Albemarle County Planning Commission
August 8, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, August 1, 2000 in the County Office Building. Members attending were: Mr. William Rieley; Mr. Pete Craddock, Mr. Rodney Thomas; Mr. Jared Loewenstein; Ms. Tracey Hopper. Other officials present were: Mr. Wayne Cilimberg, Director of Planning and Community Development; Mr. Greg Kamptner, Assistant County Attorney; Mr. David Benish, Chief of Community Development; Ms. Yadira Amarante, Planner; Mr. Jeff Thomas, County Engineering. Absent: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman.

In the absence of the Chairman and Vice-Chairman, the Commission moved, seconded, and unanimously approved temporary appointment of Mr. Loewenstein as Chairman.

Approval of Minutes – July 25, 2000 Meeting and July 25, 2000 DISC Worksession
The Commission moved, seconded, and unanimously approved the minutes as amended.

Other Matters Not Listed on the Agenda from the Public.
None were offered, and the meeting proceeded.

Consent Agenda:

1999 Planning Commission Annual Report
The Commission moved, seconded, and unanimously approved the Consent Agenda (1999 Planning Commission Annual Report) as presented by Mr. Cilimberg.

Deferred Items:

SP-00-036 Barbara J Fried Physical Rehab Therapy, LLC (Sign #60) - Request for special use permit to allow a physical therapy business in a home in accordance with Section [10.2.2.31] of the Zoning Ordinance which allows for home occupations Class B. The property, described as Tax Map 14, Parcel 4 contains 318 acres, and is located in the White Hall Magisterial District at the end of Route 765. The property is zoned RA Rural Area. The Comprehensive Plan designates this property as Rural Area. *Deferred from the July 18, 2000 Planning Commission meeting. Applicant requests deferral to September 5, 2000.*

The Commission moved, seconded, and unanimously approved deferral of SP 00-036 to September 5, 2000.

SP-2000-15 CVW Intelos--CV206 (Route 654) (Sign #30) - Request to attach telecommunications equipment to an existing VEPCO power pole in accordance with Section 10.2.2.6 of the Zoning Ordinance. The property, described as Tax Map 60, Parcel 81, contains 1.322 acres, and is located in the Jack Jouett Magisterial District. The property is located on Magnolia Drive, off of Montvue Drive (west of) and (north of) Barracks Road [Route 654]. This general area lies approximately one mile west of the intersection of Barracks Road and Georgetown Road. The property is zoned RA, Rural Areas. The Comprehensive Plan designates

this property as Rural Area [Rural Area 3]. *Deferred from the August 1, 2000 Planning Commission meeting.*

Mr. Benish presented the staff report, noting that CFW/Intelos is proposing to locate for two 4-foot PCS panel antennae on the existing 125-foot VEPCO monopole tower on an existing transmission line. He said the antenna panels are approximately 40 inches tall by 10 inches wide, and will be flush mounted below the static lines, which are the highest arms on the pole; there will be increase in height of the pole with this proposal. Mr. Benish commented that the tops of the antennae would be approximately 122 feet from the base of the pole; the pole height is approximately 125 feet.

He explained that the site is located on Magnolia Drive in the Montvue neighborhood off of Garth Road. He said that the existing power line is non-conforming, thus approval of the special use permit is required for additional use to be established on the tower. The applicant has provided information about the siting and design of the proposed facility. Mr. Benish noted that the character of the area is rural, and consists of scattered residential developments including Montvue. He said the high-voltage power line generally runs east and west and crosses Barracks Road near Colthurst, and the proposed tower is located within the Montvue neighborhood, which consists of 32 homes; approximately eight homes are in this segment of Magnolia Drive in Montvue.

Staff notes that in order to construct the proposed facility, no clearing for access is necessary given its proximity to the right-of-way; there will be some grading activity based on the proposed design for construction. Additional access will not be required for this site, so the impacts of this proposal are based primarily on the construction for the location of the antennae and the ancillary equipment related to its operation. Mr. Benish noted that the antenna is intended to provide service to the area and improve quality and capacity for coverage of the area for wireless phone service.

Mr. Benish stated that the visual impact of the antenna has been minimized by the limited number of antenna panels, and flush mounting to the tower. He stated that tower is visible from Barracks Road – more visible from the west heading east. The tower distance is approximately 1000 feet in its closest area, and that distance somewhat minimizes the impact of the tower. Mr. Benish said that the most significant additional impact from this proposal would be from the location of the supporting equipment cabinets located on the ground. He said that the applicant initially proposed conventional ground-mounted cabinet equipment; however, based on concerns expressed by area residents and staff, the applicant is now proposing to locate the cabinets underground. The underground location requires that a vault structure be constructed below the ground, with two feet of the structure located above ground.

Mr. Benish noted that the leased area for the vaulted structure at its shortest distance is approximately 27 feet from the front yard property line, and 45 feet from the age of pavement on Magnolia Drive. He said the cabinet location would be in a denser area of existing vegetation with landscaping consisting of five-foot tall azaleas, rhododendrons and scattered pines. Mr. Benish commented that staff opinion he is the visual impact of the proposed antenna and ground equipment will be minimized, and has found that the request will have minimal impact to the

neighborhood. He concluded that staff is recommending approval of the proposal with conditions as stated in the staff report.

Mr. Rieley noticed that the condition requiring flush mounting seems not to match up with the detail of the proposal, which shows the antennae mounted 12 inches from the pole. "Would the condition override the detail?"

Mr. Benish replied that these antennas might not be able to be mounted any closer than that.

Ms. Hopper asked if the Commission has specified the number of lumens in past applications.

Mr. Benish replied that 3,000 lumens were specified in a recent Pantops application.

Mr. Cilimberg noted that that is what the lighting ordinance specifies anyway.

Mr. Loewenstein commented that the lighting ordinance is not cited specifically in the conditions.

Ms. Hopper commented that she is very pleased to see the equipment location underground, adding that it is very helpful to have a picture like the one presented.

Mr. Thomas asked what the normal size of the ground equipment is.

Mr. Benish replied that the pad and top of the structure would be 10 feet by 16 feet, and would be approximately 2 feet tall. "There has to be an area exposed above ground to allow for ventilation."

Mr. Thomas commented that he is very pleased to see an effort to conceal ground equipment.

Mr. Loewenstein added that he hopes to see more applications with underground equipment.

Public comment was invited.

The applicant, Paula Figgit of Intelos, addressed the Commission.

Ms. Figgit said that there has been concern from the Commission on previous applications regarding the integrity of trees for screening. She emphasized that with this site, Intelos will maintain and enhance the vegetation. Ms. Figgit explained that the antennas would be attached to an apparatus that is attached to the tower, and will be maintained at a 12-in. distance from the tower. She said that Intelos has been pursuing this site since February 2, 1999, and has looked at two other possible alternative locations. Ms. Figgit said that because of homeowner concerns, they have relocated this facility in a more concealed area, with addition of more landscaping. She said that the two other sites explored on Barracks Road did not work out. Ms. Figgit said that Intelos is leasing property from a Mrs. Link, who was unable to attend this meeting.

Mr. Rieley asked for clarification on the mounting distance of the antennae.

Ms. Figgit responded that Intelos' initial intent was to arrange the antennae similar to the SunCom site in an "antler" fashion, but redesigned the facility to keep antennae within 12 inches of the tower. She added that the vaulting would be a new design for Intelos, noting that the underground arrangement is more costly. Ms. Figgit noted that Intelos would remove existing vegetation, maintain it during construction, and then replace it.

Mr. Craddock asked if any other cellular phones would work off of this antenna.

Ms. Figgit said that it would be just for Intelos customers, with one other carrier using their signal.

Public comment was invited.

Mr. Peter Vaden, a Montvue resident and President of the Montvue Homeowners Association, addressed the Commission. He said that owners already feel victimized by the location of the Western Bypass, and are concerned about any other possible negative impacts to their neighborhood. Mr. Vaden expressed their gratitude for Intelos cooperative efforts regarding this site. He noted that although once opposed, the Montvue Citizens Association no longer opposes a special permit application providing certain conditions are met. Mr. Vaden elaborated that the association agrees with staff conditions, and has additional concerns about the location of the vault just 13 feet from Mr. Vining's driveway. He said that the vault should be located further away. Mr. Vaden expressed concern about the possible sound emanation from such a facility, commenting that his own investigation showed that such a structure like a heat pump. He suggested that the Commission not approve the application until a site plan was available and approved by Montvue neighbors. Mr. Vaden suggested locating the cable on the rear of the tower, as Ms. Figgit has suggested. He concluded that there are several residents in the neighborhood that still oppose the application because of: possible lowering of property values, the precedent this would set, and the lack of assurance of long-term maintenance.

Mr. William Vining, adjacent property owner, addressed the Commission, stating that the storage cabinet would be located within just 13 feet of his driveway; he suggested locating it further away. Mr. Vining said that he is also concerned about the possible sound it would emanate. He asked if Intelos would have to get approval before modifying the facility. Mr. Vining said he has met with Intelos regarding plantings on a previous plan, which met with his satisfaction. He expressed concern that the screening may not be adequate for screening, and also mentioned that the proposed cabinet color is too light for the surrounding vegetation. Mr. Vining asked that his driveway not be disturbed during installation.

Mr. Rieley asked if the driveway was on his property.

Mr. Vining said that it was on Mrs. Link's property, but he controls it.

Ms. Figgit re-addressed the Commission. She stated that she is not sure about the noise level, but mentioned that the sound from above-ground cabinets is similar to that from heat pumps. Ms. Figgit said that Intelos could relocate the cabinet further away from Mr. Vining's property,

and could paint it any color desired to be better camouflaged. She agreed that the cable could be run along the back of the tower, but it might have to be rearranged at the top to go into the antenna.

Mr. Loewenstein asked if Intelos planned to follow the screening plan presented.

Ms. Figgit agreed to proffer the plan into the application.

Mr. Benish noted that there are conditions that speak to the color of the antenna cable and ground equipment. He said that staff has no comparable facility to measure sound, because most are located above ground. Mr. Benish said that the landscape plan is a condition of the SP, and Zoning will ensure that the site is maintained.

Mr. Craddock asked if there would need to be approval granted for locating the vault.

Ms. Figgit said that VDOT wants the equipment to stay 25 feet from their existing pole, to maintain the integrity of the tower foundation. She added, "as long as we meet our variance requirements."

Mr. Benish noted Attachment F, which has an outline of VDOT's conditions for underground facilities.

Mr. Loewenstein suggested researching the sound before the Board of Supervisors meeting, perhaps from facilities in other locations in the U.S.

Mr. Cilimberg said that the facility would be subject to the noise ordinance provisions.

There being no further public comment, the matter was placed before the Commission.

Mr. Rieley commented Intelos for their attempts to locate equipment underground, noting that CFW was the first to use wooden poles. He also complimented them for working with the neighbors in the area. Mr. Rieley suggested requiring a minimum 25-foot setback from the driveway, and said the cable could be located on the west side of the pole. "There really is an opportunity with this lower, darker facility to go a long way toward making it invisible." He suggested adding some language to Condition #5 so that the planting further obscures the facility. Mr. Rieley mentioned that adding up the measurements on the detail totals more than 12 inches (14 inches), and suggested correcting this.

Mr. Kamptner suggested eliminating the word flush in Condition #1, and adding a clause to the end of Condition #4 that says antennae shall be located on more than [14 inches] from the pole.

Ms. Hopper mentioned the Bartlett tree report as Ms. Figgit mentioned.

Mr. Craddock said that adding the word substantial as Mr. Rieley suggested would cover that.

MOTION: Mr. Rieley moved, Mr. Thomas seconded approval of SP 2000-15 with conditions modified as follows:

1. Replace word "flush-mounted" with "mounted";
4. Attachment of the antennae to the power line tower shall be in accord with the plan titled "CFW Intelos Rt. 654 CV 206, sheet 3" dated 7/10/00 and attached to this report; antennae shall extend no more than 14 inches from the tower pole.
5. Planning Department approval of a landscape plan for the substantial screening of the ground equipment. No fencing of the ground cabinet equipment;
11. (New) The cable shall be located on the west side of the tower;
12. (New) Vault shall be a minimum of 25 feet from the driveway as shown on Attachment "C" of the staff report dated August 8, 2000.

The motion passed unanimously.

MOTION: Ms. Hopper moved, Mr. Craddock seconded approval of a waiver of a site plan for SP 2000-15.

Public Hearing Items:

Addition to Batesville Agricultural/Forestal District – Proposal add 38.499 acres in one (1) parcel to the Batesville Agricultural/Forestal District. The property described as Tax Map 85, Parcel 3, is located approximately one quarter mile northwest of Rt. 635, 1.5 miles southwest of Rt. 635's intersection with Rt. 692 in Batesville.

Addition to Kinloch Agricultural/Forestal District -- Proposal to add 8.85 acres in two (2) parcels to the Kinloch Agricultural/Forestal District. The properties described as Tax Map 65, Parcels 95 and 95A, are located on the southeast side of Rt. 231, approximately 1.3 miles northeast of the Rt. 600/Rt. 231 intersection in Cismont.

Mr. Benish presented the staff report, explaining that the first proposal would add 38.5 acres in one Parcel to the district. He explained that the Batesville district was created in 1990, and currently consists of 906 acres. Mr. Benish said the district was recently reviewed and approved; the parcel is forested and contains 25 acres of soil rated excellent for forestal production. Staff recommends approval of this parcel's addition to the district.

Mr. Benish said that the Kinloch Agricultural Forestal District addition is a proposal to add 8.9 acres into parcels to the 3,068-acre district. He said that the Kinloch district was created in September 1986, and was last reviewed in October 1994; it will be subject to review in 2004.

Public comment was invited on both items.

There being no further public comment, the matter was placed before the Commission.

MOTION: Ms. Hopper moved, Mr. Rieley seconded approval of the addition to the Batesville Agricultural/Forestal District as presented. The motion passed unanimously.

MOTION: Ms. Rieley moved, Mr. Thomas seconded approval of the addition to the Kinloch Agricultural/Forestal District as presented. The motion passed unanimously.

Regular Item:

SUB 00-101 Milton Village Preliminary Subdivision - Request for plat approval to create seven (7) lots averaging 8.71 acres on a new internal public road. Property is located on approximately 63.045 acres zoned RA (Rural Area). It is described as Tax Map 79-Parcel 43F and is located on State Route 729 (Milton Road) approximately 600' south of its intersection with State Route 732. This property is located in the Scottsville Magisterial District and is designated for Rural Area uses in Rural Area 4 in the Comprehensive Plan.

Mr. Craddock abstained from the discussion and vote on the item, as he is an adjacent property owner.

Ms. Amarante presented the staff report, noting that the applicant is proposing a subdivision of approximately 63.045 acres in seven lots; the lots will have access via a new road, which will be dedicated to public use, built to public road standards, and maintained by VDOT. The property is located in what is known as Milton Village on the west side of North Milton Road (Route 729). It is zoned Rural Areas, and is not in a designated development area; the property is mostly pasture land, but heavily forested along four stream valleys. A portion of one of those streams is designated as floodplain, but no construction activity is proposed in that area. She said that the property is gently rolling, except along the stream valleys where critical slopes exist. Disturbance of these critical slopes is due to road construction only, and is exempt from critical slopes provisions of the Zoning Ordinance. The property is not located in the water supply watershed.

Ms. Amarante said that the preliminary plat meets all the requirements of the subdivision, zoning, and water protection ordinances. An internal public road is proposed and supported by the engineering department. Water provision and sewage disposal are proposed on site; the septic fields have received health department approval. Ms. Amarante explained that this is a by-right division with access on a public road; this type of request is usually reviewed administratively, but an adjacent property owner has requested full review of the plat. This request was prompted by their concern for the historic resources located on the site and the supply of well water.

Ms. Amarante reported that Milton Village, which includes the subject parcel, is a site of historical and archeological significance. This is well documented in a report entitled *Historic Architectural Survey of Albemarle County Villages* by Dames & Moore, published in 1995. The town of Milton was established by an act of the Virginia General Assembly in 1789, and was a significant shipping and trading center in Albemarle County in its day. It is suspected that portions of the original village line the property along Route 729; grading for the purpose of the road, drainfield, and home construction may forever disturb these resources.

Ms. Amarante stated that the Comprehensive Plan and the Open Space Plan both list the protection of historic resources through the adoption of an historic ordinance as a goal, and the Historic Preservation Committee has prepared the Historic Preservation Plan as part of the Comp. Plan. She said that the plan is currently under review by the Board of Supervisors and has not yet been adopted. Ms. Amarante mentioned that the Health Department must approve all well locations before building permits are issued.

She added that while the potential loss of a significant historic resource is very real, there are no provisions under the current county ordinance, which would allow denial of this request based on the existence of historic resources. Ms. Amarante added that the applicant has complied with all subdivision, zoning, and water protection ordinance provisions. Staff therefore recommends approval of SUB 00-101 subject to the conditions outlined in the staff report.

Mr. Loewenstein asked if the possibility of a rural preservation development was discussed with the applicant.

Ms. Amarante responded that it was discussed during the pre-application conference with applicant, but the applicant chose the development as presented. She added that rural preservation development is voluntary.

Mr. Loewenstein asked staff to comment on the private road vs. public road.

Ms. Amarante replied that the applicant came in with the public road request; a private road plan is not required, as the public road is the preferred road in the county.

Mr. Loewenstein asked if staff discussed a Phase I archeological review of the property with the applicant.

Ms. Amarante responded that they discussed the archeological significance of the site, but not in the context of a Phase I review.

Mr. Thomas expressed concern that that area has a long history of wells going dry, and asked staff if they had in any information on the water supply in the area.

Ms. Amarante replied that the water supply will be looked at by the Health Department, adding that the county is currently undergoing a study of the county water supply.

Ms. Hopper commented that the study in the Keswick/Milton area will not begin for a year or more. She asked if the Health Department also approved wells as well as septic.

Mr. Cilimberg said that the Health Department approves location in relation to septic systems, and must approve a minimum flow. "That's just for the immediate availability of water; that doesn't necessarily deal with impacts that might occur in other parts of that groundwater, or how it might – over longer period of time – be depleted." He added that the Board of Supervisors has created a committee that will look at how to implement some testing requirements.

Mr. Rieley asked Mr. Kamptner if the Commission should find the proposal to be not consistent with the health, safety, and welfare of Albemarle County, what the next step for remediation for the applicant would be.

Mr. Kamptner responded that the Commission would need to specifically identify the provision of the Code that is not satisfied, and tell the applicant what needs to be done to come into compliance. "You can't deny a plat for general reasons of 'health, safety, and welfare'." He said that the applicant's option is to challenge the decision in Circuit Court or appeal it to the Board of Supervisors.

Ms. Hopper asked if the Comp. Plan somehow defines welfare.

Mr. Kamptner replied that the Comp. Plan doesn't really come into play when looking at site plan and subdivision plat, as they are the execution of what has been adopted through subdivision and zoning ordinances.

Ms. Hopper asked if there would be any waivers associated with the site plan.

Ms. Amarante responded, "No."

Mr. Cilimberg noted that the Commission could request that the final plat come to them.

Ms. Hopper asked if there would be any more information about water at that time.

Mr. Cilimberg responded that there may not be, because the item wouldn't be at a building permit stage.

Mr. Loewenstein asked if additional conditions could be added to the final site plan.

Mr. Cilimberg replied, "Not really."

Ms. Hopper asked if the item could be deferred.

Mr. Kamptner stated that the Commission needs to act within 60 days plus any time factored in for state review; the Commission must act within 35 days of the last state approval.

Ms. Amarante said that the Health Department has acted on it, and VDOT has given all their comments and recommendations. She indicated that the Health Department approval was given on July 18th, VDOT on July 13th.

Public comment was invited.

The applicant, William Orr, addressed the Commission. Mr. Orr explained that he purchased the property 15 years ago with the idea of building there, but his children convinced him to stay in their old house, which is three miles away. He said that he has been farming the land for 15 years, and no longer has the help to operate the farm as a cow/calf farm. Mr. Orr said that he has

had the property for sale for 2 ½ years. He stated that he has received 100+ calls, but everyone wanted a part of the land, but not the entire parcel. Mr. Orr mentioned that the location for the road is what VDOT chose because of site distance, and he tried to design the road so it made as little impact to the property and surrounding neighbors as possible. Mr. Orr said that there is a small stream on his property, and he believes there is adequate groundwater on the site.

Mr. Orr stated that when he built a fence on this property he "never saw anything that looked like any sort of archeological ruins." He added that he "bored" Lot 7 and never found anything like an "archeological remnant." Mr. Orr reported that when he dug for a septic field, there were 10 pits dug by a backhoe that didn't run into anything. "As far as archeological artifacts go, I've had it for 15 years, it's been on the market for 2 ½…..and no one has ever said anything to me about wanting to do any archeological survey or borings or anything until the past few days." Mr. Orr added that he had hoped someone would buy the entire property and "make it in keeping with the old Milton Village."

Ms. Hopper asked Mr. Orr if he would be willing to consult with the archeologists and agree to a condition of approval to have them examine the area.

Mr. Orr said, "Why didn't they come forward before now to do this? This has been farmed for 150 years." He added, "I think its speculation that there's anything there, because I've never seen anything with all of the diggings we've done."

Ms. Hopper stated, "You and I aren't qualified to identify it probably."

Mr. Loewenstein mentioned that a Phase I Archeological Review requires time and money, noting that he is doubtful there would be time to do a review in a short time frame.

Mr. Orr said that he has offered Mr. Craddock the option to purchase Lot 7. He said that he took a course at Monticello and asked if Jefferson had ever owned that property. "There probably was a little bit, but not a lot of the Milton Village…on the property that we're speaking of. I think that if it were, it would be that Lot 7, the lot next to Mr. Craddock's."

Ms. Hopper asked Mr. Orr if he had consulted with anyone to do a groundwater study.

Mr. Orr replied that his next step is to order well tests on the seven parcels to ensure that there is an adequate water supply before he goes to the expense of building a road.

Ms. Hopper asked if Mr. Orr intends the lots to be for his children.

Mr. Orr said that he has deeded the land to his children.

Mr. Loewenstein asked if he had to locate the road that far north in order to satisfy the VDOT site distance requirement.

Mr. Orr responded that he has to locate the road there because of the location of another house, adding that he can't get 21 acres if land is taken away from that road frontage.

Ms. Jeanne Hammer, an adjacent property owner, addressed the Commission. (Attachment "A"). She indicated that she had requested Commission review of the proposal in order to draw attention to the historical significance of the property. Ms. Hammer asked that the proposal be approved subject to the condition that an archeological survey be done within a reasonable period of time (12 to 18 months). She said that the purpose of the survey would be to determine whether Lot 7 and the subdivision road were part of Milton. Ms. Hammer said that because the residents of Milton were largely working class, there is a not extensive documentation of what life was like in the village. She noted that the "bare bones" of Milton's history are outlined in John Hammond Moore's *History of Albemarle County*, and Dumas Malone's Biography of Thomas Jefferson, volume six of which notes Jefferson bought Milton from the Bennett Henderson family during his second term as President.

Ms. Hammer mentioned that Milton resident James Oglivie taught Jefferson's grandson – Thomas Jefferson Randolph. She added that an archeological survey before the site is destroyed would add "flesh to the bones" about this important center of commerce. Ms. Hammer quoted from the historic architectural survey of Albemarle County villages: "The site of Milton is potentially one of the most important archeological sites in the county. Based on historical information obtained on Milton so far, the site merits intensive archeological investigation. Following this investigation, the site should be evaluated for potential listing on the National Register."

Mr. Fred Westervelt addressed the Commission. He lives on "Milton Farm," located to the west of the property under discussion. He said he finds the plan as acceptable as it can be, but has serious concerns about the water supply, as the Milton area has remained dry, even during the wet Spring. Mr. Westervelt emphasized that he feels Mr. Craddock should be allowed to speak as an adjacent property owner.

Ms. Pat Sternheimer addressed the Commission, stating that she has spent nine years researching Milton. She presented images of the Milton site, noting the location of Milton Village and its original platting. Ms. Sternheimer reported that there were 15 different roads, and 83 lots in the 1789 village. She presented a map (Attachment "B") from Bob Vernon, who works for NGIC with GIS mapping, and showed its relationship to the current property area.

Mr. Vernon indicated that his map was based on the "William Woods" map, and is accurate to within 20 to 30 feet of any point.

Ms. Hopper asked how long it would take to examine the area.

Mr. Vernon replied that because the areas in the floodplain, some of the old structures may be buried under 5 to 10 feet of mud, which would take a while to excavate.

Mr. Sternheimer said that the area was plowed about 100 years ago; there is evidence of a church on Mr. Craddock's property, and a cemetery is recorded although its location has not been determined. She added that she has found another cemetery on the Hearn's property and the Marshall property. Ms. Sternheimer said that she has done individual deed searches on every lot in the town; she has records of the structures from the Mutual Assurance Society. She said that

the structures were primarily wood, and left a footprint in the land. Ms. Sternheimer indicated that she had a bag of artifacts found from Mr. Craddock's property that were part of the Milton village. Ms. Sternheimer said that to conduct a Phase I archeological survey the area would take 8 hours to excavate one square pit (10' x 10') one foot down. She added that there are also the issues of funding the excavation and storing the artifacts.

Ms. Hopper asked if the artifacts were valuable.

Ms. Sternheimer replied that they are valuable from a scientific standpoint. She added that a Mr. Higginbotham who lived at Milton eventually lived at Morven – the Kluge estate. Ms. Sternheimer mentioned that many of the Milton homes were moved to Charlottesville, and tracking that is "extremely important."

Ms. Sternheimer asked if the section of the property closest to Route 729 could be made a green area, and use the road already in existence on the property as the entrance road so other sites are not destroyed.

Mr. Orr re-addressed the Commission. He said that the map presented "couldn't possibly be accurate," because it couldn't have been built on the slopes there.

Mr. Rieley asked Mr. Orr what is training in archeology and historic sites is.

Mr. Orr replied that he owns the property and knows how it lies. "I'm just telling you what I have not found when we have made diggings out there." He confirmed that he had not had any professional archeological assistance.

Ms. Hopper asked Mr. Orr if he had considered participating in the PDR program.

He replied that he hadn't.

Ms. Hopper asked Mr. Orr if he would consider deferring the item for a few weeks to discuss it with the archeologists and the Supervisor in his district.

Mr. Orr replied that he would consider what the archeologists want to do after the plan is approved. "I've done it by right, and I don't think there are any ordinances that say you have to bow to an archeological survey. I would be willing after it's approved to discuss that with them."

Mr. Rieley commented, "Very public spirited."

There being no further public comment, the matter was placed before the Commission.

Mr. Loewenstein said that county residents have heard a lot about the historic an archeological importance of Milton, and "I think it's a [disaster] that this has not been taken up formally before…I think the proper investigation of this site is of great importance."

Mr. Rieley said, "This is a striking example of why we need a Historic Overlay District in this county so badly. It's a striking example of why we need a provision…that no lot can be platted unless adequate water is verified." Responding to Dr. Orr's comment that he doesn't think there is anything on the site, Mr. Rieley stated that a former Albemarle County resident – Bill Kelso – found the original 1607 Jamestown settlement, in a site that professional archeologists had found nothing on. "Thank God that that property was owned by the Association for the Preservation of Virginia Antiquities and not somebody that wanted to sell it off for subdivision – by right or not by right."

Mr. Rieley emphasized, "I really hope there is some way in which some accommodation can be made here….I believe we are in a difficult decision because of the ministerial nature of our action. I think we should delay this to the last second that we're legally allowed to do it, and hope that we can use that time to work out some kind of an arrangement that will protect the archeological record." He mentioned that this should be a good candidate for the PDR program, and suggested deferral of the item.

Ms. Hopper suggested that the artifacts could be "quite valuable" to Dr. Orr. She agreed to vote for deferral.

Mr. Loewenstein asked for a check on the time schedule.

Mr. Kamptner said that August 22nd would be the end of the time period for action.

Mr. Thomas empathized with Dr. Orr, but stated that the community would benefit from knowing what lies beneath the ground. He said that the Number 7 Lot may be the most intense area for finds. Mr. Thomas expressed concern about the water situation.

Mr. Loewenstein agreed. He stated that a rural preservation development approach would allow for a cluster of houses with a large area left open. Mr. Loewenstein said that a private road might require less grading.

MOTION: Mr. Rieley moved, Ms. Hopper seconded approval of deferral of SUB 00-101 to August 22, 2000. The motion passed in a 4-0 vote, with Mr. Craddock abstaining from the vote.

SDP 00-073 - Wilco Preliminary Site Plan (SDP 98-100) One-way Circulation and Critical Slope Requests - Proposal to construct two buildings of approximately 3,249 square feet for a Gas Station/Convenience Store/Car Wash on a 1.27-acre parcel. This proposal includes one-way circulation [4.12.6.2] and building on critical slopes [4.2.3.2].

Mr. Benish presented the staff report, noting that the item had been on the Consent Agenda, but was called up for consideration. He explained that the waivers were approved by the Planning Commission in 1998, and a site plan was administratively approved in 1999. Mr. Benish said the site plan expired, and there have been some relatively minor modifications to the plan. He stated that the grading area for the Critical Slopes has remained essentially the same, and the one-way circulation is basically the same place. Mr. Benish said that the applicant is proposing to grade and construct on critical slopes, which are manmade. He added that the applicant is proposing to

cut part of the existing slope and build a retaining wall at the back edge of the site to provide for sufficient developable area. The engineering department has reviewed it, and supports the request. Mr. Benish reported that the grading created erosion and slope stabilization concerns to engineering and Carrsbrook residents. He said that staff has found the proposal to be an improvement, as the retaining wall will create proper slope stabilization and minimize erosion. Mr. Benish added that safety will be also addressed through the installation of fencing and screening trees. He stated that the ARB has not reviewed the proposal yet, but the design planner is working with the applicant to try to break the retaining walls height and terrace the wall. Mr. Benish concluded that staff recommends approval of both waivers.

Mr. Thomas explained that he called the item up for review because Carrsbrook residents have concerns about the noise and the lights. He said that the Critzers – who own an adjacent property – were told that a fence would be put up to shield their back yard from the site. Mr. Thomas said that some of the hill on the site has eroded down into the convenience store site, and there may not be room to put a fence. He stated that there is a little foliage on the trees on the hill right now on the lower end, but the other end of the hill is too steep for planting. Mr. Thomas wondered how the retaining wall would help stop the erosion.

Mr. Benish confirmed that the slope is 67%. He said that the fence at the top is not necessarily a component of what is being reviewed tonight, as it is more of a site plan item. Mr. Benish said that the plan calls for a retaining wall of 18-20 feet.

Mr. Rieley noted that this is a proposal to disturb an unstable slope, and the Commission should be able to require the stabilization of the slope being disturbed. "Once that's done, then we can start to address the issue of screening. If this slope is creeping back on a neighbor's property, and we're giving a waiver for somebody to…intervene at the bottom of it, and not address the overall problems of slope…"

Mr. Cilimberg said, "In other words, is the disturbance going to exacerbate the problem that's outside the area of disturbance."

Mr. Riley commented, "Even if it doesn't exacerbate it, it's intervening in an unsatisfactory condition, and we are giving permission for that intervention through the granting of this waiver."

Mr. Jeff Thomas addressed the Commission. He agreed with Mr. Rieley that the slope is unstable, and the applicant is just addressing the toe of the slope with the retaining wall and then grading back as far as they need to go; from there on, it would be undisturbed. He said he would support terracing on the side of the slope and as you go up.

Mr. Thomas asked if the bottom would start out at the point it is now, with the next wall moving back significantly.

Mr. Jeff Thomas responded, "You could do it that way."

Mr. Thomas asked how long the benches would be to plant trees.

Mr. Rieley said, “Ten feet. I think you could do it in a way that would get some flat land for a fence and planting behind the neighbors.”

Mr. Jeff Thomas agreed that that would help stabilize the hill.

Mr. Thomas asked if it would be possible to do three tiers.

Mr. Cilimberg responded that it depends on how much depth was available.

Mr. Benish commented that they may need a waiver for the undisturbed buffer area that they may need a waiver from to get the additional terrace into.

Mr. Thomas asked if the county could make the developer responsible for stabilizing the entire hill behind the property, noting that the Ratcliffs and Critzers would be most affected.

Mr. Loewenstein asked how the Commission should best handle this, noting that he is not entirely comfortable leaving these matters to the ARB.

Mr. Rieley suggested denying the waiver, with suggestions about what should be done.

Mr. Cilimberg suggested acting on the one-way circulation waiver, and denying the critical slopes waiver in hopes of a better approach with terracing consideration. He said that with denial, the applicant can’t complete the site plan.

Mr. Thomas commented that the neighbors are not opposed to the service station, but are worried about the stability of the hill.

Mr. Craddock asked if the lights would be addressed by the ARB.

Mr. Cilimberg responded that the lights are addressed by the lighting ordinance, which requires everything to be fully shielded and cut off.

Mr. Craddock commented that some lights in service station canopies are recessed, some are not.

Mr. Cilimberg stated that only recessed lights are now allowed.

Mr. Loewenstein commented that the difference between the old canopy lighting and the new is “absolutely amazing.” He said that the difference between the two in escaped light is noticeable.

MOTION: Mr. Rieley moved, Mr. Thomas seconded denial of the critical slopes waiver for SDP 98-100 for the reasons discussed. The motion passed unanimously.

MOTION: Mr. Rieley moved, Ms. Hopper seconded approval of the one-way circulation waiver for SDP 98-100. The motion passed unanimously.

Old Business

Ms. Hopper mentioned that a site plan waiver was needed for 2000-15. The Commission took action as mentioned in the report for that item.

Mr. Cilimberg reminded Commissioners that they would meet August 29, 2000 at 4:00 p.m. to discuss the next set of DISC principles.

Mr. Benish commented that staff did make the applicant aware of the ADH program and the rural preservation development program. He mentioned that the property would be eligible for a cluster development through a special use permit.

New Business

There was no new business presented.

There being no further business, the meeting was adjourned at 8:30 p.m.