

**Albemarle County Planning Commission
February 20, 2018**

The Albemarle County Planning Commission held a public hearing on Tuesday, February 20, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins, Daphne Spain; Pam Riley, Vice-Chair; Bruce Dotson, Karen Firehock, Jennie More and Bill Palmer, UVA representative.

Other officials present were Bill Fritz, Manager of Special Projects; Mark Graham, Director of Community Development; Andrew Gast-Bray, Deputy Director of CDD/Director of Planning; Sharon Taylor, Clerk to Planning Commission and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

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

The meeting moved to the next agenda item.

Public Hearing Items

SP-2017-00027 Keswick-Tier III Personal Wireless Service Facility (Sign #73)

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 09400000003900

LOCATION: Southwest corner of I-64, Black Cat Road (Route 616) interchange

PROPOSAL: Construct of a one hundred and fifty (150) foot tall steel monopole with five (5) antenna arrays. Special exceptions have been requested to allow more than three (3) arrays, to allow mounting equipment to exceed the maximum standoff distance, and to allow disturbance of the buffer between C1, Commercial and RA, Rural Areas zoning. The tower is proposed on the rear portion of the site which is zoned RA, Rural Areas. The front portion of the property is zoned C1, Commercial.

PETITION: Section 10.2.2(48) of the zoning ordinance, which allows for Tier III personal wireless service facilities in the RA, Rural Areas district.

ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) and C1, Commercial which allows retail sales and service; residential by special use permit (15 units/ acre)

OVERLAY DISTRICT: EC- Entrance Corridor

PROFFERS: No

COMPREHENSIVE PLAN: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/residential density 0.5 unit/acre in development lots.

(Bill Fritz)

Mr. Fritz summarized the staff report for SP-2017-00027 Keswick-Tier III Personal Wireless Service Facility in a PowerPoint presentation.

This is a proposal to construct a 150' tall monopole tower. The reason this application has been submitted is that an existing tower on an adjacent property must be removed because of the provisions of an open space easement held by the Virginia Outdoors Foundation (VOF). The applicant has been working with VOF to amend the conditions of the easement in order to allow the tower to remain. The county is not a party to the easement and cannot control what will happen to the existing tower. The application before you has been reviewed on the merits of the application only.

In the presentation, Mr. Fritz pointed out on a slide the general character of the area. He noted that clearly you could see I-64, Black Cat Road and Route 250. On a slide, Mr. Fritz noted he had roughly outlined the parcel boundaries and pointed out the front portion of the property, which is wooded and a little bit of that field, is zoned C-1, Commercial. The rear portion of the property is zoned RA, Rural Area and so this single property has two zoning designations. The tower is proposed in the blue area approximately where the star is and the existing tower is located about 850' to 900' to the west as shown on the slide. That existing tower is the one that must be removed due to the provisions of the Open Space Easement.

The next slide shows the location of the tower on the property. This property is unusual because it has two zoning designations. You can see the existing zoning line; and to the right is commercial and to the left is rural. To the right you can also see the tree line on the commercial portion of the property. The property line to the north is the exit ramp for I-64. One of the special exceptions requested is to allow disturbance of the buffer between commercial and rural property. The ordinance requires a 20 foot undisturbed buffer between these zoning designations. Mr. Fritz pointed out the area of disturbance. He said staff supports the special exception because any by-right use of the rear portion of the property requires disturbance of the buffer. He noted if they build a house in the rear that a drive way needs to be built that is similar. The disturbance is limited to the establishment of the access, which is the same as would occur for a by-right use.

The next slide shows a profile of the proposed tower and one plan view of an array. He noted the arrays are all a little different and he has shown one array example. The applicant has proposed five (5) arrays. The ordinance limits the number of arrays to three (3) unless a special exception is approved. Staff does not support the special exception because it serves to increase the height and visibility of the tower. Mr. Fritz noted the ordinance limits the standoff distance for antennas. The ordinance allows for the downward tilt of the antenna and the result of that is the maximum distance the back of an antenna may be mounted from the tower by right that is 18 inches. The maximum proposed standoff for an antenna the applicant is proposing is approximately 8 feet from the tower. Some antenna will be mounted closer but none will comply with the ordinance. The increase in standoff increases the visibility of the tower and therefore staff recommends denial of the special exception to increase the standoff. Mr. Fritz

pointed out as noted in the staff report, if this request is approved the tower could be increased in height by 20 feet and additional arrays added to the tower that is due to the FCC rule.

The next slide is from the Comprehensive Plan, it shows the existing tower, the one that has to be removed, when it had only two (2) carriers, and it now has five (5). The existing tower is lattice and the proposed tower is a monopole. Therefore, they are different there. The height and mounting techniques for two towers for antenna are similar. The visibility of the new tower is similar to the existing towers visibility. The Comprehensive Plan says of the existing tower, "Below is an example of the type of facility not supported by the County." Staff recommendation is that the proposed tower is very similar and is the type of facility not supported by the Comprehensive Plan.

Mr. Fritz reviewed photographs from Black Cat road north of the entrance to Keswick Estates; from I-64 west of the site travelling east; from the exit ramp on I-64 adjacent to the property; from Route 250 south and slightly west of the proposed tower; from the same general area on Route 250 and a little farther west on Route 250. He pointed out the three photos show the visibility from Route 250.)

Mr. Fritz pointed out the county has recently gotten some new information that allows us to do maps as shown in the presentation. He noted the County developed the map and it uses the proposed location and elevation of the tower, combined with tree heights to generate a map showing where the tower may be visible from. Based on the balloon test, staff has high confidence in the accuracy of this map. It shows that tower would be visible to dwellings to the north, east, south and west of the site including a dwelling, which is identified as a historic resource in an open space easement. He pointed out that would be house on the adjacent property where the existing tower is located. We do not have photographs of the balloon test from all of those locations. Based on where staff did take photos from the map is confirming the visibility.

In summary, staff is recommending denial because it is our opinion that the facility would be highly visible from streets and properties in the areas. The special exceptions for the number of arrays and standoff serve to increase that visibility. The tower would be visible from a resource identified in an open space easement. This request is not consistent with the Zoning Ordinance or the Comprehensive Plan and we recommend denial. Mr. Fritz said he would be happy to answer any questions the Commission may have.

Mr. Keller invited questions for staff.

Mr. Dotson said just on this particular exhibit, the staff report does not have page numbers, but in the portion of the staff report where you are talking about Attachment F, this visibility map and the report says in addition to the locations mentioned above the tower will be visible from and then you list five locations. Then it says other locations may have limited visibility and then the puzzling statement is however, based on the

mapping staff opinion is that the visibility will not be intrusive and he wondered if staff could comment on that.

Mr. Fritz replied that he did not pick that up and it should not be in there; therefore, he would take it out. He thanked Mr. Dotson for picking that up.

Ms. Spain asked Mr. Fritz to comment on the community meeting.

Mr. Fritz said he had left that information of the staff report. He explained that two people showed up from the community meeting and the questions were limited to how much the rent was going to be on the tower for the individual carriers. There were no real questions or concerns raised about visibility or other concerns. There was some concern that service is maintained in the area but that was about it.

Mr. Keller opened the public hearing and invited the applicant to speak.

Ed Donohue, local counsel for the applicant Crown Castle, presented a PowerPoint presentation to summarize the request. Mr. Donohue introduced the team members present Paul Pickens, project manager with Crown Castle; Melisa Sommers, radio frequency expert who prepared the propagation maps and had technical data to discuss; Debbie Belleek, with Shentel, Brian Quinn, project architect and Sarah Brent. Mr. Donohue said he would try not to duplicate Mr. Fritz's photographs but they did have similar shots. Mr. Donohue said we do have a photograph of the existing lattice structure approved in 1997 and built in 1998. It does have five (5) carriers now and serves as a facility critical to the emergency response personnel for Albemarle, Fluvanna and Louisa counties. The reason for the replacement site, as Mr. Fritz mentioned, is the VOF easement that requires elimination of the lattice structure by the end of this year. Unless the VOF agrees to reverse itself, then that lattice structure is going to come down. Therefore, the goal is to propose to you and have you consider a low-profile design with minimal network construction for all five of the carriers.

Mr. Donohue said we look periodically to see what is going on in the macro-picture – so we have 50% of households relying exclusively on the mobile phones of so called households; 90% of households have at least one mobile phone and to h full 80% of 911 calls originate from the wireless devices. He asked to call attention to a couple of things that are being discussed, our governor says broadband access is critical for rural communities to thrive but what was electricity is now broadband. We have all heard about the digital value. He said that hundreds of thousands of Virginians, including tens of thousands of schoolchildren, do not have good access to high reliable internet services. He said that Senator Warner said mobile broadband increasingly animates every aspect of our community and he goes on to describe health care and agriculture as being an important part of consideration on the digital divide. He mentioned that the Albemarle Broadband Authority are meeting tomorrow evening to take a look at the Zoning Ordinance to see if there are any impediments to deployment of Broadband in the county. The report that the Broadband Authority Commission suggests that Broadband be treated as the utility and we certainly agree.

Mr. Donohue said this is a composite of the coverage slides and he mentioned that Melisa Sommers would be the RF for the greater frequency portion of it. Before he hands off, Mr. Donohue said that he wanted to draw their attention to what they are looking at. He noted I-64 East and the site they are describing is in Keswick that is in close proximity to the county borders – but it is important that these sites hand off to each other and Melisa Sommers will explain what the coverage levels are shown here. He pointed out they were looking at approximately 41,000 vehicles per day that cover through the site's coverage area on this particular site on Keswick. Therefore, it is certainly an important consideration on propagation and Melisa will explain in more detail.

Ms. Melisa Sommers said as mentioned this is a composite coverage currently seen in Albemarle County. She noted the yellow, orange and red represent the coverage you would experience in building like at home or something like that; the green represents something you would have in a vehicle and the blue represents what you would see in open air or standing in a field. She noted along I-64 is a critical corridor and in addition to 250. As she mentioned they need to hand off to Fluvanna County. Ms. Sommers noted the absence of this Keswick tower would be significant. Because of power along with one other were some of the original towers built in Albemarle County when cellular first came on board we only had two carriers in Albemarle County and now there are five carriers. All five carriers are currently on the Keswick Tower and that is how important that site is to the community. Ms. Sommers pointed out the current coverage of the Keswick Tower with five carriers with the lowest being at 90' and tallest at 145'. The blue represents the coverage of the tallest carrier and the green the lowest coverage and Ms. Sommers pointed out our goal is to mimic this coverage; we were looking at replacement towers. Ms. Sommers pointed out the coverage at the replacement tower at the Virginia Whales property with the light gray representing the 145' or tallest coverage and the blue the lowest coverage. As you can see the coverage is somewhat duplicated and ideally we want to mimic what the coverage is at the current tower. She said if we went by the current ordinance at 10' above the trees with flush mounted antenna not having the standoff as staff had mentioned the coverage would be significantly decreased and would leave a dramatic hole in coverage. If we were to duplicate a bunch of 90' towers in order to capture the same coverage, it would take about five (5) towers with flush mounted tower to duplicate that one tower.

Mr. Donohue explained a comparison of the two structures – the existing lattice structure and the proposed monopole support structures. He pointed out a horizon view showing the reduced spread of the antennas that gives a more sleek profile. He called attention to the Virginia Oil parcel of 12.5 acres that was split zoning. He noted the landscape they developed after their meeting with the Architectural Review Board. He said it was suggested that the tree cover to the north could be improved and so that is a series of 29 trees planted at the perimeter to help screen the view from I-64. He pointed out the setbacks were called out north, south, east and west with 396', 397' to northeast, 524' to the south, 159' to the west and 160' to the north. The landscape plan

around the compound was worked on with the Architectural Review and was suggested to use a native species and a double row of planting around the compound.

Mr. Donohue reviewed other views in photographs and noted at the community meeting we were asked to take some additional shots from Black Cat and Club Drive that was approximately 1,940' from the site. He said the shots were taken in December and there was very little visibility. He said we have support letter from four out of the five carriers and were waiting for one; but, it was very important for the carriers to retain coverage here and they were very concerned about potential loss. Finally, he noted they had a letter from the adjoining county, Fluvanna, who tells us that of the 64,083 emergency calls in 2016, 34,063 were made from wireless devices. He said the Fluvanna, Albemarle and Louisa law enforcement frequently work in the Keswick community since the counties connect geographically. The last most significant point is losing coverage in this area could have a catastrophic impact on the safety of the neighboring community. He said we agree because the risk of the loss of the tower on the Karen Johnson property is very real and so we propose something that we think is suitable admittedly is aggressive and we need it to take care of all five of the carriers existing on the Johnson tower. Mr. Donohue said that concludes my presentation.

Mr. Keller invited questions for the applicant. Hearing none, he said Ms. Riley, Vice-Chair would handle the public comment.

Ms. Riley invited public comment.

Karen Johnson said she was the owner of the property where the existing Keswick tower is located and appreciates the opportunity this evening to share some thoughts about the project. She suggested that the Planning Commission reject the proposal because there is an existing tower that meets the needs. To let you know about me, Ms. Johnson said she is a 71-year old wife, mother, grandmother, nurse, Vietnam Veteran and an avid community volunteer. She said that 20 years ago she made the decision while my husband was in the hospital awaiting a heart transplant to allow the cellular tower to be placed on my property by Ntelos because she knew how important that technology was to me as my children were growing and she continued to pursue my community activities. She felt that she had an opportunity to make this technology available to the people in my Keswick community as well as the surrounding communities in Albemarle, Louisa and Fluvanna counties. The tower had served the broader community very well for the past 20 years and continues to do so until today.

Ms. Johnson said in 2007, my husband and I decided to put the property into a conservation easement with the Virginia Outdoors Foundation. Because we were unhappy with the lack of responsiveness from the tower owner to our maintenance concerns regarding the access road and the erosion of the overpass of the perennial stream that crosses that road we decided that the tower would not remain after the completion of our contract and conveyed that to the Virginia Outdoors Foundation. That decision became a part of our final deed of easement with them. Subsequent to that agreement with the VOF the maintenance of the access road was properly addressed

and the working relationship with the new owner improved significantly. She said Crown Castle International, the current owner of the tower, has been eager for the tower to remain where it is and both they and I made it known to the VOF starting in 2009 two years after the easement acceptance she began to petition VOF to permit the tower to remain. Subsequently, over the next seven years Crown Castle and I requested eight different times that the tower lease be extended beyond 2018. Each time the VOF denied the request based on the specific removal language in the deed of easement. However, in 2016 VOF staff began to consider the possibility of completing a conversion/diversion for the cell tower to permit it to remain. One of the main reasons for this change in heart was that the Keswick tower had become essential to the existing telecommunications and public safety networks for a large part of Albemarle County and smaller portions of Fluvanna and Louisa counties.

Ms. Johnson said another factor is that it is fiscally irresponsible to incur the cost of taking down the existing tower only to replace it with a similar tower not more than several hundred yards away from the current one. On August 27, 2015, my husband was riding a horse in an area not easily accessible by a motor vehicle when he was thrown from the horse and sustained an unrecoverable head injury. She wanted them to know that she was most grateful for that tower and its coverage that was available when she called for help. She said the Rivanna Rescue Squad found us using the information received through the cellular network; he was evacuated very quickly but died two days later. She believed that if his injury had not been so catastrophic the speed with which he was evacuated could have save his life. We need this sophisticated type of communication in my community and in the entire state of Virginia and the country as a whole. She urged the Commission to reject this proposed project because we already have in place what we need. It would be far better to use whatever resources are available to expand what we already have. She thanked the Commission for allowing her insights and concerns.

Ms. Riley invited further public comment. Hearing none, the applicant was invited for rebuttal.

Edward Donohue said very briefly, you might ask yourself where my client's ground with respect to Karen Johnson and he would say we have worked hard with Karen Johnson since 2009 but the VOF has been told us that they are not going to act until this process runs its course. He said we do not know whether Karen's appeal is going to be granted by VOF. He said she has offered a significant contribution increase to the conservation easement that has already been given to VOF and as mentioned she has asked nine times and VOF has been unwilling to grant any relief. He said that is the reason for our application designed and proposed for the Virginia Oil site. We think we have a good site that is well screened and designed and have an application that certainly can pass the review since we have worked hard with county staff. Mr. Donohue said that is all that he had.

Mr. Keller invited questions.

Ms. Spain said you cited support from many of the clients, Shentel and such, but almost all of their letters conclude that the current tower should stay that with proper maintenance it is perfectly possible for it to go in good shape for 10 to 20 years more years.

Mr. Donohue replied that structurally it can remain and under the terms of the arrangement with Crown and Karen Johnson, it can remain. However, if VOF determines that the easement language is iron clad and cannot be reversed, then it is going to have to be removed by the end of this year. He said what the carrier is reflecting on is they would like to stay on air and remain on that facility. He noted that he understands that, but if the VOF does not reverse itself, that tower is going to have to come down.

Ms. Spain asked if there was some reason he did not submit this request two years ago after getting five declines from VOF. She said that now it seems so urgent and why does it have to be so urgent.

Mr. Donohue replied that they began discussions with the county in July of last year and we filed the application in the September timeframe. He said the pre-app meeting with Bill was back in July. Before that, we were working hard with VOF to try to get them to reverse it and then we had to find a site that we thought was suitable and it takes time to get those things in place.

Mr. Paul Pickens, project manager with Crown Castle, said when it came to the Virginia Outdoor Foundation (VOF) there is a process called the 17-04 conversion/diversion that we just did not know about until we met on site with Brian Fuller and we walked through all of the different scenarios. He pointed out Mr. Fuller was the one who informed us that there is a process for VOF to consider allowing that tower to stay and based on that we filled out our application, submitted it and are currently going through the process.

Mr. Dotson said he noticed that one of the letters was from the Sheriff of Fluvanna County and asked if he had spoken to the Sheriff of Albemarle County.

Mr. Pickens replied that Karen Johnson's attorney, Michael Wingate Hernandez has been reaching out to Albemarle County E911 Communications Department and soliciting their input as well; we just do not have a letter of support related to that. However, we have expressed our concern about the tower in need of construction and what it means to the community. He said we would certainly love to get a letter like that but just have not.

Ms. Riley said she had a question about the map put up regarding potential alternative sites and you stated that if this site was not approved that you would need numerous other sites. She asked what other sites did you identify that would have met our regulations in terms of screening and visibility.

Ms. Somers replied that the locations on the slide have not been vetted; and they were just to match the coverage. However, we would have to go out to see if those properties were available. This was just a demonstration to show how many towers it would take in order to match the existing coverage. So in order to actually find the properties we do know where all of the existing towers are around there they are not in those locations. Therefore, this is just an example of how many towers it would take in order to get the missing coverage.

Mr. Donohue asked that Debbie Bauser from Shentel be allowed to speak and Mr. Keller agreed.

Debbie Bauser, Acquisition Manager with Shentel, said it is very important that we have a site at this location. Ms. Bauser explained that Shentel was formerly Ntelos; Shentel acquired Ntelos in 2016 and Ntelos built this site back in 1998 and later sold it to Crown Castle. She said we have built our network around that tower and as Melisa eluded to if we can't do that we have to go out and build 10' above the trees then it is going to be one carrier pole because with the LTE equipment used now. She said the antennas would have to be flush mounted; could get three antennas around; have remote radio heads now which provide more power hooked to the antenna and would have to be stacked below the antennas. She said in some cases we put up as many as nine remote radio heads so you would have antennas and three more rows of remote radio heads. We built our network around this site. It is very critical that we have a site here because if this site is denied and we can't work out anything with the Virginia Outdoor Foundation we have a hole there where people have been accustomed to having continuous service and E911 calls need to go to the Albemarle County Emergency Communications Center. Therefore, it is very critical and important that we have a site at this location.

Mr. Keller thanked Ms. Bauser.

Mr. Donohue said he appreciates the Commission's indulgence on our time.

Mr. Keller closed the public hearing to bring it back for discussion and action.

Mr. Fritz asked to correct an answer that he gave to Mr. Dotson because what he was trying to say on that was that other locations might have limited visibility; however, based on the mapping staff's opinion is that the visibility will not be intrusive in those locations. He said that was going back to where you had the little individual dots where you were going to get glances as opposed to a full on steady look. Therefore, he was trying to say from the ones he had identified the impact would be intrusive but from the places where you just have little flashes, it was not. Mr. Fritz apologized and that it would be corrected for the Board.

Mr. Dotson said that leads to a further question in comparing the existing and proposed towers. He asked are they comparable in terms of their visibility or is the proposed one more or less visible.

Mr. Fritz replied that he would say they have different visibilities; for example, the existing tower was not visible from the view from Black Cat Road where we were able to see the new tower. So there the new tower was much more visible. He said on I-64 in the immediate area the existing tower is more visible than the proposed tower would be. Therefore, it is give and time but from where they are visible, they are highly visible from a number of areas.

Mr. Dotson said he had a couple of other questions. He asked if the existing tower is a non-conforming use.

Mr. Fritz replied that the existing tower is a conforming use; it has a special use permit and it is not consistent with our Wireless Policy. He said if it was a new tower it would not be consistent with the Comprehensive Plan or the Zoning Ordinance, but it is a perfectly compliance tower and it meets all the regulations, was approved and continues to remain. He said the way the ordinance is written it could continue to be there.

Mr. Dotson said it could not if it were physically possible to pick it up and move it that would not be allowed.

Mr. Fritz replied that was right and we would be recommending that would be inconsistent with the Comprehensive Plan and it would be inconsistent with a number of arrays. He noted it actually has more problems including the dimensions of the tower are different and some other things.

Mr. Dotson said one other question. He said you have mentioned that the county has on some occasions approved towers that are taller than the 10' above. He asked Mr. Fritz to give an example.

Mr. Fritz replied that the most recent one was the one at Albemarle High School. He said there also was one on Route 20 that was more than 10' tall and cannot be seen, which is why it was recommended for approval. He said so there are a couple others around; it is not common but it does happen because we don't get a lot of requests.

Ms. Spain said this was to clear up any inconsistency in the application. The letter from Donahue Sterns says that the Department of Historic Resources confirms there is not historic property to be listed on the National Registrar on this site. However, in the staff report it says that there is an 1885 building which is considered an historic resource. She asked is that just a difference in definitions between what the county uses and the state.

Mr. Fritz replied somewhat. He pointed out the state is trying to identify those resources that are eligible for the historic designation; what our Zoning Ordinance says is that these facilities should not be visible from a resource identified in an open space easement. He said it is the open space easement that identifies that 1885 house as an historic resource and so that is where we are pulling that from; it is the VOF easement

and that is the specific identified resource in the easement and the tower is visible from that easement. Mr. Fritz pointed out we do not make the determination, VOF made that determination when accepting the easement.

Ms. More said she wanted to clarify your statement in staff's report that the VOF has delayed consideration of the modification of the easement until after the county has acted on this special use permit. Given that, there are claims that the current property owner and the applicant have tried to engage with VOF and that has been unsuccessful that the way she reads that is somewhat encouraging that they are willing to wait to see what we do and then revisit how the easement is written with the applicant.

Mr. Fritz pointed out that VFO literally sent me a letter that said we are going to hold off on this until after the county has acted and the letter says almost that. Mr. Fritz said he spoke to Brian Fuller and they are waiting to see what happens, and he asked many questions which he has answered for the Commission about what the status is of the existing tower in how it was approved and what conditions there were. He said they gave no clear indication one way or the other of how they were going to act and Mr. Fuller is staff for the VOF so he does not necessarily know. Therefore, Mr. Fritz said he did not know what VOF was going to do.

Ms. More noted that the applicant did refer to the 1704 diversion and so they are aware of a means that there could be an agreement met.

Mr. Fritz replied yes, they are going through the process with VOF but just have not made the decision yet.

Mr. Bivins asked staff to talk about the Telecommunication Act of 1996 and how that might expand or change the towers.

Mr. Fritz said if this tower were approved some would treat them as if they were both existing because it makes it easier to talk about. He said they would be classified as eligible facilities and they could be increased in height up to 20'; they could have additional antennas attached to them protruding up to 20' from the tower itself; they could add additional ground equipment; and they would not be able to expand the lease area. He noted that would be classified as a substantial change.

Mr. Bivins asked how the owner would go about requesting it.

Mr. Fritz replied that we have a category of that called an exempt co-location. The applicant would simply come in and demonstrate that the tower had a previous approval, which they would be able to do, and that none of the provisions or conditions qualified as concealment elements and then the permit would be issued as a building permit.

Mr. Keller said that when you talk about how if a new tower came in that there could then be additional height be added to that; and can additional height be added to the existing one if something was worked out with VOF.

Mr. Fritz replied yes, there was a memo that explains the way it works; however, he would be happy to explain it. He said any facility that is approved by the county becomes an eligible facility and structures and towers are treated separately and so he was just going to talk about towers and an eligible facility can be expanded provided that it is not a substantial change. He explained a substantial change is anything more than an increase of 10% of the tower height or 20' whichever is greater; new antennas that protrude from the tower one-half the diameter of the tower or 20' whichever is greater. He said they can add additional ground equipment not to exceed the maximum number needed or something along those lines and they cannot expand the lease area. In addition, it cannot defeat concealment elements. Mr. Fritz said the totality of approval of a treetop tower is a concealment element, the tower height in relationship to a tree and so those cannot be expanded in height. Mr. Fritz said the answer to your specific question is yes, the existing tower could be expanded in height and have additional equipment added to it.

Mr. Dotson said to build on that this could be speculative because we do not know what VOF might do. However, if VOF said okay to maintaining the existing tower the terms of that easement could be crafted in clarifying this to rule out the additional 20', the additional that would not be a matter of zoning or the county but a matter before VOF.

Mr. Fritz agreed because it is a private agreement and would stand, but we would not be able to impose that condition.

Mr. Keller said there is one other thing that should be part of the record because he thinks we have a lot of the information clearly put forward by the applicant and the public in the discussion we have had. He said that is the reference to the governor's interest in Broadband connectivity for everyone in rural areas and obviously we are working towards that in the county with our Broadband and with our school system approach to this. However, there are other things the governor talked about in his first speech to the Commonwealth and a lot of that was economic development and the tie into tourism, historical and natural resources. Therefore, there is a visual component to this in the height of towers as well and we as a county pioneered in thinking about shorter more concealed towers and more of them as opposed to a smaller number of taller towers. Again, we might all have different views on that, but he thinks it is important just for the record that is part of this discussion as well.

Mr. Blair said he would like to build on some of the discussion that we have had and it is important to recall when we talk about the treetop towers and then the idea of what about other towers such as this – they are required to go through the special use permit process. He said it is important to note that Personal Wireless Service Facilities Policy that you referenced when talking about being a pioneer states very clearly visibility is the primary focus in the review of personal wireless service facilities and facilities with

limited visibility are encourage. Mr. Blair said that is kind of the backbone of how we get to this special use permit process.

Mr. Keller said the final piece he would just build on was what Ms. Spain said early on in asking the questions about how much effort there has been in anticipating this. He said he could not believe as a property owner that the applicant was not aware of the time line that was involved in this when that tower was going to have to go out of activity. Therefore, we find ourselves so often in a tough position in this body because we have things presented to us in an eleventh hour manner that things are going to have to change dramatically if we don't act as asked. Mr. Keller said he would plead with our constituents that if the process was begun earlier then we could work through a lot of this instead of finding ourselves at these last minute decisions. Mr. Keller asked if there was a motion.

Mr. Dotson said he would lead off with just a couple of comments and then he would defer to others to make a motion. Just for the record and for full transparency Mr. Dotson said even though he tends to support the staff's recommendation for the reasons that they said, he thinks there are some positives here and would like to identify those for the record. He said we already have a tall tower here and this is no worse; the network has been built around it and is functioning; the proposal would yield a monopole rather than lattice so that is an improvement; the antenna would have a lesser standoff than the current ones; and the proposal avoids the alternative of multiple treetop towers. Mr. Dotson pointed out that just for the record those are some favorable factors although he is leaning towards supporting the staff recommendation.

Ms. Spain said she would also say it is a matter of aesthetic preference whether the lattice or monopole is more appealing. Ms. Spain said Mr. Dotson made some good points but also is leaning to support staff's recommendation.

Ms. Firehock said she feels similarly and understands the applicant's point doing the treetop more concealed designs and having to put five towers up would be more expensive and difficult but that actually is the policy of our county to try to conceal these towers. However, she had not heard the result from the Outdoors Foundation which sounds it is leaning on finding out whether we are going to allow this or not. She said she knows Mr. Fuller very well and have worked with him in the past, he is quite reasonable, and she understands the decision is up to the Board. However, she has not heard a compelling reason why the county should violate its policy this evening. Ms. Firehock said she might be a little more inclined to the retro-design myself, but she has not heard a good reason why the county should violate its policy. She noted this was not a new situation that suddenly arose and she was inclined to continue to support the county's existing policy and oppose this change.

Ms. Riley said she appreciates Mr. Dotson laying out some of the favorable and one of the more compelling, favorable ones is the network has been built around this site and this is one of the original cell towers. She knows it is not relevant to the decision in this

particular case but was curious if we have other examples of this kind of situation in the county.

Mr. Fritz replied to a degree, yes. He said there were a couple of sites that were approved early on that started to generate concern including the tower on I-64 West near Ragged Mountain at Camp Holiday Trails - that is one of the originals also. There was also one on Piney Mountain. He said this tower was approved and built and generated a lot of concern and led us to start working on the Wireless Policy. He said there were a few approved in the late 90's era and the systems have grown up around them. He said some of those original towers are still very important and some are less important because of how robust the system is around it. He noted those would be some that he thought of off the top of his head and hopes it helps.

Ms. Spain said Ms. Firehock mentioned the disruption in service being at our feet or our responsibility or making it seem that way. She said if we were talking about county money and we were saying well are we going to tear down a perfectly good working tower and build a whole new one at great expense or are we going to hope that the Foundation will come through and support this conversion/diversion option. Since it seemed to be almost universally preferred by everyone involved in the case Ms. Spain said that part of my objection to this is just the expense that seems unnecessary in choosing to build a new tower.

Ms. Riley said she was prepared to make a motion if there was no further discussion.

Mr. Fritz noted there were two actions the Planning Commission needs to take, one on the special exception and the second on the special use permit. He noted the suggested motions were on the screen for the special exception.

Regarding the special exception, Ms. Riley moved to recommend denial of the Special Exceptions to Sections 5.1.40(b)(2)(a) (number of arrays) and section 5.1.40(b)(2)(c) (projection) and approval of the Special Exception to section 21.7 (buffer) for the reasons outlined in the staff report.

Ms. Firehock seconded the motion.

Mr. Keller invited further discussion. Hearing none, he asked for a roll call.

The motion passed by a vote of 7:0.

Mr. Keller said the Commission would move on to the special use permit.

Ms. Riley moved to recommend denial of the SP-2017-00027 for the reasons stated in the staff report.

Ms. Firehock seconded the motion.

The motion passed by a vote of 7:0.

Mr. Keller thanked the applicant for their thoughtful presentation. He said this will go forward as a recommendation to the Board of Supervisors.

Mr. Blair said because we are dealing with the Telecommunication Act he would ask Ms. Riley when she stated the factors stated in the staff report that she was referring to the factors unfavorable to this request, and Ms. Riley replied yes, that was correct.

Mr. Keller said he thought Ms. Spain spoke for all of us that we would all hope that something could be worked out with the existing one in the timeframe that you will be moving through the process.