Albemarle County Planning Commission
August 28, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, August 28, 2001 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Dennis Rooker, Chairman; William Rieley, Vice-Chairman; Jared Loewenstein, Rodney Thomas and Pete Craddock. Other officials present were: Elaine Echols, Juandiego Wade, Joan McDowell, John Shepherd, Jan Sprinkle, Stephen Waller, Greg Kamptner and Wayne Cilimberg.

Mr. Rooker called the meeting to order and established a quorum.

Other Matters Not Listed on the Agenda from the Public

Mr. Rooker asked for additional matters from the public. There being none, the meeting proceeded.

Review of Board of Supervisor's Meeting – August 15, 2001

Mr. Cilimberg stated that Board had a public hearing on Merrie Meadows, the application was deferred until next week's meeting for further information, particularly regarding activities related to church operations. They approved the Covesville Child Development Center with conditions as recommended. The soccer fields on Polo Grounds Road have requested public sewer. The Board will hold a public hearing next month on that request. It would be very restrictive, only for soccer field itself.

Consent Agenda

a. **Consent Agenda - SDP 01-070 Martha Jefferson Hospital Ambulatory Care Center Preliminary -** Request for waiver of critical slopes, modification of curvilinear parking, modification of cross slope parking lot grade, modification for one-way circulation and modification of off-street loading spaces in association with the construction of a 3 story 80,000 square foot medical office building. (Stephen Waller)
b. **Resolution of Intent – Temporary Events** (Amelia McCulley)

Mr. Rooker stated that item C was removed as it had already been approved.

Mr. Rooker asked if any of the commissioners wished to pull an item from the agenda.

Mr. Thomas moved for approval.

Mr. Loewenstein seconded the motion, which passed by a vote of 4-0 with Mr. Rooker abstaining.

a. **SP-2001-001 Beverage Tractor & Beverage, Inc (Sign #36 & 37) -** Request for special use permit to expand previously permitted [SP99-068] outdoor display and storage of farm equipment in accordance with Section 30.6.3.2(b) of the Zoning Ordinance, which allows for outdoor storage, display, and sales in the Entrance Corridors. The property, described as Tax Map 79 Parcel 4P, contains 2.56 acres, and is located in the Rivanna Magisterial District on Richmond Road (Route 250 E) at the northeast corner of the intersection with Hunter's Way (Route #1146). The property is zoned Highway Commercial (HC) and Entrance Corridor (EC). The Comprehensive Plan designates this property as Rural Area 2. (Dan Mahon) ***DEFERRED FROM THE AUGUST 28, 2001 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO OCTOBER 23, 2001.***

Mr. Rooker opened the public hearing on the item. There being no comment, the hearing was closed.

Mr. Loewenstein moved to accept the applicant's request for deferral to October 23, 2001.

Mr. Rieley seconded the motion, which passed unanimously.

b. **SP-2001-023 Crozet Laundromat (Sign #40)** - Request for special use permit to allow for a coin operated laundromat in accordance with Section [27.2.2.14] of the Zoning Ordinance which allows for supporting commercial uses. The property, described as Tax Map 56A3 Parcel 9B, contains .7 acres, and is located in the White Hall Magisterial District on Three Notch'd Road [Route #240] across from the old Con Agra facility. The property is zoned LI (Light Industrial). The Comprehensive Plan designates this property as Rural Area 3. (Michael Barnes) ***STAFF REQUESTS DEFERRAL TO SEPTEMBER 25, 2001.***

Mr. Rooker opened the public hearing on this item. There being no comment, the hearing was closed.

Mr. Rieley moved to accept the staff's request for deferral to September 25, 2001.

Mr. Craddock seconded the motion, which passed unanimously.

a. **ZMA-2001-011 Pantops Place (Sign # 56 & 57)** - Request to amend proffers for the approved Pantops Place PRD Planned Residential Development. The property, described as Tax Map 78 Parcels 55A(1) and 55A(5), is located in the Rivanna Magisterial District on Richmond Road - U.S. Route 250 at the corner of Pantops Mountain Road and Route 250. The Comprehensive Plan designates this property as urban density residential (6 - 34 dwellings per acre) in the Pantops Development Area. (Elaine Echols)

Ms. Echols presented the staff report.

Mr. Loewenstein verified that the new text replaced all the sections of item 4.

Ms. Echols responded that only 4B would be the only one.

Mr. Loewenstein asked what happened if 4B didn't kick in.

Ms. Echols replied that the developer of the GH LandTrust property would be required to request access from 250.

Mr. Rooker opened the public hearing.

Mr. Richard Carter, representing the applicant, stated that the applicant was under the impression originally that they had some type of ownership of Pantops Mountain Road. They later discovered that the road was actually owned by Westminster Canterbury. We believe the proffers are correct as they are listed here. The owner of 55A3 said they would like the proffer to include language regarding a deeded access easement. We are not against doing that at some time, but would like to wait until the final site plan is drawn. The way the proffer is drawn now is sufficient to give.

Mr. Rooker asked if there had been any requests of Westminster Canterbury on this.

Mr. Carter replied that Westminster Canterbury had been contacted. There initial reaction was positive. There will likely be a request from them for that owner to join in on maintenance of that road.

Mr. Loewenstein asked when he would anticipate that final phase would begin.

Mr. Carter responded within two years.

Mr. Don Long, of GH Land Trust, commended the work of the staff. He stated that his only concern on the proffer is that it doesn't specify that the access will be by easement.

Mr. Rooker closed the public hearing.

Mr. Thomas asked if the County Attorney's office had reviewed the proffer language.

Mr. Kamptner replied that he had reviewed the language today.

Mr. Thomas moved for approval with proffers as amended.

Mr. Rieley seconded the motion, which passed unanimously.

b. **SP-2001-022 Laser Tag at Planet Fun (Sign #39) -** Request for a special use permit to add laser tag game at an existing commercial recreation establishment in accordance with Section 18-22.2.2.1 of the Zoning Ordinance which allows for commercial recreation establishment. The property, described as Tax Map 45 Parcel 112G, contains 4.834 acres, and is located in the Rio Magisterial District on Berkmar Drive [Route # 1403] approximately 0.7 miles north from the intersection of Rio Road and Rt. 29N. The property is zoned commercial -C-1. The Comprehensive Plan designates this property as Regional Service in Urban Neighborhood 1. (Juandiego Wade)

Mr. Wade presented the staff report.

Mr. Rooker opened the public hearing.

Mr. Bob Colley, president of Piedmont Amusements, Inc., said he did not have a prepared statement, but would be willing to answer questions.

Mr. Loewenstein wondered if the inclusion of laser tag among the uses would be likely to raise the age of the users of the facility.

Mr. Colley replied that the demographic use is currently mixed. He is hoping that it will appeal a little more to fathers. It will benefit some of the younger groups, as it will be moved into an upstairs area with arcade games, which attract older people. The party rooms, which appeal to the younger children, will be located downstairs.

Mr. Loewenstein verified that there were no problems outside.

Mr. Colley replied, not from the mix, no.

Mr. Rooker closed the public hearing.

Mr. Craddock stated that he thought the addition was a good extension of current uses.

Mr. Rooker said he thought this was pretty straightforward.

Mr. Thomas stated that the place is well organized and nicely supervised.

Mr. Loewenstein moved for approval with conditions as amended.

1. No alcohol sales;

2. Compliance with Section 4.18.1 of the Zoning Ordinance;

3. Uses shall be limited to go-cart track, batting cages, miniature golf, arcade, bumper boats, snack bar, ***laser tag***, and children's play area; and

4. Hours of operation limited to 9:00 a.m. to 12:00 a.m. (midnight), except for Fridays and Saturday s when the facility may be operated from 9:00 a.m. to 1:00 a.m.

Mr. Thomas seconded the motion, which passed unanimously.

c. **SP-2001-024 Baker After School Program (Sign #43)** - Request for special use permit to allow a private school for 10-15 under-privileged children two days per week between the hours of 2:30 P.M. and 5:30 P.M., in accordance with Section 10.2.2.5 of the Zoning Ordinance which allows for private schools. The property, described as Tax Map 58 Parcel 82, contains 40.066 acres, and is located in the Samuel Miller Magisterial District on the west side of Route 676 and north of Route 250 at 1040 Owensville Road. The property is zoned RA Rural Areas District. The Comprehensive Plan designates this property as Rural Area. (Joan McDowell)

Ms. McDowell presented the staff report.

Mr. Rooker opened the public hearing on this item.

Mr. Jonathan Baker, the property owner, stated that this application comes from a desire to reach out the children from underprivileged families. There have been requests from Greer Elementary for this type of program. He said that he would be happy to answer questions.

Mr. Craddock asked if the children would be returned to school after the program.

Mr. Baker stated that they would pick them up at school and return them to their homes.

Mr. Kamptner asked what would happen if a child needed to leave early.

Mr. Baker replied that child would be excused for that afternoon.

Mr. Kamptner asked what would happen if the parent needed to pick the child up early.

Mrs. Baker replied that she did not foresee that happening as most of the kids would be a fair distance from school.

Mr. Kamptner asked if the applicant had looked at condition #3.

Mr. Baker replied that in that instance we would have to have the child skip that afternoon.

Mrs. Baker asked what would happen in an emergency situation, if a child gets ill, would that condition keep a parent from coming to pick the up?

Mr. Kamptner stated that the condition probably needs to be modified to allow for those extenuating cicumstances.

Mr. Rooker said that he would assume this is being done with the blessings of the school board.

Mr. Kamptner said his question was with the proposed condiditon.

There being no further comment, Mr. Rooker closed the public hearing.

Mr. Thomas asked if it would be possible to add “except in case of emergencies” to condition #3.

Mr. Kamptner replied that staff can fashion some language to cover illness or inclement weather, etc.

Mr. Loewenstein asked if condition #5 spoke exclusively of enrollment.

Ms. McDowell replied that was intended to require that any accessory structures related to the school be reviewed.

Mr. Rooker suggested changing the language to expansion of the structures used by the private school.

Mr. Thomas asked if they would never be able to make their school larger?

Mr. Rooker replied that they would have to come back for an amendment because of the land use considerations.

Mr. Cilimberg replied that staff would get the language in both 3 and 5 clarified before the board meeting.

Mr. Thomas moved for approval with conditions as amended.

1. The maximum number of children enrolled in the private school shall not exceed 15 at any time.
2. Three adults shall supervise the children at all times.
3. The children shall be transported to and from the property as a group. The pick up or drop off of individual children shall not be permitted except for medical, family and weather-related emergencies.
4. The days of operation shall be limited to two days per week and the hours of operation shall be limited to 2:30 P.M. to 5:30 P.M. on the days of operation.
5. Expansion of the facilities for the private school shall require an amendment to this special use permit.
6. Approval by the Health Department for the private school shall be required prior to commencement of the private school.

Mr. Rieley seconded the motion, which passed unanimously.

d. **ZTA-01-11 Miscellaneous –** Amend Article I, General Provisions, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, of Chapter 18, Zoning, of the Albemarle County Code, to make numerous revisions to delete or replace obsolete terminology, clarify regulations, define terms, correct cross-references and other similar matters, and to clarify when certain inactive applications for land use approvals will be deemed to be withdrawn. (John Shepherd)

Mr. Shepherd presented the staff report.

Mr. Loewenstein said he understood the sequencing and relationship of the documents. He stated that he noticed that some terms are labeled "would be clarified". Are you saying that these would be further rewritten from the staff report.

Mr. Kamptner stated the only changes from the version of the draft ordinance are highlighted in bold.

Mr. Shepherd said if it is not in bold, it has not been rewritten.

Mr. Rooker asked if everything was underlined, was that all a change.

Mr. Shepherd replied that a strikethrough is existing language to be deleted. Anything that is underlined is new language.

Mr. Rooker asked if every commissioner had had an opportunity to review all of the ordinance. He suggested the commissioners ask questions.

Mr. Shepherd discussed the changes distributed this evening.

Mr. Rooker asked at the end of the proposed definition, would that be deleted from the definition of a commercial vehicle.

Mr. Shepherd replied that would be discussed further among staff.

Mr. Rooker suggested that if staff is going to have a further discussion, technically you could say it is not a commercial vehicle if it is driven home one evening a month.

Mr. Rieley asked if someone was keeping track of the items being removed.

Mr. Rooker asked if there was a standard to be used in the definition of net floor space.

Mr. Shepherd replied that there was a definition for net floor area that covers that.

Mr. Rieley asked for the difference between a slaughterhouse and a custom slaughterhouse.

Mr. Shepherd replied that custom slaughterhouse had the phrase in it "as a service". Referring to situations where an individual might take an animal to a farmer for slaughter as a service. "As a service" has just lingered in the language. We are removing those other definitions and have come up with a clarified definition.

Mr. Rooker suggested going through the draft of the ordinance changes page-by-page.

Page 4

Mr. Rooker suggested clarifying the usage of the defined term within the definition of Family Day Home.

Mr. Loewenstein pointed out that the first sentence says more than five.

Mr. Rooker stated that we were including the defined term in the second sentence.

Mr. Loewenstein suggested replacing family day home with dwelling unit.

Page 5

Mr. Rooker asked if everything had to be done off-site to be an industrialized building.

Mr. Shepherd replied that the language was taken directly from the building code.

Mr. Rooker asked if you had something that's manufactured, that comes to the site with everything except the heat, would that not be an industrialized building?

Mr. Shepherd replied he thought that would matter to the building official in terms of code.

Page 6

Mr. Rooker said it seemed that we were calling all these things junk with no context.

Mr. Kamptner stated that the term junk operates in conjunction with junkyard.

Mr. Rooker verified that staff was comfortable with the definition as it appears.

Mr. Kamptner replied that in the context, we are fine with it.

Mr. Rooker said he read it as if you maintain furniture in a structure, it's a junkyard.

Mr. Kamptner stated that if you compile drums of abandoned liquids and automobile parts within a structure, that constitutes a junkyard under the zoning ordinance. We might not have the ability to enforce that.

Mr. Rooker said he reads it as any place where household furniture is maintained is a junkyard. Those things don't seem to work together correctly.

Mr. Loewenstein pointed out that the initial language in the definition of junk applies to all the items listed below.

Mr. Rooker stated that it needs to be done so that the things that are following that are clear.

Mr. Rieley said he did not think it was clear.

Mr. Loewenstein said he agreed, but he thought that was the intent.

Mr. Rooker suggested saying including, then list the items.

Mr. Loewenstein asked what bailing meant in this context.

Mr. Kamptner said staff took the word from the old definition, which used "ail".

Mr. Rooker made the same point on the definition of manufactured home. It seems we are requiring all of these things to be done by the manufacturer.

Mr. Rooker said technically seems that if you add an air conditioner later, you've changed the definition of your structure.

Mr. Shepherd said it operates in the opposite way with a manufactured home, it allows it to be inspected at the factory, and allows it to be exempted from the building inspections on it.

Mr. Rooker said it seems that the language significantly limits the definition.

Mr. Shepher stated that the intention was to make the zoning ordinance consistent with the building code.

Page 9

Mr. Rooker asked about C at the top. Why would the narrower boundary be considered the frontage?

Mr. Shepherd replied that is essentially what the current ordinance calls for now.

Mr. Rooker asked if there was any logic behind doing it that way.

Mr. Shepherd said that we were not trying to change the record at this time.

Page 11

Mr. Rieley asked about the addition in 5.1.06 of appropriate licensure. He suggested changing the language from appropriate to required.

Mr. Loewenstein asked if there were other things that would be included under fund-raising activities in 5.1.02b.

Mr. Kamptner replied yard sale, bake sale, car wash, and other things like that.

Mr. Rooker said that the limitation to daylight hours, makes it somewhat less of a concern.

Mr. Loewenstein said that leaves out a lot of possibilities.

Ms. McCulley replied that she is not aware of any cases in which that has presented a problem.

Mr. Loewenstein stated that it was just a matter of clarifying the language.

Mr. Kamptner said staff would look to whether or not it is a fundraising activity and make the determination based upon that.

Page 12

Mr. Craddock asked about the hours listed under sawmill, in item C. Was that part of the old wording.

Ms. McCulley replied that it part of the existing language which she believes is a concern about lighting and noise.

Mr. Rooker questioned the elimination of language under tourist lodging.

Mr. Shepherd replied that it is difficult for the zoning department to keep up with the five-year renewal. As the health department routinely inspects these properties, it seems like the proper place for enforcement lies with the health department.

Ms. McCulley replied that the changes would eliminate the five-year renewals and require VDOT approval of the entrance.

Mr. Rooker asked if that was a non-waivable requirement. We often don't impose that requirement and it might not be necessary with a small property.

Mr. Shepherd said that the language did not specify commercial entrance, but rather that VDOT approves it for commercial access to the site.

Mr. Rieley pointed out that gives VDOT the authority in a place where they currently do not have it. It seems to go beyond clarifying the language to changing policy.

Mr. Kamptner stated that the commission would retain the ability to grant the waiver.

Mr. Loewenstein suggested rewording the phrase to "the zoning administrator may approve a zoning compliance clearance for tourist lodging, provided that the Albemarle County fire official and the Virginia Department of Health approve the use". He suggested striking the entire VDOT phrasing.

Mr. Rieley and Mr. Rooker agreed.

Mr. Rieley said he thought the issue of getting VDOT to permit was substantive.

Mr. Kamptner said he would need to look at the language, that "may" may need to be a "shall".

Mr. Rooker said that all we would do tonight would be to make a recommendation for approval.

Mr. Rieley asked if the law regarding that had changed, because the old one said "may".

Mr. Rooker said that Mr. Kamptner will check that out before it goes to the Board.

Mr. Kamptner said his question was if the zoning administrator have discretion to deny the zoning compliance clearance.

Page 15

Mr. Loewenstein asked under #2 daily tours, this is not new language, correct?

Mr. Kamptner replied that the only change was to the end in hours of operation.

Page 20

Mr. Rooker said he was assuming the 1980 photographs were the most recent.

Mr. Shepherd replied they were.

Ms. McCulley stated they were the appropriate base aerials.

Page 22

Mr. Loewenstein asked in item c at the top, is that "be issued".

Mr. Kamptner said staff was going back and forth on that.

Mr. Loewenstein stated he thought "be issued" would be correct usage.

Mr. Rooker asked if, under zoning compliance clearance, it required a clearance every time a user within a commercial building changes.

Ms. McCulley replied it would.

Mr. Rooker verified that would be required for rental office space.

Ms. McCulley replied it would. We are trying to work as closely as possible to coordinate business license with zoning clearance.

Mr. Rooker opened the public hearing on this issue.

Ms. Valerie Long suggested deeming withdrawal within twelve months after the request for the deferral. That would apply to a number of provisions. She said she noticed on the last page of the staff's explanation it seemed that the intent was to refer to deferral.

Mr. Loewenstein clarified that on page 24, in section 34.4.2.8, that refers to 6 months.

Ms. Long suggested using the same concept, with the trigger date being from the date of deferral.

Mr. Rieley said it seems that falls into the category of changing the way things operate, rather than cleaning up the language.

Mr. Rooker asked what would be gained by deeming one of these applications abandoned or withdrawn when they are in the active mode of deferring.

Mr. Rieley said he agreed, but the focus of this was to clean up the language.

Mr. Kamptner said that although the ZTA's purpose was primarily cleaning up language, staff was also dealing with some administrative processes.

Mr. Loewenstein said he would like to hear from Mr. Cilimberg.

Mr. Shepherd stated that it is our intent that the trigger date would be the requested date of deferral, not the original application date.

Mr. Cilimberg said that what staff wants to avoid is an indefinite deferral that we never hear from again.

Mr. Rooker said that the language needs to be changed to reflect that in these four instances.

There being no further comment, Mr. Rooker closed the public hearing.

Mr. Thomas said that on page 5, the word "electrical" needs to be corrected.

Mr. Kamptner asked if we had changed the timeframe from 6-12 months?

Mr. Rooker replied that they remain the same.

Mr. Rieley moved for approval with requested changes.

Mr. Loewenstein seconded the motion, which passed unanimously.

d. **ZTA-01-12 Wireless** - Amend Section 3.1, Definitions, and add Section 5.1.40, Personal wireless service facilities, of Chapter 18, Zoning, of the Albemarle County Code, to add a definition of "personal wireless service facility," to establish requirements for applications for personal wireless service facilities, and to establish regulations pertaining to the siting of personal wireless service facilities on a lot, including setback and yard requirements, and exempting personal wireless service facilities from having an approved site plan . (Jan Sprinkle)

Ms. Sprinkle presented the staff report.

Mr. Rooker asked about the 25-foot setback, is it not now the height of the structure.

Ms. Sprinkle replied it was.

Mr. Rooker would not support reducing the setback to 25', that is not adequate. He asked where that came from.

Ms. Sprinkle replied that it was mainly in keeping with the existing setbacks for other structures.

Mr. Rooker asked how high the structures would be.

Ms. Sprinkle replied that structures can go up to 35'.

Mr. Rooker pointed out that there are 220' towers out there. He would not support that.

Ms. Sprinkle stated that towers of that nature would come to the commission by special use permit, at which point further conditions could be established.

Mr. Kamptner stated that the proposed distance of the tower from the lot line might be a consideration.

Mr. Rooker stated that we are going in the direction of a tiered approval process, in which some of the applications will not require an SP.

Mr. Loewenstein stated that this doesn't really satisfy the requirement for this sort of structure. He said he thought 25' is unsafe.

Mr. Rooker said we have had some of these come before us where they have to seek a waiver of setback. That might be the only reason they were before us under a tiered arrangement.

Mr. Cilimberg stated that the variances the BZAs dealt with are just in the yard setback. The only that variance kicks in is when there is a yard reduction required.

Mr. Rooker said there is some language on the next page, which states that the facility may be located closer in distance than the height of the structure to any lot line.

Ms. Sprinkle pointed out that it is still up to the commission to decide if the SP can be granted.

Mr. Rooker said that there are cases under the tiered system where an SP may not be required.

Mr. Loewenstein stated that he couldn't support this the way it is currently worded.

Mr. Cilimberg said he thought that we were trying to get at simply the variance situations. We need to look at this and make some modifications.

Mr. Rooker pointed out item #7 doesn't reflect current policy.

Mr. Cilimberg replied that that has only been an issue where there wasn't that condition. This was to codify what has been happening in interpretation.

Mr. Rieley asked Mr. Cilimberg to clarify the process by which towers are replaced without being seen by the commission.

Mr. Cilimberg said he would have to defer to Ms. Sprinkle.

Ms. Sprinkle replied that she did not know.

Mr. Rieley said that if this is a codification of what is going on now, that may be the kind of thing that is not something that ought to be codified.

Mr. Rooker stated that conditions are placed on the applications to limit the antennae array to what is presented. We have looked at the size of the antennas and how they fit on the pole.

Mr. Rooker stated that we have made it clear that we are not requiring co-location. Co-location may or may not be appropriate depending on visibility.

Ms. Sprinkle stated that most of the older towers do have that requirement.

Mr. Rooker said that he is not comfortable with this, as it does not reflect current policy.

Mr. Thomas asked if this also pertained to roads for setback.

Ms. Sprinkle replied that it did.

Mr. Rooker opened the public hearing.

Ms. Long commented on behalf of Triton PCS. We have not yet reaped the benefits of the accelerated approval process. We think it would be helpful to look at the big picture. It is difficult to find an appropriate site. It is important to preserve the ability of the commission to waive the setback requirements.

Mr. Rooker pointed out that this proposal does not eliminate our discretion to waive.

Ms. Long stated that sometimes sites with limited setback are the best locations. Safety is enhanced with steel structures. She is not aware of any tower in the US that has fallen down, including those in storms. She would suggest approval of the 25' setback, and would request written consent of the adjacent landowner rather than an easement.

Mr. Loewenstein pointed out that in the absence of an easement, if a new owner purchased that property, the tower might have to be removed.

Ms. Long replied that would depend on the language and the way it is drafted. Antenna arrays are required to be flush mounted, can't be more than 12 inches from the tower and towers are smaller now.

Mr. Thomas asked if visibility would be an issue with the 25' setback, rather than a 75' to 100' setback.

Ms. Long replied that it depends on the precise property. There are some locations where it would be preferable to locate the tower closer to the road. She questioned the increase in the radius of the distance from the pole, for which tree heights need to be provided. She believes that 25 would be more appropriate. In reference to fencing and landscaping, in some instances that is not necessary or appropriate. She would suggest showing the proposed fencing or landscaping.

Mr. Rooker asked which number that was.

Ms. Long replied that it was 4E. Regarding the balloon test structure, 30 days is sometimes not possible. The planning staff has morning meetings on two out of five mornings per week. The best time for balloon tests are in the morning. There are delays due to rain, snow and inclement weather. An amendment was drafted to require the applicant to provide balloon test photographs. We conduct balloon tests prior to filing out the applications. Several weeks later, we invite staff for a second balloon test. It is their photographs that are submitted to the

commission. She assumed that the initial photographs were also submitted, but that is apparently not the case. It might be helpful to think through the process.

Mr. Loewenstein asked about 6D, which states that the applicant shall inform planning at least 2 days before the test it to occur. That is not very much time, if staff also has to inform commissioners. Have you found that timeframes are possible to achieve which give more advance notice?

Ms. Long replied that it is not in our interest to establish a balloon test if staff cannot make it.

Mr. Loewenstein stated that 2 days seems a little short.

Ms. Long pointed out that there have been instances where tests have been rescheduled with short notice due to weather or other problems.

There being no further comment, the public hearing was closed.

Mr. Thomas asked what would happen in reference to 4D if we require a 100' setback.

Ms. Sprinkle stated that this is not related to the setback at all.

Mr. Thomas asked if we require a 75' setback, would it stay fifty feet.

Mr. Rieley stated that this is not related to the area of protection. That is additional information that helps us establish the appropriateness of a give location.

Mr. Loewenstein said he still had questions about several of the items we've discussed. He said he wonders if 6D needs further consideration. And under B1 and 3 and 7 on the following page. He is concerned about the possibility of approving something if the language is going to have to be changed without seeing the actual language.

Mr. Rooker said he thinks we should defer this item.

Mr. Craddock said we should include 6A.

Mr. Kamptner asked regarding 6A if it would be simpler to require the applicant to contact staff in 30 days to arrange a time for the balloon test to be done within 60 days with 7 days notice to staff.

Mr. Rieley stated that would address the commissioners concerns.

Mr. Rooker asked what would happen in 6D if the test is scheduled 7 or 10 days in advance, and due to bad weather, the test is scheduled for a day later. We need to incorporate flexibility to allow for rescheduling due to inclement weather, etc.

Mr. Kamptner suggested setting up a range of days.

Mr. Rieley said it was important to let as many people know in advance as is logistically possible.

Mr. Cilimberg stated for clarification on the question of setback, that the first concern he was aware of with the BZA was granting variance of the yard setback for the district. Do you want to keep setback at the tower's height in your hands or do you want to make it administrative for the director?

Ms. Sprinkle stated with setback equal to the height of the tower.

Mr. Rooker stated that he wanted to see the decision of setback remain with the commission.

Mr. Cilimberg suggested that staff could then work on having the reduction of the yard requirement, rather than a variance.

Mr. Rooker asked if we needed to take an action to defer this item.

Ms. Sprinkle suggested deferring the item to the 25th of September.

Mr. Kamptner asked what the concern was about B7.

Mr. Rooker said he thought the commission just wanted it out.

Mr. Cilimberg stated that B7 is not changing anything. It will only be applicable to those towers that are not conditioned to restrict antennas. It is simply codifying the basic practice.

Mr. Rieley said he thought that was a mistake.

Ms. Sprinkle pointed out that it does not necessarily have to be towers. Antennas could be placed on water towers or buildings, etc.

Mr. Rooker stated that the language saying that it shall be subject to all applicable regulations applied to the existing structure is the saving language.

Mr. Cilimberg asked if the commission wanted to further restrict towers that aren't restricted now by codification.

Mr. Rieley said he thought that allowing those without further review that are mistakes.

Mr. Loewenstein said it seems as if this might apply to a lot of sites.

Mr. Cilimberg said that what we are talking about is introducing additional restrictions onto those towers that don't already have them. Staff needs some guidance on how far you want to go on that restriction.

Mr. Rieley said he would start by not having this in there.

Mr. Rooker stated that the commission is expressing the desire for those items to go through some application process.

Mr. Craddock added if it's changed.

Mr. Cilimberg stated that staff can define the codification to reflect what you have been doing in applications.

Mr. Rooker said that what is of concern, especially with steel lattice towers, is that you can end up with a lot of hanging antenna. There are numerous cases where it is no problem, but there are other cases where it would be.

Mr. Cilimberg said that is what he wants to look at, the commission's policy.

Mr. Rieley stated that he had a lot of concern about the tiered plan.

Mr. Loewenstein said a start would be removing this language.

Mr. Kamptner asked for clarification on #3, which envisions that setback could be reduced administratively if the easement that's discussed in one is provided.

Mr. Loewenstein stated that if the distance in one is changed to reflect our discussion.

Mr. Rooker said it seems to him that #3 is limited to those situations where an easement is obtained.

Mr. Kamptner stated that the policy manual envisions that the setback to height could be reduced if the easement was obtained.

Mr. Rooker suggested that he might support that.

Mr. Loewenstein moved for deferral of this item to September 25, 2001.

Mr. Craddock seconded the motion, which passed unanimously.

a. **SDP 2001-064 Evergreen Baptist Church Final Site Plan** - Proposal for approval of a final site plan to allow the conversion of an existing farm building to a church, approximately 8,316 square feet in area, on 10.65 acres zoned RA, Rural Areas. The property, described as Tax Map 46, Parcel 38C is located on the east side of Proffit Road (Rt. 649), approximately 1,200 feet north of the railroad crossing. This property is located in the Rivanna Magisterial District and Rural Areas 2 of the Comprehensive Plan. The proposed use was approved with a special use permit SP-99-77. (Stephen Waller)

Mr. Loewenstein recused himself from discussion and action because he is an adjacent property owner.

Mr. Waller presented the staff report.

Mr. Rieley said he noticed on the site plan that the existing building is within the 25' building setback. In our previous action, we allowed the new building to occupy the same footprint. Out intention was to treat it as an addition on the south and the west. Does our previous action override the necessity for a setback?

Mr. Waller replied that condition #6 says that they cannot encroach any further into the setback.

Mr. Rieley said he was unaware when we voted last time that the existing building encroached on the setback. Do we need an action to approve a setback waiver?

Mr. Cilimberg stated that the commission would not be able to waive setback. It has been determined that if the replacement activity did not exceed what was in the original building, that it would be non-conforming as a setback and could remain so.

Mr. Rieley verified that zoning had determined that is not an issue. He asked about the square footage for the building that exceeded what our action allowed.

Mr. Waller stated that the square footage given was that of the impervious area, which included the historic barn. The actual square footage is about 10' less than the requirement.

Mr. Rooker opened the public hearing.

The applicant stated that he was ready to build a church.

Mr. Rooker closed the public hearing.

Mr. Thomas moved for approval with conditions.

Engineering Department approval:

1. Stormwater management plans:
   a. Change concrete riser structure detail on sheet 2 from the barrel pipe shown as 25 feet long to match the barrel pipe shown in the embankment profile which is 38 feet.
   b. Show the stormwater conveyance channel on the back of the SWM pond embankment ending at or beyond the toe of slope on all plan view drawings on all sheets of the plan.
   c. Show a detail of the energy dissipater that will be used at the end of the above stormwater conveyance channel.

2. Erosion and sediment control plan comments:
   a. The E&S portion of the Water Protection Bond is $25,000.00 and shall become a part of the Water Protection Bond amount.
   b. Please submit 2 additional copies of the plan and 3 additional copies and the narrative.

Zoning Department approval:

3. All lighting information shall be made a part of the site plan.

Planning Department approval:

4. The Health Department must grant approval of the well capacity, and primary and reserve drainfields.

Mr. Rieley seconded the motion, which passed unanimously.

Mr. Rieley moved for approval of the 3 waiver requests.

Mr. Craddock seconded the motion, which passed unanimously.

With no further business, the meeting adjourned at 8:30 p.m.