**Albemarle County Planning Commission**
**March 10, 2015**

The Albemarle County Planning Commission held a public hearing on Tuesday, March 10, 2015, at 6:00 p.m., at the County Office Building, Room 241, 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. Mr. Lafferty arrived at 6:03 p.m. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Bill Fritz, Chief of Special Projects; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

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

**From the Public: Matters Not Listed for Public Hearing on the Agenda.**

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

**Committee Reports**

Mr. Morris invited committee reports.

Mr. Randolph reported the Rivanna River Basin Commission (RRBC) met and discussed the 2012 Rivanna Watershed Snapshot Technical Report issued by Stream Watch in December, 2014.

Mr. Lafferty arrived at 6:03 p.m.

Mr. Dotson reported the ACE Committee has completed another round of applications this year, which included the highest scoring property ever. He requested Commissioners to talk with their Supervisor about the consequences of the proposal in future years to remove funding for the ACE Program from the CIP.

Mr. Keller reported the Fiscal Impact Committee presented an interim report to the Board of Supervisors this evening regarding their review of the Cash Proffer Policy.

Mr. Lafferty reported the Citizens Transportation Advisory Committee (CTAC) met and will start actively working on the transportation academy. He also expressed concerns regarding changes being proposed to the charge, roles and responsibilities of master plan advisory committees that he feels will affect their advisory capacity. Mr. Loach agreed, noting people from Crozet would attend tomorrow's Board meeting to provide input on this issue.

There being no further committee reports, the meeting moved to the next item.

**Review of Board of Supervisors Meeting – March 4, 2015**

Mr. Cilimberg reviewed the actions taken on March 4, 2015.

- Last week the Board discussed adjacent owner notification and the protocol which has been used for years to notify not only just the properties adjacent to the applicant but also those close by who may be affected by the pending decision.
- Also, there could be a case in which a community meeting is not deemed to be necessary due to the nature of the application. However, the Planning Commissioner and the Board of Supervisors

member for that particular district would be notified, and if they felt that a community meeting still should be held, then certainly, one could be scheduled as requested.
- One of the venues they have tried to use for community meetings with applicants is the advisory councils. As an example, in Crozet they have used the Crozet Community Advisory Council for new applications.

Mr. Lafferty asked if they have guidelines to go by as to how quickly they can get a community meeting and how much advertisement is required.

Mr. Cilimberg replied the ordinance actually spells out how the community meeting process gets determined and that the county follows the process, in accordance with the ordinance, to make the applicant aware that they need to schedule the meeting and send out the invitations. Staff will suggest the area to be notified and the people to be noticed if they feel like it is geographically an important area. They also are to notify the Commissioner and Board member of that district in advance of when that meeting is held.

Mr. Loach asked what would be the criteria for non-notification, where it would just go to the Planning Commission or Board of Supervisors.

Mr. Cilimberg replied that there is always some notice, because at least the adjacent owners would be notified. However, sometimes for the community meeting, notice is extended beyond the adjacent owners because there might be, as an example, a project where the access is coming down a road where the owners along that road should be made aware of the community meeting as well.

Mr. Dotson asked if there was an application for which there was a community meeting, would the site be posted with the information about the application so that somebody could then contact the department and then learn that there was a community meeting.

Mr. Cilimberg replied that they post sites for applications, which includes a telephone number and a number for the project that people can refer to. So it is not specifically for the community meeting, but for general knowledge that there is an application in that particular location. Community meetings are typically being held pretty late in the first 46 days of review. So hopefully there would be a posting before any meeting was taking place. However, they are relying particularly on the mailing to get to owners for direct contact.

Mr. Dotson asked if there was a person that passed by the subject property who had an interest in the site that they would see the sign, contact the department, and then be informed that the meeting was taking place.

Mr. Cilimberg replied that staff could let them know if a community meeting had been scheduled. However, it is most important for people to know the reviewer or the planner handling the review so they would have a point of contact.

The Planning Commission discussed the following issues/concerns with staff:
- The community meeting procedure and when it was appropriate to have or not, how the public would be notified, adjacent owner notification protocol, and the timing for posting the sign on the subject property to notify the public of an upcoming Community or Planning Commission meeting.
- The question was asked about how many days after the application is received the notice or signage is placed on the affected property indicating an upcoming Planning Commission hearing on that particular project. Mr. Cilimberg replied that he would check and get back to the Commission with the answer to the question about timing of sign posting for public notification.

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

**Consent Agenda**:

**Approval of Minutes**: January 13, 2015 and January 27, 2015
**2014 Planning Commission Annual Report** (Wayne Cilimberg)

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

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

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

Mr. Morris noted the consent agenda was approved.

**Public Hearing**:

**ZTA 2015-00001 Wireless Communications – FCC Mandated Changes** – The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 18-3.1, Definitions, and 18-5.1.40, Personal Wireless Service Facilities, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would implement recently published federal regulations (47 C.F.R. § 1.40001) by amending Secs. 18-3.1 and 18-5.1.40 by adding and amending definitions and regulations pertaining to the "collocation" of "transmission equipment" on "eligible support structures," which must be approved by the County within 60 days unless the collocation would result in a "substantial change" to the physical dimensions of the eligible support structure; one such "substantial change" arises if the collocation would defeat the "concealment elements of the existing support structure," a term defined in this ordinance that is not defined in 47 C.F.R. § 1.40001. This ordinance also would amend Sec. 18-5.1.40 by renaming and reorganizing the section, updating and clarifying terminology, and clarifying the time by which applications shall be acted upon. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia.
(Bill Fritz)

Mr. Fritz explained this is just some of the information staff has had to do research on and distill down into the report. Staff hopes the staff report has all of the information needed, which includes a very detailed analysis for the Commission. He explained that he was not going to go over that in his presentation although he was happy to answer any questions.

He presented a PowerPoint presentation on ZTA 2015-00001 Wireless Communications – FCC Mandated Changes, as follows.

**Focus**: Only applies to collocations and replacement of equipment. New construction or replacement of towers is not addressed in the new rules.

**Summary of Changes**
- Allows existing facilities to have new equipment installed without conditions, provided that the change to the site is not a substantial change.
- Requires the County to approve the request in 60 days.
- Cannot condition approvals.

The easiest way to describe the rule made by the FCC is that it allows new equipment to be installed by right and with limited review. There are some limitations on the installation of new equipment, which he will discuss later in the presentation.

**Scope of Amendment**
- Terms are defined.
- Establishes procedures for review.
- Revises process for collocations involving special exceptions.
- Reorganizes ordinance for ease of use.

Most of the changes to the ordinance are due to reorganization. With the implementation of the recent FCC rulemaking we will now have four (4) types of facilities. Exempt Collocations, Tier I (which is our current term for collocations. This will now be non-exempt collocations), Tier II and Tier III. No changes in the Tier I, II or III is occurring other than carving out exempt collocations from the Tier I category. The Tier I are the substantial changes. Tier II and Tier III are new construction. This presentation will cover each of the above items except for the reorganization which is solely done as a means to ease the use of the ordinance by the public, industry and the County.

**Substantial Change Definition**

- Allows by-right increase in tower height.
- Allows by-right additional antenna to be added.
- Allows by-right additional ground equipment.
- Does not allow excavation or deployment outside of lease area.
- Does not allow changes that defeat concealment elements.
- Does not allow violation of some conditions of the facilities original approval.

What you see here is a summary of the FCC's definition of a substantial change. A few years ago the Middle Class Tax Relief and Job Creation Act of 2012 was adopted. That law mandated that the County shall approve and may not deny collocations that were not substantial changes. However, the law did not define substantial change so the County adopted its own definition. The FCC has adopted a definition of Substantial Change and the County's definition is not consistent with the FCC's definition. For example, the County's existing ordinance states that a change to a facility within 500 feet of a dwelling is a substantial change. That provision is not permitted by the FCC definition.

**The FCC does not define what a concealment element is.**

- Increase – 10% or 20 feet; whichever is greater.
- Allows antenna to be up to 20 feet from the face of the tower.
- Allows up to 4 additional cabinets.
- Activity outside the lease area is not permitted.
- Defeat of concealment is not permitted.
- Certain conditions – mostly building code related and setback related imposed on the original approval cannot be changed.

**Concealment Elements**

On page 2 of Attachment D there is an extensive discussion on how staff developed the definition of what constitutes a concealment element.

- There is no FCC or Congressional definition that exists.
- Staff has done a lot of research as to how that should be defined. We define it as any condition of a previous approval that serves to conceal the facility is a concealment element.
- The industry has objected to the proposed language of the ordinance. The Commission has a letter from Lori Schweller that he was sure they are going to talk about.

This is the impact of what these changes are:

- Facilities approved since 2004 have concealment techniques such as height and antenna design that will still have to be met. This ordinance will have no impact on those facilities. Any changes to them will either have to meet the design standards or will be substantial changes, which means the Board of Supervisors can review those.
- Some facilities approved in the late 1990s to 2004 have conditions that are concealment techniques which will still have to be met. They will have to be reviewed on a case by case basis.
- Facilities approved prior to the late 1990s will most likely be able to be increased in height and have larger antenna arrays installed without having to meet the design standards.

Procedures for Review

- The County must approve and cannot deny requests that are not a substantial change.

- Must determine if application is complete within 30 days.
  - Application information is limited.
  - If deemed incomplete, the reason for that judgement must be stated.
- Must act on requests that are not a substantial change within 60 days.
- If action does not occur within 60 days, the application is deemed approved.

The provisions for processing exempt collocation are taken directly from the FCC and included in the ordinance. What you see here are the highlights of the process for exempt collocations. The implementation of these provisions will require the prioritization of exempt collocations. Other types of review may be delayed if large volumes of exempt collocations are received simultaneously. The County does anticipate a large volume of applications over the next six months. However, at this time we do not know how many of those will be exempt collocations and how many will be Tier I applications. It is important to note the FCC rule states that applications for exempt collocations that are not acted on within 60 days are deemed approved. This rule applies only to exempt collocations. No other types of applications are deemed approved if the shot clock is not met

So what they are proposing is a change in how they process special exceptions. They are proposing the following:

- Staff proposes to process all special exceptions as Tier I applications.
- This preserves notice to abutting owners.
- It preserves the discretion of the Board.
- It ensures the County meets the Shot Clock.
- It also is a much more efficient use of County resources.

**Tier II Site with Special Exceptions:**
In a slide Mr. Fritz pointed out an existing Tier II facility on Avon Street. If new antenna were proposed for this tower that exceeded the antenna size limit or antenna standoff, it would not be eligible to be processed as an exempt collocation. Under the current ordinance the application would be processed not as a Tier I building permit but as a Tier II because a special exception is proposed. This requires notice to abutting owners, administrative review of the tower by staff, and review of the special exception by the Board. Staff will always approve the tower portion of the review because the facility exists and meets all requirements placed on it. (If it didn't meet the requirements it would be in violation and would have to be corrected.) The Board would hear the special exception for the antenna size and mounting standards and either approve or deny the request. Staff's proposal is to eliminate the administrative tower review and retain the Tier I with special exception review. This is a much more efficient use of County resources and retains all notice requirements. In other words, review the antenna, not the tower.

**Tier III Sites with Special Exceptions**
In a slide, Mr. Fritz pointed out a Tier III facility, which was more than 10 feet taller than the nearby trees. The prior photo would also qualify as a Tier III if it were in an avoidance area such as a Historic District. In other words, they would have a lot of these. Just as before antenna are proposed that require a special exception. However, the request is processed as a Tier III which requires a special use permit. It is important to note that the County has only 90 days to review the request because it is a collocation. This requires the Planning Commission and Board meetings to be accelerated. In order to make a Planning Commission meeting early enough to allow the Board to act within 90 days the report for the special exception must be prepared quickly. Ironically, due to the lead times for report preparation, the time available for this type of review, which is supposed to be the more complex, is less rigorous than what is available in the prior example. Meeting the shot clock requirements for this type of review is extremely difficult and requires excessive demands on resources. Staff recommends this be processed as a Tier I with a special exception, just like in the prior example. Again, review the antenna not the tower.

Just to give some additional information as something to think about staff is expecting a lot of applications in the near future. They have already seen an upsurge in the number of applications. They do collect fees. However, the fees do not actually cover our cost of review. So this is actually a substantial burden

to the county. By streamlining the process and going with just the Tier I with the special exception, the county will have a much more efficient use of resources.

**Compliance with Shot Clock for collocations that are a substantial change:**

- One provider has estimated 40-50 applications in the next two years.
- Fees associated with these applications could be more than $80,000.
- Fees collected do not cover the cost to review.
- Amendments to the process preserve public input, reduce County review cost and allow compliance with the Shot Clock.

**Staff Recommendation:**
Staff recommends that the Planning Commission forward ZTA 2015-01 to the Board of Supervisors with a recommendation of approval.

Mr. Morris invited questions for staff.

Mr. Lafferty asked can an applicant have more than one application at the same time.

Mr. Fritz replied no, it is locked into place. They cannot increase the tower by 20' and then later come back in six months and increase it by 20' again. It is based on the original approval and our ordinance and the FCC action make that clear.

Mr. Lafferty asked if he was implying they can only do it once.

Mr. Fritz replied if they had a 100' tower, as an example, and it was approved ten years ago and they asked to increase it by 20' that it would now be a 120' tower and that would be it. They can't do an additional 20'. They can add more antennas to it, but they can't make it 20' taller. It goes back to that original approval.

Mr. Kamptner added "or a prior amendment." So if they had come in five years ago and increased it to 105' that would be the benchmark against which their ability to collocate would be measured.

Mr. Fritz agreed it would be the most recent approval, which was a better way of saying that.

Mr. Morris asked Mr. Lafferty if that answered his question. His interpretation of his question is that if an applicant came in with four separate towers to have reviewed, then it was four separate applications.

Mr. Fritz pointed out they pay four separate application fees and staff would process that. If they had one tower it would be entirely conceivable to have multiple applications on one tower. Each company would file their own application and each gets reviewed to see if it is an exempt or nonexempt collocation.

Mr. Lafferty asked if that was for the tower or the antenna size.

Mr. Fritz replied it is for the antenna structure because if they were building a new tower that would be a unique application unto itself.

Mr. Lafferty noted he was worried about the punitive process of gradually going up and up.

Mr. Dotson asked staff to explain it further, even though Mr. Frits had just stated it, that the concern was with the time crunch. Mr. Fritz had made the statement that staff actually has less time on the more complex applications. He then asked if that was the reason that staff is proposing to treat them as special exceptions rather than special use permits.

Mr. Fritz replied that what happens now if someone was proposing to do something on a Tier III tower and it needs a special exception, it kicks the request into the special use permit process. Staff is proposing to get rid of the special use permit process and retain the special exception process which will

still go to the Board of Supervisors. It could also, in theory, come to the Planning Commission if they were recommending denial of the special exception.

Mr. Dotson asked what in Mr. Fritz' judgment is lost by processing it as a special exception rather than a special use permit in terms of the interests and protections.

Mr. Fritz replied they do not believe anything is lost. The proposed ordinance would require notifying the abutting property owners just like they do for special use permits. There would not be a posting of the property like there is now or an ad in the paper. Other than that for Tier III they would still be notifying the abutting owners. They are the ones most directly affected by a facility. Staff is proposing that they retain that notice. He would also point out that the Board of Supervisors has talked about modifying the notification procedures. The board may want to increase the number of people who are notified. They have crafted the ordinance so that if they ever decide to change it to be a distance, for example, instead of abutting, this ordinance can easily accommodate that. Staff would not have to come back and really tinker with it because it would be very simple to plug it right in.

Mr. Randolph said he had several questions that are based on a communication received today from a resident in Ms. Palmer's district. First, regarding timing, the resident references the County staff, "generating the state of emergency mentality." His understanding, however, is given that April 8 is the date of effectiveness with the federal law, that the desire on the part of the County is to try to be consistent in terms of County ordinance with federal law prior to that law coming into effect. He asked if that is correct.

Mr. Fritz replied if they do not adopt this on April 8, the rule comes into effect and if they don't adopt the ordinance the county does not really have the tools to be able to be compliant with the rule the FCC has made.

Mr. Kamptner pointed out they still have to process the applications under the FCC regulations, but there are some gaps in the regulations. One is the concealment elements. However, the others are just the tools that they are using to make sure that they can comply with the shot clock requirements.

Mr. Fritz said that it is important to note for the collocation they have 90 days to review those for non-exempt collocations, but only 60 days for exempt collocations. So they are not saying the sky is falling because it is not falling. However, meeting the shot clock is a difficult thing to do now. With these new rules it will be even more difficult if they don't have the tools to do it.

Mr. Randolph noted that was another reason to create time for the staff to be dedicated to those applications which are subject to the 60 day time horizon. The second question is there was a recommendation by the writer that a 500' requirement should apply for every single cell tower. He asked is that realistic and possible, or is that consistent with federal law.

Mr. Kamptner pointed out the 500' requirement is what they have in the substantial change definition.

Mr. Fritz replied that they talked to the Board of Supervisors in April, 2014 about potential changes to the ordinance, and that was one of the things that they could certainly do. However, that has no impact on what they are talking about today. Staff has recommended, the public has recommended and the Board and the Commission have talked about changes in our existing regulations for the construction and design of new facilities. They still encourage the Board of Supervisors to have those conversations. Not having facilities constructed within 500' of a dwelling could be something the Board could consider. Today they have a provision that says if you are making a change to a facility that is within 500' of a dwelling that is considered a substantial change. However, they can no longer do that. The location of a dwelling in relationship to the tower has no bearing on whether or not it is or is not an exempt collocation.

Mr. Randolph thanked staff for that clarification. The third argument this writer makes is that, "regulations shall require the establishment, maintenance inspection and verification of effectiveness of tree cover

concealment prior to permitting any upgrades or maintenance of the tower." Is that consistent with federal law and existing County practice?

Mr. Fritz replied, again, that is something that they actually tried to talk with the Board of Supervisors back in April about how to deal with tree preservation areas in relation to the construction of new facilities. That would be something the Board of Supervisors would more appropriately take up in another zoning text amendment about design. That is really dealing with new construction, which this does not address at all.

Mr. Kamptner asked to go back to the 500' setback from dwellings. Part of the FCC's goal in these new regulations is to expand the deployment of transmission equipment to include not only the personal wireless type of equipment but also all other types of both licensed and unlicensed wireless related services including broadband. As the technology changes and what the communication provider expectations or obligations are, they have to under the license eliminate or address significant gaps in coverage. That is kind of a moving target. Ten years from now what is considered a significant gap in coverage will likely be significantly different than what is a significant gap now. When they had the lawsuit on the Dudley Mountain tower in 2000 what was consider a significant gap was different. The standard is changing and 500' may be unacceptable in two years.

Mr. Fritz pointed out they also have to analyze whether or not it results in a prohibition of service because of the lack of area to put facilities. So they can certainly review it, but he did not know if it would pass. It is a conversation for a different meeting.

Mr. Randolph thanked staff for answering those questions.

Mr. Loach said that on the number of applications expected, is there any provision in the law or has staff made arrangements with the vendors so that these applications don't come in all at one time. There is physically no way staff would be able to handle a large number of applications within the timeframe.

Mr. Fritz replied staff specifically asked that question of the FCC and were told they cannot do that. He replied staff meets and works with the industry representatives regularly, which is how they know how many applications are coming in. Staff believes the way the process works for both the industry and staff that they can only file so many applications. Staff thinks they can keep up with that because they have the resources to do since some staff have been moved around.

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

Lori H. Schweller, attorney with LeClair Ryan representing Verizon Wireless, presented a PowerPoint presentation entitled Albemarle County Planning Commission
ZTA to Implement FCC 15-153 - March 10, 2015 - Verizon Wireless Comments.

They appreciate the Commission devoting this time to this issue. They look forward to talking more about this issue and taking questions. She would skip through the presentation because Mr. Fritz has already covered a lot of it and they have been inundated with information. So they already know about the Spectrum Act, which is this portion of the Middle Class Tax Relief and Job Creation Act of 2012 that they have been talking about for the past 2 ½ years. They already know what that does. The purpose of the Spectrum Act is to promote the deployment and network facilities needed to provide broadband wireless services to U.S. citizens. That is why it is very important to the industry.

**Spectrum Act §6409(a)***
"Notwithstanding Section 704 of the Telecommunications Act of 1996 [codified as 47 U.S.C. Sec. 332(c)(7)] or any other provision of law, a State or local government may not deny and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimension of such tower or base station."

* Aka Middle Class Tax Relief and Job Creation Act of 2012, codified in the Communications Act as 47 U.S.C. §1455(a).

Since they have been listening to their applications for many years the Commission knows they are constantly updating equipment.

- Collocations and Modifications
  - Add new antennas
  - Replace antennas
  - Add equipment boxes to serve new antennas
  - Small cells and DAS nationwide (So tens of thousands of new small cells come in.)

That is why this ruling which clarifies substantial change, clarifies the baseline for measuring substantial change and adds a fixed date to the approval period is extremely important in order to make all of this happen. It will make their lives a whole lot easier, as they are hoping for.

**FCC Ruling 14-153 published January 8, 2015 (effective April 8, 2015)***
This ruling clarifies:

- Substantial Change Defined.
- Baseline for measuring substantial change.
- 60-Day Deemed Approval Period.
- Shot Clock applies to Small Cells.

*47 CFR Parts 1 and 17 ("Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies") codifying Report and Order FCC 14-153 adopted 10/17/2014 by the FCC

**These are the things that constitute substantial change in the physical dimension of a wireless tower or a base station.**

(1) For towers outside of public rights-of-way, it increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater;
(2) For those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
(3) For towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is great
(4) For those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet ....
(5) It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
(6) It entails any excavation or deployment outside the current site of the tower or base station;
(7) It would defeat the existing concealment elements of the tower or base station; or
(8) It does not comply with conditions associated with the prior approval of construction or modification of the tower or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds identified above.

She wants to focus today on the one that would defeat the existing concealment elements of the tower or the base station. They do interpret this differently from the County's definition in the proposed ordinance. What the FCC ruling says is that facilities designed to look like something other than a wireless tower or base station by use of either disguise or concealment or concealment elements." So in order to understand your review of the Albemarle County Zoning Ordinance about what these terms mean, they looked at the Albemarle County Wireless Policy. That policy not only informs the zoning ordinance, but the zoning ordinance reflects it and is meant to be the implementation of that policy. So these terms are defined exactly to be consistent with the FCC's ruling.

**Personal Wireless Service Facilities Policy**
**Albemarle County Department of Planning and Community Development, December, 2000**

Disguise:

- "A personal wireless service facility designed to appear to be something other than a personal wireless service facility" (p.13).
- "Changing the appearance of a personal wireless service facility to appear to be something it isn't is considered disguise" (p. 60).

"Concealment Elements" =

- "facilities designed to look like something other than a wireless tower or base station by use of either disguise or complete concealment"

She provided a slide with an example of a "Concealment Element" that she would call "disguise." It is what they call a "monopine" and is at our Buckingham Circle site at the Department of Forestry.

Again, the definition of concealment in the County's Wireless Policy is the same as the one in the ruling. Concealment is to –

- "To enclose a personal wireless service facility within a natural or man-made feature resulting in the facility being either invisible or made part of the feature enclosing it" (p. 12).
- "the complete enclosure of a personal wireless service facility so it can't be seen is considered concealment" (p. 60).

An example, as shown in a photo, was in the City of Charlottesville on the Omni. They have a brick containment item on top of the building to contain all antennas. Again, that cupola contains antennas and other equipment. So they think the County's definition is not consistent with the Wireless Policy nor is it consistent with the FCC. She thinks one of the most important ways to show that is true is to get to the point. She would say briefly that as they all know the policy deals with all of these things:

- Location
- Siting
- Design

It distinguishes between Camouflage vs. Concealment or Disguise

The County is not trying to say that they are talking about location because that has to do with new towers. However, the County is saying that every other element that they look at for wireless facilities, every aspect of siting and every aspect of design is a concealment element. It includes every single one. So that completely undermines this ruling and does not allow the County to take advantage of Spectrum Act and the Ruling Clarification of that Act. She thinks they can best see that when they look at a very specific point that is made in the ruling when localities said what about conditions attached to special use permits. The answer to that question was yes, violation of conditions attached to special use permits would be a substantial change to the dimensions unless they are talking about the things that they have been talking about, height, width, and number of cabinets on the ground. That is a big issue since that is everything that they are talking about here. So the County's all encompassing concealment elements definition simply does not make sense legally.

Mr. Morris asked Ms. Schweller to wrap it up and they could cover other elements during the question period.

Ms. Schweller said she would wrap it up now. She offered some great photographs if they want some examples of what this ordinance can do the county.

Mr. Morris invited questions for Ms. Schweller.

Mr. Keller asked Ms. Schweller to show the pictures to the Commission.

Ms. Schweller reviewed the photographs in slides. The first photograph was an example of an existing Comcast tower where they added an antenna. They added flush mounted antenna in order to comply with the current design standards. They think that the aspect of flush mounting, the aspect of 1,152

square inch face of antenna, and the aspect of 12 inches standoff from the tower, that none of those make sense as a concealment element for this tower. Under the ordinance the way it is written they would have to get a special exception, just like they had to get a special use permit for that, and that does not really make sense. Those are the types of things that should be approved by right under this ordinance. Similarly, they did a tower flush mount, which is not a good idea. However, again those are clearly not concealment elements.

Ms. Schweller noted the next photo was taken in Key West, which was an existing site that was a Tier II because it was 10' above the reference tree. So for this site, there are no conditions since there is no special use permit. The point that she made earlier about conditions does not apply. Obviously, they should be able to extend this up or sideways because, based on the definition in the Wireless Ordinance, a treetop by definition is camouflage.

Mr. Loach questioned what Ms. Schweller called the one in Buckingham Circle because he thought she had it reversed from what he would say. Camouflage is what they made of that tower by the Department of Forestry that made it look like it got in a 1950's horror movie and it got zapped by nuclear radiation and became a tree. That to him is camouflage. What they have been trying to do is conceal these as much as possible as a visual effect.

Ms. Schweller said she understands his point and his use of the language as was used in the staff report. However, she was using the definitions in the FCC's ruling and the definitions in the Albemarle's Wireless Policy. Those terms are defined twice in the policy and those definitions in the policy perfectly match the definitions from the FCC ruling as she reads it. So concealment in the ruling and in the policy means to make something look like something else, which is the type of concealment they call disguise, or to completely conceal it in something that looks like an artificial structure like an architectural element or a natural feature like a tree. So that is concealment.

Mr. Loach said he just doesn't see how they can define this as camouflage.

Ms. Schweller noted the Wireless Policy defines it as camouflage, she doesn't. The next slides show the distinction first with a Tier II whereas the next slide describes the tower at Piedmont College which was a Tier III that was 14' above the reference tree. As they can see on the approval letter, one of the conditions of approval is that it can't be more than the height of 90'. However, that is not permitted because they cannot use a condition as a reason for not complying with the ruling. So what would actually happen is they could increase it 10 percent or the height of adding an additional antenna array. So they would need 10' separation. They have an 8' antenna. Therefore, all that would happen is that it would be 102'. That is what would happen if the ruling is allowed to work its magic the way that it should. It is not going to be a significant dramatic change to what they have now.

Mr. Morris invited the next speaker.

Ms. Schweller pointed out our RF Engineer with Verizon Wireless, Frank Mayer, is present. She wanted to preface his remarks by saying that if this ordinance is adopted it is going to be very important to all of us to change the perimeters of design. So Mr. Mayer is going to talk in response to a request from Mr. Kamptner about what they actually use at Verizon Wireless.

Frank Mayer, RF Engineer with Verizon Wireless, presented a PowerPoint presentation.

- Being in the antenna design industry since 1996 he could say what they did in 1996 is very different from what they do now. They are doing a lot more with the towers and trying to get more technologies out on the towers. That is so they can provide services like this, video over the air, wireless, broadband services and that kind of thing.
- When designing in this area one of the restrictions about setting flush mount antenna is they can only put so many technologies on one antenna. They currently have four different licenses in this market: AWS, PCS, 850 and 700. When they put four different technologies in one antenna, it degrades the effectiveness of the antenna, which would make it have to be untenably wide in the way the ordinance is written. So they have to use multiple antennas that require stacking them vertically.

When they only have 10' above a tree and two 8' antennas, it means that one-half of the array is going to be down in the trees. He described a three sector mount with two antennas per sector, which is kind of a low profile. They have used this in other counties. That would allow us to do two antennas side by side essentially bringing those two radiation centers to one. That is the same idea.

- Another change in the industry recently is moving towards remote radio heads. Essentially the idea is they are putting the transmitting power at the top of the tower. They are not putting it at the base of the tower anymore. This is beneficial because it eliminates the loss and signal that you get in the coaxial line. At 120' to 130' run of the coaxial basically two-thirds of your power is lost in the transmitting up or transmitting back down. That is important on the way up, but it is actually more important on the way back down. The antennas are picking up a very faint signal. The closer you can put that receiver to the antenna the more effective the radio is.
- The diagram shows that right now they are limited to being just 12 inches off from the face of the antenna to the face of the tower. In order to put a mount on the antenna if you have a 7 inch antenna, a 3 inch pipe mount and then the bracket of the mount itself they run out of room pretty quickly. The advantage of the radio heads is that they can mount them behind the antennas, or inside the same array. They certainly could not do that with this kind of standoff.
- The next diagram shows the kind of design they ran into at a couple of sites in the area where just the mere act of adding tilt to an antenna pushed it away from the tower enough that it would not be in compliance with the Code. They tilt antennas in order to control the signal and keep the site so it does not interfere with other sites. They also have antennas with electrical tilts inside. The ideal environment for a radio is to be just one receiver with one tower. So they try to control the signal so it does not interfere with each other. They do that with the horizontal beam width and the vertical beam width. The horizontal beam width is one reason the antennas have gotten wider. A wider antenna focuses the antenna signal in more directly. It is the same thing with the vertical antenna in that they use vertical height. A 3-foot antenna has a very broad vertical beam. An 8-foot antenna will have a 7 to 8 degree vertical beam width so they can control that signal and keep it from getting into the other sites.
- They use different antennas in different environments. They can't just have one size fits all. In a rural environment they may need more gain. In an urban environment they may need less gain where they don't want to have as much noise in the system. Whereas, a rural site they want the antenna to be bigger and pick up more, having more resolution on the up signal; whereas, in the urban environment they can get away with smaller antennas in a lot of cases. Sometimes they still need a larger antenna just to keep the tilt. But, different antennas are needed for different environments.
- Our design criteria are to keep the noise in the system down, especially with the LTE signal and the more date intensive signal. The more noise you have to overcome the more noise the handset receives and the slower the transmission rates are. So every site they put in they have to tune the sites around it to accommodate that so they keep the noise in the system as low as possible and that handset is just seeing one transmitter.
- The last item is just some of the newer antennas they are using. These are multi-technology antennas. They are trying to put as much as they can into one. They have the electrical tilt capability, but in order to use a wider beam width antenna they are going to be failing a lot of the 1,152 square inch maximum. He pointed out an example of an antenna they have in a lot of areas. This antenna does not have an electrical tilt, but it is one of the antennas where they run into not only the service area but every time they try to tilt it they end up it being more than 12 inches from the base.

Mr. Morris invited questions.

Mr. Lafferty said there was a mention of a single cell antenna that is a new type coming along.

Mr. Mayer replied that some of the newer antennas they have, as shown in the slides, are where they are combining both low band and high band signals. So they will put a 700 and our AWS signal in the same antenna. That way they can put a little more in less area. However, if they are putting more elements in that antenna, the antenna is going to expand and be bigger.

Mr. Dotson said this is very helpful in terms of understanding some of the new technologies and the direction the industry is moving. He asked how this directly pertains to the proposed ordinance language

in front of us. It strikes him that it pertains more to the ongoing discussion at the Board of Supervisors that they would be having about our basic requirements.

Mr. Mayer replied that he would feel that as far as the antenna changes, it is a substantial change.

Mr. Fritz responded that right now the antenna size is limited to 1,152 square inches. If that was increased, say to 1,300 square inches, there would then be fewer collocations that are substantial changes meaning that there would be more exempt collocations.

Mr. Dotson said there is nothing in this proposed language that addresses changing the 1,152 square inches.

Mr. Fritz replied no. However, they were talking about the 500 foot regulation. If there was a subsequent discussion that would change the design standards these ordinance amendments would mean there would be more exempt collocations versus non-exempt.

Mr. Kamptner said in presenting this to the Commission and Board they recognize the industry's concern or desire to increase or change some of the standards that they have in play due to the technology changes. In the time frame they had to address the execution and given the time frame to address the FCC's mandated changes, they will precede with that. They thought it was important for the Commission to hear this at this stage about what is going on because they expect it likely will be right after this text amendment they will be asked to work on the next portion. They have to do phasing.

Mr. Loach asked as far as technologies does that actually boil down to bigger, taller and more visible.

Mr. Mayer replied in order to put two antennas side by side they need a separate array. If they want to stack them vertically on a collocated tower, yes, then that is going to expand them vertically.

Mr. Loach said the thing about concealment and camouflage is sort of crisp. However, he thinks what it boils down to is what the Board is going to deal with, which is that big subject how much taller, how much bigger, and much more visible are you going to accept. He thinks in many cases in the growth areas where there are more opportunities for what he would consider camouflage that they can include that type of technology. The real sticking point is going to be the rural areas and what they have tried to do in the past versus the technology that is here and technology in the future that will bring more demands for that with higher visibility.

Mr. Morris invited other public comment.

Valerie Long, attorney with Williams Mullen, echoed the comments made by Lori Schweller and her collegiate with regard to suggestions and proposals and the industry technology challenges. The clients they represent have nearly identical challenges in all respects. Joining her tonight is a number of representatives from Ntelos Wireless.

- As they know they were here two weeks ago with an application at Piney Mountain, which is an example of what is coming. They have several other applications already either about to be submitted or already submitted. There are many more underway. Their goal is to upgrade their antennas on existing sites to provide better service to their customers. The two main limitations under the current ordinance that will exist and continue under this draft is the size limit on the antennas of 1,152 square inches and the 12 inch flush mounting definition. This draft goes a long way in helping in the sense that application the Commission saw a few weeks ago at Piney Mountain, which requires a special use permit in a Tier III application and takes, at a minimum, six months. Under this draft it would instead become a Tier I with a special exception. However, that special exception still requires the staff to write a staff report, notices to be sent to all the abutting owners, and the staff report to be placed on the consent agenda for the Board of Supervisors. It could always get pulled and is always going to take time to get on the Board agenda.
- What they have proposed that would solve most of Ntelos goals would be two simple modifications to this draft ordinance to increase the size of the antennas from 1,152 to 1,400 and a minor technical

change to the flush mounting requirement. It would not go as far as they would like it, but it would at least solve our current dilemma. Right now the 12 inches is measured from the pole to the outside base of the panel antenna. As the Verizon engineer indicated, when you have a pole, a 3 inch mounting bracket and an antenna that used to be maybe 3 inches thick and now are 6 to 8 inches thick, if you do the math you cannot meet a 12 inch flush mounting requirement no matter how hard you try. So they have proposed instead of saying measure to the outside face of the panel antenna, to just measure it for now to the inside face of the panel antenna. They are still flush mounting it to the very best of their abilities, with the existing technology.

- That change, if made, would solve the vast majority of Ntelos' applications. They would become Tier I applications with no special exception needed or no staff report needed. They could submit drawings showing antennas with the old antennas coming off and new antennas going on. It would be done and should not be a challenge to process those within 60 days. If a special exception is required it is much better than a special use permit. However, it is still a substantial burden on the County's resources not to mention the resources of the applicants. As they have said Ntelos has 50 applications in Albemarle County alone. The vast majority of them are tree top facilities going back in old tree top facilities replacing the antennas. Some of them are lattice towers. The irony of this ordinance is that it is going to be far easier to collocate on an old lattice tower that is 150' to 200' tall than it will be on a treetop tower. It is also going to create a tremendous burden on everyone in having to analysis every application on a case by case basis. Just in the conversations she has had with staff they have had 3 or 4 different examples each of them requires a case by case review digging through all the old special use permit condition letters. It is going to be a burden on everyone. She thinks Lori Schweller used a great expression that she likes, which is allow you to take advantage of the opportunities that the new FCC regulations offer. It is all about streamlining a process and making it easier.
- The final thing she would end with is just to echo the comments about the concealment elements issue, which she recognized is challenging. They are just taking the definitions that already exist in the County policy and the FCC regulations, and they note that they match. They feel staff's interpretation of the concealment elements exemption completely turns the FCC regulations on their head and undermines the entire goal of those regulations, which is rapid deployment of new technology and ease of collocation. So they fully understand staff is pretty set on their interpretation. They ask that the Commission give that a consideration going forward and certainly give thought to our suggestions on the antenna size and flush mounting definitions. She asked the Commission to feel free to ask questions because there is a tremendous amount of industry experience and knowledge in this room. They only get three minutes or maybe a few more, but please ask questions. Some of us have been working with this ordinance and this technology since before the County had a policy. They are almost always on the same page with the staff. The concealment elements issue is really the only time that she knows of in the past few years where they have not been in complete agreement with the staff. So they have been working very well with them and they hope to try to just make this process easier, save the County resources, not undermine the community's interest, and help further the goal of deployment of collocation.

Stephen Waller, a consultant with Verizon Wireless, said he was picking up on the key word that Mr. Loach used, visual impact. He would like to make sure when they are considering what is a substantial change that they also consider what actually is going to be a substantial change or any type of change that might increase the visual impact. If they have a site where they have hundreds of feet of backdrop behind the tower and if they do not want to increase the height of that tower, maybe they need to go out and have two antennas at the same height. Someone has to assess whether or not the tower is going to be no more visible than it was originally and that the visual impacts are not greater. He asked how that could be a substantial change. It goes back to what Valerie Long and Lori Schweller were talking about that everything has to be looked at on a case by case basis. However, he thinks there should be some place for staff to look at a site, even if they are going to larger antennas or going to a wider spread on the tower. If it is a well hidden site, he would not think it would be a substantial change if visual impact is the main basis on which the policy and the ordinance were built on from the very start.

Mr. Loach asked from a technical perspective on the new technology are the increases in what they need due to more services or will they also get additional coverage for the areas. Is it one or the other or both?

Mr. Waller replied that he thinks it would be a little bit of both. He suggested that Mr. Mayer could probably answer the question better. However, it is his understanding that from the County's design aspects, they are looking at two competing issues. First, with the flush mounting they can only get 3 antennas at the highest point on the tower. Then, as Mr. Mayer said, they have to come down below that and get 3 more antennas. If they have a site and it does not increase visible impact, then they can go side by side with antennas to get all of the antennas at one height. The level of service from what services are being provided at the lower array and what services are being provided at the higher array are going to match pretty much.

Mr. Loach pointed out the reason he asked was because he was looking more to the rural area and how much of a trade-off are they making to give additional service versus additional coverage. As most people know they have had problems in the rural areas getting coverage. In his perspective if he is getting more coverage out of these antennas the trade-off is to be considered versus if he is giving more services to the people who have it. But, the cost of that is much more visual clutter or maybe less so.

Mr. Waller noted the height restrictions and the flush mounting restrictions hurt the servers at the same time in different ways. When they have the height restriction the lower set of antennas are going to be in the trees. It does not matter if they are expanding the level of services to your customers because that service coming from them is going to be restricted anyway. So if they add 4G to the lower array of antennas and they are below the tree heights they do not have the option of even providing expanded services. If there was a creep in height and also an expansion that allowed all the antennas to get above the trees or even an expansion so you went from 10' to 20' above the trees so all the antennas are now above the trees the coverage area could be expanded. With that top array they probably will expand the coverage area, but the lower array will still be suffering from not providing the coverage as the height above the tree line would allow.

Mr. Keller said he had a technical question.

Mr. Morris suggested they call the technical experts back up for questions. First, he asked if there was any further public comment. There being no further public comment, the public hearing was closed and the matter before the Planning Commission for discussion and action.

Mr. Keller said he had a general question of whether they are confronting kind of a turf war between fiber optics and wireless here. They are kind of caught in a technology update issue among these things. His question to this is when they are talking about the antennas that deliver different services that those within the rural areas now are being provided by Dish Ntelos with small target antennas on houses and broadband delivered at quite high speeds. As he understands, that is something that can be located on some of these towers. He asked if that is a correct question.

Mr. Mayer replied yes, they have a product called Home Fusion which is the same idea as basically a LTE phone that you put on a little antenna on your house. It will run Wi-Fi, broadband and that kind of thing.

Mr. Keller asked is that is the antenna that is still receiving.

Mr. Mayer replied the transmitting antenna is still from a cell site.

Mr. Keller said it was within the ones that he showed the Commission. So when he was talking about the multiple function antennas that would be paired with the cell phone.

Mr. Mayer replied yes, and the multiple functions. Right now they have three different technologies on every tower for CD Meg, LTE and EVO. CD Meg is the old voice signal that they have always had. The EVO is date over the same. LTE is basically a data compression system which packs more data, which is the 4G that everybody is moving to. They can put a lot more data on there. People are moving towards a system in the future where actually your voice is going to run over that same network. It is like Vonage

that runs on your home with an IP system. Eventually voice is going on the LT network. In fact, they run a voice on LT right now. Those technologies all require band width. In order to combine as much band width as is available which goes across four different spectrums they have band width at 700, 50, PCS and within the AWS spectrum. They have four different spectrums and in order to go across all of those they need different antennas to transmit that signal.

Mr. Keller asked size wise, if they are not talking about significantly different antennas sizes.

Mr. Mayer noted those are the multi cord antennas that are wider.

Mr. Keller said it still was another couple hundred of square inches.

Mr. Lafferty asked how he would rate the restrictions of Albemarle County compared to others nationally.

Mr. Mayer replied that they are very restrictive and it impairs our ability to bring sites to market quickly. A site here is substantially needs more lead time than in other counties in the area.

Mr. Lafferty said he was sure that most everyone here would agree they want limited visibility and not to see many towers. That is a problem because the Commission represents the public. He said he did not want his grandsons to be driving from Crozet to Charlottesville and it looks like the antenna farm on Carter's Mountain. He thinks they are giving up little bits of their way of life when they do this. He just wondered how much our restrictions drive your technology.

Mr. Mayer noted that nationally everybody is doing that. Our antennas, radio heads and things like that are national products. They purchase from a national template of stuff. They go shop and find what fits here. It is not driving new stuff actually.

Mr. Lafferty said to get back to what Mr. Loach's question was is it expanded coverage they are looking for or are they expanding functionality.

Mr. Mayer replied unfortunately a lot of times with the increase in functionality they actually lose some of the footprint or some of the overall coverage. They are doing more with that tower and they don't want that tower getting out as far. So they try to contain it more and actually lose a little coverage. So there will be more towers coming just to replace that coverage.

Mr. Lafferty noted at one time when there were new proposals coming to the Commission they recommended seeing what the additional antenna would give us as expanded coverage. They looked at contiguous properties and the physical impacts. However, they have never really gotten the impact on what the increased coverage would be. He understands the motive for the cell phone tower for people to get a foot ahead. He asked are we buying new technology just for the companies to stay slightly ahead of each other.

Mr. Mayer asked if he remembers the old 3 watt bag car phones. They would have two towers between here and Richmond and you could talk all day. But, only 40 or 50 persons could do it. Now there are a 100,000 people between these two places that need to talk at the same time. Every site is a substantial capital investment on our part, too, and they don't take it lightly just to put something where they can. They put them in with responsibility.

Mr. Morris thanked Mr. Frank Mayer for his information. He invited questions or further discussion.

Mr. Keller explained because of the public presentation he wondered if staff would desire an opportunity to respond to any of the comments. He feels they have done an outstanding job in providing materials.

Mr. Fritz noted there was one thing that Mr. Kamptner and he have commented and discussed. A couple of speakers brought up that our Wireless Policy adopted in 2000 has a definition of concealment, which is different than the definition of concealment they have proposed in the zoning text amendment before

them today. They would point out that at the time they were doing that in 2000 they were using concealment in a different way than concealment is being used now. Even the FCC in their own discussions uses the term concealment and camouflage almost interchangeably. It is the word concealment that made it into the rule, but in all the supporting documentation about how they developed the rule they talk concealment and camouflage. Mr. Kamptner uses plain language in what does concealment mean and what does camouflage mean, which is how they arrived at the definition they have today. That is why the two definitions are different. They were driving at different things. They often go to a dictionary and there are multiple definitions for a single term and that is why they have that in this particular case.

Mr. Morris asked if the concealment element they are talking about the reason why they are reluctant to go to an expanded area for the antennas up on top.

Mr. Fritz replied no. The increased size of antennas or standoff of antennas standard was developed in 2000. Obviously, and the speakers are all spot on there, the technology has changed radically since then. At the time that was the best information they had available and the best technologies that were available, which is how they came up with the 12' and 1152 square inches. That is why they are recommending to the Board of Supervisors a discussion about whether or not it may be appropriate at this time to consider different standoff or antenna sizes. However, that is not a recommendation that they do anything other than have the conversation.

Mr. Loach asked that he address Ms. Long's discussion about just increasing that distance to make it practically possible. They have already voted on some of these and approved them. He thinks they were sort of no brainers.

Mr. Fritz pointed out that special exceptions are approved all the time by the Board of Supervisors. That would obviously be one of the things they would point out to the Board of Supervisors in any consideration for amendment to the ordinance. If the ordinance were to be changed to measure it from the back instead of to the front it is a relatively small change. Or, they could increase the standoff by maybe 6" or something like that. As he said before it would move more applications from the non-exempt into the exempt category, which would not need a special exception.

Mr. Morris invited other discussion.

Mr. Dotson said he had several points. Ms. Schweller makes the point that with a long list of factors that if they modified concealment that there would not be any exceptions left. As such they would have defined the problem away. He asked are there aspects or characteristics of towers, antennas, etc. that they have not included in the list. The list now is antenna size, color, mounting techniques, tower diameter, height relative to reference trees, etc. This list seems exhaustive, which gives creditability to her fear that there would not be any exemptions.

Mr. Fritz pointed out that definition was developed by going into the existing provisions of Section 5.1.40 regulations that talk about antenna size and using those exact same terms. Staff pulled those existing terms forward into the definition of concealment because those provisions are things designed to minimize the visual impact to conceal or camouflage the facility. That will make it easier for administration because you can go back and look at Section 5.1.40.

Mr. Kamptner noted the key thing they left out is the provision for the Tier II facilities that they have to do things to minimize visibility. That is not as objective as the factors that they left in. The other thing that is worth pointing out is that the other criterion for substantial change, which was the last one on the list, was that any conditions that are imposed other than those that pertain to the height or width of the facility. That would just throw out the flush mounting requirement for antennas and the tie into the reference tree. But, if the other factors that they have listed would also be conditions of approval that would be qualifying under that other no substantial change criterion. The list they put into the definition was intended to be objective because that was something in reading the FCC report was an order in their discussion. The

comment was they were not concerned about subjective review with every application as to whether or not something was a substantial change.

Mr. Dotson said he did not think they need more definitions since visibility and appearance is how it looks when you see it versus the question of whether or how much of it you see. That is concealment. It is whether or how much of it you see and not what does it look like when you see it. So he thinks things like color and tower diameter are things they are going to see, and may be they are not concealment. However, he thinks the heart or core of our approach is the height relative to the reference tree and sighting so as not to skylight the tower. So if there were some compromise reached he thought those two elements are the key of our ordinance and have to do with whether or how much you would see it. That is just a comment and an observation. The second point is they allow 10' above the reference tree. Because of this new act someone could extend that 20', which was a 200 percent increase in what they can see. It is not a ten percent increase. He thought that said they need a provision in there that says if there is a significant change in the concealment that they need to look at it, not exempt it, and analyze it carefully. The third point is perhaps to give a little more focus in a few key points to the ordinance and maybe they should use the word conceal. He would give a specific example, but there might be some others. There is a section where they are talking about trees in Attachment D, page 10, item f. For instance it says the caliper and species sentence, the height and caliper sentence, and the height, caliper and species of any tree that the applicant is relying on to provide screening of the monopole or tower. He would say that is a place where they should say to conceal or to provide concealment just so that they are using some of the vocabulary in appropriate places. They might look through the ordinance and see if there are a few places to stick in that word.

Mr. Dotson said the last thought is Ms. Long said there are two big issues right now being the antenna size and the mounting method. He was certain that she wants those two items to move forward rapidly. He was not sure whether she is hoping they could include those in this action or not. His guess is that the public hearing notice did not make reference to those; and, therefore would have to be readvertised if they were to include them. The second thought is that he thinks they have said they are going to see those as part of another zoning text amendment coming to us in a matter of weeks.

Mr. Fritz noted that he did not think it would be a matter of weeks because that presumes that the Board of Supervisors directs us to do that work. They went to the Board back in April to try to get that direction and instead they got direction to proceed on a very small portion of a very large package. They would need the Board to do that or for the Planning Commission to adopt a resolution of intent to work on that.

Mr. Kamptner said if the Commission was inclined they can include those two changes as part of their recommendation and they can evaluate. Of course, the ordinance as it is advertised when it goes to the Board of Supervisors will be once again advertised. They always adjust the advertisement to match what has been recommended.

Ms. Firehock said she was in sympathy with Ms. Long. She recognized that Ms. Long has presented to the Commission several times the issue about the distance from the pole and the size of the structures. She was not clear why the Board of Supervisors have declined to take this up. However, she very much would like to see the Commission make a recommendation that these issues be moved on. It has been about six months since they first brought this issue up to her attention.

Mr. Fritz said staff would pass that along to the Board.

Mr. Randolph said he would like to make several comments. First, he would like to talk about the distinctions in here with the concealment/camouflage/tilt. He thinks Mr. Kamptner's delineation of those distinctions is outstanding. He thinks it is somewhat embarrassing with other localities including the FCC who have not bothered given the number of lawyers working for the FCC from some fairly prestigious law firms that they have not gone ahead and looked at these distinctions with kind of a rigor of decision that Mr. Kamptner and staff have done. So he would give kudos to all of you. He shares Commissioner Loach's reaction to the depicted image of the tower in which was identified as actually being a case of camouflage. Having served in the United States Army if that was camouflage and they sent out a group

of soldiers to camouflage the tower and they ended up with that appearance, they would be thrown into the brig for insubordination and failure to follow through an adequate camouflaging.

Mr. Randolph pointed out the easiest way he can think of camouflaging is to use some analogies which are in the public domain. Certainly Iran is interested in concealing its reactors, but they hope so far that they have not camouflaged it. The Swiss are very good at concealing the fighter planes and putting them underneath mountains. So they are concealed and not camouflaged. He thinks the best way to look at it is to say if they put a B-2 bomber down on a runway that certainly from the air with a case of a satellite they would be able to see the B-2 bomber. It is a "stealth" bomber, but it is visible from outer space because it is sitting there on a runway. If they take that same plane and move it into a hangar where you put it underneath a mountain it is still a "stealth" bomber but now it is concealed. Or, they could take the plane and put it into a field and proceed to put leaves and tree limbs completely over it and from the air it might look like part of the field. In that case it would be camouflaged. So he thinks common sense tells us there are these distinctions between the words. Again, he applauds staff for having put that level of distinction here before us to see.

Mr. Randolph echoed Commissioner Firehock's remarks that the Commission needs to make a recommendation to the Board of Supervisors that the ordinance be looked at regarding several concerns that he would explain.

- The first thing is the 500' setback with residential units. He thinks this is something long overdue because they have been petitioned twice by residents in Bellair. It may just be a single case study, but in all likelihood as they continue to see additional towers go up if they don't vigorously and rigorously try to defend the 500' setback they are going to have other problems in the future.
- Secondly, he thinks it is absolutely appropriate, again as Commissioner Loach has brought up, that he did not see why they have not seen antenna design changes from the Board of Supervisors. He was happy to look at a change that would move from 1,152 to 1,400 square inches because it is sensible and seems reasonable in the face of it. They should actually have a proposal presented to the Commission so they can have a package of proposals to recommend to the Board of Supervisors.
- Thirdly, the tree cover concealment issue, which was brought up in a letter he cited earlier; its effectiveness needs to be validated prior to permitting any upgrades to a tower. He noted that trees grow, but towers don't. So what they need to look at is that perhaps they are in a situation where the tower needs to be higher and potentially there is also a possibility that if the existing defined tree that determined the height of the tower went down, that perhaps the tower should be shorter.
- Fourthly, there needs to be a change in the distance under our ordinance of the antenna from the pole that they should look at. That again is just common sense and long overdue. This will simplify things for the industry and allow the Commission and staff to focus on the big picture issues that are out there.
- Finally, he would like to be sure that the ordinance covers the existence of these towers and their distance from historic structures. He did read a section of the FCC discussion about historic structures and just wants to be sure that as they move forward and make changes that they keep that section in the ordinance that historic structures are not going to be jeopardized by a greater ubiquity of towers. However, he thinks that all of this is something the Planning Commission should recommend to the Board of Supervisors with our enthusiastic and his hopes unanimous support and endorsement.

Mr. Morris asked if he would like to put that in a form of a motion.

Mr. Randolph requested to put it in a motion.

Mr. Morris asked if the motion was to forward the proposed ordinance with the changes that have been outlined, and if that was his recommendation.

Mr. Randolph agreed that was his recommendation.

Mr. Kamptner asked Mr. Randolph to clarify if he wants all of the changes he discussed incorporated into this ordinance.

Mr. Randolph replied no, not in this ordinance amendment. He wanted to recommend approval of this ordinance. However, in addition he wants the Board of Supervisors to know that in our discussion they are making another recommendation. The Board can decide what they want to do, and they might want to kick it back to the Planning Commission.

Mr. Fritz said he understood the Commission wanted to move forward on those other things.

Mr. Morris said the Board of Supervisors would take it under consideration when they bring the zoning text amendment before them and they may incorporate it. However, it shows that the Planning Commission is making a recommendation to bump this. He asked if everybody was in agreement with the recommended changes. He asked if there was a second to the motion.

Mr. Dotson seconded the motion.

There being no further discussion, Mr. Morris asked for a roll call.

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

Mr. Morris noted that ZTA-2015-01 Wireless Communications – FCC Mandated Changes would be forwarded to the Board of Supervisors to be heard on April 8th with a recommendation for approval of the ordinance language as recommended by staff with a second recommendation for consideration of changes to reflect input provided by the Planning Commission. He thanked everyone for being here and their input.

Ms. Long asked to speak, and Mr. Morris agreed.

Ms. Long said that perhaps she misunderstood, and if so she apologized. She was thinking that perhaps she heard Ms. Firehock say that the Commission thought the suggestions they had for making minor changes for the antenna size and flush mounting for this version of the ordinance was something they were recommending, or was she saying no it should just wait until the next package of changes.

Ms. Firehock replied that she would like it to wait. She actually spoke with Mr. Kamptner, Supervisor Liz Palmer and Commissioner Tim Keller yesterday to just get up to speed on all of this. They talked about this issue and it seemed like it might be too much to pile on at this time. However, what she was trying to say was let's hurry up and do this and let's not have this conversation six months from now and wonder why they did not do it. Therefore, she will be talking to her Supervisor about this.

Ms. Long said that would be great.

Mr. Randolph said that they were trying to tell Ms. Long that the cavalry is coming.

Ms. Long replied that they very much appreciate that. It is the type of thing as Mr. Fritz and Mr. Kamptner will tell you they have been actually talking about for two years. So she got momentarily very excited when she thought the Commission was going to direct them to update the notice to change those two for the April hearing.

Ms. Firehock noted she had already asked that question yesterday in her meeting with her supervisor, but it seemed like too much to the board to consider.

Ms. Long said they very much appreciate all of the Commission's comments, appreciation and understanding on those issues.

Mr. Morris pointed out the Board of Supervisors would at least consider incorporating this in what they approve. However, he doubts they will because it was just too much.

Ms. Long said if it was not advertised she did not think they can.

Mr. Kamptner noted they can advertise to include these issues and if the Board is so inclined because of the deadline and everything they can also include it.

Ms. Long said that would be good because they could at least have a discussion.

In summary, the Planning Commission forwarded the proposed ordinance to the Board of Supervisors with a recommendation for approval and with a second recommendation to look at the ordinance for consideration of the following:

- Support standard that new facilities have a minimum 500' setback from dwelling units.
- Consider amending the flush-mounting design standard by measuring the maximum 12-inch distance from which an antenna may project from the tower from the back of the antenna instead of from the face of the antenna
- Consider amending the maximum size for each antenna from 1152 square inches to 1400 square inches
- Make sure the ordinance addresses new towers and their distance from historic structures.

**Old Business**:

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

**New Business**

Mr. Morris asked if there was any new business.

- The next Planning Commission meeting will be held on Tuesday, March 17, 2015.

**Adjournment**:

With no further items, the meeting adjourned at 7:48 p.m. to the Tuesday, March 17, 2015 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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