

**Albemarle County Planning Commission
October 10, 2017**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 10, 2017, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Daphne Spain; Pam Riley; Jennie More; Karen Firehock; Bruce Dotson; and Bill Palmer, UVA representative. Absent was Mac Lafferty.

Other officials present were Chris Perez, Senior Planner; Rachel Falkenstein, Senior Planner; David Hannah, Water Resource Manager; David Benish, Chief of Community Development; Andrew Gast-Bray, Assistant Director of Community Development/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.

Mr. Keller welcomed the University of Virginia Law students, Officer Snodgrass, and the Boy Scout troop for being at the Planning Commission this evening.

Public Hearing Items.

a. SP-2017-00015 Stony Point Volunteer Fire Co – Tier III Personal Wireless Service Facility

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 048000000018D0

LOCATION: 3827 Stony Point Road

PROPOSED: Installation of a one hundred and thirty five (135) foot tall steel monopole with 4 antenna arrays. Two special exceptions are requested: the 1st to allow more than three arrays on the monopole, and the 2nd to allow mounting equipment a standoff distance greater than 12" from the monopole. Associated with the proposal is ground equipment located within a 2,500 square feet fenced compound area located on 8.02 acres.

PETITION: Section 12.2.2 (16), which allows for Tier III personal wireless facilities in the Village Residential zoning district (reference Section 5.1.40).

ZONING CATEGORY/GENERAL USAGE: VR - Village Residential: agriculture, compact residential (0.7 unit/acre); EC - Entrance Corridor: Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access. Southwest Mountains Rural Historic District – Yes.

PROFFERS: No

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre)
(Chris Perez)

Christopher Perez, Senior Planner, reviewed the request for 2017-00015 Stony Point Volunteer Fire Co – Tier III Personal Wireless Service Facility. This is a proposal for a Tier III Personal Wireless Facility, which is a personal wireless facility that is neither a Tier I nor a Tier II. A Tier II is a treetop tower where the tower is situated 10' above the tallest reference tree within 25' radius. This is not that kind of facility.

Mr. Perez said the proposal is on tax map 48, parcel 18D owned by Stony Point Volunteer Fire Company, which is an 8-acre parcel, zoned Village Residential, located in the Southwestern Mountains Rural Historic District as well as in an Entrance Corridor on Route 20, a Scenic Byway. The facility is located in a heavily wooded section of the property, which is shown by a star on the GIS tax map on the slide, and on the right side the Google maps shows the aerials. The facility is around 706 feet south of the elementary school, which is an adjacent property owner. The site is 657' east of Route 20, which is the Entrance Corridor and Scenic By-Way and 300' from the nearest residence. The property this is sited on fronts Route 20 and abuts the Stony Point Elementary School that is surrounded by residential lots of varying sizes.

Mr. Perez said the proposal is a 135' tower steel monopole to be painted brown proposed to have four (4) arrays with ground equipment that will be housed in a 2,500 square foot leased area that will be fenced. The fencing will have privacy slats. The proposed site is to be accessed by a 10-foot wide gravel access road utilizing the entrance to the fire station. The upper most array is the only array we actually have schematics or designs for and the other three (3) arrays that follow going down to be dictated by the parameters set by the top array.

Mr. Perez pointed out the access road and the entrance on the slide noting the entrance on the far left goes through the property of the fire station next to the actual fire station. He noted the edge of pavement ends where they propose to begin their access road, which goes down the hill through the woods and back towards the back of the property.

Mr. Perez explained that as part of the request, there are two special exceptions, one for the number of arrays to permit four (4) instead of the three (3) that the ordinance allows; and, the other special exception is for antenna projection. This special exception is interesting in that they are still meeting the maximum standoff distance of 18"; however, this portion of the ordinance has two segments. First, the back of the antenna shall be not more than 12" from the monopole and secondly, the back of the antenna shall be no further than 18" from the monopole that is designed to allow tilt of the antenna. The applicant is not proposing to use any tilt physically rather they are just using electronic tilt; thus, they have only requested one-half of this requirement be waived or modified since they are still meeting the intent of the standoff distance.

Mr. Perez pointed out during the balloon test on August 22 they traveled numerous roads throughout the site, which are highlighted in green and the segments a, b, and c shown in red was where it was slightly visible just above the tree tops and for a very short duration along Route 20 to the west. The view was more in line with what staff would classify as a Tier II tower, which is a treetop tower; however, again that is not this application. Mr. Perez reviewed the various views starting with view a. from the entrance and the parking of the fire station that just barely peaks above the tree line. In view b. it is the residence right next to the fire station property, which barely peaks above the tree line. In view c., it shows the exact same thing. In view d. going further down Route 20 from 3755 Stony Point Road driveway it just barely peaks above again.

Mr. Perez pointed out something new from the applicant within the last four (4) days was a proposal to slightly relocate a portion of the access road. He explained the entrance is the same, all of the fire station's parking stays the same, all of the actual access way through the woods to the site stay the same and the only part that deviates is going down the hill right after you get behind the fire station property. The point of that is the fire station currently uses this area as a training facility and they would like to relocate it slightly south, which is still on their property. He noted it is not taking down any trees, and it does not affect staff's review or recommendations.

Mr. Perez said in summary staff notes the following factors:

Factors favorable to this request include:

- The proposed facility has minimum visibility due to the proposed height, location, and method of antenna attachment, which are "concealment elements".
- The ARB has no objections to the special exceptions and finds that the proposed location sufficiently minimizes the visibility of the monopole from the Entrance Corridor.

Factors unfavorable to this request include:

- The proposal is located within the avoidance areas described as the Southwest Mountains Rural Historic District, and the Scenic Byway (Rt. 20).

Staff recommends approval of the request and two special exceptions with the following conditions of approval that lock down those three aspects just talked about which are categorized as concealing elements. He noted the second condition would be with regards to the VSMP permit to allow the grading and tree clearing to put the access road in because the area is over 10,000 square foot that is required.

CONDITIONS OF APPROVAL:

1. The development of the site, and any modifications to the arrays, shall be in general accord with the plan titled "*Milestone Communications – Shentel at Stony Point Volunteer Fire Co.*" prepared by John Caborgoudy, and dated 9/19/17 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning

Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, including but not limited to all concealment elements and technique, as shown and described on the Conceptual Plan and mentioned below:

- a. Height (135 feet tall)
- b. Monopole location
- c. The farthest point of the back of the antennas shall be no more than 18 inches from the monopole

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

2. Prior to the issuance of a building permit a VSMP permit will be required.

Mr. Perez said that was the conclusion of his presentation and asked if there were any questions.

Mr. Keller invited questions for staff.

Ms. Spain asked if the relocation of the entry would affect the school's nature trail, which was an issue that came up at the community meeting.

Mr. Perez replied no, this relocation does not get that far in. He explained in looking at the diagram it breaks off into two portions: one, it comes down more towards the actual site and then one that goes up and when you start to get to the nature trail area this access road does not affect the nature trail at all.

Mr. Dotson asked for a recap and explanation since he found it confusing that the standoff requirement is 12", but it is not really, it is 18"; but that assumes it is a tilting antenna. He asked Mr. Perez to run through that again because there may be people in the audience confused by that.

Mr. Perez explained there is a section in the ordinance that talks about standoff distance with regard to projection so you have the monopole and it factors in the idea that there is going to be a tilt associated with it. He pointed out the actual antenna that attaches to it is not supposed to be further than 12" from the actual monopole and the back portion is not supposed to be further than 18", which allows you to do this while still maintaining both of those parameters. What the applicant is trying to do is not tilt at all but to go straight flush, which is why they still need the 18" as their maximum, which is the intent of the ordinance and essentially a special exception as a formality.

Mr. Dotson asked if essentially 18" becomes the norm rather than 12".

Mr. Perez replied that 18" is the maximum in the ordinance and the 12" is the closest point of the back that is the furthest.

Mr. Benish pointed out that both of those distances are 18" rather than 12" and 18".

Mr. Dotson noted the other question, which is something staff did not mention in your excellent brief summary, was the FCC regulations that if this is approved tonight, then certain modest changes could be made without having to seek county approval and the notion of concealment elements. Mr. Dotson asked Mr. Perez to explain that.

Mr. Perez replied the last time he had taken a Tier III tower before the Planning Commission was for the Albemarle High School facility. As part of that request a portion of the new FCC regulations talks about approved facilities that don't take advantage of certain concealment elements can administratively be approved for a one time increase of 20' in height as well as 20' in standoff distance from the monopole. Therefore, those are being avoided in this situation because the concealment elements that are used – the height, location as well as the standoff distance – allow this facility to get a recommendation of approval. Mr. Perez explained the last time we talked about one that was similar staff recommended denial and there was no concealment elements. He pointed out essentially it was this huge tower with no screening around it at all and there was no way the county could classify any of our requirements in the ordinance of height, location and all of that stuff as a concealment element. He noted this request is completely different in the fact that the tower actually is hidden in the tree lines; it is more in line with the treetop tower; and for all of those elements that is why those are concealment elements. If the applicant had requested the automatic 20' then he most likely would not be recommending approval of this request because it would change everything essentially as well as the standoff distance.

Mr. Dotson asked if it was approved tonight if the depiction we see is what we will get; and, Mr. Perez replied yes.

Mr. Benish suggested the Commission make sure their action clearly recognizes that those elements in the plan are the concealment elements.

Mr. Blair pointed out that is captured as a condition, and Mr. Benish agreed. .

Mr. Keller asked staff if Mr. Blair could speak to the constraints that are placed on local government in terms of evaluating health effects.

Mr. Blair explained that the Telecommunications Act of 1996 prohibits Planning Commission or Board of Supervisor's consideration of what is called environmental emissions. Frankly, he could just read the text that says no local government or instrumentality therefore may regulate the placement, construction and modification on personal wireless service facilities based on the environmental effects of radio frequency emissions. Mr. Blair said the federal law is the principle as we all learned most likely in eighth grade civics about the constitution allowing for federal law to trump, for the lack of a better word, state law or local law. Therefore, this is part of that preemption doctrine that this federal law preempts state or local regulation for

environmental effects of the emissions from cell towers.

Mr. Keller thanked Mr. Blair. He opened the public hearing and invited the applicant to come forward; but noted first Vice-Chair Firehock is going to give us some ground rules.

Ms. Firehock read the ground rules for the hearing from the agenda.

Ms. Lori Schweller, representative for the applicant Milestone Communications, presented a PowerPoint presentation to explain the proposal. Ms. Schweller pointed out Christin Seltzer, with Milestone Communications and Mark Manzullo the civil engineer with Entrex are present to answer questions if necessary. As a brief summary, Ms. Schweller said that Milestone Communications is Virginia based as you know from our Albemarle High School application last year and partner with public entities. Ms. Schweller said in this case that Stony Point Volunteer Fire Company would provide wireless facilities on which commercial carriers and public entities can collocate with financial benefit to the landlord; it is the same in this case as the one for Albemarle High School which the Commission has seen before. The reason this site is needed it because there is a large coverage gap for Shentel, which provides the wireless network for Sprint. Ms. Schweller pointed out the large area of white, an area poorly served by this carrier, that makes it a very high priority for Shentel whose objective is to extend coverage from Pantops all the way to Barboursville and with this facility in place a good portion of that white turns to blue that is good coverage.

Ms. Schweller said she wanted to talk about visibility mitigation, which Mr. Perez covered. She pointed out on the GIS map you can see how the Stony Point Fire Company's parcel does extend far back from Stoney Point Road, Route 20; and the yellow dot on the slide represents the location of the site. She pointed out you can see how heavily wooded it is and Stony Point Road, Route 20 takes a turn to the east and the site is located roughly 700' from the back of the school property and about 656' to the west to Route 20. In photos of the site, looking up at the fire company, it gives a sense of how the woods are dense in the area. In addition, to the required 100' no cut radius around the monopole area the applicant is proposing to preserve all of the trees in this area as noted with a marked shading that will provide a buffer between the site and Route 20. The topography is such that the above mean sea level at the back of the Stony Point Fire Department is 25' higher than the monopole, which is a large part of the reason why the monopole is not particularly visible from surrounding roadways.

Ms. Schweller pointed out Mr. Perez already explained the proposed access modifications that is one change to the site plan in the packet that will be finalized before it goes to the Board if you recommend approval. Regarding the elevation and the special exceptions, Ms. Schweller said the first special exception is to ask for an exception to the maximum of three arrays. She said the reason we are asking for that is when you have flush mounted antennas, such as these, often times the larger carriers will need two positions on the pole to cover all of their technologies. Again, we are going to be flush-mounted only 18" to the back of the antennas.

Ms. Schweller said she wanted to mention the community notice that was given for this site since it is a Tier III we notified all of the owners of properties within one-half mile of the site and we did have a community meeting. Though this is not on school property, it does have a school as a neighbor and Milestone does not directly contact parents of schoolchildren and works with the administration of the schools just as was done with the Albemarle High School site. Ms. Schweller pointed out the principal of the elementary school sent an email to all student's parents notifying them of this application and Mr. Perez sent the public hearing notice directly to the schools as well so that they could make the decision how they wanted to contact the parents.

Ms. Schweller said as Mr. Perez mentioned the visual impact of the site is quite similar to a Tier II treetop. In a slide an example of one of our Tier II treetop facilities in the county shows that my photos are very similar to what the county produced so you will be seeing similar sets including the balloon test. She said we also noticed that the site was visible only from points where we have a yellow tab and the photographs had been converted into photo simulations. Therefore, you can see what the flush-mounted round monopole facility would look like at those same locations that the county planners have noticed. Ms. Schweller said she thought the county's presentation was actually better in that they showed all the areas where we drove and all the streets that are highlighted in green and in those areas the balloon was not visible. She noted that was her presentation and was happy to take any questions.

Mr. Keller invited questions for the applicant. Hearing none, Mr. Keller invited public comment.

Ms. Firehock invited the first person signed up, A.C. Shackelford, Jr., to come forward to speak.

Corky Shackelford said that his home is adjacent to the fire company property and he wanted to speak in favor of this request because there is such an extreme need for it since he had a cell phone and had no use at all for it in my home. However, if he walks out in the yard a good many feet from the house he gets maybe a bar or two. He has noticed in both receiving and sending efforts all along the road in that area the services definitely are limited and at best undependable so he certainly wants to emphasize the need. As far as appearance, he thought a single pole in the woods with an antenna on top is a lot less obtrusive and disagreeable than other structures we have along the same road and other roads in the county. He said it is located well off the road not in the immediate front of oncoming traffic from either direction so he did not think it is going to be a problem as far as appearance goes either. In summary, Mr. Shackelford said he hoped they would approve this effort and let it go ahead.

Fred Shackelford said he lived about a quarter of a mile from the proposed site and he did not have a lot to add from what was already said because he agreed with everything his dad said. He said he was in favor of the proposal since he lived closer than his dad did but still had very sporadic cell service where he lived and could only get a signal in a few places in my house. As you drive from his house towards Charlottesville, there are

spots where the signal goes out so this would be a big help to the people in the Stony Point area. Mr. Shackelford urged the Commission to approve the request. He said there were a few folks who favor this but are not planning to speak so they are welcomed to raise their hands if they want to show support for it. Thank you.

Mary Tice said she had been a property owner in Albemarle County for about 25 years and in the process of building a house on property on Stony Point Pass. She pointed out the property was on one of the maps down in the lower right corner of the screen. Because she is in the process of building a house and she has to work with her cell phone to conduct business Ms. Tice said the lack of cell service has been a problem. Having signed up to speak before realizing her comments are already captured by email, Ms. Tice said she just wanted to reiterate that cell service is a basic utility and it is hard to function in this day and age without it and Stony Point desperately needs coverage, and asked the Commission to take that into consideration.

Mr. Jeff Werner, with Piedmont Environmental Council, said since 1999 he had been involved in local tower issues and took part in the development of the county's policy and had bragged that it was a national model and has done his best to defend it. While the policy has not changed through relentless efforts of the industry, help from Washington, periodic revisions to the regulations and even through some Tier III approvals that the policy's intent has been compromised and tweaked. The policy at its core encourages concealed treetop towers; it did not seek to limit them, in fact, it encourages them through an expedited review process. In exchange for timely approvals, the county would get less visible treetop monopoles rather than fewer but taller more visible towers with a simple monopole concealed within trees near certain approval and anything else would require scrutiny that is more intensive.

Mr. Werner said early on we got tree top monopoles; many of them were flush mounted arrays that were on simple wooden poles; then contrary to other technology the arrays got bigger, had to be further from the pole, poles got wider and taller, and instead of wood they became metal which brings us to this proposal. He said the monopole is 135' tall, 40' taller than nearby trees; this is not a treetop tower. In lieu of four (4) shorter treetop poles, which the policy would allow, this single tower is intended for four (4) arrays. No doubt, the height and girth are needed for multiple arrays and it could be argued that one tower will increase revenue to the landowner, but Mr. Werner said that is not what the policy was intended to achieve. Relative to height the nearby trees are predominantly yellow Poplar, the 16 tallest range from 86' to 93' which is typical for mature Poplars. For a visual comparison, he was 5'9" and if he were the tower at that same scale this goalie stick is equivalent to a 90' tree. Mr. Werner said this is not a treetop tower noting he understands geometry and topography does not need any lessons in those. Mr. Werner pointed out there is a previously approved 109' tall tower on this very site so the argument that 135' is necessary for cell coverage does not fly and yes the policy allows for Tier III towers; but, these seem to be the norm lately. Since 2009, he found in his count there were at least 24 Tier II applications with 37 Tier III applications with 25 related to new monopoles. Ever since developing the policy the main concern for applicants was time in the reviews being too long and too costly and in

response, the county adopted expedited review for true treetop towers that is why we have all the Tier III proposals. He said contrary to what the industry has said as long as they keep getting approvals maybe it is worth their time and expense to propose taller towers that are more visible. Thank you.

Ryan Estes, resident of 3914 Stony Point Road across the street from Stony Point Elementary School, said he had lived there since about 2003. He said he conducts a business from his home and being self-employed, he used a cell phone every day and in doing so he has not problems. He understands that people just down the road do not have the same luxury but when he bought his I-phone it was explained when he gave the sales person his address that service inside my house was iffy. Mr. Estes said the service has improved since we have a tower 1.7 miles from this proposed location at Park Hill Farm. He said that he was still waiting to see if the applicant in this case has checked with them to see if their tower will take these arrays, but he has not heard anything. Mr. Estes said literally walking through his yard today; he had 4G service with 3 to 4 out of 5 bars. Mr. Estes pointed out the service is there so the need for improved service he guessed the argument could be made for that. However, he would just like to state that for a fact, he used his cell phone every day and it is not an issue. He said depending on your carrier, if you have service outside you might consider a signal booster to get better service inside your house or consider a different carrier other than AT&T. He would just like to say that a 135' cell tower 700' from a playground visible from his front yard is something he cannot believe we are having a discussion. He opposed putting this cell tower right next to an elementary school when you could put it at a farm where only cows would see it; the entire community would benefit from it; it would be further away from the school and the houses; and it would not affect health and my property value.

Charles Humphries said he was a resident of 3894 Stoney Point that was even more across the street than Mr. Estes who just spoke. He said he was amazed first that our council has no questions; that this tower was rejected by the parents of Stony Point Elementary School about 5, 6, or 7 years ago for the very fact of the damage that has proven by these radiations on developing children. He had two children that went to Stony Point Elementary and a brand new baby who he was planning on sending there. With a newborn living within 700', he questioned whether it was a good idea so we can have service on Stony Point Road so more people can text and drive and did not understand what it is with technology and why we need to be so forward with this. He said it is just not necessary since he had no problem with his cell service. There are blank spots on Stoney Point Road and he knows exactly where they are but he did not use his phone while driving so he did not think cell tower needs it there. Nobody has concerns for the children and it is unbelievable why the principal is not here and the few letters that were given. Understanding that a letter was sent to people within a one-half mile radius of the school Mr. Humphries asked if the other parents of children at Stony Point Elementary know that it is going up; the same parents that rejected this tower that was going to be built on top of Stony Point Elementary School six or seven years ago. Mr. Humphries said we need to slow down; we need to do the right thing, and show compassion and understanding. He said we are on a constitution route and the county

as you all know is incredible and we want to fog it with technology and let us keep on moving forward because it is going to make everything better. Mr. Humphries said he did not believe that for one second. Mr. Humphries asked the Commission to ask yourself to consider the children. He said he has no problem with the site since he did not believe it was going to bother him, his property value or any of that; however, since he has a degree in elementary education even though he is not a teacher he cares about children. He said he loves his children and he wants people to understand the risks that are involved with young child brain development and these radiations that come from these towers. He asked why the tower is going 700' from where it was denied just a couple years ago he did not know.

Ms. Firehock invited further public comment.

Hearing none, Mr. Keller invited the applicant for rebuttal.

Ms. Lori Schweller said there are a few comments made by some of the public she can respond to if you would like. The RF engineer for Shentel did evaluate the Park Hill site, which is a little over a mile from the site, and it would not serve the area that we are trying to serve with this site; it is actually too short and could not support another carrier; and it is just not in the right place. Ms. Schweller said that site was fully evaluated by the RF engineer; she gave him coordinates and he evaluated it and we did get a response that was provided to Mr. Perez in the county. As to the AT&T site that was approved for the parcel she did not know AT&T's plans, she assumed they were not building that site; it is not in the same location in a higher elevation; and my understanding is the lease has expired. So that is not this site and this is in a different location and like all special use permit applications we are presenting this to you based on its own merits. It is the same with the Stony Point Elementary School site, which she believed was also in an AT&T application. That is not this site and we are not in that location, and again all of the parents were notified about this site.

Ms. Schweller said she received several emails in favor of this site and she had not receive any emails or concerns from any parents. Those were the main points she wanted to make. However, she could talk about RF emissions and the FCC's pre-exemption of that issue. She could talk about the various national and world bodies that have evaluated that issue. It is not something that you are considering tonight so you probably do not want me to take the time to do that. However, Ms. Schweller said we truly do not believe this will have any negative health effects on any children, and keep in mind that the radio waves that are emitting from cell towers are the same ones that are coming to your cell phone. Those waves are all around us. Although there are some OSHA guidelines for people who are standing immediately in front of a high-powered wireless facility those RF emissions degrade significantly in strength as they move through space and lower in elevation. There is simply no evidence that they cause any negative health effects to anyone. Ms. Schweller said again that is not something that you are taking the time to consider tonight and she just wanted to put that out there that we are not doing this in spite of health effects since we are certainly concerned as anyone else if there were health effects.

Ms. Schweller asked if there were any other questions.

Mr. Keller invited questions for the applicant.

Mr. Riley said it would be helpful if Ms. Schweller could describe why you are asking for the height and why a treetop Tier II would not suffice. In our staff report, Ms. Riley said it looks like you are seeking four arrays as opposed to the standard three because you are looking to lease some of those arrays to another company and asked Ms. Schweller if she could answer those questions.

Ms. Schweller replied that Mr. Werner talked about how the county's wireless policy in the ordinance was intended to provide a particular set of design and siting standards so that when a wireless applicant wants to bring in a new application and follows those specific standards the applicant knows that there will be a faster track. She said that is absolutely true. She said it is also true that we have submitted applications for Tier III's which do not fall within all of those guidelines or Tier III's with special exceptions for some variations. She thinks that is evidence enough that the carriers and those who were trying to provide wireless service need the service because they are sacrificing the fast track process in order to get the facilities that they need. Therefore, even if it is a Tier II but they need bigger antennas we will go through the process so that we can get that special exception.

Ms. Schweller said in this case that the height is necessary because of the drop in elevation from the back yard of the fire company down to where the site is at a 25-foot drop in elevation. Therefore, it is true that 135' is certainly not 10' above the tree line there but from the road and surrounding roads and properties it appears to be and that is what really counts. We in the county do not want to look around and see monopoles towering above the trees on our Entrance Corridors and our Scenic Byways but that is not what you are seeing with this site. It happens to be 135' because that is what is necessary to clear the trees and provide the services. In terms of the number of arrays three is permitted under the terms of the ordinance and we are asking for 4 because we believe that if we have any of the larger carriers, not Shentel since they are fine with just the one at the top, but some of the other carriers when we have flush-mounted antennas do need two spaces. Therefore, if one of those larger carriers wanted to co-locate on the monopole they would be able to do so if they could have two spaces. Therefore, it makes it work better if you are going to put a site there, let's follow the county's promotion of co-location if you have site that only allows for three wireless arrays and somebody comes along and there is not enough room then you would need another monopole. Therefore, it is maximizing the efficiency of this one site by adding additional and because they are flush mounted, the visual impacts should be minimal.

Ms. More said she had a question about the balloon test and since the trees seem to be a pretty big part of the screening she wondered about having it done in August as opposed to like November or December where we might see something different. Ms. More pointed out we have had this happen in another location and she thinks that the

people in that situation felt like they were not really being shown some of the visibility they might see if it was done. This is the best time for you to do it if you want the trees to conceal it, but she wonders what that would look like and why. She asked if there is a reason not to have it done when trees are such a huge part of the screening when the appearance of the trees would be quite different.

Ms. Schweller replied that they do get that question a lot, but keep in mind that applications are a long process – the due diligence for these is sometimes years – so we submit when they are ready. She pointed out they submit year round and you can see me here all the time. Ms. Schweller said we submit applications at all times of the year and we do balloon tests at all times of the year and don't strategize to hold our balloon tests when the leaves are on the trees. For the most part Ms. Schweller said based on my experience looking at these that when you are looking at the facilities from a distance what we are trying to see is obviously not the ground equipment – that is going to be completely screened. What we are going to see is where the top of the monopole peaks above the trees. She said she is envisioning some of the ones we had done in the winter like Simon up near Monticello where the visibility of the monopole above the trees is the same whether there are leaves on the trees or not because you have the series of round trunks and then you have the balloon sticking above it. There is not that much difference since the balloon tests tend to provide the same results because we are only looking at what is sticking above the trees.

Ms. More noted that other people have a view of what might be more visible without the trees with all the leaves so she would not suggest that you would strategize to do it when there is the most leaves on the trees. Ms. More suggested if the trees were a big part of why this is less visible it would be worth doing the balloon test during a time when the trees are offering as little amount of coverage and then show what neighbors could really expect to see.

Ms. Spain said if other companies come in and use the additional arrays does that generate any more income or revenue for the fire company.

Ms. Schweller replied yes, it does since every time a co-locator attaches or enters into an agreement to go onto the monopole it is a one-time fee to the fire company and the fire company receives a 40 percent revenue share for all of the income from rent that would be from all the carriers who are on the facility.

There being no further questions, Mr. Keller closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Dotson said he had a question for staff - the staff report indicates this is in the Southwest Mountains Rural Historic District and the Entrance Corridor and does that make this an avoidance area and necessary that the applicant apply for a Tier III as opposed to a Tier II.

Mr. Perez replied that the Southwest Mountains Historical District is the avoidance areas that you are talking about; the Entrance Corridor is not and nor is the Route 20 Scenic Byway because it is past 200' from the Scenic Byway it does not get into that portion of the avoidance area. However, the Southwest Mountains Historical District is an avoidance area and as part of that in the Wireless Policy, it talks about siting these facilities so that they minimize visibility and that is what this one has done.

Mr. Dotson said the core of staff's position is that despite the height of the tower, part of which is due to the topography and being mounted down below the road and the fire station that the visibility above the trees is within sort of the county's custom of just visibility above the trees that are visible to the eye. He asked Mr. Perez if that is clear.

Mr. Perez replied yes, the visual impacts are in line with what staff looks for a Tier II tower. This is not a Tier II tower because of the avoidance area conversation; it automatically kicks it up to a Tier III but the visual impacts are similar to a Tier II.

Ms. More said she had a question about the height of the tower and it sounds like in staff's report the topography allows for some of the concealment but it also seems like that due to the topography the tower has to be taller. So that seems odd to me, but she understands the logistics behind it but if they are benefiting from the topography from where the fire station is located and where the proposed site is, it being 25' lower, but making the tower taller Ms. More asked is it still considered a concealment element because it seemingly provides concealment.

Mr. Perez replied yes, the reason why is because the location of the facility is back in the topography where it more slopes. In the staff report he talks about the two different areas, which are the high zones, Route 20 is a higher zone as is the actual elementary school – and when you come down to this site it kind of converges down into this lower elevation. If they try to raise the tower taller than 135', he believes the visual impacts would be more and that is why he locked it down as a concealment element so they could not come back for that automatic 20' one time increase.

Ms. More said she thinks that answers my other question, which Commissioner Dotson asked for clarification on about the FCC regulations - what can be done without additional approval it sounds like if you listed the increase by height of more than 20' the antenna or other equipment will protrude more than 20'. Ms. More said those do not seem like minimal changes, but what she sees here is the language if the change would defeat the concealment elements then it undergoes review. She asked if that is correct.

Mr. Perez replied yes – those three items cannot be changed based on the general conformity conversation – those aspects are concealment elements and so that is why they are in there like that.

Ms. More thanked Mr. Perez.

Mr. Keller said he had sort of a question in a comment that in some ways is a response to Ms. More's question but in visual analysis theory there is a part about visual absorption and if you have enough distance through deciduous trees all of those trunks in effect are going to create a wall. Therefore, even if you have a time of the year when there are not leaves on a tree there is still something that can be blocking the view in a situation like this. Mr. Keller said he thinks in the future if Mr. Fritz is leading us through the discussions on the wireless towers you might just explore that one and that comment he thinks would further support if we have new people in transitions in the Planning Commission membership. He asked if someone is ready to make a motion.

Mr. Blair pointed out two motions would be needed with one for the special exceptions and one for the special use permit.

Motion:

Ms. Spain moved to recommend approval of special exceptions in Section 5.1.40(b)(2)(a) and Section 4.1.40(b)(2)(c) for the reasons outlined in the staff report.

Mr. Dotson seconded the motion.

Mr. Keller invited discussion.

Ms. More said she is not going to vote to support the request because she believes they have a county policy and as pointed out earlier it is a national model and she worries about making these exceptions and has voted consistently in this way on other projects the Commission has reviewed. Ms. More said she feels the same way about this one since the county has a good policy and sees at least the part about the 18" standoff might be minimal, but adding the other array she just thinks that if we have a policy we should follow our policy and making changes to it is unwise. Ms. More said that is why she will not vote to recommend the proposal.

Ms. Firehock said along those same lines as we enter the discussion portion she agreed completely with Ms. More. She said if a much taller tower has to be built to fit to actually work in that area to get high enough above the tree line because it is in a recessed location then perhaps that is not a good location for the tower to be built in. Ms. Firehock said she believed the county has a very clear policy; we have many topography challenges; and she is sympathetic to the people that do not have cell service but she has no cell service where she lives in the county within 5 miles. She appreciates the difficulties that ensue with that, but she does not know that we need to solve this problem by this particular tower since she thinks it could be solved perhaps by finding a better location.

Mr. Keller said he was really torn and pointed out the reason he asked Mr. Blair about the health issue is there is a significant portion of our community concerned with health issue from the cell towers. He said there have been a number of discussions about this very topic with the Supervisors with the last major one being the discussions involving the Albemarle High School site where there are really three schools in a zone. Mr.

Keller said there was a lot of data presented and he thinks it was good of the School Board staff to allow that kind of a discussion to occur even though the Commission or Supervisors were not to be using those points in making our decision. He noted it was quite inconclusive since there are strong antidotal evidence he would guess in both directions; but it was sort of a draw. Therefore, Mr. Keller encouraged anyone in the audience who is interested in that factor to go back and listen since those meetings can be found on the Albemarle County website and you can dig in and see references to studies that have been done internationally and nationally on that topic.

:

Mr. Keller asked for a roll call vote.

The motion passed by 4:2. (Firehock, More no) (Lafferty absent)

Mr. Keller noted this request would go forward to the Board of Supervisors. He asked for the second motion on the special use permit request.

Motion: Ms. Spain moved to recommend approval of SP-2017-00015 with the conditions outlined in the staff report.

Mr. Dotson seconded the motion.

Mr. Keller invited discussion.

Mr. Dotson said he thinks the analysis has been very thorough and Mr. Werner made some very good points, but he feels that the topography here as the staff indicated yields a Tier II performance even though technically this is a Tier III.

Mr. Keller agreed that would be the argument he would use as well. He asked for a roll call vote.

The motion passed by 4:2. (Firehock, More no) (Lafferty absent)

The meeting moved to the next item on the agenda.