Albemarle County Planning Commission
March 15, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, March 15, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Marcia Joseph, Vice-Chair, Jo Higgins, Calvin Morris; Pete Craddock; Rodney Thomas and Bill Edgerton, Chairman. Absent was William Rieley and David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Stephen Waller, Senior Planner; Sean Dougherty, Senior Planner; Claudette Grant, Senior Planner; Glenn Brooks, Senior Engineer, Bill Fritz, Chief of Current Development and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Edgerton called the regular meeting to order at 6:00 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Mr. Edgerton invited comment from the public on other matters not listed on the agenda. There being none, he stated that the meeting would move on to the review of the Board of Supervisors meeting.

Review of Board of Supervisors Meeting – March 2, 2005.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on March 2, 2005.

Consent Agenda:

SDP-1998-137 – 2222 Old Ivy Office Building Final Site Plan Extension of Approval – (Francis MacCall) - (Tax Map 60, Parcel 46B)

Mr. Edgerton asked if any Commissioner would like to pull the item off of the consent agenda for discussion or if there was a motion.

Mr. Morris moved for approval of the consent agenda.

Mr. Craddock seconded the motion.

Mr. Edgerton asked if there was any discussion.

Ms. Joseph stated that it was very helpful to have Mr. Mathews letter in the packet because it made it very clear why this extension was warranted.

The motion carried with a vote of (6:0). (Rieley - Absent)

Regular Items:

SDP-04-095 Tier II Personal Wireless Service Facility Height Modification: Request for approval of a modification that would allow an increase in the height of an approved monopole from 7 feet to 7.58 feet above sea level (ASL) above the height of the tallest tree within 25 feet. The original approval of SDP 04-095 allowed a monopole with a top height of 106.37 feet, while the amended top height (based on a revised tree height survey) would be 98.16 feet. This application is being made in accordance with Section 5.1.40.d(6) of the Zoning Ordinance, which sets the criteria for allowing Tier II personal wireless facilities to be approved up to 10 feet ASL above the tallest tree within 25 feet. The property, described as Tax Map 88, Parcel 26, contains approximately 71.34 acres zoned Rural Areas and Entrance Corridor. This site is located on Arrowhead Valley Road (Route 745) just east of U.S. Route 29 South, in the

Samuel Miller Magisterial District. The Comprehensive Plan designation for this property is Rural Areas 4. (Stephen Waller)

Mr. Waller stated that this was a request for approval to allow a height modification for a tree top monopole that was originally approved at 7 feet. If this request is approved it would allow the monopole to remain as installed at approximately 7.5 feet above the tallest tree within 25 feet. This item is before the Commission tonight because the originally approved height was based on an incorrect tree height survey that has since been replaced with a new survey. Although the amended monopole height is more than 7 feet above the referenced tree, the tree height of the monopole is now merely 8 feet shorter than that which was originally approved as proposed and presented at a balloon test. Those balloon photographs are included in the staff report along with the original staff report that the Commission reviewed when approval was granted. There are also comparison photographs of the monopole as it has been installed where the applicant is now requesting to leave it. Staff has analyzed this request and finds that there is no material difference in the visibility of the existing monopole and the originally approved height that was represented by those balloon tests. The facility's owner demonstrates there is not a material difference in adverse impacts to resources identified in the County's Open Space Plan caused by the monopole at the proposed height, rather than at a height seven (7) feet above the tallest trees within 25 feet.

Mr. Edgerton asked if there were any questions for Mr. Waller.

Ms. Joseph stated that she would like to clarify that the applicant put the tower up, staff received some comments and went out and looked at it and found that it was a whole lot taller than they thought it was going to be. Therefore, the applicant removed 8 feet of the monopole.

Mr. Waller stated that the applicant actually called staff a day before they began to receive calls from one of the neighboring property owners. The applicant put the monopole up and identified that there was something that was wrong with the height that they put it in at. The applicant contacted staff to let us know that they were going to do something about it. Then the next day an adjoining property contacted staff as well.

There being no further questions for Mr. Waller, Mr. Edgerton opened the public hearing and asked the applicant to come forward to address the Commission.

John Reno, Director of Civil Engineering of Patton Harris Rust & Associates, stated that his company did the tree survey and tower drawings. He stated that if there were any questions concerning the error that he would be glad to explain it.

Mr. Thomas asked if the monopole could be corrected to the height of 7 feet.

Mr. Reno stated that the tower comes in preassembled sections. They had unbolted the flange at the top of the pole and cut off the 8 foot section. He stated that it would require cutting the top of the tower to bring the monopole down the additional 7 inches. That was the reason that they decided to ask for a 7 inch waiver.

Ms. Joseph stated that she really appreciated how candid Mr. Reno was in his letter to the County about the error and what was happening.

There being no further questions for the applicant, Mr. Edgerton asked for public comment. He invited David van Roijen, who was the only person listed on the sign up sheet, to come forward and address the Commission on this matter.

David van Roijen stated that he had been butting heads with the cell tower people for a long time. At the beginning the County was told by the various carriers that cell towers had be huge massive things and placed on the top of mountains to work. The County then found out that the towers could be placed in the woods, and the various carriers said that the towers would not work if they were not above the trees because the towers don't transmit through the leaves. Now they find out that the towers work and

transmit through the leaves. So now they have these cell towers on this site. Originally there was going to be one tower, but now he believes that they have three towers. There have been an untold number of applications in the past 12 months on this site in trying to raise the height of the towers and move them around. At the last meeting that he attended the Planning Commission had approved the height at 7 feet because they did not want to break or change the precedent. So now they have this story that the applicant made an error because they gave the Commission the wrong data or figures. These are engineers who are professionals. The County does not have anyone on staff that actually is qualified to check on these towers. He recognized that the Commission appreciates the applicant's honesty, but that somebody needs to hold them accountable. If the County lets them go with an extra 6 inches, then the next time someone is going to say 8 inches because it was only 7.58 inches last time because they could get better transmission. If the County turns them down this time and makes the applicant cut that 6 inches off the top of the pole that he would guarantee that engineer would pay a lot more attention next time. He stated that the subcontractors would probably have to pay the fine, but then they would pay a lot more attention to it next time. There is nothing wrong with the existing 7 foot height and the transmission from there. It is an error that they made. He asked why the public should have to give in because they were sloppy.

Mr. Edgerton asked if there was anyone else from the public who would like to address the Commission on this matter. There being none, he closed the public hearing to bring the matter back before the Commission for consideration.

Mr. Morris stated that he joined Ms. Joseph in appreciating the applicant's rapid notification to the County of the pole being 7.58 feet instead of the 7 feet that was approved.

Mr. Craddock pointed out that the Commission had one tower a few years ago where they did put up the wrong size and the County did make them take it down. He noted that in that case it had been a tremendous error. He questioned if 7 inches was a tremendous error. It appears from the staff report that in this situation there was not a difference in the viewing and the backdrop.

Ms. Higgins stated that this error was noted early before the complaints came in and that in the real world there can be errors. There does not appear to be any material difference in the pictures. If someone had said that the tower was 6 or 7 inches taller that she did not know if they could have determined that. She felt that it was a positive reaction that the applicant had come forward acknowledging that the error had been made. Due to the significant backdrop at this location, she pointed out that she did not have any problems with this height. This was actually a shorter pole than what was actually approved. They were talking about a significant reduction in the overall height to even add the 6 or 7 inches. Therefore, she did not have any problem with it.

Ms. Joseph stated that she shared Mr. van Roijen's concern about how these towers are being clustered together. She stated that the County needs to be very careful to make sure as requests come in that the towers stay within the 7 foot guidelines. It is important to send a message to the industry of what their expectations are, but, in this case she could live with the 7.58 feet.

Mr. Thomas pointed out that in some instances the Commission is okay when it is justified to allow a 10 foot antenna. He felt that the applicant's honesty deserved an award of some sort regarding the waiver.

Mr. Craddock moved for approval of SDP-2004-095, Tier II Personal Wireless Service Facility Height Modification.

Ms. Higgins seconded the motion.

The motion carried with a vote of (6:0). (Rieley – Absent)

Mr. Edgerton stated that SDP-2004-095, Tier II Personal Wireless Service Facility Height Modification, was unanimously approved and did not go before the Board of Supervisors.

Public Hearings:

SP 2004-002 Charlottesville Kingdom Hall: Request for special use permit to allow a Church in accordance with Sections 14.2.2.12 and 15.2.2.12 of the Zoning Ordinance which allow for Churches. The properties, described as Tax Map 76, Parcels 51 and 52A3, contain 3.685 acres, and are zoned R-2 and R-4 (Residential) respectively. The proposal is located on Old Lynchburg Road (Route 631), at the intersection of Old Lynchburg Road and Sunset Avenue Extended, in the Scottsville Magisterial District. The Comprehensive Plan designates this property as Neighborhood Density in Neighborhood 5. (Claudette Grant)

Ms. Grant summarized the staff report. The Charlottesville Kingdom Hall is requesting a special use permit application to allow a Church with one apartment in accordance with Sections 14.2.2.12 and 15.2.2.12 of the Zoning Ordinance. The parcel is currently divided into two parcels, which are zoned R-2 and R-4. A special use permit is required. The church is located at 665 Old Lynchburg Road. The current plan is to replace the existing building, which serves 3 congregations with Halls that will serve 4 congregations. The church plans to increase users and expand its space accordingly. The seating capacity is approximately 210. The applicant projects 420 users by 2008. The church is currently nonconforming in that it has no special use permit. As previously mentioned, the property is divided into two parcels Tax Map 76, Parcel 51 (zoned R-2) and Tax Map 76, Parcel 52A3 (zoned R-4). This property is also located in an Entrance Corridor. The total lot area is 3.685 acres. The Comprehensive Plan designates this property as Neighborhood Density in Neighborhood 5. The density of the proposed project is less than the intended density noted in the Neighborhood Density classification. The addition of an institutional use such as a place of worship is in keeping with the Comprehensive Plan. The County engineering staff and the zoning staff both find the plan acceptable. The Virginia Department of Transportation requested that they review the entrance profile and the drainage computation when the site plans are submitted. This also went to the Albemarle County Architectural Review Board who met on February 7, 2005.

The Albemarle County Architectural Review Board met on February 7, 2005 regarding the Special Use Permit and Concept Plan. The Board voted 4:0 in favor of sending the following recommendations to the Planning Commission regarding the Special Use Permit:

> The ARB has no objection to the proposed use, based on the ARB Re-submission plan with revision date of December 28, 2004, with the following conditions:
>
> 1. Landscaping shall be provided to minimize the impact of parking areas on the EC, to the satisfaction of the ARB.
> 2. Site and building lighting shall be limited to the satisfaction of the ARB.

In the staff report she mentioned that this was not on public water, which was not correct. This property is actually on public water, and she had mistakenly forgotten to take that out.

Staff has identified the following factors, which are favorable to this request:

1. The special use permit is in conformity with the land use plan for institutional uses.
2. The site design is appropriate given the topography.
3. Accommodation is made for a possible future road, which could connect to the adjacent property (Southwood Mobile Home Park).

Staff has identified the following factor, which is unfavorable to this request:

1. The site will not currently be served with public sewer.

Staff recommends approval of this special use permit with the following conditions:

1. The development of the site shall be in general accord with the concept plan entitled Proposed Addition Kingdom Hall of Jehovah's Witnesses Charlottesville, Virginia prepared by Hardee Johnston, A.I.A., A.S.L.A. and dated December 28, 2004.
2. The area of assembly shall be limited to a maximum of two auditoriums with 175-seats in each.

3. Sidewalks are to be graded along Old Lynchburg Road (5th Street), but not paved, in the locations shown on the concept plan.
4. The building shall not have more than one apartment.
5. There shall be no day care center or private school on site without approval of a separate special use permit.

Mr. Edgerton stated that he had two questions for staff. He stated that he was a little confused about the proposed requirement of condition 3 in that sidewalks have to be graded along Old Lynchburg Road, but not paved. He asked staff to help him understand why they would ask the applicant to grade the sidewalk area, but not put them in.

Ms. Grant stated that there was some difficult topography on site, but felt that the intent is that there may be other connections in the future.

Mr. Edgerton asked if there were other sidewalks in that area at this time, and Ms. Grant stated that there were not.

Mr. Edgerton stated that with the special use permit that he thought that they had the right to require the paving, but just wondered why they would not do that.

Mr. Thomas asked if there were any other sidewalks in that immediate area back towards the city.

Mr. Craddock pointed out that the sidewalks go at least as far as the new County building.

Mr. Cilimberg stated that the new County building was located on the other side of Fifth Street and does not have any pedestrian facilities right now. This situation is similar to Charlottesville Catholic School in that the accommodation would be important for a potential future sidewalk, but it would not have any connection at either end if it was constructed right now.

Ms. Higgins asked if the area where the plan says graded 5 foot for sidewalk was on the applicant's plan or in the state right-of-way. Under the words graded 5 foot for sidewalk it has an arrow that points to a 4 foot sidewalk at the entrance. She questioned if that means that they are putting in a section of sidewalk to go out to the road with no sidewalk connected to it. Since this is a concept plan and the applicant will have to bring in a site plan in substantial accordance that she just wanted to make sure that it was consistent. She asked what the provision is if it is not on public sewer and if there is a plan that sewer will be available in this area. She pointed out that there was a note on the plan that says septic expansion, and she assumed that the site plan would be conditional upon Health Department approval of adequate septic on the property. She asked if the proposed 100 foot right-of-way for the Southern Parkway was a reservation or a potential dedication. If their stormwater detention is in the path of that road she was just wondering if they were shooting themselves in the foot for having it built in that location.

Ms. Grant stated that there has been some discussion about that. The applicant can talk a little bit more about their rationale for putting it in that location, but that there are areas on their site outside of their right-of-way that they could put it.

Ms. Higgins asked if engineering staff had any comment about the location during their review.

Mr. Cilimberg stated that the difficulty is that this road has not been shown on an approved plan since it is a conceptual potential future road. The current Comprehensive Plan location for this connection is not in this location. This connection was identified in the Southern Area B Study as a possible connection. Therefore, he felt that trying to get a reservation for the future possibility of that road being located there was the best that they could do considering the circumstances.

Ms. Higgins asked if in the Area B Study that connection just goes from Old Lynchburg Road over to Avon Road. She stated that it does not even come to the west side of Old Lynchburg Road.

Mr. Cilimberg stated that there was a connection that comes in and then there is a future connection that would go up and tie into Sunset Avenue.

Ms. Joseph asked Ms. Grant if she had heard from the Service Authority about placing the stormwater in their easement.

Ms. Grant stated that she had not heard anything from the Service Authority.

Mr. Edgerton asked if the Service Authority was aware of this proposal.

Ms. Higgins pointed out that the Service Authority does not look at plans at this point.

Mr. Edgerton stated that Ms. Higgins' concerns were real because once that stormwater goes in there and everything is designed effectively it would make it difficult.

Ms. Higgins agreed with Mr. Cilimberg that it was difficult to draw a line on the map and say that you can't use that part of your site. The stormwater detention would have to be provided when the road was built or if it were ever built. She stated that she understands the indefinite end of it, but that it might conflict with other utilities. She assumed that it was an existing water main and that the Service Authority would get involved during the site plan review.

Mr. Edgerton asked if there were any more questions for staff.

Mr. Morris stated that there was the question concerning the current septic and the requirements of the additional population and so on. He asked if the septic would need to be upgraded.

Ms. Grant stated that the applicant was planning on expanding the current septic. Staff has talked with the Health Department and they said that the location was okay.

Mr. Edgerton pointed out that they would have to do more studies to get their approval.

Mr. Craddock asked if there was currently an apartment on the site.

Ms. Grant stated that currently there was no apartment on the site.

Mr. Craddock asked if the apartment would be used for a caretaker.

Mr. Grant stated that her understanding was that the apartment would be for a minister.

There being no further questions for staff, Mr. Edgerton opened the public hearing and asked the applicant to come forward and address the Commission on this special use permit.

Hardee Johnston, local architect representing the applicant, stated that the project is located on the site of their present Kingdom Hall, which has been in use since 1981. The growth has required the church to expand. After they searched for another site, they found that the Old Lynchburg Road property was the best. In the prospect of the cross connector it made the site even more desirable, but it also made the site a lot more challenging to develop. That is one reason why the site plan is a little compressed. The biggest challenge of the site has been the fact that it falls 40 feet from the front to the back. Their solution that partly responds to that is to stack two meeting halls on top of one another and have parking on three tiers, which as shown in the plan is separated roughly by a 10 foot step in each one. They have been working with staff and certainly were glad to accept any of the conditions that they put in their recommendations. If there were any other questions, he would be happy to answer them.

Mr. Edgerton asked if there were any questions for Mr. Johnston. There being none, he asked if there was any one from the public that would like to address the Commission on this special use permit application. There being none, he closed the public hearing to bring the matter back before the Commission for consideration.

Ms. Joseph stated that she was happy to see that somebody was using the topography of the site in putting things on different levels, which included the parking. She felt that it was a nice sensitive way to deal with those issues rather than forcing something on there that levels the site. She stated that it was an effective use. It would be nice to have relegated parking with everything in the rear. But, she felt that with the Architectural Review Board's review that possibly there could be some screening required to soften the effect of having all of that parking near the road. She stated that at first she was very concerned about the use of a septic, but in this case eventually as this area develops it will become easier to connect to public sewer. She asked if it was possible that a condition could be added that once it was within reasonable limits that they connect to public sewer.

Mr. Kamptner stated that the statement in the Subdivision Ordinance was the reasonable availability.

Mr. Cilimberg stated that there was a test that had been used for someone coming in to subdivide or to build a new dwelling to see whether they could basically connect to public sewer for the same cost or less than it would cost them to create a private system. In terms of any kind of a distance at which time someone would need to hook up to public sewer is a condition that has not been used for some years.

Mr. Edgerton asked if anyone else was concerned about requiring the grading for a sidewalk, but not for the actual installation. He stated that he was of the opinion that if there was really no anticipation of a sidewalk going in there, then why would they require that they grade the sidewalk. If they really want the sidewalk to go in there, then he felt that they should go ahead and build it even though there is nothing for it to connect to at this time. He pointed out that he was having troubling mandating that.

Ms. Joseph asked staff if there was anything in the Comprehensive Plan that talks about pedestrian connectivity in this area.

Mr. Cilimberg stated that basically now with the Neighborhood Model that pedestrian connectivity is ultimately an assumed part of any urban development. There is not anything specifically identified in this side of Fifth Street Extended, but it certainly could be one of any number of future capital improvement projects. Therefore having it already graded out at such time that the County has really gotten further along in its urbanization efforts at least gives us a graded area in which that sidewalk can be located. He stated that from looking at the plans it appears that it would be both in and out of the right-of-way depending upon where you are along there. But, it is more of an allowance for the future.

Mr. Edgerton asked if the grading would give us the right to put a sidewalk in.

Mr. Cilimberg stated no, that they would have to ultimately get that land.

Ms. Higgins stated that the County would have to have a reservation for the dedication of the strip to build a sidewalk.

Mr. Cilimberg stated that staff could work on a condition for the Board if the Commission felt that was warranted. He stated that they were talking about a combination of grading and reserving for the dedication where necessary. He pointed out that there was a pathway on the other side of the road.

Ms. Higgins stated it was important to have a sidewalk on one side of the road. In this case, she did not know if there would be a lot of walkable situations in the foreseeable future. But, if it was going to be graded she felt that during the special use permit process would be the time to say reserve for dedication upon command of the County. She felt that as an amenity that it would serve for the benefit of the church in the future. She asked that it be clarified whether it was a 4' or 5' sidewalk on the plans.

Ms. Grant stated that for clarification on the plans that the 4 foot pointed to the sidewalk on the site itself. The 5 foot would be for the public right-of-way area along the frontage.

Mr. Thomas stated that he felt that it would be advantageous to have the reservation along Old Lynchburg Road in the conditions so that the property owner would know that it can be used for sidewalks

and there would not be any surprises down the road. There was a subdivision next to the Airport that had a right-of-way for a walkway which was to be put in by the extension of the subdivision. The right-of-way for the walkway came right up to Airport Road and none of the residents wanted to lose their frontage because they had planted trees. Therefore, it would be very advantageous to the property owner to know that any of that land could be taken at any time.

Ms. Higgins stated that the landscape plan could be respectful of the area for the sidewalk so that it would be integrated and not be an afterthought. She suggested that they make it a condition so that it will go to the Board that way.

Mr. Edgerton stated that he would be more comfortable if they could amend the third condition.

Ms. Higgins stated that if it was in the right-of-way that it still needs to be graded. The grading could come outside of that area. Also, it could affect their planting if it was already graded. Therefore, they were saying that it should be graded for whatever is necessary in addition to that right-of-way. She pointed out that the Commission had ignored that before on Rio Road and then the grading became retaining walls along the property just to put the sidewalk in.

Mr. Cilimberg stated that staff could verify the right-of-way location so that if it was not a necessary condition because it is already in the right-of-way, then that will not be imposed. But, if it is necessary staff will provide the language for that condition so it can be part of the Board's action.

Ms. Higgins made a motion to approve SP-2004-002, Charlottesville Kingdom Hall, subject to the conditions as recommended in the staff report with the modification to condition 3 as discussed that the grading be expanded to say grading and reservation of the dedication upon demand for the sidewalk across the front of the site.

1. The development of the site shall be in general accord with the concept plan entitled Proposed Addition Kingdom Hall of Jehovah's Witnesses Charlottesville, Virginia prepared by Hardee Johnston, A.I.A., A.S.L.A. and dated December 28, 2004.
2. The area of assembly shall be limited to a maximum of two auditoriums with 175-seats in each.
3. Sidewalks are to be graded along Old Lynchburg Road (5th Street), but not paved, in the locations shown on the concept plan. **(Prior to the Board of Supervisors meeting this condition will be modified to assure that the public right-of-way necessary to accommodate the grading for the sidewalk be dedicated upon demand of the County.)**
4. The building shall not have more than one apartment.
5. There shall be no day care center or private school on site without approval of a separate special use permit.

Mr. Morris seconded the motion.

The motion carried with a vote of (6:0). (Rieley – Absent)

Mr. Edgerton stated that SP-2004-002, Charlottesville Kingdom Hall, passed unanimously and will go to the Board on May 4.

SP 2004-057 Church of Jesus Christ of Latter Day Saints: Request for special use permit to allow church construction in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for churches in RA, Rural Area zoning districts. The property, described as Tax Map 32, Parcel 17, contains a portion of 5.14 acres that is zoned RA. It is this portion that will be reviewed for this special use permit. It is located in the Rio Magisterial District at 1651 Airport Road. The Comprehensive Plan designates this property as Industrial Service in the Hollymead Development Area. (Sean Dougherty)

Mr. Dougherty summarized the staff report. The Church of Jesus Christ of Latter Day Saints is requesting a special use permit to build a church on Airport Road. Specifically, the church would like to construct a 24,000 square foot building with 270 parking spaces. The proposed church building will sit roughly five feet above Airport Road. A road proposed to serve the remainder of the parcel that is zoned Light Industrial will line the eastern side of the site. This road will create a crossroad across Airport Road and

connect, on the southern side of Airport Road, to the proposed public road that will lead to the residential portion of the Hollymead Town Center.

Request for a special use permit to construct a church facility on land zoned RA in accordance with Section 10.2.2 of the Zoning Ordinance. The property, known as Tax Map 32, Parcel 17 is 33.668 acres and contains split zoning. The portion of the parcel associated with the special use permit contains 5.14 acres and is zoned RA. The remainder of the parcel, 28.528 acres, is zoned Light Industrial. It is located in the Rio Magisterial District on the northeast side of Airport Road, across from Laurel Hill Baptist Church. The Comprehensive Plan designates this area as Industrial Service.

The area is served by Airport Road, which was designated an Entrance Corridor in April 2000.The U.S. Postal Service Distribution Center is located roughly a quarter mile to the southeast. The Charlottesville Albemarle Regional Airport is located roughly one mile to the northwest. The general area also contains the Deerwood Subdivision, light industrial uses, and undeveloped land.

Staff has reviewed this request for compliance with the provisions of Section 13.2.2 of the Zoning Ordinance and recommends approval with conditions.

The Comprehensive Plan designates this area as Industrial Service in the Hollymead Community. Uses allowed within this designation include warehousing, light industry, research, heavy industrial uses, as well as uses allowed under Office Service.

Despite a conflict with the Comprehensive Plan, staff believes that with the development of the Hollymead Town Center and associated residential development that this use will augment the neighborhood. Additionally, with the adoption of Airport Road as an Entrance Corridor, the church will act to buffer the Light Industrial uses permitted to the rear.

Along one side of the site along the proposed road there is a sidewalk that is now shown on the plan, but it came in at a late date. The ideal scenario for that sidewalk would be a planting strip and then the sidewalk. This appears as one of the conditions. The only other issue regarding the massing and the materials is that the ARB has signed off for the preliminary approval of this. They are happy with the plat. The application was reviewed keeping in the mind the religious land use and the institutional

This review was conducted with consideration of *The Religious Land Use and Institutionalized Persons Act of 2000* which states:
No government shall impose or implement a *land use regulation* in a manner that imposes a *substantial burden* on the *religious exercise* of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution – (A) is in furtherance of a *compelling governmental interest*; and (B) is *the least restrictive means* of furthering that compelling governmental interest.

Staff has identified the following factors which are favorable this request:

1. The church supports residential uses nearby.

2. The Architectural Review Board has granted preliminary approval of the proposal.

3. The applicant proposes landscape in excess of the Zoning Ordinance requirements. This will add aesthetic value to the site and the Entrance Corridor / Airport Road.

4. The church provides a neighborhood service.

One unfavorable factor has been identified:

1. The land use plan recommends this area be used for Industrial Service. However, the land that the church is proposing to locate on is currently zoned RA. Churches are allowed in the RA zoning.

RECOMMENDED ACTION:
Staff has reviewed this request for compliance with the provisions set forth in Section 31.2.4.1 of the Zoning Ordinance and recommends approval with the conditions listed in the staff report.

Mr. Edgerton stated that he had one question for staff. He noted that in the write up that the applicant suggested that they only need conference meetings twice a year, but staff doubled that in the recommendation. He asked what the reason was for that.

Mr. Dougherty stated that condition was suggested because when the entire church is opened up, including the cultural center, overflow and the chapel, that it is a very large space, which is really the only time of the year that they would have the use of all of their parking spaces. The applicant would need 294 parking spaces. Staff just wanted to be a little more flexible by allowing it four times a year.

Mr. Edgerton asked if he was requiring an additional 153 parking spaces for two events.

Ms. Joseph stated that the ordinance requires parking spaces for fixed seating or area of assembly, whichever is greater.

Mr. Dougherty pointed out that the church design includes a gym or a cultural center. If the parking was based on the square footage it would require 294 parking spaces. He pointed out that the cultural center will probably not be packed with people. But, if the parking was based on the fixed seating in the chapel, which is one-third of the church, then the church's required spaces would be 117 parking spaces. He stated that the applicant provided data from other churches in the area, which were almost the exact same size, and they were comfortable with 270 parking spaces for what their needs will be. The church has said that they have spoken with the applicant, Wendell Wood, who would be willing to work out a shared parking agreement for those dates that they need more spaces during conferences on adjacent property. Staff has looked at this with the Zoning Administrator. The applicant has provided information that validates their need for 270 spaces. Staff feels comfortable with this.

Mr. Edgerton asked if the parking would be asphalt, and Mr. Dougherty stated that it would.

Ms. Higgins stated that if 270 is the adequate number of parking spaces for this kind of assembly if it was typical for staff to specify the number of events to 4 per year. She asked if staff was being consistent with other churches because the Planning Commission does not often see a limitation like that. She asked if it is adequate for 4 events then why not for 10 events. These assemblies are usually related to weekends and off peak traffic times. She pointed out that if the cars can't fit on the site, then they can go down to the airport to park and walk to the site.

Mr. Dougherty stated that zoning staff was more concerned about how these events will operate and the impacts. They questioned if the church will need to do shuttling or something like that to make it work. Since that would have an impact on Airport Road, zoning staff is concerned about that. He pointed out that zoning staff had asked for this condition.

Ms. Higgins asked if staff was doing this consistently with all of the churches.

Mr. Dougherty stated that he felt that they were being consistent. He pointed out that the difference is that this church can be opened up to be a very large assembly area when it wants to because there is a moveable wall.

Mr. Kamptner pointed out that the County has imposed conditions for churches for large events. Particularly, there was a church on Route 20 North where they have regional events where people would come from the area and camp on site. That situation was in the rural areas in a fairly residentially developed area, and therefore had some limitations placed on it.

Mr. Cilimberg stated that there was some consideration in the design of the conditions regarding the Covenant Church on Rio Road, too. He stated that the County does not get that many churches with a cultural center or a gymnasium.

Ms. Joseph stated that normally a church does not have this large of a space for an area of assembly. The Zoning Department looks at the area of assembly and right now they don't have enough to cover the required parking spaces for the area of assembly that they are building. Essentially they are not conforming to the ordinance in that manner. Therefore, restricting them to four events was not unreasonable. She felt that was what the thought process was in that they were not following the ordinance requirements right now and they chose to build it as big as that.

Ms. Higgins stated that there are some substantial critical slopes on this site. She stated that they are assuming that a critical slopes waiver will be granted. She asked if the Commission should now be addressing this issue.

Mr. Dougherty stated that the critical slopes that are created are proposed to be landscaped.

Ms. Higgins stated that would not matter because the Commission would still have to grant a waiver.

Mr. Cilimberg stated that staff likes to bring critical slopes to the Commission for waiver requests with plans at this level during rezoning and special use permit review if the applicant has submitted the necessary engineering information to do that. What staff does not want to do is to bring the Commission a waiver request where that engineering work has not been done. He pointed out that is not a requirement for special use permits or rezonings to do that level of engineering. He stated that he was aware of what she was saying in that you kind of assume that it is going to be granted, but you can't do that until you have the engineering analysis to actually take that action. He pointed out that was kind of where they are in this situation.

Ms. Higgins stated that they knew that critical slopes were going to have to be disturbed and the applicant would have to come back before the Commission. In a case like this it might be a consent agenda type of critical slope analysis if it is in conformance with this plan and goes through the engineering review and gets a recommendation for approval, which may separate it from other critical slope waivers. She felt that those issues should be identified now.

Mr. Cilimberg stated that normally critical slope waivers are on their consent agenda, but sometimes those requests get pulled off.

Ms. Higgins stated that she should have asked that question on the previous application because the topography on that site was more challenging.

Mr. Dougherty stated that the church is a modular and was dynamic in the way that it can change as far as the area of assembly, which was what that condition was meant to address.

Mr. Craddock asked if this location would be in addition to and not replace the Hydraulic Road Church.

Mr. Dougherty stated that it would not replace that church.

Mr. Craddock asked if there was a stub out at North Fork and if the proposed road would serve this property.

Mr. Cilimberg stated that the North Fork Road is further to the east, and it would connect into what has been identified as Ridge Road in Hollymead Town Center, which was a different location.

There being no further questions for staff, Mr. Edgerton opened the public hearing and asked the applicant to come forward and address the Commission on this special use permit.

Dwayne Zobrist, attorney representing the Church of Jesus Christ of Latter Days Saints in this matter, stated that he would like to commend the staff on their report. He stated that they were very pleased with the hard work they have done. He thanked Mr. Kamptner for his assistance in helping them with some very difficult issues. This is a culmination of a five-year request to build a new church in Charlottesville. They have four units in the city all meeting in one building on Rio Road. They start church on Sunday morning at 8:00 a.m. and finish around 7:00 p.m. There are different groups of people going to church all day. Because of the method in which they worship they split their units into smaller units so that everyone has the opportunity to serve. They are very pleased with the work that has been done. They are grateful to be here. He stated that they give special thanks to Wendell Wood who helped them find this site. He has been very cooperative with them in getting the site developed. The architect, John Sease, is here tonight. Ed Blackwell is the engineer. The landscape architect is Joan Albinson. If there were any questions, he would be happy to direct them to the appropriate person. With respect to the events being limited to four times per year that every once in a while they have a regional meeting and would like to have a little flexibility so they don't have to get a special use permit. He referred the Commission to the rendering that they had done to show what the church would look like.

Ms. Joseph asked if this building would be a regional headquarters.

Mr. Zobrist stated that it would be what they call a stake center. The church as a whole divides itself into administrative units that they call stakes. Then each one of these stakes has between 3,000 and 5,000 members. Their stake goes over the mountain, which takes in Harrisonburg, Staunton, Waynesboro and they also have their four units here. Their expectation is that those units on the other side of the mountain will be divided off into a several stake because this stake is almost unmanageable the way it is right now. This location will become the stake center for the Charlottesville area.

Ms. Joseph stated that they have the existing church and that it will stay functional.

Mr. Zobrist stated that the existing church will stay functional, too. He stated that they were currently buying a piece of land at Zion Crossroads, which will serve people from Palmyra and Lake Monticello. In addition, they are looking for a piece of land at the University. Once the student population exceeds 100 students that are active in the institute programs they will be buying a piece of land close to the University for the students.

Mr. Edgerton asked if there were any questions for Mr. Zobrist. There being none, he asked if there was any one from the public that would like to address the Commission on this special use permit application. There being none, he closed the public hearing to bring the matter back before the Commission for consideration.

Ms. Joseph stated that in an email to Mr. Dougherty that she asked that they be mindful of areas that are designated as Light Industrial or Industrial in the Comprehensive Plan. They need to start paying attention to these areas. They need to make sure that they are not taking away something usable because they have spent money in upgrading the roads that go to the Airport. Their assumption was that these lands would be used for some sort of industrial use because of the transportation networks and the hub at the airport. She pointed out that she was not speaking against this request, but just felt that they really need to start thinking about taking land out of those specific uses for something else. She stated that she would appreciate as these types of requests come through that they get some sort of comment within the staff report saying that staff has done a quick analysis and this is what they see happening.

Mr. Cilimberg stated that one thing that the Commission had discussed with the project off of Dickinson Road that they saw in a work session that Mr. Ray is doing was the question of an industrial land that would be converted there when the Comp Plan came up. During a discussion with David Benish today he indicated that he was doing some analysis on industrial land and how the demand has changed. Mr. Benish wants to bring that information back to the Commission as part of the discussion with that project. Therefore, that might be helpful, too, for their future thinking about those kinds of questions.

Ms. Higgins stated that there were two conditions that say that the area of assembly shall be limited to a maximum of 8,800 square feet. Then the next condition says that the use of the combined area of

assembly includes chapel overflow and cultural center. She asked how those two conditions relate. If everything is added together are they are 8,800.

Mr. Dougherty stated that was correct.

Ms. Higgins stated that it implies that there is an area of assembly that has a maximum, but then it implies that there is a listing of things that could be a combined area of assembly. The suggested that staff needs to differentiate what that means.

Mr. Dougherty asked if they took out the word combined if that would clarify and relate to condition 2.

Ms. Higgins suggested that condition 4 be reworded because it says the use of the combined area. She would say that it means an event or a conference meeting using the combined area of the chapel overflow, cultural center and the gym, which would be limited to four times per year. Currently the condition just says the use of. Therefore, would the square footage for a conference meeting using the combined area of assembly be 8,800. If the applicant does not agree with staff, then they should ask him up to make sure. She pointed out that she could not tell that from the building plan.

Mr. Dougherty stated that he had a larger plan that she could review. He pointed out that those areas were circled.

Ms. Higgins asked if the chapel overflow, the cultural center and the gym were all added together if that equals 8,800 square feet.

Ms. Joseph stated that it was more area than that because that is just the footprint.

Ms. Higgins suggested that the area of assembly be limited to the 8,800 square feet, which includes the chapel overflow, cultural center and the gym. Then they can say that the total combined area can be used for a conference meeting four times a year. She pointed out that she felt that those were two separate areas.

Ms. Joseph stated that they were two separate areas.

Mr. Zobrist stated that it was the same space because once the walls were taken down that it becomes one combined area.

Ms. Higgins stated that the limit on 8,800 square feet is for all of those combined areas. She questioned what condition 3 actually does.

Mr. Cilimberg stated that there were two purposes for conditions 3 and 4. One condition is trying to establish the maximum area of assembly. The other condition is trying to establish how many times a year that area can all be used at one time. Therefore, if there is any clarification that needs to be done before the Board meeting that staff could certainly do that.

Ms. Higgins stated that when she looked at it she assumed that they had 8,800 square feet that had been used, but then they were going to have events that were bigger than 8,800 square feet. Since the building was so big without that breakdown that she just could not make any sense of it.

Mr. Kamptner stated that he had identified three different areas of assembly including the chapel, the overflow and the cultural center. He stated that he did not read this to mean that the overflow of the cultural center was part of the area of assembly. He pointed out that it would need to be clarified.

Mr. Cilimberg agreed that staff needs to clarify that.

Ms. Higgins pointed out that somebody from Zoning was going to have to deal with this over the years and without a building plan, an attachment or a clear definition that she would just have a problem with this. She suggested that those two conditions could either be separated or reworded so that it was clear

that they could use the combined area four times per year and that was the maximum. She questioned if there was a reason to say the maximum assembly area as a stand alone unless there is something that conditions it, but she was not sure.

Mr. Dougherty stated that sometimes that was a standard condition for churches because they were just clarifying it because it was such a large area.

Mr. Cilimberg stated that condition 3 was a typical condition, but that condition 4 was a little less typical because we don't in most cases have the combination of the types of facilities in a church that this one has.

Mr. Edgerton stated that Mr. Cilimberg wanted to adjust the wording of condition 3 and 4 a little bit before it goes to the Board.

Ms. Higgins suggested that condition 3 states that the area of assembly, which gives the square footage, actually tells you what the square footage is based on so that it is clear that there is no area of assembly and then a combined area of assembly because they are the same.

Ms. Joseph stated that would clarify conditions 3 and 4, and Ms. Higgins agreed.

Mr. Thomas moved for approval of SP-2004-057, Church of Jesus Christ of Latter Day Saints subject to the conditions as recommended in the staff report with the exception of modification to conditions 3 and 4 that staff will clarify the wording of conditions 3 and 4 before the Board of Supervisors meeting as noted below.

1. The church's improvements and the scale and location of the improvements shall be developed in general accord with the concept plan entitled "The Church of Jesus Christ of Latter Day Saints, Rivanna Ward Waynesboro Va. Stake, Conceptual Site Layout and Utility Plan" dated January 13, 2005.

2. The proposed road or access way shall conform to public street standards for an urban section including a curb, gutter, six-foot planting strip, street trees, and five-foot sidewalk along the LDS site.

3. The area of assembly shall be limited to a maximum 8,800 square feet. **(Prior to the Board of Supervisors meeting this condition will be modified by staff.)**

4. The use of the combined area assembly including chapel, overflow, and cultural center (gym) to facilitate conference meetings will be permitted four times per year. **(Prior to the Board of Supervisors meeting this condition will be modified by staff.)**

5. Day care use shall be prohibited unless approved through a special use permit amendment.

Mr. Morris seconded the motion.

The motion carried with a vote of (6:0). (Rieley – Absent)

Mr. Edgerton stated that SP-2004-057, Church of Jesus Christ of Latter Day Saints, was passed unanimously and will go before the Board of Supervisors on May 4.

Old Business:

Mr. Edgerton asked if there was any old business.

Ms. Joseph stated that she had been asked to speak at an ASAP meeting several weeks ago to tell them what she thought the trends were in the growth and population of the County. At the meeting she had

brought them some of the projects that the Commission had looked at last year, which included some of the private roads and infill development.

Mr. Craddock pointed out that Ms. Joseph had done a nice job at the Southern Albemarle Historic Meeting at Michie Tavern in talking about the area that has been under study.

Mr. Edgerton asked if there was any further old business. There being none, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business.

Ms. Higgins stated that because of the discussion the Commission had about critical slopes that she was really troubled with the special use permit process leaving that out. She wondered if there was some acknowledgement at the staff level that the applicant understands that because she would hate to be between a rock and a hard place on the critical slopes waiver after having considered it.

Mr. Cilimberg stated that staff has actually had that discussion previously and felt that all of us agree that we prefer to bring that before the Commission. He pointed out that there were some engineering costs to the applicant to do that and in that part of the process it was not typical.

Ms. Higgins suggested that there was a risk that they could not support a special use permit application without the information on the critical slopes waiver. She stated that normally she would not want to add that kind of a governmental thing to the process. But if it ends up with an issue at the point when the site plan comes in after the special use permit has been approved with a substantial accordance plan attached, then she felt that was almost an implied approval.

Mr. Edgerton suggested that there be some kind of a qualifying statement that says until they have the engineering work.

Ms. Higgins asked how they could condition a special use permit upon needing an approval to get a waiver.

Ms. Joseph stated that if you were doing a feasibility study and wanted a special use permit that you would be spending money and ought to be able to shade in those areas that shows where there is a 25 percent slope.

Ms. Higgins stated that it would be terrible if there were any problems with granting the critical slopes waiver after the special use permit has been approved.

Mr. Kamptner stated that the approval of a special use permit does not guarantee the approval of a critical slopes waiver. The standards that are applied to critical slope waivers are quite different. He stated that he could easily see that it would be advantageous to at least have the critical slopes issue broached at the special use permit review.

Mr. Edgerton stated that, for example, if the applicant could not meet the requirement for the location of a septic field by the Health Department, then it does not matter if they had approved the special use permit.

Ms. Higgins stated that was a technical requirement, which was different from a waiver.

Ms. Joseph stated that the technical requirements could be just showing where the critical slopes are so at least when you are looking at the special use permit that you could see that there are critical slopes on the property.

Ms. Higgins stated that the condition on the special use permit is that it comes back shown consistent with the plan that is approved with the special use permit. Therefore, they are talking about that they

cannot move things around. She felt that was different because that septic field could be moved to another part of the site.

Mr. Cilimberg stated that actually the septic field was just as much a part of the plan as the building. It is all on the plan and it all says in general accord. Therefore, he felt that there was some flexibility, but he also felt that they were raising the point of awareness for the applicant.

Mr. Edgerton stated that was the real issue. He suggested that some statement be added.

Mr. Cilimberg stated that was something that staff could follow up on and make sure that the applicants are aware of. Also, they can talk about what they can also put in the staff report that critical slopes waivers may be necessary and would be part of the site plan.

Mr. Edgerton asked if there were other items of new business.

Mr. Cilimberg stated that if any Commissioner is coming to a meeting at the County Office Building during 8:00 a.m. to 5:00 p.m. that they should put the parking decal just distributed on their dashboard and park in the back of the building.

There are no items scheduled for the Planning Commission on Tuesday, March 22, 2005. The next Planning Commission meeting will be held Tuesday, March 29.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 7:30 p.m. to the March 29, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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