

**Albemarle County Planning Commission
September 1, 2015**

The Albemarle County Planning Commission held a public hearing on Tuesday, September 1, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Karen Firehock, Tim Keller, Thomas Loach, Cal Morris, Chair; Richard Randolph, Bruce Dotson and Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Staff present was Megan Yaniglos, Principal Planner; Claudette Grant, Senior Planner; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission, Wayne Cilimberg, Deputy Director of Community Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Public Hearing Items

SP-2014-00016 Canaan Church

PROJECT: SP201400016 Canaan Christian Church

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 08000000002100

LOCATION: 860 Hacktown Road

PETITION: Request for a special use permit for a 150 seat church in the Rural Areas. Church had a previously approved special use permit that has expired (SP2002-056). No residential uses proposed.

ZONING: RA Rural Areas- preserve and protect agricultural, space, and natural historic and scenic resources/ density (0.5 units/acre in development lots). Churches by special use permit in accordance with 10.2.2.35

ENTRANCE CORRIDOR: Yes

COMPREHENSIVE PLAN: Rural Areas in Rural Area 2

(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation regarding SP-2014-00016 Canaan Church.

This is a request for a special use permit amendment for a 150 seat church in the Rural Areas. The church was previously approved in 2003, but that special use permit has expired. The property is located at 860 Hacktown Road.

The church is proposed to be one story and 5,500 square feet with 50 gravel parking spaces. As stated, this church was approved in 2003. The location and size of the church has been modified slightly from the original approval. The entrance has been located further south on the property so that it did not impact an existing driveway while still maintaining the required VDOT site distance. Previously, it was located combining the entrance of this existing driveway. Also, the parking has been modified so that it provides for better pedestrian and vehicular circulation. Since the approval, Hacktown Road has also been paved.

As stated in the staff report, there have been some concerns raised by citizens including traffic

and privacy. VDOT has reviewed the proposed entrance and identified no concerns with the location of the entrance or the amount of traffic generated by this use. The applicant has proposed evergreen screening along the existing driveway to help address the privacy concern, and staff is recommending additional screening be added as well in condition #6. The staff report said condition #5, but it is actually condition #6. It would be located along the rear property line along the tree line.

Factors Favorable:

- No significant changes have occurred since the prior approval for the special use permit for a church in this location;
- No significant impacts would be created by the proposed church;
- The proposed church is consistent with the criteria set in the Comprehensive Plan.

Factors Unfavorable:

None Identified

Staff recommends approval of SP-2014-016 Canaan Christian Church with conditions.

Mr. Morris invited questions for staff. There being none, the public hearing was opened for applicant and public comment. He invited the applicant to address the Commission.

Robert Williams, engineer for the applicant, said on behalf of the church they would like to thank the Commission for hearing our case this evening. He could not add much because the staff report has pretty much covered all of the issues with the site. He was available for any questions along with the pastors as well as members of the congregation.

Mr. Morris invited questions for the applicant.

Ms. Firehock noted that a traditional storm water pond was proposed to deal with the runoff from the parking lot.

Mr. Williams replied not necessarily pointing out it is a BMP device that would meet the state regulations which encourage infiltration. So conceptually that is what we are looking to provide.

Ms. Firehock asked are you talking about doing a bio-swale, bio-detention or something like that when you say BMP device.

Mr. Williams replied that it may be a bio-detention or bio-rotation basin or something to that effect.

Ms. Firehock pointed out it looked like it was a long trail.

Mr. Williams replied they wanted to locate it away from the main property. If the church chooses to expand in the future they did not want it to be an obstruction. So they put it to the rear near the water course that it would be tying into, which allows for any sort of future plans.

Ms. Firehock said it was a channel that leads to perhaps a bio-filtration or bio-retention basin.

Mr. Williams replied right now as it is shown it is more like a diversion, but it is sort of like a channel. We are trying to minimize the amount of land disturbance.

Ms. Firehock pointed out she was always a fan of that because she hates wasting good land for storm water management.

Mr. Williams said he was of the same opinion.

Ms. Firehock suggested maybe that is something you could look into. She realized they were not doing an engineered site plan approval here; but, it might be possible that you could treat the majority of the runoff directly in the bio-swale and not even have to carve out that large site at the end.

Mr. Williams agreed that it is very possible because there are a lot of methods approved by the state that allow us to try to treat that storm water.

Ms. Firehock said good luck with doing something progressive since that is what she would like to see.

Mr. Morris invited further questions.

Mr. Randolph said he had several question. The first, we are in receipt of a letter that had no date that was sent to Ms. Yaniglos from the Andersons. He asked if the Andersons were in the audience.

Mr. Anderson replied yes.

Mr. Randolph said he would follow up with them later. One of the points the Andersons raised in their letter regarded the parking number. This is a closely knit congregation, which is obvious from just walking in and having opportunity as I did to greet some people outside. Knowing that it is a close knit church if a member of that congregation were to die or on the positive side as well if a member of the congregation were to have a child in all likelihood all of the congregation would turn out because it is a congregation that views every member as part of their family. Therefore, also neighbors, friends, colleagues and workers who are not in the church would also want to come to that special event of a marriage, funeral, birth, baptism or whatever it might be. Yet what has been submitted to us has been a figure of 150 people for parking. What is your plan if, in fact, there is going to be need for parking for more than the number of cars that would be appropriate to 150, which he would assume would be somewhere in the neighborhood of maybe 85 parking spaces. Where would you put these cars in that situation for a special event?

Mr. Williams replied that it was my understanding in speaking with the church that they have access to larger churches for events such as that and would have those types of ceremonies off site.

Mr. Randolph asked if there would not be those special events on site, and Mr. Williams replied that was my understanding.

Mr. Randolph said Mr. Anderson and his wife also raised a very good point and something that we have looked at very closely. Earlier when the Commission had an application regarding a potential change for a piece of property where there was a desire to have a golf course some individuals were concerned about the impact on the aquifer. He asked have you put in a well on this site.

Mr. Williams replied no, sir.

Mr. Randolph asked in terms of initial analysis what would be the expectation as to how far down you have to drill before you are going to get a percolation on this.

Mr. Williams replied that he was not familiar with what is needed for that. He believed the adjacent homes are a couple hundred feet. The water demand for this church is probably equivalent or maybe even less than a single family home. Even though they have a large group it is for a short duration and 80 percent of the time the church will be vacant. So it does not have that constant water demand that you would see from a single family residence.

Mr. Randolph said he had a question about that because he was not sure because every church has a variation in terms of its set length of the service. Some services are short in some churches and some services are almost a whole day affair in parts of Albemarle County. It strains my credibility that you could have 150 people there and have a service and not have extensive water use because you can't have people on a church site for two to four hours and not have people not want to use a bathroom at some point. So there is going to be pretty extensive water use. One hundred fifty people is a lot of people using the toilet. He asked how long the service is expected to be at the church.

Mr. Williams replied that his understanding is two hours.

Mr. Randolph thanked Mr. Williams and noted it was very helpful.

There being no further questions for the applicant, Mr. Morris invited public comment.

Levi Anderson said I actually just built a house on the property that is directly behind the proposed location for this church. My driveway is an easement through that property. We did not want to give them permission to use that just because at that point it would be us asking them permission to use that driveway. Whereas, right now we have the right-of-way so they did not want to give that up. I have a petition here from the community. The community is generally isolated and they kind of have this slice of the country that they like to stay in and don't really like to get involved in things. But, I was surprised that every single house that I stopped at signed the petition and was adamantly opposed to this. The chief concerns are traffic. They are saying they have parking for 50, but their goal is to expand. It is a business and it is a church. Basically, right now they are claiming to have only 150 people and they are approved for exactly 150 people. On their website they are advertising expansion I believe from the Spanish that I am able to read. So that tells me that intermediately this is going to be over capacity. That is a major concern for me and my family because they just spent about \$300,000 building the house behind this property specifically for the privacy factor. We have always lived in the city. We moved to this location to get away from public buildings such as this. That is what this comes down to. They are not opposed to the church or their mission in any way. It is specifically any public building and that is really what everybody who signed this petition agrees with. They want to keep that area the way that it is now as far as being residential. It is a beautiful piece of property.

Mr. Anderson pointed out this neighborhood is at a critical point. There are \$700,000 houses being built less than a mile away. The population here is aging, lots are going up for sale, and it is an ideal place for people to come and build high end homes. It is right in between Keswick Hall and Glenmore and a great location close to town. We spent more money than I have ever spent on anything to build this house. I can see this community growing. If the church was here at that time I would not have built my house here and I can't image that I will be able to sell it. What is great about this neighborhood is you have some elbow room from your neighbors, but you are still pretty close to town and there are not any public buildings. They say there is not

going to be any problem with traffic, but with 50 to 80 cars trying to get into one spot at any given time we are going to likely be waiting to get in and out of our driveway at times. That is a major concern for us. If you would like to see the petition I printed out copies for you. (Attachment A – Petition entitled “Opposition to rezoning parcel number 08000-00-00-02100 860 Hacktown Road Keswick, VA 22947” submitted by Mr. Anderson – Available with written minutes in the office of the clerk)

Mr. Morris asked for a copy of the petition for the record.

Ms. Firehock asked how many people signed the petition.

Mr. Anderson replied that at least 35 people signed the petition out of probably 45 houses. The only people that did not sign it were people who were not home. If I had done it sooner they actually said they would have come if they knew because this was yesterday.

Mr. Randolph asked Mr. Anderson to identify which property you now have because we don't have your name on our map. Did you buy the Lorenzo Barrett property?

Mr. Anderson replied yes, it was 856 Hacktown Road.

Mr. Randolph asked if it was TM 80/21B, and Mr. Anderson replied yes.

Mr. Randolph said he just wanted to be sure that was the property.

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

Mr. Keller asked staff to outline the community involvement process.

Ms. Yaniglos replied when the application came in one of the comments back was that they needed to hold a community meeting. I gave the applicant a list of a quarter mile radius of the adjacent owners from the property and they notified them by certified mail about the community meeting. The community meeting was held in January. As stated in the staff report, this was actually prior to Mr. and Mrs. Anderson finishing up building their house. So the builder failed to notify them of the community notice. They held the community meeting and only one community member came to the meeting. Then a couple of months ago Mr. and Mrs. Anderson contacted me. After that Mr. Anderson came and sat down with church representatives and staff to talk about concerns. That is when they revised their plan to move that entrance away from their driveway

Mr. Keller said he appreciated it. He knows it was in the staff report, but just thought for the record and discussion purposes it would be good to have that stated.

Mr. Loach noted on the proposal it said that this is because the other permit had been timed out. But, there was an approval for a church on this site of the same amount. He asked what the original date was of that application.

Ms. Yaniglos replied it was in 2002.

Mr. Loach pointed out this property has existed with that permit for some time and this was known.

Ms. Yaniglos agreed that was correct.

Mr. Morris invited other questions or comments.

Mr. Dotson said in staff's recommended conditions he sees that the lighting of the play area would be prohibited. He asked if that was correct in that there would be an outdoor play area but no lighting.

Ms. Yaniglos replied that was a holdover from the prior special use permit that staff included as well into this one. They have not identified a play area on the concept plan, but that is not out of the purview of them adding one

Mr. Dotson asked would the building itself possibly be lighted for security purposes and are there provisions in the ordinance that they would have to comply with in terms of not shining lights onto neighboring properties and so forth.

Ms. Yaniglos replied yes, there is an outdoor luminaire ordinance and anything over 3,000 lumens has to be full cut off. However, the applicants have indicated that they are not going to propose lights. If the Planning Commission would like that as an additional condition, I don't think the applicant would be opposed to a condition for no lights. However, I am not sure at this time if they are going to have lighting on the property.

Mr. Dotson pointed out sort of where my questions are coming from is asking about ways that the residential qualities that Mr. Anderson was speaking of in the neighborhood could be preserved. So one way would be to limit lighting. He noted that staff mentioned screening and it is not clear to me on the diagram where under the existing recommendations the screening would be. I can see it along the driveway, which looks like two rows of perhaps white pines or something like that.

Ms. Yaniglos replied that was correct they are proposing to add some evergreen screening. I also recommended along the tree line in the back of the property that additional screening be planted of the same requirement.

Mr. Dotson pointed out the implication of that is the trees in back to the right on the diagram would be preserved.

Ms. Yaniglos agreed that they are already shown as preserved. In pictures of the site she pointed out the driveway existing now and to the left the open area. She pointed out the existing buffer or tree line towards Mr. Anderson's property. The tree line is pretty substantial and is existing so I thought some evergreens to supplement that during the winter months would help with the privacy.

Mr. Dotson said continuing along these lines in the long sort of snorkel to get back to the VMP facility that would go through an area where I believe where there are trees currently.

Ms. Yaniglos noted it is open and there are some trees, but then there is an open area that goes in the back that it would go through, and then the BMP would be about in that location. However, I will say it is conceptual and engineering may have input. But, the Commission might have a condition.

Mr. Dotson said keeping the photo up is useful. There is a considerable green buffer on Mr. Anderson's property as well as perhaps some remaining on the applicant's property. The other

area, which is where the septic system would be, there is a house closer to the road than that. Do you know, or perhaps this may be a question for the engineer, whether that is the site or whether a site that is perhaps more central to the property might work just as well or even better. Recently we had another case in Stony Point where there was a church and the issue was where that septic field might be placed in order to preserve trees. So I am wondering if that was the same kind of thing here.

Ms. Yaniglos replied she did not know and whether the engineer can speak to that.

Mr. Williams replied the septic field location as shown are conceptual. Again, we were looking to put it in a remote portion of the site to allow the church the opportunity to expand if they choose to in the future. When they originally had their special use permit approved in 2002-2003 they did pursue a septic design and there is an approved design. It happened sort of in that neck area between the two parcels. Again, thinking to the future, if they elect to expand and they need that area for an outbuilding or parking that septic area would limit their access to the rest of their property. So in final design we would have to weigh all of those options in the clearing of trees in trying to find the best suitable location for the septic field and allow the church utilization of all of their property rather than just a portion of it.

Mr. Dotson said it occurs to me just looking at the topography that it is in an area that has slope to it. There are other areas that are gentler and generally better for septic systems. One other question for the staff, again, was just thinking in terms of being good neighbors and thinking of noise impacts. We have an ordinance that addresses noise, but on occasion they have also with some kinds of activities that have events prohibited amplified sound for instance on the exterior. Is that something that was considered here?

Ms. Yaniglos replied no, it was not considered.

Mr. Dotson suggested that was something we might consider.

Ms. Firehock said she was still curious and thought perhaps the minister could answer this. She was just wondering about how extensive the programing will be here. Commissioner Randolph talked about church services. She was wondering if they have plans in the future for coming back to ask for daycare or other events. Having lived next to several churches in my life she could say they were actually pretty quiet. They came in and quietly went to church, sang inside the church and came out. So it was not a problem. Sometimes they had bells. However, if they have a lot of outdoor activities or amplified music she just does not have a sense of that. She did not know what their weekly regiment is and how intensively they plan to use the facility.

Mr. Morris asked Mr. Williams to address the question.

Mr. Williams said my understanding is that they have services on Wednesday evenings, Friday evenings and Sundays each for two hours. There is no daycare. I believe Bible study occurs during those times as well. So two hours three days a week is their normal usage.

Ms. Firehock noted and then perhaps the occasional church picnic or something outside. They have a beautiful piece of semi-rural property and she would expect they would want to do something outside at some point.

Mr. Williams agreed. He asked to address Mr. Dotson's concern.

Mr. Morris asked Mr. Williams to hold the question for a moment so they can get all of the comments so he can hear everything. Then he was going to invite him back up for a five minute rebuttal.

Mr. Randolph said he like to reiterate that the proposed church will be in conformance with those uses permitted by right in the rural areas. He said Mr. Anderson, you need to communicate that to your neighbors that this is a legally exercise right for a church to be in this location. So we have to obey the law here and we are under that legal obligation. He just wants to clarify that this is something that can be in conformity.

Ms. Firehock asked to add to that one comment. As I understand it this is a special use permit that expired and they are now back again. So technically if I was a resident buying property in the rural area, which I have done, I would look up what was pending or possible on all the adjacent properties. One potentially would have found that there was a standing special use permit issued for a church at that site. So knowing your zoning is pretty important.

Mr. Randolph said he was going to bring that out as well that in terms of due diligence here an attorney would have served you well to have indicated that there had been a permit for this site. It was not exercised, but that did not mean that it was inactive and void and could not be resubmitted in the future. So these people are following the law and they have a right to do so, which they also have an obligation to respect here. He would like to make one other comment. I think no matter how we decide this evening I think one of the first steps here will be for the church with all of you as members to try to get together with the neighbors who signed that petition. One of the first gulfs that need to be resolved here is the gulf between the community and the church members become you are going to become part of the community. That is going to be an important step for you as a congregation. The Commission has recommended that before. He remembers at a church up on the north end that as being an important first step. I think it will be a first step here in terms of Christian outreach to really try to enable these neighbors to get to know you personally, where you are coming from, what you are trying to achieve, and that you are going to be very good neighbors to them. We hope and expect in turn that they are going to be very good neighbors to all of you as a result if this application is permitted here this evening and also by the Board of Supervisors.

Ms. Firehock asked to add some more questions in as you call the rebuttal. The last time this did not go forth because there wasn't funding in place, and it was indicated in the staff report that now there is funding. But, I would like to hear a little bit more about that and does this definitely have the funds needed.

Ms. Yaniglos replied yes, that was my understanding. However, she would ask the applicant to answer the question.

Mr. Morris invited Mr. Williams to come forward for a five minute rebuttal.

Mr. Williams said overall the church would like to be a good neighbor and it has always been their intent to be a good neighbor. Until tonight we did not realize how people felt because they did not attend the community meeting. When they did find out that Mr. Anderson had some concerns about the property we reached out to him, met with him and tried to address his concerns. They have actually modified the plan as a result of that meeting to try to mitigate any impact it would have on him and his family. The parking on the top side of building was actually on the bottom side of the building adjacent to the driveway when they initially had a combined entrance. They moved that away to try to avoid any head light shine going into Mr. Anderson's property. I checked with the pastors with regard to outdoor speakers and they have no

objections to prohibiting those. At this point they have no intention to have them. As far as funding, it is my understanding that under the previous leadership it was just hard economic times for everybody. They have new leadership and funding is available. He did not know if he hit all of the questions, but I am available for any more.

Mr. Morris invited questions for the Mr. Williams. He thanked Mr. Williams.

There being no further discussion, Mr. Morris asked for a motion.

Motion: Mr. Randolph moved and Mr. Loach seconded to recommend approval of SP-2014-00016 Canaan Christian Church with the conditions outlined in the staff report.

Mr. Randolph agreed to amend the motion to include Mr. Dotson's recommendation regarding lighting.

Mr. Kamptner noted that it also included outdoor amplified music.

Mr. Randolph agreed to amend the motion to include outdoor amplified noise.

Mr. Kamptner said staff will finalize the language before it goes to the Board.

Mr. Benish asked if it was just amplified music or amplified music and lighting.

Mr. Randolph agreed the motion included amplified sound and lighting, and Mr. Loach agreed.

Mr. Morris asked for a roll call.

The motion passed by a vote of (7:0).

Mr. Morris noted that SP-2014-00016 Canaan Church would be forwarded to the Board of Supervisors with a recommendation for approval with the following conditions at a time to be determined.

1. Development and use shall be in general accord with the conceptual plan titled "Special Use Permit SP2014-016 Canaan Christian Church" prepared by Williams Enterprises Incorporated Land Development Design and dated June 2015 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a. *location of buildings and structures*
 - b. *location of parking areas*
 - c. *location of entrance*
 - d. *landscape screening*

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

2. The area of assembly shall be limited to a maximum of one hundred fifty (150) seat sanctuary;
3. There shall be no day care center or private school on the site without approval of a separate special use permit;

4. Health Department approval of a well and septic system shall be required prior to the issuance of a building permit;
5. Commercial setback standards, as set forth in Section 21.7 of the Zoning Ordinance, shall be maintained adjacent to residential uses or other Rural Area zoned property;
6. Screening in accordance with Section 32.7.9.7 shall be provided along the tree line on the west/rear of the property to screen the parking and church from the adjacent property;
7. Right of way dedication of thirty (30) feet from the existing centerline of Hacktown Road (Route 744) along the entire property frontage shall be required prior to the issuance of a building permit.
8. The use shall commence on or before five (5) years from Board approval or the permit shall expire and be of no effect;
9. The outside play area activities shall be limited to only take place during daytime hours. Lighting of the play area shall not be permitted. The play area shall be located as far away as possible from the adjacent residential properties, but in no case shall the play area be located closer than seventy-five (75) feet from any adjacent property line. The outside play area location shall be depicted on the site plan;
- 10. Add condition regarding outdoor amplified music and lighting. (Language to be worked out by staff before Board of Supervisors meeting.)**

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning)