January 23, 2001

The Albemarle County Planning Commission held a public meeting on Tuesday, January 23, 2001, 6:00 p.m., Meeting Room #235, County Office Building. Those members present were: Dennis Rooker; Chairman, Will Rieley; Vice-Chairman, Pete Craddock; Jared Loewenstein, William Finley; and Rodney Thomas. Absent from the meeting were: Tracey Hopper. Staff members present were Greg Kamptner, Assistant County Attorney and Wayne Cilimberg, Director of Planning & Community Development.

A quorum was established and the meeting called to order.

Other Matters Not Listed on the Agenda From the Public – None were offered and the meeting continued.

Review of the Board of Supervisors Agenda – January 10, 2001 and January 17, 2001. – Mr. Cilimberg gave an overview of the Board's actions for these meetings.

Consent Agenda:

SDP-00-141 University Florist Cooler Addition Minor Site Plan Amendment – Angled Parking and one-way circulation modifications request. (Stephen Waller)

Mr. Thomas moved for approval of the Consent Agenda as presented.

Mr. Craddock seconded the motion, which carried unanimously.

SP-2000-63 Grace Episcopal Church (Sign #65) – Request for special use permit to allow a 4,145 square foot expansion of an existing 3,653 square foot church in accordance with Section 10-.2.2.35 of the Zoning Ordinance which allows for church buildings and adjunct cemeteries. The property, described as Tax Map 065 Parcels 52, 52A, and 85A, contains a total of 11.19 acres, and is located in the Rivanna Magisterial District at 5609 Gordonsville Road [Route # 231just north of the intersection of Rt. 600. The property is zoned Rural Area (RA). A site plan waiver has also been requested. The Comprehensive Plan designates this property as Rural Area. It is also located within an Entrance Corridor District and within the Southwest Mountains Historic District. (Joan McDowell) ***DEFERRED FROM THE DECEMBER 12, 2000 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO JANUARY 30, 2001.***

Mr. Rieley moved to accept the applicant's request for deferral to January 30, 2001.

Mr. Thomas seconded the motion, which carried unanimously.

ZMA-2000-007 Mill Creek North – Village Homes II (Sign #71) – Request to rezone 7.1 acres to amend the existing Mill Creek PUD to increase the allowed number of dwelling units. The property, described as Tax Map 90C, Parcels D&E, is located in the Scottsville Magisterial District on Stony Ridge Road on the south side of the Southern Parkway. The Comprehensive Plan designates this property as Neighborhood Density, recommended for 3 - 6 dwelling units per acre in Neighborhood 4. (Elaine Echols) ***DEFERRED FROM THE NOVEMBER 28, 2000 PLANNING COMMISSION MEETING.***

Ms. Echols presented the staff report, noting that the updated application plan is clearer to understand, especially in the open space. At this time most of the issues still have not been addressed. The outstanding issues that need resolution:

- Stormwater issues to ensure the adequacy of stormwater protection.
- Location of water quality measures if used on-site, should be shown on the preliminary site plan.

- The reconstruction of slope. There is a proffer that speaks to reconstruction of slopes, but does not adequately address stabilization of the entire site.
- Vegetation shown for screening of the properties from the two roads should be located in open space maintained by a homeowner's association rather than on individual lots.
- Private road will require separate Planning Commission approval through a subdivision action.
- Open space. There are some open space needs in terms of the protection of the screening trees. A homeowners association more reliably maintains the screening on the exterior of the development.

Mr. Rooker asked if the Commission has the power to defer this application, noting the legal timeframe involved.

Mr. Echols stated that if there is a deferral it would have to be at the request of the applicant.

Mr. Rodney Thomas asked if there was any information that could be provided on the critical slope reconstruction. What would the developer have to do in order to satisfy the ordinance standards?

Mr. Rooker pointed out that there is a difference between what the ordinance may require and what staff may be recommending, noting that the Commission is dealing with a rezoning and proffers.

Mr. Jeff Thomas stated that 2:1 slopes are the steepest slopes that will be accepted by the Engineering Department, pointing out that slopes that are not as steep would be better around single family homes. One concern is making sure that there is suitable ground cover for stabilization, noting that grass cover on 2:1 slopes can be a maintenance problem.

Mr. Rooker asked what percentage of the sites is proposed to be in 2:1 slopes.

Ms. Echols pointed out on the plan the location of the 2:2 slopes.

Mr. Craddock asked if the existing houses were located on 2:1 slopes.

Mr. Jeff Thomas pointed out that the reconstructed slopes are 2:1.

Mr. Finley asked if the concern with the 2:1 slopes was one of stability or steepness.

Mr. Jeff Thomas stated that stability is the main concern, the other would be desirability. None of the slopes appear to be too tall, but proper stabilization on the slopes is a concern.

Mr. Echols pointed out that 13.7% of the site is in critical slopes

Mr. Rooker invited comment from the applicant.

Mr. Steve Blaine addressed the concerns raised by staff. If the Planning Commission can not take action on this request tonight, he would like to leave here with a punch list knowing what the applicant needs to do. He pointed out that there was a site plan approved in 1993 that was virtually the same as this request, noting that the applicant felt this was fairly straightforward way to proceed with the existing site plan. He spoke to the following items:

- Stormwater issue—This issue arose because the Engineering Department observed that the existing stormwater pond used by Mill Creek is experiencing siltation. He pointed out that their engineer has concluded that while it's not best suited for water quality or erosion sediment control, it would still manage the capacity of stormwater runoff.

Mr. Rieley asked if the applicant's engineer had submitted calculations to re-enforce this.

Mr. Blaine stated that the engineer felt that the calculations originally submitted would not change.

Mr. Blaine continued addressing the following items::
- Water quality measures will be dealt with on-site and can be reflected on the site plan.
- In terms of the 25% slopes, the applicant attempted to respond to the Engineering Departments concerns about stabilization with the proffer. There are areas where there will be 2-1 reconstructed slopes. Because of the surrounding characteristics

  and the location of building pads, it is necessary to maintain the lot layout of 2:1

reconstructed slopes. In an attempt to address the stabilization issues, they suggested using a more permanent or lower maintenance vegetative approach.

Mr. Rooker noted staff's concern with the stabilization of some slopes outside of the 2:1 slope area. He asked if the applicant intends to address this concern.

Mr. Blaine pointed out that the proffer language was expanded to include areas adjacent to reconstructed slopes, pointing out that this would have to be approved by the Engineering Department.

Mr. Blaine continued addressing the following items:

- In terms of the private road there will be a subdivision plat, which is typically submitted when the demising wall is put up. If it is necessary for the Planning Commission to review the private road standards at this time, they will bring it back. He submitted that the Planning Commission could approve the private road given the site plan information already submitted.
- The applicant has met with the Mill Creek Homeowners Association to address concerns about screening and buffering. Since the last submittal there has been discussion with representatives of the homeowner's association about expanding the open space area to provide more common area for landscaping and screening.

Mr. Rooker ascertained that the proposal is not included in the proffers presently before the Commission.

Mr. Blaine stated that this would be submitted with the final site plan.

- Regarding architectural convents, there will be a separate owners association with its own regime for architectural control.

Mr. Finley ascertained that the applicant felt the pond was sufficient for retention without dredging.

Mr. Rodney Thomas asked why another site plan is necessary, noting the approved 1993 site plan.

Mr. Kamptner stated that the 1993 site plan has expired.

Mr. Craddock ascertained that this area was included as part of the Mill Creek PUD.

Public comment was invited.

Paco Hope, President of Mill Creek Homeowner's Association stated that as a neighborhood they have no major objection to this development. Noting that the applicant, Hunter Craig, has frequently contacted the homeowners association during the process. He noted their concern about architectural consistency between the existing homes and the new homes. The proposal is bordered on three sides by

existing developments—Village Homes One, Creekside, and Mill Creek North. All four developments should be compatible in terms of exterior building materials, building style, and colors. He pointed out that Mr. Craig could not commit that he would require the builder to build in a compatible style, however, he has offered to work with the homeowners association and the builder

Kevin Martin, Vice-President of the Homeowners Association spoke to vegetative screening, open space and common area, critical slopes and stormwater. Mill Creek has expressed a heightened concern over open space and vegetative screening between adjacent homes and roads. The applicant has designated land around the perimeter of the development as open space common area to be controlled by the homeowners association. In order to accommodate this open space, rear setback requirements may have to be modified. The homeowners association asks that the Planning Commission approve this modification. The applicant has provided a written commitment to the homeowners association to purchase a number of trees and is allowing our homeowners association to work the landscape architect to place the trees where they would be most effective. The association supports lot designs that preserves as many existing trees on and around these lots while also ensuring that lots are adequately stabilized to eliminate soil erosion. They would like extra care be taken on the part of the developer and the builder to save as many of the existing trees as possible. With respect to stormwater control, they would support only stormwater being directed from Village Homes II to the existing pond if the following are met: (1) assurance from the County that there would be no adverse impact to the pond in terms of stormwater storage capacity; (2) there would be no additional siltation sent to the pond, and (3) using the pond would result in trees being saved that would otherwise be removed to construct a stormwater detention basin site. Neighbors are concerned about erosion from this property and impacting their homes and/or the pond. Erosion and sedimentation control measures should be implemented on the subject property, not on the existing Mill Creek property.

Helen Merrick spoke to the architectural compatibility concern, noting that Mill Creek, Creekside and Village Homes One were all built by a builder who felt they should be compatible. She noted her concern with compatibility in an area where there are duplex homes and there is no architectural consistency within the development and with the surrounding area.

Kevin O'Connor stated that the three main issues are architectural compatibility, vegetation and stormwater control.

Mr. Blaine stated that he would respond to any questions the Commission may have. He noted that the applicant respects the concerns raised about architectural compatibly. It is likely that one or two of the builders will be builders that have been involved in the development of Mill Creek, however, this can not be guaranteed.

Mr. Loewenstein noted the Engineering Department's concern regarding 2:1 slopes and

stabilization of those slopes and the issue of stormwater. How could the existing facility be upgraded to lessen the likelihood of failure in the future?

Mr. Blaine stated that regarding critical slopes, they understand that the concern is stabilization. They have agreed to address stabilization on the slopes and adjacent to the slopes. He pointed out that a 2:1 slope is a feature throughout Mill Creek and this area. The way to cope with this is to address the concern beyond what is required by the ordinance.

Ms. Elaine noted that there are two issues: (1) the disturbance of the existing critical slopes, and (2) the site grading. In terms of critical slopes, staff would like to see more 3:1 and 4:1 slopes. At the 3:1 and 4:1 slopes there would not be an opportunity with additional grading to impact trees. On the eastern side of the site almost all of the houses have a steep slope out from the house. One of the opportunities of a planned district is the opportunity to create setbacks. There is a strong opportunity here to create setbacks, they might be slightly different from what is in the other section but may provide opportunity for regrading of slopes.

Mr. Rooker pointed out that in proffer #6 proposed by the applicant, the second sentence reads "after site improvements are completed the disturbed 25% slope areas must either meet a 2:1 grade or in the alternative the applicant may satisfy this proffer by installing retaining walls where slopes of 25% or greater are disturbed so long as a 3:1 finished grade…" It appears that this sentence is incomplete.

Mr. Blaine stated that this should read "after site improvements are completed the disturbed 25% slope areas must either meet a 2:1 grade or in the alternative the applicant may satisfy this proffer by installing retaining walls where slopes of 25% or greater are disturbed so long as a 3:1 finished grade is achieved."
Mr. Rooker asked if with respect to this proffer, does staff have an opinion as to which would be the more desirable way of dealing with the slopes.

Ms. Echols pointed out that the ordinance speaks to 2:1 slopes. If the applicant wants to minimize the use of 2:1 slopes, trying to achieve 3:1 or 4:1 slopes and use retaining walls and low maintenance vegetation, she felt an agreeable proffer could be reached.

Mr. Rieley stated that he would like to see the site plan resolved to the degree at which the 3-1 or 4-1 slopes are shown not as a percentage, but in their actual location. He did not feel a site like this could be expected to develop without some 2:1 slopes. He felt the Commission should work to minimize the 2:1 slopes, particularly where they are most relevant to how people live day to day.

Mr. Finley asked if the applicant was in agreement with the Engineering Department in terms of erosion and sediment control.

Mr. Blaine replied that this would be addressed with the final site plan submittal.

Mr. Loewenstein noted that the stormwater management facility needs to be improved and asked how the applicant proposes to address this.

Mr. Blaine noted that a letter from Mr. Muncaster addressing stormwater management has been provided to the Engineering Department. Upon consideration of this, he felt the Engineering Department would conclude that what they are proposing is appropriate for stormwater.

Mr. Rooker pointed out that the water quality measures that would be used on-site should be shown on the site plan.

Mr. Rieley questioned the degree to which the Commission may act to enforce architectural consistency with the existing neighborhood.

Mr. Kamptner stated that because this is a PUD it is also reviewed under 8.0 of the Zoning Ordinance. One of the things that the Commission is directed to look at is the adequacy of the evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, dedications or other instruments or to consider the need for such instruments. Since this is a planned development, the Commission is to consider the relationship of this development to the surrounding areas. As part of this the Commission can make their recommendation for approval conditioned upon certain modifications of the application plan. He stated that rather than dictating a particular architectural style, he would recommend a language that would subject it to review for consistency with the surrounding existing residential development.

Mr. Rooker asked what type of language the County Attorney's Office would recommend to be included in a condition or a proffer by the developer to assure that the development is consistent with existing residential development.

Mr. Kamptner stated that the proffer could state that the development shall be in general accord with something that exists. This may simply be that the physical appearance of this particular development shall be in general accord with the surrounding neighbors. Photographs of the general appearance of the surrounding areas could support this.

Mr. Blaine stated that in a planning and rezoning application you look at compatibility and consistency in the neighborhood. When you speak to architectural control, design, color, then as seen in the limited statutory authorization the county has prescribed perimeters. He pointed out that this proposed development contains all the same features of the surrounding development, particularly in Village Homes I. Again, he pointed out that they can not guarantee who the builder will be, but there is indication that the builder will have experience in developing in Mill Creek.

Mr. Kamptner pointed out that one of the stated purposes of a planned development

district is to provide for appropriate and harmonious physical development.

Mr. Rooker stated that the language recommended by Mr. Kamptner is not specific in its dictates as to architectural treatment, it basically speaks to consistency with the existing development.

Mr. Loewenstein stated that he is concerned about how the term consistency would be interpreted.

Mr. Kamptner stated that this should be discussed with the Zoning Administrator since they will be enforcing this condition. He pointed out that he would not suggest that because the development style appearance in this phase does not match the photographs taken of the surrounding phases necessarily means that this particular style is inconsistent.

Mr. Rooker pointed out that the Commission would like staff to work on some proposed language for this proffer and provide a copy to the applicant.

Mr. Kamptner stated that in drafting this proposed proffer, staff will approach this recognizing that the homeowners associations have stated that they are satisfied that what will be going in there will be satisfactory.

Mr. Blaine stated that the applicant will request a deferral of this petition. He noted the following concerns raised by the Commission:

-general consistency with the surrounding development.
-work with the neighbors
-continuity
-stormwater and water quality

Mr. Rieley stated that he found the neighbors concern for not having an architectural counterpoint to what is existing quite legitimate. He would like staff to work toward realizing this concern within the limits of the ordinance. Regarding stormwater and water quality in the existing pond, utilizing the existing stormwater management makes a lot of sense to the degree possible. He felt the applicant's engineer is correct in that the siltation has not effected its capacity to deal with the stormwater runoff as this is a function of freeboard, not a function of overall capacity of the pond. Water quality is a function of the overall capacity of the overall volume of the pond. He asked if any thought had been given to the possibly of dredging the pond.

Mr. Jeff Thomas stated that this issue has been raised, noting that the existing facility does not have the capacity because of its siltation to handle water quality.

Mr. Rooker noted that one point the staff report states that "if the water quality measures are to be used on the site, the preliminary site plan should show the location of these facilities." He ascertained that the applicant intends to include the location of the water quality measures on the preliminary site plan.

Mr. Blaine asked if this area was considered wetlands.

Mr. Rieley replied that a flooded area is not wetlands.

Mr. Finley noted that one comment made by the Engineering Department states that if the pond is not dredged a survey of the existing condition would be required. He asked if the Commission is requiring this to be completed before the preliminary site plan is reviewed.

Mr. Rieley stated that this effects the site plan, grading and the number of trees that need to be removed.

Mr. Rieley stated that to the degree possible he would like to see a comparative analysis of dredging versus on-site handling of water quality issues. The sedimentation and loss of capacity in the pond is a detriment to the entire area.

Mr. Rooker noted that the applicant is requesting a deferral and asked when this could be rescheduled for review.

Mr. Cilimberg stated that he would like the Commission to defer this to a date specific.

Mr. Blaine asked for a deferral to February 20, 2001.

Mr. Finley moved to accept the applicant's request for deferral to February 20, 2001.

Mr. Rieley seconded the motion, which carried unanimously.

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 I 64 and Dick Woods Road (Route 637). The property is zoned Rural Area (RA). The Comprehensive Plan designates this property as Rural Area. (Joan McDowell)) ***DEFERRED FROM THE JANUARY 9, 2001 PLANNING COMMISSION MEETING.***

Ms. McDowell presented the staff report.

Mr. Rooker asked if the ARB when considering a tower in the Entrance Corridor has the power to deny a Certificate of Appropriateness or do they deal with the issues of appropriate conditions given the fact that a tower may be located in the Entrance corridor.

Mr. Cilimberg stated that the ARB provides two roles (1) advisory to the Commission regarding the special use permit and (2) in terms of if it is allowed how is it conditioned to minimize impact.

Mr. Finley stated for the record that he has a relative on the adjoining property, he has no financial interest in this property. He has discussed this with the County Attorney and concluded that there is no conflict of interest.

Ms. McDowell noted that a balloon test was undertaken and pictures of this were e-mailed to all the Commission members. She noted that due to visibility issues, staff is recommending denial of the setback waiver and denial of the request for a special use permit.

Mr. Craddock noted that condition #1 states that the top of the pole shall never exceed ten (10) feet above the top of the tallest tree. He asked if this was a standard height.

Mr. Cilimberg stated that this reflects the request of the applicant. This is also in compliance with the policy approved by the Board of Supervisors.

Mr. Rooker invited applicant comment.

Valerie Long stated that a second balloon test was not conducted. All the photos sent by staff and myself were the pictures taken by staff. She also noted that she has had at least one application recommended for denial because the ARB deemed it was too visible from the Entrance Corridor. She pointed out that this application is consistent with the county's policy in terms of design, materials and colors. A steel pole will be used and will be painted brown. She pointed out that they are asking for a 94' pole. Some strong factors regarding this application that were not addressed in the staff report include: takes advantage of an existing access road; no tree removal will be required; existing screening helps mitigate the visibility of the facility. She pointed out the following proposed features:

- cedars are proposed on either side of the fence;
- the metal gate will be replaced with a wooden opaque which will act as additional screening screening,
- shade tolerant bushes will be placed at the base of the pole
- white pines will be planted to further break up the view from those traveling on Rt. 708.

Mr. Rooker questioned the height of the white pines.

Ms. Long stated that the cedars will be 6' high at planting, the shrubbery around the base of the pole will be 3-gallon plant, and the white pines will be 6' high at planting. She noted the Design Planners determination regarding visibility from the Entrance Corridor and read this into the record as follows:

> **"**the balloon and the existing monopole were viewed from the interstate, but most views were short and through trees. From the west bound lanes the trees in the median and on the south side of the interstate served to screen the pole and the balloon such that it is anticipated that the pole will not be noticed. In the eastbound lane, west of Route 708 overpass, the existing monopole is visible for a brief period of time but is not very noticeable. East of the overpass when travelling directly in front of the site and looking directly south, the existing monopole is clearly visible. It is seen amiss the surrounding trees beyond an open area. At the time the balloon test was conducted in early December most of the leaves had fallen from the trees so there will be better screening in other months of the year. Also, due to the existence of other trees closer to the interstate the viewer must turn directly to the south or look back over the shoulder to view the poles. So it is anticipated that the pole will have limited noticeability. The visual impact on the proposed monopole on the Entrance Corridor is not expected to obtrusive or intrusive**.** The monopole is not visibility incompatible with the surrounding trees."

Ms. Long noted staff's concern regarding visibility from Route 708. Photographs were provided showing the balloon through the trees. She noted that the existing pole is move visible now than it will be in the summer months. The County policy requires the poles to be brown and slender and sited in the growth of trees. She noted that they are open to suggestions on improvements to the landscaping proposal. The purpose of the County's policy on wireless facility was to be an effort to provide the community with wireless communication services, but not at the expense of damaging the views of the county. They are trying to mitigate visibility through the use of shorter poles, the use of brown poles, camouflage is being used to make the pole look as much like a tree as possible, and the use of concealment. The impact will be very minimal, as there will be no tree removal, no grading, and no clearing.

Ms. Long asked that the Planning Commission grant the setback waiver set forth in Section 4.10.3.1 governing setbacks from property lines related to the height of structures.

Mr. Finley asked if the photographs taken by the Design Planner were available for review.

Ms. Long provided the photographs taken by the Design Planner.

Mr. Rodney Thomas expressed his concern regarding the poles proximity to the road.

Ms. Long explained that they try to meet the 1:1 setback and look for the location on the property that results in the least amount of visibility. The facility would be 54' from the edge of the right-of-way, the height of the pole is 94' . If this were sited the 94' away from the right-of-way it would be in the middle of the open field and would be visible from the interstate. The engineers who work for the manufactures of the pole have provided wind load requirements and the stability of the pole. Based on their research, they are not able to document any incident where pole has fallen down due to natural causes.

No public comment.

Mr. Rieley stated that he supports staff's recommendation for denial pointing out that this pole will be more visible than the existing pole. Attributes of this property have been presented before, and the Commission found them compelling enough to approve two other tower locations on this site. The Webber site is marginal because of the fact that it is not a wooded site but a pasture with trees. The existing pole is visible. He was unsure that this site could stand another facility.

Mr. Thomas expressed concern with the request for a waiver of the setback requirements. He did not feel it was safe to put the towers this close to the road.

Mr. Rooker stated that he has consistently opposed waiver of setbacks where there is an objection of nearby property owners. He felt this was a visible site He also noted that he has been consistently opposed to the aggregation of towers on property and advocated taking out of the standard language, language that promotes co-locations. The location of a third tower on this property in the Entrance Corridor would make the cumulative effect of the site highly visible. He stated that he supports staff recommendation for denial.

Mr. Loewenstein stated that this site is visible but was unsure it was as visible as suggested. The fact that there would be a third tower in this location is a mitigating factor.

Mr. Craddock stated that he did not feel that if one were driving down the road that they would pay any attention to the tower. He did express his concern with tower farms.

Mr. Rooker stated that he felt the Commission could take into account the fact that there is more than one tower located in this proximity.

Mr. Rieley stated that the height and diameter of the pole should be addressed. He also stated when driving to the west the pole was highly visible.

Mr. Thomas reiterated his concern regarding safety.

Mr. Loewenstein stated that as these applications continue, applicants would probably look to the existing sites as a point of beginning. This issue of proliferation can continue to be raised.

Mr. Rooker pointed out that the Commission has approved two towers on this site as well as approved requests for towers by this applicant on other locations. However, a third tower on this site would create a very visible tower farm.

Mr. Rieley moved to accept staff's recommendation for denial of SP-2000-64.

Mr. Thomas seconded the motion, which failed by a vote of 4-2 (Mr. Rooker and Mr. Rieley voting in favor of the denial).

Mr. Rooker asked if there was another motion.

Mr. Finley moved for approval of *SP-2000-64,* subject to the following conditions:

1. The top of the pole, as measured Above Sea Level (ASL), shall never exceed seven (7) feet above the top of the tallest tree within twenty-five (25) feet of the facility, as measured Above Sea Level (ASL). No antennas or equipment, with the exception of the grounding rod, shall be located above the top of the pole.

2. The pole shall be designed, constructed and maintained as follows:
   a. The pole shall be a wooden pole, dark brown in color;
   b. Guy wires shall not be permitted;
   c. No lighting shall be permitted on the site or on the pole, except as provided by condition number nine (9) herein;
   d. The ground equipment cabinets, antenna, and all equipment attached to the pole shall be dark brown in color and shall be no larger than the specifications as shown on the attached plan entitled "Alltell/I-64 East Site."
   e. A grounding rod, not exceeding two feet above the top of the pole, and with a width not to exceed one-inch diameter at the base and tapering to a point, may be installed at the top of the pole.
   f. Prior to issuance of a building permit, the applicant shall provide a statement to the Planning Department by a licensed surveyor certifying the height of the tallest tree, as identified in condition number one.
   g. Within one month after the completion of the pole, the applicant shall provide a statement to the Planning Department certifying the height of the pole, measured both in feet above ground and also measured Above Sea Level.
   h. The pole can never extend above the top of the tallest tree, except as described in condition number one of these conditions of approval, without prior approval of an amendment to this special use permit.

3. The pole shall be located as follows:

a. The pole shall be located on the site as shown on the attached plan entitled “Weber Property” and dated 11/22/00.
b. The proposed facility shall be located not more than 25 feet from the existing access road.

4. Antennas shall be attached to the pole only as follows:
   a. Antennas shall be limited to those shown on the attached plan entitled ““Weber Property” and dated 11/22/00.
   b. No satellite or microwave dishes shall be permitted on the pole.
   c. Only flush mounted antennas shall be permitted. No antennas that project out from the pole beyond the minimum required by the support structure, shall be permitted. However, in no case shall the antennas project out from the pole more than 12 inches.

5. Prior to beginning construction or installation of the pole or the equipment cabinets, or installation of access for vehicles or utilities, a tree conservation plan, developed by a certified arborist, specifying tree protection methods and procedures and identifying any existing trees to be removed on the site both inside and outside the access easement and lease area shall be submitted to the Director of Planning and Community Development for approval. All construction or installation associated with the pole and equipment building, including necessary access for construction or installation, shall be in accordance with this tree conservation plan. Except for the tree removal expressly authorized by the Director of Planning and Community Development, the permittee shall not remove existing trees within two hundred (200) feet of the pole and equipment building. A special use permit amendment shall be required for any future tree removal within the two hundred-foot buffer, after the installation of the subject facility.

6. The pole shall be disassembled and removed from the site within ninety (90) days of the date its use for wireless telecommunications purposes is discontinued.

7. The permittee shall submit a report to the Zoning Administrator one time per year, no later than July 1 of that year. The report shall identify each user of the pole and certify that the height of the pole is in compliance with condition number one.

8. No slopes associated with construction of the pole and accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the County Engineer are employed.

9. Outdoor lighting shall be limited to periods of maintenance only. Each outdoor luminary shall be fully shielded such that all light emitted is projected below a horizontal plane running though the lowest part of the shield or shielding part of the luminaries. For purposes of this condition, a luminaries is a complete lighting

unit consisting of a lamp or lamps together with the parts designed to distributethe light, to position and protect the lamps, and to connect the lamps to the power supply.

10. The permittee shall comply with Section 5.1.12 of the Zoning Ordinance. A fence surrounding the lease area is not a requirement of this approval; however, should a fence be installed, the materials and height shall be restricted as follows:

    - the fence shall be constructed with barbed wire to match the existing fence adjacent to the subject lease area.

11. Around the perimeter of the lease area, inside the fence to avoid damage from grazing animals, a landscaping buffer utilizing a variety of plant materials, with a majority of the materials consisting of evergreen materials, shall be installed by the applicant. A landscape plan shall be submitted for approval by the Director of Planning or designee prior to issuance of building permits.

12. A landscaping plan depicting screening landscaping along Rt. 708 and the lease area, shall include minimum 12' high cedars and white pines and minimum 4' high rhododendrons. The plan shall be approved by the Planning Director or designee.

Mr. Thomas seconded the motion, which carried by a vote of 4-2 with Mr. Rieley and Mr. Rooker voting against the motion.

Waiver of the setback regulations in accord with the provisions of Section 4.10.3.1 of the Zoning Ordinance.:

Mr. Thomas moved for approval of the setback waiver request.

Mr. Craddock seconded the motion, which carried by a vote of 5-1 with Mr. Rieley voting against the motion.

Waiver of a site plan in accord with the provisions of Section 32.2.2 of the Zoning Ordinance.

Mr. Rieley moved for approval of the waiver of a site plan, subject to the following conditions:

1. Approval of an erosion and sediment control plan prior to the issuance of a building permit.
2. Provision of one parking space.
3. A site plan application shall be required if activity on slopes of 25% or greater is proposed.

Mr. Craddock seconded the motion, which carried unanimously.

SP-2000-60 Church of Our Savior (Sign #95) - Request for special use permit to expand church activities to an adjoining property and bring an existing church into conformity in accordance with Section 14.2.2.12 of the Zoning Ordinance which allows for church uses by special use permit. The properties, described as Tax Map 62A1 Parcel A-3, and 61-144 contain 4.5 acres, and are located at 2412 Huntington Road and 1165 E. Rio Road, respectively, in the Rio Magisterial District. The property is zoned R-2 Residential. The Comprehensive Plan designates this property as neighborhood density residential in Neighborhood 2 of the Development Areas. (Michael Barnes)

Mr. Rooker excused himself from participation, as he is a member of this church.

Mr. Barnes presented the staff report, noting the following issues of concern: (1) limiting road access; (2) limiting impacts to neighboring property (3) parking.

Mr. Rodney Thomas ascertained that the applicant is proposing to block the driveway with a chain.

Mr. Barnes stated that VDOT would prefer that this driveway is blocked with a planter, but they would be amendable to blocking it with a chain.

Mr. Craddock asked if this would satisfy fire and rescue as far as access to the house.

Mr. Barnes pointed out that fire and rescue requested that the fire lanes in the church parking lot be marked, no parking signs in the access area between the two properties; and trimming of the tree limbs on the large oak tree.

Mr. Rieley ascertained that fire and rescue would be satisfied if the existing entrance remains He also noted that there is no change in the exterior appearance of the building with its new use, questioning the need for screening and fencing.

Mr. Barnes stated that the adjacent neighbor is concerned about the possibility of people in her yard, noise, and looking down off of the hill into her backyard.

Public comment was invited.

Grace Carpenter asked that the Commission consider landscaping, pointing out the existing vegetation. She questioned the necessity of having the fencing and the vegetation. Other than this we agree with staff recommendations.

Ellen Hawkins, 2414 Huntington, stated that she is requesting the privacy fence for screening purposes as well as reducing the noise pollution. She asked if it were possible to put a time limit on the special permit; perhaps two or three years. This

could be reevaluated at that time. The length of the fence is proposed at 6' high and 100' long She requested that the fence be at least 150' in length, which would cover the open area in both back yards. She questioned how the fence would be constructed—treated wood or stained She pointed out that there is no visible markings identifying the boundary line.

Paul Hostler stated that the fence is pressure treated lumber, solid 6" board, 6' high. A cap will be placed on top of the fence to seal it. A 100' fence is being proposed. He noted that Buddy Edwards, Land Surveyor, is looking into the possibility of combining the lots

Ellen Hawkins stated that a 100-foot fence would extend to the back corner of her property

With no further comment, the public hearing was closed.

Mr. Finley asked if a both a buffer and fence were necessary.

Mr. Rieley noted that the edge of the site is wooded. The ground level of the house at 2412 is about level with the roof of the house at 2414. He also noticed that there are no windows on this end of house at 2412. He questioned why either the buffer or fence was necessary, pointing out that the exterior of the buildings is not being changed.

Mr. Thomas noted that church activities are usually minimal, however, this is located in a residential area. He agreed with the need for a fence.

Mr. Rieley pointed out that the Miter Corporation conducted a study on the effectiveness of plants on abating sound. The results were that it has almost no effect.

Mr. Craddock stated that he could support the request for a fence. He did not feel the buffer was necessary.

Mr. Kamptner stated that condition #1 would begin "A privacy fence shall be provided…" He also noted that it maybe useful to add a sentence that identifies the length of the fence—100' or 150'. Perhaps the height of the fence should also be addressed.

Mr. Cilimberg noted that it is the intent of the Commission that the height of the fence be 6' and that it will run from point to point based on the location of the neighbor.

Mr. Thomas moved for approval of SP-00-60 subject to the following amended conditions:

1. A privacy fence shall be provided between the house located at 2412 Huntington Road and the residential property located at 2414 Huntington Road.

2. The existing driveway entrance to the home at 2412 Huntington shall be blocked off and the access between the church and the house shall be improved to allow for emergency vehicle access to the satisfaction of Fire and Rescue.
3. The parcels containing the existing church and the house at 2412 Huntington Road shall be combined to satisfy zoning requirements for parking.
4. The items listed above (1, 2 and 3) shall be performed and a zoning clearance must be issued prior to church use of the building.
5. Day care use shall be prohibited unless approved through a special use permit amendment.
6. Church development shall be limited to the improvements shown on the plan entitled, "Alterations and additions to the Church of Our Savior," dated 1-13-87, prepared by M Jack Rinehart, Jr., and to the addition of the residence located at 2412 Huntington Road. The thrift store located at 1147 Rio Road is not included in the special use permit.

Mr. Loewenstein seconded the motion, which carried unanimously.

ZTA-2000-10 Appeal of Modifications and Waivers - Ordinance to amend Chapter 18, Zoning of The Albemarle County Code, Section 4.2.5 Modification of regulations; Section 4.10.3.1 Exceptions-excluded from application; Section 4.12.7 Required off-street loading space; Section 4.17.5 Modification, waiver or variation; Section 4.18.07 Modification, waiver or variation; Section 5.1 Supplementary regulations; Section 32.3.10 Waiver, variation; or substitution; to establish procedures for appealing to the Board of Supervisors certain modifications and waivers considered by the Planning Commission, and to update Code references and terminology in those sections. (Wayne Cilimberg)

Mr. Cilimberg presented the staff report. He noted that the zoning text amendment is trying to accomplish the possibility that a decision regarding waivers and modifications can be appealed to the Board of Supervisors. Currently, this procedure is unclear and not uniform. There are two possibilities (1) denials of a waiver and modification may be appealed; (2) approvals of the waivers and modifications with conditions objectionable to the applicant might be appealed. The Commission is asked to (1) pass the resolution of intent and (2) recommend approval of the amendments to the ordinance as provided in the December 12th draft.

With no public comment, the matter was placed before the Commission.

Mr. Loewenstein moved for approval of the resolution of intent as embodied in Attachment B of the staff report.

Mr. Finley seconded the motion, which carried unanimously

Mr. Rooker pointed out that the waiver provision for critical slopes was different from all of the other waiver provisions. The other waiver provisions were based entirely upon a determination by the commission of whether granting the waiver would be in the public interest and would promote the health, safety and welfare of the community. The critical slopes waiver contains that language, but it also contains language saying a waiver can be granted for other reasons having to do with engineering considerations. This either/or standard has created a lot of problems. He suggested that that the engineering part of the waiver for critical slopes be eliminated so that the standards for granting that waiver would be the same as it was for other waivers.

Mr. Kamptner pointed out that Mr. Rooker's concern is getting into the critical slopes waiver zoning text amendment which is actually being worked on and is beyond the scope of this particular resolution of intent which deals with the appeal procedure and not the review of the waiver itself. He noted that the Commission could adopt a resolution of intent to Standardize the Planning Commission review of waiver requests amending Section 4.2.5.b(1) to read as follows: "Since application of the requirements of Section 4.2.3 would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare."

Mr. Finley moved for approval of ZTA-2000-10 as modified.

Mr. Rieley seconded the motion, which carried unanimously.

Discussion:

Mr. Loewenstein stated that he would prefer to postpone adopting the ordinance until the change as discussed was advertised.

Mr. Cilimberg pointed out that the only effect would be that any action granting a waiver or modification between now and when the amendment to Section 4.2.5.b(1) could not be appealed.

Mr. Rieley moved to reconsider previous motion for approval.

Mr. Thomas seconded the motion for reconsideration, which carried unanimously.

Mr. Cilimberg suggested that the Commission vote to defer action on until the resolution of intent and advertising for the change in Section 4.2.5.b(1) is brought to the Commission for public hearing.

Mr. Rieley moved that the resolution of intent be modified to reflect the changes in Section 4.2.5.b(1) as follows:

- Amend Section 4.2.5.b(1) to read as follows: "Since application of the requirements of Section 4.2.3 would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare."

Mr. Loewenstein seconded the motion, which carried unanimously.

New Business:

Mr. Rieley asked what was the status of the draft language for change of the perennial stream definition.

Mr. Cilimberg stated that a work session has been scheduled for the January 30th meeting.

With no further business, the meeting adjourned at 9:15 p.m.

_____

V. Wayne Cilimberg, Secretary

Recorded and transcribed by Janice C. Farrar, Department of Planning & Community Development Assistant