Albemarle County Planning Commission
March 18, 2014

The Albemarle County Planning Commission held a regular meeting on Tuesday, March 18, 2014 at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Cal Morris, Chair; Karen Firehock, Richard Randolph, Thomas Loach, Bruce Dotson, Tim Keller, and Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Sarah Baldwin, Senior Planner; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order

Mr. Morris, Chair, 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. Morris invited comment from the public on other matters not listed on the agenda including consent agenda items. There being none, the meeting moved to the next item.

Committee Reports:

Mr. Morris invited committee reports. There being none, the meeting moved to the next item.

Review of Board of Supervisors Meetings –
February 5, March 5 and March 12, 2014

Mr. Cilimberg reviewed the Board of Supervisors actions taken on February 5, March 5 and March 12, 2014.

Consent Agenda:

a. Approval of Minutes: January 14, 2014, January 28, 2014 & February 4, 2014

b. Resolution of Intent: ZTA Housekeeping

c. 2013 Planning Commission Annual Report

Mr. Cilimberg noted one correction in the 2013 Planning Commission Annual Report. The meeting agenda summary was listed as 2012 and should have been 2013. He asked that the change be noted and made part of the action.

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

Motion: Mr. Lafferty moved and Mr. Randolph seconded for approval of the consent agenda.

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

Mr. Morris said the consent agenda was approved.

Due to technical difficulties with the microphones, the Planning Commission recessed at 6:04 p.m. The meeting reconvened at 6:11 p.m. with the majority of the microphones not working.

Public Hearing Items

a. <u>SP-2013-00022 SP201300022 – Verizon Wireless "Hydraulic Road" (Comcast Property) Tier III Personal Wireless Service Facility.</u>

PROPOSED: Request for installation of 2 additional arrays each containing 3 flush mounted antennas on an existing 140 foot monopole and associated equipment.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); EC Entrance Corridor – Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; AIA Airport Impact Area – Overlay to minimize adverse impacts to both the airport and the surrounding land.
SECTION: 10.2.2.48 Tier III personal wireless facilities
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 1 - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots).
ENTRANCE CORRIDOR: YES
LOCATION: 1658 Earlysville Road
TAX MAP/PARCEL: 04500-00-00-016A0
MAGISTERIAL DISTRICT: Jack Jouett
(Sarah Baldwin)

Ms. Baldwin presented a PowerPoint presentation on SP-2013-22 Verizon Wireless "Hydraulic Road". The existing facility is located on tax map 43-16A and is zoned RA as well as the surrounding properties. It is heavily wooded area, which screens the equipment. The proposal is to install two (2) new flush mounted antennas on an existing 140 foot lattice tower. Although this is a collocation, it is considered a substantial change under the current ordinance

The applicant has requested modifications from Section 5.1.40(c)(3)(i) of the three (3) arrays to allow for five (5) and a change to the staff report for an increase in the size of the antennas above 1152 square inches. There was confusion on exactly what modifications the applicant was requesting. Staff was informed a couple days ago that the antennas will be larger than the ordinance requirements and staff has not been able to analyze the visual impact. It is an existing wooded site and the increase in size is minimal. The applicant states that the sizes will be 1176, 1194 and 1237 square inches.

The submitted site plan shows the existing and proposed changes to the tower. The new antennas will be placed below the existing ones and no negative visual impact is anticipated. No adverse impacts are anticipated with additional equipment or structural upgrades, which are necessary to meet current safety standards

Based upon the existing and proposed changes and the analysis of the requirements of the ordinance, staff found the following factors favorable and unfavorable to this application:

Factors Favorable

1. The proposal is on an existing facility and the additional antenna arrays will not increase or cause any new impacts to adjacent properties or important resources.
2. The proposal meets most of the requirements of Section 5.1.40 except for the current Ordinance requirements that limits the number of arrays to three (3) and the size of the antenna to 1152 square inches.
3. The proposed improvements are not expected to be noticed from the Entrance Corridor. The proposal will not increase the negative visual impact of the existing tower.

It is an existing lattice tower on a wooded site and the increase in size is minimal. If the Planning Commission were to recommend approval staff would require photo simulations and require the application plan to be updated prior to the Board of Supervisors hearing.

Factors Unfavorable

1. None.

Modifications

1. Section 5.1.40(c)(3)(i)-total number of arrays shall not exceed 3 and shall not exceed 1152 square inches.

Recommended Action

Based upon the findings contained in this staff report, staff recommends approval of SP-2013-00022 Verizon Wireless “Hydraulic Road” (Comcast Property) Tier III PWSF and modifications with the following condition:

1. Development and use shall be in general accord with what is described in the applicant’s request and site plans, entitled “Hydraulic Road,” with the final zoning

drawing submittal date of 11/3/13 (hereinafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the design of the development as shown on the Conceptual Plan.

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if the height was going to increase.

Ms. Baldwin replied no. However, the applicant states that the array sizes will be 1176, 1194 and 1237 square inches.

Mr. Keller asked when an existing tower becomes redundant or obsolete is there a mechanism for removal of it.

Ms. Baldwin suggested the applicant could speak to that more. She replied that under the ordinance requirements there is a mechanism for co-location requirements that allow co-location by building permit if it meets the other requirements of the ordinance. However, some of those regulations will be revisited with the Board of Supervisors next month in a work session to find ways to simply the process.

Mr. Randolph pointed out on page 5; subsection 5.1.40.c.6 it says should the use of the facility discontinue at anytime in the future Verizon and/or its assignees will be required to remove the facility within 90 days. He asked staff if that is standard operating procedure.

Ms. Baldwin replied that it was.

There being no further questions for staff, Mr. Morris opened the public hearing to the applicant and for public comment. He invited the applicant to come forward and address the Planning Commission.

Lori Schweller, attorney with LeClair Ryan, represented Verizon Wireless. As Ms. Baldwin explained they are simply requesting a recommendation for approval of a special use permit to attach two sets of three (3) flush-mounted antennas at two (2) locations on the existing tower. The tower is owned by CTI, which is the holding company for Comcast. The tower was built around 1979 before the current ordinance for television purposes and right now other than Comcast only Ntelos uses it. At the top of the tower there is a set of flush-mounted antennas that look very similar to the ones they will be attaching at two different locations. She circulated photos of the current tower and simulations of what the attached flush-mounted antennas will look like.

Ms. Schweller noted she sent an email yesterday with a letter to each Commissioner. (**Attachment 1**- Letter to Sarah Baldwin, Bill Fritz and Albemarle County Planning

Commissioners via email – Attachments on file with the printed minutes in the office of the clerk) As Ms. Baldwin mentioned the Board is about to approach Phase II of changes to the Wireless Communications Ordinance. Phase I, which took place last year, was in part a response to a federal law that was passed in early 2012. The letter said 2013, which was a typo. What that federal law provides is that collocations, which is attaching an antenna to an existing wireless structure or to a building or any other structure like a flag pole, that does not substantially increase the size of that structure must be approved by the zoning locality. That was done to improve wireless services across the country. So a lot of jurisdictions, including Albemarle, found that they needed to address that in the ordinance and did so just to make sure the ordinance was consistent. Albemarle's ordinance is very careful, restrictive and has a lot of provisions for the industry to follow. Rather than making it easier to do collocations these new provisions, which are intended to comply with federal law, actually make it more complicated.

Ms. Schweller said she wanted to bring that out in a letter because she was hoping that in the next phase of the ordinance changes they can look at that. They really believe that attaching antennas, which they are requesting here, to an existing facility ought to be a matter of getting a building permit and no more. They don't think the zoning process is even necessary for most types of collocations. As they can see the change in appearance is so minimal. They submitted this application October 21, 2013. So by the time it is approved, assuming they do get approval, along the normal course that would be six months. That is not in line with federal law or the federal ruling regarding zoning approval for wireless facilities; the collocation request should have been approved or denied within 90 days, by January 19, 2014, and 150 days for special use permits. This is a special use permit application. However, what they would want to see in the future amendments is that special use permit amendments are not required for simple collocations.

Ms. Schweller explained that part of the reason it has become more complicated is because in tailoring that first set of amendments to the spirit of Albemarle County's Wireless provisions Albemarle County did not accept the industry's and the FCC's Wireless Bureau definition of substantial change. It has its own definition. That is why they are seeing a request for these modifications. In the special use permit request they are also requesting a modification to the size of the antennas, which currently restrict it to 1152 square inches per flat side, and ours are slightly larger, and to the number of arrays, which are currently restricted to three (3). As they can see on the photo simulations there will be five (5) or six (6) on there. It is a lot of information, but she just wanted to explain to the Commission the purpose of her letter and hope that they will support amendments to the current ordinance that would make collocations a quicker process. She offered to answer questions.

Mr. Morris invited questions for the applicant.

Mr. Dotson asked why the different size arrays were being requested.

Ms. Schweller pointed out the reason for that is because Verizon Wireless does not manufacture the antennas. They buy those from antenna manufactures. They select and buy them for what they need to do with the different technologies. That is why they sent cut sheets to Ms. Baldwin of what they need to do. They pretty much always ask for an exception for that particular item since they are often over the square inch maximum.

Mr. Morris invited public comment. There being no one, the public hearing was closed and the matter before the Planning Commission.

Motion for Modifications:
Mr. Lafferty moved and Mr. Randolph seconded to recommend approval of the modifications for Section 5.1.40(c)(3)(i) of the Zoning Ordinance for the size and number of arrays as requested associated with SP-2013-22 Verizon Wireless "Hydraulic Road" for reasons outlined in the staff report.

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

Motion for Special Use Permit:
Mr. Lafferty moved and Mr. Randolph seconded to recommend approval of SP-2013-22 Verizon Wireless "Hydraulic Road" (Comcast) Tier III PWSF with the conditions outlined in the staff report.

The motion passed unanimously by a vote of (7:0) with the following condition.

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Hydraulic Road", with a final zoning drawing submittal date of 11/3/13 (hereafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the design of the development as shown on the Conceptual Plan.

   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

Mr. Morris noted that SP-2013-22 Verizon Wireless "Hydraulic Road" (Comcast) Tier III PWSF and modifications would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

Ms. Baldwin noted the matter was tentatively scheduled for the first meeting in May.

Mr. Lafferty commented that he was surprised the antenna sizes are not coming down as frequency increases.

Ms. Schweller asked to address the comment, and Mr. Morris invited her to address the Commission.

Ms. Schweller said they are actually beginning a new Verizon Wireless initiative or project to bring in more data services by installing data nodes to improve coverage and capacity in areas already served by tower sites (also referred to as "macro" sites). The data nodes are referred to as "fill in" sites. Mr. Rooker brought this up many times referring to them as small cells in Board meetings. They are at the point now in some areas where they have the macro sites, the regular cell sites, that the data nodes can be used to fill in to increase capacity when there is a drain in the system. They hope that the new Phase 2 Ordinance amendments can allow these nearly invisible installations to be approved by building permit only. However, it does not delete the need for a macro tower. Data nodes can be used as a good fill in due to events in stadiums, shopping centers, etc. They recently put one in on the Downtown Mall.

Mr. Lafferty asked about increasing the coverage in the Scottsville area since there has been so many complaints.

Ms. Schweller replied that Scottsville is still in need of macro services. It is an area that will be able to be better served when the ordinance eliminates the need for avoidance sites.

b. <u>SP-2013-00021 Rolkin Road Shops</u>

PROPOSAL: Allow for a drive-through window for a retail building on 1.672 acres. No dwellings proposed.
ZONING: PD-MC - Planned Development Mixed Commercial; large-scale commercial uses; residential by special use permit (15 units/acre) under Section 18.25A.2.2.1 which allows for drive-through windows serving or associated with permitted uses
ENTRANCE CORRIDOR: Yes
COMPREHENSIVE PLAN: Urban Mixed Use – retail, commercial services, office, and a mix of residential types (6.01 – 34 units/acre)
LOCATION: Southwestern corner of Rolkin Road and Abbey Road intersection approximately 300 feet south of the Rolkin Road and Richmond Road (Route 250) intersection
TAX MAP/PARCEL: 078000000075A0
MAGISTERIAL DISTRICT: Rivanna
(Sarah Baldwin)

Ms. Baldwin presented a PowerPoint presentation on SP-2013-00021 Rolkin Road Shops.

The property is zoned Planned Development Mixed Commercial (PD-MC), which allows uses by right in C-1, HC and CO zoning districts, as well as drive-through uses by special use permit. The Pantops Master Plan designates Rivanna Ridge Shopping Center as retail/mix use center with a commercial center as well as provide for infill.

The applicant is proposing to construct a 10,500 square foot building with a drive-through for Starbucks. The applicant has submitted a plan that is supported by staff

which accommodates stacking requirements and provides for circulation that will not be detrimental to other parcels.

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

Favorable Factors:

1. The ARB design planner has completed a preliminary review of this proposal and had no objection to the proposed use.
2. The parcel is located behind parcels that are adjacent to the Entrance Corridor thereby limiting impacts of the drive–through lanes on the EC.
3. There is no conflict anticipated between vehicles using the drive-through lanes and parking lot or with any off-site traffic.

Unfavorable Factors: None

RECOMMENDED ACTION:
Based on the findings contained in this staff report, staff recommends approval of SP-2013-21 Rolkin Road Shops Drive-through with the conditions as shown in the staff report.

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

Ashley Cooper, of Cooper Planning, was present with Allan Kindler, representative for Riverbend Development, the applicant for the project. They thank the Commission for consideration of this project. They are very excited to get this project moving forward along with Starbucks. The other tenants are yet to be confirmed. They think it is a great project and are present to answer questions.

Mr. Morris invited public comment. There being no one, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of SP-2013-21 Rolkin Road Shops Drive-through with the conditions outlined in the staff report.

Based on the findings contained in this staff report, the Planning Commission recommends approval of SP-2013-21 Rolkin Road Shops Drive-through with the conditions:

1. Development and use shall be in general accord with the following plans prepared by Bohler Engineering, “Pantops Retail Building Special Use Permit Exhibit” dated 1/20/14 as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the specified plans, development and use shall reflect the following major elements as shown on the plans:
    - Building location, orientation and mass
    - Relationship of drive-thru lanes to the building and the parking lot

Minor modifications to the plan may be made to ensure compliance with the Zoning Ordinance. The use shall commence on or before [date two years from Board approval] or the permit shall expire and be of no effect.

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

Mr. Morris noted that SP-2013-21 Rolkin Road Shops Drive-through would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

Ms. Baldwin noted the matter was tentatively scheduled for a meeting in May.

Old Business

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

New Business

Mr. Morris asked if there was any new business.

- A change in the PC meeting schedule may be necessary for April, possibly moving the April 15 work session to April 22 or April 29. Staff to confirm any date changes via email and requests that Commissioners respond to ensure a quorum.
- The next Planning Commission meeting will be held on Tuesday, March 25, 2014.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 6:37 p.m. to the Tuesday, March 28, 2014 Albemarle County Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 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)