

JOHN K. TAGGART, III
M.E. GIBSON, JR.
THOMAS E. ALBRO
PATRICIA D. MCGRAW
R. LEE LIVINGSTON
RACHEL L. RUST

LAW OFFICES
TREMBLAY & SMITH, LLP
P.O. BOX 1585
CHARLOTTESVILLE, VIRGINIA 22902-1585

TRACEY C. HOPPER
PETER J. CARAMANIS

105-109 EAST HIGH STREET
TELEPHONE (434) 977-4455
FACSIMILE (434) 979-1221

RETIRED
E. GERALD TREMBLAY
(1922 – 2003)
LLOYD T. SMITH, JR.

Via E-mail – bos@albemarle.org

September 23, 2004

Albemarle County Board of Supervisors
County Office Building
401 McIntire Road
Charlottesville, VA 22902

**RE: ALLTEL / Keswick II Site
Tax Map 94, Parcel 41A1
SP-2004-00039**

Dear Board Members:

I am writing regarding ALLTEL's Keswick II site, a proposed co-location on the existing Crown tower located on Tax Map 94, parcel 41A1. Because there are already three carriers on that tower, ALLTEL's proposed co-location requires a special use permit. That application will be heard by the Board of Supervisors on October 6, 2004.

The application came before the Planning Commission with a recommendation for approval by Staff. At the Planning Commission meeting of September 14, 2004, there was extensive discussion by some Planning Commission members about this application. A motion was made to approve ALLTEL's application, and it failed by a 3-4 vote. The focus of the Planning Commission's review of this application was largely misplaced, and that review failed to take into account a number of important factors which I will outline for you below.

The Planning Commission's primary focus was that the existing tower would never be approved under the current ordinance. As you know, the County's position on wireless facilities has changed over the years from preferring taller towers capable of co-location to more numerous shorter towers located within treed areas. The approval of the Crown tower pre-dated that shift in philosophy. However, that does not mean that the co-location opportunities available on that tower should not now be utilized. While the Crown tower's original approval required it be constructed to be extendable to 199', ALLTEL recognized the County's current position on wireless facilities, and, rather than proposing an extension to 199', proposed a co-location at the highest available height on the existing 149' structure. The motion to approve ALLTEL's application failed because of a general dislike of the aesthetics of the existing tower. I ask the Board to review ALLTEL's application on its own merits, not to review it as if it were a new application for the existing tower.

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ALLTEL's proposal involves attaching three flush-mounted panel antennas to the existing tower. The antennas will not be in an "array" like those attached at the top of the tower, but rather, each will be attached to a "leg" of the self-support structure. In essence, they will be barely visible, particularly when taking into account the distraction of the existing larger dish and antenna arrays attached above. ALLTEL's application presents the least intrusive alternative, utilizes an existing tall structure in a minimally visible way, and is reflective of sound land use planning.

ALLTEL's only alternative is construction of at least one additional tower in the area and possibly more. The Planning Commission contemplated that alternative, which in the estimation of the four members voting against the motion was a preferable option, because, as they noted, treetop towers are not visible anyway. Their analysis in that regard focused solely on visibility and failed to take into account a number of other important factors.

First, the terrain in the area of the proposed tower is not as treed and mountainous as in other areas of the County where treetop towers are successfully located. It would be difficult in this area to appropriately site a treetop tower. In addition, even if a treetop location could be found, depending on where that tower is placed and how tall it could be, the need for additional towers may arise, thereby necessitating finding additional treetop locations. This would be an extremely difficult, if not impossible, task within this search area. It would also be an unnecessary one, considering the viable alternative of co-location on the Crown tower which does not provide any significant additional adverse impact to the area.

Second, construction of a new treetop tower (and possibly more new treetop towers) involves other factors besides visibility, which was the sole focus of the Planning Commission's discussion. New construction involves site preparation and land disturbance, including grading. It also typically involves the removal of some trees and the grading and clearing of an access road and utility line to the site. Finally, it involves potentially disgruntled neighbors near the proposed new site. Sometimes these things are necessary. Here they are not. The proposed co-location would not involve any land disturbance issues and would not affect the adjacent properties any more than the existing use. In addition, no comments from neighbors or others have been received in opposition to the proposal.

Third, denial of this application fails to maximize use of the existing tower, and fails to recognize the Albemarle County Wireless Services Facilities Policy which states, "Personal wireless service facilities should utilize existing structures where possible." Failure to maximize the existing tower's use does not address the contention by some that the existing tower would not be approved today and does not enhance the existing tower in any way. Maximizing its use does not mean placing as much on it as possible regardless of impact, but there is clearly a way to use the existing facility to its maximum benefit while minimizing its adverse impact. Adding flush-mounted antennas as proposed by ALLTEL accomplishes that goal. ALLTEL proposal includes the most minimally obtrusive way of attaching antennas and includes the smallest equipment cabinets present on the site. The application is entirely consistent with the County's goals of maximizing the potential use of existing structures, and minimizing visibility (of ALLTEL's additions), and therefore should be approved.

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The Planning Commission did recommend conditions of approval in the event the Board sees fit to approve this application. There is one condition I would like to address. It is recommended condition number 4. Condition 4 was added to Staff's report as an afterthought, because Stephen Waller received a phone call from a neighboring landowner, Mr. Butch Wilberger (on behalf of WB Properties, LLC) who was concerned about the potential to see the ground equipment from his property. The concern was not significant enough that the landowner was willing to submit his concern in writing or attend the public hearing.

In response to the call from Mr. Wilberger, Staff proposed a plan for planting trees to address his concern. That solution was not one proposed by Mr. Wilberger. From the history of past ALLTEL applications, you are likely aware that ALLTEL generally agrees to plant landscaping when recommended by Staff or a neighboring homeowner. In this case, there are other factors which make the tree planting option not viable.

First, ALLTEL will locate its equipment within the existing Crown lease area, which has a fence at its border. There is no room within the fence to plant trees. ALLTEL and Crown do not have authority through their lease agreements to plant any trees outside the lease area.

Second, even if agreement could be reached to plant trees outside the lease area, there are cattle grazing on the property who would likely eat or otherwise destroy any trees planted.

Finally, the only person for whom the trees would provide any screening is Mr. Wilberger, and he has agreed to another solution to address this concern.

After being made aware of the concern by Mr. Waller, we contacted Mr. Wilberger to discuss his concerns and our options for alleviating them. ALLTEL proposed to Mr. Wilberger that the side of the existing chain link fence which is between the ground equipment and his property line be replaced by a wooden fence, thereby screening the equipment from view of his property. His property is approximately 700' away from the tower site. Mr. Wilberger deemed that to be an acceptable option. Proceeding with that option alleviates the problems mentioned above regarding lease issues and cattle. Therefore, we ask that condition 4 be amended to delete the requirement to plant trees and replace it with a requirement that ALLTEL replace the portion of the existing fence between the equipment and Mr. Wilberger's property (Tax Map 94, parcel 39) with wooden fencing.

If you have any questions regarding this letter or the application in general prior to the October 6 hearing, I would be happy to answer them for you. Please contact me at 977-4455 or by e-mail at pete.caramanis@tremblaysmith.com.

Best regards.

Very truly yours,



Peter J. Caramanis

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Cc: Stephen Waller (via e-mail)
M.E. (Dick) Gibson, Jr. (via e-mail)
Larry Bickings (via e-mail)
Janet Hunter (via e-mail)