Albemarle County Planning Commission
March 21, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, March 21, 2000 in the County Office Building. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Mr. Rodney Thomas; Ms. Tracy Hopper; Mr. Pete Craddock. Other officials present were: Mr. David Benish, Chief of Planning & Community Development; Mr. Bill Fritz, Department of Zoning; Mr. Ted Glass, Planner; Mr. David Hirschmann, Water Resources Manager – Engineering; Mr. Greg Kamptner, Assistant County Attorney. Absent: Mr. Jared Loewenstein.

Approval of Minutes – February 22, 2000
The Commission moved, seconded and unanimously approved the minutes as amended.

Review of Board of Supervisors Meeting – March 15, 2000
Mr. Benish presented a summary of the March 15th Board of Supervisors meeting, explaining that the Board had considered SP 99-68 (Beverage Tractor Outdoor Display), which was approved with the four conditions as the Commission recommended; and SP 99-72 (Mary Ruane Home Occupation Permit), which was approved with conditions as recommended; and SP 99-76 (Starlight Farm Bridge), which was approved with six conditions as recommended.

Other Matters Not Listed on the Agenda from the Public
None were offered, and the meeting proceeded.

Consent Agenda

SDP 2000-008 Blue Ridge Juvenile Detention Facility Preliminary Site Plan Waiver – Critical slopes, off-site parking and cooperative parking requests.

Mr. Rieley stated that the staff report noted that there was extensive grading on critical slopes involving the removal of a substantial number of trees on this highly visible site, and mentioned that the site plan did not have any of the topography on it. Mr. Rieley said that the Commission has carefully scrutinized recent critical slopes waiver requests, and public projects should be held to the same standard. He apologized for bringing the issue up at the last minute. Mr. Rooker said it would be helpful to have the topo maps sent out prior to the meeting.

MOTION: Mr. Rieley moved, Mr. Rooker seconded approval of deferral of discussion and vote on SDP 2000-08 to March 28, 2000. The motion passed unanimously.

Mr. Benish stated that the engineer from the county who reviewed the project could be present at that time. Mr. Kamptner noted that the county is the applicant. Mr. Fritz said that the deferral is not a problem because the county is the applicant, and is amenable to deferring the 60-day cutoff date for action on the application. Mr. Fritz noted that if this were a private application, the Commission would have to take action, or the applicant would have to agree to deferral.

Item Requesting Deferral:

ZMA 99-16 Glenmore Associates Limited Partnership – Request to rezone 37.96 acres from RA to PRD to add acreage to the Glenmore PRD, increase the maximum allowable single-family units in the Glenmore PRD from 775 to 889, and to modify proffers. The properties, described as Tax Map 79, Parcels 28, 32, 34, 35, 35A and Tax Map 93, Parcel 62 are located in the Rivanna Magisterial District on Ashton Road approximately 0.7 miles from the intersection of Glenmore Way and Route 250 East. The Comprehensive Plan designates this property as Neighborhood Density Residential 3-6 dwelling units per acre in the Village of Rivanna. ***Staff requests deferral to March 28, 2000.***

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of deferral of ZMA 99-16 to March 28, 2000 at staff's request. The motion passed unanimously.

SUB 00-018 – Request for preliminary plat approval to create 65 lots on 62.13 acres. The property is zoned PRD and RA and is requested for rezoning to PRD as an addition to the Glenmore development. The property, described as Tax Map 79, Parcels 28, 32, 34, 35, 35A; Tax Map 93 Parcel 62; and Tax Map 93A1 Parcel 1, is located in the Rivanna Magisterial District south of Ashton Road and opposite Darby Road in the Glenmore development. The Comprehensive Plan designates this property as neighborhood density with 3-6 dwelling units per acre in the Village of Rivanna. ***Staff requests deferral to March 28, 2000.***

MOTION: Mr. Rooker moved, Mr. Craddock seconded approval of deferral of SUB 00-018 to March 28, 2000 at staff's request. The motion passed unanimously.

Deferred Items:

SP 99-74 Townwood Mobile Home Park – Request to amend the existing special use permit to allow for 19 additional mobile home sites on approximately 12.6 acres zoned R-10, Residential. The property, described as Tax Map 61, Parcel 8 is located on the eastern side of Rio Road East, just north of the Rock Store. This property is located in the Jack Jouett Magisterial District and is recommended for Urban Density in Neighborhood 1 of the Comprehensive Plan. ***Staff requests deferral to April 4, 2000.***

Public comment was invited. None was offered, and the matter was placed before the Commission.

MOTION: Mr. Rieley moved, Mr. Rooker seconded approval of deferral of SP 99-74 to April 4, 2000 at staff's request. The motion passed unanimously.

Public Hearing Items:

Review of Batesville Agricultural/Forestal District - Proposal to conduct a review of the Batesville Agricultural/Forestal District. The District, which is contained within Tax Maps 70, 71, 84, 85, and 85A, consists of 23 parcels and a total of 915.93 acres. The District is generally located west of Batesville and Miller School Road (State Route 635) and east of Castle Rock Road (State

Route 691). Properties in the District are designated as Rural Area in the Comprehensive Plan and are zoned as Rural Areas District.

Mr. Benish presented the staff report, noting that the district was created in 1990 for a period of 10 years, and is located to the west and south of Batesville on State Routes 635, 636, 637, and 692. He explained that the original acreage for the district was 915.9 acres in 23 parcels; there has been one withdrawal of the district with this review. He said the land use for the district is primarily forestry, pasture, hay and horticulture; the district is located in the Rural Areas in the Comprehensive Plan and is zoned RA. The nearest development area is Crozet, three miles distance. Staff recommends continuation of the district because the area is rich in forestal, agricultural, and open space resources; the A/F District Committee reviewed the application on February 28, and recommended renewing the district for a 10-year period.

Public comment was invited. None was offered, and the matter was placed before the Commission.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of the proposal for the Batesville A/F District as set forth in the staff report. The motion passed unanimously.

Addition to Chalk Mountain Agricultural/Forestal District - Proposal to add 48.06 acres to the Chalk Mountain A/F District. The property, described as Tax Map 98, Parcel 11, is located across from the intersection of Thackers Lane (State Route 804) and Monacan Trail Road (State Route 29). The property is designated as Rural Area in the Comprehensive Plan and is zoned as Rural Areas District.

Mr. Benish presented the staff report, noting that this is an addition to the Chalk Mountain A/F District, located in the North Garden area. He explained that the Chalk Mountain District contains 1,238 acres in 8 parcels; the proposed addition contains 48 acres in one parcel. The time period for the district is 10 years. Land in the proposed addition is being used for forestry, and there is one dwelling on the property. The Chalk Mountain district is located within the Rural Areas in the Comprehensive Plan and is zoned RA. The nearest development area is Crozet in the southern edge of the Urban Area, about 8 miles away. Staff recommends approval of the addition to the district as proposed; the A/F District Committee reviewed the application on February 28, and recommended inclusion of the property for the review period until 2009.

Public comment was invited. None was offered, and the matter was placed before the Commission.

MOTION: Mr. Rieley moved, Mr. Rooker seconded approval of the addition to the Chalk Mountain District as stated in the staff report. The motion passed unanimously.

Addition to Moorman's River Forestal/Forestal District - Proposal to add 81.45 acres to the Moorman's River A/F District. The property, described as Tax Map 41, Parcels 8, 8B, 8C, and 8D, is located between Browns Gap Turnpike (State Route 680) and Watts Branch. The property is designated as Rural Area in the Comprehensive Plan and is zoned as Rural Areas District.

Mr. Benish presented the staff report, noting that the Moorman's River A/F District was created in 1986, and was reviewed in December of 1994, and continued for 10 years during that review. The

district is located in the vicinity of Owensville, White Hall, Millington and Free Union; the proposed addition is located approximately 1 mile south of White Hall on the west side of Brownsville Turnpike (Route 680). Moorman's River A/F District contains 10,732 acres in 215 parcels; the proposed addition is 81.45 acres. Mr. Benish said the proposed addition is used for cropland and forest, with 60 acres under agriculture and 20 acres under forestry in the use/value program. He added that the Moorman's River District is designated Rural Areas in the Comprehensive Plan, and properties are zoned Rural Areas, including the addition. Staff recommends approval of the addition to the district as proposed; on February 28, the A/F District Committee recommended approval of the addition.

MOTION: Mr. Rooker moved, Ms. Hopper seconded approval of the addition to the Moorman's River A/F District as presented by staff. The motion passed unanimously.

Review of Jacob's Run Agricultural/Forestal District - Proposal to conduct a review of the Jacob's Run Agricultural/Forestal District. The District, which is contained within Tax Maps 18, 19, and 31, consists of 1,017.26. The District is generally located along Earlysville Road (State Route 743), Link Evans Lane (State Route 764), Markwood Road (State Route 664), Buck Mountain Road (State Route 665), and Reas Ford Lane (State Route 660), near Earlysville. Properties in the District are designated as Rural Area in the Comprehensive Plan and are zoned as Rural Areas District.

Mr. Benish presented the staff report, noting that the district consists of a core area located on both sides of State Route 743 in and around the Earlysville area. The district contains 1,017 acres, and the land is used primarily for hay, pasture and forest; the district is located within the Rural Areas of the Comprehensive Plan and the properties are all zoned RA. The nearest development area is Hollymead, which is located approximately one mile from the easternmost edge of the district. Mr. Benish added that the Earlysville Village previously designated has now been deleted; the district used to surround the village designation. Staff recommends continuation of the district for 10 years; the A/F District Committee reviewed the district, and recommended that the time period be extended to 10 years. The initial time period of six years was established, because at the time Earlysville was a development area, and staff was trying to match the review period of the district with land use plan review periods.

Mr. Rieley asked when the last parcel was added to the district.

Mr. Benish said that he does not recall any additions since the creation of the district; however, two property owners have been in contact with the county regarding possibly adding their properties to the district. He added that one parcel was removed in 1996 due to a death in the property owner's family.

Mr. Rieley commented that this district seems more disconnected than some of the other districts.

Mr. Benish said that the regulations are such that the parcels can be rather "strung out," but this district still does meet the requirements.

Public comment was invited.

Ms. Anne Malick, who lives on Jacob's Run, addressed the Commission and urged them to accept the ten-year plan. "Those of thus who are actively farming really need the longest budget time possible to really rationalize expenditures for equipment and improvements on the land…any of the participation with the federal government's projects all require a ten-year continuation. Those of us who are in it would like to have that to rely on." She added that there is lots of interest in the Earlysville area about joining the district.

There being no further public comment, the matter was placed before the Commission.

MOTION: Mr. Thomas moved, Mr. Rooker seconded approval of continuation of the Jacob's Run A/F District with the ten-year period. The motion passed unanimously.

SDP 2000-003 Walnut Hills Swim & Tennis Club Site Plan Waiver – Request for site plan waiver for Club House facility, pools, tot lot, tennis court and related parking on approximately 12 acres zoned RA, Rural Areas.

Mr. Finley noted that this item was pulled from the Consent Agenda at the request of one Commissioner.

Mr. Glass and Mr. Fritz told the Commission they would answer questions regarding the SDP, even though they had not prepared a formal presentation.

Mr. Rieley said he did not recall a site plan of this magnitude being waived in the past, and asked what would not be done that would otherwise be done if the site plan was not waived.

Mr. Fritz responded that what to keep in mind is what items were lacking from this particular site plan that would be required of other site plans; and the fact that a site plan waiver can be approved if it's found that the public's purpose would be equally served. He noted that even with a site plan waiver, none of the provisions of the Zoning Ordinance would be waived in terms of size of parking spaces, stormwater, erosion/sediment control, or any other development issues. "What you're doing is waiving only the level of detail on the plan."

Mr. Glass explained that in the case, staff required almost everything required in a normal site plan; this is the third submittal from the applicant based on staff comments, and staff has met the applicant in the field on site and discussed his plans. He mentioned that the applicant has agreed to additional landscaping to modify the circulation pattern, widening the travelway to enhance the parking area, keeping trees cleared at the intersection to maintain site distance. Staff has gone through the normal site plan process, and has been assured that what the applicant plans to do is within the guidelines of a normal site plan.

Mr. Glass stated that part of the reason for the waiver request is that the Commission has already looked at the site, as part of the subdivision application last fall, and the recreational facility was discussed in-depth at that time, according to the meeting minutes. Because recreational facilities are not necessarily allowed in the Open Space, the item was carefully scrutinized. "The applicant's not proposing to do anything different than what their stated intent was at that time." Mr. Glass said that

staff has worked closely with the applicant to resolve any outstanding issues, and because they had not received any public opposition, he was asked to put the item on the Consent Agenda.

Mr. Rooker asked if there was a pool shown when the item was initially presented to the Commission.

Mr. Glass responded that the pool was discussed, but there was not a site plan for the recreational area, just a subdivision plan.

Ms. Hopper inquired as to who asked Mr. Glass to put it on the Consent Agenda.

Mr. Fritz replied that the normal practice is to put site plan waivers on the Consent Agenda if there is no opposition and the site review committee is able to recommend approval of the site plan waiver.

Mr. Rieley asked why – if all concerns have been addressed, and everything has already been done for the site plan – staff doesn't just go ahead and have the site plan approved, and solidify the process that way.

Mr. Glass responded that the applicant applied for this as a site plan waiver, and staff had to review it as such. He noted that there are still recommended conditions of approval.

Mr. Fritz said that the plan is still lacking some information that would be required under the provisions of the ordinance to be shown on a preliminary site plan. He added that the site review committee – when presented with a waiver request – will ask for additional information to allow them to make the determination that the purpose and intent of the Zoning Ordinance is being met, and that public safety, drainage, access, parking, and erosion control can be accommodated. "If they're not confident that those things can be addressed, they will either ask for more information or recommend denial of the waiver."

Mr. Rieley asked what information is lacking.

Mr. Glass replied that the original submittal was basically a one-page "sketch plan" which is consistent with what's normally supplied with a waiver request for a fairly simple application. He said that staff has added for enough additional information to warrant an almost complete site plan review.

Mr. Rooker asked if the only thing being dealt with is the open space.

Mr. Fritz and Mr. Glass confirmed this.

Ms. Hopper asked if staff felt they had all the material they would normally have in a site plan review in this case.

Mr. Glass elaborated that the intent of the waiver is for simple requests – such as roadside stands – where a full site plan is not needed, but staff has asked for enough additional information to make this case almost like a full review, including parking requirements, grading, landscaping, site

distance issues, screening, etc. "Basically, we've gone down the checklist, looked at everything that's normally on the site plan checklist and assured ourselves that all those items have been taken care of."

Mr. Rieley said, "If everything has been done that would have to be done under a site plan, wouldn't it put the county in a better position to be consistent and ask everybody to follow through on these?"

Mr. Fritz explained that Sections 32.5 and 32.6 of the ordinance relating to site plan waivers specify that all the information must be shown on a site plan – such as proposed grading, contours, drainage pipe size, etc. He stated that things like parking calculations and the magisterial district are not shown, but staff is satisfied that the dimensions are accurate.

Mr. Rieley said this may raise a broader question regarding the uniformity of requirements for site plan applications. "I just don't understand the value in having this extensive checklist – which I think could be pared down a lot – and then…using the waiver in this way simply so you don't have to go down the checklist."

Mr. Fritz commented that there are very few site plan waivers, with the last significant project done as a site plan waiver being the project at the intersection of Routes 250 and 240 in Crozet, which was also "very near a site plan." He added that the site plan waiver has been used primarily in situations where there are three or more dwelling units on rural properties.

Mr. Benish mentioned that waivers have been done on occasion for rural churches for parking requirements, and for hardship situations.

Mr. Rieley said this is in a different category.

Mr. Fritz noted that the site review committee is advising that they have enough information on the plan to ensure that the provisions of the Zoning Ordinance – adequate parking, drainage, setbacks – will be addressed. Staff is recommending that the public's purpose would not be served to a greater extent by requiring a full-blown site plan because nothing more is going to be gleaned.

Mr. Finley asked at what point the waiver request came forward.

Mr. Fritz replied that the application was made as a site plan waiver; staff then reviewed it to see if it was appropriate for a waiver. Initially, staff said "no," then requested additional information.

Mr. Rooker noted that the recommended conditions of approval do not include anything which ties the approval to this plan and the notations, and asked if there was a reason for that.

Mr. Fritz responded, "This would be the plan. You're waiving the detail of the plan, but this still is the plan, just like any other site plan that you approve. We don't reference the plan dated whatever. The plan that's submitted is the plan."

Mr. Rooker said, "Normally, when we've approved things where there's been some kind of an attached plan, we incorporate that with the conditions….I would think it would be appropriate as a

condition to include this plan which contains a lot of notations." He added that he would like to get a plan where the notations are legible, as the current plan is not readable. "It's a little difficult to make a judgment, I think, concerning a plan, when you can't read it."

Mr. Benish suggested providing a full copy, and deferring the item for one week for review.

Mr. Rooker said that the public hearing should go ahead and take place

Mr. Finley asked Mr. Rieley if his concerns related to procedure, or to the site plan itself.

Mr. Rieley said that his concerns are largely procedural.

Ms. Hopper mentioned that she has some concerns about the plan. She asked about the waiver to allow the pool closer than 75 feet from the nearest property line, specifically the staff report's mention of screening with evergreens that is not reflected in the conditions.

Mr. Glass responded that the screen is shown on the plan, and has been addressed, although it was not incorporated as a separate condition.

Ms. Hopper said that it appeared on the plan that some of the large trees mentioned for preservation are preserved in many instances. She asked if referencing the plan would suffice in ensuring the preservation.

Mr. Fritz replied that referencing the plan – which shows what remains, etc. – is sufficient to ensure that specifics are addressed.

Mr. Glass noted that the layout has taken its present form so that the larger trees can be preserved.

Ms. Hopper asked about the mention of water supply protection in the staff report, and asked how that was being addressed.

Mr. Glass responded that it is being addressed with the subdivision plat currently under review, and already has preliminary approval, and Phase I – which includes the recreational area – is under review by staff. "That was all taken care of during the discussion for the preliminary subdivision plat. They have best management practices in place, and that's pretty well spelled out on the subdivision part of the overall development. The stream buffers have been protected with vegetation."

Mr. Rieley asked if the purpose of the planting around the pool is to hide the fence or provide screening.

Mr. Glass responded that the intent is to provide screening, as it is required in the ordinance that pools be screened from adjoining residences. Staff requested this, and the applicant added it. He added that the large cedars that line the existing roadway provide a fairly high screen; the pool is located uphill from the road.

Mr. Rooker asked if it was typical to have site plan or site plan waiver to be considered for a specific part of a subdivision – in this case, the open space.

Mr. Fritz said that for recreation areas, it is routine. He added that usually, recreation is addressed fairly early in the development.

Mr. Rooker asked if this plan is the preliminary subdivision plat already done for this development.

Staff confirmed this.

Mr. Rooker asked if the preliminary subdivision plat had the same degree of specificity shown on the open space as is being shown no, or if it has been added.

Staff replied that the detail has been added to the recreation area on the plat.

Mr. Finley asked Mr. Rieley if he was thinking about having a full site plan review.

Mr. Rieley said, "I still have not heard what distinguishes this site plan from hundreds of others that required a full site plan. Nobody ever asked for a waiver for it. They just went ahead and followed the rules and completed the site plan. This looks like a short cut, and it may be a good shortcut, and maybe something that we should let everybody do. But it seems to me it's a departure, and I wanted to hear an explanation of why this is being handled so differently from every other site plan of this nature that I've seen in the past."

Mr. Rooker asked if the applicant might be able to shed some light on the situation.

Public comment was invited.

Mr. Don Franco of the Kessler Group addressed the Commission. He reviewed how the item came to the Commission in this way. He explained that they submitted a building permit to build a clubhouse, and because it's a commercial function that will serve 60 residential homes, it needs a site plan.

Mr. Franco explained that they are adding approximately 13,000 square feet of impervious area; most of what is shown on the site plan is already existing. He said that his "rule of thumb" regarding granting a waiver would be erosion control, stating that the ENS officials have not had any erosion control concerns. Mr. Franco noted that the site is relatively flat, and they are proposing very limited grading; they are simply laying down stone and paving to take care of the parking area. He added that one pool is existing – and was on the preliminary plan initially – and another is being added.

Mr. Franco said that this waiver request does not seem tremendously different from waivers churches request for additional parking. He explained that most of the notes and a lot of the information is already known by staff; many of the notes are already on the preliminary subdivision plat drawing. "What you have before you is really more of a sketch because we feel – [and staff supports this] – that what we're proposing to build can be built without a lot of design effort going into it….None of information that would be additionally required to meet the procedural aspects is of

benefit. We'll still meet all the criteria of the ordinance for what is required to be put in the ground. The pavement will be of the right thickness, the spaces will be of the right size. We're not proposing...any changes in what's going to be required of us to construct; it's only how we get to construct it."

Mr. Franco noted that often developers will submit similar proposals under the guise of a single-family residence building permit, then converting it over later to a clubhouse. "Our main goal is to get the pools and the amenities set up before the subdivision plat was approved so that we could get the construction underway." He added that with a waiver, they can move forward a lot faster with the development.

Mr. Rooker asked who owns the property with its line within 75 feet of the pool.

Mr. Franco replied that it is a "fictional property line" right now, because the preliminary subdivision plat has not been approved. He explained that the 75 feet is proposed for a lot across the street, and the direction to the nearest existing lot is 125 feet. Mr. Franco added that there is approximately 35 feet from the edge of the pool decking to the road is 35 feet. He noted that the clubhouse would be located to the rear of the 2½-acre lot.

Mr. Rooker asked Mr. Franco if the Kessler Group owns the lot that would be within 75 feet of the pool.

Mr. Franco confirmed this.

Mr. Franco stated that what's important to the developers is the design, adding that they are also asking for waivers for one-way circulation, curvilinear parking, and for the proximity of the pool to the neighboring lot. He said that there is no way to come forward and ask questions without submitting a full site plan or waiver request, so the normal process would be to design the property without the waivers, which would be a little less cooperative with the land. "We want to know whether we're way off-base asking for [waivers] or not." Mr. Franco said that their goal is to get some answers to the waivers from the Commission.

Mr. Thomas asked if they could make the distance from the pool to the closest residential area 75 feet.

Mr. Franco said that they could, but it might require removing some very large trees, or the house and barns already existing on the site.

Mr. Finley commented that they are presented a "full plate" of waivers, much of which cannot be read.

Mr. Franco said he would be happy to furnish a full-size plan.

Mr. Rooker said that the Commission could use the small version of the plan, providing the notations were copied on separate page in larger print.

Mr. Rieley mentioned that if applicants know that the plans will be reduced prior to distribution, it might impact what type size used. "It is a chronic problem."

Ms. Anne Malick addressed the Commission, stating that people in the Earlysville area have been watching this development with great interest. She expressed concern that procedurally, there needs to be a level playing field for everyone, adding that the public would feel reassured if more things were written down, so that there is a paper trail following each application. Ms. Malick added that she really likes the design idea.

Mr. Steve Runkle of the Kessler Group said that they intended to use the existing house as a clubhouse, but the use was judged to be dissimilar. He said it was not feasible to use the existing house because of fire code requirements, and the economics of the situation required that it be torn down and replaced with a 1200-foot club house, use existing garage structures for fitness and pool accessories, etc.

Mr. Runkle said he understands that the Commission might not want to grant a full site plan waiver, even though the process for a full site plan takes much longer. He emphasized that it's difficult to get "out of the envelope" of design that is conventional by code and design requirements, adding that that's what the other waiver requests relate to. Mr. Runkle said that their plan that is the most sensitive to this site, as it involves putting things back to where they have already existed, and does the least bit of damage to the land.

He emphasized that accomplishing that requires three waivers, and the alternative would be submitting "what we know can get approved." Mr. Runkle explained that that would mean a rectangular parking lot, extensive grading, and a relocation of the pool and club facilities. "In effect you would basically grade the whole site and start over." He added that doing that would result in the loss of several valuable landscaping elements. Mr. Runkle mentioned that going before the Commission gives developers direction as to whether they prefer a conventional or more progressive style of development.

There being no further public comment, the matter was placed before the Commission.

Mr. Rooker stated that he has no problem with the waiver requests other than the site plan waiver, and might not have a problem with that if he had sufficient time to study the plan with a clean copy of the notations. He noted that he can't tell the difference between what's being submitted and what's shown on the site plan.

MOTION: Mr. Rooker moved, seconded approval of the requested waiver for one-way circulation, approval of the requested waiver for curvilinear parking, and approval of the requested waiver to allow the pool to be located 75 feet from the nearest property line.

Mr. Kamptner clarified that conditions #1, 2, 3 and 5 will apply. Condition #1 will also include the language "dated December 14, 1999 and as thereafter revised."

Mr. Rooker suggested adding a condition that states "The development will be in general accord with the plan submitted by the applicant which is attached to the application."

Mr. Fritz noted that the site plan approved would be the document to refer to.

Mr. Craddock seconded the motion, to include all aforementioned conditions. The motion passed unanimously.

Ms. Hopper asked if past waivers are considered in granting a site plan waiver.

Mr. Kamptner replied that each decision the Commission makes turns independently on the facts presented.

MOTION: Mr. Rooker moved, Mr. Rieley seconded approval of deferral of action on the waiver of site plan to March 28, 2000. The motion passed unanimously.

Mr. Rieley apologized to staff for bringing the item off the Consent Agenda at the last minute. He also asked staff to provide a brief history of site plan waiver cases, and the degree to which this would be a precedent, at the March 28 meeting. "I think we ought to be discussing it within that framework of basic fairness to people who come into this building with applications."

Mr. Rooker emphasized that every case turns on the facts, and added that it's important to get a list of the difference in what this plan includes and what's required if a full site plan is required.

Ms. Hopper noted that if they have enough facts to make an informed decision, they won't be accused of being inconsistent in other cases.

Work Session:

Hydrogeologic Testing

Mr. Hirschmann presented a report on hydrogeologic testing.

He explained that his report began as a follow-up to a request from Planning Commission when the initial Walnut Hill rezoning was introduced. Mr. Hirschmann said that when that project was in the rezoning stage, questions were raised by neighbors about the water supply. He noted that Mr. Loewenstein mentioned at that time that Virginia Code allows the Commission to require testing to verify adequate water supply.

Mr. Hirschmann said he also wants to update the Commission on groundwater initiatives taking place. He said that prior to 1989, groundwater was not mentioned in the Comprehensive Plan, and when Chapter 2 was updated and adopted in 1999, there was a lengthy section on groundwater with lots of input from the Commission. Mr. Hirschmann mentioned that the groundwater resources program has been somewhat of an "orphan project" in the county, because there has not been much staff or budget assigned to the issue.

Mr. Hirschmann introduced Mindea Brown, who has a one-year assignment with the county to develop a county groundwater database. Mr. Hirschmann explained that Ms. Brown's job is to find

every piece of information about when and wear wells have been drilled, how deep they are, and what their yields are, and put this information into a GIS database with bedrock geology. Mr. Hirschmann said that this will show what exists in terms of water supply in different part of county, adding that once this is in place it will provide a quantum leap in the county's ability to ask and answer questions about groundwater.

Mr. Hirschmann said that Ms. Brown has a great background in GIS and hydrology.

Mr. Rooker asked if there is information in public files on wells that have failed.

Ms. Brown said there is not much information on where there isn't water, even though there is supposed to be. She surmised that when drillers drill a well, they don't always file a completion report for a well that didn't yield anything. Ms. Brown added that the Division of Mineral Resources may have some information about drillers that keep the information on file, and she is planning to contact individual drillers about their findings.

Mr. Rooker suggested having a survey for county residents requesting information on groundwater on their property.

Mr. Finley commented that during the drought, there were a number of wells that "gave out."

Ms. Brown commented that this is not unusual, but nothing really goes on file when this happens.

Mr. Rieley said that well drillers might have information about wells that haven't produced, because when they drill a dry one, they charge for it.

Mr. Hirschmann said that after Ms. Brown gets information from the Health Department, she will contact the individual drillers.

Ms. Brown said that because it costs money to file that information with the Health Department, some drillers have not done this.

Mr. Finley asked Ms. Brown about her background.

Ms. Brown answered that she has a background in hydrology, and also in consulting in the Piedmont area. She said that she has been in the position of determining the best spots in an area to look for water.

Mr. Hirschmann explained the concept of the hydrogeologic study, noting that this can be done in several different scales. He noted that there can be site-specific study, such as when developers plan a development, an evaluation would be done to see if there is sufficient groundwater on site to supply future demand. Mr. Hirschmann said the other way to approach the issue is for the county to take initiative, and look at certain regions of the county to learn how much groundwater is available at a regional scale. He mentioned that through planning, the county can try to avoid situations like Peacock Hill.

Mr. Hirschmann said that Phase 1 in a Regional Planning scale would involve a multi-year project of doing studies around the county in the Rural Areas, which would fit into Chapter 3 of the Comprehensive Plan. He noted that as early as July, the first study may be up and running – a regional hydrogeologic study targeting the Ivy Creek and Meechums River watersheds.

Mr. Hirschmann continued that his report includes information he obtained regarding what other localities are doing, and providing some conclusions and recommendations about the success of those programs. He stated that he would like to gain some direction from the Commission in proceeding with the formation of a groundwater committee.

Mr. Finley commented that localities throughout the state are not doing much, according to Mr. Hirschmann's notes in the report.

Mr. Hirschmann confirmed that fewer than 10 localities in the last decade – with the exception of Loudon County – are doing anything. "What appears to be happening…is that the studies could be quite in-depth and expensive." He explained that developers can bypass a requirement for doing such a study simply be reducing the number of lots in a development. Citing Orange and Faquier Counties as examples, he said "to a large extent…that's the trend that's been happening….every action has a reaction, so if you're going to develop a standard, you might actually in a de-facto way be changing land-use patterns in a direction you may not want to go."

Mr. Finley suggested some cost-sharing by developers because studies for a proposed subdivision could provide data for a regional study.

Mr. Rooker commented that Mr. Hirschmann's report indicates that what other counties are doing doesn't seem to be working very well in terms of actual reports issued and any actions taken.

Mr. Hirschmann said that there have been results such as denial of subdivision plat because studies show insufficient groundwater, and subdivision layouts and designs have been changed because of the result of the findings.

Mr. Rooker asked what would be wrong with requiring that a well be drilled and tested for quality and quantity before a lot is sold. "That expense is going to be incurred at some point in the development process anyway, but why not require it before the buyer comes in and buys a lot in a subdivision and then finds out that he's got a problem."

Mr. Hirschmann responded that Chesterfield, Loudon, and Faquier already require that the well be drilled and tested prior to issuance of a building permit. "As a cost item, that doesn't have nearly the impact of a full blown study. It's not going to give you information that's as comprehensive as coming and doing a study, but...it's a matter of defining what you're after and what you want the study to tell you and planning accordingly."

Mr. Finley asked how far local government should go in dictating to the buyer or seller what needs to be done for a single lot. He emphasized that people have been buying land and drilling wells since the country began and "it hasn't worked too badly."

Mr. Rooker commented, "Well the people in Peacock Hill might not agree with that." He added that the issue is at what point the drilling and testing takes place, and said this should be done before the lot is sold. Mr. Rooker added that a developer should convey a lot that's proven to have an adequate well.

Mr. Rieley said that in effect, the county requires the other end of the stream to be verified because two septic system locations are required. "It certainly doesn't seem unreasonable to require that the water be verified to be adequate as well."

Mr. Finley asked, "Does that need to be something enforced by local government? There's a lot of individual initiative out there."

Mr. Craddock asked, "Does the developer even want water on it?"

Mr. Rooker said that he is aware of people who came to this area and bought lots and spent $15,000 - $20,000 to find water. "The expense of drilling the well and testing the water and the flow is going to be incurred at some point in the development process anyway – either by the buyer or the seller. To me, the time to require it to be done is up front, before somebody buys the lot."

Mr. Hirschmann mentioned that Loudon's ordinance stipulates that with 9 or fewer lots, you have the option of drilling and testing the wells prior to a building permit in lieu of funding a full study. "I'm sure that's an option that the developers take advantage of."

Mr. Rooker emphasized that at least the developers are required to drill the wells and test the water.

Mr. Rieley said that the one aspect of that that seems to leave the community at large and individual lot-owner in jeopardy is – like Peacock Hill – there was plenty of water when the wells were dug, but usage over time has drawn the water table went down. "That's why the hydrogeologic study seems to me to make sense when you're dealing with more than a few houses."

Mr. Thomas said, "Would Peacock Hill be the culprit that used all the water, or would it be somebody in the middle school area, or would it some other development up the vein of that water?"

Mr. Rieley agreed, adding that for big projects, a hydrogeologic study might answer those questions.

Mr. Thomas asked how far a developer would have to go to guarantee the water on that piece of property. "How does he know where that water vein goes in bedrock?"

Mr. Rooker said, "I don't think under any of these circumstances the developer is guaranteeing the water….but it least provides the county with some information to look at."

Mr. Hirschmann commented, "I don't think there's any crystal balls when it comes to groundwater, but one of the things that they have to identify in the study is areas of recharge which they can do from a combination of field testing and looking at aerial photographs, etc." He added that a regional study and site-specific study have to come together to give the big picture.

Ms. Hopper said, “It seems that there’s so many technical interlocked questions that…there needs to be a groundwater committee as soon as possible.” She suggested having the Commission take action to recommend this to the Board of Supervisors.

Ms. Hopper commented that she thinks people that buy lots would assume there is water, and asked if there was a disclosure requirement.

Mr. Rooker said that there is no disclosure requirement.

Mr. Kamptner confirmed this, adding that “wells aren’t drilled until they’re ready for the certificate of occupancy, so the house is built [already].”

Mr. Finley asked if it was required to get a well before a building permit was issued.

Mr. Rooker said it is required to get the certificate of occupancy, but not the building permit. He cited a situation of a friend who bought land, started building a house, and halfway through construction began drilling wells. He said it took four attempts and $20,000 before they found a well with adequate flow.

Mr. Finley said that the buyer would still have to cover the cost, even if the developer drilled the well.

Mr. Rooker said that this would allow the buyer to assess the cost associated with finding water on the lot.

Mr. Finley asked who would be accountable if a well was found and then ran dry.

Mr. Hirschmann said that in talking with other counties, there are probably some “creative modifications we could do.” He said that he thought of using something similar to reserve drainfields – where open space is designated for alternative well sites, so at least there is some back-up.

Ms. Hopper asked if other counties have a disclosure requirement that there be adequate well water.

Mr. Hirsch said that Roanoke County has a certification process, and Loudon County requires a note on the plat if the water supply has not been tested or approved, except in the case of family subdivisions.

Mr. Rooker said that that will be added to the plats in Albemarle when the subdivision ordinance is changed. He added that some people think if their well goes dry, they have the right to go to the county and demand that water be brought in.

Mr. Finley said, “Not many people will buy a lot unless they know it will perk.” He added that usually the potential buyer pays for that.

Mr. Hirschmann stated that it would be nice to have something official from the Commission if they agree to proceed with the groundwater committee. He added that he has some suggestions for a slate of possible members, which he has presented in a memo to Bill Moyer and Wayne Cilimberg.

MOTION: Mr. Rooker moved that the Commission pass a Resolution of Intent recommending to the Board of Supervisors that a committee be formed to study the groundwater situation in Albemarle County and propose changes to the Comprehensive Plan or the ordinance to deal with these issues.

Mr. Finley commented that many committees seem to go on and on indefinitely.

Mr. Hirschmann said that it is important to give the committee objectives and a timeframe that they adhere to. He mentioned that there are a lot of technical questions that this committee will need to answer, and a technical committee can proceed more quickly than a "stakeholder" committee, where individual interests are represented. Mr. Hirschmann said that his recommendation would be to establish a technical committee that would have their results reviewed by a roundtable of existing stakeholder forums, such as the developers roundtable.

Mr. Rooker clarified his motion that the Commission recommends to the Board of Supervisors that a technical committee be appointed to review Mr. Hirschmann's report and such other matters as may be appropriate in developing a groundwater policy for Albemarle County with a view toward work on an ordinance that would ultimately incorporate the policies that are adopted.

Mr. Finley asked if the expertise was locally available to establish good technical guidelines.

Mr. Hirschmann said that he believes so, adding that he would also like to bring in some experts from out of town, such as Loudon.

Ms. Hopper commented that Mr. Hirschmann's report was very helpful, adding that she liked his idea of having grades of testing so that everyone is subject to some type of testing.

Mr. Hirschmann said that Mr. Kamptner would hopefully serve on the committee.

Mr. Kamptner noted that the attorney general ruled in 1997 that localities have the authority to establish regulations for this type of testing.

Mr. Rieley seconded the motion. The motion passed unanimously.

Mr. Thomas asked if Loudon County's groundwater situation was as bad as Albemarle's.

Mr. Hirschmann said that Loudon has bedrock like Albemarle, but they also have limestone. He noted that their development is also concentrated in certain areas of the county.

Mr. Thomas asked if the groundwater problem is a result of putting in so many wells.

Mr. Hirschmann responded that the problem relates to the underlying conditions, not solely related to density.

Commissioners thanked Mr. Hirschmann for the report.

Old Business

Mr. Finley mentioned that Mr. Loewenstein had requested that the Commission hold off on action on the **"Planning Commission Request for Information to be Submitted with Rezoning Applications,"** until he is present. Other Commissioners agreed.

Mr. Rooker mentioned that the county had prevailed in the Dudley Mountain cellular tower appeal to the Fourth Circuit Court of Appeals, and congratulated the county attorney's office on that "important victory."

New Business

Mr. Craddock complimented Mr. Cilimberg on his e-mails regarding the Monticello meeting.

Mr. Rooker asked Mr. Cilimberg if it would be possible to coordinate with other area agencies to make sure their meetings don't overlap with Commission meetings, noting the recent RWSA future water supply meeting, which was held at approximately the same time as the Commission's meeting.

Mr. Cilimberg said that there are so many meetings now, it is difficult to coordinate all meeting times. He added that staff is trying to "save" the Commission two Tuesdays a month, scheduling Commission meetings for the first and third Tuesdays a month, with the second and fourth Tuesdays potentially off. Mr. Cilimberg said that the meeting agendas would be heavier. He later noted that the Commission would soon be reviewing DISC's report in worksessions.

Mr. Rieley stated that he wants to see the Hydraulic Dental Building when it gets to the Site Plan phase.

Mr. Rooker asked if the Entrance Corridor extensions approved would be coming back to the Commission. Mr. Cilimberg stated that information on the EC extensions would be coming next week.

Ms. Hopper asked if the critical slope waiver for Westminster Canterbury was violated. Mr. Kamptner reported that Engineering is looking at the situation, adding that whatever the developer did was with the approval of the Engineering Department. Mr. Cilimberg mentioned that the prior site plan showed that no critical slope waiver request was made because Engineering had determined it was not necessary.

Mr. Finley commented that the discussion on the site plan for the Walnut Hills development was a good one.

Ms. Hopper asked if the Commission meeting agendas were printed in the newspaper. Mr. Cilimberg replied that they are in the *Charlottesville Observer* in the beginning of the month, but are subject to change. Ms. Golden added that the current agendas are posted on the website.

Mr. Kamptner noted that there are four other Zoning Text Amendments in addition to the Entrance Corridor item coming up next week.

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

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V. Wayne Cilimberg
Secretary