Albemarle County Planning Commission
January 9, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 12, 2000 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Ms. Tracey Hopper, Mr. Rodney Thomas; Mr. Jared Loewenstein; and Mr. William Rieley. Other officials present were: David Benish, Chief of Planning & Community Development, Mr. Greg Kamptner, Assistant County Attorney and Mrs. Elaine Echols, Principal Planner, Mr. Scott Clark, Planner; Stephen Waller, Planner; Mr. Pete Craddock was absent from the meeting.

A quorum was established and the meeting called to order.

***Election of Officers*:**

- Nomination to accept Mr. Dennis Rooker as Chairman was made by Mr. Jared Loewenstein and seconded by Mr. Rodney Thomas. This was accepted unanimously.
- Nomination to accept Mr. Will Rieley as Vice Chairman was made by Ms. Tracy Hopper and seconded by Mr. Rodney Thomas. This was accepted unanimously.
- Nomination to accept V. Wayne Cilimberg as Secretary was made by Mr. Dennis Rooker and seconded by Ms. Tracey Hopper. This was accepted unanimously.

***Set meeting Time, Day and Location for 2001*.**

- Ms. Tracy Hopper motioned to accept Tuesday evenings at 6:00 PM, in Room 241 of the County Office Building for the year 2001 as the set meeting and location. Mr. Jared Loewenstein seconded and this carried unanimously.

***Adoption of the Rules and Procedures*:**

Ms. Tracy Hopper asked about page 5. She asked if "calling question" was the same as "previous question?" She also stated "calling question" or "previous question" was a maneuver that the board does not use very often. Ms. Hopper feels it would be something that could be extremely helpful in the future

Mr. Dennis Rooker requested amendment to the Rules and Procedures to change paragraph 2, b. – the following sentence – "If any day established as a regular meeting day falls on a legal holiday the meeting scheduled for that day should be held on the next regular business day without action of any kind by the Commission."

Mr. Jared Loewenstein motioned to adopt the Rules and Procedures dated January 11, 2000 as subsequently modified to make the change recommended by Mr. Rooker. Mr. Rodney Thomas seconded and this carried unanimously.

Approval of Minutes – November 7, 2000, November 14, 2000, December 5, 2000 and December 12, 2000.

- Mr. Rodney Thomas motioned to accept November 7, 2000 minutes with changes. This was carried unanimously.
- Mr. Will Rieley motioned to accept November 14, 2000 minutes with changes. Ms. Tracy Hopper seconded. This was carried unanimously.
- Ms. Tracy Hopper motioned to accept December 5, 2000 minutes. This was carried unanimously.
- Minutes for December 12, 2000 acceptance was deferred to the next meeting as there was additional language left out of the minutes as noted by Mr. Greg Kamptner.

Mr. Will Rieley stated in the future he would like very straightforward language rather than "shared that," or "felt that." He also asked to use people's first and last name when first mentioned and then simply their last name after as a general rule.

Review of Board of Supervisors Meeting – January 3, 2001.

Mr. Wayne Cilimberg presented review of the meeting , noting the following:

The Board of Supervisors did review the six-year secondary plan for road construction. Their discussion primarily centered on the unpaved road project on Caderman Road. The board took no action. The board is going to public hearing in February on the secondary plan – 3rd February (Wednesday night) meeting of the board.

The board did talk about Old Ivy Road and how the plans are or are not progressing in dealing with potential improvements. David shared some concepts that might be a little different than what we have been looking at with VDOT regarding how to improve the road as it passes under the railroad overpass; possible realignment of the road vs. using the more existing alignment.

There is a meeting scheduled with TSF and Railroad officials to discuss potential for bridge improvements. This was, in part, based upon Commissioner comments.

The board did want on the priority list extension of the southern parkway that would take you from Avon Street to Fifth Street. Also priority is the Hillsdale Drive extension which is a connection from Greenbrier Drive to either Seminole Square or Hydraulic Road which is primarily in the city. Those concepts would include a portion of the county, which is included in the priority list and potentially in the secondary plans.

Mr. Jared Loewenstein asked for clarification of where the southern parkway borders were. Mr. Loewenstein also asked about a timetable.

Mr. Cilimberg said there was no timetable but this was on the list. It qualifies for secondary funds and the board is trying to get it built with those funds.

Mr. Cilimberg stated the Board of Supervisors' last meeting was canceled due to ice. The Board took up items originally scheduled on December 13th, 2000 and approved the Mt. Sinai Church additions and the outdoor storage and display at Dennis Enterprises. The board also had public hearing on the two comp plan amendments in the Hollymead area; one for the Town Center and the other for the Transportation improvements. The board deferred action on both

primarily because of offers made by several land owners to get together and actually work on a master plan that would reflect the sum of what the commissioners recommendations were, and the language, but with some modification because of some concern about a couple of elements: (A) The floor area ratio and how realistic that is to the near future and (B) their concern with limitation of the coverage area for any building on the ground (65,000 square feet) going beyond that going multi-story. The Board did not say they would change these items but they were interested in seeing a master plan.

Mr. Cilimberg stated the road recommendations, transportation recommendations in the area the board will likely act on in February at their day meeting. There is probably one modification we need to make that is really nothing more than a reference to the Hollymead Town Center. If this is not approved then it does not really have standing as a recommendation. The board needs to modify that language. There is not a timetable yet for the Hollymead Town Center but the board was asked to meet with area representatives and work towards bringing that concept back. Mr. Cilimberg stated the board may bring this back for the commissioners to see first.

Mr. Cilimberg stated the last item discussed last week, which the commissioners had previously dealt with, was the Home Depot site plan which was appealed to them; the critical slopes waiver denial and site plan denial. The Board of Supervisors did not take action. They deferred and asked for the applicant to address several elements to the site. The board was seeing the potential of a 3:3 vote and, because of that, they decided to focus on elements they would like staff, with the applicant, to try and address. These included:

- A buffer from the residential area:
- Roof treatment and how the heating and air conditioning units might be, in some way, be tested for noise as well as general roof treatment. The appearance of the roof would be very evident to some adjacent owners.
- Better addressing the idea of public transportation on site – possibility of a bus stop – and accommodating pedestrians on site in the best way possible so people could move to and from the Home Depot to the sidewalk system on Route 29.
- Wanted the whole ideal of water quality impact to be addressed with whatever additional elements, including the potential of dredging the existing ponds in Carrsbrook. The applicant was asked to address this issue.

The board requested the aforementioned items be looked at and reviewed by the Planning Commission, with your comment, before the Board of Supervisors makes any action. The site plan will not be back before the Planning Commission, rather measures that have been identified to address so the Planning Commission can make comment on them.

Ms. Tracey Hopper asked if, after commissioners make comments and suggestions to which the Board will either overturn or uphold the decisions, the board was going to speak to the standard of review issue?

Mr. Dennis Rooker stated the standard of review that the board is to apply to a decision made by the Planning Commission, on a matter on which the Planning Commission has the decision capacity, should be whether the decision was arbitrary and capricious.
Mr. Rooker thinks in matters such as rezoning and special use permits, the board deals with those anew, and can accept or reject Planning Commission advice, but they are basically looking at those items and making a new decision. On a matter such as a waiver of critical slopes, where under the ordinance the Planning Commission is the deciding body, the Board's sole function is to determine whether or not the Planning Commission's decision was arbitrary

and capricious. If it is not, the Board is required to uphold our decision. If it is, then the Board is required to overturn it. Mr. Rooker asked that this be discussed with the Board of Supervisors before this matter goes to final decision.

Mr. Wayne Cilimberg said he would take Mr. Rooker's comments to the board and advise them accordingly. Mr. Cilimberg stated he was not sure conclusion will be that the Board can only overturn Planning Commission decision only if it is found to be arbitrary or capricious. The code does not provide any standard of review.

Ms. Tracey Hopper asked Mr. Cilimberg and Mr. Kamptner to make sure the issue about standard of review is reviewed with the Board of Supervisors. The ordinance does not address this but the case law does. Ms. Hopper states it does seem there is a standard of appeal. Ms. Hopper also called for a meeting with the Board of Supervisors to make sure that the Planning Commission and the Board of Supervisors understand each other. Ms. Hopper noted the two boards had not gotten together since June, 2000.

Mr. Cilimberg stated he would make the request to the Board of Supervisors.

Mr. Rooker asked whether or not the Planning Commission would like to request a meeting with the board on the issue before or after the issue comes back to the Planning Commission. Mr. Rooker feels the meeting would be appropriate after the information comes back to the Planning Commission.

Mr. Cilimberg stated the Board of Supervisors deferred the item until the day meeting in February. Mr. Cilimberg stated the Board of Supervisors would more than likely work very close to that date in getting information back to the Planning Commission. Mr. Cilimberg thought perhaps the Board of Supervisors would ask the Planning Commission to become part of the meeting in February.

Ms. Hopper stated she thought an item of such importance to the public should not be in a day meeting.

Mr. Cilimberg stated the decision rests in the hands of the Chairman of the Board of Supervisors – Ms. Thomas. This would also be a decision made in consultation with the rest of the board.

Mr. William Finley requested that when the item comes back to Engineering there be an analysis of the flow coming from West of 29 and the actual impact of the 15 acres considering all the flow from Lowes on down comes under 29 and, at present, is dumping on that parcel. Mr. Finley thinks if analysis is made that, if they adequately control run-off, it is not really going to increase flow going through Hollymead. They will have more impervious area, compared to total flow coming down, but he feels it is not going to have that much effect on flow downstream. Mr. Finley stated he did not hear much about what was happening upstream on West of 29.

Mr. Will Rieley stated he would also like to see an analysis of the entire watershed. Mr. Rieley believes the detention strategy does not work very well when we start looking at multiple sites and multiple peak flows. Mr. Rieley believes the commission will find just the opposite – the aggregate of all this detention with a net increase in volume on everyone of these sites is going to end up with not only a net increase in volume but a net increase in peak flow.

Mr. Thomas stated he had asked, at the hearing that the Planning Commission had with the Home Depot, if there were any plans for retention upstream and there was not at that time.

Mr. Rooker asked about the Town Center change in the comprehensive plan. Apparently, there was some request by property owners to alter the 65,000 square foot limit on single-floor buildings. Mr. Rooker felt the limitation was a very important part of the change to the comprehensive plan. Mr. Rooker stated he would personally hate to see this changed.

Mr. Cilimberg reiterated that the Board did not make decision to change anything coming from the property interests. The only thing the board specifically spoke to was floor area ratio. The Board agreed, at this time, the basic land cost values, while it may be a target to shoot at, it may be one the Board has to work towards based on market reality over time for larger scale retail development.

Mr. Rooker asked if the minimum footage would have to be reduced?

Mr. Cilimberg stated that was the discussion and several supervisors acknowledged that may be the case.

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

***Consent Agenda*:**

ZTA Housekeeping (including zta for mausoleum):

- Mr. Rodney Thomas moved for approval and Mr. Jared Loewenstein seconded. This passed unanimously.

SDP-00-136 Jefferson Quarry Building Preliminary Site Plan – Request for curvilinear parking and loading space reduction modification.

- Mr. Rodney Thomas moved for approval of request for curvilinear parking and loading space reduction and Mr. Jared Loewenstein seconded. This passed unanimously.

SDP-00-135 UVA Fontaine Research Center Waiver Requests – Proposal to construct parking and a building, which requires waivers to allow construction on critical slopes, angled parking and service space reduction.

- Mr. Rodney Thomas moved for approval of the proposal and Mr. Jared Loewenstein seconded. This passed unanimously.

SDP-00-104 Boudreau's Minor Amendment – Request for parallel parking, off-site parking, and cooperative parking.

Mr. Thomas asked about the noise factor in the neighborhood and whether it had been looked at more thoroughly.

Mr. Cilimberg stated he thought the noise factor comes under Noise Provisions in the ordinance.

Mr. Rooker stated, going back to the initial special use permit granted for Boudreaus, he recalled the special use permit had a limit to the amount of floor area available for dancing. Mr.

Rooker asked whether or not there has been investigation into whether floor area being utilized for dancing/bands exceeds special use permit limitation?

Ms. Jan Sprinkle stated she did have an inspector go to Boudreau's and look at the floor area a couple of times. The area was not well defined. Ms. Sprinkle stated there were some modifications done to the actual floor area, plus there was recalculation on the site plan currently under review with this modification. Ms. Sprinkle believes everything is in order at this time and feels Boudreaus did comply.

Mr. Rodney Thomas moved for approval of the Consent agenda and Mr. Jared Loewenstein seconded. This passed unanimously.

SP-2000-66 Philip Marshall (Charlottesville Cellular) (Sign #78, 79) – Request for a special use permit to allow the collocation of a whip antenna on an existing monopole structure, in accordance with Section [10.2.2.6] of the Zoning Ordinance which allows for radio-wave transmission and relay towers, and appurtenances. The property, described as Tax Map 36 – Parcel 19, contains approximately 121.216 acres, and is located in the Rivanna Magisterial District, off of Vineyard Road [State Route #777] on Godlike Mountain, approximately 2.5 miles south of the Orange County line. This parcel is zoned RA, Rural Areas and the Comprehensive Plan designates this property as Rural Area. (Stephen Walla) STAFF REQUESTS DEFERRAL TO JANUARY 30, 2001.

Public hearing was called for. Applicant address was called for. There was none.

Mr. William Finley moved for approval of deferral to January 30, 2001 and Mr. Will Rieley seconded. This passed unanimously.

ZMA-2000-008 Dunlora Phase 4B Rivercreek (Sign #50) – Request to rezone 5.279 acres from RA to R-4. The property described as Tax Map 62 Parcel 12 is located in the Rivanna Magisterial District between Dunlora Drive and Free State Road approximately ½ mile from the intersection of the railroad tracks and Free State Road. The Comprehensive Plan designates this property as Neighborhood Density Residential for 3 – 6 dwelling units per acre in Neighborhood 2. (Elaine Echols) DEFERRED FROM THE NOVEMBER 28, 2000 PLANNING COMMISSION MEETING

Ms. Elaine Echols presented the staff report.

Mr. Rooker opened called for public comment.

Question was called for the Engineer. There was none.

Mr. Stoner spoke on behalf of Stonehouse Development Company. Mr. Stoner addressed the two primary issues the applicants have struggled with. See attached staff report.

Mr. Rooker called for Commissioner questions.

Mr. Thomas asked if this parcel is classified as an emergency road? Mr. Thomas asked if the applicant would be using this road for construction vehicles.

Mr. Stoner said they would not put construction vehicles over the road because large (greater than 8 ton) trucks could not go over the Free State Bridge.

Mr. Thomas asked if the road would be used for pick-up trucks.

Mr. Stoner said he felt small trucks would use the road. Big trucks he felt could not fit.

Mr. Rooker called for questions from the public.

Tom Harvey, Resident of Dunlora asked for help figuring out the map. Mr. Harvey wanted to know where Dunlora Drive comes into the new Site 12.

Jillian Galle, Historian Archeologist, stated that she opposes rezoning of this district for reasons more than grading and access. The area known as "Free State" represents a significant historic district in Albemarle County just beginning to be understood. Ms. Galle stated historical documentation shows during the 18th and 19th centuries the area aforementioned was a part of Dunlora Plantations, a region owned by Thomas Jefferson's sister, and occupied by a number of enslaved Africans. Ms. Galle stated it was highly possible that after Thomas Jefferson's death several of his enslaved workers moved to the Dunlora Free State area and continued to occupy that area after their emancipation in 1863. This site is of great architectural and archeological significance and Ms. Galle feels, at the very least, it should be surveyed and reported before the continuation of the Dunlora development. Ms. Galle stated, to this point, previous Dunlora developments have not impacted historical significance because most of the development has been occurring in what were originally agricultural fields. The new development near Free State Road is beginning to have an impact on the archeological resources. Ms. Galle stated her comments not only apply to this rezoning but also to any future rezoning in the area and feels they should be considered.

Mr. Rieley asked Ms. Galle for the size of the area she is talking about and the documentary information she based her statements on.

Ms. Galle said there were deeds in the County Courthouse that indicates the Dunlora Plantation house still stands. It extends through Free State probably to the railroad area. There is also Belvidere Plantation which is most likely an 1850's property that probably also contributed to the Free State Community (the enslaved African community and then later the free slave community.) There are deeds that indicate there is a settlement there. There is a historic cemetery, which most likely includes remains of enslaved Africans, and that later became a burial ground that is still in use as of the 1970's. Ms. Galle said she does not believe this rezoning impacts the cemetery but is close to the graves (and several are unmarked.) Ms. Galle stated Dunlora is moving very quickly to this region. Walking the district one can see remains of hearths and buildings. Ms. Galle stated the oldest building in that district that was still standing two to three months ago was destroyed. There is now a house in Dunlora on that site. It was probably a 1870's to 1880's frame house.

Mr. Rieley asked Ms. Galle if any Phase I work has been done in the archeological area.

Ms. Galle stated no Phase I work had been done in the archeological area.

Ms. Galle stated she and the Director of Archeology at Monticello went to look at this area. The name of Crita Lane, which is in Free State, does not come near this rezoning but, again, as Dunlora increases will be encompassed by it. Crita Lane was a prominent enslaved African at

Monticello and, although they cannot trace her by documentary records, it does seem likely she probably ended up on the Dunlora Plantation. This road may very well today be named after her. Ms. Galle stated there is plan for more research on this area but it has not been completed yet. Ms. Galle cautions development of this area.

Mr. Rieley asked Mr. Stoner (applicant) to address the issues that Ms. Galle shared.

Mr. Stoner pointed out the development of Dunlora has never been proposed, nor will it ever go, beyond Free State Road. Mr. Stoner states there are some properties (Parcel 8 is one of them) which do have cemeteries on them. Obviously, cemeteries must be preserved in any development scheme. As to the significance of what was on this particular parcel, Mr. Stoner does not believe there are any significant historical resources. When Belvidere Station is developed there will be a much larger issue and master plan kind of community. Mr. Stoner said he felt archeological and historical issues are certainly issues that must be considered and he hoped it would not interfere with the particular project, which is outside that district.

Public hearing was closed.

Mr. Rieley asked Mr. Thomas (Engineer) if the applicant has supplied a profile of the new alignment that would make the connection not shown on current maps.

Mr. Jeff Thomas said it had not been done.

Mr. Rieley asked if the vertical alignment might raise some concerns about grades that we don't know about now.

Mr. Jeff Thomas stated it is possible.

Mr. Rieley asked Mr. Jeff Thomas if he would be comfortable with this movement ahead without over-lock grading plan of the area.

Mr. Jeff Thomas stated the reason they recommended an over-lock grading plan in comments was just to remedy some of the drainage problems, complaints, that seem to come from lots being developed on a piecemeal basis. Lots that drain onto other lots, that is the problem. What they try to do with the over-lock grading plan is to see how everything fits together with the development, including roads, lot to lot. The builders, obviously, come in and do some disturbance but this does not have to be a final grade state. This is in between rough and final grading.

Mr. Rieley asked Mr. Jeff Thomas if they were looking at this as a sort of strategy to handle run-off rather than a detailed grading plan specific to each of the individual buildings.

Mr. Jeff Thomas agreed.

Mr. Rooker stated the applicant would not need to know a specific footprint of each of the buildings in order to provide the over-lock grading plan you are envisioning.

Mr. Jeff Thomas stated he did not believe so.

Mr. Finley asked Mr. Jeff Thomas if he was speaking of all the lots, including those the applicant does not own, when he speaks of over-lock grading plan.

Mr. Rodney Thomas asked Mr. Jeff Thomas if the developer would be allowed to use the existing storm water facility in Dunlora 4A and not create a new one.

Mr. Jeff Thomas said he thought it was possible. He has yet to see any detailed information on this.

Mr. Rodney Thomas asked Mr. Jeff Thomas if he had the conversation with the developer on the over-lock. Mr. Thomas stated he has had the conversation several times. Mr. Thomas stated Mr. Stoner basically summarized his viewpoint on it, which is pretty much the same.

Mr. Rieley asked Mr. Jeff Thomas if he anticipated over-lock grading plan necessitating a series of modifications as each of the individual buildings come in and, if that is the case, how is that processed?

Ms. Hopper stated she did not think they could anticipate that. She stated the way the Engineering Department has laid this out is that they would have an over-lock grading plan which could accommodate slight modifications as houses were built. Mr. Thomas agreed. Ms. Hopper stated some additional discussion might yield better information about what exactly is involved in that over-lock over-grading plan.

Mr. Rooker stated he would personally feel more comfortable if there was an over-lot grading plan. Also, a plat which shows a proposed connection of Free State Road. Accordingly, it seems to Mr. Rooker that the application is premature at this point. Mr. Rooker wonders if the applicant might consider deferral until those items are addressed. Mr. Rooker stated he thought perhaps it would be proper to consider this property for rezoning, but there would need to be additional information in order to make that decision.

Mr. Loewenstein also agreed with Mr. Rooker's request for additional items in order to make a decision.

Mr. Rieley stated there was also concern to be addressed in all rezoning, with potential archeological information to be recovered, that we should use the time during this deferral to see if there is sufficient information to justify archeological survey. That is not an expensive undertaking and it is easy to dismiss some of these sites. Mr. Rieley stated in looking at some of the sites it is very difficult to see the early developments. Mr. Rieley feels we would be losing information that we would deeply regret in the future.

Mr. Loewenstein wanted to know if the speaker, Jillian Gaffe, had any connection with the work being done now by some graduate students at UVA. Mr. Loewenstein knows there are several sites they are looking at (understood Dunlora was one of them) and that this does need further study. There have been two impacts in some of the early phases of Dunlora, impacts to archeological remains of some significance that he is aware of, i.e., slave cemeteries associated with the original Dunlora Plantation. Mr. Loewenstein stated he would hate to see more of these things lost. This kind of archeological research is particularly difficult to do quickly and easily because paper trails are pretty scant. What may not appear at first glance to be greatly significant may, in historical and cultural circumstances, have great significance where scope may be hard to come by without digging deeper.

Mr. Rooker is asked what guidance the Planning Commission is trying to give the applicant on this issue. At this point Mr. Rooker does not see evidence of anything historic on this property. There are specific things we are asking the applicant to address: The over-lot grading plan and

the connection to Free State Road. Mr. Rooker is asking if the Planning Commission wants the applicant, of his own initiative, to provide a survey of historic resources on the property. The applicant has stated he does not believe there are any. Whose burden is it to establish otherwise?

Mr. Rieley states he would suggest the applicant has to deal with the connection to Free State Road in alignment issues, grading and changes that will occur in the grading as a result of that. During that time I think staff would have opportunity to access documentary and physical evidence to come to us with a potential condition for inclusion of a Phase 1 archeological survey. This is not an extensive archeological investigation. Mr. Rieley feels the Planning Commission needs to know more about this before rezoning is addressed.

Mr. Loewenstein stated the county had on file a significant amount of information on sites that have been identified with archeological significance. At the very least Mr. Loewenstein thinks staff should be asked to consult those records to see if there appears to be reasonable evidence to support moving forward with Phase 1 Survey. The fact that there are two groups of people working in this area independently may also be of value. It seems they can be contacted as well to see if there is any information brought to them that we don't already have on file. Mr. Loewenstein reiterated there are over 2000 historic sites identified in the county, and a number of these are archeological in nature.

Mr. Finley stated if all the information is available then why was the Planning Commission hearing this only tonight. Mr. Finley asked if staff has the resources and time to do this.

Mr. Loewenstein stated there was someone already in staff who has been identified as responsible for historical resource information, including archeological information. Mr. Loewenstein assumes this is, to some degree, already built in. This would not be a lengthy process to retrieve and review this data.

Mr. Finley asked if we only review after mention is made that a site might be potential historical sight, or is it routine to look at potential sites.

Mr. Loewenstein stated, according to the recently passed Historic Preservation Plan, the absence or presence of historical resources on any site that comes before us with an application should be looked at. Any information about the historical or archeological value should be mentioned in passing.

Mr. Rooker stated in the past staff reports have addressed this issue when they have determined there were historical resources on a property. It usually appears in the staff report. The guidance we are providing is that we would like staff to take a look at this and provide back a comment regarding potential location of an historic resource on this property. If there are none, then staff can state so. Mr. Rooker asked where we stand in deferring this matter.

Ms. Elaine Echols stated this has been deferred so many times. Ms. Echols stated the applicant has some deadlines he is working under for which he has wanted to stay on this particular schedule.

Mr. Cilimberg stated this does not go before the Board of Supervisors until February 14, 2001 so there are at least three meetings or so between now and then.

Mr. Rooker asked if the applicant would agree to a deferral until a date specific that would keep him on schedule for his February 14, 2001 board meeting so these couple of items could be addressed. Mr. Stoner was asked to step forward and share his desire.

Mr. Stoner expressed his concern for submitting the revised plat with the grading to the extent they can accomplish that. Mr. Stoner felt he could accomplish that. He asked if the Planning Commission could review in that period of time. Mr. Stoner asked for some indication of where the priorities are. Mr. Stoner stated this was the only time that someone told him an over-locking grading plan would not involve creation of some typical footprints for houses. Mr. Stoner is not sure how to address grading and drainage issues without understanding at what elevation the houses are sitting and how big the pads are. Mr. Stoner stated he has already shown the grading on most of the lots seen. All the lots have a grading issue and they have shown a grading plan for it. He is not sure how much more detail an "over-lock" grading plan is. Mr. Stoner said he is completely confused as to what an "over-lock" grading plan is. Mr. Stoner stated he does not want a process of bringing back a grading plan every time it is modified because a building footprint changed. Mr. Stoner is working on some constraints from a financing standpoint; he is committed to close with the owner. In order to close there needs to be rezoning. Mr. Stoner stated he was happy to proffer any one of these things that we talked about. Mr. Stoner also stated he wanted to accommodate the deferral if it would get back to the Planning Commission before the deadline of February 14th.

Mr. Rooker stated that would be the best route, to reset this for a date certain for one of our meetings that would give you time to meet your deadline. In the interim we need to get together with staff and define what an over-lot grading plan is, and produce that for the next meeting. This would give staff time to make comments on potential historic resources.

Mr. Benish stated January 30th was the best time. It does not allow for another deferral, but that date is available. That would give our Engineering Department the most time to submit something.

Mr. Stoner stated he could work with that.

Mr. Finley asked if the rezoning request is contingent upon the preliminary site plan being approved. There was talk of rezoning five acres. Mr. Finley asked if applicant was thinking of an over-lock grading plan for the entire site plan. Mr. Stoner stated he did not think they would be in a position to provide that for the next meeting. Mr. Finley asked applicant if he was clear on what they were asking for the review. Mr. Stoner said he thought he was clear. There are a few issues that complicate the matter. Mr. Stoner did not know about this proffer and the desire for public connection until a week and a half before the twice-rescheduled date, December 9th. That has put the applicant in a difficult position due to lack of time. Now Mr. Stoner is struggling under a deadline. Mr. Stoner asked if there was any scenario in which the Planning Commission would justify keeping this as RA property. It is currently spot zoned and was previously zoned R4. It would be completely inconsistent with the comprehensive plan were it to be kept at RA.

Mr. Will Rieley moved to defer until January 30, 2001 to give the applicant and staff time to research historical significance of the property and to complete an over-locking grading plan. Mr. Jared Loewenstein seconded. This passed unanimously.

Ms. Hopper abstained from this vote.

SP-2000-58 Northside Community Fellowship Church of the Nazarene (Sign #77) – Request for special use permit approval, as set forth in Section 18/10/2/2/35 of the Zoning Ordinance, for an 11,200 square foot church building, to be constructed in three phases on a 9.92 acre parcel. A waiver from the critical slopes requirements, as set forth in Section 18.4.2 of the Zoning Ordinance, has also been requested. The site is zoned RA Rural Area. The property, described as Tax Map 21 Parcel 11A, is located in the Whit Hall Magisterial District on State Route 606 (Dickerson Road,) west of State Route 29, and south of the border with Greene County. The Comprehensive Plan designates this property as Rural Area. (Joan McDowell) DEFERRED FROM THE DECEMBER 12, 2000 PLANNING COMMISSION MEETING.

Mr. Benish stated he discussed with the applicant late this evening and two issues came up: First, in regards to condition #5 Mr. Benish stated he would again suggest a little more clear language. Mr. Benish proposed the language be simplified to say that after dark use of the playground shall be permitted until no later than 10:00 PM. This takes out potential ambiguity about what outdoor recreation is. The applicant is comfortable with the second sentence, which indicates lights will be shut off at 10:00 PM. Secondly, the applicant does have a little concern about ability to maintain security lighting on the site. This condition speaks to the primarily lighting of the playground.

Mr. Loewenstein asked about downward directed lighting in the entrance. Mr. Loewenstein knows of the complexity because of trying to light a couple of different areas. It seems we have often made reference to specific lighting conditions more directly than is done here. Mr. Loewenstein understands the problems associated with this application, but wonders if we could still add a reference to special conditions. Mr. Loewenstein did not have specific suggested wording.

Mr. Benish stated that was also something he was going to address. We realized the language was based on a best effort to depict, at this point in time, the type of lighting the applicant could foresee in the parking area and the update indicates there would be one pole for each parking lot planter. The way this condition is worded is so specific that if for some reason when we get to the final lighting plan there may be a preference, for example, to put one light on every other planter with two lights on the pole would be inconsistent with this condition and then we would have to modify the condition. Mr. Benish feels it was staff's probable effort to make sure a rural setting was not excessively illuminated but perhaps better wording would allow flexibility necessary when the ARB looks at the final lighting. This would be more reflective of our intent for lighting. This discussion took place after 5:00 PM today. Mr. Benish stated it was his wishes, as well as applicant wishes, to allow the Zoning Administrator to okay these types of changes. Mr. Benish's suggestion was, between now and the board meeting, that we clean up the language that addresses consistency with our lighting ordinance, thus giving more flexibility.

Mr. Rieley agreed the applicant was going to need some flexibility in dealing with this. They may put them in each of those islands and find it too bright in some places and too dark in other places. Mr. Rieley asked if there could not be something put in the language encouraging multiple shorter fixtures rather than large tall ones. In a rural area that is often the most important thing; how tall the fixtures are.

Mr. Benish will work on that. Mr. Benish wanted to point out at the time of the waiver request there was a misunderstanding between the applicant and the consulting staff on the assumption that the only area of critical slopes that was to be effected (with vegetation) was in the graded dark brown area. As Mr. Benish understands, the applicant would like to do some clearing

along the critical slope area. It does not require a waiver but there is a condition that indicates that plantings will be put in place to replace the vegetation loss.

Mr. Finley asked if staff and applicant are fairly well agreed. Mr. Benish stated he thought they were pretty much together on all the conditions.

Applicant –Ray Stark; Pastor of the Church - Mr. Stark stated he feels both applicant and staff have come to terms on most of this. Mr. Stark expressed appreciation to Mr. Benish for filling in tonight. Regarding item #5 of the conditions, the second sentence, Mr. Stark stated they talked about striking the first part of that sentence. Mr. Benish stated he was rewording the sentence as follows: (After dark use of the playground shall be permitted until no later than 10:00 PM.) Mr. Stark asked if the second sentence would be stricken. Mr. Benish stated he was going to leave the second sentence in as long as Mr. Stark was okay with turning out lights at 10:00 PM. Mr. Stark stressed he thought the second half leaves the statement ambiguous as to not doing anything outside after 10:00 PM. People would be leaving after 10:00 PM and we would need lighting for security purposes. Mr. Benish agreed.

Mr. Stark stated, as far as lighting design, they have done an initial photometric layout and it is not going to work with the lighting on the back. The back lighting has been put as 20 feet high and that will not work. Basically, Mr. Stark wants to illuminate the parking lot and the back play area and then have security lighting for entranceways. Mr. Stark stated he was open to whatever wording they needed to do. Mr. Stark basically stated he would do whatever was necessary to comply with county code. Regarding critical slopes waiver, again, the wording Mr. Benish referred to was clearing out the area and then replanting and leaving everything else as is. Mr. Stark stated his intention was to open up the area just south of the entrance on the way up to the northern property area to make the entrance more visible. Mr. Stark said they would design a landscape plan with an architect that would take care of critical slope areas, as well as leaving it an open area so they would be able to see the church.

Public comment was invited. There were no comments, the public hearing was closed.

Mr. Thomas asked to renumber the conditions as #9 is missing altogether.

Mr. Rodney Thomas moved approval of the special use permit subject to changes in the conditions (#4 is to be rewritten and #5 will have a change in the first sentence and eliminate the wording after 10:00 PM):

1. Church development shall be limited to the Phase I improvements, as shown on the Site Plan dated September 18, 2000, and labeled Northside Comm. Fellowship Church. The number of seats shall be limited to 200. Any future expansions of the facility or of the seating shall require an amendment to the Special Use Permit.
2. The length of time for which the church may begin construction shall be two years, provided all Health Department requirements at the time of the issuance of building permits shall be satisfied.
3. Commercial setback standards (50 feet for rear and sides), as set forth in Section 21.7.2 of the Albemarle Zoning Ordinance, for side and rear setbacks adjacent to rural areas shall be maintained.
4. Exterior lighting shall be limited to one light within each of the landscape islands within the parking area; wall lighting directed downward at the entrance; wall lighting on the rear of the building immediately adjacent to the temporary play ground area, as shown on the plan dated September 18, 2000.

5. After dark outdoor recreational/play activities shall be permitted in the area at the rear of the building designated temporary playground. The lights shall be turned off in this location no later than 10 P.M. and all outdoor activities shall cease at that time.
6. Subject to the approval of the Virginia Department of Transportation, prior to the issuance of a Certificate of Occupancy, the applicant shall surface the roadway from just beyond the proposed church entrance southward to the end of the existing asphalt surface. The length of the roadway surfacing would be approximately 600 feet.
7. Clearing of trees for the parking area, driveway, play areas and church shall be kept at the minimum required for the improvements. Tree protection measures shall be employed in order to minimize damage to tree roots.
8. Day care use shall be prohibited unless approved through a special use permit amendment.
9. Trees and plant material shall not be disturbed within 25 feet of the west, north, and south property line buffers.
10. A required landscape plan shall include soil erosion mitigation measures within the critical slope that includes the installation of trees, shrubs and groundcovers.
11. An additional 25% landscaping materials above the minimum required landscaping materials shall be installed within the parking area, to offset removal of trees and plant material along State Route 606 and the interior of the site. The additional landscaping shall consist of a mixture of evergreen and deciduous plant materials.
12. A 25-foot dedication for right-of-way shall be required along the State Route 606-property frontage.

- Mr. William Finley seconded approval and this passed unanimously. This will go to the Board of Supervisors on February 14, 2001.

- Mr. Will Rieley moved to accept the request for a critical slope waiver subject to the conditions as listed.

1. A stormwater management plan shall be submitted for approval with the final site plan.

2. Subject to the approval of the Engineering Department, a bond shall be required to ensure siltation control during construction.

3. Landscaping shall be required on the new fill slope and on the existing critical slope, subject to the approval of the Planning Department Director or designee.

- Mr. William Finley seconded approval and this passed unanimously. It will go before the Board of Supervisors on February 14, 2001.

SP-2000-59 Glen Echo Barn Access/Stream Piping (Sign #90, 91) – Request for special use permit to allow a stream crossing in accordance with Section 30.3.05.2.1 (2) and (5) of the Zoning Ordinance which allows for stream crossings and engineered structures in the flood plain. The property, described as Tax Map 47 Parcel 3, contains 406.18 acres, and is located in the Rivanna Magisterial District on Glen Echo Farm Road, located off Route #649 approximately 3 miles east of the intersection with US 29 North. The property is zoned RA Rural Area. The Comprehensive Plan designates this property as Rural Area. (Scott Clark) DEFERRED FROM THE DECEMBER 12, 2000 PLANNING COMMISSION MEETING.

Mr. Clark presented the staff report.

Mr. Rooker opened for public hearing.

Applicant – Kurt Gloeckner of Gloeckner Engineering. Mr. Gloeckner stated Mr. Clark did a great job in presenting the application. Mr. Gloeckner presented a map. Mr. Gloeckner stated that mother nature had pretty much helped the flood plain by eroding the far side on the inside corner, which probably has lowered the flood plane in the entire region. The reason the owner went ahead is that, from this point, the actual installation is over ¼ of a mile. Nobody actually thought about flood plane until the county went out for inspection in the beginning of the barn. Mr. Gloeckner presented a picture showing pasture that had been planted. The photograph also showed the barn construction and the stream crossing. Mr. Gloeckner also had photographs showing the stabilization and silt fence, which is still in place while grass is getting a toehold. With the cold weather this has slowed down a lot. The picture was a month old. When Mr. Gloeckner came to see progress the crossing was already in. The owner, in order to have horses go in and out of these streams, had the contractor raise 4 and 5-to-1 slopes and essentially take the steep drop out of the streambanks so that what was once cattle pasture was now easy to get through. He did not spread the stream out, rather just knocked the banks down. I recommended he take all the material and put it out of the flood plane; almost 2000 cubic yards more went out than was brought in for his crossing. This ends in a slight drop in the entire flood plane. The last picture showed existing banks upstream.

Mr. Rodney Thomas asked how the Engineering Department proves that the embankments have been adequately stabilized to prevent erosion and sedimentation downstream.

Mr. Jeff Thomas, Engineer, stated that the erosion control inspectors are aware of the crossing. They will go out to inspect it and will determine whether it is adequately stable.

Mr. Rodney Thomas asked if Mr. Jeff Thomas felt the screening used now for silt intention is good enough for a silt fence. Mr. Thomas said their main concern is to stabilize as quickly as possible. Mr. Thomas feels that is the most effective erosion control.

Mr. Loewenstein stated he was very closely familiar with this site as it is close to his own property. Mr. Loewenstein has walked these fields for a couple of decades and has watched the entire process unfold. He feels a really excellent job has been done; the site is greatly improved over what was there. The work already done has stabilized the entire area considerably.

Ms. Hopper asked about condition #2 where it states the County shall have the right to enter property with prior notice. Ms. Hopper was wondering if that ran with the land and, if Mr. Watson were to sell that, could anyone else get the access.

- Mr. Jared Loewenstein moved approval of the request for a special use permit subject to the following conditions:

1. Within four months of the approval of this permit, the applicant must demonstrate to the Engineering Department that the barn access road embankments have been adequately stabilized to prevent erosion and sedimentation downstream.
2. The County shall have the right, after providing reasonable prior notice to the occupant, to enter the property during daylight hours for the purpose of inspecting this stream crossing in order to verify that no additional fill has been placed in the floodway and the stream crossing remains stable.

- Mr. William Finley seconded the motion, which carried unanimously. This will go before the Board of Supervisors on February 14, 2001.

SP-2000-61 Chapman Grove Baptist Church Foyer Addition (Sign #82) – Request for special use permit to allow changes and additions to the church entry, including a ramp and a handicapped –accessible restroom, in accordance with Section 10.2.35 of the Zoning Ordinance which allows for church bu9ilding and adjunct cemetery. The property, described as Tax Map 62 Parcel 67, contains 0.82 acres, and is located in the Rivanna Magisterial District on Stony Point Road (Route #20) approximately 0.1 miles from Route 769. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

Staff report was presented by Scott Clark.

Mr. Loewenstein stated tthat it appears from the site plan that the changes that the church is proposing will not impact the other building on the site, which is directly across the parking lot. As Mr. Loewenstein understands it, that building is the oldest surviving African-American school building in the county.

Mr. Clark stated there was no change proposed to that site at all.

The public hearing was opened. There were no speakers.

Mr. Rieley stated he thought it was a good idea for the applicant to work with the neighbors to get better site distance and he is sure folks from VDOT are accurate. Mr. Rieley suggests that his concern is if the neighbor was not cooperative that would invalidate this site plan waiver for a project in which there is no increasing use, there is improvement to the property. Mr. Rieley asked if there is a way to encourage this without making it a condition of the site plan waiver.

Mr. Rooker stated he would be in favor of eliminating condition #3.

Applicant – Mollie Faggans – Trustee of Chapman Grove Baptist Church Ms. Faggans has talked with Ms. Kellum and she agreed to let them grade the bank down some. VDOT was out today with Rieds Gentry, the person who is going to do the grading and enlarge the entrance from 20 to 30 feet. Ms. Faggans stated she was going to get permission from the neighbor for Mr. Gentry to do this work.

- Mr. William Finley moved to approve the request for a special use permit subject to the following conditions:

1. The length of time within which the church may begin construction shall be two years from the date of approval, provided all Health Department requirements at the time of the issuance of building permits shall be satisfied.
2. Day care use shall be prohibited unless approved through an amendment to this permit.
3. The number of seats permitted within the area of assembly shall not increase, unless by an amendment to this special permit.

- Mr. Will Rieley seconded and the motion passed unanimously.

SDP-00-129 Chapman Grove Baptist Church – Waiver – Request for a site plan waiver to accompany a special-use permit for the construction of a new entrance on the Chapman Grove Baptist Church on 0.82 acres zoned RA Rural Areas. (Scott Clark)

- Ms. Tracy Hopper moved to approve the request for a site plan waiver with the first two conditions and deletion of the third condition.

1. The Albemarle County Board of Supervisors shall have first approved the applied-for special use permit (SP 2000-61) for the existing Chapman Grove Baptist Church.
2. The Albemarle County Architectural Review Board shall have approved a Certificate of Appropriateness for this application.
3. Applicants must demonstrate to the satisfaction of the Virginia Department of Transportation and the Albemarle County Department of Engineering and Public Works that sufficient sight distance along Route 20 to the north has been secured.

- Mr. Jared Loewenstein seconded approval and the request passed unanimously. This will go before the Board of Supervisors on February 14, 2001.

SP-2000-62 Millstone Preschool Expansion (Sign #88, 89) - Request for a special use permit to allow the expansion of an existing daycare center, in accordance with Section [10.2.2.7] of the Zoning Ordinance which allows for daycare, childcare or nursery facilities. The property, described as Tax Map 58 – Parcels 37 and 37C2, contains approximately 5.086 acres, and is located in the Samuel Miller Magisterial District on Morgantown Road [State Route #783] next to Murray Elementary School. The parcel is zoned RA, Rural Areas, and the Comprehensive Plan designates this property as Rural Area. (Stephen Waller)

Staff report was presented by Mr. Stephen Waller.

Mr. Rodney Thomas asked about the conditions 4a. and 4 b. Mr. Thomas wanted to know if the applicants did not automatically have to have the Department of Welfare Child care licenser. Mr. Waller said it was put in to reinforce that. All three of the conditions in #4 were added to emphasize that these are required.

Floor was opened up to the public.

Mr. Waller shared a letter from the public. Copies of the letter were handed out to each Commissioner.

- Mr. Will Rieley moved for approval of the special use permit subject to the following conditions:

1. Enrollment shall be limited to the lesser of the number of students as approved by the Health Department, and the Department of Social Services. In any event, the maximum number of children shall not exceed fifty (50).
2. The daycare center shall be constructed with the appearance of a dwelling unit.
3. Virginia Department of Health approval of adequate septic and drainfield facilities.
4. The applicant shall comply with the provisions set forth in Section 5.1.06 of the Zoning Ordinance:

5. No such use shall operate without licensure by the Virginia Department of welfare as a childcare center. It shall be the responsibility of the owner/operator to transmit to the zoning administrator a copy of the original license and all renewals thereafter and to notify the zoning administrator of any license expiration, suspension, or revocation within three (3) days of such event. Failure to do so shall be deemed willful noncompliance with the provisions of this ordinance;
6. Periodic inspection of the premises shall be made by the Albemarle County fire official at his discretion. Failure to promptly admit the fire official for such inspection shall be deemed willful noncompliance with the provisions of this ordinance;
7. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia department of Welfare, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.
8. Administrative approval of the site plan.

- Mr. Rodney Thomas seconded approval and the vote carried unanimously. This goes before the Board of Supervisors February 14, 2001.

SDP-00-130 Millstone Preschool – Request for preliminary site plan approval to allow the construction of a 3,400 square foot building for the expansion of an existing daycare center, allowed by special use permit SP 92-05. (Stephen Waller)

Mr. Waller stated this site plan should not be up for review at this meeting. It was put on the agenda in error.

SP-2000-64 David Weber (Triton PCS) (Sign #66) –Request for special use permit to allow a communication facility which includes a 94' high steel monopole, ground equipment, and flush mounted antenna on a 900 square foot lease area, in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for micro-wave and radio-wave transmission and relay towers. A site plan waiver has been requested, as well as a setback waiver from the property line-bordering Route 708, in accordance with Section 4.10.3.1 of the Zoning Ordinance. The property, described as Tax Map 73 Parcel 31D, contains 10.31 acres, and is located in the Samuel Miller Magisterial District on Dry Bridge Road [Route #708] between I64 and Dick Woods Road (Route 637.) The property is zoned Rural Area (RA.) The Comprehensive Plan designates this property as Rural Area. (Joan McDowell)

Mr. Benish spoke with applicant in the absence of Joan McDowell. The applicant agreed to a two-week deferral and this will not effect their court date. Staff will bring this before the Planning Commission on January 23, 2001 if the Planning Committee opens for public comment tonight.

The public hearing was opened. There were no speakers.

Mr. Will Rieley moved to accept deferral request for special use permit until January 23, 2001. Mr. Jared Loewenstein seconded and the motion carried unanimously.

With no further business the meeting adjourned at 9:16 PM.

V. Wayne Cilimberg, Secretary

Recorded and transcribed by Liz Hart.