Albemarle County Planning Commission
August 5, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, August 5, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas; William Rieley, Chairman; Tracey Hopper, Vice-Chairperson; and Jared Loewenstein. Absent were Bill Edgerton, William Finley and Pete Craddock.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Joan McDowell, Principal Planner; Scott Clark, Senior Planner; Susan Thomas, Senior Planner; Margaret Doherty, Principal Planner; Greg Kamptner, Assistant County Attorney and Stephen Biel, Planner.

Call to Order And Establish Quorum

Mr. Rieley established a quorum and called the meeting to order at 6:45 p.m. upon the arrival of Mr. Loewenstein. He apologized for the delay in the start of the meeting, and he stated that the delay was not Mr. Loewenstein's fault. He was called to the meeting from home, where he had just arrived from a trip.

Other Matters Not Listed on the Agenda from the Public

Mr. Rieley invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded.

Consent Agenda

Approval of Planning Commission Minutes – June 24, 2003.

SDP-2003-048 Franklin and Lena Jones Site Plan Waiver – request, pursuant to Section 32.2.2, to waive requirements of the site plan. (Tax Map 32, Parcel 29N2)

Mr. Rieley asked if any Commissioner would like to pull any of the items off of the consent agenda for discussion. There being none, he asked for a motion.

Ms. Hopper moved to approve the consent agenda as presented.

Mr. Loewenstein seconded the motion.

The motion carried unanimously (4:0). (Edgerton, Craddock, Finley – Absent)

Item Requesting Deferral:

SP-02-080 James E. Shifflett Bridge Replacement (Sign #46) - Request for special use permit to allow replacement of a low-water crossing with a bridge in accordance with Section 30.3.05.2.1.2 of the Zoning Ordinance, which allows for water-related uses (such as boat docks, canoe liveries, bridges, ferries, culverts, and river crossings of transmission lines of all types) in the floodway. The property, described as Tax Map 7, Parcel 57, contains 15.137 acres, and is located in the White Hall Magisterial District on Rt. 628 (Simmons Gap Road) approximately 0.2 miles from the point where Rt. 628 crosses the Greene County line. The property is zoned RA, Rural Areas and FH, Flood Hazard Overlay. The Comprehensive Plan designates this property as Rural Area. (Scott Clark) ***DEFERRED FROM THE JUNE 17, 2003 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO SEPTEMBER 23, 2003.***

Mr. Rieley opened the public hearing and asked if there was anyone who would like to address SP-02-80. There being none, he brought the matter back before the Commission for possible action.

Ms. Thomas moved to approve the applicant's request for deferral of SP-02-080 to September 23, 2003.

Mr. Loewenstein seconded the motion.

The motion carried unanimously (4:0). (Edgerton, Craddock, Finley – Absent)

Mr. Rieley stated that SP-02-80, James E. Shifflett Bridge Replacement, would be heard on September 23rd.

Public Hearing Items:

SP-03-41 St. John's Baptist Church Amendment (Sign #44) – Request for an amendment to a special use permit (SP 99-005) to allow expansion of an existing church in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for churches in the Rural Area. The property, described as Tax Map 66, Parcels 77 and Parcel 78, contains 3 acres on each parcel, and is zoned RA, Rural Area. The site is located on Rt. 640 (1595 St. John Road), approximately 2,400 feet south of Rt. 231 (Gordonsville Road), in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Rural Areas. (Joan McDowell)

Ms. McDowell summarized the staff report as follows:

The applicant has requested a special use permit to allow a 4,775 square foot expansion with 58 parking spaces to an existing 2,875 square foot church. It is a one-story expansion that consists of two classrooms, four bathrooms and a 3,192 square foot 175-seat sanctuary. The existing church would be converted into a fellowship hall and the kitchen and pastor study would remain. Two church services on each Sunday would take place and all activities and meetings will be associated with the church. They don't plan on having community meetings, outdoor playgrounds or that sort of thing that they are accustomed to seeing at rural area churches.

In 1999, a special use permit was requested for a church expansion in two phases. Phase I was a 516 square foot rear addition to add a bathroom and to enlarge the dining hall and pastor's study. The second phase was to expand outward both sides of the existing sanctuary to accommodate a larger congregation. In conjunction with the special use permit, a site plan waiver application and a setback variance had been requested. The site plan would have been required for the Phase II expansion. As there were several unresolved issues related to Phase II, including the determination that the proposed additions to the sanctuary would substantially alter the appearance of the contributing historic church and of potential septic problems, the Commission determined that a public hearing should be held to consider any changes that may occur and to offer an opportunity for public input. Therefore, the Commission deferred action indefinitely on the proposed Phase II improvements. As a result, the site plan waiver (SDP 99-25) and the front setback variance (VA 99-04) were withdrawn, as the deferral made proceeding with these applications unnecessary.

The Comprehensive Plan has this property located in the Southwest Mountains Historic District and is within the Rural Area 2 Comprehensive Plan land use designation. The Historic District is listed as a Historic Resource in the Natural Resources and Cultural Assets Chapter of the Comprehensive Plan. The church and the adjacent schoolhouse have been designated as part of this district as a contributing resource. The research that went in to getting the district registered states that St. John's Church was constructed in 1890 and it was one of the oldest black churches in this area.

You will notice from the site plan behind you that the existing structure is colored in orange, the proposed expansion in purple and the proposed parking area in gray. It does take up almost the entire 400 feet of frontage along St. John Road. There is a 20-foot buffer on the south end that would be all right. There is a 40-foot buffer on the north end, but a driveway that goes back to the existing cemetery takes up most of that. Staff has had meetings with the applicants and they have requested moving the expansion back from the existing church and possibly including the renovation of the old schoolhouse in their expansion ideas and moving the parking. Staff was concerned about the expansion dominating the existing historic structure. Staff included a memorandum from the Design Planner that went into some detail with some recommendations as to how the expansion could be accomplished so that it would minimize its impact on the existing historic structure. The recommendations on page 4 are also included in condition 1. Staff has recommended approval with conditions that would minimize the impact on the historic district and on this historic contributing structure.

Mr. Loewenstein asked if all of the recommendations on page 4 were taken into account with her conditions of approval, and Ms. McDowell stated that they were.

Ms. McDowell stated that the site was also adjacent to agricultural and forestal districts and the Agricultural/Forestal Committee met and ruled that it would not have a detrimental effect on the Agricultural-Forestal District. As previously stated, the church is proposing to seat 175 within their new sanctuary. Our research discovered that 175 seats were within the bounds and range of most of the rural area churches. Staff has been keeping track of churches since 1981. VDOT would require that the driveway be converted to a 30-foot wide commercial driveway, but they had no concerns about the width of the road compared to the activity in the church, especially since the church activities were on Sunday on off peak hours for travel ways.

Mr. Loewenstein stated that VDOT also wanted a 150-foot turn lane.

Ms. McDowell stated that VDOT also has some site line concerns as well.

Ms. Hopper asked if that was a requirement for a taper lane or was it a recommendation.

Ms. McDowell stated that it was a recommendation. The church has also asked that the Commission waive Section 31.2.4.4 to be allowed five years from the date of the approval for the special use permit to commence construction. So staff has included that as a condition under # 10. Staff recommends approval of this subject to the conditions as found in the staff report.

Mr. Rieley asked if there were questions for Ms. McDowell.

Mr. Loewenstein asked if condition 1a for the reduction in the size and scale of the addition has been discussed with the applicant, and Ms. McDowell stated yes.

Mr. Loewenstein asked if they would be hearing more suggestions about the percentage of reduction before they were done.

Ms. McDowell stated that staff has not calculated a percentage of reduction, but have just suggested in the conditions that they reduce the size and scale of the addition so that the existing church does not appear to be dwarfed by the new construction.

Mr. Loewenstein stated that what he was wondering was whether or not they would be better off crafting a condition that would speak to a maximum square footage as a way of dealing with this, which was another approach.

Ms. McDowell stated that it was not just the square footage, but it was also the location on the site. She pointed out that if it was sited properly and moved in proximity of the old school house, then they would not have this problem with the square footage.

Mr. Loewenstein stated that it did say in condition 1a that the size and scale would be reduced.

Ms. McDowell stated that was correct. She noted that staff was also looking at moving the addition it away from the existing church.

Mr. Loewenstein stated that he was just speaking purely about the footprint size of the addition itself that would be scaled back if this is adopted and if they adopt condition 1 as it stands. He stated that his question was whether they needed to be more specific before this is decided because both the position and the size probably ought to be determined.

Ms. Hopper noted that it would be nice to have a site plan before us that shows this area.

Mr. Loewenstein stated that he might come back to this issue.

Ms. Hopper stated that she had a question for Ms McDowell. She stated that staff mentioned that she had discussed with the applicant about moving the expansion as well as the parking in and behind the building. She asked if there were reasons why the parking could not be moved behind the building.

Ms. McDowell stated that staff offered some suggestions to the applicant at a couple of meetings. Staff talked about the concerns and made some recommendations and suggestions on how their expansion may be accomplished. One of the suggestions was to move the addition behind the church and connect it with the schoolhouse. That would solve the problem of the schoolhouse suffering from non-neglect because it was not in good condition and it was a contributing structure. Staff wanted to see the old schoolhouse renovated as well, but the applicant said that it would be done eventually. It would also solve one of these problems to combine those two. Staff did not go out on the site and try to design the addition for them, but just let the applicant know about staff's concerns and how they might be mitigated.

Mr. Thomas stated that he would like to go back to Mr. Loewenstein's question maybe a little bit differently. He asked on the 175-seat maximum if staff had stated that was the average size for the County and if that were the way that staff would decide the size of the church. He suggested that they talk about the square footage again too.

Ms. McDowell stated that she looked at the records and most of the rural area churches were 200 seats or less, but there were a few more churches with the approvals going up to 500 seats. She pointed out that she did not do an average, but just considered it as a community average. She noted that it was certainly within the range of other rural area churches.

Mr. Thomas stated that his point was if the church grew to have 250 people to seat, are they not going to be able to enlarge their sanctuary to accommodate them.

Ms. McDowell stated that this would limit them to 175-seats, which was what staff had told the Health Department and VDOT to judge it by. The applicant would need to come back to ask for a request for a larger amount.

Mr. Rieley pointed out that the number came from the church.

Mr. Thomas asked if staff took the recommendation from The Secretary of the Interior's Standards for the Treatment of Historic Properties or was this a County recommendation.

Ms. McDowell stated that it was a County recommendation, but the Design Planner certainly took the historic design standards into consideration, but she did not take them word for word.

Mr. Rieley stated that he had a similar question. He pointed out that he found it problematic to use the inclusion of the Secretary of the Interior's Standards for Treatment of Historic Properties as a benchmark for whether something should get a special use permit. Unless something has changed in the few weeks since the Commission reviewed Olivet Presbyterian Church the County has never adopted the Secretary of Interior's Standards as a benchmark of any kind. He asked if that was correct.

Ms. McDowell stated that was correct.

Mr. Rieley stated that essentially what they had was that half of the Comprehensive Plan analysis in the staff report is given over to an analysis of how the Secretary of Interior's Standards applies to this specific case, but in fact there is not a word in our Comprehensive Plan about the Secretary of Interior's Standards.

Mr. Loewenstein stated that he was extremely frustrated at the decision that this group made about removing similar kinds of wording from a previous application a few weeks ago. Because he is also on the Historic Preservation Committee and had been around since its inception in the County, he felt that he was somewhat qualified. He stated that he also lives in a house that is a National Register listed property that was in a National Register District in the County. What they were doing here is not referring specifically to the Department of Interior's Standards and he pointed out that this in fact was not verbatim lifted from the Department of Interior's Standards because he knew them quite well. He felt that the last time this topic came up that it was couched on the basis of a design kind of decision that bore no relationship to land use, which was the Commission's primary function. He agreed that was the Commission's primary function. The Comprehensive Plan does mention a Historic Preservation Plan, which was adopted by the County, and it does speak to the Secretary of Interior's Standards even though it does not mandate them. Nor is it in the position to mandate it because it is not a legal document. It is just like any other part of the Comprehensive Plan, it is a set of guidelines. Nevertheless, it says that we will pay attention and protect in whatever limited way we could without an ordinance, historic property and cultural resources and historic resources as part of the County's history, assets and way of life. When we sit here and design the kinds of plantings that are going to put on a hillside above a shopping center and we say we don't want 6 foot Leland Cyprus trees 12 feet on center, we want 8 feet tall Pin Oaks 10 feet on center, he felt that was a lot more design-specific than anything that historic preservation guidelines are doing. He felt that was very limited and did not put any sort of restriction on the people who are going to be doing this work and simply allows us to acknowledge the historicity of this structure which is part of the historic fabric of the County. That is all that the Historic Preservation Plan as part of the Comp Plan is really intending to do at this point or is capable of doing. He noted that to say that this does not fit or come within our purview or is in some way overly negative is inaccurate.

Mr. Rieley stated that the Commission would have an opportunity to talk about that at greater length. He stated that he felt that Mr. Loewenstein's statements were factually incorrect. He stated that he did not see how you could say that this was not referring to the Secretary of the Interior's Standards because Attachment E is verbatim and is pulled right out of the book. He stated that the Commission would have ample opportunity to discuss this in greater detail. He asked if there were any other questions for Ms. McDowell. That being the case, he opened the public hearing and asked if the applicant would like to address the Commission.

Keith Hawkins, Trustee of St. John's Baptist Church, stated that back in 1999 when they tried to get Phase 1 and Phase 2 approved there were some concerns with Phase 2. There were some problems with the wings on the church. Since that time they have bought the property adjacent to the church, which gave them a little more room to expand. He pointed out that they worked with the Planning committee who came down to the church by discussing ways that they could preserve the historical look of the church. At that point of time the biggest concern of the Planning committee was in keeping the historical look. They were looking at adding onto the front of the church. After they sat down and talked, they came up with that they would put the addition

on the wing. He asked that they go to Attachment b on page 24, you will see where they came up with an agreement that it would be better to put the addition on the side of the church. By doing this they would not be defacing the front of the church. Therefore, he felt that they would be preserving the historical aspects of the church. He pointed out that the area where Ms. McDowell suggested that they put the addition was the only place that the Health Department would give them approval for their drainfield. He pointed out that they had to put eight 100-foot lines of drain and the only place the drainfield could go was in the back of the land in the location that she suggested putting the church. He pointed out that they worked with staff and that was how they based their plans for the new church on their recommendation in 1999 as far as adding on to the side of the church and not defaces the value of the church. As far as the impact, he was a little concerned because he felt that the church was running a service to the community and there was no better place to be the center point of the community than a church. He presented an article by the County Attorney about Olivet Presbyterian Church, which stated that the first amendment localities must apply the least restriction necessary when looking at a religious institutional land use. Regarding the concerns that they were too close to the road, he asked if there were any guidelines that say we have to be a certain distance from boundary or from a residence. He pointed out that the residence that was adjacent on the south side to the parking lot had a boundary of trees there that screen their house from the church. He passed out some photographs of the site that shows that. Basically the design that they have is basically the same design that Olivet Presbyterian Church did in 2000. He pointed out that they were basically trying to do the same thing by coming off of a historic church. The reason that they wanted to do the extension adjacent to the church was because during inclement weather they would only have to go inside one structure instead of three. He pointed out that the graves in the back of the church limit what they can do in that area. He stated that the only way that they could build the addition was off of this side of the church. He pointed out that if they went off the other side of the church that they would have to tear out the kitchen and bathroom, which had the most expensive fixtures.

Ms. Hopper asked what part of the parking lot was existing.

Mr. Hawkins stated that the purple showed the existing parking. He pointed out that they bought the adjacent property based on the fact that in 1999 they were told that they did not have enough parking space. He stated that the additional parking and the addition were needed by the church to accommodate their many needs.

Ms. Hopper asked if the applicants have explored moving the parking somewhere else either back farther or arranging it different ways so that it was not all on the road.

Mr. Hawkins stated that they have not, but felt it was something that they could work with if they could attach the proposed addition to the existing church.

Ms. Hopper asked if the screening currently exists in front of the gray parking lot.

Mr. Hawkins stated that it did not, but that area was going to contain some trees for landscaping.

Mr. Rieley asked if there were other questions for Mr. Hawkins. There being none, he asked that the first person on the signup sheet, Mr. Kelvin Hawkins, to come forward to address the Commission.

Kelvin Hawkins, Assistant Pastor of St. John's Baptist Church, stated that the present sanctuary seats about 75 to 100 individuals and the new sanctuary would only seat 75 more people than they currently have. He pointed out that the new sanctuary would only be 8 feet wider in the front and approximately 20 feet longer hanging over in the back. St. John's Baptist Church has adopted a mission to worship, work and witness. He noted that they desire to witness in their community. The government has slated that there were a lot of things that the church can do better than actually the governments can do. He pointed out that they feel that is a true

statement whereby they could do a lot of things better. He stated that the addition is needed very badly, particularly to provide classrooms for the younger children. In regards to the historic information, he pointed out that he had spoken to Mark Wagner from the Virginia Department of Historic Resources in Richmond and he actually stated that from his standpoint they had no stipulations on what you can and cannot do with your property. As they move forward and they look for growth in their church, they are only increasing the number by 75 more spaces. He pointed out that he did not see any way that they could reduce their size only further. In regards to rearranging the parking, he did not see where that would be a big impact. Their main desire is to remain attached to the main building. He pointed out that the addition would help with the handicap members getting in and out of the church. When Mr. Butler came to church in a wheelchair it was very difficult to get him into the present sanctuary. He stated that if they were detached from that location, it was going to be difficult to transport those individuals and get them to and from the different buildings.

Mr. Rieley stated that the next speaker was David Best.

David Best, resident of 1570 St. John's Road, stated that he owned the 70 acre farm directly across the road from the church which was known as Stonehorse Farm. Despite of the fact that he had not heard anything directly from the church about their desire to expand, he was sympathetic to their desire to expand. He stated that his purpose of being here was not to try to stop the expansion at all. He stated that his only request was that this be done in a manner that was consistent with the rural character of St. John's Road and in a manner consistent with the historic nature of the existing church that was there. As noted by staff, the current proposal does not achieve that. He asked that if this was approved that it be done so with restrictions that follow the guidelines put out by your staff that the size of the scale of the church be restricted in such a way that the existing historical building remain the dominant structure. That the new building construction not occurs within 80 feet of the frontage road. Presently the plan as he saw it takes a 30-foot wide structure and expands it along the road with a 30-foot setback to a facility that was almost 150 feet wide. That is a considerable structure along that road and he would like to see that kind of restriction applied. Also that the new construction be separated from the existing structure without visible reconnection without physical connection or that it be redesigned to provide for a more sympathetic visual transition between the new and the old facility. He noted that was the end of his comments.

Mr. Rieley stated that the next speaker was Kathy Greissler Best.

Kathy Greissler Best, of 1570 St. John's Road, stated that she was an interior designer and lived directly across the street from the church. She pointed out that no one from the church informed us of the expansion. They received the notice last week about this meeting, which was the first that they had heard of this proposal. She appreciated the need for the church to expand, but she would like to see the historic building and its integrity preserved. She wanted to preserve this rural community where we live. The plan as proposed does neither unless it was with restrictions that the Planning staff has suggested. She noted that they needed to make sure that there was sufficient parking. She noticed that the church members were asking for liency in the number of parking spaces, and she would ask the Commission to please require the correct amount of parking spaces. The church members speak of not being able to move the building back because of possible church socials and she wondered if that should be considered in addition to the 175 people in the new congregation. She asked if the church socials were larger than that and if they needed extra parking for that. From their experience the church attendees currently park on their parking. They have never asked permission and they have never thanked us for parking there. They park along our road and sometimes in our driveway. The church owns about 10 acres and she requests that they provide sufficient parking and park on their property instead of on mine. The church parking has also caused problems for other neighbors who live further down on St. John's Road as well. They have had problems with being able to get past the illegally parked cars. Their concern with this huge expansion is that it will be even more difficult to carry on business of the people residing in this area. She pointed out that her major concern that there

was adequate parking pushed back from the road so they don't have a huge expanse right on St. John's Road. She asked that the Commission approve the request with staff's recommended conditions so that they have the historic integrity, the setback from the road, sufficient parking spaces and good screening.

Mr. Rieley stated that the next speaker was Vincenza Bonarelli.

Vincenze Bonarelli, of 1567 St. John's Road, stated that she lives on the property adjoining the church on the side with the one-room schoolhouse. She stated that she had several concerns about the plans that she wanted the Commission to know about. She personally understands the need for the church to expand, but she had some concerns in regards to what is being planned. The first concern was the old schoolhouse. Since the church acquired it, it has been left in the same abandoned situation of disrepair as when they acquired it two years ago. This includes windows without glass panes, exposed to the elements coming in, dead birds between glass panes, front door slamming throughout the day and night, etc. The second concern is with the proposed location of the parking lot. When she walks out of her front door she will visually experience a very large parking lot of 400 frontage. It creates a visual distraction and the close proximity to her house will increase the noise level. They were talking about increased services and increased activities. That alone will create incredible burdens to my family and myself. Thirdly, she was concerned about the physical boundary of the property. The churches own survey and plans indicates that her property line might be much closer than the required 20-foot buffer. She questioned the property line and as the church's own engineers indicate they might be pretty close to her property after all. There has been no church member who has come to her door informing her about this expansion; especially how close her property was to the parking lot. She requested that they give her some time and the church some time to figure out the boundary problem.

Mr. Rieley stated that it seems to him that in looking at the location of the remnant of the fence that is there and the utility pole and then coming back and looking at the boundary survey that the surveyed line goes from the corner of the fence directly through that utility pole that was back behind those two big Oak trees. He asked if that was consistent with where she thought it was.

Ms. Bonarelli stated that was correct.

Mr. Rieley stated that the question that she wanted to make sure of is that the parking lot does not end up to where it is graded to now, but in fact that it is held back at least 20 feet from that point.

Ms. Bonarelli stated that at least 20 feet further than that point. She also wanted the Commission to understand that there was 400 footage of a parking lot so that when she walks out her door, she does not see the trees but the parking lot. She pointed out that was the noise that she would be hearing every Sunday morning and at weddings, funerals, etc. She stated that she would like to have the time and opportunity to just discuss the situation and see what they could work out understanding that there is a neighbor there and she would like to be a good neighbor.

Mr. Rieley stated that the next speaker was Stewart Humiston.

Stuart Humiston, resident of Merifields Farm, stated that she lived on Route 231 several miles from this church. She stated that it seems that although their plans are very good and there is a lot that they want for this exciting project, they have not done a very good job of finding out what matters to the people on the road and in the area. She felt it was important that the Commission help represent the neighbors so that they don't have a great big parking lot just sitting out on the road virtually ruining the rural look of that area. Since the church has a large area of land, she felt that it was important that there be some communications between the homeowners and the church.

Mr. Rieley stated that the next speaker was John Henry Jordan.

John Henry Jordan stated that he was a property owner adjacent to the Bests about one quarter mile west of the proposed location. He asked to first reiterate that it was not the intent of any of the speakers to stifle the growth of the church. He stated that personally he found that it was commendable that any parish of this day and age was seeking an expansion and all of the neighbors would like to foster that expansion, but they would like to have some input regarding the appearance. He supported the recommendations of staff, particularly the preservation of the setbacks. When you look at the parcel in its entirety, there is ample amount of space to the rear of the existing structure even behind the existing cemetery plots that would allow for ample expansion not slammed right up against the road. Hr felt that moving the structure would have three major benefits. The first would be the preservation of the integrity of the existing historic structure by separating the new construction from the old. He pointed out that the design that was included in the package shows a considerably different roof line on the existing structure than what you see on that map or on the current plat. It appears that there are some additional rooflines added to the existing structure that are not shown on the existing drawing. Moving the structure would also preserve the view along the road by moving this rather large imposing structure away from the edge of the road. The third concern deals with the near doubling of the seating capacity of the sanctuary to service a second service. The overlapping cars between the first service and the second service would far outweigh a 58 space parking capacity. He stated that this committee in the past has made recommendations in other areas in the County to mandate specific amounts of parking. He appreciated the church's desire to have some leniency in that regard, but the Church needs to have consideration for those of us that live along the road and suffer the consequences of excess parking as previously mentioned. The imposition of the preservation setback requirements would preserve the rural nature of this country road that was currently lined with horse pastures, open fields, and single-family homes. Since Albemarle County is known for its preservation of its history, he would hate to see the attachment of a new structure to an existing registered historic structure destroyed. In reference to Mr. Hawkins' comments regarding the septic, he pointed out that there have been drastic improvements in the last two or three years that may allow the Church to find an alternative location for their septic field.

Mr. Rieley stated that was the end of the people on the list to speak, but they would be happy to hear from anyone else who would like to address this application. He asked if any one else would like to speak on this application. There being none, he brought the matter back before the Commission for discussion and possible action.

Ms. Hopper stated that she had some questions for Mr. Hawkins. She asked him if he had any disagreement with the conditions as recommended by staff, and if he did what were those concerns about.

Mr. Hawkins stated that the church's request for 175 seats was in the ballpark of staff's comparison of other churches located in the rural areas. He noted that they were actually on the lower side. He stated that putting the church on the other land owned by Church would not accommodate their needs. He pointed out that the Church only owns six acres and not ten as previously stated. Also, there has been a misinterpretation on when the Church bought the adjacent property. The Church bought the adjacent parcel in January of this year. Therefore, they were really concentrating on the existing Church and hopefully down the road they would be able to do something with the old school house. He pointed out that the Church bought the land in order to be able to handle the septic and the parking for the church. As far as asking for leniency leniency in the parking, if you look in the records according to the plans the church has 58 parking spaces and that would be for 175 people. Therefore, they were in compliance with the number of parking spaces. As far as sitting the church back from the existing church, it would just not work for them. He pointed out that he rode out to Olivet Church on Garth Road and basically what they did and got approval for in 2000 is what they were trying to do right now. He pointed out that in going back to this drawing, the Church made it known to staff that this was a projective drawing

and it was not the exact roofline. He noted that they would tie the roofline in so that it would blend with the Church. They were only proposing adding 8 feet to the front of the Church. The existing Church is 30' X 67' and they were looking at going to 38' X 84'.

Ms. Hopper asked staff if the plan before them had an 80-foot setback.

Ms. McDowell stated that it did not.
Ms. Hopper asked how far the church set back.

Mr. Rieley stated that there was a 30-foot building setback line. The old sanctuary was closer than 30 feet and the proposed new sanctuary building would be farther back than 30 feet and almost as far back from the road as the old school house was.

Ms. Hopper asked staff regarding the parking if the Church could use a combination of paved, gravel and other impervious surface.

Ms. McDowell stated yes that was a distinct possibility because staff likes to see the impervious and the gravel surface mixed because that is traditional with rural churches.

Ms. Hopper stated that she had one more question for the applicant. She pointed out that the Commission had heard some concerns from a couple of neighbors today. Typically, when applications come before the Commission one of the things that they ask the applicants to do is to try to sit down and talk with the neighbors and get some input back and forth. She asked if they would be willing to defer a decision so that the Church could have some time to talk with the neighbors and then come back to the Commission.

Mr. Hawkins stated that the neighbors seem to be concerned with the parking.

Ms. Hopper added that there was a concern with one of the neighbors about the boundary line.

Mr. Hawkins asked if they moved the parking lot 20 feet away from her line if that would work.

Mr. Rieley stated that they were required to be 20 feet. He asked if they could be 30 feet away from the line.

Mr. Hawkins suggested that the setback be 30 feet away from that line.

Ms. Hopper pointed out that the Church's application goes before the Board of Supervisors tomorrow which leaves very little time for them to sit down and talk with the neighbors. She stated that she was interested in them as neighbors collaborating to see if they had any meeting of the mind. She asked if they would be willing to do that.

Mr. Hawkins asked how much time that would take because they have a contractor waiting to get started.

Ms. Hopper stated that she did not know that.

Mr. Cilimberg stated that a delay would be necessary for the Church to get with the neighbors and to get the item back to the Commission would take at least 30 days.

Mr. Rieley stated that they could hold off on the answer to that question until they see how the conversation goes.

Mr. Rieley stated that the 80-foot setback seemed to be an extraordinary amount. He asked where that number came from.

Mr. Thomas stated that the setback was so that the addition would line up with the school.

Ms. McDowell stated that the 80 foot setback came from the Design Planner who did scale it off and determined that they could do that by connecting to the school and separate the Church just as a means of offering a suggestion. She passed around the sketch from the permit for the septic system so that the Commission could see where the Health Department located it on the property.

Mr. Thomas asked Mr. Hawkins how old was the school and if it was registered as an historic site.

Mr. Hawkins stated that he did not know how old the school was, but that he thought it was a contributing historic site.

Mr. Thomas asked what the Church's plans were for the building.

Mr. Hawkins stated that they would probably look at doing something with the building through some grants. He pointed out that the Church bought the land basically to handle the septic and the parking at this time.

Mr. Thomas asked if he was planning on demolishing the old school house.

Mr. Hawkins stated that they were not. He stated that the question of putting the Church back there had come up. He pointed out that the drainfields would have to be located in that area. When the Health Department came out they were concerned that possibly the open area in the back of the Church would not have enough land to handle the drain lines. Therefore, it would not work to move the building back in that area.

Ms. McDowell stated that the Commission could see from the permit that was being sent around that it looks as if the 1,000-gallon pump tank would be behind the proposed addition, but there is a reserve area that is the proximity but behind the old schoolhouse. Staff has not talked with the Health Department to find out if there are any other places to have this reserved area. She stated that they could see by the permit that the 1,000-gallon pump tank and the septic tanks are behind the existing Church and the proposed addition, not behind the schoolhouse. Staff is not recommending that the addition be placed in the septic area at all. Due to the existing grades, staff would not want the addition back there anyway.

Mr. Rieley stated that they have not heard much disagreement from anyone about whether this expansion should move ahead. The focus seems to be on the conditions. He suggested that they go through the list of conditions. He asked that they begin with condition # 1.

Mr. Loewenstein stated that he would like to speak to the first condition. First of all he assumed that in Mr. Rieley's earlier remark he was not questioning his honesty, integrity, professionalism or ability to read, but he would point out that, although the staff report does include text of the Secretary of the Interior standards on page 3 which is the same as Attachment E, the wording in the places where it is appropriate in condition # 1, that is sections a and d, which correspond to the two statements on page 3, are not verbatim at all as he said originally. He pointed out that their spirit was the same, but they were not verbatim. He stated that he was willing to read them into the record if that is necessary. The wording of these portions of condition # 1 does not appear to be highly restrictive in any sort of specific way. The consideration regarding land use designation includes the fact in this case that both structures on the property are contributing structures to the National Register and State Register District. If that contributory status is threatened by poor design standards then not only will this parcel and buildings' integrity be threatened but the integrity of the entire district is threatened, and that definitely relates to land use. He could not recommend support of the addition as designed because it will compromise the existing historic resource and the historic district.

Ms. Hopper asked what that means.

Mr. Loewenstein stated that means that the character of the building and therefore the character of the district area is compromised by poor design standards that don't speak to the histories of the structures that are already there. It does not put any sort of specific restrictions on the property owner at all. It simply proposes as a guideline that the addition should be done sympathetically in terms of the size, materials, scale, location and so forth. That is all that has been suggested here. He stated that the County has a Design Planner and asked why they were accepting remarks from a Design Planner if they have no real reason to pay attention to her. He questioned why they were asking Margaret Maliszewski to do this. He pointed out that he did not understand why the County was currently advertising for a Historic Resources Person on staff. He asked what that new person would do if it was not possible to make recommendations like this. He stated that he was saddened and depressed that they did not seem to be able to reconcile that view with what they were being asked to do here tonight as was the case a few weeks ago when they were asked the same thing in the case of the Olivet Church. He stated that he did not see a problem particularly with conditions 1a and 1d, which was what he started speaking to earlier this evening. Again, he would like to say that these conditions were within their purview and they were perfectly innocuous but they do address in a very, very superficial way the historic nature of this property. This is a set of guidelines which they are expected to try to uphold. The first objective is to continue to identify and recognize the value of buildings, structures, or landscapes, sites and districts shall have historical, architectural, archeological or cultural significance. They have a design planner who submitted an opinion as to the likelihood of compromising the historic character if they don't use the conditions 1a and 1b as specified here. This was the only point that he wants to make and that the text was not verbatim.

Mr. Rieley asked if there were other thoughts. He stated that he did not believe that he said that the text was verbatim, but he did not want to belabor that point.

Mr. Loewenstein stated that he said that he had made a factual error.

Mr. Rieley stated that he thought that he did, but he did not mean to be taken personally. He pointed out that he had the highest regard for him in every way and he really appreciates the order with which he was propounding these historic values. He stated that it was a wonderful thing that he brings to the Commission and he always appreciates it and respects his opinion.

Mr. Loewenstein asked to read the text into the record. On page 3, the standards themselves state recommended: Placing a new addition on a non-character-defining elevation and limiting the size and scale in relationship to the historic building. Condition # 1a says the size and scale of the addition shall be reduced so that the existing church remains the primary structure on the property. As he said, it is the same sentiment, but it is not verbatim. The second one says, Not Recommended: Designing and constructing new additions that result in the diminution or loss of the historic character of the resource, including its design, materials, workmanship, location, or setting. He pointed out that was reflected in 1d, New construction shall be separated form existing construction without a physical connection or it shall be redesigned to provide for a more sympathetic visual transition between new and old, and shall also be held to the location limits outlined (b) and (c), above. He stated that he was almost certain that those are not identical texts.

Mr. Rieley stated that nobody said that they were identical texts, which was the point that he was trying to make. He asked for the Commissioners thoughts about this.

Mr. Thomas felt that the size and scale could be worked with to a point with the setbacks by moving the structure back 30 to 40 feet. He asked if that would reduce the scale.

Mr. Rieley stated that he could not support the restrictions in condition # 1 because the size and the scale of the addition shall be reduced so that the existing church remains the primary structure on the property. The point of this expansion is to more than double the size of the church. Many of the sediments that are expressed by the Design Planner and Mr. Loewenstein he agreed with. But he felt that they have to put this application and its historic values within the context of other values and within their context of their responsibility. One of their responsibilities is that when they were dealing with churches and the permitted uses for churches, they are required by law to find as Mr. Hawkins quite correctly pointed out the least restrictive measures necessary. To take what is a normal commercial setback of 30 feet and expand that to 80 feet on the basis that the Design Planner's interpretation of the Secretary of Interior standards suggests that might be a good idea. It seems to him that would be pushing this into the category of one opinion against another. He stated that he has worked professionally with the Secretary of Interior Standards for over 20 years and he knew them very well. He pointed out that he was probably the only one in this room that makes his living primarily by dealing with historic issues. He felt that this plan could be given to 3 or 4 people and get different opinions on the degree to which yet meets the Secretary's Standards. He pointed out that was one of the reasons that he thought they should have an Albemarle County set of historic preservation standards and not the Secretary of the Interiors Standards because it was so open to interpretation. One of the things that you do when you have a larger building attached to an older historic building is to set it back from the face, and the applicant has done this. One of the other things that you do is not join the body of the building to the body of the original building, but you do it with a hyphen. He pointed out that this has been done in this case. He noted that he was not suggesting that this was the best possible design or that it was what he would recommend, but he felt that it did not rise to the standard of not approving this application without changing it that dramatically. Mr. Loewenstein said that he did not think that it was highly restrictive, but he thought that moving a building from a 32 or 33 foot setback to an 80 foot setback that certainly the applicant would regard that as highly restrictive and he would have to agree with him. He asked to run through the conditions very quickly and then other Commissioners could weigh in with their disagreements. The next condition deals with the 80-foot right-of-way, which states that the new construction shall be held behind the line of the front wall of the existing addition on the south side at a minimum. Even the Design Planner was suggesting that there is some latitude here. He suggested that it was appropriate to hold it back and that the existing design does hold it back from the face of the other. Condition d is that the new construction shall be separated from the existing construction without a physical connection or it shall be redesigned to provide for a more sympathetic visual transition between new and old. Again, with language like a more sympathetic visual transition, he did not feel comfortable voting against this without this kind of language attached to it because it strikes him as too subjective. He felt that if they looked at the Olivet Presbyterian Church and the two additions that they have approved for that, that the relationship and scale between those two additions to that church relative to the old original sanctuary would be much greater than what is being proposed here. Therefore, he was concerned about being fair and consistent as well. He noted that those were his reasons on condition # 1.

Mr. Cilimberg stated that technically condition # 1c as it would be applied according to Ms. McDowell would be actually that line would start there rather than being in the back of the hyphen it would be in front of the hyphen.

Mr. Rieley stated that was correct because he had misread the condition. He felt that holding it behind the front of the church was enough. Therefore, he would not support 1c.

Ms. Hopper asked if the site plan, which showed the original church in orange, was in scale. She pointed out that the picture makes the church appear longer.

Ms. McDowell stated that she would hope so since the site plan had been received from the applicant's engineer.

Ms. Hopper asked if there was a risk of losing the historic designation.

Mr. Loewenstein stated that there was a risk. In this case the district contains 39,000 acres and was a very unusual situation. Typically districts are very much smaller than that. In this case they were talking about one relatively small and modest building in a very large district. In reality it probably won't significantly affect the district's listing designation as a whole. If it were in a smaller district, then it might. He stated that his question was: Is that a reason to ignore it in some cases and not in others? He stated that he did not know if it is. If this were one in a district of four buildings, then he thought everybody here would probably see this differently. Because it was not, he would suspect that it would have a very minor if any impact on the designation of the 39,000-acre district itself. He pointed out that the principle was still the same. He pointed out that there were benefits to the church that might go away if they lost their designation as a result of the building being delisted. They would not be able to qualify for certain low cost loans among other things.

Mr. Rieley stated that this structure was not on the National Register or any other register as anything other than a contributing structure.

Mr. Loewenstein stated that was true.

Mr. Rieley asked to point out something for clarity. He stated that the line that he just drew was the front of the vestibule. He noted that it was drawn correctly, but colored incorrectly because the orange was sidewalk and not part of the building.

Ms. Hopper referred to condition # 1d and the language of the last clause that it shall be redesigned to provide for a more sympathetic visual transition between the new and old. She stated that made her think about some of the language that they have used in cell tower applications in talking about complimentary colors, structures and such. It seems that there would a way to get it more specifically without subjectivity.

Mr. Rieley agreed that they should strive to do that with specificity.

Ms. Hopper stated regarding # 1a thought that the feature of the original church should be highlighted as much as possible, but the expansion should not be reduced. She felt that it should not be required that the buildings not have a physical connection with each other. She stated that she did not agree with b or c because she found them too restrictive. She noted that her biggest concern was the parking lot and the frontage of that in front of the schoolhouse along the road. She felt that the boundary issue with the neighbor regarding where the setback lines was needs to be resolved. She asked that Mr. Rieley provide his thoughts on the parking.

Mr. Rieley stated that it seemed that the scale of that parking lot relative to not only what is there now, but relative to the scale of the buildings particularly when there is a lot of room to the back, is unnecessarily large. He suggested that a 30-foot setback from the property to the south rather than 20 feet was probably appropriate. There are three rows of parking and two isles that serve it which would give you an awful lot of pavement relative to the amount of parking that you have. If the parking was limited to two rows of parking in the front with a central isle that serves it, then it would be approximate 60 feet. Currently it was almost double that amount now. This reduction would allow a substantial area for planting along the edge of the roadway and provide a great deal of relief in the setting for the schoolhouse building. The rest of the parking could be placed towards the back of the property and actually used in conjunction with the septic field.

Mr. Thomas asked if they could make it one-way traffic in the parking lot.

Mr. Rieley stated that was a possibility, although it probably would not be necessary if you were only looking at that piece of it. He noted that a lot of that space was given over to circulation rather than just cars.

Mr. Cilimberg asked if he thought that the rest of the parking could go back behind the schoolhouse.

Mr. Rieley agreed. He suggested that they use the two rows of parking 60 feet across with the standard turn back at the end, and if there was any way with that to make the circulation work so that you don't need the second cul-de-sac. He agreed with one of the speakers that this was a case that they wanted to make sure that there is adequate parking. He agreed with Ms. Hopper that to the greatest extent possible that the parking lot should be gravel rather than hard surface parking. He asked Mr. Thomas if he had anything to add.

Mr. Thomas agreed with everything that Ms. Hopper had stated about a and d, and that he did not agree with c and d. He agreed with Mr. Rieley's suggested parking lot alteration.

Mr. Rieley stated that the next condition was that the area of assembly should be limited to a maximum of 175-seat sanctuary. Since that is what the applicant has suggested, he certainly did not have any objection to that being the maximum. He asked if anyone had any problems with that. Going on to condition # 3, he stated that the Commercial setback standards, as set forth in Section 21.7.2 of the Albemarle Zoning Ordinance, shall be maintained. He stated that only because this was a special use permit and the commercial setback would not otherwise apply.

Mr. Kamptner stated that was correct.

Mr. Rieley stated that # 4 stated that there shall be no day care center or private school on site without approval of a separate special use permit. There being no concern on that, and he went on to # 5 that was approval of well and septic system. There was no problem with that one so the next condition was that the two properties shall be combined into one parcel prior to the issuance of a building permit.

Ms. Hopper asked why that was necessary.

Ms. McDowell stated it was needed because the building would go over two property lines.

Mr. Rieley stated that the existing trees on the south property line adjacent to the existing trees adjacent to TM 66-76 between the schoolhouse and St. John Road shall be retained. Tree protection measures, subject to the approval of the Planning Department, shall be employed during construction. He asked staff if they were referring to the two large Oaks that are to the southwest of the schoolhouse.

Ms. McDowell stated that was correct.

Mr. Rieley stated that a commercial entrance with 150 right turn taper shall be required subject to the approval of VDOT.

Ms. McDowell stated that it was a requirement of VDOT.

Mr. Cilimberg stated that if it was a requirement, then it would not have to be a condition of the special use permit, since it would come through on the site plan.

Mr. Rieley suggested two things that they do relative to this. Number one, he felt that they should eliminate it as a condition because it was redundant. If this requires an entrance permit and VDOT is going to require the turn taper, there is nothing that they can do about it. However, he asked to not have it as a condition and would like it considered as a request that VDOT look at the possibility of not requiring that. He suggested that the Planning Commission make an official request that VDOT look sympathetically on this from a traffic perspective and it does not further anybody's interest in that area in protecting the historic scene to have an extra 15 feet of asphalt added to that roadway in that location.

Mr. Thomas agreed.

Mr. Rieley stated that he had gotten to number 8 and ran out. He asked staff what was other condition she had recommended.

Ms. McDowell asked if anyone had received the staff report with update written on the top of it. Since no one had received the update of the staff report, staff read condition # 9 as she recommended: The construction of the church as shown on the plan shall begin within 5 years of the special use permit or the special use permit shall expire.

Mr. Rieley asked if staff recommends that.

Ms. McDowell stated that staff does recommend that.

Mr. Cilimberg stated that the condition would apply to construction of those things subject to the special use permit.

Mr. Thomas and Ms. Hopper agreed.

Mr. Rieley stated that if the parking lot was reduced as suggested that it would give additional room for planting, which a couple of speakers eluded to. That area is full of native Cedar trees and he would like to see the parking screened heavily and the south property line screened with Cedars or another single species at the discretion of the agent. He asked if anybody had a problem with that.

Mr. Thomas stated that he did not have any problem with that.

Mr. Cilimberg asked if he was referring to the parking along the road as well as the area between the parking and the property to the south, and Mr. Rieley agreed.

Ms. Hopper asked that the site plan come back to the Planning Commission.

Mr. Kamptner asked if a site plan waiver was being requested.

Mr. Cilimberg stated that it was a possibility that they might apply for a site plan waiver, which would include the conditions of approval. He pointed out that staff asked the applicant to submit a concept plan that they did provide. Since the Commission was now recommending some changes, the applicant can now submit a site plan or a waiver that will reflect your conditions. That really provides a savings for the applicant.

Mr. Rieley noted that they have dealt with all the conditions except one. He pointed out that Mr. Thomas and he have expressed discomfort with # 1d. Ms. Hopper has suggested that they might find some more specific language to address the concern with that. He asked Ms. Hopper to elaborate on that.

Ms. Hopper stated that one of the things that she thought of by way of analogy is that some of the more specific descriptions show up in ARB reviews. Since this was not an Entrance Corridor, she was not suggesting that. But she was suggesting by way of analogy that type of specific design requirements seems to be what they need here so that it would not be left to somebody's subjective interpretation of what sympathetic means. Between that and the issue of the neighbors and the applicant not sitting down and talking, she would like to consider asking the applicant to consider deferring to give our Design Planner the ability to take a look at that with that type of narrow direction. It would also give the time for the neighbors to sit down to talk about the boundary issue. She stated that she was comfortable with all of the other conditions. But not

having anything for 1d was a big concern. She felt that they were not in the position to craft this language or if by tomorrow night Ms. Maliszewski could do it.

Mr. Cilimberg pointed out that actually this would be heard tomorrow morning and it would not happen. He pointed out that the applicant requested that this request is heard the day after the Planning Commission meeting and the Board granted it.

Mr. Rieley stated that on the issue of the boundary, after talking with the adjacent neighbor on the south, that line is in the right place. He felt that everybody was in agreement with where the line was. The question was where the parking was relative to that. The parking definitely has to be a minimum of 20 feet and if they decide 30 feet off of that. He stated that there was no factual disagreement about where the line was.

Mr. Rieley asked Ms. Hopper to ask the applicant to consider a deferral now would be the time to do it.

Ms. Hopper asked if the applicant would be willing to defer this request.

Mr. Cilimberg suggested that the deferral be to a specific date taking into consideration the time it would take to take care of these matters. He felt that thirty days would be the minimum. He stated that staff has put a lot of thought into the conditions, but they would work the best that they could on trying to identify something that can more objectively represent what d calls for.

Mr. Rieley asked Mr. Hawkins if he was willing to ask for a deferral.

Mr. Hawkins asked if their concern was mainly parking on the south side boundary adjacent to the neighbor.

Ms. Hopper stated that the main concern was with how to describe how the old building would match up with and be consistent with the new building. She felt that the language was so general that it was hard to figure out what it means. Therefore, she would like to give the Design Planner the opportunity to be a little more specific.

Mr. Hawkins stated that they would match the white vinyl that was currently on the church and that it would be compatible with what is on there. He pointed out that he did not see any reason to defer this because he agreed with the suggestions about the parking and providing the evergreens. He stated that he did not want to defer the request. He pointed out that some of the verbiage suggested by the staff is going to jeopardize them from getting started on their project. At this point in time he stated that they were not willing to defer the request.

Mr. Rieley stated that the information in the photographs show that the pitch on the roof of the first addition is very similar if not the same as the pitch on the roof of the existing church. He asked if he would entertain a suggestion that we say that the roof pitch and roof material and siding material of the hyphen, which means that it actually connects to the church, be the same as the existing church.

Ms. Hopper stated that if the request passes at the Board level, she felt that their amended conditions would be in the best interest of the County to be approved. If there was not a deferral for a month to look at condition # 1d and for the applicant to have a chance to meet with the neighbors, she would move for denial of SP-03-41, St. John's Baptist Church Amendment.

Mr. Loewenstein seconded the motion.

The motion for denial was approved (3:1). (Rieley – No) (Craddock, Edgerton, Finley – Absent)

Mr. Rieley stated that SP-03-41 would go to the Board tomorrow morning with a recommendation for denial.

Mr. Kamptner stated that for the Board's benefit the Commission they try to capture the recommended conditions.

Mr. Rieley stated that the conditions that they have discussed included:

- Eliminate condition # 1. There was some discussion about adding some specfic language at 1b, but they did not arrive at language that everybody was comfortable with. Mr. Rieley suggested that they consider in lieu of 1 d saying that the roof pitch, roof materials and the siding match the existing church at the hyphen.
- Condition # 2 was to stay as it was.
- Condition # 3 was to be revised to add a clause after maintain, "except at the setback on the south side of tax map 66, parcel 77 shall be 30 feet.
- Conditions # 5, 6, 7 were to remain the same.
- Condition # 8 was eliminated and to request that VDOT look sympathetically on eliminating the right-turn lane requirement when the entrance permit was applied for. It was suggested that the parking lot be reduced in size from its current size to a single double loaded 60-foot wide parking lot with a standard turn in at the end. That it is situated more or less centrally between the schoolhouse and the road so that there is additional land given over to the schoolhouse and additional frontage along the road. That Cedar trees or another evergreen species be planted in staggered rows along both the state road and along the south frontage of the property or the new 30 foot setback side under the direction of the agent.
- They agreed with the extension of five (5) years to commence construction.
- The additional parking that was required to meet the minimum parking requirements was to be located to the rear of the site.

Mr. Rieley pointed out that those were the conditions that did not prevail.

Revised conditions recommended by the Planning Commission if the Board of Supervisors approves SP 2003-41.

~~1. The design of the addition shall be revised so that the historic character of the existing church is maintained and so that the existing church retains its status as the visual focus on site, subject to the approval of the Planning Director or their designee, to include the following components:~~

~~a. The size and scale of the addition shall be reduced so that the existing church remains the primary structure on the property.~~

~~b. New building construction shall not occur within 80 feet of the right-of-way along Route 640. (This is intended to maintain the addition behind the line of the rear wall of the existing church.)~~

~~c. New construction shall be held behind the line of the front wall of the existing addition (permitted with SP 99-05) on the south side, at a minimum.~~

~~d. New construction shall be separated from existing construction without a physical connection or it shall be redesigned to provide for a more sympathetic visual transition between new and old, and shall also be held to the location limits outlined in (b) and (c), above.~~

1. On that portion of the addition that connects the Existing Church to the New Sanctuary (identified on the Application Plan for St. John's Baptist Church, dated July 7, 2003 (the

"Application Plan") as the area for "New Classrooms"), the roof pitch, roofing material, and the siding material shall be the same as is on the Existing Church.

2. The area of assembly shall be limited to a maximum 175-seat sanctuary.

3. Commercial setback standards, as set forth in Section 21.7.2 of the Albemarle Zoning Ordinance, shall be maintained; except that the setback on the south side of TM 66-77 shall be thirty feet.

4. There shall be no day care center or private school on site without approval of a separate special use permit.

5. Health Department approval of well and septic systems shall be required prior to the issuance of a building permit.

6. The two properties, TM 66-77 and TM 66-78, shall be combined into one parcel prior to the issuance of a building permit.

7. The existing trees on the south property line adjacent to TM 66-76 between the schoolhouse and St. John Road shall be retained. Tree protection measures, subject to the approval of the Planning Department, shall be employed during construction.

~~8. A commercial entrance with a 150' right turn taper shall be required, subject to approval by VDOT.~~

8. Construction of the church, as shown on the Application Plan, shall commence within five years of the date of the approval of this special use permit or this special use permit shall expire.

9. The parking area between the Route 640 right-of-way and the Existing Building (Vacant) shown on the Application Plan (the "Existing Building") shall be limited to one aisle containing double rows of parking spaces, with a standard turnout at the end of the travel aisle. This parking area shall be centrally located between the Route 640 right-of-way and the Existing Building. The areas between the parking area and the Route 640 right-of-way, and the parking area and the abutting parcel to the south (TM 66-76) shall be planted in native evergreens such as cedars sufficient to screen the parking area from Route 640 and the abutting parcel, as determined by the Director of Planning and Community Development. All other required parking shall be located behind the Existing Building.

SP-03-42 Vintage Virginia Apples, LLC (Sign #49) - Request for special use permit to allow on-site produce sales at an orchard in accordance with Section 10.2.2.45 of the Zoning Ordinance which allows for farm sales. The property, described as Tax Map 87, Parcel 9, contains 78.586 acres, and is zoned RA, Rural Areas. The proposal is located on Rt. 29 (Monacan Trail), approximately 0.8 miles from the intersection of U.S. 29 and Route 692, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas. (Scott Clark)

Mr. Clark summarized the staff report. This is a proposal for a special use permit for farm sales and an existing orchard. This is a use that staff believes supports continuing and supporting local agriculture in the County. There are a couple of small safety issues that need to be addressed for this specific site. Staff is recommending approval with five conditions. One of the conditions is an entrance permit from the Department of Transportation to ensure that the minimum standard for a commercial entrance is met. Guardrails are required for the single lane road that runs across a dam next to a pond at a drop off. Staff is suggesting that some notes be added to the plan. Staff

is also recommending approval of the applicant's request to waive Section 5.1.35.c for the preliminary site plan requirement, and also approval of a waiver to the ten-foot parking setback from Section 5.1.35.d.

Mr. Rieley asked if there were any questions for Mr. Clark. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Charlotte Shelton stated that this was something that had grown out of what began as an interest and using the land that they acquired 17 years ago. She pointed out that the orchard had been established over the past ten years and was coming into production. In order to come into compliance with the Zoning Ordinance, they need this permit. She questioned whether the bumper blocks were really necessary. She noted that the area near the barn was flat and it really becomes a safety issue of people stumbling over them. She stated that they were willing to work with the Engineering Department in terms of putting some guardrail across the dam. She pointed out that there was ample room for two lanes of traffic.

Mr. Rieley asked if anyone else would like to address this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Thomas asked staff if the parking bumper blocks were a requirement for the parking spaces.

Mr. Clark stated that he was not sure where the Engineering Department came up with the parking bumper blocks.

Mr. Rieley agreed with Ms. Shelton about the bumper blocks in that they are probably unnecessary and likely to be more of a problem than an asset. He stated that this was sort of a barnyard setting and in his view does not need to have these sort of suburban bumper blocks to identify every parking space. He felt that condition # 3 was fine, but hoped that did not mean a highway standard guardrail would be used.

Mr. Clark stated that the Engineering Department had told him that the guardrail would not have to meet VDOT's standards.

Mr. Thomas moved for approval of SP-03-042 with the recommended conditions as amended eliminating condition # 2 as follows:

1. A Virginia Department of Transportation entrance permit for a private entrance shall be obtained for this use.
2. Guardrails shall be installed to the satisfaction of the Department of Engineering and Public Works on Rural Ridge Lane where it crosses the dam.
3. The applicant shall submit a revised sketch plan that:
    a. Includes the following note: "The total retail sales area in the farm sales structure shall not exceed fifteen hundred (1,500) square feet. At all times, at least fifty (50) percent of the retail sales area inside the farm sales structure shall be agricultural or horticultural produce or merchandise produced on the premises. The remaining fifty (50) percent area may be companion items that are not produced on the premises, but are intended to be used with the agricultural or horticultural produce which is produced on the farm. Displays outside the farm sales structure shall be limited to agricultural and horticultural produce only."
    b. Clearly indicates the limits of the sales area.
4. Retail sales shall be conducted only within the sales area depicted on the revised sketch plan.

Ms. Hopper seconded the motion.

The motion carried (4:0). (Edgerton, Finley, Craddock – Absent)

Site Plan Waiver
Ms. Hopper moved for the approval of the parking setback waiver of the 10-foot parking setback, as permitted in section 5.1.35.d of the Zoning Ordinance, and for the waiver of the preliminary site plan requirement, as permitted in section 5.1.35.c.

Mr. Thomas seconded the motion.

The motion carried (4:0). (Edgerton, Finley, Craddock – Absent)

Mr. Rieley stated that the Board would hear this request on September 10, 2003 with a recommendation for approval for the waivers and SP-03-42.

SP-03-43 The Covesville Store (Sign #52) – Request for special use permit to allow a country store in an existing structure, in accordance with Section 10.2.2(22) of the Zoning Ordinance that allows for country stores. The property, described as Tax Map 109, Parcel 7E, contains 1.03 acres, and is zoned RA, Rural Areas and EC, Entrance Corridor Overlay District. The proposal is located at 5930 Covesville Store Road (Route 841), approximately 0.5 miles south of the Route 29/805 intersection, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas and Entrance Corridor.

AND

SP-03-51 The Covesville Gift, Craft & Antique Store (Sign #52) - Request for special use permit to allow a gift, craft, and antique store in an existing structure, in accordance with Section 10.2.2(36) of the Zoning Ordinance that allows for gift, craft, and antique shops. (Steven Biel)

Mr. Biel summarized the staff report.

Applicant's Proposal: The applicants are requesting approval of a special use permit to allow for a country store and a gift, craft, and antique store to operate in the existing Covesville Store that has been closed since 1994 (Attachment A). The applicant's are proposing to reopen the store as a country store with an emphasis on antiques, art, jewelry, and gifts. The store would also sell traditional "Made in Virginia" foods as well as traditional country store items such as milk, bread, butter, and cheese. Hours of operation would tentatively be 11:00 a.m. to 8:00 p.m., seven days a week. At this time these hours are not definite, and the applicant's have expressed a desire to experiment with the hours during the first month of operation to determine the optimal business hours.

The Covesville Store, also known as the Johnson Store, is a two-story building with a basement and attic that was built in the 1910s. There is a two-bedroom apartment in a portion of the second floor in which the applicant's will reside. There is approximately 5,300-sq. ft. of finished area, not including the basement and attic. Of the 5,300-sq. ft., 3,999-sq. ft. would be used as retail. The following is the breakdown of square footage for the proposed uses:

Main Floor
Antique Furniture: 1,517 sq. ft.
Gifts, Crafts, & Antiques: 1,297 sq. ft.
Country Store: 375 sq. ft.

Second Floor
Gifts, Crafts, & Antiques: 810 sq. ft.

The property also contains the Covesville Post Office, which began operation from the Covesville Store in the 1940s and relocated to a trailer approximately 70 feet to the east of the store.

For tracking purposes, a special use permit number has been assigned to each use, but this report will review both special use permit requests as one proposal. However, each special use permit request must be acted on separately.

The Health Department has granted approval for the septic system. VDOT has no concerns. A site plan will be required to address parking issues as far as number of spaces. The store has provided services specifically utilizing the surrounding area. The proposed uses will not result in any increased levels of activities on the site that would be inconsistent with the character of the area and the historic pattern of the use on the property. It should be noted that staff is currently working with the Rural Areas Chapter of the Comprehensive Plan. Therefore, staff is encouraging adaptive reuses of historically significant structures in the crossroads communities of the County. Therefore, staff recommends approval of both special use permits with no conditions. He stated that he would be happy to answer any questions.

Mr. Rieley opened the public hearing and asked if the applicant would like to address the Commission.

Rick Ovenshire, applicant, stated that they basically want to reopen the store. He pointed out that they were in favor of preserving the old store and feel it will provide a service to the village and the community.

Sarah Dollard, applicant, was present to speak for the request.

Mr. Rieley asked if anyone else would like to speak regarding either of these two special use permits. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Ms. Hopper moved for approval of SP-03-043, The Covesville Store, with no conditions as recommended by staff.

Mr. Loewenstein seconded the motion.

The motion carried (4:0). (Edgerton, Craddock, Finley – Absent)

Ms. Hopper moved for approval of SP-03-051, The Covesville Gift, Craft & Antique Store, with no conditions as recommended by staff.

Mr. Loewenstein seconded the motion.

The motion carried (4:0). (Edgerton, Craddock, Finley – Absent)

Mr. Rieley stated that the Board would hear both of these requests on September 10, 2003.

SP-03-044 Bellair Animal Hospital (Sign #54) – Request for special use permit to allow a companion animal veterinary hospital in accordance with Section 22.2.2.5 of the Zoning Ordinance which allows for veterinary offices and hospitals. The property, described as Tax Map 60, Parcels 25A and 25B, contains approximately 5.6 acres, and is zoned C1, Commercial. The proposed veterinary office is located on Rt. 250 West (Ivy Road), approximately 1/10 mile west of the intersection of Ivy Road and the 29/250 By-Pass, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property for Office Service in Neighborhood 7. (Susan Thomas)

Ms. Thomas summarized the staff report. This is a special use permit request for a small animal veterinary clinic in an existing building located on a site known as the Piedmont Tractor site. There are actually one and a half buildings on that site. Our County records were not accurate and the property line divides that middle building, but the middle building is where the vet is proposed.

The building is 1200 square feet and this proposal is to use 4,000 of it. It would be the red outlined back part of that L shaped building. In staff's opinion, the use can be accommodated on the site, but it does have to be very limited in size and nature because that is a busy site. There are a lot of different things going on that site. There is not a lot of room for some of the facilities commonly associated with even a small animal vet. The purple area in the back would be the outside exercise area for the animals. Everything else would be contained within that building. A separate entrance on the East Side of the building can be constructed. So the vet use will enter separately from other uses. The western arm of the building is currently Pediatric Associates. The front part is vacant right at the moment. She noted that the owner is actively looking for tenants for that part. The building to the west is the Piedmont Equipment Company. To the east is the Bellair Market. There is quite a mix of uses on this site. The building accommodates the vet use more easily than the site does. Although there is the area for the outdoor exercise, it is small and it is constrained between the building and the track. She felt it would be adequate. Staff felt a special sense of concern because they were dealing not only with people here but animals. Therefore, it has to be a safe situation. Given the level of activity, staff looked at the site carefully. It is a desirable use from a community standpoint. There are quite a few residences in this area and not very many vets in the western part of the County. Staff feels that the business will get a lot of use. The vet use does raise the general activity use on the site beyond what perhaps a typical C-1 Commercial use might simply because there will be people and their animals coming and going all day long. For that reason staff's main concern was just that the people, animals and existing uses on the site all co-exist safely. The building on the site are approaching fifty years old and are very usable and in good shape. But a lot has not been done to the site in recent years. So you have an older tractor and equipment use side by side with medical uses with potentially office, retail, food, etc. Bellair Market located to the east has become a major attraction in this area. She felt that it was like a neighborhood center for the western part of the development area. The condition of the site is a little bit problematic. There is a lot of pavement. There is a lot of parking spaces leading to a lot of vehicular movements, turning, driving through and around the site. There is a lot of parking and towing vehicles in and out. There are display vehicles. This is not a site where parking is relegated. It is sort of the inverse of that. The location of the parking spaces around the building makes it necessary for people to drive through the parking area to park. There are a lot of people coming and going on this site. In staff's opinion, the site could be better organized by at least directly pedestrians crossing the site or maybe generated even by the vet use or other uses to a designated pathway across the front. There is none now, but there is pedestrian usage already. As the area gets more residents, it will be more and more necessary to kind of indicate where pedestrians should go. Ideally, staff would like to see a walkway around the building, but it appears that it will be impossible to do that and maintain the parking space and travelway dimensions. There is just not enough room. There is no sidewalk around the building to walk to and then get into the building. Therefore, the pedestrian pathway across the front of the site at least keeps those pedestrians knowing where they should go. That is one of the major recommendations made by staff. Staff recommends approval of the request with five conditions.

1. The approved final concept plan/site plan shall be in substantial accord with the Conceptual Plan dated July 29,2003 and special permit justification dated April 28, 2003;
2. Any enlargement or expansion of the animal clinic use or structures, within the existing building or in a building addition, will require an amendment to this Special Permit (SP 2003-044);
3. No overnight boarding use other than for those animals under medical care shall take place in the animal clinic;

4. That portion of the existing building to be used for the clinic shall be soundproofed prior to commencement of the animal hospital use;
5. Parcels 25A and 25B shall be consolidated into one parcel;
6. A pedestrian path five (5) feet in width shall be constructed across the front of Parcels 25A and 25B in the area between the existing vehicular parking area and the public travelway, to a standard acceptable to the Departments of Planning and Engineering and Public Works (Department of Community Development), to be maintained by VDOT or by the applicant in the event the pathway can not be constructed to meet VDOT standards. In the event that existing power poles or other obstructions make it impossible to meet the acceptable standard; this standard may be modified in the interest of allowing installation of the path.

Staff pointed out that the applicant does not want to do condition 5. Regarding condition # 6, there is enough room to construct a path along the front to at least show people where they should and can walk when they are moving around the site. Condition # 6 was crafted to allow some flexibility since staff was not expecting the applicant to move power poles or other kinds of utilities, but work around what is there and create a safe place for pedestrians.

Mr. Rieley asked if there were questions for Ms. Thomas.

Mr. Thomas asked if you were in the back of Bellair Market, are these lots connected.

Ms. Thomas stated that the two properties were not connected. There is a fence in between the Bellair Market lot and the eastern side of this building. There is no site plan for this property and never has been. The applicant for this particular proposal prepared the concept plan.

Mr. Thomas asked where the entrance was to the proposed vet.

Ms. Thomas stated that the new entrance would be on the East Side of building about one-half way back.

Mr. Thomas asked if all of the parking spaces on the East Side of the building would belong to the vet.

Ms. Thomas stated that would work out well since there were ample spaces on the East Side of the building for the vet use.

Ms. Hopper stated regarding the pedestrian pathway all the way around the building, is there any way to set up a shared parking arrangement that would give you more room to do that.

Ms. Thomas stated that the applicant has one more space than he needs on the site. The applicant owns both of these parcels, which was why it works as well as it does. Zoning will require the cross parking and the access easements simply because there are not any in existence and that is the appropriate way to deal with it before the Zoning clearance is given. There is ample parking on the site. There does not appear to be room with the travelway to create that walkway.

Mr. Rieley asked if there were other questions. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Joe Palmer, owner of the site, stated that he was in agreement with all of the conditions 1, 2 and 3, but not conditions 4 and 5. In addressing the request to combine the properties, since he was the sole owner of both properties, he pointed out that cross easements were very easy to obtain and he was willing to do that. Therefore, that would alleviate any need for that. In addressing the front walk area for a pedestrian walkway, he stated that he was in concept in agreement to it. He pointed out that he was in discussion with other potential tenants for the front of the building. At

this point they don't want to prevent any better traffic flow design that they may be able to come up with for the property in the front of that building. If they were to dedicate a pedestrian pathway at this point while they were in the process of filling it out with tenants that he thought it might prevent a better plan that they may come up with for pedestrian and internal traffic flow.

He stated that he would prefer not to do the pedestrian pathway at this point simply because it might prevent a better flow in the future. The vet site in the back 4,000 square feet of the building is actually going in to where Martha Jefferson Home Care had their base operations. In reality that space housed between 70 and 80 employees and that flowed fairly well. The proposed vet site will have 5 employees and really the use for that specific space will be much less at this point than they had for the last 7 years. He stated that he did not think that this use would stress it out for the use that they were intending. He stated that the use was a good neighborhood use for the site.

Mr. Rieley asked if there were questions for Mr. Palmer.

Mr. Hopper asked for clarification if he stated that he agreed with condition # 4 concerning the soundproofing.

Mr. Palmer stated he absolutely agreed to that and had no issues with the condition.

Mr. Rieley asked if there were other questions for Mr. Palmer. There being none, he opened the public hearing and asked if there was anyone else who would like to address this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Ms. Thomas pointed out that there was a need for a waiver because the building lies within 200 feet of a residential lot line. It seems kind of strange because the railroad track is in between the Farmington lot lines and this, but that is the Zoning Ordinance's requirement.

Ms. Hopper stated that regarding the two parcels 25A and 25B, other than not having to deal with the cross easements and things like that, is there any other reason that staff would recommend one parcel.

Ms. Thomas stated that you always run into trouble when you have a building straddling a parcel line. It is just complicated. She pointed out that an addition was constructed some time back and their regulations allowed it to be constructed across the property line apparently because the ownership of both parcels was the same. Under the current ordinance, that would not be allowed to be done at this time. This is an older site and lots of things went on before there was even a Zoning Ordinance. She stated that it was perfectly legitimate the way it came up, but she always had the urge to make things clearer, cleaner and more organized like most planners and zoning staff do. That is their natural tendency where they have the opportunity they like to combine the parcels. It does not affect the grandfathered use in the equipment company at all because she checked. That is a legal nonconformity. She stated that it was something in this case that would have to be voluntary on his part

Mr. Kamptner stated that one difference between this and the church was that the church was proposing a new structure and if the property line remained, there would be problems with the setbacks. He stated that it was not the case here because the structure predates the Zoning Ordinance.

Mr. Rieley pointed out that it was just a change in use. He stated that the pedestrian pathway was an important component of the application, particularly in this neighborhood, and should be a part of this application.

Ms. Hopper agreed with that as well, and did not see how putting that pedestrian pathway there would interfere with future circulation.

Mr. Loewenstein moved for approval of SP-2003-044, Bellair Animal Hospital, with the conditions as amended deleting condition # 6:

1. The approved final concept plan/site plan shall be in substantial accord with the Conceptual Plan dated July 29, 2003 and special permit justification dated April 28, 2003;
2. Any enlargement or expansion of the animal clinic use or structures, within the existing building or in a building addition, will require an amendment to this Special Permit (SP 2003-044);
3. No overnight boarding use other than for those animals under medical care shall take place in the animal clinic;
4. That portion of the existing building to be used for the clinic shall be soundproofed prior to commencement of the animal hospital use;
5. A pedestrian path five (5) feet in width shall be constructed across the front of Parcels 25A and 25B in the area between the existing vehicular parking area and the public travelway, to a standard acceptable to the Departments of Planning and Engineering and Public Works (Department of Community Development), to be maintained by VDOT or by the applicant in the event the pathway can not be constructed to meet VDOT standards. In the event that existing power poles or other obstructions make it impossible to meet the acceptable standard; this standard may be modified in the interest of allowing installation of the path.

Ms. Hopper seconded the motion.

The motion for approval carried (4:0). (Edgerton, Finley, Craddock – Absent)

Mr. Rieley stated that the Board would hear this request on September 10th.

Waiver
Mr. Loewenstein moved for approval of the waiver to allow the building to be located within 200 feet of a residential lot line.

Ms. Hopper seconded the motion.

The motion for approval carried (4:0). (Edgerton, Finley, Craddock – Absent)

Mr. Rieley stated that the waiver passes and does not need to go to the Board of Supervisors.

SP-03-45 American Tower LP (Shadwell) Amendment (Sign #55 & 67) - Request for special use permit to amend the conditions of approval of SP-01-38 in accordance with Section 10.2.2.6 of the Zoning Ordinance which allows for wireless telecommunications facilities. The property, described as Tax Map 78, Parcel 51C, contains 3 acres, and is zoned RA, Rural Areas District. The proposal is located on Rt. 1090 (191 Lego Drive), approximately .3 miles from the intersection of Lego Drive and Hanson's Mountain Road, in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Rural Areas. (Margaret Doherty)

Ms. Doherty summarized the staff report.

- This is a request for special use permit to amend the conditions of approval of SP-01-38, which was approved by the Board of Supervisors on March 20, 2002. The applicant proposes to delete condition 2(f), which states: "No building permit shall be issued for a Nextel Partners antenna until a written certification is obtained from the Emergency Communications Center (ECC) that it will not unreasonably interfere with the proposed ECC 800 mhz communications system." The applicant contends that the Communications Act of 1934, as amended, provides the Federal Communications

Commission (the "FCC") with exclusive jurisdiction over radio frequency interference issues. Therefore, local regulation of radio frequency is preempted by federal law, and is thus void. Because condition 2(f) is an attempt to regulate radio frequency, in violation of the FCC's authority, the applicant contends that it should be deleted from the conditions governing SP-01-38.

- The County Attorney's Office has reviewed the application and has rendered an opinion, which is attached. In his memorandum to the Board of Supervisors, dated July 23, 2003, the County Attorney sites recent case law, which supports the applicant's claim. Other local jurisdictions have attempted to regulate radio frequency interference, to no avail. Because federal law preempts Condition 2(f), the County Attorney recommends approval of the applicant's request. Therefore, staff believes it is prudent to remove condition 2(f) from the approval of SP-01-38.

- Staff recommends approval of the special use permit request to delete condition 2(f), with the condition that all-remaining conditions of SP-01-38, remain in effect.

Mr. Rieley asked if there were any questions for Ms. Doherty on this request. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Valerie Long, Attorney with McGuire, Woods, Battle & Boothe, stated that she represented the applicant, American Tower. She pointed out that several representatives of Nextel Partners were present. They were obviously an interested party in this case. She stated that she would be happy to keep her comments very short and sweet if the Commission was inclined to accept the recommendation of the staff. The case law on this issue is extensive and very persuasive and clear that the Federal Government has pre-exempted this issue. She pointed out that they did agree to this issue originally because Nextel and American Tower always work very closely with localities in an effort to resolve these issues, and they would continue to do that. It has become very clear to them that until the County system was constructed that there will absolutely be no way to proof that there won't be any interference. Regardless of whatever happens, Nextel is committed to working with the County. She stated that they don't anticipate any problems. She asked if any further issues come up that she could clarify, that the Commission would ask her a question so that she could respond and clarify as it may be appropriate or ask others from Nextel to assist her in that endeavor.

Mr. Rieley asked if there were any questions for Ms. Long. He asked if anyone else would like to address SP-03-45.

Mathew Plache, legal counsel for Nextel Partners, stated that everything that Ms. Long has said is true. He stated that they fully support Mr. Kamptner's opinion here. He pointed out that Nextel Partners has basis corporate policy that works very closely to resolve interference problems. They believe that it is a crucial element as a citizen and also one of their responsibilities to work closely with public safety entities. They have worked with the FCC on this very issue and have performed an intermodulating study to attempt to identify frequencies that would not cause problems. That study was presented last November. But as Ms. Long has stated, it is simply not possible to guarantee that two systems that are not yet constructed will not result in some interference. If it does happen, Nextel Partners will work to solve it and will address it very promptly as required by the FCC under its licenses. There are two representatives here from the Nextel Partners, which includes the engineer that covers this territory. He stated that the engineer could speak to this issue by what has been done to try to resolve the interference potential and what will be done in the future. He stated that he would be happy to answer any questions.

Mr. Rieley asked if anyone else had any questions. There being none, he asked if anyone else would like to address this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Ms. Hopper moved to recommend approval of SP-03-45, American Tower LP, for the applicant's request for relief from condition 2f to the Board of Supervisors.

Mr. Thomas seconded the motion. He stated that the Commission's intention was to safeguard the interference and not to stop anyone from putting their own tower up.

The motion carried (4:0). (Edgerton, Craddock, Finley – Absent)

Mr. Rieley stated that SP-03-45 would go to the Board of Supervisors on August 13th with the recommendation for approval of the applicant's request to delete condition 2(f), with the condition that all-remaining conditions of SP-01-38 remain in effect.

SP-03-46 Suntrust Pantops Branch (Sign #69 & 72) – Request for special use permit to allow a drive-in window to serve a bank in accordance with Section 25A.2.2.1 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses. The property, described as Tax Map 78, Parcel 73A, contains1.19 acres, and is zoned PDMC, Planned Development - Mixed Commercial, and EC, Entrance Corridor. The property is located on Rt. 250 (Richmond Road), at the southwest corner of the intersection of Route 250 and Hanson Road, in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Regional Service in Neighborhood 3. (Margaret Doherty)

Ms. Doherty summarized the staff report.

This is a special permit to construct new Suntrust Bank at the southwest corner of Route 250 and Hanson Road, with three drive-through windows to allow customer transactions at three teller windows and one automated teller machine. As is often the case with these drive-through windows, it is mainly the review of circulation and Architectural Review Board issues. All of those issues have been resolved. Staff got all of the circulation resolved with the drive-through lanes and by-pass lane.

ARB Considerations: In an action letter, included as Attachment C, the Architectural Review Board has expressed no objections to the use. The Board voted unanimously to forward the following recommendation to the Planning Commission:

The ARB has no objection to the Special Use Permit for the drive-through window structure as illustrated in the elevations dated 6/4/3, subject to the following conditions:

1. The ATM lane shall be located closest to the building; and

2. Provide an informal mix of native screening trees and ornamentals along the western property line to minimize the impact of the drive-through structure on the EC, to the satisfaction of the ARB.

Staff recommends approval of SP-03-46 with the standard list of conditions of approval listed in the staff report.

Mr. Rieley asked if there were any questions for Ms. Doherty. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Frank Thompson, architect for Suntrust Bank, stated that they would accept items one through six. He pointed out that they believe that they are in compliance and hope for the Commission's approval.

Mr. Rieley asked if anyone else would like to address this issue. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Thomas moved to recommend approval of SP-03-046, Suntrust Pantops Branch, to the Board of Supervisors with the following conditions:

1. The site improvements shall be developed in general accord with the attached concept plan, entitled, *Application Plan for Suntrust-Pantops Branch*, last revised June 16, 2003;

2. The Automated Teller Machine lane shall be located closest to the building;

3. Provide an informal mix of native screening trees and ornamentals along the western property line to minimize the impact of the drive-through structure on the Entrance Corridor, to the satisfaction of the Architectural Review Board;

4. Drive-through windows will be limited to three (3);

5. Architectural Review Board issuance of a Certificate of Appropriateness; and

6. Applicant is responsible for installation and maintenance of control devices such as by-pass lanes, signage, and pavement markings as indicated on the concept plan.

Mr. Loewenstein seconded the motion.

The motion carried (4:0). (Edgerton, Craddock, Finley – Absent)

Mr. Rieley stated that SP-03-046 would go to the Board on September 10, 2003.

Regular Item:

SDP-03-034 White Gables Final Site Plan, Decorative Lighting Waiver - Request for a modification of the standard in section 4.17.4 (a) that requires that each outdoor luminaire subject to the outdoor lighting regulations be a full cutoff luminaire. This request is made in support of a final site plan request for 20 condominium units in 6 buildings on 7.097 acres zoned CO, Commercial with a Special Permit approval for residential (see SP-02-23) and Entrance Corridor. The property, described as Tax Map 60, Parcels 26 and 27A, is located in the Samuel Miller Magisterial District on the north side of Rt. 250W (Ivy Road), approximately 1/4 mile west of the intersection of Ivy Road and the 29/250 By-pass. The Comprehensive Plan designates this property as Office Service in Neighborhood 7. (Margaret Doherty)

Ms. Doherty summarized the staff report. She stated that this was a request to waive our lighting requirements for decorative lighting at the White Gables development. The applicant is proposing a decorative lighting fixture that they believe is a good fixture and meets the intent of our ordinance. The ordinance defines a full cut-off luminaire as an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane. The applicant presented documents showing their fixture and it was found not to meet that standard. Staff is not inclined to waive that for a variety of reasons. One reason is the precedent setting of waiving our lighting full cut-off. Most especially at this site, which is on the edge of commercial development on Route 250 and entering into more rural character, staff just does not think it is appropriate in this location. Just in the last two days, staff came up with a lighting fixture that is pretty much exactly like what they want to do, but it meets our ordinance. Staff has been working the applicant's consultant on a different site at St. David's Anglican Church. Staff feels that there is a fixture that will work for

them that meets our ordinance. Staff hopes that rather than continuing to pursue the waiver that the applicant will just go with this. The applicant would still like to address the Commission about this issue.

The following information from the staff report is provided for background information for the minutes:

BACKGROUND:
The applicant has requested a modification of the standard in section 4.17.4 (a) that requires that each outdoor luminaire subject to the outdoor lighting regulations shall be a full cutoff luminaire. The ordinance defines a full cutoff luminaire as an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane. On October 17, 2001 this definition was added to the ordinance and the term "decorative luminaire with full cutoff optics" was repealed.

The Zoning Department has determined that a decorative fixture that is constructed with the light source, which includes the bulb that contains the lamp, located above the low edge of a horizontal housing and contains no elements designed to reflect light above the horizontal plane can be approved. The minute percentage of light that may be reflected above the horizontal plane from the components of such a fixture does not meet a strict interpretation of the definition but is negligible. The County does not pursue discrepancies of this degree because they are diminimis.

The proposed fixture manufactured by King Luminaire (#27641), see Attachment D, shows a portion of the bulb positioned below the horizontal plane of the shield. The Zoning Department has determined that this design does not meet the definition of full cutoff luminaire, and therefore requires Planning Commission approval of a waiver of 4/17/4(a) to be used.

DISCUSSION:
Pursuant to Section 4.17.5, any standard of section 4.17.4.a may be modified or waived in an individual case, and the commission may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations, in either of the following circumstances:

1. *Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.*

2. *Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable.*

The applicant contends that the proposed fixture does not contribute to any light spillover on the adjacent properties and meets the one-half foot-candle at the property line requirement. The fixture is decorative in style similar to what is found on the University grounds. The applicant does not believe they can find a decorative fixture that meets the County requirements. Please review their request as attachment D.

The Architectural Review Board, at its meetings on June 2 and July 21, approved the site plan with conditions and approved the elevations for Phase 1, but noted, in part, that the applicant shall *clarify and/or revise the lighting details to show full cutoff fixtures for lamps that emit 3,000 lumens or greater,* and *. . . reduce the amount of decorative lighting.* The ARB guidelines indicate

that “light should be shielded, recessed or flush-mounted to eliminate glare". The ARB has not reviewed this specific waiver, however, given their condition of approval above and the design guidelines, the Design Planner has advised staff that she does not support the request.

Staff believes this location is part of a unique area in the County, characterized with large estate properties that have a residential appearance while serving commercial uses. Allowing a light fixture, which does not meet the full cut-off requirements, will increase the light pollution in the area and may serve to erode the residential appearance, thereby increasing the commercial appearance of the area. Urban areas predominantly surround the lights used at the University. The lights at White Gables will be located in an area that currently has no lighting. Further, it has been the County’s consistent policy and practice to not waive the lighting ordinance, except for sporting facilities.

RECOMMENDATION: With the support of the Zoning Department, Planning staff recommends denial of the applicant’s request for a waiver of the lighting regulations.

Mr. Thomas asked if the light resembles the other light fixture.

Ms. Doherty pointed out that the light fixture looks exactly the same. She asked if the applicant wanted to bring the two light fixtures in.

Mr. Rieley opened the public hearing and asked if the applicant would like to show the display to the Commission.

Mr. Thomas asked what the height of the pole was that the light fixture would be installed on. He asked if they would be at the same height as the ones behind Cabell Hall.

Ms. Doherty stated that the applicant had said that they would be at 13.5 feet, but she did not know how high the ones were at Cabell Hall.

Steven Edwards stated that he represented the developer of White Gables, Weatherhill Homes. He stated that they have a simple request to allow this decorative fixture on site. The reason for this request is that they feel that this fixture is architecturally appropriate and compliments the project’s character. These fixtures are identical to the style that has already been used and approved in the County, however, despite that the fixtures are on the University of Virginia grounds. He stated that they would like for the Commission to just see the light fixture themselves if they have not taken the opportunity before tonight to see them in operation around town and just see their reactions to them. The proposed fixtures is very similar and emits less than 2 ½ percent uplight and is therefore not in compliance with the County’s regulations. To the naked eye, they feel it is very negligible and you won’t even be able to perceive it unless you have a light meter in your hand standing underneath the fixture. He stated that he would ask that they turn the lights on and allow the Commissioners to see the fixtures for themselves. He introduced Pat Morgan who was the lighting representative for both fixtures, Antique Lighting and Sun Valley. He stated that he would be happy to answer any questions.

Pat Morgan stated that he though what the County has looked at in the past is that they consider that any lamp that is horizontal in a reflector would meet dark sky criteria. That means no light above 90 degrees shall be emitted out of the fixture. Dark Skies will say what is a good fixture and what is not a good fixture and what emits light up. As you can see the shoebox with a flat glass or a cobra head with a flat glass meets it, but any kind of a cobra head or a shoebox fixture that has any kind of drop lens does not meet that. He pointed out that he has done a lot of jobs in the County and this was a real popular fixture that they use in the County. This lamp has a horizontal lamp and has 4-½ percent uplight. The reason why it does not meet the Dark Sky criteria is because there is reflective median below the lamp. Any decorative fixture that you use in the County that has any kind of reflective media below the lamp, whether it is a vertical lamp or horizontal lamp, is not going to meet any kind of Dark Sky criteria. He pointed out that what they

were trying to show the Commission tonight was that the King and the Antique fixtures is that the arc to is actually positioned up inside of a vertical reflector in a vertical lamp fixture. He stated that the fixture puts out the luminaires out where you need them to the side. Underneath the fixture would be sort of dark since the light goes out this way. The spacing mounting height ratio, that means how far he could place each fixture apart, is about 1/3 more with this fixture. What does that mean? As the uniformity gets better, that means that the ratio from the darkest spot and the lightest spot, it gets minimized. In other words, you would have a more uniform light. He pointed out that when using this fixture you could use less of them on a project than you could with a horizontal lamp. This would be due to the fact that the lighting does a better job and you have a nice reflector system. With this medium being down here there was no way that you could shine light through it and not get a percentage of uplight. He presented both fixtures to the Commission.

Mr. Loewenstein stated that when they first started this that Ms. Doherty said that there were very similar fixtures that don't have any uplight at all. He asked why the applicant could not use them.

Mr. Morgan stated that then they would have to restrict it to a shoebox type of fixture.

Mr. Edwards stated that the fixtures had two different manufacturers and were a little bit different. He stated that they were not opposed to using that fixture, but they wanted to bring to light today the fact that the bulb itself and where it ties into the socket should not be regulating the horizontal plane, but more so the arch to itself. It would be where the arch to goes in relation to the horizontal plane, and not the bulb. That is what the County is trying to push us towards and regulate towards having that bulb be the plane where the horizontal plane has to be at.

Ms. Hopper stated that they were really talking about a zoning text amendment.

Mr. Loewenstein stated that it was hard to see what the disadvantage would be for the applicant to use one that meets the County standards. He noted that he had not heard what the advantage would be for them to use this one.

Mr. Edwards stated that as Ms. Doherty stated that this fixture just came to them just two days ago and it was brought to his attention. He stated that he wanted to get this decorative fixture idea approved and the fact that they could use this type of fixture with this kind of design to allow this to regulate the horizontal plane and not the bulb itself.

Mr. Loewenstein stated that he had previously stated that this fixture accepts a different kind of bulb altogether, and Mr. Edwards stated that was correct.

Mr. Loewenstein stated that they would not necessarily be configured in a way that this bulb would be anyhow which might or might not produce the advantage that he was talking about depending on what other type of bulb might be put in here.

Mr. Morgan stated that was just a different light source.

Mr. Rieley stated that if you had a high-pressure sodium or mercury vapor you might not have a filament in the same location.

Mr. Morgan stated that the manufacturer when they specify a lamp source would adjust the height of this so that the lamp center falls directly into the optical chamber to get the most optical percentage in here. This part might not be the same for one lamp versus the other lamp.

Ms. Hopper stated that it would be different with different bulbs.

Mr. Rieley pointed out that it might also leave more projecting below the horizontal plane or the filament or the part that is actually bright.

Mr. Morgan stated that this filament would not be below this plane no matter what type of bulb.

Mr. Thomas asked if the ordinance said bulb instead of filament.

Mr. Kamptner stated that the ordinance defines the term "lamp" and it is defined as "the component of a luminaire that produces light. The lamp is also commonly referred to as a bulb." The ordinance does not break it down to the point that it is looking at the location of the filament itself.

Mr. Morgan stated that this fixture was approved for the North Fork project for the University of Virginia. The fixtures should have been grandfathered, but they were installed after the ordinance was adopted. The University of Virginia came to us and asked us to get them to meet the ordinance, which he tried to do for eight months by using different types of reflectors and actually rebuilding the fixtures. He stated that was the reason that they have done this.

Mr. Rieley asked what the uplight was on both of these fixtures.

Mr. Morgan stated that the Antique fixture was 1.7 and the other one was about 2.0.
Mr. Rieley stated that this was educational, but seemed to be an issue that has pretty well resolved itself. He asked if the other Commissioners agree with that.

Mr. Loewenstein asked what type of action would they need to take.

Mr. Cilimberg stated that the action here would be that the applicant would default to use the fixture that complies with the ordinance.

Mr. Rieley asked that the minutes reflect that this issue of the percentage of uplight as a criteria that might be something that we want to look at. But he did not think they should do it under the pressure of a specific proposal. He noted that the great thing about the full cut-off was that it was easy to define and enforce, but they might want to have broader criteria.

Ms. Hopper moved to recommend denial of SP-03-034, White Gables Final Site Plan, Decorative Lighting Waiver, to the Board of Supervisors.

Mr. Loewenstein seconded the motion.

The motion carried (4:0). (Edgerton, Finley, Craddock – Absent)

Old Business:

Resolution of Intent to Study the Pantops Area Road Network and Land Use Plan for a Comprehensive Plan Amendment

Mr. Cilimberg stated that staff has provided a resolution of intent that is intended to reflect what was previously indicated by the Commission. He pointed out that the Commission wanted to go beyond the idea of just dealing with the interconnection of the road system there, but also look at land use that was related to that and also look at the possibility of using a connector route. He stated that the scope of this is greater than what staff initially brought to the Commission.

Mr. Thomas stated that he was glad that it was a broader scope.

Mr. Cilimberg stated that staff has also received some communication from Mr. Franco who was involved in a project in that area. He stated that Mr. Franco's interest was that his particular project's rezoning not get delayed by the CPA, and he had included some reasons why the More rezoning should proceed while the CPA was being worked on. He pointed out that Mr. Franco was present.

Mr. Rieley asked Mr. Franco if he would like to reiterate any of the points of his letter.

Mr. Franco stated that in the interest of time, he would forego doing so.

Mr. Rieley stated that he had raised some good points. He stated that it was important to be looking at how the larger pieces of this fit together.

Ms. Hopper moved to adopt the resolution of intent to study the Pantops Area Road Network and Land Use Plan for a Comprehensive Plan Amendment as follows:

RESOLUTION OF INTENT

WHEREAS, The Land Use Plan of the Comprehensive Plan contains Development Area Profiles, which describe land use and facility regulations for each Development Area;

WHEREAS, The Development Area Profile for Neighborhood Three, Pantops, includes recommendations for land use and facility regulations in the Pantops area;

WHEREAS, The recommendations of the Development Area Profile state:
"Commercial areas along Route 250 East are to be developed in a manner which limits access points, uses internal (possibly gridded) road networks, and or/parallel roads, as well as alternative transportation systems. Development should have an orientation toward the internal road system as opposed to a linear orientation towards the frontage on Route 250";

WHEREAS, It is desired to study the Land Use Plan designations in the Neighborhood Three Development Area as they relate to future road connections in this area;

WHEREAS, It is desired to take into consideration road improvements recommended by CHART including potential regional connector roads in this general vicinity within the scope of the study;

WHEREAS, It is desired to amend the Neighborhood Three Development Area Profile of the Land Use Plan of the Comprehensive Plan to provide a conceptual road network for the Pantops area to provide a framework for potential future transportation connections in the Development Area and to ensure that the Land Use Plan designations are appropriate as related to the road network;

NOW, THEREFORE BE IT RESOLVED THAT, the Albemarle County Planning Commission hereby adopts a resolution to amend the Neighborhood Three Development Area Profile of the Land Use Plan of the Comprehensive Plan to include a recommended conceptual road network and associated Land Use Plan designations for the Pantops Development Area.

Mr. Thomas seconded the motion.

The motion carried (4:0). (Edgerton, Craddock, Finley – Absent)

Mr. Cilimberg stated that with that he assumed that the Commission acknowledged that this More rezoning may be coming to you before the CPA was done and you are not advertent to that.

Mr. Rieley stated that was correct, although it does not come with any guarantees. He asked if there was any other old business. There being none, the meeting proceeded.

New Business:

Approval of Representative to Task Force and Advisory Committee for the Southern Urban Area B Study

Mr. Cilimberg stated that there were three members who staff would like to confirm tonight for the Advisory Committee. Those persons include Charles Hansen, from Redfields, Bill Goldene, from Buckingham Circle, and Richard Spurzem representing multi-family property interests, as County representatives for this advisory committee. In addition, staff would like the Commission to confirm which Commissioner will work on the Task Force. Historically, the Chairman has served in that function, but it is completely up to the Commission. He asked that the Commission take an action to confirm the three citizens as well as the Commissioner.

Mr. Rieley stated that he would be willing to serve on the Task Force.

Mr. Thomas moved for confirmation of the three citizens and the nomination and the affirmation of Will Rieley as representatives for the Task Force and Advisory Committee for the Southern Urban Area B Study.

Ms. Hopper seconded the motion.

The motion carried (4:0). (Edgerton, Craddock & Finley – Absent)

Mr. Rieley asked if there was any other new business.

Mr. Kamptner stated that the General Assembly amended the Conflict of Interest Act effective July 1st. He pointed out that Larry Davis, County Attorney, was working on a memorandum with the current changes that will be distributed.

Mr. Cilimberg stated that there would not be a meeting next week on August 12th.

Adjournment

With no further business, the meeting adjourned at 10:30 p.m. to the next meeting on August 12, 2003.

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Claytor Taylor, Recording Secretary.)