



Federal Communications Commission
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In Reply Refer to:

1800B3

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James and Marian Rollans
124460 NC Highway 801
Mt. Ulla, NC 28125

Rose LaCasse
4575 Brouwn Road
Mt. Ulla, NC 28125

Carlyle Sherill, Esq.
117 West Council Street
Salisbury, NC 28144

Betsy Webster
14230 Highway 801
Mt. Ulla, NC 28125

In re: **WTHZ(FM), Lexington, NC**
Facility ID No. 15839

Construction Permit No. BPH-20030303ACA

Petition for Reconsideration

Dear Mr. and Mrs. Rollans, Ms. LaCasse, Mr. Sherrill, and Ms. Webster:

This letter refers to various Petitions for Reconsideration (collectively, "the Petitions") regarding the captioned construction permit (the "Permit") for modification of the facilities of station WTHZ(FM), Lexington, North Carolina, owned by Davidson County Broadcasting Co., Inc. ("Davidson"). The Petitions seek reconsideration of the staff letter dated January 31, 2005 ("Staff Decision"), finding that construction of WTHZ(FM)'s modified facilities would have no significant impact on the quality of the human environment and required no further environmental processing and stating that Davidson may proceed to construct the tower for WTHZ(FM)'s modified facilities.¹ For the reasons set forth below, we deny reconsideration.

Background. The staff granted Davidson's uncontested application to modify WTHZ(FM)'s facilities and issued the Permit on September 11, 2003. The Permit authorizes construction of a 411.4-meter (1361-foot) transmission tower near Mt. Ulla, North Carolina. We received several complaints²

¹ *Letter to Davidson County Broadcasting Co., Inc.*, reference 1800B3-MFW (MB Jan. 31, 2005).

² *Letter from David L.S. Brook, Administrator, State Historic Preservation Office, North Carolina Department of Natural Resources* (December 30, 2003); *Letter from James and Marian Rollans* (November 14, 2003); *Electronic Submission from David Rotenstein, Ph.D.* ("Dr. Rotenstein") (Oct. 31, 2003); *Letter from Betsy Webster* (July 4, (footnote continued)

from and on behalf of local residents stating that the new WTHZ(FM) tower could adversely affect several historic properties, principally the Dr. Oni Pinkney Houston House, the Rankin Sherrill House and the Carlyle Sherrill House. On April 27, 2004, the staff requested additional information from Davidson regarding its certification that the proposed project was excluded from environmental processing under Section 1.1306 of the Commission's rules.³ Davidson submitted its response on June 2, 2004,⁴ serving a copy on each person or entity that had expressed concerns at that time. Dr. Rotenstein submitted comments on Davidson's response by electronic mail on June 13, 2004, and James and Marian Rollans submitted comments on June 20, 2004.

Additionally, on July 1, 2004, the State Historic Preservation Office of the North Carolina Department of Cultural Resources ("North Carolina SHPO"), in a letter to Davidson's Counsel, acknowledged receipt of Davidson's June 2, 2004 response to the Commission's letter and requested additional information.⁵ Davidson provided that information in September of 2004. The North Carolina SHPO staff toured the area on November 1, 2004, and the North Carolina SHPO acknowledged Davidson's additional submission and provided its comments on November 17, 2004.⁶ Finally, and also on July 1, 2004, the National Trust for Historic Preservation indicated that it wished to be considered as a consulting party in any review of the WTHZ(FM) tower conducted pursuant to Section 106 of the National Historic Preservation Act.⁷ The staff granted this request on January 11, 2005.⁸

2004); *Letter from Patricia Feimster* (July 5, 2004); *Letter from Patricia K. Freeland* (July 8, 2004); *Letter from Tina Hall* (July 9, 2004); *Letter from Ray S. and Peggy W. Smith* (July 12, 2004); *Letter from Mabel Wilinon* (July 12, 2004); *Letter from Nancy M. Womble* (July 13, 2004); *Letter from Mr. and Mrs. Donald Ray Belk, Jr.* (July 16, 2004); *Letter from Jack Edwards* (July 27, 2004); and *Letter from Rose LaCasse* (October 30, 2004).

³ *Letter to Davidson County Broadcasting Company, Inc.*, reference 1800B3-MFW (MB Apr. 27, 2004).

⁴ Davidson supplemented its response on June 9, 2004, supplying a copy of the response in CD-ROM format.

⁵ *Letter to Mark J. Prak from Renee Gledhill-Early* (July 1, 2004).

⁶ *Letter to Mark J. Prak from Renee Gledhill-Early* (Nov. 17, 2004). The letter found that a number of nearby properties – including the Rankin-Sherrill House, the Carlyle Sherrill House and the Dr. Oni Pinckney Houston House – were eligible for listing in the National Register of Historic Places. Applying the "criteria of adverse effect," the SHPO made a preliminary determination that the Rankin-Sherrill House and the Carlyle Sherrill House would be adversely affected by the proposed tower, because it "introduces elements that are incompatible with the setting of the two houses." *Id.* at 2. Additionally, the SHPO found that, if the Dr. Oni Pinckney Houston House is determined to be eligible for listing, the proposed undertaking may adversely affect it. *Id.* The SHPO then stated that there would be no adverse effect on any other eligible properties, requested additional information from Davidson, and invited Davidson to do further consultation to address the perceived adverse effect on the three properties.

⁷ 16 U.S.C. § 470(f). The National Trust requested consulting party status under Section 106 implementing regulations, 36 C.F.R. § 800.2(c). *Letter from Kate Myers, Assistant General Counsel, National Trust for Historic Preservation* (July 1, 2004).

⁸ *Letter to Kate Myers, Assistant General Counsel, National Trust for Historic Preservation, et al.*, reference 1800B3-MFW (MB Jan. 11, 2005).

On January 20, 2005, the North Carolina SHPO issued a final determination that (1) the Dr Oni Pinckney Houston House was not eligible for listing in the National Register of Historic Places due to its lack of architectural and structural integrity; and (2) with respect to the Rankin-Sherrill and Carlyle Sherrill houses, the proposed WTHZ tower would not adversely affect the characteristics that qualified the properties for inclusion in the National Register.⁹ The North Carolina SHPO expressed concern that the addition of additional antennas to the tower would increase its visibility and may adversely affect historic properties. Therefore, notwithstanding the 2001 Programmatic Agreement between the Commission and the Advisory Council on Historic Preservation, the North Carolina SHPO requested that it be permitted to review all proposed collocations for the WTHZ(FM) tower. Davidson, in its capacity as lessor of space to others wishing to collocate antennas on the WTHZ(FM) tower, agreed that, as a condition of the lease, it will require any potential collocated service to contact the North Carolina SHPO for review prior to mounting an antenna on the tower. The SHPO also indicated that there will be no effect on any other properties eligible for listing in the National Register. In light of that determination, we issued the January 31, 2005, Staff Decision finding that the WTHZ(FM) tower would have no significant impact on the quality of the human environment and required no further environmental processing;¹⁰ the staff therefore authorized Davidson to construct the authorized tower for WTHZ(FM) in accordance with specifications in the Permit.

Also on January 31, 2005, the National Trust for Historic Preservation (the “Trust”) issued a letter concurring with the North Carolina SHPO’s conclusion that the proposed WTHZ(FM) tower, by itself, would not adversely affect the characteristics that qualified the specified properties for listing in the National Register. The Trust also echoed the North Carolina SHPO’s concerns that the collocation of additional antennas on the WTHZ(FM) tower would increase its visibility and could adversely affect historic properties in the Area of Potential Effect and supported its request for review of all proposed collocations on the WTHZ(FM) tower.¹¹

We subsequently received numerous pieces of correspondence responding to both the North Carolina SHPO’s January 20, 2005, determination and our January 31, 2005, Staff Decision. Some of these letters were dated prior to the release of the Staff Decision but not received by the Commission until after January 31, 2005.¹² In order to ensure that these letters received fair consideration, and to explain the rights and obligations of interested parties to participants in this proceeding who may be unfamiliar with Commission procedures, we issued a letter on February 17, 2005 explaining that (1) we would treat the listed correspondence as requests for reconsideration of the Staff Decision; and (2) under Section

⁹ *Letter from Renee Gledhill-Early to Gig Hilton, President, Davidson County Broadcasting Company* (Jan. 20, 2005).

¹⁰ 47 C.F.R. § 1.1307(a).

¹¹ *Letter from Nancy C. Tinker, Program Officer, The National Trust for Historic Preservation to Peter Sandbeck*, (Jan. 31, 2005).

¹² *See, e.g., Letter to Renee Gledhill-Earley and Peter Sandbeck from James and Marian Rollans* (dated January 28, 2005) (“January 28 Rollans Letter”); *Letter to Ms. Renee Gledhill-Earley from Rose LaCasse* (dated January 30, 2005) (“January 30 LaCasse Letter”). Our February 17, 2005, letter also references the *Letter to Mr. Peter H. Doyle, Chief, Audio Division, Media Bureau from Rose LaCasse* (dated February 4, 2005) (“February 4 LaCasse Letter”).

1.106 of the Commission's rules, interested parties had until March 2, 2005 to file or supplement their comments requesting reconsideration of the Staff Decision.¹³

Reconsideration materials. Apart from the January 28 Rollans Letter and the January 30 and February 4 LaCasse letters, we have before us the following materials relevant to reconsideration of the Staff Decision: (1) a postcard dated February 14, 2005, from Betsy Webster; (2) a "Petition to Deny Construction" dated February 10, 2005, by Carlyle Sherrill;¹⁴ (3) a "Petition to Deny Construction" and "formal objection to and appeal of" both the January 20, 2005 North Carolina SHPO determination and the Staff Decision dated February 8, 2005, by Mr. and Mrs. Rollans;¹⁵ (4) a letter dated February 18, 2004, from Ms. LaCasse;¹⁶ (5) an additional letter from Ms. LaCasse dated March 1, 2005.¹⁷

On March 14, 2005, Davidson filed an "Opposition to Petitions to Deny," which we will treat properly as an opposition to the various reconsideration filings by Mt. Ulla residents. In reply, we received (1) a letter containing comments from Mr. and Mrs. Rollans dated March 17, 2005, and received on March 21, 2005; (2) a letter dated March 19, 2005, from Ms. LaCasse and received on March 21, 2005; and (3) a letter dated March 21, 2005,¹⁸ from Ms. Webster and received that same date.

Discussion. Reconsideration of a staff or Commission action is appropriate only when the petitioner either shows a material error or omission in the original decision or raises additional facts not

¹³ *Letter to James F. and Marian P. Rollans and Rose LaCasse*, reference 1800B3-MFW (MB Feb. 17, 2005). The letter also set forth March 14, 2005, as the date by which Davidson could file an opposition, and March 21, 2005 as the deadline for reply pleadings.

¹⁴ The pleading was received on February 22, 2005. A "Petition to Deny Construction" is not a pleading authorized by the Commission's rules. However, to permit Mr. Sherrill's arguments to be considered, we will treat his comments as a timely petition for reconsideration under Section 1.106 of the Commission's Rules.

¹⁵ The documents were received on February 22, 2005. Again, these pleadings are not specifically authorized by the Commission's rules, but we will consider them as supplements to Mr. and Mrs. Rollans' petition for reconsideration.

¹⁶ The letter was received on February 23, 2005.

¹⁷ This letter was received on March 2, 2005. There are 4 additional pieces of correspondence that were dated prior to the statutory March 2, 2005, deadline for petitions for reconsideration or supplements thereto but were not received at the Commission until after March 2, 2005. We therefore cannot consider those documents. Documents are considered "filed" at the Commission when they are received at the designated location, *see* 47 C.F.R. § 1.7, and we are generally without authority to waive the statutory 30-day petition period, *see Roy E. Henderson d/b/a Pueblo Radio Broadcasting Service*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991), and the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late. *See, e.g., Panola Broadcasting Co.*, Memorandum Opinion and Order, 68 FCC 2d 533 (1978); *Metromedia, Inc.*, Memorandum Opinion and Order, 56 FCC 2d 909, 909-10 (1975). They are: (1) a letter dated February 24, 2005, containing additional comments and a list of questions for the Commission staff and the North Carolina SHPO from Mr. and Mrs. Rollans, which was electronically transmitted to the Commission staff on March 3, 2005, and not received in the FCC's Mail Room until March 11, 2005; (2) a letter from Carlyle Sherrill, dated March 2, 2005, but not received until March 7, 2005; (3) a "Petition to Deny Construction" by Nancy van Dolsen, dated March 2, 2005, but not received until March 8, 2005; and (4) an undated letter from Betsy Webster received on March 7, 2005.

¹⁸ The letter bears the date of April 21, 2005, but it clearly was submitted and received on March 21, 2005.

known or existing until after the petitioner's last opportunity to present such matters.¹⁹ We find that the Petitioners have shown no error or omission in the Staff Decision, and they have raised no new facts which otherwise would warrant reconsideration.

Initially, we believe that the staff was procedurally correct in finding, based upon the SHPO's determination of "no adverse effect," that no further environmental processing of the WTHZ(FM) proposal was warranted. It was common staff practice at the time the Staff Decision was issued not to require an Environmental Assessment pursuant to Section 1.1307 when a SHPO issues a "no adverse effect determination."²⁰

More significantly, though, we find no procedural or substantive error in the SHPO's issuance of a "no adverse effect" determination. The Petitions essentially contain three objections: 1) that the North Carolina SHPO's process for considering the commenter concerns was inadequate or flawed and therefore prevented the views of certain objectors from being fully considered; 2) that the North Carolina SHPO erred in its conclusion of no adverse effect, and 3) that the Commission relied overly or inappropriately on the North Carolina SHPO's conclusions.²¹

With respect to the first objection, a Federal agency has no authority to dictate to the SHPO on matters of procedure. Procedures for SHPO offices are set forth in the rules of the Advisory Council on Historic Preservation ("ACHP"), 36 C.F.R. Part 800, and by individual state preservation statutes and regulations. We believe that there was no fault in the SHPO's procedures under 36 C.F.R. Part 800 that materially affected the quality of its advice to the FCC. The North Carolina SHPO, over a nine-month period, considered at least two reports prepared by qualified professionals (one employed by opponents and one employed by the FCC applicant) who visited the site and recorded their observations and opinions. Furthermore, the North Carolina SHPO staff conducted its own on-site review,²² and thus went beyond what is required under ACHP rules. We believe that the SHPO's approach was appropriate and its efforts more than adequate to provide it with sufficient objective information from which to draw its

¹⁹ *National Association of Broadcasters*, Memorandum Opinion and Order, 18 FCC Rcd 24414, 24415 (2003), citing 47 C.F.R. § 1.106(c), *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

²⁰ This procedure was codified in the recent Nationwide Programmatic agreement. *See Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission*, § 7C.1., adopted in *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, Report and Order, 20 FCC Rcd 1073 (2004), 70 Fed. Reg. 556 (Jan. 4, 2005). There is no independent basis in the record for requiring an EA from Davidson. For example, the proposal fully complies with the Commission's radiofrequency radiation exposure limits, and Davidson does not propose high-intensity white lighting in an area zoned residential. *See* 47 C.F.R. § 1.1307.

²¹ *See, e.g.*, the January 30, 2005, February 4, 2005, and February 18, 2005 filings by Ms. LaCasse; Carlyle Sherrill's February 10, 2005 "Petition to Deny Construction of Broadcast Tower."

²² *See Letter from David Brook, North Carolina SHPO, to Marlene Dortch*, (Dec. 30, 2003); David S. Rotenstein, "A Historic Properties Reconnaissance Survey of the Mount Ulla Vicinity, Rowan County, North Carolina," (Oct. 31, 2003). *See Letter to Mark J. Prak from Renee Gledhill-Early* (Nov. 17, 2004) for reference to Langdon Edmunds Opperman's "Report" of May 2004 and Renee Gledhill-Early's visit to the site on November 1, 2004.

conclusion. Moreover, the North Carolina SHPO clearly stated the basis for its “no adverse effect” determination, and it served all parties who had participated by filing comments in the proceeding.²³

Mr. and Mrs. Rollans and Ms. LaCasse have expressed concern regarding the North Carolina SHPO’s apparent reversal of its initial (November 17, 2004) determination that the WTHZ(FM) tower would have an adverse effect on the Rankin-Sherrill and Carlyle Sherrill Houses. We believe it clear that the North Carolina SHPO’s November 17, 2004, determination was a preliminary finding that there would be an adverse effect on the two properties prefatory to further consultation under Section 106; it in no way constituted a final determination. On the other hand, the January 20 letter appears to contain the North Carolina SHPO’s final ruling and conclude the consultation process. We find no inconsistency or other ground for reconsideration here.

Regarding the Petitioners’ second objection, that the SHPO erred in its determinations, we find that the SHPO systematically evaluated each site in the Area of Potential Effect in arriving at its opinion²⁴ and that the National Trust for Historic Preservation, the nation’s preeminent private preservation association has advised us that it concurs with the SHPO’s “no adverse effect” finding.²⁵ Additionally, none of the Petitioners raise credible objections, based either on objective fact or interpretation, that lead us to question the SHPO’s determinations.²⁶ Finally, the Commission’s Federal Preservation Officer has independently reviewed the entire record in this proceeding, including the documents filed during the reconsideration period, and he has reached the same conclusions as the SHPO -- that the proposed WTHZ(FM) tower will have no adverse effect on any property eligible for listing in the National Register of Historic Places.

²³ Not only is the January 20 determination very clear in listing the materials on which the North Carolina SHPO based its determination, but in a separate and unsolicited letter to several residents who had expressed concerns, the North Carolina SHPO, on February 17, 2005, outlined the chronology of events leading up to its “no adverse effect” determination. *Letter to James & Marian Rollans et al. from Renee Gledhill-Early* (February 17, 2005). In this letter, the North Carolina SHPO indicates that although “it might have been more prudent” to await further input from the consulting parties in light of the sensitivity and volatility of the issue of the tower’s impact, there was no procedural defect in its failure to do so.

²⁴ See *Letter to Mark J. Prak from Renee Gledhill-Early* (Nov. 17, 2004), *supra*. The North Carolina SHPO determination discusses 10 separate properties that were eligible for listing in the National Register of Historic Places, and an additional 13 properties that did not appear to be eligible, prior to its preliminary determination that the WTHZ(FM) tower would adversely affect the Rankin-Sherrill, Carlyle Sherrill, and Dr. Oni Pinckney Houston Houses.

²⁵ *Letter from Nancy C. Tinker, Program Officer, The National Trust for Historic Preservation to Peter Sandbeck*, (Jan. 31, 2005).

²⁶ Mr. Carlyle, Mr. and Mrs. Rollans, and particularly Ms. LaCasse have challenged the photosimulations on which the North Carolina SHPO relied in reaching its determination, characterizing them alternately as “inaccurate and misleading” (LaCasse letter of January 30, 2005; Rollans letter of March 17, 2005) and “bogus” (LaCasse letter of February 4, 2005, Carlyle Sherrill “Petition to Deny Construction” at 2). Additionally, Mr. and Mrs. Rollans and Mr. Sherrill imply that the North Carolina SHPO may have been in some way “pressured” to change its initial assessment. We believe that the Petitioners have produced no credible evidence that the photosimulations were not and did not depict what they claimed, nor did they present any photosimulations or other documentation. Additionally, no Petitioner has produced any evidence that the North Carolina SHPO was somehow improperly coerced into changing its determination; this claim amounts to nothing more than mere speculation.

Regarding Petitioners' third objection, that we relied too heavily on the North Carolina SHPO's determination, we note that Commission staff – including its former Federal Preservation Officer -- has been directly engaged in this case since August of 2003. The Commission staff questioned the applicant's environmental certification in light of the comments filed by Petitioners, which directly led to the applicant's consulting with the North Carolina SHPO. Moreover, as is evident from the record in this proceeding, the Commission received and reviewed reports and correspondence prepared by the consulting (and other interested) parties during 2003 and 2004 and thus was generally aware of the case throughout the consultation period. Additionally, the Commission participated in the consultation process, including a visit by the Commission's former Federal Preservation Officer with the North Carolina SHPO on July 23, 2004, to ensure that the applicant was complying with FCC directives.

As one final matter, in her petition, Ms. Webster raises an issue concerning the effect of the WTHZ(FM) tower on property values in the area. While we understand her concern about this, concern over property values is not an environmental factor considered by the Commission in reviewing proposals for broadcast facilities. Moreover, the environmental statutes governing the Commission's obligations do not require federal agencies to consider socioeconomic factors, such as diminished property values, where the record establishes that the threshold requirement for environmental analysis – impact on the environment – has not been met.²⁷

Subsequent Complaint. On November 17, 2005, a group of “concerned citizens” from Mt. Ulla the (“Mt. Ulla Citizens Group”) who are “opposed to a radio broadcast tower proposed for their community” filed a complaint and supporting materials²⁸ alleging that Mr. Gig Hilton, Davidson's President and 22% shareholder, committed perjury in his sworn testimony before the Iredell County Zoning Board of Adjustment (“Iredell Zoning Board”)²⁹ and submitted an altered and falsified FAA document to local government officials.³⁰ The Mt. Ulla Citizens Group indicates that these and other materials had been turned over to the Sheriff of Rowan County, North Carolina.

²⁷ See, e.g., *Canyon Area Residents for the Environment*, Memorandum Opinion and Order, 14 FCC Rcd 8152, 8155-6 (1999).

²⁸ The supporting materials submitted to the Commission consist of (1) minutes from a meeting of the Iredell Zoning Board held on Thursday, April 15, 2004; (2) purported excerpts from a transcript of the testimony by Mr. Hilton at that meeting; and (3) tapes (labeled “Exhibit E” and “Exhibit F”) of the April 15, 2004, hearing and a tape (labeled “Exhibit H”) purporting to contain Mr. Hilton's testimony before the Rowan County Commissioners on October 13, 2005. The materials do not appear to be “official” or certified copies and contain no authentication.

²⁹ The alleged perjury pertains to Mr. Hilton's testimony that WTHZ(FM) was located on a tower owned by Wake Forest University station WFDD(FM) and that he had been given three years to remove his antenna. According to the Mt. Ulla Citizens Group, Mr. Hilton himself owns the tower and rents space to WFDD(FM), and Mr. Hilton later denied having stated that he was being forced off the tower.

³⁰ See *Letter to Ms. Marlene Dortch from Richard R. Reamer, Esq.* (rec'd Nov. 17, 2005) (the “November 17 Reamer Letter”). The alteration alleged to have occurred in the FAA document was changing the longitude of the tower coordinates from 80° 44' 3” to 80° 45' 3” West Longitude. The Mt. Ulla Citizens Group describes this change as “significant.” See *Letter to Sheriff George Wilhelm, Rowan County Sheriff Department, from Richard R. Reamer, Esq.* (dated Nov. 8, 2005), appended to the November 17 Reamer Letter.

The Commission has previously determined that, in deciding character issues, it will consider certain forms of adjudicated, non-FCC related misconduct that includes: (1) felony convictions; (2) fraudulent misrepresentations to governmental units; and (3) violations of antitrust or other laws protecting competition. With respect to FCC-related misconduct, the Commission has stated that it would treat any violation of any provision of the Act, or of the Commission's rules, as predictive of an applicant's future truthfulness and reliability and, thus, as having a bearing on an applicant's character qualifications.³¹ However, the Commission normally will not act on mere allegations of non-FCC misconduct prior to adjudication by a tribunal of competent jurisdiction. As the Commission announced in the *Character Policy Statement*:

We will not take cognizance of non-FCC misconduct involving criminally fraudulent misrepresentations, alleged criminal activity . . . unless it is adjudicated. In this regard, there must be an ultimate adjudication by an appropriate trier of fact, either by a government agency or court, before we will consider the activity in our character determinations. (footnotes omitted).³²

Here, there is no evidence of any adjudication by any court or other legal or administrative tribunal regarding Mr. Hilton's testimony and document submissions. It is therefore inappropriate to consider at this time the Mt. Ulla Citizens Group allegations with respect to Davidson's qualifications. Should there be such an adjudication at a later date, the Commission will consider its impact on Davidson's basic qualifications to remain a Commission licensee at that time.

Conclusion/Actions. Accordingly, IT IS ORDERED that, in light of the above discussion, the petitions for reconsideration submitted by James and Marian Rollans, Rose LaCasse, Carlyle Sherrill, and Betsy Webster ARE DENIED.

IT IS FURTHER ORDERED that the November 17, 2005, letter complaint filed on behalf of the Mr. Ulla Citizens Group IS DENIED.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

³¹ *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1209-10 at para. 57 (1986) ("*Character Policy Statement*"), *modified*, Policy Statement and Order, 5 FCC Rcd 3252 (1990), *recon. granted in part*, Memorandum Opinion and Order, 6 FCC Rcd 3448 (1991), *modified in part*, Memorandum Opinion and Order, 7 FCC Rcd 6564 (1992).

³² *Character Policy Statement*, 102 FCC 2d at 1205.

cc: Kate Myers, Assistant General Counsel, National Trust for Historic Preservation
Nancy Tinker, Southern Office, National Trust for Historic Preservation
Tina Hall
Patricia Feimster
Jack Edwards
Patricia Freeland
Mr. and Mrs. Donald Ray Belk, Jr.
Nancy M. Womble
Mabel Wilinon
Ray and Peggy Smith
Renee Gledhill-Early
Stephen R. Claggett, Division of Historical Resources, North Carolina Department of
Cultural Resources
John Clark, Esq.
Dr. David Rotenstein
Gig Hilton, Davidson County Broadcasting Company, Inc.
Mark Prak, Esq. (Counsel for Davidson County Broadcasting Company, Inc.)
Coe W. Ramsey, Esq. (Counsel for Davidson County Broadcasting Company, Inc.)
Richard R. Reamer, Esq. (Counsel for Mt. Ulla Citizens Group)