine veterinary practice on 1.704 acres zoned RA – Rural Areas and EC Entrance Corridor. (Tax Map 050, Parcels 20C & 20D) (Yadira Amarante)

Approval of Planning Commission Minutes - March 2, 2004

Mr. Thomas asked if any Commissioner would like to pull any item from the consent agenda. There being none, he asked for a motion.

Mr. Craddock moved to approve the consent agenda as submitted.

Mr. Rieley seconded the motion.

The motion carried by a vote of (7:0).

Public Hearing Items:

SP 2004-003 WHSV / Channel 19 - Charlottesville (Sign #24 & 29) - Request for a special use permit to remove an existing 175-foot tall tower that has a 23-foot long antenna mounted at its top, and allow the replacement with a 199-foot tall tower that would have a side-mounted antenna extending no taller than its top. The proposal also includes the expansion of an existing building to accommodate transmittal equipment supporting the establishment of a new local ABC television affiliate. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave, radio-wave transmission and relay towers, and

appurtenances. The property described as Tax Map 91, Parcel 28I, is part of a larger parcel identified as Tax Map 91, Parcel 28 which contains 234.165 acres, zoned RA, Rural Areas. This site is located in the Scottsville Magisterial District, on Carter's Mountain Trail, approximately 1 mile south of the intersection with the Rt. 53 (Thomas Jefferson Parkway). The Comprehensive Plan designates this site as Rural Area 4. (Stephen Waller)

Mr. Waller summarized the staff report, noting that the proposal is for the removal of an existing 175-foot tall guyed tower that has a 23-foot long antenna mounted at its top, and will be replaced with a new 149-foot tall guyed tower that would have a 40 ½ foot tall antenna rod extending from its top. Although the widest portion of the existing tower is currently 41 inches in width, the proposed tower would be 48 inches in width to provide the necessary structural support. There is a difference of 7 inches in the width. In addition to the removal of the existing 175-foot tall tower, the applicant's request indicates that a shorter tower supporting Adelphia Cable's facilities at this site will also be removed at a later date once that equipment is no longer used. Some of the diagrams show that some of the Adelphia cable equipment would also be attached to the proposed tower at the lower height.

Staffs has reviewed this request with regard to the Comprehensive Plan and with the special use permit provisions in the Zoning Ordinance and identifies the following factors that would be favorable to this request:

1. The existing tower serving this facility will be removed after the proposed tower has been constructed. Therefore, there will no increase in the number of towers at this site.
2. The proposed changes to this facility would provide a single tower accommodating the co-location of equipment for two television stations and the Adelphia Cable Company.
3. The proposed facility and its appurtenances, according to the applicant, would allow any possible switches to digital broadcast transmissions for both stations without any significant changes to the outward appearance.
4. No significant clearing of vegetation would be necessary for the placement of the new tower and facility.
5. The new television station would provide the community with additional options and a wider variety in local programming.

Staff has identified the following unfavorable factors that would result from the approval of this request:

1. The proposed tower would be skylighted.

Mr. Waller stated that the skylighting of communication facilities has always been an issue in reviewing these requests. Since there will be no increase in the number of tower structures at this site and because the difference in the height and width of the existing and proposed facility are not that great, staff recognizes that there would not be any significant difference in the visual impact. At the same time, this would increase the capacity to allow an additional station at the site.

Staff has received some additional information in the past three days in the form of two letters from concerned individuals about the increase in cumulative radio frequency emissions from the facilities at Carter's Mountain. Staff's review does not cover that information because traditionally that has been reviewed by the FCC in their licensing. He distributed the two letters to the Commission. (See Attachment 1: Letter addressed to Planning Commission dated May 6, 2004 from Sid Shumate) (See Attachment 2: Letter addressed to Planning Commission dated May 6, 2004 from Donald G. Everist, President of Cohen, Dippell and Everist, P.C.)

It is staff's opinion that this request is in accord with the provisions of Section 31.2.4.1 and should not impose any substantial detriment to adjacent properties or change the character of the surrounding Rural Area. Therefore, staff recommends approval of the requested special use permit subject to the conditions listed in the staff report. He distributed a drawing of the proposed

new tower and the top mounted antenna with a view of the guy wires. (See Attachment 3) If the Commission has any questions, he would be happy to answer them.

Mr. Thomas asked if the Commission had any questions for Mr. Waller.

Mr. Rieley stated that he did not see anything in their packet that showed the relative location of the 175 foot tower relative to the new proposed 149 foot tower. He presumed that they were not in the same location because one is not going to go down until the other one goes up. He asked how far away the two towers are from each other.

Mr. Waller stated that the existing tower is shown on the site plan on page 54. On page 55 it shows the site with the proposed Channel 19 and WHSV tower. He pointed out that the additional information that he received from the applicant earlier today indicates that the proposed tower would need to be moved approximately 3 feet away. When the new tower is constructed there would be some conflict with the wires of the existing towers. Therefore, the applicant would need to adjust the location of the new tower by 3 feet.

Mr. Thomas asked which direction the tower would be moving.

Mr. Waller stated that according to the applicant's information the proposed tower would be moved away from the proposed building to the north.

Mr. Craddock stated that on page 55 it indicates that one-half of the existing building will be demolished with the other half of the building remaining.

Mr. Waller stated that currently WHSV and Adelphia both have equipment in that building. With the removal of the WHSV equipment to the new building they would be able to demolish a portion of the existing building. Adelphia's equipment will remain in a portion of the existing building.

Mr. Craddock asked if the part of the building being demolished was towards Route 20.

Mr. Waller stated that the portion of the building towards the back side would be demolished.

Mr. Rieley stated that he had one question for Mr. Kamptner. He pointed out that Mr. Waller had indicated that staff did not look into the increase of 61,000 watts to 150,000 watts on the grounds that it is in the domain of the FCC and not the locality. He stated that since the Commission's charge is typically that of health, safety and welfare he felt it would be a legitimate area of concern for the Commission for such an installation. He asked if that was off grounds for the Commission.

Mr. Kampnter stated that he did not have an answer for the Commission at this time. He pointed out that he researched the question a couple of years ago when Channel 29 was looking into upgrading to digital equipment. He stated that he could not recall if the laws applicable to digital technology provided the kind of exemption similar to what applies to wireless facilities. That is not to say that it does not exist, but that Channel 29 was not fully pursued because it just did not raise itself as a critical issue.

Mr. Rieley stated that he did not know if it was a critical issue here or not because they did not have any information on it at all. He asked what the County Attorney's opinion was on the legitimacy of raising the FCC domain when at least according to one of the messages they received; the applicant in fact does not have a FCC license.

Mr. Kamptner stated that a FCC license was not a requirement to obtain a special use permit, and he did not think there was anything that would prohibit the applicant from seeking a special use permit or to advance it.

Mr. Rieley stated that his point was that they are saying that the FCC trumps the Planning Commission, but yet the FCC has not granted a license for that and they are not in the picture.

Ms. Higgins pointed out that if they don't receive the FCC license, then the towers would not get put up anyway.

Mr. Rieley stated that it seems just like Mr. Duncan, the author of this memo, put it "the cart may be before the horse."

Mr. Thomas stated that it was his understanding that it was not necessary to have the FCC permit before the tower is started.

Mr. Edgerton asked Mr. Kamptner to follow up on Mr. Rieley's question because he felt that it was critical. The FCC permit was granted a number of years ago and is now being transferred to a new entity. He asked if that permit was issued or if there is any information that would tell the Commission whether that permit was issued with any concern for what is being proposed here. He asked if it was comparable to what is being proposed here or not.

Mr. Waller noted that the applicant could probably answer that question a little better, but he thought that there is a FCC license issued for that particular frequency. The design of the facility and the tower would also require FCC approval as well in order to utilize that license. The FCC requires the applicant to make changes that are not covered in the special use permit, then in order to enact any facility based on that license that the applicant would have to come back and amend the special use permit. He noted that he was not sure how far along the applicant was in getting the FCC approval. As far as the tower itself, staff basically reviewed the request for the same issues they review for all of the other facilities on Carter's Mountain.

Mr. Thomas asked if Ms. Sprinkle had provided the old special use permits to staff.

Mr. Waller stated that Ms. Sprinkle had provided the old special use permits. In addition, he had received a memo from Ms. Sprinkle regarding the construction of the building.

Mr. Thomas pointed out that he had emailed a copy of Ms. Sprinkle's memo to all of the Commissioners.

Mr. Waller stated that the memo indicates that there are no conditions in those previous special use permits addressing buildings or ground equipment and their location.

Mr. Thomas asked if staff had received a copy of the email from Mr. Cilimberg, and Mr. Waller stated that he had.

Mr. Thomas asked if there were any other questions. There being none, he opened the public hearing and invited the applicant to address the Commission.

Valerie Long, Attorney for Gray Television, stated that there were several representatives and consultants to Gray Television present. She stated that Joe Davis, a radio frequency engineer, was present. Also present were the Gray Television FCC Council and Ms. Tracey Jones, who is the station manager of the Gray's Station in Harrisonburg. She asked to briefly respond to some of the questions that the Commissioners raised during the question period. She clarified that the FCC has granted a license for this station, which was in effect. Charlottesville Broadcasting Company is the holder of that license. They have filed a license with the FCC to transfer that license to Gray Television. Gray Television is exceedingly confident that transfer request will be approved likely within thirty days. In the extremely unlikely event that transfer request is not approved, and then Gray Television will operate this station on behalf of Charlottesville Broadcasting Company. Therefore, Gray Television will be operating this station in Charlottesville one way or the other. If it is not approved, then Gray Television will operate it on behalf of

Charlottesville Broadcasting Company as an agent or essentially a tenant of Charlottesville Broadcasting Company. Also Margaret Polligan, from Charlottesville Broadcasting Company, is here this evening if anyone has any questions in that regard. She asked to clarify that issue because there was no concern that the County would grant a permit for a tower and that a station would not come. If the permit for the tower is approved in time for the station to be on the air by the federally mandated deadline of August 15, this station will be on the air. She pointed out that they would respond to any additional questions. Pertaining to Mr. Craddock's question regarding the existing building and why it would be demolished she pointed out that they have shown on their plans that the WHSV portion of that building would be demolished. The land owner just as recently as yesterday has contacted us and requested that they request of the County the ability to retain that portion of the building. The land owner would like to have the entire building for future use if possible. She stated that they told the owner that they thought that the County would expect that portion of the building to be taken down, but that they would make that request. The issue was that they were building a larger building to accommodate the equipment for the Channel 19 Station and they really don't have the need for that one-half of that existing building. But, if the landowner would like us to retain it we told him that we would put it on the table. Adelphia Cable, which will have some of its equipment on the replacement tower, will have the need for the sort of smaller half of that building after the new tower was constructed. The three foot movement of the tower would be moving to the north. They have been working very hard with construction consultants and engineers on the site already and the planning for this project is moving forward very quickly. If Gray Television is going to comply with the August 15 deadline they had to have their construction team getting everything ready. Our goal is to have the building permit for the tower issued, assuming that it is approved, very soon after the Board approves the special use permit. She stated that they had their consultant out there yesterday looking at the logistics of erecting a second tower very close to an existing tower both with guide wires and that they realized that they needed to make a small shift of three feet to the north in order to avoid any conflict with those guy wires. Therefore, that was the reason for that shift.

Mr. Thomas asked if there were any more disturbances by the tower being moved three feet.

Ms. Long stated that it would not because that was an area that already had been cleared. As background to Gray Television, she pointed out that they own and operate 29 network television stations across the United Stated. Twenty-two of those stations are the news leaders in their community. They are the largest owner of small market television stations in the United States. Therefore, this is what Gray Television does best. They operate television stations in small markets like Charlottesville. As mentioned, there is an existing license that Charlottesville Broadcasting Company has that they will transfer to Gray Television pending FCC approval. If the station was not, on the air by August 15, the license will expire and it will not be reissued in this market. Knowing that it only had a very short period of time to have to get its station on the air Gray Television started working in late January and early February to figure out where it was going to put its antenna. It first looked to its existing tower on Carter's Mountain where it broadcasts a low power station for the WHSV TV 3 Station out of Harrisonburg, which is actually on Channel 64. That tower was not structurally strong enough to accommodate the incredible weight of the antenna for the full power station. The antenna is 7,700 pounds. The structural analysis that they conducted on their existing tower demonstrated that it was not structurally sound for an additional antenna. They then started looking at other towers on the mountain to see if they could co-locate their equipment on any of the existing structures. There were a few structures that were potentially sound enough, and there was one tower which they could not reach an agreement on with the landowner. There were several other towers that turned out not to be structurally sound or capable of the added weight or that had physical space on them for the additional equipment for the Channel 19 Station. So at that point they started looking at their tower and thinking may be that they would replace their existing tower with a new tower that would accommodate both stations, which was what they were proposing. She presented a brief power point presentation, which included photo simulations of the proposed tower and buildings and of the existing towers and buildings located on the property. The replacement tower was 149 feet and with the proposed Channel 19 antenna that would take it to a total height, including the

lighting rod of 190, which was 8.5 feet shorter than the existing tower. She pointed out the Channel 64 antenna, which would be side mounted on the new structure. She stated that the only negative aspect of the new tower is that fact that it will be 7 inches wider in girth than the existing tower and that the antenna will have a slightly larger diameter. But, the tower structure itself will be shorter than the existing tower.

Mr. Thomas asked if the road serving the tower site was a public road.

Ms. Long stated that it was not a public road, and she thought that it was not intended to be available for the public. She noted that there was no gate that would prohibit someone from accessing it, but it was not very well maintained and a four-wheel drive vehicle would be needed to get up the road. The road was definitely not intended to accommodate the public. She pointed out that a full power station requires a tremendous amount of equipment and that they have provided a detailed inventory to the staff explaining what every piece of equipment is to explain that they have really worked hard to keep this building as small as absolutely possible. Some of the equipment has to have certain ventilation room around it and things like that. The proposed building is very similar in size to other television station buildings in the community. Regarding the issue of the cumulative RF emissions, she acknowledged that the Commission received some correspondence on that today. She stated that they had received copies of that, but she has not seen a copy of the memo that Mr. Rieley referenced from Greg Duncan. She pointed out that they have a RF consultant present tonight who can respond to any specific questions. As Mr. Waller mentioned, this is an issue that the FCC will be thoroughly addressing as they review the application on file for the FCC. Part of the FCC's mission is to ensure that new stations comply with the maximum permissible exposure limits, which is a federally mandated health and safety threshold standard. Gray Television was concerned from the very beginning that they wanted to be sure before they invested the money in this market for a tower it wanted to be sure that their tower would not exceed the Federal threshold limits. They hired a consultant to study that issue and used a very conservative analysis model. They measured existing RF emission levels and even measured for expected emission levels for towers that had been approved by the County, but not yet constructed. That calculation factored the emissions from the WVIR tower, which will be built very soon, and the County's proposed tower. The study concluded at most it would hit 60 percent of the maximum permissible exposure limits. She pointed out that they feel very conservative on that. If there are any questions, she would be happy to refer them to Mr. Davis.

Mr. Thomas stated that it was time to receive public comment. He asked if there was any one present who would like to address the Commission on this issue.

Chuck Lebo, resident of Albemarle County, stated that usually when he was in front of this microphone he was in support of a project, but tonight he had some questions and concerns of the issues of this project. First of all, he could not recognize the need for an additional CBS affiliate in this area. Cable subscribers can presently receive CBS broadcasts from WTVR in Richmond and WUSA out of Washington, D.C. He stated that he lived out in the County and had a small dish and received the CBS broadcast from two different cities, plus he had a directional antenna so that he could get WTVR again out of Richmond. The bigger issue that he had was that while this might be a shorter antenna, he felt that it would be more obtrusive than the existing antenna. There will be new wire, it will be side supported with side mounted antennas with additional dishes to it. He pointed out that he could see this antenna farm from his office and it also could be seen from many points throughout the County. The proposed building is only 100 square feet in dimension, but he was told that it was 16 feet tall on one side and 14 feet tall on the other end with a shed roof. He noted that he thought that would be visible from many points in the County because it was a fairly large sized building.

Mr. Rieley pointed out that the building would be 32' X 32', which would be a 1,000 square foot building.

Mr. Lebo corrected his statement in that the proposed building was 1,000 square feet, but noted that he was more concerned about the height of the building rather than the square footage. He stated that he was a member of the Architectural Review Board and this clearly was not an ARB issue. But, the fact is that one would be able to see this from many points of the County and that he would like to have some assurance that Carter's Mountain will not look any worse than it already does.

Karen Lawman stated that she was a full time resident of Carter's Mountain. Unknown to some people, there is an apartment building up there. There are five residents in the apartment building. There is another full-time permanent resident of Carter's Mountain and that is Mr. Mawyer, the orchard monitor. She was present because she was concerned about the degree of radiation emitted by the more powerful tower. She acknowledged that she did not have the scientific knowledge to know whether there really is a hazard, but she was concerned that an independent inquiry has not been made by the County or by the FCC as of yet about the health implications about the more powerful tower. She pointed out that she has had cancer and had been in remission for over ten years. There are families with children and migrant workers who do come up to the mountain. She pointed out that she was on the mountain 7 days a week, 24 hours per day, except for trips into town. She pointed out that she lived about one-half a mile from where the proposed tower would be located. (See Attachment 4 - Letter submitted by Karen K. Lawman to Planning Commission in reference to May 11, 2004 meeting)

Sid Shumate, former chief engineer and director of engineering for WVIR Television for 17 years, stated that since then he has been the director of engineering for other stations including one station in West Virginia. Currently he noted that he was with a Washington D.C. consulting firm. He stated that he had some updated information to add to his previous letter. He presented an updated version of the comparison of the two towers, and pointed out that the numbers do not add up. He stated that the numbers in the pictures do not add up in the two FCC applications and the current amendment that has been submitted for Channel 19. Either the tower has to be increased a few feet or the other dimensions will have to be adjusted. The front picture showed what the tower would look like if the numbers for the overall height of the tower was used at 190 feet, but noted that the actual height of the antenna is not 40.5 feet. If you look at the third sheet you will see a specification sheet that was sent this morning from ERI who will manufacture the antenna stating that the overall height of the antenna will in fact be 43.37 feet and not the 40.5 feet previously submitted to the FCC and in your paper work. That means the tower would either have to be a littler shorter, which means that the side mounted antenna will stick in the air. That would not be an allowable way to mount it. Or the tower height will have to be adjusted in the two applications before the FCC. This is one of many of the amendments that have been submitted to the FCC by the current Charlottesville Broadcasting Corporation, which currently holds the construction permit for this station. Either way, whether they shorten the antenna or increase the height, the specification that they are giving for the center of radiation from the antenna is incorrect and will not add up correctly. As a result, it will not be possible for an engineer, such as himself, to calculate the RF radiation on the mountaintop. There is an issue in respect to RF radiation, which he covered in his letter. The standard for that is called OE-65 and the FCC has recently found that it is inadequate in situations where there are multiple towers close together on top of a mountaintop. The FCC a couple of years ago measured the radiation at Mount Wilson in California where there are multiple towers located close together. They ended up finding tower stations and radio stations with too much RF radiation that have been there for 30 years because there was too much radiation hitting the ground. It was not the station's fault, but what happened was that several other stations had moved in and built towers taller next door and the signal bounding off of those towers was increasing the RF level on the ground. As a result, even though the stations had met these calculations specified by the FCC, but that when the FCC actually went to measure it that various levels hitting the ground were too high. (See Attachment 5, which was a photograph of Mount Wilson of California presented by Sidney Shumate of the towers located in California.)

Mr. Thomas asked how many towers were located on that site.

Mr. Shumate stated that he was not sure of the exact number, but that there were a total of at least 20 towers up there. In the vicinity of the tower that he was referring to, there were about 5 that were within about 100 feet. Therefore, it was a very crowded mountain top. It is an uncontrolled situation because it was in a forest service area where you simply state to the forest service what you want to do and pay them a fee and then they say go ahead and build. He referred to another situation, which was displayed on the cover of the NAB Conference Proceedings, which was a site in Tulsa, Arizona with six towers all underneath 300 feet because they were in the path of a military airport. All of the television signals for Tulsa, Arizona are located at this one site because it was the only site where the zoning board would allow them to build. This is a similar situation to Carter's Mountain. It is a site that is controlled by one entity that owns all of the towers and manages the site. There are no tall buildings on this site because the two biggest buildings are two-thirds underneath the ground to keep them out of sight. Also, there is a separate generator building which is also hidden by a curve in the mountain, but has six massive generators in it that are all inside. This is a very well constructed and well organized site. But, even at this site there are signs in certain places that say do not stand here for more than six minutes because of the RF hazard from the intense amount of radiation at this site. He stated that the point that he wanted to make about the dimensions not being correct was to ask that consideration be made of using a master antenna on this tower instead. This is a common operation and in Portland, Oregon there are four new full powered VT transmitters located in one building with one tower and a master antenna. The top mounting of that antenna avoids a lot of RF on the ground because when you side mount an antenna you end up with additional radiation on the ground over what you would have on a top mounted antenna. Part of that has to do with the design of the antenna. If you look at the diameter, it shows the radiation coming off of the top mounted radio antenna, which was out of the FCC application that Charlottesville Broadcasting with Adelphia and Gray Television have made for the top mounted antenna. If you compare that with the next page, the side mounted antenna, you will note as you go down towards the ground that there are several bumps as high as .2 of a quarter of the total signal of the fields that are occurring at an angle of between 70 and 75 degrees. The other question is what is coming off of the tower because the main beam of the antenna on a side mounted antenna hits the tower and scatters, which is the problem that they had in Mount Wilson. He pointed out that the visual impact of one antenna on a tower is much less than the impact of two antennas on a tower.

Greg Duncan stated that it was mentioned that a four-wheel drive vehicle was needed to get up to Carter's Mountain, but pointed out that they all knew that was not true. He stated that he drove his car up there near the top very frequently. The second point was that he heard the applicant mention that their engineer's had calculated the RF level up there and at best it came to 60 percent. He stated that he was a little concerned about that. There is another applicant, WNRN Radio, and they have filed an application with the FCC to increase their power from 320 watts to 5,000 watts. They have told the FCC that they alone would generate 25 percent of the maximum allowable RF. He handed out a copy of their engineering statement. He pointed out that he was having a little bit of difficulty with that and was wondering if the applicant could address whether or not their analysis took into account WNRN Radio and the other people that are currently up there with their proposed increases in power. He stated that his understanding was that if Albemarle County was to ask the FCC to do an independent analysis that it would likely do that. The FCC has a lot of staff who would be happy to answer any questions.

Jeff Werner, Piedmont Environmental Council, stated that he did not have any specific opposition to this tower, but just wanted to offer an idea and some observations. After dealing with situation at Peter's Mountain that he was happy to hear that the FCC was being so concerned about this issue. He stated that he wished that they had been as committed to their responsibilities under the National Historic Act as they are being on these radio frequency concerns. He asked if the County was missing an opportunity here to meet the applicant's request and still limit the need for yet another tower on Carter's Mountain. Three years ago a special use permit was approved for a 250 foot tall mountain on Carter's Mountain. This was one of five towers approved for the new public safety radio system. He recalled that this was a system that was put forth with an

equivalent level of FCC controlled anxiety as they are hearing with this tower. Nine months after that special use permit was approved a sixth site was approved at Peter's Mountain in the Southwest Mountains. To date, only the tower at Peter's Mountain is in place. He pointed out that to his knowledge, and he had repeatedly made inquiries to the Zoning Department, and found that no building permits have been issued for any of the other five towers, including the one on Carter's Mountain. As the County appears to need a tower on Carter's Mountain, but has possibly not yet submitted for a building permit, he encouraged the County to not miss an opportunity to work with this applicant to find a mutual solution that might possibly result in only one additional tower and one tower that serves both uses. Finally, when the Shadwell tower was approved that it put out a lot of discussion, but after the light went on top that he received a lot of telephone calls. There was even one concern raised by Monticello that a very bright strobe light had been installed. He suggested that there be some sort of conversation on what type of light might appear here.

Mr. Edgerton stated that it was his understanding that the applicant has brought an engineer who was going to assure them that there was nothing to worry about. He requested to hear that presentation.

Ms. Long stated that she would take just a few moments to respond to some of the comments and then she would invite Mr. Joe Davis, who was a consultant to Gray Engineering, to come forward. In response to Mr. Lebo's comments, she noted that the added benefit of having an additional CBS affiliate station in Charlottesville and the surrounding communities is that this is going to provide some local television and local news. She felt that everyone would agree that would be a strong benefit to all of us. In response to the comments about the building as suggested by the staff's conditions, it will be painted dark brown and they will add some evergreen trees. They don't feel that will do a lot for screening, but they were happy to do that. It will also be smaller by several feet on either side than the building that was recently approved for WVIR's new tower. Regarding Mr. Shumate's comments about the drawings and what he perceives as being inaccuracies, she just wanted to say that they were very confident that the drawings that they submitted were accurate. They are very confident that Gray Television can build the tower and building as they have shown on the drawings. They are agreeable to condition 1 that says build the tower as shown on your exhibit materials, and they were confident that they could do that. Mr. Davis will speak to that issue as well because he was very knowledgeable about the antennas and their dimensions. They have a certification letter from the Virginia Department of Aviation certifying that at this site this tower at its height and location does not need to be filed with the FAA. Under current regulations filing with the FAA is the only thing that would require a light. Since they don't have to file they don't have any reason to believe that anybody would come forward and require a light on this tower. She pointed out that they have a few minor technical clarifications to the staff recommended conditions of approval in the event that the Commission is considering recommending approval and she could talk to that. She invited Joe Davis to explain the RF issues.

Joseph Davis, Vice President and principal in the firm of Kevel, Marsh and Davidson Corporation of Virginia, stated that they were registered to provide engineering services here in the Commonwealth. He noted that he was a licensed registered professional engineer in Virginia and has been for over ten years. He stated that he was a Virginia native and had lived here all of his life except for two years in Pennsylvania. He noted that he earned a Bachelor of Science and Electrical Engineering Technology from Old Dominion University. Our company deals generally with engineering regulatory matters encountered by broadcast and other telecommunications and technology facilities. He pointed out that their practice areas involve broadcast station transmitter and tower site location, FCC and technical regulatory matters and in the evaluation of a proposed transmitter site's impact on human exposure to radio frequency electromagnetic fields. Virtually every application to the FCC requires a determination regarding human exposure to RF. Our office performs approximately 100 of these every year. He noted the he personally conducts or review most of these for compliance with the FCC standard. He pointed out that their company has a staff of twelve and some of the others are done by other people in the office. He stated that

he performs and supervises measurements of RF electromagnetic fields for evaluation of exposure levels at publicly accessible areas near transmitter sites and locations on towers. He stated that he was a full member of the Association of Federal Communications Consulting Engineers and has served two terms as president of that organization. Also, he was a member of the Institute of Electrical and Electronic Engineers, the National Society of Engineers, the Virginia Society of Professional Engineers and the Society of Broadcast Engineers. Turning to the matter at hand at Carter's Mountain, there are two ways to evaluate compliance with the FCC's exposure amounts. It can be done by calculations or you can conduct measurements. For facilities that have not been constructed, calculations are generally performed to determine a level of compliance with the FCC's limit. Calculations for actual measurements can be applied towards operational facilities. Since calculations by necessity have to make certain conservative assumptions, they usually find that the measurements show lower exposure levels than calculations. As part of their work regarding implementation of Channel 19 in Charlottesville, he reviewed in considerable detail the potential for human exposure to RF. To that end he visited Carter's Mountain on a very cold day this past January and conducted measurements to establish the existing situation and that considered all presently operational stations. Once he established a as-is base line at Carter's Mountain, and then with the calculations he added the impact of the proposed Channel 19 and Channel 16 facilities as well as the future digital television operations, which have been authorized but not yet constructed. It is important to realize that UHF television antennas direct most of the energy towards the horizon straight up. There is some radiation in downward directions, but not much since most of it goes towards the horizon towards the intended viewing area. The purpose of that is fairly simple. You want your power to go where the viewers are and it does not do any good to direct the power straight down. The near by ground area could be used by the general population because anybody can go up there from what he understands. In January he just drove up to the tower site and did not encounter a no trespassing sign or a gate. Therefore, he considered that site to be accessible by the general public. There are two standards for ARC exposure. One is for workers of the broadcast stations and their contractors and the like. The other is for the general public. The general public limit is more stringent and requires a lower level of exposure. The calculations that he added to the as measured data used several conservative assumptions and they show the result at 60 percent of the maximum permissible exposure limit. That is done by taking the measured results plus the calculated worse case results levels at only location on the ground. Now even this assumes that all of the antennas are located on the same tower when in fact they are not. There are numerous towers spread out across the mountain top. Therefore, his 60 percent figure assumes that all of the worse case values are at a single location. In actuality he suspects that they will find first construction measurements, if they were to be conducted, to be much less than that.

Mr. Thomas asked if he was including the entire tower farm at 60 percent.

Mr. Davis stated that he starts at the base that he was assuming to be a single tower with 60 percent there. As you get away from the base of this assumed tower, the exposure drops as the distance from the antenna increases the RF exposure decreases. It is an inverse square function where if you double the distance the exposure level drops by one-fourth. Therefore, it very rapidly decays.

Ms. Higgins stated that he had stated that his calculations were added to the existing level which occurs with all of the antennas up there at this point.

Mr. Davis stated that was correct.

Ms. Higgins stated that he had accounted for all of the existing levels, but then added this antenna and WVIR's proposed operation.

Mr. Davis agreed and pointed out that he had added both WHTJ's and WVIR's digital operations which have not yet commenced. He stated that the 60 percent considered all of the existing towers, plus the two digital operations that were not on the air and what they were proposing for

Gray Television for Channel 16 and Channel 19. He pointed out that if he spread the levels out on the mountain top that he could actually perform more calculations and come back with a lower figure. Since 60 percent is less than 100 percent that he did not see any need to do that. He stated that he expected the actual measurements to be much lower than what they were talking about here. It is his professional opinion that the FCC's maximum permissible exposure limit for the general population is not going to be exceeded by what Gray Television is proposing. He stated that he wanted to respond to a couple of points that were raised coming back to the height issue. It was suggested that in California that site was a comparable location. The FCC did visit that tower site within the last short term. In October, 2003 they proposed $40,000 in fines to several of the stations on that site. He pointed out that he wanted to provide the rest of the story. The FM stations in Virginia are much more power limited than they are in the western and southeastern part of the country. In those areas FM stations are allowed to have 100 kilowatts, but here in Virginia they are limited to 50 kilowatts are the equivalent of that. When there is an increase in height above a certain level that the power is reduced for the same theoretical coverage area. There is nothing stationed on Carter's Mountain except WWWV with 97.5 megahertz, which is a maximum power facility for this part of Virginia with 8.9 kilowatts. There is not a lot of FM power off of that tower. The reason that he brought up FM stations was that up until now they had been talking about UHF television stations. FM stations create the most accretive problems for ARC exposure, which was the real problem for the site out west. There was some tower work underway on the top of Mount Wilson on the day that the FCC showed up. This is documented in the FCC material. One of the FM stations located on Mount Wilson was operating with their auxiliary antenna, which is mounted much closer to the ground. The FCC measurements were conducted in an area which was intended to be restricted to the public, but because of the tower work and other circumstances that area was not restricted the day that the FCC showed up and took their measurements. The FCC in their citation identified one FM station as being the most accretive problem on Mount Wilson. Again, there was a UHF television station that was cited as contributing, but their contribution was in the order of 7.5 percent or so. Now, let's come back to Carter's Mountain in Virginia where there is one FM station, which is only 8.9 kilowatts, and it utilizes an antenna of modern design that limits a great deal the power towards the ground level areas. The other emitters on Carter's Mountain are UFH television stations, which are very good at focusing their energy towards the horizon. FM stations also focus energy towards the horizon, but they by and large have more energy towards near by ground level areas. One of the real problems at Mount Wilson is the FM antenna was not very well elevated off the ground. He stated that he did not consider the Mount Wilson case to be comparable to Carter's Mountain because of the FM aspect. Regarding the antenna farm where there was a six minute averaging, he was not sure what that was about. Six minute averaging is used for occupational exposure that is just that area is limited and restricted from the public. Therefore, there is not a lot to elaborate on that. Again, out west in the Tulsa area the FM stations are allowed much more power than they are here in Virginia. To the FM application for WNRN, he was aware that was filed and WNRN currently operates on Carter's Mountain. Its tower site is down hill from the Gray site by about 300 feet laterally and 100 feet horizontally. That was one of the areas when he measured Carter's Mountain that showed a level that he could actually measure. Most of Carter's Mountain he could not identify above the threshold of his measuring instrument indication at all, but at the WNRN site he did get a measurement. He pointed out that they have certified in their application and he would take Mr. Duncan's word that the 25 percent is the number, and he has reviewed that application within the last couple months. WNRN did not consider any of the other emitters on Carter's Mountain, and therefore have not provided the FCC with a total number. But even if WNRN contributes 25 percent in the vicinity of its tower, he was confident by his experience that the contribution from the Gray stations, Channels 19 and 16, will not be factor there because of the horizontal distance away from the Gray antenna and the vertical drop in the change of elevation. Again, as they get farther away from the antenna the distance increases and that reduces the RF exposure level. Also, as they drop in elevation the angle of the emission off of the antenna is also increased down towards the ground. He stated that he did not even consider that worthy of further reflection, but would be happy to elaborate on it if the Commission so desired. To return to the height issue, he pointed out that he had a quick comment. He pointed out that he did not see the handout, but that in the information supplied earlier by the

manufacturer that the 43.7 feet states with 3 foot lighting rod. If you look at their sketch there is not a 3 foot lighting rod on it. In order to limit the height of the structure the lighting rod is about6 inches. Therefore, it was not complicated to figure out that the antenna length is not 43.7, but 40.7 plus whatever you put on top of it as a lighting rod.

Mr. Thomas asked if any of the Commissioners had any questions.

Ms. Higgins stated that it was becoming evident that the relationship to the ground and the emission's exposure are relative. She asked if they ever consider the topography, in other words, one that was down a slope and on a slope with this horizon. She stated that the diagrams that she had seen indicate that they should not consider that to some extent of when something is put down a slope. She pointed out that they don't want antennas on the top of a ridge, but it seems beneficial in this zone.

Mr. Davis stated that was exactly right because that was where they run into some of the more difficult situations with RF exposure where you have the antenna on a structure not at the top of the hill, but rather down hill a little bit. Then someone can walk up hill from the antenna and be looking at. Since the antennas are orienting their energy towards the horizon that can be a little problem. In one of the scenarios that they investigated on behalf of Gray very early in this process was the use of the PBS affiliate station WHTJ at Carter's Mountain. That tower's base is about 80 feet down from the crest of Carter's Mountain. The calculations that he did considering that tower did consider the terrain rise coming up from the base of the tower because that could actually decrease the distance. He stated that she was exactly right about that.

Ms. Higgins pointed out that she was trying to consider the relationship between what they consider visually favorable versus safer less exposure.

Mr. Davis stated that the Commission of the FCC has addressed that not too long ago and he thought that it was still an ongoing proceeding with the revision of this Bulletin 65. It presently says that if you have an antenna 30 feet above the ground or more with certain power limitations that you don't have to worry about ARC exposure because it is off the ground. But now they are considering what if this antenna pole is next door to an apartment building, which is just as tall. Now the Commission is revising that to consider 30 feet in any direction as opposed to just 30 feet off of the ground.

Mr. Edgerton stated that one of the other speakers suggested that the FCC was available to make an independent evaluation. He asked if that was true.

Mr. Davis stated that he was not aware of the Commission doing a detailed evaluation like this upon request. If they have reason to believe that there is a problem with an existing site through their enforcement bureau, like they did at Mount Wilson, they can come out and take measurements and decide whether or not there is a problem. The Look Out Mountain case in Denver, Colorado is also well known in the industry, but again that is cased primarily by the FM stations that are there. One of the FM stations was the case that you site where it is not at the summit of the mountain but down hill 200 to 300 feet and the side of the FM antenna is horizontal from a public road. That was a real bad situation for the people at Look Out Mountain and rightfully so the residents were upset about that.

Mr. Edgerton stated that he was trying to get a handle on the way the process would work. A FM station wants to put up an antenna and then they hire an engineer to come in and certify that it meets the FCC threshold. He asked if once he certifies that with his professional seal if that is all that they need.

Mr. Davis stated that by and large that is usually the end of it. He noted that professionally he had a duty to his client to advise them the best that he could, but he was also licensed and registered with the state and he has a duty to the health and well being of the general public.

Mr. Rieley stated that Mr. Shumate wanted to add something. He asked Mr. Shumate to come back up and address the Commission.

Mr. Shumate stated that he would like to have a few minutes for rebuttal to Mr. Davis' comments. He stated that he knew Mr. Davis and thought he was an excellent engineer, but wanted to point out that he was also a registered engineer and belongs to many of the same organizations. He pointed out that he sits on the Board of the IEEE Broadcast Technology Society. He stated that he was also an engineer that actively and often presents his findings before the FCC and infect Charlottesville Broadcasting has made many changes to their applications over the years as a result of his complaints about their inaccurate engineering. He noted that he believed that he was a better engineer than were previously employed by Charlottesville Broadcasting Corporation, but he noticed that the representative would not answer the question about the size of the antenna itself. The antenna that is up there is about 5 inches across and has small director flags mounted on the outside of it. The specification sheet that he handed out a few minutes ago on the third page of the handout shows that the radome on the antenna that they were talking about was 16 inches around. Therefore, it is closer to the size of the WVIR television antenna instead of the 1992. It also has a fiberglass climbing ladder permanently mounted on the back of the antenna, which also increasing the visibility of the antenna. With respect to the issues of the FM stations is less of an issue, although they are closer to the ground here than they are in other locations due to their power. The FM stations really are not the issue, but the problem is the possible radiation from television stations on this mountain. There is only one station up there that operates at the full allowed power by the FCC, which is the same across the country for UHF stations. It is 5 megawatts, which is the WVIR television antenna that he upgraded in 1992. The other applications before you are for only one megawatt, which were reduced from 2.5 megawatts. The current construction permit specifies over 2.5 megawatts, and if they were to modify the antenna to protect the National Radio Astronomy Observatory they could probably increase that up to 5 megawatts as WVIR television has. They also did not mention that in the application it was the modify the translator to a low power television station they also propose to increase the power by almost three times up to 150 kilowatts of affected radiated power from the currently less than 60 kilowatts of affected radiated power. They also intend to send 7 times more interference towards the National Radio Astronomy Observatory from that antenna than they currently do from Channel 64. As far as the measurement equipment, the FCC has recently equipped its field personnel with the measuring equipment and told them to be prepared to go out and make measurements on requests. It is on the FCC website that is an available service on request. In fact it was because the FCC was requested to come check a situation on the mountain top in LA, which he has been to many times, that they discovered the problem. He pointed out that within the last six years he has been in 38 states and Porte Rico doing inspections and appraisals of broadcast facilities. Therefore, he inspects transmitter sites on a very regular basis.

Mr. Thomas closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Rieley stated that he had a couple of quick points of clarification for staff. He asked if the primary access to this facility the same as the access road to the apple orchard on the north side of Carter's Mountain.

Mr. Waller stated that he had never been to the orchard, but had been to the site where the facilities are located. He attested to the fact that the road that goes to all of the facilities is wide open all the way to the very end.

Ms. Lawson stated that there was a sign at the base of the mountain advertising the apple orchard. The same access road is used but there is a further road that goes up to the tower and there is a sign that says authorized personnel vehicles only beyond this point, but there is not chain across the road.

Mr. Rieley stated that there is a question about the road way that goes beyond this application. He pointed out that it is a bad road which is in excess of a twenty percent grade. It has wide open cut slopes that erode down to the pond on the Thomas Jefferson Parkway when there is a heavy rain. It does not meet any standard that the County has, yet it is used as the access for not one but two major businesses. It has been overlooked all of these years because one of the businesses is agricultural, but the other business is not agricultural since it is for the business of an antenna farm. He suggested that our engineering department take a hard look at the standards of that road and maintaining the quality of which it retains its stability of that road relative to the use serving a larger business which is an antenna farm. The other question is that Mr. Werner has suggested that this represents one more tower on the mountain top, but in fact it is a change of a tower and one comes down and one goes up. It is really not the addition of a tower.

Mr. Waller stated that is correct.

Mr. Thomas added to that there was a possibility that in the future there was a tower that might be removed.

Ms. Higgins stated that her notes indicate that this tower goes up and there are two towers for approximately one month, which they can ensure that with conditions. Then the Adelphia tower, which is the shorter older looking tower, is to be removed at the time that the existing tower is removed. Therefore, they would be going from two towers to one tower.

Mr. Waller pointed out that the condition stated that the Adelphia tower it would have to be removed within 90 days of discontinuance of its use or no later than October 31. There is a requirement for the other tower that it must be removed within 60 days of the completion of the new tower.

Mr. Craddock asked if there was a recent request about replacing a tower and taking down a tower and there was an agreement between those folks and Mr. Chiles that he owned that tower and it was not coming down.

Mr. Waller stated that was the WVIR tower, which came out from the Planning Commission with a recommendation that the other tower be removed, but then when the request went to the Board that condition was changed to allow that second tower to remain.

Mr. Craddock asked if the same thing would happen to this one.

Mr. Waller stated that the applicant was agreeing to remove this tower and they have indicated that they could remove it within 60 days of the erection of the other new tower. Therefore, this was not one of those situations.

Mr. Rieley stated that prospect was one of the reasons for clarifying that it was only a few feet away because he could not imagine leaving two towers in that close of a proximity.

Mr. Morris stated that he believed what he heard Mr. Werner saying is that this would be an opportunity for the County and the applicant to joint together and the County could piggy back on their tower for their tower. He pointed out that was what he had heard. So in other words, two towers would come down and one would not go up but it would piggy back so it would be one for three.

Ms. Joseph stated that she would like to ask Mr. Kamptner a question. Right now they really don't have the ability to modify or reduce the size of building because the original special use permit that was approved for this site had no restrictions on the size of the building. She asked if that was correct.

Mr. Kamptner stated yes, that it was correct.

Ms. Joseph stated that one of the things that she was wondering is that when they approve this or not approve it, or if it is approved as to what has been submitted they were not really looking at the building. She asked what happens to that in terms of the special use permit. She asked if that proposed building would piggy back onto the current special use permit that was proposed. The other question is if we request that they abandon the special use permit that exists right now, what happens to the building. She asked if it was sort of in limbo at that point. She pointed out that she wanted to ensure that if anything happens tonight with this building that it stays the same size that they were looking at now and it was not allowed to become bigger and bigger because there is nothing that they are doing right now that limits the size.

Mr. Waller pointed out that condition 1 addresses the building also.

Ms. Joseph stated that from what she understands they can't do anything with the building.

Mr. Kamptner stated that on the proposed building they could put limitations on the size or on the height.

Ms. Higgins stated that this is the opportunity to capture it into the special use permit.

Ms. Joseph stated that what she understands right now is that there has been a building permit submitted and approved connected with the old special use permit. That is what she does not understand.

Ms. Higgins noted that there was no restriction on the old special use permit.

Ms. Joseph pointed out that they were talking as if they could not restrict the size of this building because it was attached to the old special use permit. She asked if they could restrict the size of the building.

Mr. Edgerton stated that the memo from Jan Sprinkle was distributed today by Mr. Thomas through email. The memo stated that the applicant has already submitted for a building permit to build that building.

Ms. Higgins stated that if it was a condition that the applicant agrees to then this is the opportunity to roll the building into the special use permit and restrict it from being changed in the future.

Mr. Edgerton asked for a copy of the memo.

Mr. Kamptner stated that he had a copy of the memo and that Zoning has determined that it is being established under the existing special use permit that allowed the use, and put no limitations on the structures related to the use. The letter reads, "I am informing Gray Television that they may proceed with the building permit application for either a new detached building or an enlargement to the existing building shared by WHSP and Adelphia Cable."

Mr. Rieley stated that the old building was servicing the old special use permit and now they have a new building serving a new antenna.

Ms. Joseph asked if they should ask the applicant to abandon the old special use permit or does the old special use permit get abandoned by this one.

Mr. Kamptner stated that the old special use permit is not abandoned by the new special use permit.

Ms. Joseph stated that not unless they require it.

Mr. Kamptner stated that it would need to be imposed as a condition to address some impact resulting from the over intensification of the use of the property.

Mr. Rieley stated that he had a suggestion. When they get to that point, he suggested that they talk about the specific concerns in what they would like to see in the building and then help Mr. Kamptner tell us how to get there.

Mr. Thomas asked if there were any more comments or suggestions.

Mr. Rieley stated that he had a couple of thoughts to get the conversation started. There are several issues relative to this one which is how obtrusive the tower itself is that is the issue that Mr. Lebo raised. It looks as if the new tower is in fact 17 percent wider and 4 percent shorter. There probably is an additional viewable mass. He felt that has to be balanced against the fact that there are smaller and fewer dishes and antennas in the removal of some of the dishes. The difference between the two is not as great as Mr. Shumate's illustration that showed a width of about 250 percent wider than the 17 percent wider. It is an issue and it seems that the width of the antenna on top is an issue and probably on balance there is a slight addition to the visibility of the structure. The building obviously will be considerably more obtrusive, and he felt that everybody agrees to that. There is the complicated issue of the previous special use permit. Also, even if that were not there if WVIR has a building of the same scale that there was an issue of fairness. But, at some point he thought that they have to start looking hard at these support buildings and the amount of them that are above ground that could certainly be reduced in height by getting at least one-half of a story underground. He noted that he did not know to what degree that was possible, but felt that at some stage of the game they had to grapple with that. The concerns that Ms. Lawman and Mr. Duncan raised about the potential health effects really does troubles him in that they don't have an independent evaluation of the potential health effects. If there were a way to get a FCC opinion on this before they acted on this that he would like to do it. Often professional engineers give conflicting opinions even though they are both licensed because it was based on who they work for. He noted that they have two very different sets of opinions and we don't have an independent one. He noted that he worried about that.

Ms. Higgins stated in follow up to the reason that they have different opinions that she would suggest that they could since this was not a standard in the Zoning Ordinance as is other more environmental impacts, they could put, if the applicant was willing, an annual requirement to measure it and provide documentation. She noted that it was not about the calculations and the estimates, but was more about do they stay within the limits that they propose. If there is a violation, then the FCC is really the entity. The Planning Commission or Albemarle County is not in the federal regulatory venue and she felt that any person that owns property or resides in proximity to any health, safety item that is covered under federal regulations has the right to call the FCC and have their enforcement make a verifiable measurement in a visit to the site. That has what has happened in the two events described earlier. She noted that you could have four or five different people come up with various percentages, but she felt that it was worth if they wanted to mimic the federal requirements that she felt that they were much more stringent than what they would talk about, but to say that there be some verification that they are in conformance on an annual basis. She pointed out that the County does that on other things if that is a concern. She felt that they were looking at a tower that is measurably in variation to what the tower is there based on some of the renditions of the pictures. She pointed out that she had lived for years at Willow Lake and had a three-story townhouse and on the upper story she looked at all of these antennas. She stated that it was covered in the fall, but when there is any vegetation on the orchard she could not see any buildings from that angle. From the ground level she did not think she could see something even if it was five or six feet above the orchard level unless she had a different angle. She pointed out that it was not a great visual impact, but that the antennas were noticeable. She noted that they have had assurance about the light on the top of the tower, which was one of the concerns on her list. The overall height reduction and the removal of this second antenna were getting them someplace. The perspective that she had on

the visibility of the building and possibly lowering it was that she felt that they have kind of traded that off because it did not create much of an impact if it was colored the right way. The other thing is if you start doing that they were going to start grading these sites, and then they would be talking about disturbing more of the area. She questioned if that was a tradeoff, which was something to think about. They have asked for a waiver from Section 40.10.3.1 about the location of the building, which they have to address. The antenna has to be equal distance from the height of the antenna form the property line. The other question about is if they have a permit and whether it has been issued. She stated that there is an existing permit and they have asked for it to be transferred, and whether it is transferred or not that Gray will operate for Charlottesville. She pointed out that she lived in the White Hall area and could get Channel 29 on a television without a satellite dish, but she could not get Harrisonburg. Having a local television station with local news and updates would be very helpful particularly for people who could not afford satellite dishes in the rural areas. She stated that she did not have a problem with the request and made a motion with some clarification on the conditions that they move forward with the request.

Mr. Morris seconded the motion.

Mr. Waller pointed out that the waiver of the setback is not needed in this case. He stated that at the time the applicant applied they had indicated that it was needed, but the location of the building is okay. Each facility has been given a tax map and parcel number for building purposes.

Mr. Thomas stated that there is a motion and a second, but he felt that the Commission needs to discuss this a little further.

Discussion:

Mr. Morris stated that he would really like to see a condition added that supports Ms. Higgins suggestion that it include an annual evaluation by the FCC as to the level of frequency and that the County get that report.

Ms. Higgins stated that the Zoning uses the wording on a statement of certification that they are "in conformance with the applicable FCC regulations."

Mr. Thomas noted that they were not sure if the FCC would do a yearly evaluation.

Ms. Higgins stated that it would be the applicant's responsibility to provide that statement to the Zoning Administrator.

Mr. Rieley suggested the following wording "that there is annual verification by a source acceptable to the County Department of Engineering."

Mr. Thomas asked if the same condition would be required for the other eleven towers.

Mr. Rieley stated that what they would be doing was measuring the entire site cumulative. The other question is what the cure is if it is exceeded.

Ms. Higgins pointed out that it would become a federal FCC issue.

Mr. Thomas stated that the FCC would probably monitor it, but would have fines. He stated that the only thing that the Commission could do would be to ask them to be in compliance.

Ms. Higgins agreed that the FCC would have fines and corrective measures.

Mr. Edgerton stated that they are in compliance right now. Gray television has done what was required of them and they had a professional engineer certify that they are below the safe level.

Unless they have someway of mandating an independent assessment they will end up having that report year after year since that was all that they would be asking for.

Mr. Rieley stated that they could say that the County either selects or approves it, but it should be independent.

Mr. Edgerton stated that if they can add a condition requiring some kind of an annual independent assessment, then he would be comfortable with going with that. He questioned how they would word the condition.

Mr. Thomas agreed with requiring an annual assessment, but how about the other people. He asked if they should have to do the same thing.

Ms. Higgins pointed out what they were talking about was if someone wanted to increase the magnitude of their potential that they were setting this. If the County thinks this is of a certain concern it is really monitoring this location because there happens to be a volume of antennas all in the same business and maybe the venue is to take this up on the engineering and zoning side and say is this important enough for them to make a call and ask the FCC to monitor it as a site in Albemarle County, but she still thought that private citizens have the same right to do that. But you can make a phone call and when they are in this area they will do that at no expense and they are the enforcement agency. The federal government would not pay for the enforcement agency if it were not an important issue.

Ms. Joseph stated that the Commission has to think of whether or not it is a community concern, which she thought it is. Then maybe it is something that the County decides that they are going to do once a year is to call the FCC and ask them to come and monitor or hire someone that is independent. That is what they have been very concerned about is that they have heard two engineers say totally different things to the Commission.

Mr. Edgerton pointed out that it was actually three.

Ms. Joseph stated that she did not know where they would go, but it was one of her concerns not only for human beings but for migratory birds and everything else that gets messed up with these things. She felt that it was definitely a community concern and how they manifest this she was not sure. She felt that it was one of those things that they might take on.

Mr. Craddock stated that it would be a shame if this gets approved and then the local people that have been up there for years all of a sudden have to turn their power back because it was all referred that 60 percent and then the new radio stations add 25 percent (NRN) and all of a sudden the others have to cut back.

Ms. Higgins pointed out that they can determine the source when they make the measurements.

Mr. Thomas asked what the opinion was of staff if they would require verification yearly on the radio frequency admissions. He asked if staff could give them some information as to what the staff might know about the radio frequency admissions.

Mr. Waller stated that the suggestion that he was making would be that the only way to apply it fairly for everybody—those who are already there and those who co-locate on Carter's Mountain in the future. That would be to have it relate back to the person who owns the property where as when someone is procuring a lease on that property or doing a special use permit that is going to be tied to that property. Over time perhaps he could find someway to finance these reports from future users or hopefully be able to apply it to the existing users up there.

Mr. Rieley stated that the easiest and cleanest way to this is with the special use permit because the special use permit was tied to the land. Therefore, that made the landowner responsible for it.

That makes a lot of sense because it was cumulative and goes back to the person who holds the special use permit.

Mr. Benish stated that he thought that it was fair given the status up there as opposed to multiple towers because right now they could only apply this to one tower as opposed to the other towers that are up there. The owner is centralized and could spread the costs to the person gaining the benefits.

Mr. Rieley asked what would be the mechanism.

Mr. Benish stated that there were a couple of strategies to deal with this. They could try to craft this condition now or the Commission could direct staff to work on it. The Commission could articulate their intent to staff and give some time to figure out the best way to craft that language before the Board of Supervisors. Staff can work with the County Attorney to figure that out if that is what the Commission would like to do.

Mr. Thomas asked if his suggestion was to do it based on the land use and the property owner for the future and not right now.

Mr. Benish stated that staff could look at how staff could craft the conditions of approval for this one that could set the stage for that. There are also other mechanisms in that they could go back in time and could require a cost share. There are other ways to skin the cat here, but what has been suggested by staff right now seems to be the most equitable way to try to do it. If the Commission sends that direction to staff that they will work with the County Attorney to figure out how to craft that language.

Mr. Thomas asked if the Commission agreed to that.

Ms. Higgins amended the motion to include staff's suggestion.

Mr. Morris seconded the amended motion.

Mr. Rieley stated that they were essentially adding a condition to this application and directing staff to explore the mechanisms to apply just to the property owner.

Mr. Benish pointed out that staff would work on drafting that condition for the Board of Supervisors.

Mr. Rieley stated that before they conclude with dealing with the conditions he would like to ask one more question to staff. He asked if they know what the height is for the WVIR building is.

Mr. Waller stated that they did not know what the height will be for the building itself because that was not discussed during the review for that. He pointed out that the applicant said that it was 36' by 36'.

Sidney Shumate stated that it had a porch on the back and that he built the building.

Ms. Higgins asked how tall the existing building was.

Mr. Shumate stated that the outside wall was around 22 feet high and had a double thickness roof on it for ice protection with a pitched asphalt roof that goes up another 8 feet or so above the existing side walls.

Mr. Rieley stated that what was proposed was smaller.

Mr. Thomas stated that they never heard what the height was of the proposed building.

Mr. Rieley stated that it was 16 feet and was drawn on there.

Mr. Edgerton suggested that while they were fine tuning the conditions that they clarify that at least two Commissioners were confused as to which building plan they were talking about when they reference the accessory structure that they make sure they are referring the separate one as opposed to the renovation plan.

Ms. Joseph stated that they were also asked to keep the existing building intact, which is the other issue.

Mr. Edgerton stated that the owner wants to keep the entire building rather than tearing it two-thirds of the building down. Ms. Long asked us to consider that because that was not part of the original application.

Mr. Waller pointed out that the red portion was the portion that would stay and Ms. Long indicated that Mr. Chiles, who owns the property, wanted them to request that they be able to keep that whole building intact in case there was a future use.

Mr. Rieley stated that he was not in favor of leaving the ancillary building when it does not have any direct relationship to the tower since he wanted to minimize it as much as possible.

Mr. Thomas stated that the front part would be torn down and the back part would have to stay.

Ms. Higgins stated that part of the building would stay and then the additional request was for the entire building to stay.

Mr. Edgerton noted that they can't tear the entire building down because Adelphia is staying.

Mr. Thomas stated that the pleasure of the Commission is that portion of the building not needed has to come down in accordance to what they are looking at. He stated that before they vote, he asked that they go through the conditions. He stated that they were making some changes to condition 1.

Ms. Higgins pointed out that the applicant had brought up a couple of wording changes to condition one. She asked that Ms. Long come up and clarify her request.

Valerie Long, Attorney for WHSV / Channel 19 – Charlottesville, spoke for the request. In condition 1 they were asking, which had been discussed with Mr. Waller earlier, that it be modified to be consistent with the first condition that the County uses with wireless facilities that says build your tower and equipment in general accord with the materials that you have submitted. That provides a little minor flexibility if you want to move the guide wire one inch in one direction and then you don't have to come back through and amend the entire special use permit. That question of whether any proposed change is in general accord with the plans would be a question for the Director of Planning or the Zoning Administrator. He or she would have that discretion to decide that. That is a suggestion which is consistent with the language that the County uses for wireless facilities. She stated that they also had a question about condition 3 that requires an erosion and sediment control plan. Her understanding was that those plans were only required if you were disturbing 10,000 square feet or more of earth. This building at the very most would disturb 2,000 square feet. Therefore, her question was whether that was needed for some other reason or was that just an over site. They would prefer to not have to do that if it was not required or not appropriate. They also wanted that condition to specify that if the erosion and sediment control is needed that it be required before the building permit for the tower is approved.

Mr. Kamptner stated that it would be required regardless of a special use permit condition. Therefore, this condition was really just an extra reminder for the applicant.

Ms. Long stated that one final minor issue, which had been mentioned in some correspondence with the Planning staff some time ago, was that the landscaping that they were agreeing to plant along two sides of the new building that they were happy to do that. They would ask for a little bit of flexibility to install the landscaping up to 60 days after the station goes on the air in the off chance that timing is going to be a factor. They know that timing is going to be a factor because Gray Television expects to be scrambling up to the very last moment of the federal deadline of August 15 to get this tower on the air. Therefore, she wanted to be sure that it was not due to failure to install landscaping in time that keeps them from getting on the air in time and having that permit expire.

Mr. Rieley pointed out that they did not want to install the landscaping in August anyway.

Ms. Long stated that they would appreciate some flexibility, but if they can get it done it time that they would certainly make the best effort that they can. She noted that they have to receive their certificate of occupancy before it could be turned on.

Mr. Waller pointed out that the landscaping could be bonded at the time of the certificate of occupancy.

Mr. Craddock stated that the drawing indicated that they would paint all of the attachments the color of the tower. He asked if that would include the aviation orange on the radome or the antenna.

Ms. Long stated that she would ask Mr. Davis that question, but she did not believe that there would be any aviation orange required.

Ben Williams, Chief Engineer for WHSV Television which is owned by Gray Television, stated that the fiberglass radome provided by ERI is also available in grey, which is the color that the Board was planning on requiring.

Ms. Long stated that if there was a preference for another color that they would be happy to accommodate whatever color they wanted. She pointed out that the new call station letters were WCAV.

Ms. Higgins stated that after hearing the response to these questions, she would like to talk about condition 1 and say substantial accordance since that was what the Zoning Administrator says. She pointed out that was the standard anyway.

Mr. Kamptner stated that “substantial accord” was more substantive than “general accord”.

Mr. Rieley stated that it was somewhat more restrictive than a normal treetop tower and might be in order because the stakes are much higher in this one. He felt that it has to be in compliance with the schematic drawings is enough to qualify because schematic drawings are not construction drawings anyway and it implies that there is some flexibility.

Mr. Thomas stated that therefore general would good enough.

Ms. Higgins stated that condition 3 should be removed because if 10,000 square foot was disturbed that it must be required anyway. There is a caveat on number 9 that the plantings can be bonded and then be planted in the fall. She pointed out that August was a terrible month to do the planting.

Ms. Joseph stated that was just the normal course of events that they can bond the landscaping if they chose.

Mr. Rieley asked if anybody was concerned about the fact that condition 6 is a different number than what is on the drawing. He pointed out that the drawing stipulates 48 inches as opposed to 50 inches listed in condition 6. He felt that the numbers should be consistent.

Ms. Higgins asked why the number needed to be included in the condition since the drawings should be part of the attachment that covered in item 1.

Mr. Kamptner stated that the height of the tower and the width of the tower are important and flexible and are not in general accord. With all the wireless facilities those two things are always hard limitations. Therefore, the first sentence in condition 1 after the date May 5, 2004 just to be clear should state, subject to the maximum height and width restrictions of conditions, which will be renumbered as 4 and 6. Therefore, there would be no ambiguity in the height, but there would be some softness in the condition.

Ms. Higgins agreed, but questioned if the 48 inches includes the bolt heads. She noted that when getting down to inches in a situation like this that she felt that 50 inches was fine. It could happen that someone in the field takes a measurement and it is off a couple of inches.

Mr. Thomas stated that it was staff's suggestion to give the applicant some lead way.

Ms. Long pointed out that Mr. Davis just indicated that the measurement is generally to the center of the tower legs. She stated that it would be helpful to have the extra two inches, but that they intend to build it exactly the way it was shown on the plans. Again, they were just trying to avoid having to come back to amend an entire permit for minor, minor modifications.

Mr. Thomas stated that he did not have any problem with the 50 inches. He stated that they would leave the condition as it was with the 50 inches.

Mr. Rieley asked staff to clarify those things in the future because throughout the staff report it talks about 47 and 48 inch width. He noted that they were talking about what they were going to see and not what was the center of a structural number. He felt that if it was something different than that, then it should be shown.

Ms. Joseph stated that an erosion and sediment plan could be required if they wanted to see tree protection, silt fences or whatever else out there. She pointed out that they don't have to do it, but because this is a special use permit that they could ask for it.

Mr. Benish noted that he did not think it was staff's intention to specifically ask for it in this case.

IN SUMMARY:

Ms. Higgins moved to approve SP-2004-003, WHSV/Channel 19 - Charlottesville, with the recommended conditions as modified with some clarification on the conditions as it moves forward. He stated that his motion included the deletion of condition 3 and the addition of one condition. Regarding the concerns for health, safety and welfare, he requested that staff work on language to create a condition 9 for the property owner of the tower farm to be required to provide the County with an annual report on radio frequency emissions. This condition should be provided by staff before the Board meeting. The amended conditions are as follows:

1. The facility including the tower, its attachments and the new ground equipment building shall be sized, located and built in general accord with the construction plans, tower elevations and schematic drawings initialed SBW and dated May 5, 2004 subject to maximum height and width restrictions in conditions 3 and 5. This information is provided in Attachment B of this staff report.

2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings construction of the facility. Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.
3. The height of the tower structure shall not exceed 150 feet and the top of the antenna, including the lightning rod, shall not exceed 190 feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend higher than the tallest portion of the top-mounted antenna.
4. Antennas supporting services other than television broadcasting shall not be attached to extend above a total height of the tower itself.
5. The width of each side of the tower shall not exceed 50 inches in width.
6. The existing guyed tower that currently supports this facility shall be removed within 60 days of the completion of the new tower.
7. The short existing tower, owned by Adelphia Cable Company shall be removed within 90 days of the discontinuance of its use and in any case no later than October 31, 2004
8. The new ground equipment building shall be painted a natural, dark brown color, and screened on its eastern and western sides with evergreens or a mixture of trees deemed acceptable by the County's Landscape Planner.
9. There shall be annual verification by a source acceptable to the County Department of Engineering on radio frequency emissions. *(Staff will work on the language of the condition to address the Commission's concerns that the property owner of the tower farm shall provide the County with an annual report on radio frequency emissions regarding health, safety and welfare.)*

Mr. Morris seconded the motion, which carried by a vote of (7:0).

Mr. Thomas stated that SP-2004-003 was recommended for approval and would be heard by the Board of Supervisors on June 2.

The Planning Commission took a ten minute break at 8:20 p.m.

The meeting reconvened at 8:29 p.m.

Work Session:

Community Facilities Plan – Work session to discuss update of the school section of the Community Facilities Plan. (David Benish)

Mr. Benish stated that staff had given the Commission a copy of the school's section of the Community Facilities Plan. Staff has been working with the Education Department's staff in putting this together and wants the Commission's input before the document goes to the School Board. Staff will bring back the information from the School Board's meeting to the Commission. Next week a public hearing will be held on the police, fire and rescue, and libraries sections. Then they will continue working on this particular section on schools with any additional information. There are some aspects of the school section that staff is still working through and negotiating on with the School Board staff. Staff is still working on the parking requirements and whether they are going to specific requirements. The Zoning Ordinance now requires that a study be submitted which would provide for more detail at the time of the site plan review. Staff is struggling with whether it is advisable to set some standard that may be high or low depending on the circumstance of the school or to provide more general guidance. To date staff has focused in, except for high schools, on more general guidance. High schools are unique because there are a number of students that can drive and/or be released for work. There are also various other reasons that it may be advisable to have a better picture for what the parking requirement would be. The County does not build a lot of high schools, but they need to recognize the standards. By the time that the County is looking at the next school, staff would be looking at that fairly specifically. Since elementary schools are built much more frequently, general guidance is best.

With that said, he asked the Commission how they would like to proceed through the document. He stated that he could walk through the document page by page or just give an overview.

Mr. Thomas asked if any Commissioner had any specific areas to go over first.

Mr. Morris stated that he had a question referring to the overall purpose. He asked if they were trying to incorporate the current and future schools within the Neighborhood Model to allow for more recreational facilities and so on with the gymnasium.

Mr. Benish stated that he was generally correct. The prior policy had emphasized traditional suburban style schools. Staff is trying to provide guidance to allow greater flexibility for other types and designs of schools. Staff has tried to identify certain issues that have been important in looking at the design of the school. Several of those issues include how the school fits within the terrain and is organized between neighborhoods. Staff has also tried to respect that the Facilities Plan is focused on the facility and not trying to dictate operational functions of the schools. Staff does not want to create any conflicts regarding what the schools feel is important to the standards for their operation. One example is that they would prefer for operational efficiencies that the schools to be only one story. Therefore, the Education Department's support staff is reluctant to look at two-story buildings. Staff has been looking at a two-story structure for North Pointe. Staff is trying to look at the operational needs and set some flexibility in the design with the terrain of the neighborhood. Schools have traditionally been provided and assumed to be parks as well. The County has always added additional facilities just as a standard for recreational facilities to be part of the schools. Staff has tried to establish two school standards. One is called elementary schools, which have the facilities that the school feels that it needs for its educational functions. It is the same number of facilities, but there are certain issues with standards for locating those facilities that increase in size. That neighborhood school does not necessarily have additional facilities that they would need for recreational purposes beyond the elementary education function. It is still the intent that what is provided at that school would be considered a park and would be available for park use, but instead of two baseball fields there would be one.

Mr. Morris stated that he was looking at the facilities of a neighborhood school located on page 5, which had an 8,000 square foot gymnasium. When the Commission reviewed Parks and Recreation section, one of the things missing was inside facilities for the population. He asked if this might a way of getting more inside facilities for nights and weekends

Mr. Benish stated that the gymnasiums are the same because they are already oversized for community purposes. The school does not necessarily need an 8,000 square foot gym. The gym itself is oversized for that community use. Staff felt it was important to over build the gymnasiums for school purposes and to also accommodate the community's needs. Staff set two standards for the outside facilities. The first standard is for a more minimum usage. The second standard is for a more traditional usage which included the Parks and Recreation functions. He pointed out that conceivably the school could live with a smaller gym. Staff felt that the gym was integral to the school design. If you provide for some flexibility in the school design, then they could probably accommodate the additional square footage with a larger gym. When you start adding two baseball fields or football fields, it gets more difficult because you automatically get up into the 15 to 20 acre range. It appears that that the facilities outside and inside that staff is calling for in an elementary school would probably fit on 12 acres. It is tight, but other localities have done it on smaller acreage. Staff is trying to meet the school's operational desires. Staff is trying to separate the stacked bus stop areas from the general parking and to try to create sufficient parent stacked parking for parent pick up areas. Staff likes those areas separated with an orientation that allows for visibility to the parking areas. That starts to make it more difficult to restrain the sites. Staff hopes to have enough particulars in the document so that they could go lower than 12 acres for a school site if they can get a site that can be creatively designed within a subdivision or new development.

Mr. Thomas stated that was the direction that the Commission wanted to go in order to coordinate the two together and acknowledge the needs of Parks and Recreation.

Mr. Benish stated that from a site by site standpoint Mr. Mulaney is comfortable with both sets of standards for elementary schools. Of course, implicit in Mr. Mulaney's acceptance of the neighborhood schools is that they would be doing the appropriate long range planning to meet the recreational needs that are identified for the area. If they need X amount of fields and only one-half of that is provided under the neighborhood school, then we need a plan to adequately provide those services in other locations. Staff feels that by setting two standards for the elementary school as they plan for the area and decide where the location can be that they can take the cost efficient mode by combining them in one option. They also have the option and some standards that would allow us to build something like a neighborhood school, particularly within a development proposal that provides those recreational facilities elsewhere as a public amenity. He pointed out that this gives them the flexibility to do that and gives some guidance to those in the development community. He pointed out that was what they were trying to do in this document.

Mr. Edgerton asked who this document would be guiding.

Mr. Benish stated that it guides the County, which includes the School Board and the County Government, in their capital facilities planning. The overall standards in the document is a 600 student enrollment for elementary and an increase to 900 for the middle school. Staff can look at the micro-needs from a facilities' service standpoint and get a sense for how many school facilities that they need. They can use those design standards in the CIP to provide some direction to find school sites in the County. They would have direction for what a minimum school size is and what types of design parameters they should be looking at when they assess sites for trying to acquire land. It is also an advisory tool that they give to the people in the development community when they are encouraging them to provide for a school facility. He stated that it provides guidance as to how to build a new school.

Mr. Edgerton stated that nationally a lot of exciting things are happening with energy efficiency, day lighting and the effects that they have been having on student scores and the whole educational process. He asked if that was something that should be included in this. There are standards being set nationally that can be actually measured for energy efficiency and for day light effects.

Ms. Higgins pointed out that these standards would provide for the minimum, but that would have to be above the State's educational standards. She pointed out that these standards were more physical than operational. She asked if these increased student enrollment numbers had been agreed to by the school staff.

Mr. Benish stated that the 600 student enrollment for elementary schools has not changed. It has been in the Community Facilities Plan, and Mr. Reasor does not recommend any changes. The school staff actually recommended the increase to 900 students for middle schools. Staff was apprehensive in going to a school that large for a middle school because generally our middle schools have been fairly small and potentially located in neighborhoods. Staff was worried about the massing and scale, but recognized that middle schools would more than likely in all different types of standards tend to tell you to move them a little bit more to the peripheral of the neighborhood. Staff does not build as many middle schools. Staff is comfortable in the increase in the maximum size. It does provide for the schools to have a little bit more flexibility to use the existing facility. He noted that high schools have not changed.

Ms. Higgins pointed out that this does not really define what a neighborhood school is. She pointed out that there was only one neighborhood school in Albemarle County, which was Woodbrook Elementary. She stated that it was the only school that had enough of a student base for students to get to school within a certain distance. She noted that was also one of the

educational standards. It has to do with the size of the school, but not about the location of the school in a neighborhood.

Mr. Benish stated that brings up a complication. He argued that Hollymead was actually a neighborhood school because its physical location is in the center of a neighborhood. But, because of redistricting issues the other side of that facility actually goes to Woodbrook now. The north side of Hollymead actually goes to Baker Butler because the redistricting decisions are not solely tied to a neighborhood concept. That has been a sticking point within the planning of schools. The question is whether they are planning from an enrollment standpoint for a school district for neighborhood schools. Staff wants the schools to be designed in a way that they could be neighborhood schools.

Ms. Higgins stated that there were many reasons why the schools were not limited to a single neighborhood, which includes the close proximity and diversity.

Mr. Benish stated that demographics are a big driving factor in balancing the school districts to represent the populations that they want to dictate.

Ms. Higgins stated that on page 2, item 6 it starts by saying that it will be a function and shall be made available. She felt that the flavor of that sentence was inconsistent. She questioned the use of "shall" versus "should" throughout the document.

Mr. Benish stated that staff has been trying to change "shall" to "should" throughout the document. Because it is a Comprehensive Plan document, staff is trying to be adamant about that as a standard and trying to balance that language out in the document.

Ms. Higgins stated that most of the items 1 through 9 began with identify or provide, and noted that several of the items are inconsistent. In the middle of one sentence it says, "as identified in Parks and Recreation of this plan" which should probably have the word "section" added after Recreation. On the fourth line under building locations it states, "to the greatest feasible", which she felt that he meant to say, "to the greatest intent feasible." She questioned how to include the pedestrian access and connectivity activity in surrounding neighborhoods in this section. She felt that staff's wording "to the greatest extent feasible" has caused a lot of confusion. Regarding pedestrian accessibility, she felt that it needed to be acknowledged that depending on the level of the school, particularly for elementary schools, that you can't have sidewalks coming in from four sides of the school building where there is accessibility for children. She stated that you have to acknowledge that schools are now talking about close circuit television and monitoring in certain doorways for access and checking the children out. She pointed out that some people can only come into the school grounds under visual surveillance. She felt that somewhere in this section that to the greatest extent feasible that they need to find some way to be respectful of the school's program for safety and security of the students. She felt that it was worth mentioning because this is a planning document. She stated that to the greatest intent feasible means providing pedestrian accessibility to connect sidewalks and interconnect travel ways. But, in high schools the children could not get close to their cars during the daytime because of inappropriate activities. Therefore, putting parking in front of the school and some parking behind or to the side is a determined effort to handle adverse behavior. She felt that some acknowledgement of their programs needs to be incorporated.

Ms. Joseph stated that feasibility also means some of the things that they have been talking about and not just physical aspects. She felt that to the greatest extent feasible implies that where they can physically do it and make the grading work.

Ms. Higgins asked if under building locations a statement could be added that the greatest intent feasible implies that this respects the program for the school.

Mr. Rieley agreed with Ms. Higgins that to the greatest extent feasible could be problematic.

Mr. Edgerton agreed that the wording about the standards for all schools should be put in at the beginning.

Mr. Rieley suggested changing the wording to, “the greatest extent physically and programmatically feasible”.

Mr. Benish asked if they wanted that done in one point in time to define what feasible means or every time they use feasible.

Ms. Higgins pointed out that it was only used three or four times. She stated that on page 4, item 4 that the last sentence needs to be restructured.

Mr. Benish apologized that this was a scanned document and that staff has to clean the document up.

Ms. Higgins stated that there was some repeat of words.

Mr. Benish pointed out that the format was off on the document and they could not get some of the words changed.

Mr. Higgins stated that on page 5, number 8 it talks about establish more within the neighborhood is located, and she felt there might be a better way to phrase it.

Mr. Morris asked for clarification if they were recommending because of the wonderful words that are added to the greatest extent feasible that it does not have to appear from then on.

Ms. Higgins stated that it was important where it was inserted, but it should be consistent and state, “to the greatest extent physically and programmatically feasible.”

Mr. Craddock stated that it would be defined at the beginning.

Ms. Higgins stated that the only issues they were talking about were parking, building locations, and one other spot.

Mr. Morris asked if those words would remain in those specific areas.

Mr. Benish stated that staff would add that in. Staff wants to make a statement that they were going to try to work towards implementing those, but recognize the flexibility that the Commission picked up on. He pointed out that he understood that it was not clear and that this will add to it.

Ms. Higgins stated that on page 2, second paragraph from the bottom, that it says the surrounding neighborhood and the physical characteristics of the site and issues site efficiency and security. She pointed out that it seemed to be missing a word.

Mr. Benish stated that it should read, “and the conditions of site efficiencies”, which was actually speaking to the programmatic issues.

Mr. Rieley stated that on page 3 under the bus loading that the pick zone should read, “that is separated from the bus loading zone which . . .” He stated that there was another change which was more substantive in the same paragraph that Ms. Higgins pointed out on page 2. He realized that this is the result of trying to blend views from different professionals. He felt that it was really clear that there is a real effort to compromise. He noted that the statement that a single story structure is preferred to operate under the program efficiencies was a clear statement of somebody’s point of view. But rather than to state that categorically and then qualify it in the next sentence he felt that it would flow better just to say, While single story structures may be

preferred for operational program efficiencies, multi-story structures are considered a nominal option.

Mr. Edgerton stated that he liked his suggestion because it would leave the door open for good design.

Mr. Thomas stated that he supported his suggestion and noted that was the way it was done in the Neighborhood Model.

Mr. Rieley stated that under Environmental in the next to the last paragraph on page 3 it states, "Topography of a site shall be such that grading and development costs are minimized. He suggested that the sentence be changed to read, "In relationship to building design the topography shall be such that the …" He stated that the sentence was about the relationship between the building and the site and whether a multi- or single-story building is sustainable on the site.

Ms. Higgins stated that she took this differently because she felt that they would use this in selecting the site.

Mr. Edgerton agreed with Mr. Rieley.

Mr. Benish stated that he planned to address this with the School Board by putting on the table what their expectations are while recognizing what their needs are. He felt that they could have gone about this a lot more aggressively. He acknowledged that they are concerned about their operational needs. He felt that they are very concerned about the issues of security and costs. Some of the new design concepts are ones that they are not sure can easily be incorporated into what their concerns are. He pointed out that while visiting Texas both he and Ms. Echols had seen a lot of schools down there that are oriented towards the streets that did not have problems with fire drills and security. He noted that the people who came to the evening activities were encouraged to walk to them rather than driving to them. Staff feels that this step is sort of a process that recognizes what they would like to do by recognizing what their concerns are and then they involve into it. As proffers come in for new schools, hopefully they can be up front by having the schools designed with the neighborhood instead of having to go in and fit it into the neighborhood. He pointed out that the corrections will be made to the document and redistributed to the Commission.

In summary, the Planning Commission held a work session on the school section of the Community Facilities Plan. Staff provided an update of the document, which had input from the Education Department's staff, and requested the Commission's input prior to presenting it to the School Board for comment. Staff anticipates that after meeting with the School Board that this will come back to the Commission with their input. Staff anticipates multiple work sessions on this item since they are still working on several issues with the Education Department's staff. The Commission discussed and provided comments regarding specific areas and concerns to focus on and noted some corrections to be made to the document. Staff will make the suggested changes and provide the revised document to the Commission prior to next week's public hearing. The public hearing will be on the proposed amendment to the Comprehensive Plan, including sections on overall service objectives, and sections pertaining to Police, Fire/Rescue, Schools and Library facilities.

Old Business:

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

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 9:25 p.m. to the next meeting on May 18, 2004.

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V. Wayne Cilimberg, Secretary

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