APPLICATION ACCEPTED: July 20, 2009
DATE OF PUBLIC HEARING: October 6, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 29, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SPA 79-A-124-02

BRADDOCK DISTRICT

APPLICANT:	Trustees of the Lord of Life Lutheran Church of Burke, VA and T-Mobile Northeast, LLC
ZONING:	R-1
LOCATION:	5116 Twinbrook Road
ZONING ORDINANCE PROVISION:	2-514
TAX MAP:	69-3 ((1)) 17
LOT SIZE:	3.04 acres
SP PROPOSAL:	To amend SP 79-A-124, previously approved for a church, nursery school, and child care center to permit the addition of a telecommunication facility.

STAFF RECOMMENDATION: Staff recommends approval of SPA 79-A-124-02 subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board of Zoning Appeals, in adopting any conditions, relieve the applicant/owner from compliance with provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

Suzianne Zottl

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**.

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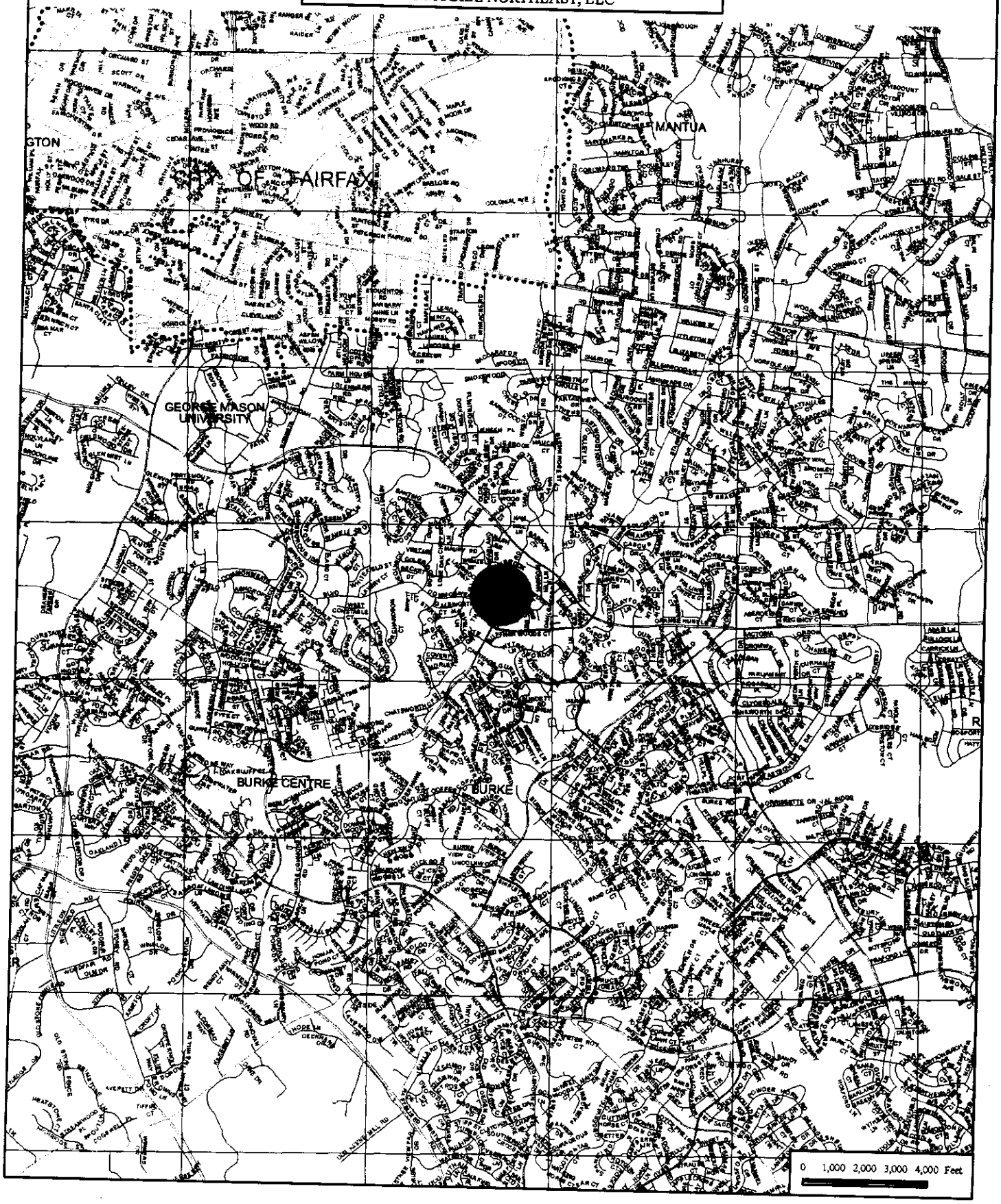
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit Amendment

SPA 79-A-124-02

TRUSTEES OF THE LORD OF LIFE LUTHERAN
CHURCH OF BURKE, VIRGINIA AND
T-MOBILE NORTHEAST, LLC



NOT FOR CONSTRUCTION

DRAWINGS PLOTTED TO SCALE ON 24x36 SHEETS

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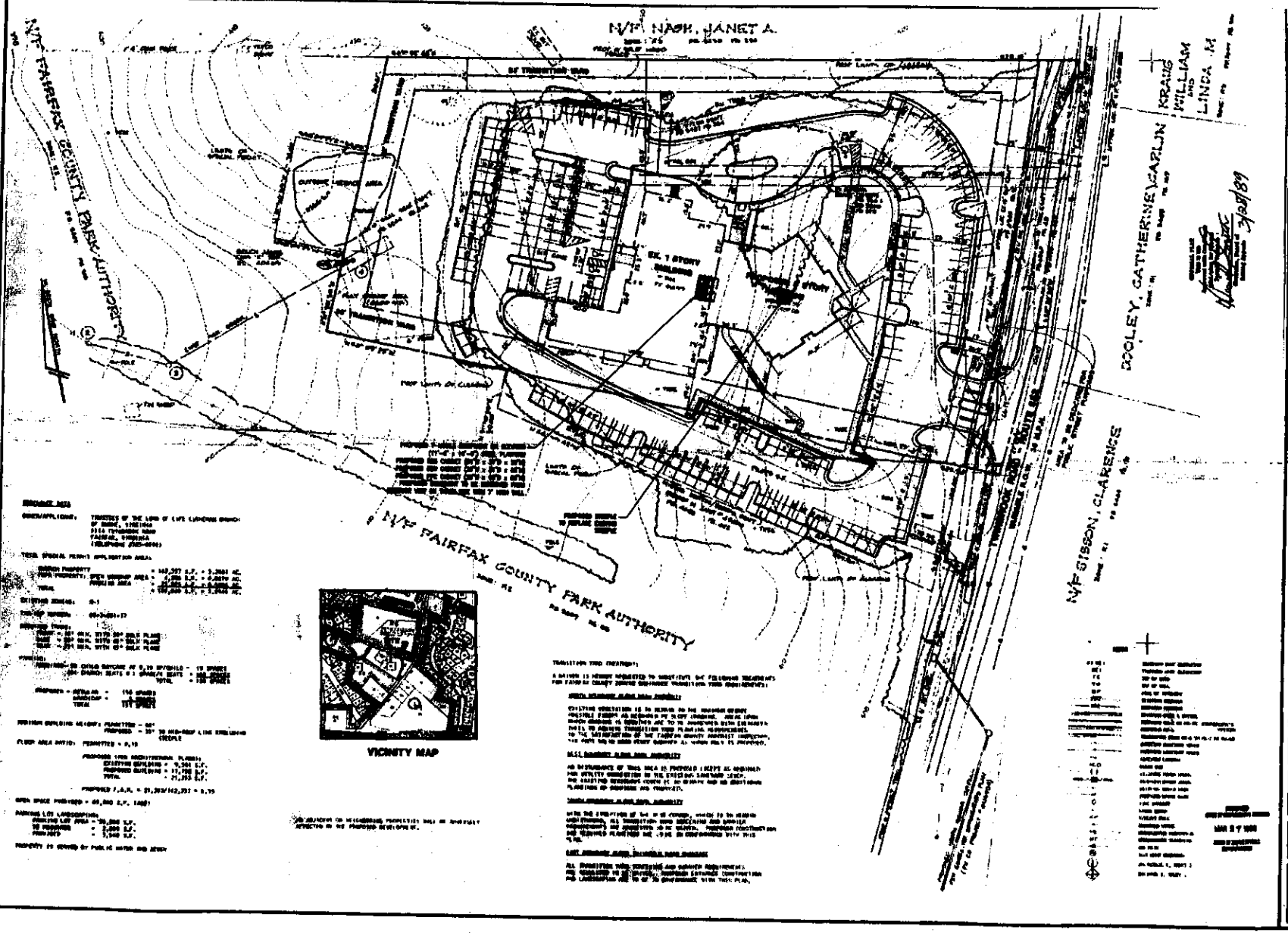

COMPASS Technology Services

NO.	DATE	REVISIONS	BY
A	09/29/09	ISSUED FOR ZONING	VGC

NOT VALID WITHOUT SIGNATURE AND DATE

PROFESSIONAL SEAL

PREPARED FOR: NETWORK BUILDING & CONSULTING, LLC

PREPARED FOR: T-Mobile Northeast LLC

SITE NUMBER: WAC358A

SITE NAME: LORD OF LIFE CHURCH

PREPARED BY
APPROVED BY: M. PRATHER
DESIGNED BY: V. CLAPPEY
PROJECT NO: 100211
DATE: 11/17/09

SHEET NAME: PLAT

SHEET NUMBER: 1 of 1

DESCRIPTION OF THE APPLICATION

The applicant seeks approval of a special permit amendment to SP 79-A-124 to modify the governing development conditions so that a telecommunications facility can be placed on the property.

Section 2-514 of the Zoning Ordinance States that mobile and land based telecommunications facilities shall be permitted [on any lot in the following Zoning Districts] when such use is not specifically precluded or regulated by any applicable development condition. Structures or rooftop mounted antennas with related unmanned equipment cabinets and/or structures shall be permitted:

(6) In any Zoning District when the antennas and related equipment are totally enclosed within an existing nonresidential building or structure;

(7) In any Zoning District when the antennas are totally enclosed within a new or replacement flagpole, bell tower, clock tower, steeple, or similar structure designed to disguise antennas which is no more than twenty (20) feet taller than the rooftop or original structure on which it is placed.

During review of the associated Features Shown for this property, FS–B08-130, the proposal for a telecommunications facility to be placed on the property was found to not be in conformance with the governing special permits, SPA 79-A-124 (for the church) and SPA 80-A-099-1 (for the nursery school and child care center.) These two special permits will be combined under this Special Permit application. The language of development condition #2 approved with these Special Permits is very restrictive and limits the construction of any additional use or structures on the property. Therefore, the applicants filed this SPA in order to modify development condition #2 to allow the additional use on the property. It should be noted that since the time these original special permits were approved, the development condition language has evolved in order to eliminate the need for an SPA for minor changes to structures or use.

The applicant's proposal is to add a telecommunications facility to the property. The facility will be placed on the rooftop of the existing building and the antennas placed under the church steeple. The steeple height will be increased by 15' to accommodate the pole. Cabinets will be placed on the rooftop and screened by an 8' wall. This application involves no land disturbance.

All previous approvals regarding the church, nursery school, and child care center are still applicable and are not proposed to be changed with this application.

Existing and/or Approved Under SPA 79-A-124 and SPA 80-A-099-01

Size: 3.04 acres

FAR: 0.15

Number of Children: Nursery School and Child Care – total maximum daily enrollment of 99 children

Number of Seats: 404 seats

Parking: Church = 101 spaces
Nursery School/Child Care = 19 spaces
Total Number of Spaces Required = 120
Total Number of Spaces Provided = 157 spaces

Hours of Operation: Nursery School and Child Care– 7:00 a.m. – 6:30 p.m., Monday through Friday

LOCATION AND CHARACTER

Existing Site Description

The site is currently zoned R-1 and contains a one-story church building. The lot consists of 3.04 acres. The subject property is surrounded by single family detached units to the north, public parkland to the south and west, and undeveloped land zoned R-3 to the east.

The site is currently developed with a 21, 353 square foot church building that includes a nursery school and child care center. The site is accessed from one entrance along Twinbrook Road and parking lots around the building total 157 spaces. Mature vegetation surrounds the site on the southern and western portions of the property.

Character of the Area

	Zoning	Use
North	R-3	Single Family Detached Dwellings
South	R-2	Public Parkland
East	R-3	Undeveloped
West	R-2	Public Parkland

BACKGROUND

Site History:

Previous Application	*Hearing Date*	*Uses Proposed*	*BZA Action*
Special Permit S-203-75		Church and related facilities	Approved
SP 79-A-124	7/17/1979	Addition to the existing church building and additional parking spaces	Approved
SPA 79-A-124	03/28/1989	Permit an addition to the existing building	Approved[*1]
Special Permit S-162-76		Nursery School	Approved
SP 80-A-099	12/16/1980	To permit increase in enrollment	Approved
SPA 80-A-099-01 (also noted as SPA 80-A-099)	03/28/1989	Add child care center, increase enrollment, change hours of operation	Approved[*1]

[*1]A copy of the Resolution and plat approved in conjunction with SPA 79-A-124 and SPA 80-A-099-01 is contained in Appendix 4.

As noted above, this site is governed by two existing special permits, SPA 79-A-124 and SPA 80-A-099-01. The development conditions governing these two special permits are identical. Therefore, case number SPA 80-A-099-01 will be abandoned and rolled into SPA 79-A-124-02 so both cases can be tracked under one SPA number. This will not alter the previous or future approvals.

ANALYSIS OF SPECIAL PERMIT APPLICATION

Title of SP Plat: T-Mobile Northeast LLC, Lord of Life Church

Prepared By: Compass Technology Services, dated November 17, 2008, as revised through June 29, 2009

Proposal

As previously mentioned, this application does not involve land disturbance. The applicant plans to replace the existing church steeple (85' high) with a taller one (100' high) in order to accommodate a telecommunications antennae under the steeple. Six panel antennas will be placed under the steeple, and three equipment cabinets (measuring 63.5" high x 51.2" wide x 37" deep) will be placed on the lower roof of the

church near the sanctuary. A 8' high board on board fence will be placed around the equipment and will be designed to match the building exterior.

Land Use Analysis

The subject proposal meets the Comprehensive Plan Feature Shown Guidelines for telecommunications uses found under Objective 44 on pages 39-42 of the Public Facilities Section of the Policy Plan. The subject proposal specifically addresses features shown guidelines in the telecommunications section of the Policy Plan and satisfies the spirit and intent of Plan guidelines to minimize the proposed facility's visual impact on nearby stable residential neighborhoods.

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 3 Standards (Sects. 8-303)
- Additional Standards for Child Care Centers and Nursery Schools (Sects. 8-308; 9-309)

Summary of Zoning Ordinance Provisions

Subject to the proposed development conditions, all applicable standards have been satisfied.

CONCLUSION

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with the implementation of the proposed development conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of special permit application SPA 79-A-124-02 subject to the proposed development conditions contained in Appendix 1 of the staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Resolution and plan for SPA 79-A-124 and SPA 80-A-099-1
5. Zoning Ordinance Provisions

DEVELOPMENT CONDITIONS

SPA 79-A-124-02

September 29, 2009

If it is the intent of the Board of Zoning Appeals to approve SPA 79-A-124-02 located at Tax Map Number 69-3 ((1)) 17 (5116 Twinbrook Road) to permit a modification in development conditions to allow a telecommunication facility pursuant to 3-103 of the Fairfax County Zoning Ordinance, staff recommends the Board condition the approval by requiring conformance with the following development conditions. Those conditions carried forward from the previous special permits are marked with an asterisk (*). Edits have been underlined.

1. This approval is granted to the applicant only, The Trustees of the Lord of Life Lutheran Church of Burke, VA and T-Mobile Northeast, LLC, and is not transferable without further action of this Board, and is for the location indicated on the application 5116 Twinbrook Road, and is not transferable to other land.*

2. This Special Permit Amendment is granted only for the purpose(s), structure(s), and/or use(s) as indicated on the Special Permit Amendment plat titled Lord Of Life Church, prepared by Compass Technology Services, dated November 17, 2008 as revised through June 29,2009 and approved with this application, as qualified by these development conditions.

3. A copy of this special permit amendment and the Non-Residential Use Permit (Non-RUP) SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted uses.

4. This special permit amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Public Works and Environmental Services (DPWES) pursuant to this special permit amendment, shall be in substantial conformance with these conditions. Minor modifications to the approved special permit amendment may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.

5. The maximum seating capacity for Lord of Life Lutheran Church shall be limited to a total of 404. The maximum daily enrollment for the nursery school and child care center shall be limited to 99. There shall be no more than 80 children on the site at any one time. The hours of operation for the nursery school and child care center shall be limited to 7:00 am to 6:30 pm Monday through Friday. *

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a maximum of 157 spaces.*

7. Transitional screening 1 (25') shall be provided and maintained along the northern lot line. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of Fairfax County Urban Forest Management.*

8. The barrier requirement shall be waived, however, a fence may be installed along the property's northern boundary as indicated on the Special Permit Amendment plat.*

9. Interior parking lot landscaping shall be provided and maintained in accordance with provisions of Section 13-106 of the Zoning Ordinance. *

10. Any lighting of the parking areas shall be in accordance with the following:
    a. The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
    b. The lights shall be a design that focuses the light directly onto the subject property
    c. Shields shall be installed, if necessary, to prevent the light and glare from projecting beyond the facility.*

11. The Park Authority property used in conjunction with these uses approved by this Special Permit will not, except for landscaping and temporary construction and grading easements, extend beyond those areas indicated on the Special Permit Plat.*

12. The playground area will be surrounded by a fence six (6) feet in height.*

These conditions incorporate and supersede all previous conditions. This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

THE APPLICANT HAS TO SUBMIT A REVISED AFFIDAVIT TO THE COUNTY ATTORNEY'S OFFICE FOR APPROVAL.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 31, 2009
(enter date affidavit is notarized)

I, Carmen Charalambous, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) [ ] applicant
[✓] applicant's authorized agent listed in Par. 1(a) below 104949 6

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS,** and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS,** and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in **BOLD** above)
T-Mobile Northeast, LLC	12050 Baltimore Avenue Beltsville, MD 20705	Applicant/Lessee
Carmen Charalambous	12050 Baltimore Avenue Beltsville, MD 20705	Agent for Applicant/Lessee
James R. Michal, Esq.	1120 20th St. NW. Suite 300 Washington, DC 20036	Attorney/Agent for Applicant/Lessee
Jackson & Campbell, PC	1120 20th St. NW. Suite 300 Washington, DC 20036	Attorney/Agent for Applicant/Lessee
Trustees of the Lord of Life Lutheran Church of Burke, Virginia	5114 Twinbrook Road Fairfax, VA 22032	Title Owner/Lessor
Robert B. Baumgartner	5114 Twinbrook Road Fairfax, VA 22032	Trustee
Howard K. Schue	5114 Twinbrook Road Fairfax, VA 22032	Trustee
Nadine R. Christensen	5114 Twinbrook Road Fairfax, VA 22032	Trustee

(check if applicable) [ ] There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SPA 79-A-624-02
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 31, 2009 104444
(enter date affidavit is notarized)

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(**NOTE**: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES,** and **REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Intentionally left blank

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SPA 99-A-124-02
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: July 31, 2009
(enter date affidavit is notarized)

1049494

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
T-Mobile Northeast, LLC
12050 Baltimore Ave.
Beltsville, MD 20705

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
T-Mobile, USA, Inc.

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
T-Mobile Global Holding GmbH

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: July 31, 2009
(enter date affidavit is notarized)

104944

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
T-Mobile Global Holding GmbH
Kennedyallee 1-5, 53175 Bonn, Germany

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
T-Mobile International AG

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: July 31, 2008
(enter date affidavit is notarized)

104949

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
T-Mobile International AG
Kennedyallee 1-5, 53175 Bonn, Germany

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
Deutsche Telekom AG

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Deutsche Telekom AG
Freidrich-Ebert-Allee 140, D-5311 Bonn, Germany

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[✓] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
Federal Republic of Germany
C/O the Federal Ministry of Finance

Kreditanstalt fuer Wiederaufbau

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: July 31, 2009
(enter date affidavit is notarized)

104949v

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Federal Republic of Germany
C/O the Federal Ministry of Finance
Wilhelmstr. 97 10117 Berlin, Germany

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
NOT APPLICABLE, GOVERMENT OF
GERMANY. NO SHAREHOLDERS

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Kreditanstalt fuer Wiederaufbau
Palmengartenstrasse 5-9, 60325 Frankfurt am Main

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
Federal Republic of Germany
C/O the Federal Ministry of Finance

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: July 31, 2009 104944b
(enter date affidavit is notarized)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Jackson & Campbell, P.C.
1120 20th St. NW. Suite 300
Washington, DC 20036

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[✓] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SDA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 31, 2009 1049495
(enter date affidavit is notarized)

1(c). The following constitutes a listing*** of all of the **PARTNERS,** both **GENERAL** and **LIMITED,** in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) [ ] The above-listed partnership has no limited partners·

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner)**

(check if applicable) [ ] There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SPA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 31, 2009 104949
(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

[ ] In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land:

[✓] Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE**: If answer is none, enter "**NONE**" on the line below.)

NONE

(check if applicable) [ ] There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SDA 79-A-124-02
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 31, 2009 104949v
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than $100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)
NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature: Carmen Charalambous

(check one) [ ] Applicant [✓] Applicant's Authorized Agent

Carmen Charalambous Agent for T-Mobile Northeast, LLC
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 31 day of July 2009, in the State/Comm. of Maryland, County/City of Prince George.

Notary Public

My commission expires: 6/6/2011

SHARON SAMUEL NOTARY PUBLIC STATE OF MARYLAND

FORM SP/VC-1 Updated (7/1/06)

Department of Planning & Zoning

JUN 09 2009

Zoning Evaluation Division

JUSTIFICATION STATEMENT

T-Mobile Northeast LLC submits the following Justification Statement demonstrating that its requested Amendment to the existing SPA 79-A-124-1 and SPA 60-A-099-1 for a co-location telecommunication use on the Lord of Life Lutheran Church property satisfies the general standards pursuant to Section 8-006 of the Zoning Ordinance.

1. The proposed use at the specified location shall be in harmony with the adopted Comprehensive Plan

Response: ***The proposed use is in harmony with the adopted Comprehensive Plan which calls for co-location on existing or replacement structures as set forth in Objective 43 and 44 of the Policy Plan.***

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

Response: ***The proposed use is permitted as a matter of right under Section 2-514 1A(7) and I.***

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

Response: ***Applicant's antennas will be entirely enclosed within the replacement steeple and its cabinets will be located on the roof screened by an 8' high wall with exterior matching the Church building resulting in minimal or no visual impact to nearby properties. In addition, there is no noise, glare, dust or other environmental impact associated with Applicant's proposed use. There will be no hazardous or toxic substances associated with Applicant's use of the property.***

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

Response: ***Applicant's use will have no on-site personnel. Only monthly maintenance visits by a single vehicle are planned.***

5. In addition to the standards which may be set forth in this Article for a particular group or use, the Board of Zoning Appeals shall require landscaping and screening in accordance with the provisions of Article 13, Landscaping and Screening, in the Zoning Ordinance.

Response: ***Applicant proposes screening for its equipment cabinets.***

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

Response: ***N/A.***

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

Response: ***Applicant's use only requires telephone and electrical service.***

8. Signs shall be regulated by the provisions of Article 12, Signs, in the Zoning Ordinance; however, the Board of Zoning Appeals may impose more strict requirements for a given use than those set forth in this Ordinance.

Response: ***No signs are proposed.***

Applicant does not propose any change in the existing development conditions other than its proposed telecommunication co-location use being allowed as a permitted use.

Applicant's use will be operational 24 hours a day, 7 days a week providing wireless telecommunication services in areas within ½ to ¾ mile of its facility along Twinbrook and Beulah Roads and nearby neighborhoods.

The proposed development conforms to all applicable ordinances, regulations and adopted standards, or if any waiver, exception or variance is sought by Applicants, such shall be specifically noted with the justification for such. There are no known hazardous or toxic substances as set forth in Title 40 Code of Federal Regulations parts 116.4, 304.4 and 355

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX

OFFICE OF COMPREHENSIVE PLANNING
ZONING EVALUATION DIVISION
SPECIAL PERMIT AND VARIANCE BRANCH
4050 Legato Road, Suite 700
Fairfax, Virginia 22033

246-1280

April 5, 1989

Sarah H. Reifsnyder, Esquire
Blankingship & Keith
4020 University Drive #312
Fairfax, Virginia 22030

Re: Special Permit Amendment Applications SPA 79-A-124-1 and SPA 80-A-099-1
Lord of Life Lutheran Church

Dear Ms. Reifsnyder:

At its March 28, 1989 meeting, the Board of Zoning Appeals took action to **GRANT** your application. The final approval date is April 5, 1989. A copy of the Resolution is attached. This should be posted in a conspicuous place along with a copy of the Residential or Non-Residential Use Permit.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for fulfilling his obligations to obtain Building Permits (246-3446); Residential or Non-Residential Use Permits, formerly called Occupancy Permits (246-2381); etc. through the established procedures.

This Special Use Permit will not be valid until a residential or Non-Residential Use Permit has been issued.

Sincerely,

Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Enclosure As Stated

9:30 A.M. LORD OF LIFE LUTHERAN CHURCH, SPA 79-A-124-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-124-79 for a church and related facilities to permit addition to existing building and add land area, located at 5114 Twinbrook Road, on approximately 3.8946 acres of lane, zoned R-1, Annandale District, Tax Map 69-3((1))17 and 69-3((1))(pt. of H).

9:45 A.M. LORD OF LIFE LUTHERAN CHURCH, SPA 80-A-099-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-80-A-099 for a nursery school by adding a child care center, increasing maximum daily enrollment to 99, and changing hours of operation to 7:00 a.m. to 6:30 p.m., 5 days a week, located at 5114 Twinbrook Road, on approximately 3.8946 acres of lane, zoned R-1, Annandale District, Tax Map 69-3((1))17 and 69-3((1))pt. of H.

Denise James, Staff Coordinator, presented the staff report and stated that the applicant was seeking to amend SPA 79-A-124 to permit construction of a building addition, related parking, and the addition of land area. The applicant was also seeking to amend SP 80-A-099 by adding a child care center, increasing the maximum daily combined enrollment to 99 children, changing the hours of operation to 7:00 am to 6:30 p.m., Monday through Friday, and modifying the screening requirements on the northern and eastern boundaries of the site.

In 1979, the Board of Zoning Appeals (BZA) approved S-124-79 to permit an addition to the existing church and to add 10 additional parking spaces for a total of 64. In 1980, the BZA approved S-80-A-099 to permit an increase in the nursery school enrollment from 24 to 50 children and to allow the hours of operation to be extended from 8:30 a.m.-12:00 p.m. to 8:30 a.m.-3:30 p.m.

Staff noted that the applicant was issued a Notice of Violation in November, 1987 for failing to meet all the development conditions stipulated on S-124-79. Specifically, the applicant had constructed 9 additional parking spaces on the site without obtaining approval from the BZA. The applicant had not implemented the screening specified by the County Arborist nor obtained the required Non-Residential Use Permit. The applicant is requesting approval of the present concurrent amendment applications, in part, to correct the noted violations of the previous special permit conditions approved under S-124-79. If the present special permit amendment applications are not approved, the applicant must comply with the development conditions approved under Special Permit S-124-79.

In closing, Ms. James stated that staff does not believe that the applications meet the general standards, particularly 1 through 5, therefore staff recommended denial.

In response to questions from the Board, Ms. James replied that the current enrollment limitation is 50 children and the traffic at present exceeds 20,000 vehicles per day. She added that there are no plans at present to widen this section of Twinbrook Road, however the transportation report notes that the volume of traffic warrants widening.

Sarah Reifsnyder, attorney with the law firm of Blankingship and Keith, 4020 University Drive, Fairfax, Virginia, came forward to represent the applicant. She stated that all the R-1 requirements have been met, the applicant would provide 46 percent open space, the site is surrounded on two sides by park land and which can never be developed, the property is slated on the Master Plan for R-2 to R-3 development, and the request is in harmony with the surrounding area. Ms. Reifsnyder read a letter in support of the request into the record from Mr. and Mrs. Sheets who live adjacent to the church site.

Ms. Reifsnyder stated that the real issue is development condition number 13 which addresses the left turn lane. She stated that the trip generation does not warrant this

lane. She stated that there are 72 students with 36 in the morning, 36 in the afternoon and the staff report should have been based on 72 students daily not 30. Based on this, the increase in the daily enrollment would be from 72 children to 99, an increase of 27. Ms. Reifsnyder stated that the school encourages carpooling and they do everything to make it work.

Mrs. Thonen asked how the carpooling was working and Ms. Reifsnyder replied that it was working beautifully. She added that the Director of the pre-school would address the carpooling in more detail.

Ms. Reifsnyder continued by stating that the left turn lane cannot be built because the right-of-way east of Twinbrook Road is no longer there and the church cannot get right-of-way from the private property owners. She stated that if paragraph 4 of development condition number 13 remains, the project cannot go forward. The church is proposing a number of road improvements such as 45 feet of dedication from the centerline of Twinbrook Road, a deceleration lane on Twinbrook Road, and one curb cut rather than two. The applicant disagrees with staff on the parking because staff has recommended that the church be limited to 120 spaces and the church is requesting 157, which is desperately needed.

A discussion took place among the Board regarding the new Parking Ordinance. Mrs. Thonen questioned staff as to whether or not the new Ordinance had been adopted. Jane Kelsey, Chief, Special Permit and Variance Branch, replied that church parking was still being studied but that the amendment reducing the size of the parking spaces had been approved.

In response to questions from Mr. Hammack, Ms. James replied that 16.5 foot length parking spaces is not unusual but does require a waiver of the PFM standards because, in this instance, excess parking is provided. She stated that in staff's opinion if the site can accommodate the excess parking, staff would not object but staff does not believe that this site falls within that category.

Ms. Reifsnyder took exception to the word "excess," that this is an existing church and are well aware of their parking requirements.

Mrs. Harris commented that people would rather see grass than asphalt and it seemed that the requested expansion was causing the need for additional parking. Ms. Reifsnyder agreed but added that the church has grown and they are meeting all the requirements. Mrs. Harris pointed out that that was true but it was at the very high end of the range.

Sue Arnegard, Director of the pre-school, came forward and stated that the school has been operating for 16 years and initially served Kings Park and Kings Park West but now many of the children walk to the pre-school from the surrounding neighborhood. For the fall term, Ms. Arnegard stated that children would be coming to the pre-school from Little Rocky Run, Clifton, Annandale, and Fairfax Station. She stated that there is a waiting list of children that the school cannot presently accept because of space limitations. Ms. Arnegard added that many families carpool, carpools are encouraged, and a staff person meets each car to escort the children into the school. The school year begins in September and ends in May with a class ratio at 5 to 1 for the very young and 6 to 1 for the older children.

In response to questions from Mrs. Thonen, Ms. Arnegard replied that the morning hours were 9:00 a.m. to 11:45 a.m. and the second group arrived at 12:30 p.m. and left at 3:15 p.m.

Ms. Reifsnyder added that the church wants to expand the hours of operation in order to accommodate the working mothers.

Mrs. Harris expressed concern with the children having to cross the parking lot to reach the playground. Ms. Arnegard explained that the circular driveway is not used during the school week. The driveway is blocked off with orange cones, the parents must make a u-turn and go back out the same driveway.

Ms. Reifsnyder explained that the pre-school will be on the first floor of the building and the children would not be crossing the driveway unsupervised. Mrs. Thonen asked why the playground could not relocated. Ms. Reifsnyder stated that the playground was quite expensive and had been approved by the health department. Mrs. Thonen stated the children would still be crossing the parking lot to get to the playground.

Ms. Arnegard stated again that this parking lot is not used during the time the school is in operation.

Chairman Smith called for speakers in support of the request and Carol Breglib, 7528 Rambling Ridge, Drive, Fairfax Station, Virginia, came forward. Ms. Breglib stated that she had two children, one of which attends the school, and she believed this to be a wonderful program. She added that she had never experienced any difficulty with entering/exiting the site and she was not concerned with her child crossing the parking lot to get to the playground.

There were no speakers in opposition to the request. Chairman Smith noted for the record that all letters received in connection with this application would be made a part of the record.

During rebutal, Ms. Reifsnyder distributed to the Board revisions to the development conditions:

"8. The barrier requirement shall be waived; <u>however, a fence may be installed along the property's northern boundary as indicated on the special permit drawing dated March 27, 1989</u>.

13. Right-of-way to forty-five (45) feet from existing centerline of Twinbrook Road shall be dedicated for public street purposes and shall <u>be conveyed to the Board of Supervisors in fee simple on demand, with an appropriate advance density credit</u>, or at the time of site plan approval, whichever occurs first. Ancillary temporary access easements shall be provided to facilitate any future improvements.

15. The Park Authority property used in conjunction with the uses approved by these Special Permits will not, except for landscaping and temporary construction and grading easements, extend beyond those areas indicated on the special permit drawing dated March 27, 1989.

16. The playground area will be surrounded by a fence 6 feet high."

Mr. Ribble asked where Commonwealth Boulevard, where the traffic study had been conducted, was in relation to the church and Ms. James pointed to the intersection on the viewgraph.

In response to a question from Ms. Harris, Ms. James replied that the planned range for this area is 2 to 3 dwelling units per acre which staff believed to be low density.

During staff's closing comments, Ms. James stated that the previous approval stipulated an enrollment of 50 students. She added that staff did believe that there is a need for day care facilities and that this is an excellent facility, however staff does believe that the enrollment should be limited to 50 students. Ms. James suggested that the applicant could eliminate the parking in front of the building across from the residential properties, thus lessening the visual impact.

Ms. Reifsnyder asked if she could respond to staff's comments and Mr. Ribble called her back to the podium.

Ms. Reifsnyder called the Board's attention to the Special Permit which was granted in 1976 showing the hours of operation revised to include an afternoon session. She pointed out that it also stated that it allowed 24 students on site at any one time. Ms. Reifsnyder also noted that the Health Department permit stated a maximum of 50 children, four hours or less at any one time. She agreed that the Resolution in 1980 should have stated 50 children at any one time but believed that when the overall picture was reviewed that was clearly the intent. She requested that development condition number 6 be revised to show 157 maximum parking spaces and development condition number 7 that the screening area be a minimum of 25 feet in depth along Twinbrook Road. Ms. Reifsnyder added that the applicant would agree to amend development condition number 5 that there shall never be more than 80 children in attendance at any one time.

A discussion took place among the Board members and Ms. Reifsnyder regarding the number of children.

Ms. James pointed out that in the previous approval the condition stipulates that the maximum number of children shall be 30 and an amendment further limited the number of children to 24 on site at any one time.

As there were no speakers to address this application, Chairman Smith asked staff if they objected to there being one Resolution in these applications.

Mr. DiGiulian made a motion to grant SPA 79-A-124-1 and SPA 80-A-099-1 as he believed that the applicant had met the standards. The approval was subject to the development contained in the staff report dated March 21, 1989 with the following modifications:

Conditions 1 through 4 remain the same.

Condition 5 - ". . . limited to 99. There shall be no more than 80 children on the site at any one time."

Condition 6 - The maximum number of parking spaces should be changed to 157 rather than 120.

Condition 7 - ". . . minimum of 25 feet . . ."

Condition 8 - "The barrier requirement shall be waived; however, a fence may be installed along the property's northern boundary as indicated on the special permit drawing dated March 27, 1989.

Conditions 9 through 12 remain the same.

Condition 13 - Paragraph 1 revised to read: "Right-of-way to forty-five (45) feet

from existing centerline of Twinbrook Road shall be dedicated for public street purposes and shall be conveyed to the Board of Supervisors in fee simple on demand, with an appropriate advance density credit, or at the time of site plan approval, whichever occurs first. Ancillary temporary access easements shall be provided to facilitate any future improvements." Paragraphs 2 and 3 remain the same. Delete paragraph 4.

Condition 14 remains the same.

Add Condition 15 - "The Park Authority property used in conjunction with the uses approved by these Special Permits will not, except for landscaping and temporary construction and grading easements, extend beyond those areas indicated on the special permit drawing dated March 27, 1989.

Add Condition 16 - "The playground area will be surrounded by a fence 6 feet high."

Mr. Hammack seconded the motion and Chairman Smith called for discussion.

Mrs. Thonen stated that she would oppose the application because she believed that the use is too dense and the motion is not consistent with staff's recommendation on the parking. She added that she is not questioning whether or not this is a good school but she cannot support the applicant's request.

Mrs. Harris stated that she agreed with Mrs. Thonen's comments and that the trip generation per day is too great.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Applications SPA 79-A-124-1 and SPA 80-A-099-1 by LORD OF LIFE LUTHERAN CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-124-79 for a church and related facilities to permit addition to existing building and add land area and to amend S-80-A-099 for a nursery school by adding ~~a child care center~~, increasing maximum daily enrollment to 99, and changing hours of operation to 7:00 a.m. to 6:30 p.m., 5 days a week, on property located at 5114 Twinbrook Road, Tax Map Reference 69-3((1))17 and 69-3((1))pt. of H, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 28, 1989; and

WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 3.8946 acres of land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum seating capacity for Lord of Life Lutheran Church shall be limited to a total of 404. The maximum daily enrollment for the nursery school and child care center shall be limited to 99. There shall be no more than 80 children on the site at any one time. The hours of operation for the nursery school and child care center shall be limited to 7:00 am to 6:30 p.m. Monday through Friday.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a maximum of 157 spaces.

7. Transitional Screening 1 (25') shall be provided along the northern lot line. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist.

   Transitional Screening 1 shall be modified along the eastern lot line along Twinbrook Road in favor of the landscape plan dated March 27, 1989. In order to screen the expanded building and parking lot from adjacent properties, the proposed berm across the site frontage shall be a minimum of four (4) feet in height measured from the Twinbrook Road side of the berm and shall be planted with a combination of an evergreen hedge and flowering trees. The trees shall be a minimum of 6 feet in height. The berm shall be located within a landscape and screening area which shall be a minimum of 25 feet in depth along Twinbrook Road. A planting tabulation indicating the size and type of plantings shown on the landscape plan shall be submitted to the County Arborist for final approval.

8. The barrier requirement shall be waived; however, a fence may be installed along the property's northern boundary as indicated on the special permit drawing dated March 27, 1989.

9. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Ordinance.

10. A tree preservation plan shall be implemented by the applicant as approved by the County Arborist with the intent of identifying and preserving as many existing quality trees as possible, and to incorporate existing trees into the required screening along the northern lot line except where removal is necessary to accommodate construction. The boundaries for tree clearance shall be determined to the satisfaction of the County Arborist before approval of a building permit or commencement of site clearance and/or construction.

11. All stormwater management shall be coordinated with the Storm Drainage Branch of the Department of Public Works (DPW). The applicant shall maximize the use of vegetative infiltration areas and other infiltration management practices wherever possible as determined by the Department of Public Works and in accordance with the Public Facilities Manual.

12. A geotechnical engineering study in accordance with Chapter 107 of the Fairfax County Code shall be provided if requested by the Director of the Department of Environmental Management (DEM) for approval by DEM and shall be implemented as determined by DEM.

13. Right-of-way to forty-five (45) feet from existing centerline of Twinbrook Road shall be dedicated for public street purposes and shall be conveyed to the Board of Supervisors in fee simple on demand, with an appropriate advance density credit, or at the time of site plan approval, whichever occurs first. Ancillary temporary access easements shall be provided to facilitate any future improvements.

    A right turn lane along Twinbrook Road shall be constructed to VDOT standards as shown on the plat submitted with the application dated March 27, 1989.

    The small traffic island at the center of the entrance to the site shall be relocated further west out of the dedicated public right-of-way.

14 Any proposed lighting of the parking areas shall be in accordance with the following:

    - The combined height of the light standards and fixtures shall not exceed twelve (12) feet.

    - The lights shall be a design which focuses the light directly onto the subject property.

    - Shields shall be installed, if necessary, to prevent the light and glare from projecting beyond the facility.

15. The Park Authority property used in conjunction with the uses approved by these Special Permits will not, except for landscaping and temporary construction and grading easements, extend beyond those areas indicated on the special permit drawing dated March 27, 1989.

16. The playground area will be surrounded by a fence 6 feet high.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through the established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of this Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-2 with Mrs. Harris and Mrs. Thonen voting nay; Mr. Kelley was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 5, 1989. This date shall be deemed to be the final approval date of this special permit.

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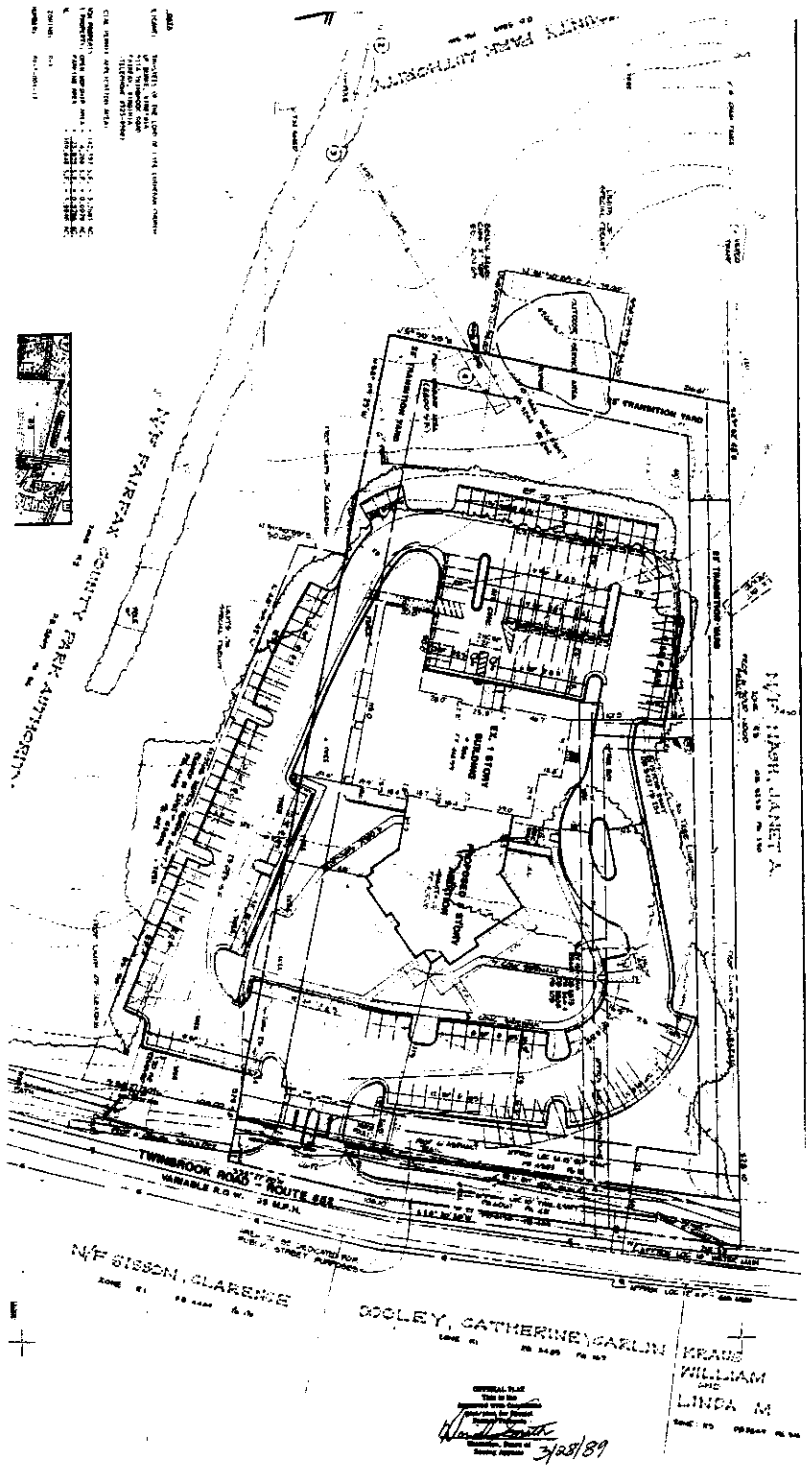

NO	DESCRIPTION	DATE	REV BY	APPROVED	DATE

WALTER L. PHILLIPS
INCORPORATED
CIVIL ENGINEERS LAND SURVEYORS PLANNERS
307 PARK AVENUE FALLS CHURCH, VIRGINIA 22046
(703) 532-6100

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.

2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-308 Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship with a Child Care Center, Nursery School or Private School

Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education may be approved as a special permit use in accordance with the provisions of this Part or as a special exception use in accordance with the provisions of Part 3 of Article 9. The choice of whether to file an application for a special permit or special exception shall be at the applicant's discretion. In either event, such use shall be subject to the additional standards set forth in Sections 9-309 and 9-310.

9-309 Additional Standards for Child Care Centers and Nursery Schools

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.
   For the purpose of this provision, usable outdoor recreation area shall be limited to:

A. That area not covered by buildings or required off-street parking spaces.

B. That area outside the limits of the minimum required front yard, unless specifically approved by the Board in commercial and industrial districts only.

C. Only that area which is developable for active outdoor recreation purposes.

D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.

2. All such uses shall be located so as to have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the use as determined by the Director. To assist in making this determination, each applicant, at the time of application, shall provide an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the facility. As a general guideline, the size of the use in relation to the appropriate street type should be as follows, subject to whatever modification and conditions the Board deems to be necessary or advisable:

Number of Persons	**Street Type**
1-75	Local
76-660	Collector
660 or more	Arterial

3. All such uses shall be located so as to permit the pick-up and delivery of all persons on the site.

4. Such use shall be subject to the regulations of Chapter 30 of The Code or Title63.2, Chapter 17 of the Code of Virginia.