

**LOUDOUN COUNTY PRESERVATION AND CONSERVATION COALITION**

**POB 226, ROUND HILL, VA 20142**

**TO: THE MEMBERS OF THE LOUDOUN COUNTY BOARD OF SUPERVISORS**

**FROM: Loudoun County Preservation and Conservation Coalition: Short Hill Committee**

**DATE: June 20, 2016**

**SUBJECT: Findings for Denial of CMPT -2016-0001, AT&T Short Hill**

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We the undersigned members of the Loudoun County Preservation and Conservation Coalition Short Hill Committee urge that the Loudoun County Board of Supervisors vote to formally overrule the Planning Commission's approval of CMPT-2016-0001, AT&T Short Hill at the meeting on June 23, 2016.

*Under Virginia law, the Board of Supervisors is empowered with the authority to overrule the action of the Planning Commission "by vote of the majority of its membership." (See Virginia Code §15.2-2232(B). Likewise, Section 6-1104 of the Loudoun County 1993 Zoning Ordinance provides that "within sixty (60) days after the Planning Commission has acted or failed to act, the Board of Supervisors may **overrule** the action of the Planning Commission by a vote of the majority of the membership thereof."*

*The Virginia Code and County Ordinance do not specify the option of "**not affirming**" the action of the Planning Commission. Accordingly, a vote to "**overrule**" is necessary, in spite of the withdrawal of the application by AT&T. It is the only language available to the Board of Supervisors that does not directly or indirectly "approve" the Commission Permit.*

We wish to commend AT&T for "suspending" their application for a Commission Permit. And we want to express our appreciation to the Board of Supervisors especially Supervisors Higgins and Buffington for their leadership in providing opportunities for the public to join the discussion and express their views.

We believe that regardless of AT&T's withdrawal of the application that there was ample evidence to overrule the Commission Permit "as not being in substantial accord with the Comprehensive Plan." Our committee researched relevant case law on Commission Permits and found that on the evidence available, the Board had a strong legal foundation to overrule the Planning Commission and the Courts likely would look favorably on the County's position based on prior precedent.

Our committee of persons with knowledge in Comprehensive Planning, the law, hydrogeology, telecommunication's technology, and the environment spent many hours researching the policies of the Comprehensive Plan, and the technical, environmental, and legal issues involved. We were ready to present our findings to the Board of Supervisors, but with the decision of AT&T this is no longer necessary.

Our group evaluated the Commission Permit against the specific policies and positions of the Comprehensive Plan and identified six major areas in which the proposed Commission Permit is not supported by the Comprehensive Plan, each can be supported by detailed quotes from the Plan. These six areas included:

1. The proposed facility is not compatible with the rural economy and rural quality of life as required by the Comprehensive Plan.
2. The proposed facility violates the Mountain Policies of the Comprehensive Plan.

3. The proposed facility almost certainly violates the Comprehensive Plan requirements on water usage, runoff, sewage disposal and stormwater management.
4. The proposed AT&T application for a Commission Permit has not followed the policies required for the proposed expansion of a non-rural commercial uses by the Comprehensive Plan.
5. The proposed facility violates Comprehensive Plan requirements for telecommunication's facilities to be compatible with the area's natural and historic character.
6. The proposed facility does not provide benefits to its neighbors or to the County as required by the Comprehensive Plan.

Finally, we explored a number of technical questions regarding the proposed facility and identified issues which had not been addressed by the applicant which could have major negative impacts on the usage of water and disposal of waste water and run-off, the natural environment, and the viewshed.

If members of the Board of Supervisors wish to have a briefing on our findings and conclusions we would be pleased to meet for such a discussion.

Again we extend our appreciation to the Board of Supervisors for their thoughtful approach to this application and the need to obtain public input, and to the hundreds of citizens who responded. We will continue to monitor proposals for the Short Hill Mountain.

Respectfully Submitted

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Nicole Hamilton, Loudoun Wildlife Conservancy

Bruce Johnson, Catocin Creek Scenic River Advisory Committee

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