Albemarle County Planning Commission
May 21, 2013

The Albemarle County Planning Commission held a regular meeting and public hearing on Tuesday, May 21, 2013, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Ed Smith, Bruce Dotson, Don Franco, Thomas Loach, Russell (Mac) Lafferty, Vice Chairman, and Calvin Morris, Chairman. Absent was Richard Randolph. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Scott Clark, Senior Planner; David Benish, Chief of Planning; Sarah Baldwin, Senior Planner; Chris Perez, Senior Planner; Sharon Taylor, Clerk to Planning Commission; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, 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. Morris invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next agenda item.

Consent Agenda

SUB-2013-00043 Briarwood Commercial Lot – private road request – Planning Commission finding under Section 234-(c)4 of the Albemarle County Subdivision Ordinance (Chris Perez)

Mr. Morris asked if any Commissioner wanted to pull an item from the consent agenda.

Mr. Lafferty said he did not want to pull an item but just ask a question. He asked what the road will serve.

Mr. Benish replied the road would actually serve commercial lots along the frontage of Route 29. It does not directly serve any residents.

Mr. Lafferty noted he was concerned because they did the same thing with Stonefield and he did not think it turned out well. He favored complete streets in Albemarle in this kind of an environment.

Mr. Benish pointed out this request is to allow for a private road with more than one access to a public road. It is more similar to the type of road design that serves frontage commercial at Ba Ha Bean and the Hess.

Mr. Lafferty said that he did not want to hold the request, but was just curious about it.

Mr. Dotson said since they were asked for Planning Commission input he wanted to ask a couple of questions. When the future portion was put in there will be a total of three connections with one at Camelot, Briarwood and the new one. Where will the new one fall? In visiting the site today there is a rise at the high point and then a drop. He assumed that new connection would be right at the peak of that ridge.

Mr. Benish asked if he was talking about the section between Briarwood and Camelot, and Mr. Dotson replied that was correct.

Mr. Benish pointed out this is actually for the other section north of Briarwood up to Austin as well, which is where the fourth connection comes in.

Mr. Dotson asked if there would actually be five connections.

Mr. Benish replied it would be five connections if they assumed two at Austin. Staff had counted that as one. Those entrances would be subject to VDOT approval. He thinks the one they are talking about is the other section south near Camelot.

Mr. Dotson said it was the only new one to 29, but struck him as a difficult place to put another entrance.

Mr. Benish said that it looks like it is about equal distance between those two. However, he was not familiar with the topography. It does look like it is a little lower than the high point and it starts to drop down heading south.

Mr. Morris asked Mr. Dotson if he wanted to ask the applicant who was present to answer that.

Mr. Dotson asked the applicant to answer that question.

Scott Collins, engineer on the project, said as 29 goes south it rises up and the entrance would be right before it gets to the crest. Therefore, they would have ample sight distance at that entrance to look north onto 29 to make sure no traffic is coming. They will have ample time to merge so the traffic can still see them before they go over the crest and back down the hill.

Mr. Dotson asked if there would be a so called get on lane there, and Mr. Collins replied yes.

Mr. Dotson asked is the standard on acceptable sight distance the same if it is a private road as if it was a public street.

Mr. Collins replied yes, because those are the same because it is exiting onto a public street.

Mr. Smith asked if the speed limit is 45 miles per hour after the light.

Mr. Collins replied that it was 50 miles per hour.

Mr. Benish agreed and pointed out the speed limit goes to 45 miles per hour south of the North Fork.

Mr. Smith asked if it is a 150 foot acceleration lane.

Mr. Collins replied that it was at least 100 foot. However, they have not worked out all the details with VDOT since they are at the preliminary stage. When they go in to do the final road design, which they are working on now, all that will be set based on sight distance and VDOT criteria. It will have at least an100 to 150 foot acceleration lane and then a taper into the lane.

Mr. Smith asked if the decal lane is 200 foot, and Mr. Collins replied that was correct.

Mr. Morris thanked Mr. Collins for his information.

Mr. Dotson said he had a question for staff in terms of the action that is before the Commission tonight. The narrative of the report says they are just looking for input since it is the agent who will make the decision and not the Commission.

Mr. Benish replied the agent can make this finding. But, given the language of that section when it is more than one connection to a public road the agent can seek guidance from the Planning Commission. That is what staff is looking for now. So it is a finding, guidance or comments regarding the acceptability of this design.

Mr. Dotson said if the Commission makes that finding that is not approving the configuration of the road but simply the private versus the public road.

Mr. Benish replied that it a private road with more than one connection to a public road, which is what the Commission is providing the agent guidance on to make the finding.

Motion: Mr. Franco moved and Mr. Smith seconded for acceptance of the consent agenda to make a positive finding of Chapter 14 Section 234-(c)4 .

The motion carried by a vote of 6:0.

Mr. Morris noted the consent agenda was approved. The Planning Commission made a positive finding for Chapter 14 Section 234-(c)4 of the Albemarle County Subdivision Ordinance regarding the private road request to serve the proposed 5 commercial lots on 22.59 acres as depicted on the preliminary subdivision plat.

Public Hearing Items

SP-2012-00021 Faith & Grace Christian Fellowship
PROPOSED: Request for a special use permit to convert an existing residence to a church on 1.38 acres. No dwellings proposed.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2.35 Church building and adjunct cemetery
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 3 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
PROFFERS: NO
LOCATION: 3917 and 3935 Rock Branch Road
TAX MAP/PARCEL: 087B0-00-00-001A0, 087B0-00-00-00200
MAGISTERIAL DISTRICT: Samuel Miller
(Scott Clark)

Scott Clark presented a PowerPoint presentation and summarized the staff report.

Proposal: Request for a special use permit to convert an existing residence to a church on 1.38 acres.

The applicants are proposing to use an existing 1,200-square-foot structure on the property as a church, with a possible future expansion to a total of 1,740 square feet. This church would be the only facility for this church organization, and would be used for worship services and other religious purposes. There is a second structure on the property, a dwelling of approximately 1,135 square feet, that would not be used for worship services or the area of assembly for the church, but that might be used for board meetings, Sunday school classes, and other church related uses. The building shown on the right in the plan is the building proposed to be the area of assembly. The site would have 23 parking spaces, which the applicants have stated would be sufficient for their most-attended functions (up to 80 persons, with many arriving as families in single vehicles).

Staff reviewed the two sheets of the conceptual plan pointing out the gravel parking area and landscape plan. The features with X's are the ones that would be removed. The tree out by the road would be removed for sight distance. The other trees being removed are to allow the parking and other construction to occur. The majority of the trees would remain. The plan shows that the existing vegetation along Route 29 would be added to.

The possible impacts of the proposal:
- Approval of this special use permit would increase levels of activity in a residential portion of the Rural Areas.
- The nearest dwelling, on Tax Map 87 Parcel 33, is approximately 65 feet from the church building. Two other dwellings across Rock Branch Road are approximately 160 and 265 feet away.

- Staff is recommending a condition of approval that would require any outdoor lighting to be shielded from adjacent properties.
- The applicants have not proposed any outdoor amplified sound for this use. Other sources of noise might include arriving and departing vehicles and voices from outdoor activities such as church picnics.
- While the church building is located relatively close to an adjacent dwelling, given the scale of the proposed use and the fact that most activity would be indoors, staff opinion is that there will not be a significant negative impact on adjacent properties.
- Traffic would increase.
- This church's largest event has attracted 80 people, most of whom are families and arrived with several persons per vehicle,
- The 23 parking spaces shown on the conceptual plan are intended to accommodate the number of vehicles that the applicants have observed at events of that size.
- Overall, the impacts are expected to be typical for a small church in the type of rural residential setting where such uses often occur.

- Entrance Corridor (EC) overlay zoning district:
  - The proposal would use an existing building, involve limited tree-cutting, and supply additional screening vegetation along the Entrance Corridor.
  - The Design Planner finds that the character of this zoning overlay district would not be significantly changed.

Will the public health, safety and general welfare of the community be protected if the use is approved?

- The Virginia Department of Transportation (VDOT) has reviewed and approved the proposed entrances for the site. VDOT has not noted any problems with the capacity of Rock Branch Road to carry traffic generated by this use.

- The Fire/Rescue Department has noted that access to the building for emergency vehicles and equipment must be provided. Staff is recommending a condition of approval requiring Fire/Rescue and building official approval before the use begins.

- The applicants have consulted with the Virginia Department of Health to ensure that the site's water supply and septic-processing capacities would be sufficient for the use.

- Staff is recommending a condition of approval that would require written confirmation of VDH's approval of the well and septic facilities before the use could begin.

Factors favorable to this request include:
1. The Virginia Department of Transportation has approved the proposed access to the site.
2. The conceptual plan proposes additional screening plantings on the side of the property facing the Entrance Corridor.

Factors unfavorable to this request include:
1. The proposed church building is within 65 feet of a neighboring dwelling, raising concerns about noise and light.

Staff recommends approval of SP-2012-00021 Faith & Grace Christian Fellowship based upon the analysis provided herein, with the conditions outlined in the staff report.

Mr. Morris invited questions for staff.

Mr. Loach asked if the staff has spoken to the adjacent landowners, and Mr. Clark replied that he had spoke to two adjacent landowners, but not all of them.

Mr. Loach noted the unfavorable factor was the distance. He noticed in the condition that staff did not

look at any additional plantings along the property line. He asked if that was entertained.

Mr. Clark replied there is vegetation along that property line shown on the conceptual plan. There is nothing on the conceptual plan saying that would be augmented. However, there is some vegetation there. The Commission could add some language requiring that the vegetation be beefed up.

Mr. Lafferty said the septic system has four lines and a leech field. He asked do they require that they have an additional place in case that fails because they are covering it up with a parking lot.

Mr. Smith pointed out the conceptual plan shows the future septic right above the existing septic area. However, he did not know if it had been tested.

Mr. Clark pointed out the existing septic and reserve area with the parking northeast of that.

Mr. Lafferty asked when they start this project will they expand the septic field to accommodate the additional expansion of the church.

Mr. Clark replied he understands from the health department that what is there is sufficient. By having that condition if that changes or they find that they need more area they can require that before the use can begin.

Mr. Lafferty pointed out the septic fields look like a standard single residence's field.

Mr. Smith asked if the future septic field had been tested.

Mr. Clark replied that he could not recall. However, the applicant could probably answer that question.

Mr. Benish said condition 6 will allow the health department to require what is necessary for that approval.

There being no further questions, Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Dana Rexrode, representative for Faith & Grace Christian Fellowship, pointed out her husband Nathaniel is the Pastor. First, she thanked Mr. Clark and the Planning staff for all of their help through this process. It is a little bit confusing to those who don't work in it. She explained the proposal, as follows.

- They are a very small family church. It is about five years old. Our members live largely in the rural southern part of the County. They originally met in an empty building in Covesville and then moved to met at Redhill Elementary School. However, County policy states that you can only use a school as a building for so long. So they intermediately began looking for somewhere to meet. Finding a suitable home has been difficult. They met with County staff about a couple other properties and they were shot down for various reasons. It was for health department or VDOT reasons. So they come to the Commission for this property because they feel like it is the best thing out there in our area for administering the southern part of the County.
- This property was originally built as a commercial auto garage run by the people who own the house next door to it. They converted a residential use in the 70's. This means it is suitable to convert back to church use. It has been hard to find a property that would meet those standards out in the rural areas. The proximity to 29 on a paved road also makes it unique among the other properties that they looked at. The members of Faith & Grace all care for the North Garden area. They are all from that part of the County and they love the rural nature character out there. They are not seeking or asking to change that. That is part of the reason why they are not asking for any significant exterior changes outside of the parking and other standards that the County is requiring.
- They have spoken with the neighbors and the reaction has been mostly positive. They have had some concerns, of course, but mostly the neighbors have been very welcoming. They also sent letters not just to the intermediately adjacent neighbors, but to everyone on the street. They have not heard anything from them. Then they went door to door to visit the adjacent neighbors as well looking for public input. They have heard some concerns about traffic and noise in particular. So she would like to take a second to address those.

- They feel that because of the location of the property they don't think that traffic is going to be a significant concern. They understand that any proposal for added traffic is going to be a concern to neighbors. However, Rock Branch Road is an intermediate left turn once turning onto Taylor's Gap Road from Route 29. So the vehicles from the church don't actually pass by any driveways on Taylor's Gap Road and past the side of the property across Rock Branch Road. They are not a large church and not talking about dozens and dozens of cars at all hours of the day and night through there. Our church traffic will be on that road mostly when other commercial or work related traffic is not. There is actually an elementary school that enters on to that intersection from the other side of Route 29. That intersection can handle all of that traffic. Also, they will not be there at the same time as the elementary school. They are going to have a lot less traffic than they are.
- VDOT officials came out and looked at everything. They assured us the small volume of cars which they are talking about is not going to be an issue for those roadways in that area. As far as noise, they do understand that this is a rural area and have no plans for loud music, a party or to be there 24/7. Most of the events do happen indoors. The children play outside after church, but they are mostly indoors.
- The properties across the street and next door do have significant buffers of vegetation already. They would be happy to plant more vegetation to augment if that is something the Planning Commission is interested in on the side. They can't plant in the front because VDOT will not let us across the road. However, they would be happy to plant down the side further. The property backs up directly to Route 29. So there is already a significant amount of noise from passing traffic. She did not think that any noise that they make is going to be significantly louder than that. It certainly is going to be less frequent. As they can see from the site plan the only trees they are requesting to be removed are ones that either the health department, VDOT, or the County have requested to be removed for the parking that they want. The health department said that there are two trees too close to the septic tanks and have asked us to remove those. But, outside of that they are not proposing removing any trees just for our own purposes. They feel that pictures of the property as it is now would be a good site plan because they really do intend to keep it much the same.
- In conclusion, they understand the nature of this area, the limitations of this property, and are not asking for permission to put a 500 person mega church on that spot. They know what it can hold and are realistic about what the area can support. They love the area because they all live there. They believe that Faith & Grace Christian Fellowship will be a benefit to the community and a positive addition to the neighborhood.

Mr. Morris invited questions for the applicant.

Mr. Lafferty applauded the applicant for contacting the neighbors to the extent they did. He wished more applicants would do that because it would save them a lot of trouble.

Mr. Smith asked where the well is.

Ms. Rexrode replied the well is the little box in the bottom right corner. The two properties share a well, which is part of the reason why zoning wanted the two properties combined.

Mr. Smith said if it is approved one of the things he would suggest is that the condition say there will not be any outdoor amplified sound.

Ms. Rexrode said that is agreeable to the church.

Mr. Smith asked if she was talking about using the adjacent building for Sunday school.

Ms. Rexrode replied yes, the adjacent building would be used for Sunday school, board meetings and that kind of thing. It is not as a separate worship area.

Mr. Smith noted it was nitpicky but that is worship also. However, that was okay. He asked Mr. Franco if the parking is big enough as shown for 10' X 18' with only a 20' drive through.

Mr. Franco agreed it was large enough.

Mr. Morris invited public comment.

Ann Morris, resident on Taylor's Gap Road, said she received her letter last Friday. That was the first letter she has received. She talked with Ms. Rexrode before that. She was concerned and had sent a letter yesterday about the traffic in our area. They live right on the corner. They are seeing a lot of traffic. They are seeing double trailer logging trucks, tractor trailers going into a farm right across the road, and school buses. They have a horse farm at the end of Rock Branch Road. They are now seeing horse trailers going into the farm. She was a little concerned because Sunday when she went home from church and turned onto Rock Branch a car was coming out of Rock Branch on her side of the road. She thinks they will have to work with that when the church comes in. Also, they have joggers and people on motorcycles going through the neighborhood. She was really concerned at the intersection with the service station, which has two exits onto 29, that there will be a major accident. These are her concerns. She also wanted to note if they see or experience problems in the future do they come back to the County.

Mr. Morris replied that they always have that option. He thanked Ms. Ann Morris for sending the email to the Commissioners. It really helps to see comments well ahead of time.

Mr. Lafferty pointed out that he had bicycled Taylor Gap quite a few times.

Tracy Shifflett said he had some concerns because he is the neighbor that is 65' from this dwelling which is supposed to be a church. Twenty-three years ago he went to North garden and it was the greatest thing he ever did in his life. He ran into senior citizens and people that lived there and made farms out of things. He has watched this area grow. He has witnessed several things that have come to hurt us in that area. They live in a drought area. If they know anything about North Garden this is not the first time they are hearing about a drought area. He already has one dry well on his land, which is next door to where the church is proposing to go. His second well, which he dug, is 425' in the ground. With the increase of people coming in, even if it is 23 cars, they can be packed. He was not sure if our water system could be taxed. He was not sure if that was even addressed in the original plans for this area.

Mr. Shifflett said he also has concerns with the noise. On Sunday morning he walks out on his deck and listens to the birds and other good things. There is traffic on 29, but not as bad as during the week. Now he hears screaming children next door. As a matter of fact on Sunday he thought he was going to have to call the police because one was screaming to the point he thought the little girl was being hurt. So he stands here before the Commission because he was that person. When they talk about barriers being built between the little pieces of land next door to where this church is going he planted the Leyland Cyprus that run that barrier up through there. He was very concerned with what is going on next door. Also, there was a little storage unit put on that land. It was practically put right on the line or perhaps 6' off the line. He was not sure what the County standard is now and needs to look that up. He works out of town a lot.

Mary Payne said she was the other neighbor that lives next door. She has the same concerns that Tracy Shifflett just voiced. She lives in the same house she does. The traffic is her biggest concern. She hears them talk about not having a whole lot of traffic and not having a whole lot of noise. She is there most of the time on Sunday mornings unless on call. She could say that listening to those children screaming is very disruptive on a Sunday morning when that may be your only day off. This has been a very quiet area. They have the two dwellings. They have put all of the toys right next to their property. She asked that they have some respect for the neighbors. She is not opposed to a church, but she is opposed to disrespect. As far as the parking goes, there are quite a few cars there. She knows at one time she has counted over 23 cars and not to mention the bus that is being brought in on Sunday mornings. She objects to getting up on Sunday mornings and wondering if she is going to have to call the police because you don't know if a child is being killed next door. She is also concerned with the water issues because it is a drought area. She questioned what is going to happen to their water and the value of their property.

Sam Clark said he and his wife had lived on Rockbridge Road for over 35 years. When they moved in it was zoned agricultural and residential. It remained such for the 35 years they have been there. He did

not see any reason why it should change now. The point was made about traffic just coming in on Taylor's Gap Road and going intermediately to the church. But, Rock Bridge Road goes all the way down and T's into Rock Bridge Lane which connects to 29. There is nothing to say that a whole bunch of this traffic is not going to come in from 29 south and come right up Rock Branch Road into this parking area. He also has one question about what was said about tree removal for construction purposes. It was his understanding that there was going to be no additional construction. So that is a concern. He also wonders how that old converted garage got to be 1,200 square feet because it was a garage. Those are his concerns.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter before the Commission for discussion and action. He invited discussion. He offered a five minute time for rebuttal to the applicant.

Ms. Rexrode said she would like to address the water issue and the building that is on the property. They got the appropriate approval from the County. They actually came out and looked at where they were putting that shed. They put the shed where County staff said to. Because it borders 29 technically this property they told us has three fronts and one side. Because of the setbacks from the front and the back they only had a very limited place to put that, which is why the shed is where it is. As far as the water the health department came out and told us that a church of the size being proposed actually uses less water than a three bedroom residence, which is what this structure was before. This is because they are only there for limited hours. So they are actually going to be less hard on the water in the area than the residence was.

Mr. Dotson asked if they are operating a church there now.

Ms. Rexrode replied they have a Sunday morning Bible study. Someone lives there. They are not bringing in a bus. That bus belongs to a family that has seven children. They drive the bus as their own personal vehicle. They had a YMCA 15-passenger van they drove before. They are not busing in children. They have a small Bible study there on Sunday morning hosted by the person who lives there.

Mr. Smith asked would they be willing to put a privacy fence up if the neighbor would desire one on the west side.

Ms. Rexrode replied yes they would be willing to do that or plant additional plantings.

Mr. Smith asked if they could control the children.

Ms. Rexrode replied in her experience they were not as loud as has been described.

Mr. Smith noted that was always a difference of opinion.

Ms. Rexrode said they don't run around killing each other. The children play some football in the yard after the Sunday school lesson for 20 or 30 minutes while their parents are talking and cleaning up.

Mr. Smith noted it appears that the largest opening is the other side of the existing building all the way to the east.

Ms. Rexrode replied yes, sir. That is currently someone else's residence, which is a rental property and someone is living there. Also, a lot of that area is in the VDOT right-of-way and trees.

Mr. Smith asked if they own it.

Ms. Rexrode replied that they do own that. Eventually they would be using that for Sunday school and things like that. However, they are under a lease with the people that live there right now.

Mr. Morris pointed out this particular lot is subject to the first amendment of the United States Constitution in establishing a free exercise clause for religious land use and institutional personal act. They just need

to keep that in mind.

Motion: Mr. Smith moved to recommend approval of SP-2012-00021 Faith & Grace Christian Fellowship with the conditions recommended by staff, as amended. He would add his comment that they would agree with the neighbor for the privacy fence next door as condition 10.

Mr. Lafferty asked if it would be better to plant something.

Mr. Morris suggested either/or.

Mr. Smith replied no, he thinks both. They already have Leyland Cyprus there. If they want a fence he felt that the neighbor ought to have a fence.

Mr. Loach noted that the neighbors said that they would rather have more plantings.

Mr. Smith agreed with either/or.

Mr. Kamptner noted that Mr. Smith had also discussed with the applicant the possibility of prohibiting outdoor amplified music.

Mr. Smith agreed that was correct. He had forgotten about that. He noted that should be condition 11.

Mr. Kamptner noted it had been agreed to.

Mr. Dotson noted an appendix to that is any indoor amplified music the windows shall be closed.

Mr. Morris asked if there were any problems with that.

Mr. Benish replied that he did not think so

Mr. Morris pointed out he thought the applicant agreed.

Mr. Morris asked if there were any problems with that.

Mr. Benish said he did not think so.

Mr. Morris noted that the applicant agreed.

Mr. Benish asked if they were making these recommendations for conditions to be added so they could tailor that language.

Mr. Smith replied yes.

Mr. Kamptner noted they would finalize the language between now and the Board hearing.

Mr. Benish said staff might get with the applicant again to talk about how they would augment the planting and fence. The scale of information they have here they need to make sure what is doable, but staff understands the intent of landscaping and/or fencing.

Mr. Smith noted he wants the coordination with the neighbor also.

Mr. Benish agreed.

Second: Mr. Loach seconded the motion.

Mr. Morris asked for a roll call.

The motion passed unanimously by a vote of 6:0. (Randolph absent)

Mr. Morris said SP-2012-00021 Faith & Grace Christian Fellowship would be forwarded to the Board of Supervisors with a recommendation for approval with the conditions, as amended, at a time to be determined.

1. Development of the use shall be in general accord with the conceptual plan entitled "Faith and Grace Christian Fellowship," (including the sheets titled "Parking & Site Plan" and "Tree Cover/Landscape Plan," prepared by Nathaniel Rexrode, and dated January 13, 2013.

   To be in general accord with the plan, development shall reflect the following central features essential to the design of the development:

   - location and size of the church building
   - the location of the parking areas and the entrances from the public road
   - location and extent of plantings

   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. The structure labeled on the conceptual plan as "1 Story w/Basement" shall not be used for worship services.
3. The use shall not commence until all parking spaces have been delineated by the use of parking stops.
4. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties.
5. There shall be no day care center or private school on site without approval of a separate special use permit;
6. The use shall not commence without written approval from the Virginia Department of Health of the water supply and septic system.
7. The use shall not commence without approval from the building official and the fire official.
8. The use shall not commence until a plat combining tax map parcels 087B0-00-00-001A0 and 087B0-00-00-00200 has been recorded.
9. The use shall commence on or before [date two years from Board approval] or the permit shall expire and be of no effect.
10. [The applicant shall work with staff in coordination with the neighbor to provide landscaping either/or privacy fencing. Staff to talk with the applicant about how they would augment the planting and fence. With the scale of information they need to make sure what is doable, but staff understands the intent of landscaping and/or fencing.]
11. [Outdoor amplified music is prohibited and for any indoor amplified music the windows shall be closed.]

    (Note: Staff to finalize the language between now and the Board hearing for conditions 10 and 11.)

SP-2013-00008 Cingular Wireless/Greenmont Farm

PROPOSED: Special use permit request for a personal wireless service facility including a 129-foot steel monopole (20 feet above the height of the reference tree) with two (2) flush-mount antennae, each consisting of three (3) panel antennas. The proposed ground equipment will be located on a 40X40 foot leased compound area. An 8' tall wooden privacy fence is also proposed to surround the base of the 40X40 compound. Access to the site is proposed through an access road off Route 627 (Fry's Path).
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2.48 Tier III personal wireless facilities
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots)

ENTRANCE CORRIDOR: NO
HISTORIC DISTRICT: YES
LOCATION: To the west of Fry's Path (Route 627), approximately one-half mile from the intersection with Scottsville Road (Route 20).
TAX MAP/PARCEL: 11200-00-00-01600
MAGISTERIAL DISTRICT: Scottsville
(Scott Clark)

Scott Clark presented a PowerPoint presentation and summarized the staff report, as described above.

Staff described the area around the site as a large forested parcel. In the balloon test photographs staff pointed out the proposed tower location. He also pointed out the trees marked for removal in the photograph. Staff found the only road in which the facility would be visible was Secretary Sand Road, which is about 4,000 feet to the west. He could not get a photograph of the balloon clearly. In the enlarged version of the same picture the speck is the balloon across the fields in the woods.

Potential Impacts:

- The proposed facility would be located in a wooded area approximately 130 feet from a little-traveled gravel road (Fry's Path) and out of view of the Entrance Corridor (Route 20).
- The proposed facility would be located approximately 1,000 feet from the nearest dwelling.
- A balloon test conducted on April 9, 2013 indicated the tower would have limited visibility from the surrounding area.

There is one issue with the requirements for Tier III towers and the zoning ordinance. The staff report used an older version from before the recent ordinance amendments. The staff report talks about the limit being 7 feet taller than the reference tree. Of course, that has been increased to 10 feet now. However, in this case the applicant needs a special exception or waiver of this section because they are proposing to be 20' above the reference tree. Again, given the topography, the surrounding vegetation, and the distance to some of the roads it did not appear to staff that the 20 foot height made any difference in the already limited visibility.

Staff has identified factors which are favorable and unfavorable to this proposal:

Factors favorable to this request include:

1. The facility will not be visible from the Virginia Byway (Route 20).

Factors unfavorable to this request include:
None

Staff recommends approval of SP-2013-00008 Cingular Wireless/Greenmont Farm with the conditions listed below, and of the requested modification to Section 5.1.40(d)(6) (to permit the facility to extend 20 feet above the reference tree), based on the analysis provided herein. Please note in the staff report that it had the wrong title and preparer for the conceptual plan for this use. The proper reference in this case should be "CV428" prepared by O. Warren Williams, and dated 4/25/13." The second condition would be VDOT approval of the entrance before the use actually commences.

There is also the request for the zoning ordinance modification of Section 5.1.40 (d)(6)- Modification of requirement that the facility extend no more than 7 feet above the reference tree, to permit it to extend 20 feet above the reference tree.

Staff requests the Planning Commission take two actions in this case.

Mr. Morris invited questions for staff.

Mr. Dotson asked what the precedent is for the 20' above the tree line of the reference tree and if they have been doing that often.

Mr. Clark replied he was not sure he could give them an analysis of all of them. There is a site nearby a little farther south on Route 20 that has two towers approved for 30 feet above the reference tree. That site was actually significantly closer to Route 20. It is all based on visibility and terrain. Usually staff recommends approval for those extensions in cases where they don't significantly increase the visibility of the facility, which is the case here.

Mr. Lafferty asked if the neighbors were contacted.

Mr. Scott replied yes. He had one person contact him. The applicants after that point have contacted that neighbor to talk over their concerns. The nearest dwelling at this point is about 1,000 feet away.

Mr. Lafferty noted the balloon test photograph taken from the road that he had to blow up to see was probably more than 1,000 feet away.

Mr. Clark replied it was over 4,000 feet away.

Mr. Smith asked what the Highway Department says about the fall zone.

Mr. Clark replied he was not sure that VDOT addressed that. The tower is 129 feet tall and is 130 feet away from the road.

Mr. Smith pointed out the sketch shows the fall zone very close or hitting the center line of the road.

Mr. Morris suggested that the applicant can address that.

Mr. Benish noted from his experience VDOT has seldom commented on fall zones within the VDOT right-of-way. He thinks the applicant nodded that they can respond to that.

Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Preston Lloyd, attorney with Williams Mullens, represented AT&T and the property owners in connection with the proposal before the Commission. He would also like to extend his appreciation to Mr. Clark and staff for their assistance in vetting this proposal. He presented a PowerPoint presentation to explain the request.

- The reason this proposal is a Tier III tower is two-fold. First, it is located in the Southern Albemarle Rural Historic District, which covers a significant portion of the southern portion of the county. Any tower that is proposed within that area is automatically a Tier III tower and requires a special use permit. The second reason, as staff mentioned, is they have requested a 20' extension above the reference tree, which is 10' higher than what is typically before the Commission.
- To address Mr. Dotson's point, because this is a special use permit the Board has the discretion to essentially waive any aspect of the typical development criteria for a wireless facility. So in the Tier II the policy that was then codified into the regulations in the zoning ordinance said these are all of the different design standards that need to be complied with. When they get to Tier III because that automatically entails discretion by the Board of Supervisors they can decide whether or not there is any particular aspect that they find cause to waive. However, the one thing that does not change throughout whether it is a Tier II or Tier III is that the primary consideration is visibility and whether there is any adverse visual impact that needs to be mitigated by appropriate conditions or that has not been addressed in the design of the proposal.
- As staff mentioned, notwithstanding being 20' above the reference tree, which is as staff mentioned somewhat atypical but not precedent setting, they took a very strong look at this site from the perspective of adverse visual impacts. With the one exception of the very distant three-quarters of a mile long view where it just peaked upon the tree line, and if they went out there with a telephoto lens you might be able to snake a view. To that exception there was really no adverse special impact whether it was 10' or 20'.
- However, on the flip side of that this helps to address a key corridor that AT&T's customers and the public frankly have said requires immediate attention. Cell coverage has not been consistent

up and down Route 20. They have had a number of these facilities before the Commission in the past and they are well familiar with the ordinance and the attempts to find sites that have been sighted according to the visibility criteria. This proposed site is a success story. It is one that is a significant distance away from Route 20, but provides better coverage because of the 20' height above the reference tree. With that he believes that staff covered everything else that they have here.

- He pointed out that one slide shows a before and after snapshot of the signal coverage. The diagram before them shows the proposed site of CV428. The green signal is the best signal that is sufficient to be able to have wireless coverage within a building. Yellow would be sufficient to have coverage outdoors, but not within a building. After the construction of the facility it shows that the green area expands significantly to the south and continues to fill in the Route 20 Corridor. In response to Mr. Smith's question it was nice to know that the Commission is reading our plans carefully. The line is actually not the center line, but the property line. However, there is a setback from the property line which makes it appear to be part of the right-of-way. But, the circle actually is completely enclosed within the property of the property owner. So there is no portion of the fall zone that would actually come into the right-of-way.

Mr. Morris asked if that answered Mr. Smith's question.

Mr. Smith noted they may own to the center of the road.

Mr. Lloyd pointed out if they look at the line it does appear to be in a portion of the right-of-way. However, the right-of-way of Fray's Path was between the two lines. This is an additional setback line that the surveyor showed on the plan, but is within the property itself. It is not within the right-of-way.

Mr. Lafferty noted a concern about the 20' above the reference tree as they continually see height creep. The next one that comes in will be 50' and the next 100'. The whole concept of this is to try to keep the County clean of these towers.

Mr. Lloyd pointed out this may achieve more of that goal than might be expected to the extent that there are higher towers that do not have adverse visual impacts and provide a greater coverage area. That means there does not need to be another tower further down the road to help improve the coverage. So by allowing slightly higher towers above the 10' where they are appropriately sited and have mitigated any adverse impact, it does not mean they are invisible but rather there is no material adverse impact on the surrounding properties. That may actually prevent the need to have another facility down the road.

Mr. Lafferty said that is an interesting argument.

Mr. Dotson noted that he was curious that our staff report says Cingular and he referred to AT&T.

Mr. Lloyd replied it is actually New Cingular Wireless PCS LLC. However, AT&T is a little bit easier since it is doing business as AT&T.

Mr. Morris said with the height being at 20' above the reference tree does this give the potential possibility of another applicant collocating on that tower.

Mr. Lloyd replied yes, it dramatically increases the likelihood that collocation will be feasible. As the Commission knows it takes about 10' to drop down below the primary carrier in order for there to be a feasible collocation. If they drop down 10' and it is totally obscured that co-location is not achievable because the signal is mitigated or dampened by the density of tree coverage. As they have said these are typically going to be sited in areas with heavy tree coverage to help screen them from public view. It may not be feasible for collocation and they may end up with another tower.

Mr. Smith asked who is Greenmont Farm.

Mr. Lloyd replied that it was Mr. Murray.

Mr. Lafferty said following up on his argument about this tower covering more distance, it might have been interesting to look at the difference between the coverage of staying at 10' as opposed to going to the 20'. He did not want to put more burdens on him, but it might ease their concern a little bit if they saw something like that.

Mr. Lloyd replied they always want to give them what is most helpful in making a decision. Staff will note that for future application if that would be productive.

Mr. Dotson said they are proposing two antenna clusters. He asked if one was for AT&T and the other reserved or available.

Mr. Lloyd replied that he would have to defer to his technical expert who confirmed the top one would be for AT&T use and the second one for a future carrier.

Mr. Loach said they were talking about the difference between 10 feet and 20 feet. He asked if they might have to add another tower if it was only 10 feet.

Mr. Lloyd replied he was not a RF signal expert so he doesn't know the degree of propagation. To Mr. Lafferty's point that would helpful in the future for helping the Commission see visually exactly what the effect is of considering the different heights. He did not know whether it was a logarithmic or a direct correlation between the two.

Mr. Lafferty noted that it depends on the topology, too.

Mr. Franco said it was a line of sight issue, too.

Mr. Loach wondered if they would have gotten 1½ to 2 times what they would have gotten out of the 10 feet.

Mr. Moore noted the layman's answer is that the lower it is the greater the interference by all of the tree covering. They, of course, want to seek out sites that provide that substantial tree cover in the vicinity to help screen those visual impacts that he mentioned.

Mr. Morris invited public comment. There being no public comment, he closed the public hearing to bring the matter back to the Planning Commission for discussion and a recommendation.

Mr. Kamptner asked staff what was VDOT's review on this application.

Mr. Clark replied that VDOT's review was just to look at the entrance location and he did not recall they had any concerns about this one.

Mr. Benish said that VDOT is given the full plan.

Mr. Kamptner asked if they had no concern about the fall zone in this case.

Mr. Franco questioned if he agreed with the applicant's analysis. The line weights and the graphics show it is probably the center line of the road or the property line. It is an easement across a prescriptive easement, which is what the line styles are saying. So it probably does fall into the road. However, from his perspective they don't have trees limited to being pushed back so they don't fall into the street. He was not sure that was a big deal.

Mr. Lafferty noted that on most of the County roads the property owners on each side own to the middle of the road.

Mr. Kamptner said certainly all the old roads that were brought into the state system in 1932 typically have a 30 foot prescriptive easement with ownership to the center line.

Mr. Franco suggested whatever their action is when it moves forward to the Board that they get clarification on that.

Mr. Morris asked if there was further discussion. He pointed out that he talked with Mr. Randolph on this matter and he had no problems with it.

Motion: Mr. Franco moved and Mr. Lafferty seconded to recommend approval of SP-2013-0008 Cingular Wireless/Greenmont Farm with staff's recommended conditions, as amended, and that staff verify that the tower location (and fall area) is acceptable to VDOT.

1. Development and use shall be in general accord with the conceptual plan titled "CV428" prepared by O. Warren Williams, and dated 4/25/13 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:

   a. Height

   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. Entrance design and location must be approved by the Virginia Department of Transportation before construction of the access road for this use may commence.

The motion passed by a vote of 6:0.

Motion: Mr. Franco moved and Mr. Lafferty seconded to recommend approval of the special exception for the modification of Section 5.1.40.(d)(6): Modification of requirement that facility extend no more than 10 feet above the reference tree, to permit it to extend 20 feet above the reference tree for the reasons outlined in the staff report.

The motion passed by a vote of 6:0.

Mr. Morris said SP-2013-00008 Cingular Wireless/Greenmont Farm would be forwarded to the Board of Supervisors with a recommendation for approval with conditions on June 12, 2013.

Mr. Franco asked to stress the comments he heard from other Commissioners about wanting to understand the map in how those services have improved and how many, if any, additional towers might be eliminated by the extensions. That additional information would be really helpful.

SP-2013-00007 Cingular Wireless/Pace Property Tier III Personal Wireless Service Facility
PROPOSED: Request for installation of a 118 foot tall monopole with 3 antennas and associated ground equipment with fencing within a 1,600 sq. ft. leasing areas as well as construction of a new access road to the site.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); EC Entrance Corridor – Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; FH Flood Hazard – Overlay to provide safety and protection from flooding. Southern Albemarle Rural Historic District; and Scenic By-ways Overlay.
SECTION: 10.2.2.48 Tier III personal wireless facilities
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 2 -preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: 3382 Stony Point Road
TAX MAP/PARCEL: 04700-00-00-03000
MAGISTERIAL DISTRICT: Rivanna

(Sarah Baldwin)

Sarah Baldwin presented a PowerPoint presentation and summarized the staff report, as described above.
This property is zoned Rural Areas and contains an existing dwelling unit with several outbuildings and is located on a wooded parcel. The surrounding area contains single family residential with both wooded and open areas.

This is a request for installation of a 118 foot tall monopole with 3 antennas and associated ground equipment with fencing within a 1,600 square foot lease area with the construction of a new access road to the site.

The applicant is requesting a waiver of the reference tree requirement since the reference tree is a 98 foot White Oak and the tower will be approximately 20 feet taller. Staff is supporting the waiver as the lot is wooded and the surrounding topography mitigates the view. With the recent ordinance changes a 10-foot tower above the reference tree is allowed by right.

Staff attended a balloon test on April 9th. The tower is visible on site. The applicant did provide some photo simulations. She pointed out on a slide one of the areas on Stony Point where the balloon was briefly visible. It is very difficult to see. Again, the applicant did provide a photo simulation of that same general area.

Staff found the following factors favorable:

1. The proposal will provide improved 3G and 4G wireless service to the surrounding area.
2. The Architectural Review Board staff has recommended approval of the proposed monopole and associated ground equipment stating that the location is expected to sufficiently minimize its visibility such that no negative impact on the Entrance Corridor is anticipated.
3. The proposal meets all the requirements of 5.1.40 (with a waiver that is supported by staff).

Factors unfavorable to this request include:

1. None identified.

Staff recommends approval of this Tier III personal wireless services facility with a condition as well as the requested modification based upon the analysis provided herein.

Mr. Morris invited questions for staff. He asked how many motions were being requested.

Ms. Baldwin replied two motions were needed for the modification of the reference tree requirements and for the special use permit.

Mr. Lafferty noted for future applications it would be good to see the difference between 10 feet and 20 feet in the coverage. He asked if the neighbors have been contacted on this.

Ms. Baldwin replied yes, the neighbors have been contacted.

Mr. Lafferty said he assumed there were no adverse comments.

Mr. Morris pointed out that was not quite correct.

Ms. Baldwin replied that she did not know that it was so much adverse as they did hear from one adjacent neighbor across the street, which she believed comments were sent out to the Planning Commission on.

Mr. Morris noted that the comments were sent in a very timely manner. There being no further questions, he opened the public hearing and invited the applicant to address the Commission.

Preston Lloyd, attorney with Williams Mullens, represented AT&T and the property owners, Mr. and Mrs. Pace. At the outset they held the typical balloon test at the property and did that in connection with staff.

After they received notice that there was an adjoining neighbor who had some concerns, which was circulated to the Planning Commission, regretfully they did not have time to get them to a subsequent balloon test. They did extend that invitation, but understand it was short notice. So it is certainly understandable that it did not accommodate their schedule. However, Mr. Morris was able to attend that. They look forward to hopefully addressing some of the concerns that the neighbor addressed in their correspondence to the Commission. He presented a PowerPoint presentation to explain the proposal, as follows.

- This request requires the Tier III review because it adjoins the Scenic Byway of Route 20 and not because of the Southwest Mountains Rural Historic District. As staff mentioned the property is approximately 117 acres. The proposed site is located reasonably far into the property about 250' to 300' in from the right-of-way. That area is heavily forested area as shown on the slide. The forestation follows a hillside so that there is actually some rolling topography, which is difficult to make out from this particular view. The topography adds to very effectively screen the proposed facility when traveling in a car down Route 20.
- They took a number of pictures and had staff in the car when they did both balloon tests. The first balloon test was done before the leaves had come out on the trees. In the pictures staff presented, even when there were no leaves on the trees, it was still a very effective mitigator of those visual impacts. The site plan shows the proposed location 302.9' away from the property line along Stony Point Road and the monopole 20' above the reference tree for a total tower height of 118'.
- Mr. Lloyd noted the ordinance originally was the result of the work of this body and the Board in developing the Albemarle County's Wireless Policy in 2000. He thought it was interesting to note on the very first page of that the most important principle for siting personal wireless service facilities in Albemarle County is visibility, which is the primary consideration when determining whether a location is appropriate for a wireless facility. The ordinance standards for design of these facilities prescribe to help mitigate the visual impacts. They have been designed to be monopoles with flush mounted antenna at the top, do not have arrays that extend far beyond the pole, have a limited size of diameter of the pole, and must be sited an appropriate distance from certain critical areas such as a Scenic Byway in this case. The ordinance really reflects the work that was done in that policy initially. However, he returns again to that primary consideration for the Commission, which is to determine whether or not this proposed site effectively mitigates any adverse visual impacts of the proposed facility.
- Being a visual person Mr. Lloyd said he was going to take a step through the various sites since the map helps get a better feel from where each picture was taken. Heading south on Route 20 if they begin north of the property and look up briefly for a split second at the house that is one down from the proposed property one can barely make it out through the trees. Continuing down if you then turn around in your car and look back up at the property from the other direction, again while there are no leaves on the trees, it is visible but it blends in with the surroundings. The standard is not invisibility, but whether the visual impacts have been mitigated. That is an important distinction. Even though the tower was visible it may still be an appropriate site because those visual impacts have been effectively mitigated.
- Again, moving further down Route 20 at its intersection with Fosters Branch Road one can see there is no visibility over the ridge. This gives a nice sense of the rolling nature of the topography in this area. Taking a look at the County's GIS Website at the approximate distance from the proposed facility to a few residences it seemed to have more of an open nature to them and not as much close in wooded natural features adjacent to them. While they don't have photo simulations from these residences he thinks from the distances they can get a sense that even if the tower is visible that it will be mitigated by the distance from the proposed facility. In these cases the residences are 2,300 feet, over one-half mile, and about 3,000 feet from the proposed facility, which are rough approximations using the County's website.
- As with the last one, he would note the propagation comparisons of this facility. He pointed out the location of both the existing and proposed wireless facility. At the apex of the bend in the road by giving it that extra 20' it has a very effective coverage area. As seen in the slide it really makes for continuous screen coverage up Route 20 filling in a major hole with the addition of just one tower facility. They think this is a good site selection. As always they have worked hard to find a site that mitigates those visual impacts. He welcomed any questions.

Mr. Morris invited questions for the applicant.

Mr. Smith questioned on the map when it says outdoor best signal level indoors.

Mr. Lloyd replied the green is signal sufficient to give consistent coverage within a building and the yellow out of doors but not indoors.

Mr. Smith asked how about sitting in a car.

Mr. Lloyd replied that is typically something they provide. However, they did not have that available on this particular slide. If it is sufficient for indoor coverage it will certainly be sufficient for within a vehicle. However, if it is outdoor coverage it may not be quite strong enough to give you consistent coverage in the car. So green is what they look for to provide the consistency of coverage in terms of radio strength.

Mr. Dotson said like the previous application this is for 20' above the tree line. In reading this it looks like this is just a single antenna not the second one below the top one. He was curious why the difference. If they wanted to add a second one would that mean they would have to come back and get that approved again?

Mr. Lloyd replied the ordinance does provide for a collocation, which is a less intense process. This is a special use permit, which requires approval by the Board. A collocation would not. It has been much more streamlined in the ordinance so that would still be a possibility down the road and the County would be involved in reviewing that. However, it would not receive the same level of scrutiny as a special use permit.

Mr. Dotson said that it strikes him for efficiency they would want to request it now.

Mr. Morris asked the applicant to put the schematic as to the coverage back up. Driving this road at least two to three times per week he pointed out moving to the north from the proposed location on up to the Stony Point School they virtually do not have any current reception in a car.

Mr. Lloyd asked to reserve five minutes for rebuttal.

Mr. Morris invited public comment.

Ronald L. Kerber, an adjacent property owner, noted in the email sent to the Commission that there was one typo, which was an extra word "the". He submitted a corrected copy. He won't repeat what he wrote, but would repeat some highlights.

- For adjacent property owners and household residents that they place no tower closer than 500' and ideally 1,000' from a residence. In this case he suggested they keep the tower height only 25' above the nominal tree height. He wanted to question the 98' reference tree. They just went through a process in this very area with the Hollymead Transmission project and the reference tree height that was nominal for that project was 80'. That is a lot different than 98'. He suggests the Commission be very careful when they accept these reference tree numbers of what is the right height for a reference tree for a tower. The second point, which was not in the written comments, is this tower will be very visible from his main entrance. As he comes out his main entrance he looks right up there and will see the tower every time he comes out.
- There is no one that can tell you that the long term danger of low level RF radiation will not harm the human body. This is an area that he is an expert in. Also, he can say that no one can measure these frequencies at low levels and be sure where that energy is. He could give an example where that happened to him when he was doing work in a laboratory in New Mexico. He was shielding all the apparatus for RF energy and he was very careful and turned off the room lights and they did not go off. As an expert he did not know where low levels of radiation were because the radiation was actually illuminating fluorescent lights.
- Finally, he could say that distance is your friend. So putting antennae a long distance from people and property lines is a good thing. They should not err on being close to people or property lines. He would never put my children in a house so close to an antenna as this is

proposed. He thinks it is too dangerous. He was asking them three things: to consider lowering the height above the trees; keep it away from property lines and residences; and make the tower look like tree. They should require the tower look like a tree in the normal requirements in Albemarle County.

Mr. Morris invited questions for the applicant.

Mr. Lafferty said he appreciates his credentials, but as he understands it they have no choice from the federal government about the dangers of these towers. They have to approve them if they are not bad.

Mr. Kerber replied that he was not saying don't approve it. He was saying keep it away from property lines and residences.

Mr. Lafferty said he fully understands that. He guessed they could find out how many kilowatts they are putting in the towers and figure out what the radiation was at some distance. They are charged to not consider that just so he would know. He appreciates his point and understands that. However, he did not believe they can do that.

Mr. Kamptner said they can certainly consider sighting issues. They are precluded by federal law from considering radio frequency radiation and emissions in radiation in particular if the facility complies with the FCC standards.

Mr. Kerber noted what he told the Commission was a fact.

Mr. Lafferty replied that he understands that.

Mr. Morris invited other public comment.

Jane Clark, a neighbor, said she was here with her husband, William Clark. Their house was estimated to be one-half a mile from the site. However, what was not mentioned is they are on an elevation of about 600'. She believed it will be visible from every window in their house. They were not notified of any of this until Mr. Kerber, who is their next door neighbor, told them about it. They have not seen a balloon test and how it will affect their view. Their house is in the Southwest Mountain Rural Historic District. It has a beautiful view, which is why they moved there. To have one of these towers obtrusively sticking up 20' above the tree line between her house and the Blue Ridge Mountains is really heartbreaking.

There being no further public comment, Mr. Morris invited the applicant to take advantage of the five minute rebuttal.

Mr. Lloyd asked to address a few points that Mr. Kerber mentioned. Unfortunately, because of the nature of the site if they were to move the location of the facility backward what would actually happen is that they would end up with a facility in a meadow. It would be incompatible with the design standards described by the County. While it may grant some individuals some ease in terms of their concerns about RF signal, which he knows is not germane to this body's decision, from a sighting perspective that would unfortunately not comply with the policy and the regulations prescribed by the ordinance. Secondly, in terms of trying to design a facility that mimics an existing tree that is not typical County policy. That is not a good four season option. When you design a facility that attempts to mimic a tree it increased the cost and the maintenance but it does not dramatically improve the visibility impacts. It may be appropriate in very rare circumstances. He knows the County has approved at least one. He would have some pause in saying this is one of the sites that would be appropriate for the simple reason that it actually resembles very closely the surrounding area. As they look through the bald trees here it looks like a tall tree truck. That is why the County regulations were designed in the manner they were. A tree top tower, as the policy says, is considered camouflaged for the purposes of attempting to mitigate adverse visual impacts. They think this is a positive site. Again, it is not invisible and there may be certain properties that are able to pick it out from a great distance. However, this was AT&T's attempt to find a site that did meet all of the requirements of the policy while providing better coverage and more reliable coverage for the Route

20 Corridor, which has been a priority as many Commissioners and Board of Supervisors members have heard from their constituents.

There being no questions, Mr. Morris closed the public hearing to bring the matter back to the Commission for discussion and action.

Mr. Morris pointed out in driving and taking a look at the balloon test he paid particular attention to the multi-pole utility poles in the area. He finds them far more obstructive than cell phone towers. However, that is his opinion.

Mr. Loach said it was important to recognize that in the county it has been a weight in measurements. The easiest thing to do is to go and look in the back of Fashion Square Mall and see the tower. That is the trade off we've made to not have those types of towers versus utilizing these monopoles, which he thinks is a far more suitable solution. He appreciates the comments about the health and safety, but as they heard it is not something they can measure. If, in fact, the tower would be as he said sited next to somebody's house unfortunately he thinks the onerous then becomes on the person who is going to live there to do the investigation of whether they want to be exposed to the RF versus the income they generate from the tower. So those are the things they have been dealing with. He thinks they have done the best they can under the circumstances. They also have to weigh the situation that the increased coverage to reach 911 would be helpful in emergency situations. When weighing these things he always comes out on the side of the tower. He supports the tower request realizing and living with the information they have given us.

Mr. Lafferty said there is some analogy to the noise in the rural areas in disturbing neighbors that have not been there. However, he also sees that it may increase the property value because they will have cell phone service and internet service on the property. Therefore, he was in favor of the request.

Mr. Dotson noted unlike the previous application where the invisibility was emphasized and there appeared to be no problems with neighbors they have had a couple of neighbors here. Unlike the previous application the 20' was justified by putting two tiers of antennae. He asked the question here and apparently there is only a desire for one tier. So where at only 10' above the tree line, as the ordinance provides, that would be just that much less visible to the neighbors. They have not heard an argument at all as to justifying a space for a second antenna. Apparently they are quite willing to come back if that ever happens and ask for a second approval. He was kind of mulling the idea of what is the justification for 20' instead of 10'.

Ms. Baldwin said to respond to his question that with the ordinance changes they could put two more antennae arrays on the monopole by right now, which would just require a building permit under the new ordinance.

Mr. Benish noted it was adopted on May 8.

Mr. Dotson said on the previous application, though, they allowed for two antennae because it was requested. Apparently there was some anticipation of need for that. Here that has not been explained. He thanked Ms. Baldwin for updating him on the ordinance.

Mr. Lafferty said that he was quite upset about the lady who said that she could see it from every window in her house. That would be disturbing. He remembered the Commission turned down an antenna at Ivy because it was visible from the neighbor's house. Therefore, it is a trade off that is hard to do.

Mr. Morris said he fully understands that. However, it is interesting though when he went out to look at the balloon test it was in the middle of trees. He was not trying to push the thing, but he did not see how it could be visible. However, he was not looking out her window. He could not deny or anything else. But, it is in the middle of the trees. It is very woody where it is.

Mr. Loach pointed out he always use the model on I-64 as he is going over the mountain. Right across from the VDOT Memorial if they look there are four towers. However, you really have to look. Again, he thinks for the County this has been the best solution.

Mr. Smith said the one in Ivy was about 250 feet away and the neighbor had to look up to see it.

Motion: Mr. Smith moved and Mr. Loach seconded to recommend approval of the modification to Section 5.1.40(d)(6): Modification of requirement that facility extend no more than 10 feet above the reference tree, to permit it to extend 20 feet above the reference tree, for SP-2013-00007 Cingular Wireless/Pace Property Tier III Personal Wireless Service Facility as outlined in the staff report.

The motion passed by a vote of 5:1. (Dotson nay)

Motion: Mr. Smith moved and Mr. Loach seconded to recommend approval of the SP-2013-00007 Cingular Wireless/Pace Property Tier III PWSF with the conditions as outlined in the staff report.

CONDITIONS OF APPROVAL:

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "CV372, Parcel 47-30" with a final zoning drawing submittal date of 05/06/13 (hereafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:

   a. Height

   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

2. Entrance design and location must be approved by the Virginia Department of Transportation before construction of the access road for this use may commence.

The motion passed by a vote of 5:1. (Dotson nay)

Mr. Morris said SP-2013-00007 Cingular Wireless/Pace Property Tier III Personal Wireless Service Facility and modification would be forwarded to the Board of Supervisors with a recommendation for approval with conditions on June 12, 2013.

Old Business:

Mr. Morris asked if there was any old business.

- Suggestion made for clearer language that states the ARB staff's recommendations. *Staff agreed to use clearer language for ARB staff recommendations as suggested.*
- The Planning Commission would meet next week, May 28 to discuss the Comp Plan Update.

There being no further old business, the meeting moved to the next item.

New Business:

Mr. Morris asked if there was any new business.

- Suggestion made that it would be of value to contact Mr. Kerber and ask him to provide any input that he might desire for cell phone modifications. *Ms. Baldwin indicated Mr. Kerber's name had already been added to the contact list for Phase 2 cell phone modifications.*
- Discussion held about public notification on cell tower requests and balloon tests.
- THE NEXT PLANNING COMMISSION MEETING WILL BE ON TUESDAY, MAY 28, 2013 AT 6:00 p.m.

There being no further new business, the meeting moved to the next item.

Adjournment:

With no further items, the meeting adjourned at 7:48 p.m. to the Tuesday, May 28, 2013 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)