Albemarle County Planning Commission
June 21, 2011

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, June 21, 2011, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Russell (Mac) Lafferty, Duane Zobrist, Chair; Ed Smith, Thomas Loach, Linda Porterfield, Don Franco and Calvin Morris, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia, was present.

Other officials present were Megan Yaniglos, Senior Planner; Wayne Cilimberg, Director of Community Development; Bill Fritz, Director of Current Development; Sharon Taylor, Clerk to Planning Commission; Margaret Maliszewski, Design Planner; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Zobrist, Chairman, called the regular meeting to order at 6:01 p.m. and established a quorum.

Matters from the Public not Listed on the Agenda:

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

Review of Board of Supervisors Meeting – June 8, 2011

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on June 8, 2011.

Consent Agenda:

Approval of Minutes – March 15, 2011

Mr. Zobrist asked if any Commissioner would like to pull an item from the consent agenda for further review.

Motion: Mr. Morris moved and Mr. Smith seconded for approval of the Consent Agenda as presented.

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

Regular Items:

SDP-2011-25, Sorensen- Building site waiver
PROPOSED: Waiver request to allow a building site with less than 30,000 square feet.

ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas-; agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 4.2.2.a.1, 4.2.5.a.3
COMPREHENSIVE PLAN LAND USE: Rural Areas in Rural Area 1
FLOOD HAZARD OVERLAY: Yes
LOCATION: 4692 Browns Gap Turnpike at the intersection of Brown Gap Turnpike [State Route 810] and Blackberry Hill Farm (Private)
TAX MAP/PARCEL: 01400-00-00-040B0
MAGISTERIAL DISTRICT: Whitehall
(Bill Fritz)

Mr. Fritz presented a PowerPoint presentation and summarized the staff report.

The applicant's request is to decrease the required building site from 60,000 square feet for two dwellings to 51,581 square feet. The applicant is not proposing to disturb critical slopes or to intrude into the stream buffer (the stream buffer is protected by the Water Protection Ordinance, which is not subject to modification or waiver). If this waiver is approved, staff will insure that adequate drain fields are available for both dwellings prior to issuing a building permit or approving a subdivision plat.

Staff was unable to find such a specific request that has come before the Planning Commission. There was a request about a year or two ago called Ourada, which was a modification request for building site but was substantially different from this. They don't really have much history with this type of request.

A building site is defined as being 30,000 square feet in a rectangle with no side exceeding the other by a ratio of 5 to 1. Building sites exclude certain things. The only two relevant in this case are critical slopes and the stream buffer from the Doyle's River. There are other areas under water, for example. However, none of those comes into play in this particular application.

The purpose of this is to allow a family member to build on the property. Staff went through the criteria of Section 4.2 and the subsections that apply. This is the same criteria used for a critical slopes waiver. The waiver request essentially is to reduce the building site size. Staff was unable to find any factors that were favorable to this request. Staff came up with some negative or unfavorable factors. If the Commission chooses to approve the request things like ensuring that there is adequate drain field area and the like they would do as normal part of the issuance of the building permit. There are no conditions about that because it is not relevant. It is not an issue for the Commission and staff can assure that. If the applicant was unable to find drain field area even with the waiver they would not be allowed to build.

The negative or unfavorable factors staff found were:

1. The parcel is in the Doyle's River water supply watershed.
2. There is an existing dwelling on the property. Denying the waiver will not unreasonably restrict use of the property.
3. Allows a second single family home to be located on the same lot in the Rural Areas, which is in conflict with the Comprehensive Plan.

RECOMMENDATION:

Staff's opinion is that the unfavorable factors outweigh the favorable factors; therefore, staff recommends denial of this waiver.

Development rights in the Rural Areas are theoretical and may only be used if all other provisions of the ordinance are met. If this request is approved, staff will be unable to make a distinction between this request and any other request for a waiver to allow use of development rights. Should the Commission choose to approve this request staff requests that the Commission clearly articulate its reasoning for the approval. This will provide guidance to the staff and the public for any future requests for a waiver.

Mr. Zobrist invited questions from the Commission.

Mr. Loach noted that the staff report says that the subject property has two development rights. So essentially, they have two development rights, but don't meet the 30,000 square feet.

Mr. Fritz replied that it is a five acre lot with two development rights, but they don't have the building sites to allow them to use them. Development rights are theoretical until they demonstrate a building site, access, and all the other requirements of the ordinance.

Mr. Loach asked if this was considered a family subdivision and does it also come under the other provisos regarding the four years, etc.

Mr. Fritz replied if the applicant did it as a family division it would come under the provisions including the four year limitation and so forth. Family division has no effect on the building site and they still must have the 30,000 square foot building site. It does not change the waiver before the Commission. The family division provision exempts someone primarily from the road access standards. Other than that there is really no impact. This is a waiver request for the building site.

Ms. Porterfield asked if the house on the neighboring property has a building site.

Mr. Fritz replied there are several sites along the Doyle's River that probably do not have a building site. The ordinance says if a lot does not have a building site they still can build the first dwelling. Many houses were built prior to December, 1980.

Mr. Franco asked if the 30,000 square foot standard has been established in order to get a building, a septic field, and some of the other pertinent items all in the building area.

Mr. Fritz replied that it goes back to the original 1980 ordinance, which was to provide a building site that would include area for the house, drain field, the well area, access to the house, parking areas and outdoor living areas. In reading the 1980 minutes he found the well was the only exception that has to be in the building site.

Mr. Zobrist opened the public hearing and invited the applicant to come forward to address the Commission.

Lynn Sorenson, property owner, pointed out that Mr. Fritz has attempted to be very fair about this. However, her request came from the fact that they have lived on this property since 1985 and have every intention of living on it until they die. One of the things they have always wanted to do was to have one of their children or grandchildren live close. In Albemarle County in the rural areas that has been a common pattern. She asked for approval of the waiver so they would be able to continue living the way that they have wanted to live there. They feel that the road would be an adequate buffer. She did not know the technical things to say except that they would want to be able to have a family member be able to live near them. It is something they have thought about a long time. She hoped the Commission would consider approval of their request.

Mr. Zobrist invited public comment.

Stuart Birckhead, with Clayton Homes and Ms. Sorenson's builder, said the biggest thing he saw here was the flood plain. The riverbed of Doyle's River has changed somewhat over the years. He thought the entire roadbed should be a part of that 30,000 square foot area. Ms. Sorenson is placing a 13,000 square foot home on the property, which would include the decking. The amount of area ratio they would be using is very small.

Mr. Fritz noted that the floodplains in the WPO are two different things. The floodplain here is actually smaller than the WPO. He did not know where that level is.

There being no further public comment, Mr. Zobrist closed the public hearing to bring the matter before the Planning Commission.

Mr. Loach pointed out normally he would agree with staff on this and vote against it because of the rural area. However, the exception has been for family subdivisions. Since Mr. Fritz said the site would have to meet all of the other criteria and the applicant said the house would be 13,000 square foot, he supported the proposal.

Mr. Franco asked to follow up on Mr. Fritz's comment about the WPO. There were stream buffers before it got consolidated with the WPO. He asked if they know when this became a stream buffer.

Mr. Fritz replied that this would have been a perennial stream. Therefore, it would have been when they first adopted the stream buffers in the early 90's. He was not sure when that ordinance was adopted.

Ms. Porterfield asked if it was possible to use the family division regulations and give them the waiver for the site.

Mr. Fritz replied if the Commission wanted to place a condition limiting it to family on the waiver approval it would be very difficult to enforce. If they build the house and don't divide

the property there is really no way for staff to tell who was living in the house. If this were a family division, then there would be a chain of title that was in the court house and as part of the subdivision process they would have to provide an affidavit of the relationship of the new owner. Then the four years could be tracked in those records. The applicant might not intend to divide or build right away. Therefore, he did not know how staff would enforce that.

Ms. Porterfield asked if they could ask the applicant if they were willing to go that route.

Mr. Zobrist invited the applicant to come forward and address the question.

Ms. Porterfield asked if the applicant would be willing to divide the property into two distinct lots since they intended to put family on the property. The Commission would be then willing to give a waiver on the house site on the second lot provided that it would be occupied by a family member for a period of ten years. She noted that the applicant would not be able to sell the house to someone outside the family for ten years.

Ms. Sorenson replied that her son would be living there. However, she did not know how banks work. It does not depend on who pays the mortgage, but who is living in the house.

Mr. Zobrist said it depends on their ability to perfect a mortgage on the property. If the lot is subdivided it will be easier for them to put a mortgage on it because they can focus on that lot. If it is not subdivided then they have to put a mortgage on the whole property and see if their property will sustain the loan that they want to take for the new house.

Ms. Sorenson said this criterion is their son lives there for at least ten years and they don't sell the property to someone else, but it remains in their family.

Mr. Zobrist replied that their immediate family as defined in the ordinance must be the owner for ten years. He asked if she would be willing to do that if the Commission puts that as a condition.

Ms. Sorenson relied that she would have no trouble with the condition.

Mr. Zobrist noted there were a number of factors. One was limiting the size to 13,000 square foot with one-story. That would diminish the need for the 30,000 square feet. Two, they could build a 13,000 square foot barn. He felt they should be rewarded for going through the process and doing the right thing. The applicant is willing to put conditions on it that would lessen the impact and restrict it to family members. Therefore, he supported the request.

Mr. Fritz suggested the following conditions: Limit the dwelling size to 13,000 gross square feet, single-story not including decks.

Mr. Zobrist added that the applicant shall submit an appropriate family division application.

Mr. Fritz suggested the condition that the property be limited to family ownership for a period of ten years. That would mean it could be a single parcel in family ownership. They would not be able to ensure that the other dwelling was limited to a family member. However, the land would

be in the family. If they wanted to subdivide they could, but it would allow them to leave it as a single ownership. The Commission can decide how they want to deal with that. That is an easier condition.

Mr. Kamptner suggested the condition say that the dwelling shall be occupied by a member of the immediate family as defined in Chapter 14 of the Albemarle County Code. That is the definition used for family subdivisions for at least ten years from June 21, 2011.

Mr. Zobrist suggested it be from the date of issuance of a certificate of occupancy permit.

Mr. Morris suggested increasing the size of the dwelling to 18,000 square feet.

Mr. Franco suggested having no size limitation since the plat and building permit approval would limit the building size by itself.

Mr. Smith asked if this was his lot and he went bankrupt in two years what happens.

Mr. Kamptner replied that if it was a family subdivision there are provisions that allow the land to be transferred to a non-family member during certain financial conditions. He believed they have included bankruptcy as a scenario. In order to grant the waiver there are certain findings that must be made. On page 3 the first finding is in italics at the top – The Commission needs to find that the modification or waiver would not be detrimental to the public health, safety or welfare in the orderly development of the area or to the adjacent properties, etc. and include at least one of the following that are listed under a, b, c, and d. Therefore, there are two findings that need to be made to support the decision to grant the waiver.

Mr. Zobrist noted his thought in limiting the size of the house was to the detriment to the public health, safety or welfare. If there was a small house on the property, he did not think it was going to have a lot of impact on the community. He would not want to see a 4,000 square foot two-story house on the property.

Mr. Loach agreed.

Mr. Zobrist noted that Mr. Franco had suggested that the Commission not limit the house size.

Mr. Franco pointed out he was not sure they could get that size house on the property.

Mr. Zobrist noted the applicant told the Commission what they want to built and would be happy with. He supported sticking to what the applicant wants to build. If they want to change it, they can always come back with a request for permission to change it.

Mr. Lafferty asked if they can grant the request under part (d) since they are saying it is for the family.

Mr. Loach agreed the request should be under part (d) as a family division.

Mr. Kamptner pointed out it was the Commission's findings. The Commission was limiting it to being occupied by a member of the intermediate family because it is of a greater public purpose or a greater import. That would be the commission's finding.

Mr. Zobrist asked if the applicant would need to make an application.

Mr. Fritz replied yes there would be a subsequent family division application that would need to come in. The applicant would need to survey the property, submit the application and go through the review process for that.

Mr. Zobrist asked if the finding has to be part of the motion or can it just be part of the record.

Mr. Kamptner replied that it was either way, but suggested the two findings be consolidated.

Mr. Zobrist said the Commission finds the modification waiver would not be detrimental to the public health, safety, or welfare because of the size and scope of the project. The Commission further finds pursuant to paragraph d of section 4.2.5.a.3 that the purpose of having the family value of having a family living on the property with parents and grandparents is of a greater import than would be served by the strict application of the regulations.

Mr. Morris agreed.

Mr. Fritz asked if the proposed conditions were what they wanted.

Mr. Morris replied that he would still like to have the Commission consider increasing the house size from 1,300 to 1,800 square feet. It stays small and doable, but it gives wiggle room. Anyone who has built a dwelling knows that things happen.

Mr. Loach agreed

Mr. Zobrist noted all Commissioners were okay with moving from 1,300 to 1,800 square feet. He asked for a motion.

Motion: Mr. Loach moved and Mr. Smith seconded for approval of SDP-2011-25, Sorenson – Building site waiver with less than 30,000 square feet, with conditions as rendered by staff based on the findings summarized by the Commission according to Section d of 4.2.5.a.3.

1. Dwelling shall be limited to 1,800 gross square feet, single story, not including decks.
2. Dwelling shall be occupied by a member of the immediate family as defined in chapter 14 of the Albemarle County Code for at least 10 years from the date of a certificate of occupancy.

The Commission finds the modification waiver would not be detrimental to the public health, safety, or welfare because of the size and scope of the project. The Commission further finds pursuant to paragraph d of section 4.2.5.a.3 that the purpose of family value is promoted by

having a related family living on the property with parents and grandparents, which is of a greater import than would be served by strict application of the regulations.

The motion passed by a vote of 7:0.

Mr. Zobrist noted that the SDP-2011-25, Sorenson – Building site waiver had been approved, which did not require Board approval. The applicant would need to work with staff on the conditions.

Public Hearing Items:

SP-2011-00003, Scottsville Elementary School/AT&T CV434 Tier III PWSF
PROPOSED: A seventy three (73) foot AT&T treetop monopole and associated ground equipment
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: Scottsville Elementary School- 7868 Scottsville Road [State Route 20]
TAX MAP/PARCEL: 13000-00-00-025P
MAGISTERIAL DISTRICT: Scottsville
(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation and summarized the request as noted below.

This is a proposal to install a 73' steel monopole and associated equipment that will be housed in an equipment shelter that will be surrounded by wooden fence and landscaping on the Scottsville Elementary School property. This property is located within 200' of a Virginia Scenic Byway, Route 20. The Virginia Scenic Byways have been identified in the Personal Wireless Facilities Policy and Zoning Ordinance avoidance areas.

A balloon test was conducted on March 30th. During the balloon test staff observed the balloon's visibility from Route 20 and adjacent properties. The applicant has also presented photo simulations from this balloon test. Staff reviewed the photographs and photo simulations of the balloon test. Staff noted that the total distance was about one-half to one-fourth of a mile that the balloon could be seen traveling south and north. There will be some landscaping around the fence. The applicant has added some additional landscaping on the plans further down towards the entrance to mitigate equipment shelter and bottom of the pole.

Staff has identified factors, which are favorable and unfavorable to this proposal:

Factors favorable to this request include:

1. The addition of this monopole provides cellular, data, and ECC coverage for the existing school contributing to the general health, safety, and welfare of the public.

Factors unfavorable to this request include:

1. The proposal does not meet Sections 5.1.40 (d)(2) or 5.1.40 (d)(3).
2. The proposed monopole when visible is sky lit with no wooded backdrop.
3. The proposal is within the Virginia Byways, an avoidance area outlined in the Open Space Plan.
4. The Architectural Review Board has recommended denial of this proposal at this location.

RECOMMENDATION: Staff recommends denial of this personal wireless facility.

If the Planning Commission recommends approval of this application, staff recommends the following conditions:

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Scottsville Elementary School CV434," with a final zoning drawing submittal date of 5/17/11.

Additional Information

Since the staff report was written, an additional balloon test was conducted by the applicant. This balloon test was done in June when the trees leaves were fully out. Staff was unable to attend this balloon test. The applicant provided some photo simulations and photographs from that balloon test. This information can give the Commission an idea of what it might look like for a half of the year.

Margaret Maliszewski, Design Planner, was present.

Mr. Zobrist invited questions for staff from the Commission. There being none, the applicant was invited to come forward to address the Commission.

Valerie Long, representative for AT&T, said this application is part of a group of applications that are for wireless telecommunication facilities at county school sites. A few months ago, they brought to the Commission a proposal at Walton Middle School as part of that. There are three applications this evening, which are all in a row. Maps were provided of the Route 20 and Scottsville area to orient the Commission of the proposed locations. The first application being discussed was 434 at Scottsville Elementary School. The other two locations are for the applications to be discussed later tonight.

- Another map showed the Scottsville Elementary School site and Yancey Elementary School site, which has already been approved. The map was to help put these applications in context of other proposals the Commission has seen in the past few months to a year and others they are working on. There was a tower approved about a year ago at Snow's Garden Center. That was AT&T's start to extend its wireless coverage on Route 20 south from the city. The second one was a proposal approved a few months ago on the Ross property, which was also a special use permit in the historic

district. The next facility is the Cosner property, which was approved several months ago. The Walton Middle School is next. There are two sites shown as yellow dots where they don't have landowner leases in place there. Sites have been found, but no applications have been applied for. Therefore, she did not list anything there. The next one is the Schmidt property, which will be heard tonight. The other sites include the St. George Catholic Church property, Scottsville Elementary School, and Yancey Elementary School. In addition, just over the county line in Buckingham below the river is another site they are working on to provide that coverage. Ultimately, when these sites are all approved, constructed, and on the air AT&T will have seamless wireless coverage along the Route 20 Corridor. She wanted the Commission to know the broader context there.

- Tonight the first site being reviewed is Scottsville Elementary School. The approximate location is right against the trees. They would not need to construct a permanent access road since there is already a temporary access road constructed. It would be seeded over later.
- In response to comments from the Architectural Review Board, they amended their application to include some additional landscaping. There was a concern that driving south because of this fairly open area that someone might have a view into the compound area. At the suggestion of staff, they added to the evergreen shrubs a number of approximately 23 Rhoadadendum that are short shrubs to help mitigate the screening. There will also be some landscaping around the base of the fence. The equipment would be enclosed within a wooded fence. She noted the trees that were measured and surveyed.
- The facility would be 73' tall, which was 10' above the top of the tallest tree. Photo simulations were reviewed. One photo simulation was done in March. Obviously, during the winter months one would be able to see part of the pole through the trees. However, the fact that it is painted brown, no more than 10' above the tops of the trees, and its antennas will be flush mounted will help the pole blend in very well. They think it will blend in much better than all of the power line poles that are located all along the road with stand-off arms, which are not located within the trees.
- The balloon test was repeated in the summer to indicate what the visibility would look like. Due to the wind, the balloon was off to the left in the picture. It was hard to get the balloon where they wanted it with the wind. Therefore, they had their graphics expert put the tower in the right place showing what that would look like. In the summer months, the visibility of the pole will be mitigated even further by the leaves on the trees. Only the top 10' of the pole will be visible as per the Wireless Ordinance. Photographs and simulations from the balloon tests were reviewed in the PowerPoint presentation.
- The landscaping will mitigate the equipment compound or the base of the tower. They wanted to demonstrate the effectiveness of this facility in terms of wireless coverage along the Corridor. As shown in the presentation, the site will improve the coverage and provide coverage in areas where there is no coverage now.
- This site is primarily for the schools. The schools came to AT&T after they invested significant County resources in technology at their schools, telephones, and emergency services for their teachers and administrators, GPS tracking devices for their buses, and a number of other technological advancements. They realized that schools, like Scottsville, where there is absolutely no coverage that those technological investments were of

absolutely no use to them. Therefore, they came to AT&T and really demanded that AT&T remedy the situation with these facilities. This is part of that. As indicated, the phones and other technology will work inside the building in some areas and only inside a vehicle in other areas. Some areas are noted where the service would only work outside, but perhaps not in the cars. The three facilities being requested tonight would increase the coverage in that area, maintain vehicle coverage in some areas, and provide coverage inside buildings in other areas

- The staff report did not speak too much about visibility and came to decisions too quickly. It said they were going to see the pole; therefore, it would have an adverse impact on the scenic corridor. Therefore, staff could not recommend approval. She would contend that the standard is a little bit more a finis and requires a little bit more thought and attention on the part of the Commission. The Wireless Policy in the county ordinance provides that one can have a wireless facility in any zoning district, residential, rural, or commercial. It does not matter. They have to go through the process. The process is the same no matter what zoning district. This is a Tier II facility in all respects. There is a Tier I that is a co-location on a building or other structure. Tier II is the brown pole 7' to 10' above the trees. A Tier III is basically anything else. The way the ordinance is written, any time they have a Tier II tower in either a historic district or within 200' of a Scenic Byway it kicks it into the Tier III category. That is why they are before the Commission tonight. There is nothing different about this application other than it happens to be located less than 200' from the Scenic Byway. That is the only location on the school property that worked for AT&T where the schools would allow them to put the tower. There are plans to expand their school in the future. They need to maintain areas for their drain fields. AT&T obviously has to have towers in locations where the tower can be tall enough that it will actually function well. It works well at 10' above these trees.
- The Architectural Review Board had asked if they could locate it behind other trees. Those trees are much lower and it would not have enabled the tower to be tall enough to work. However, even more significantly that is where the County has identified their future drain fields and reserved drain fields that are necessary for the school expansion. They were not willing to lease AT&T any land over in that area. This site works much better and provides a line of site. There are trees that mitigate the visibility, especially when combined with the design of the pole – brown pole, 7' above the trees, flush-mounted antennas. With the addition of the landscaping along the front, it will help blend and break up any views into the cabinet. In addition, the screening around the base of the cabinet will help.
- There were conclusions that were reached with regard to the criteria for a special use permit in the staff report. It would be the purpose and intent of the zoning ordinance, which was one of the criteria. The proposal has to be consistent with the purpose and intent. Only sections of the zoning ordinance were reviewed and considered. The Wireless Ordinance was not addressed. She would contend that this proposal is very much consistent with the purpose and intent of that section of the zoning ordinance that provides the regulations for Wireless Facilities, Section 5.1.40. There was no analysis or review of whether this proposal was consistent with the purpose and intent of that section of the ordinance. She contends it is very much consistent with it. Similarly, the one section that was considered, which is Section 1.4.3l, talks about the rural areas and

proposals being convenient, harmonious, and attractive. The staff report – said this pole is not attractive; therefore, it is not consistent. She would say that it is as attractive as one can make a wireless facility and still have it function. It certainly will contribute to the convenience and harmony of our larger community in the sense that it will provide for one wireless service for the County School system, which is the main purpose of this facility. Two, it will provide service for the traveling public along Route 20. Obviously, that would include emergency communications services and things like that.

- Everyone is dependent upon our wireless phones and smart phones. They are vital. She would argue that any community in the modern day has to provide wireless service for its customers, its residents, and its tourists. Otherwise, with no wireless service it is not a convenient community for purposes of conducting daily business. They think that a more thorough review of the ordinance is in order and that when they do that they will see that this proposal complies with that ordinance. Certainly, the schools were the main purpose they were here. She would be happy to answer any questions.

Mr. Zobrist invited questions for the applicant.

Mr. Morris said when he had the maps up that depicted the increased reception in the various areas, as he saw it covered primarily CVs 30, 31 and 29. He did not see an increase in coverage in the depiction of CV 434. He asked if Ms. Long had that.

Ms. Long replied she thought they had mislabeled it and apologized for the confusion. She did not have that information. The point is there is no coverage now

Mr. Lafferty asked if there was any place on the school property that would be over 200' away from the road.

Ms. Long replied that there are, but not in locations that were both acceptable to the landlord, the County School Division, and that were acceptable to AT&T in terms of providing coverage that were also acceptable in terms of could they construct a site there. There were few locations, for instance, towards the very back of the parcel. There is an overhead power line that is in the way. They don't build towers beyond overhead power lines. It was too close to setbacks to adjacent residential parcels where they could not have met the required setback. The tree line is essentially along the far side of the property. That is where they tried to go at first to stay because they thought that would make sense. They were trying to stay away from the Scenic Byway. There was a combination of factors:

1- The school's drain field was there.
2- They could not have been able to meet the setbacks over there.
3- The trees were significantly shorter there.
4- Since the pole is tied to the height of the trees, the pole would not have been nearly as tall and would not have been able to provide the service it needed to Route 20.

The poles by only being 10' above the tops of the trees really need to be very close to the road unless there is a significant amount of elevation so they can be farther back.

Mr. Lafferty asked if the school is higher than the road.

Ms. Long replied yes. The little knoll makes a big different in terms of enabling the signal from this tower to extend all the way down Route 20. They will see it from a distance, which is a good thing for them because if they can see it coming down the road it means it is going to work very well.

Mr. Lafferty noted that was not a good thing from their standpoint.

There being no further questions for Ms. Long, Mr. Zobrist opened the public hearing and invited public comment.

Ron Governs, of Scottsville, said they have a very dangerous situation. They do have cell coverage between Scottsville and Charlottesville. There is at least a mile and a half in the 18 mile stretch where they get coverage. He totaled his car in route between Scottsville and Charlottesville stopping for a school bus. He understands this is tied with the school bus information as well. His wife drives that road daily and he drives it three or four times a week. If one breaks down there is no way to get coverage. It is an extremely dangerous situation and they desperately need cell coverage between Scottsville and Charlottesville. Nobody has coverage in that section. It has gotten worse. Due to the safety of school buses and residents, he urges the Commission to approve the request. It is absurd that this far in the 21st century that they are the only folks in the County that don't have any coverage in that entire stretch.

Mr. Fritz noted that staff got an email today around 4:00 p.m. from Steven G. Meeks, President/Chief Executive Albemarle Charlottesville Historical Society in opposition to the three cell tower proposals. He distributed copies. (See Email dated June 21, 2011 to Jonathan Newberry from Steven G. Meeks)

There being no further public comment, the public hearing was closed and the matter before the Planning Commission.

Ms. Porterfield noted this was her district. She attended the second flying of the balloon and had no cell phone coverage. It is her opinion they should approve this application for a number of reasons.

- First, if they just look at the surrounding area and check out the telephone poles they know it is not the only brown pole that will be around there.
- Secondly, her understanding is that wireless facilities work best when they are able to shoot up and down a road. Therefore, to bury it where it is not going to be as functional does not make sense. There is no other site at the school that can be used for that reason. The school has expansion plans that include drain field plans. Any other sites would affect expansion areas and the drain fields. AT&T wants to provide the service in that area, which is needed. AT&T pays lease monies. In this particular case, they would be paying the school system who continuously indicates they could use the money. It seems like a logical place not only to help the school out with all of their new equipment and technology, but also that they might receive some of the monies.
- Lastly, she knows there is the discussion about Route 20 being a Scenic Byway. She would like to call attention to the list of all the different Scenic Byways and Entrance Corridors in this County, which is Attachment D on page 11. There are not a whole lot of

roads that are missing. They need to understand that. She felt the need for coverage in this area outweighs the visibility on the Scenic Byway. For all of those reasons, she would move for approval with staff's recommended conditions.

Mr. Morris seconded the motion.

Mr. Loach agreed with Ms. Porterfield's comments except one. He did not think they could make the case because the ugly poles are there that adding more poles is okay. To get coverage in this area is very important.

Mr. Lafferty said if it was the criteria, then any school site should get a cell tower. He questioned why they have the regulations if they are not going to enforce them. He questioned what happens if someone was hit by someone on a cell phone. He asked where they should draw the line.

Ms. Porterfield pointed out she was not making the comment that any school should get a cell tower. She was talking about this particular application, the fact that it solves a problem for the school, solves the problem for the people in the area, and it should be approved.

Motion: Ms. Porterfield moved and Mr. Morris seconded to recommend approval of SP-2011-00003, Scottsville Elementary School/AT&T CV434 Tier III PWSF at the proposed height of ten (10) feet above the reference tree with staff's recommended condition as outlined in the staff report.

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Scottsville Elementary School CV434," with a final zoning drawing submittal date of 5/17/11.

The motion passed by a vote of 6:1. (Mr. Lafferty voted nay.)

Mr. Zobrist noted that SP-2011-00003, Scottsville Elementary School/AT&T CV 434 Tier III PWSF would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

SP-2011-00007, Glendower/Schmidt Property-AT&T Tier III PWSF

PROPOSED: An eighty (80) foot AT&T treetop monopole and associated ground equipment
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: 1108 Glendower Road (Route 713); the property is also adjacent to State Route 20 South

TAX MAP/PARCEL: 12100-00-00-082H
MAGISTERIAL DISTRICT: Scottsville
(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation and summarized the request as noted below.

This is a proposal that is further north of the Scottsville property to install an 80' steel monopole with equipment that will be housed in an equipment shelter. Staff reviewed the map showing the approximate location of the proposed monopole. The property is located within 200' of the Virginia Byway. It is also located within the Southern Albemarle Rural Historic District. Those both have been identified in the Personal Wireless Facilities Policy in the zoning ordinance as avoidance areas.

A balloon test was conducted in March. Staff observed the visibility. The applicant submitted photo simulations of the monopole. During this balloon test, it was located in an area surrounded by woods. There was virtually no visibility on Route 20. Staff reviewed a photo of the entrance to the maintenance shelter. There was only one location the facility was visible in the balloon test, which from Riding Hill Road. On one side of the road it was visible, but more towards Route 20 it was virtually invisible because it was located in a wooded area and had a backdrop.

Factors favorable to this request include:
1. The monopole is located so that it is not sky lit, and has a significant back drop of existing trees.
2. The Architectural Review Board staff has recommended approval based on minimal visibility from Route 20, the Entrance Corridor.

Factors unfavorable to this request include:
1. The proposal is within the Southern Albemarle Rural Historic District and the Virginia Byways.

Staff has found that the favorable factors outweigh the unfavorable factors in this proposal and therefore recommends approval of this application.

Should the Planning Commission choose to recommend approval of this application to the Board of Supervisors, staff recommends the following conditions. These conditions have been amended since the staff report was issued.

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "VA9023 Glendower Schmidt Property", with a final zoning drawing submittal date of 6/13/11.

Staff recommends approval of this facility at ten (10) feet above the tallest tree with the conditions as outlined.

There being no questions for staff, Mr. Zobrist opened the public hearing and invited the applicant to come forward to address the Commission.

Valerie Long presented a PowerPoint presentation and summarized proposal. The access road would come along the woods with the monopole located so to shoot directly down to Route 20. She explained the coverage and non-coverage area as done previously. This proposal was scheduled to go to the Architectural Review Board, but there has been some interpretation in procedures. They no longer take the special use permits to the ARB itself, but get comments from the ARB staff. That is a little bit different. She requested rebuttal time if there were comments from the public.

Mr. Zobrist invited questions for Ms. Long.

Mr. Zobrist asked if the ARB had recommended approval, and Ms. Long replied yes.

Mr. Loach asked what the total length of coverage is. How many miles would be covered with the three towers.

Ms. Long replied that it would cover the lower third of the map, but recognizing that this map is not the entire corridor.

Mr. Zobrist opened the public hearing and invited public comment.

Henry Kenner, the property owner directly across from the Schmidt property, said his property was residential. They have U.S. Cellular Service and get service all the way from Buckingham to Scottsville. He also has global positioning in his car and can get satellite coverage all the way from Buckingham County to Charlottesville. He was hearing that they couldn't possibly have GPS service because of lack of AT&T not having a metal tower along the road. They get service and it works fine. He made the following comments.

- Along the proposed Schmidt property, there are several pieces of property that are being developed for residences. Obviously, many of these trees are going to come down, as he understands the AT&T proposal. He asked what is to stop every other cell phone companies on the planet from putting in a cell phone tower. He asked why they would say AT&T has the right to put one there, but US Cellular or Verizon can't. What is the restriction. Is there any description that they can't put another tower in these places.
- There are several reasons this place has been designated as a historic district. One is that there is a cabin that belongs to Theodore Roosevelt. Two, when Thomas Jefferson escaped from Monticello he crossed at the Hardware River and went down to Bedford County through this very area. In addition, during the civil war the northern leaders came down through Scottsville. He felt this district should be preserved. These cell phone towers going up all over the United States are frankly very ugly. He thought cell phone towers are a real scar on the landscaping. A monopole is a big steel pole that has to be above the trees due to the line of sight transmission. It can't be hidden in the trees. They should preserve this place for the culture and historic value of it and not start developing towers one right after the other all along the road.

Brian Gilbert noted that the gentleman was correct about GPS service and somewhat correct about the cell phone service. Along Route 20 there will be a quarter of a mile where there is

service. Then it is gone. There is spotty, sporadic, unusable service along Route 20, but nothing that is reliable. This appears to be the least visible of all the towers that have been proposed. He was at Theodore Roosevelt's home a month ago for a wonderful reenactment. This is a wonderful historic area. This pole is virtually invisible. Without the poles they have the same safety issue. He asked that the request be approved for that reason.

There being no further public comment, Mr. Zobrist closed the public hearing to bring the matter back before the Planning Commission.

Ms. Long asked for a brief rebuttal to clarify that the schools invested with AT&T and asked them to provide coverage for the school sites where there was no coverage.

- Once AT&T decided they were going to spend the money to bring coverage down to Scottsville Elementary School and Yancey Elementary School, it made the business decision also to provide seamless coverage along the Corridor. Although this application is not part of the school sites it is sort of related to that in the sense that the schools were the genesis and helped to get the coverage along Route 20.
- The GPS, as the prior speaker indicated, is separate from home service. However, part of the County schools investment was in a GPS device that they locate on their buses that enables them to obtain real time GPS data tracking. They can get it at Scottsville and in schools in other areas like Route 20, but it is not real time. Dr. Benson, of the School Division, talked a lot about the benefits of having real time data. This will help that.
- To echo the comment from the prior speaker, this is invisible from the entire Route 20 Corridor. She was confident it would not have any visual impact on any historic structures, historic fixtures, or other characteristics of this area that enabled it to qualify for the historic district qualifications. The Federal Telecommunications Act requires all licensed carriers within this area to provide their own network of coverage. So it may well be that US Cellular has very good coverage or some coverage in this area. That is wonderful. However, AT&T has its own federal obligations to provide wireless coverage in its licensed area as well. That is what is happening here. She just wanted to clarify those two things.

Motion: Ms. Porterfield moved and Mr. Smith seconded to recommend approval of SP-2011-00007, Glendower/Schmidt Property-AT&T Tier III PWSF for the height of 10' above the referenced tree as recommended by staff subject to the condition as recommended.

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "VA9023 Glendower Schmidt Property," with a final zoning drawing submittal date of 6/13/11.

The motion passed by a vote of 7:0.

Mr. Zobrist noted that SP-2011-00007, Glendower/Schmidt Property-AT&T Tier III PWSF would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

SP-2011-00008, Fairview Catholic Diocese Property AT&T Tier III PWSF

PROPOSED: An eighty two (82) feet tall monopole with three flush mounted antennas and associated ground equipment within a sixty (60) foot by sixty (60) foot lease area
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas-; agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area in Rural Area 4 – Preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: 7240 Scottsville RD [State Route 20]
TAX MAP/PARCEL: 13000-00-00-002A0
MAGISTERIAL DISTRICT: Scottsville
(Bill Fritz)

Mr. Fritz, on behalf of Mr. Gatobu, presented a PowerPoint presentation and summarized the request as follows. He did not attend the balloon test, but has talked to Mr. Gatobu about it.

SP 2011-8 Clear Signal Towers AT&T
"Fairview" Site - Catholic Diocese Property
The proposed tower is 10' taller than the reference tree. It would have a fence located around it to screen the base station and its equipment. The tower is about 82'. He explained the photographs and balloon tests photo simulations. During the summer, the trees substantially reduce the visibility of the facility. During the winter, southbound the balloon can be seen. The concern about the site is it has relatively limited screening of the base station equipment. The tower itself is pretty well screened.

Factors favorable:
Staff has identified the following favorable factors:
1. The tower will provide much needed personal cell phone service on Scottsville Road.
2. Minimal clearing and tree removal is necessary for the placement of the monopole, antennas, and equipment.

The Architectural Review Board comments are included in the staff report. The ARB agrees with these comments.

Factors Unfavorable:
Staff has identified the following factors as unfavorable to this request:
1. There is minimal natural tree screening on site for the base station.

Based on findings presented in the staff report, staff recommends approval of this personal wireless service facility at the proposed height of ten (10) feet above the reference tree, with the following conditions:

1. The proposed personal wireless service facility must be developed in general accord with the plan prepared by Clear Signal Towers, LLC with a revised final drawing date of 4-17-2011, and a certified engineer's seal and signature dated 4-17-2011.

Mr. Zobrist invited questions from the Commission for staff.

Mr. Lafferty asked if the monopole is steel or wood.

Mr. Fritz replied it would be steel.

Mr. Lafferty noted that it states wood on page 3 and steel on page 8 in the staff report.

Mr. Fritz replied that he would check, but believed it was all steel.

Ms. Monteith asked if there is not an approach for screening this at the lower level.

Mr. Fritz replied there was some screening proposed. They are proposing a fence located around it. There is also some additional landscaping that is shown.

Ms. Porterfield pointed out it was L1, Attachment A.

Mr. Fritz noted that on L1, Attachment A there was additional plantings. They are not located up against the fence itself, but farther from the property. He thought that would provide a better screening than putting them right up against the fence. It gives a tiered approach to providing screening instead of putting everything flush up against the facility itself. He noted the email passed out tonight from Steven G. Meeks, President/Chief Executive, Albemarle Charlottesville Historical Society in opposition was for all three applications before them tonight.

Mr. Zobrist opened the public hearing and invited the applicant to come forward to address the Commission.

Valerie Long, representative for AT&T, presented a PowerPoint presentation and explained the third proposal. She pointed out the large area of trees around the compound area. In response to comments from the Architectural Review Board staff about the concerns of the visibility of the ground equipment, they actually engaged a professional landscape architect to design a landscaping plan specifically for this. He went out to the site and proposed the landscaping schedule as shown. As Mr. Fritz indicated, they did not put it all right up against the facility. They wanted to have it set back to help break up the view with a variety of planting species and a large number of them. They tried to overdo the landscaping a little bit to fill in any gaps in those areas. It is 10' above the pole. She explained the proposed landscaping to screen the pole. She explained photographs and photo simulations. She did not have a winter view of this request. She noted that it could be seen from a great distance. However, she would argue that it is far more well screened and sited compared to all the telephone poles. The brush and trees in the summer time help screen the view of cabinet and help break up the view in to the compound area. The monopole would help increase the coverage area.

Mr. Zobrist invited questions for the applicant.

Ms. Monteith asked to go back to the revenue stream question. They are being told this is in favor of schools, but actually out of the three applications before the Commission tonight two of them the revenue stream is going to a private owner.

Ms. Long replied that is correct. The revenue would go to the church or the landowners. This site does not provide coverage to the schools. Once AT&T made the business decision to respond to its customer in the schools and provide coverage at those three locations it did not make sense to spend the money to provide coverage at those three sites and not fill in the gap in between them. Therefore, the church site, the Schmidt property just approved and these two other sites are ones that were added to their network build-out plans in response to the decision to provide service to the schools. This does not benefit the schools directly in terms of revenue. It will help with their GPS system with their buses while they travel on Route 20 transporting students. It will certainly provide coverage to the broader community. She was correct that the schools would not receive the revenue.

Mr. Smith asked if there was no church steeple, and Ms. Long replied unfortunately no.

Mr. Zobrist opened the public hearing and invited public comment.

Henry Kenner noted that he had previously spoken. This time he was wearing his hat as Vice Chair of the St. George Parish Council. He was in favor of the request. They have about 40 families. The income will come to St. George and it stays in their church. They will hold AT&T's feet to the fire on the landscaping. Not only does it have to go in right, but it has to continue to look good. Almost every day something is going on in the church. They can assure the County that there will be direct oversight in that because they have a vested self interest in it looking good.

There being no further public comment, the public hearing was closed and the matter was before the Planning Commission.

Ms. Porterfield noted that everybody should be aware that the children in that area go to Monticello High School. It is a long ride up Route 20. The safety aspect is very important. Remember the speed limit at this location is 55 miles an hour on Route 20. A driver should be looking at the road and not at the trees. In this particular case, the land around is quite a bit higher than the road. Therefore, that helps buffer the pole. It will only be seen driving into the church. She would support approval of the request based on that.

Motion: Ms. Porterfield moved and Mr. Morris seconded to recommend approval of SP-2011-00008, Fairview Catholic Diocese Property AT&T Tier III PWSF at 10' above the reference tree with the conditions as outlined in the staff report.

1. The proposed personal wireless service facility must be developed in general accord with the plan prepared by Clear Signal Towers, LLC with a revised final drawing date of 4-17-2011, and a certified engineer's seal and signature dated 4-17-2011

The motion passed by a vote of 7:0.

Mr. Zobrist noted that SP-2011-00008, Fairview Catholic Diocese Property AT&T Tier III PWSF would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

The Planning Commission took a break at 7:48 p.m. The meeting reconvened at 7:54 p.m.

Planning Commission Training and Discussion:

Best Practices for Public Bodies in Public Meetings

The Planning Commission held a training session. Mr. Kamptner presented a PowerPoint presentation. The Commission provided the following comments and suggestions:

- Develop protocol for incidents when someone is out of order
- Commissioners direct comments through Chair
- Be solution-oriented with applicants in trying to resolve issues, but don't play "Let's Make a Deal"
- Staff should be clear in letting the PC know the parameters of their decision-making on projects before them
- Display slide of guidelines for participation by public at beginning of meeting
- Avoid scheduling Tuesday Planning Commission meetings when there are intervening Holidays (2012); deliver packages on Wednesday A.M. or have available for PC pick up that morning
- List Julia Monteith as UVa Representative (Non-voting) on the Agenda front page with other Commissioners

- Follow up as appropriate the comments and suggestions as noted above.

Old Business:

Mr. Zobrist asked if there was any old business. There being none, the meeting moved to the next item.

New Business:

Mr. Zobrist asked if there was any new business.

- THERE ARE NO PLANNING COMMISSION MEETINGS ON TUESDAY, JUNE 28, 2011 AND TUESDAY, JULY 5, 2011.
- THE NEXT PLANNING COMMISSION MEETING WILL BE HELD ON TUESDAY, JULY 12, 2011.

There being no further new business, the meeting moved to the next item.

Adjournment:

With no further items, the meeting adjourned at 8:42 p.m. to the July 12, 2011 meeting at 6:00 p.m. at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)