Albemarle County Planning Commission
April 25, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, April 25, 2000 in the County Office Building. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. Rodney Thomas; Mr. Jared Loewenstein; Mr. William Rieley; Mr. Pete Craddock; Ms. Tracey Hopper; Mr. Pete Anderson. Other officials present were: Mr. Wayne Cilimberg, Director of Planning & Community Development; Mr. David Benish, Chief of Community Development; Mr. Eric Morrisette, Senior Planner; Mr. Juandiego Wade, Transportation Planner; Ms. Margaret Pickart, Design Planner.

In honor of Secretaries Day, Mr. Finley recognized Ms. Golden's work for the Planning Commission.

Approval of Minutes – April 4, 2000
The Commission moved, seconded, and unanimously approved the minutes of April 4, 2000 as amended.

Review of Board of Supervisors Meeting – April 19, 2000
Mr. Cilimberg presented a review of the Board of Supervisors meeting. He reported that the Board approved the Glenmore rezoning with proffers as the Commission had recommended, and approved the Zoning Text change for the definition of "transmission lines"; the Townwood Mobile Home Park item was deferred until May 17th, and will come back before the Planning Commission because there were some adjacent property owners who were not originally notified. He added that the Charlottesville First Assembly of God application was deferred because of the applicant's absence; Stonegate at Western Ridge was also deferred because some signed proffers had not yet been received. Mr. Cilimberg reported that the A/F Districts for Batesville, Chalk Mountain, Moorman's River, and Jacob's run were approved.

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

Mr. Morrisette apologized for the mistake made in not notifying property owners adjacent to the Townwood Mobile Home Park.

Commissioners complimented Mr. Morrisette on the staff report for that item.

Consent Agenda:

SUB-99-309 Merriwether Lane Subdivision - Request for plat approval to create four (4) lots on a new internal private road. Property is located on approximately 27.784 acres zoned RA (Rural Area). It is described as Tax Map 58-Parcel 3J and is located on State Route 676 (Tilman Road) approximately 700' west of Loch Brae Lane. This property is located in the White Hall Magisterial District and is designated as Rural Area 3 as identified in the Comprehensive Plan.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of the Consent Agenda as presented. The motion passed in a 6-0 vote, with Ms. Hopper abstaining.

Public Hearing Items:

SP-99-77 Evergreen Baptist Church (Sign #84) – Request for a special use permit to allow for the conversion of an existing farm building to a church on 10.65 acres zoned RA, Rural Areas. The property, described as Tax Map 46, Parcel 38C is located off the eastern side of Proffit Road (Rt. 649), approximately 1,200 feet north of the railroad crossing. This property is located in the Rivanna Magisterial District and is not located within a designated Growth Area as outlined in the Comprehensive Plan. *Deferred from the April 18, 2000 Planning Commission meeting.*

SDP 00-016 Evergreen Baptist Church – One-way Circulation and Critical Slope Waiver - The property, described as Tax Map 46, Parcel 38C is located off the eastern side of Proffit Road (Rt. 649), approximately 1,200 feet north of the railroad crossing. This property is located in the Rivanna Magisterial District and is not located within a designated Growth Area as outlined in the Comprehensive Plan. *Deferred from the April 18, 2000 Planning Commission meeting.*

Mr. Loewenstein announced that he would not participate in the discussion and vote of SP 99-77 and SDP 00-016 because he has a personal interest in property that is in proximity to the Evergreen property.

Mr. Morrisette presented the staff report, noting that the church is requesting a 7,800 square foot church because they have exceeded the capacity of their existing church. He said that the parcel is currently owned by Dr. Hurt, and is an ideal location for the church because it is located within the Proffit District near the existing church. Mr. Morrisette said that on the site now is a pond; there is also an existing agricultural building that is used as a shop for agricultural equipment. At the front of the parcel is a small red barn, about 100 years old, which has been identified as a key historic structure in the Proffit Historic District. He explained that staff worked with the applicant to preserve and maintain the barn, and the church has agreed to maintain and preserve the barn, which is well beyond what they are required to do. Mr. Morrisette stated that staff feels the church use will be more aesthetically pleasing than the current agricultural use.

Mr. Morrisette said that a new entrance would be relocated away from the barn. He mentioned that the existing agricultural building is only19 feet from the northern property line, but staff felt that applying rural area setbacks instead of commercial is appropriate. Mr. Morrisette added that the rural setbacks would be applied to all new structures. Staff is requiring screening along the property line to the north, although the adjacent property is heavily wooded; therefore, staff has agreed to waive the screening requirement if the adjacent property owner submitted a letter stating that the screening is not necessary. Mr. Morrisette added that staff is requiring screening shrubs to be planted along the southern property line, primarily to diffuse headlight glare.

Mr. Morrisette explained that the current entrance to the property does not have commercial site distance, so there is a new entrance planned which will be aligned with Payne Jackson Drive. He emphasized that VDOT is adamant that there be a new commercial standard entrance, and wants to remove the existing entrance. Mr. Morrisette said that staff wants to leave the existing entrance by the barn, because that use will be very infrequent. However, VDOT was adamant about constructing a new driveway to the barn from the new entrance. He added that the church will seat 300, but staff still feels that the church is a community church, not an urban one. Mr. Morrisette reiterated the benefits of the application as outlined in his staff report. He added that the applicant's engineer worked on a design that has the least impact to the critical slopes area, and staff is recommending approval of the critical slopes, one-way circulation, and angled parking waivers.

Mr. Rooker asked for the size of the existing structure.

Mr. Morrisette replied that the structure is 6,276 square feet, with the new structure proposed to be 8,316 square feet.

Mr. Rooker noted that the staff recommends conditions that limit the building size.

Mr. Morrisette suggested that the applicant clarify the size of the proposed structure, as they requested a 7,800 square foot building.

Mr. Rieley asked if the parking lot would be paved or gravel.

Mr. Morrisette replied that it would be paved because of the volume of traffic.

Public comment was invited.

The applicant's representative, Mr. Katorah Rowell, addressed the Commission. He emphasized that he worked to plan the parking lot so it would disturb critical slopes as little as possible. Mr. Rowell noted that neither the parking lot nor the building itself disturb the critical slope, but creating a grade from the lot to prevent a drop-off does touch the slope. He added that they also worked to minimize the paved area, by designing one-way circulation and angled parking, rather than making it a 24-foot travelway on each side. Mr. Rowell noted that the new entrance is 25 feet below the location of the historic barn, and is not visible upon approaching the property from the west.

Mr. Rooker asked him to clarify the size of the building.

Mr. Rowell responded that the building is approximately 7,815 square feet, including porch overhangs and entrance.

Mr. Rooker suggested specificity in the conditions to ensure enough permitted square footage.

Mr. Rowell stated that 8,000 square feet would be sufficient.

Mr. Finley asked about the preservation of the barn.

Mr. Rowell explained that the church would like to preserve and maintain the barn. He stated that the barn is used for storage.

Mr. Rowell added that VDOT's desire to close the existing entrance to the barn necessitates the need for a new road across the frontage. He reported that he is going to try to convince VDOT officials that putting a gate and a lock to block the old entrance would be sufficient.

Mr. Morrisette suggested accommodating these negotiations in the wording of the conditions.

Ms. Hopper asked Mr. Rowell if there had been discussions about making the building design compatible with the barn.

Mr. Rowell presented a sketch of the proposed building's façade, and mentioned using materials similar to the barn in the construction of the building, as well as using similar colors.

Regarding the flexibility in the conditions for closing the existing entrance, Mr. Kamptner suggested adding language stating: "The existing entrance shall be removed entirely and its use shall be discontinued unless VDOT permits the entrance to remain as a gated entrance."

Mr. Rowell introduced Pastor Stanley Woodfolk.

Pastor Woodfolk addressed the Commission.

Mr. Rooker commented that the planned facility looks nice, and should be an addition to the community. He commended the applicant for his efforts to preserve the barn.

Mr. Thomas wished him luck with the road situation.

Mr. Craddock asked Mr. Woodfolk if the church owns the land.

Mr. Woodfolk replied that the church did.

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

MOTION: Mr. Thomas moved for approval of SP 99-77.

Mr. Rieley offered an amendment to the motion, adjusting Condition #2 to reflect 8,000 gross square feet, and suggested changing Condition #7 to state "the applicant shall install screening shrubbery or trees" to give that flexibility.

Mr. Morrisette explained that the property owner to the south did not want their view of the mountains blocked with large trees.

Mr. Rieley withdrew the second suggestion.

Mr. Rooker seconded the motion, with conditions as follows:

2. Total building square footage shall be limited to **8,000** gross square feet and have an assembly area of no more than 300 seats.
9. The existing entrance shall be removed entirely and its use shall be discontinued **unless VDOT permits the entrance to remain as a gated entrance. The church shall be accessed only by a new entrance that is aligned with Payne Jackson Drive and approved by VDOT….**

The motion passed in a 6-0 vote, with Mr. Loewenstein abstaining.

MOTION: Mr. Rooker moved, Mr. Rieley seconded approval of SDP 00-016 for grading on critical slopes, angled parking, and one-way circulation waivers. The motion passed in a 6-0 vote, with Mr. Loewenstein abstaining.

The Commission reconsidered SP 99-77 later in the meeting; it is included here for consistency.

Mr. Kamptner stated that the Commission needed to revisit SP 99-77 to make a change to Condition #9.

MOTION: Mr. Rooker moved, Mr. Craddock seconded a motion to reconsider SP 99-77. The motion passed in a 6-0 vote, with Mr. Loewenstein abstaining.

Mr. Kamptner stated that second sentence of Condition #9 needs to be amended to state "The church shall be accessed only by a new entrance that is aligned with Payne Jackson Drive and approved by VDOT," deleting the reference to the barn.

MOTION: Mr. Rooker moved, Mr. Rieley seconded amendment of Condition #9 associated with SP 99-77. The motion passed in a 6-0 vote, with Mr. Loewenstein abstaining.

SP-00-002 Unity Church (Sign #99) - Request for special use permit to allow for a church in accordance with Section 10-.2.2.35 of the Zoning Ordinance, which allows for church building and adjacent cemetery. The property, described as Tax Map 61 Parcels 4 and 4B, contains 4.44 acres, is located in the Jack Jouett Magisterial District on Hydraulic Road [Route #743] approximately 600 feet from Lambs Road (Rt. 657). The property is zoned RA-Rural Areas. The Comprehensive Plan designates this property as Rural Area 1.

Mr. Wade presented the staff report, noting that the request would allow construction of a church to accommodate 160 people. The church is located on the west side of Hydraulic Road, between Lambs Road and Earlysville Road, and is zoned Rural Areas. He mentioned that a special use permit and site plan were approved for a 300-seat church on this site in 1992 and 1993, but have since expired. Mr. Wade noted that the applicant does still hold a valid SP for a day care center. He stated that staff does recommend approval of the SP for the church.

Mr. Rooker asked which of the paved areas is being added, and which already exist.

Mr. Wade replied that nothing is paved now; it's all gravel. He noted on a map presented what parking areas are proposed to be added.

Public comment was invited.

The applicant, H. McDaniel Ball, a member of the church, addressed the Commission. He stated that he would like to make two adjustments to the application: increase size to accommodate 200 people; eliminate restriction on youth activities from the proposed one a day per week.

Mr. Rooker asked Mr. Ball if he had any idea what extent the facility would be used for youth activities.

Mr. Ball replied that the church has been approved for use as a school during the week, adding that they would like to have maximum use of the facility by the community.

Mr. Rooker asked what building the day care activities would be held in.

Mr. Ball explained that one building on site was once used as a Montessori School, and now could be used for day care activities. He added that another building on the property could also be used as a school.

Mr. Wade clarified that the applicant has approval for a day care center in a building on the site that previously housed a day care center, adding that if they want the day care center to be in the proposed church, they need to reapply for that specific use. "That was not part of our review."

Ms. Hopper asked about a condition of the previously approved SP for the church, which stated that "adult education classes not incidental to Sunday services shall not exceed three per week, and shall not exceed 20 people per class."

Mr. Cilimberg clarified that the Board's actual approval of the SP did not include that condition.

Mr. Rooker asked if there have typically been limitations on day care activities and school activities that are approved in churches and rural areas.

Mr. Cilimberg answered that churches can have normal associated church activities as part of their SPs; not included in those activities are day care centers and private schools. He commented that the applicant still has day care approval for one building on the site that is still valid; day care in any other building on the site would require another application. He added that if the Commission is receptive to the idea of the existing building being used for youth activities more than one day per week, they could specify in Condition #1 that the youth activities be those associated with the church.

Ms. Hopper asked about the applicant's request to increase the seating from 160 to 200.

Mr. Rieley asked Mr. Wade if he felt his review was adequate, given the increase in size.

Mr. Wade replied that an application for 200 seats would not have changed his review.

Mr. Rieley asked if the increase has an impact on parking requirements.

Noting that the church had previously been approved for 300 seats, Mr. Wade responded that he did not feel it would be a problem, and would be reviewed at the site plan level.

Mr. Cilimberg said that the most potentially limiting problem is the ultimate septic system approval by the health department; the church can only build as many seats as allowed by the health department.

Mr. Ball asked about having a small Montessori School on the site.

Mr. Cilimberg responded that that would require a separate special use permit, as a private school.

Ms. Hopper asked about including the VDOT recommendations as conditions.

Mr. Wade replied that it could be conditioned, although it is required whether it is spelled out or not.

Mr. Cilimberg stated that it is a site plan requirement.

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

MOTION: Mr. Rooker moved, Ms. Hopper seconded approval of SP 00-002 with conditions modified as follows:

1. Use shall be limited to a maximum 200-seat sanctuary and use of the Existing Building 2 for youth activities **normally associates with a church use**;
2. Construction of the **200-seat** sanctuary shall commence within four (4) years or approval for the new structure shall expire;

The motion passed unanimously.

SP-00-008 Blue Ridge Garden Market—Country Store (Sign #45) - Request for special use permit to reestablish a country store in accordance with Section 10.2.2.22 of the Zoning Ordinance which allows for country stores in the Rural Areas District. The property, described as Tax Map 71, Parcel 4a1, contains .68 acres, and is located in the Samuel Miller Magisterial District on the south side of Rockfish Gap Turnpike [Route # 250 West] approximately 1/2 mile west of the intersection with I-64. The property is zoned RA Rural Areas and EC Entrance Corridor. The Comprehensive Plan designates this property as Rural Area 3.

SP-00-009 Blue Ridge Garden Market (Sign #46)– Outdoor Storage (Sign #46) - .Request for special use permit to allow outdoor display in the Entrance Corridors in accordance with Section 30.6.3.2.b of the Zoning Ordinance which allows for outdoor storage, display and/or sales visible from an EC street. The property, described as Tax Map 71, Parcel 4A1, contains .68 acres, and is located in the Samuel Miller Magisterial District at 6701 Rockfish Gap Turnpike [south side of Route # 250 West] approximately 1/2 mile from the intersection with I-64. The property is zoned RA Rural Areas and EC Entrance Corridor. The Comprehensive Plan designates this property as Rural Area 3.

Ms. Pickart presented the staff report, noting that the request is for two special use permits for the Blue Ridge Garden Market, west of the 250 West intersection with 1-64. She noted that the market burned in October 1999, and the owner can build the nonconforming structure as it existed before it burned without meeting any new regulations. However, the applicants would prefer to improve the property, which would be evident in the safety and general appearance of the property, as well as the building area. She explained that the applicant also wants to continue the display of products for sale outdoors, but there is no proposed expansion of that use; staff has suggested that the applicants obtain a permit for outdoor display to make that use conforming. The display is proposed to occur on the porch, and the area between the porch and the parking spaces.

Ms. Pickart noted that the ARB has reviewed the request for outdoor display and the plan for the new building; the ARB voted to approve the SP with conditions as listed in the staff report; they also had favorable comments on the building design, and the final building and site design will return to them for additional review.

Ms. Pickart stated that staff does not anticipate the proposed uses to have any negative impact on the adjacent uses, and the proposal is expected to improve the site conditions by setting the building back further from the road, and by clearly delineating parking spaces and improving the general character and appearance of the site. She added that the proposed shifting of the building back from the road will move it closer to the western property line, which is not permitted because of setback requirements, so the building will have to move further to the east than is shown on the sketch plan right now, or the property boundaries will have to be adjusted. VDOT has indicated that a commercial entrance will be required for this site, which requires that a site plan be prepared.

Ms. Pickart noted that the applicant has indicated that costs associated with the creation of a site plan and the commercial entrance may cause them to withdraw the application. Staff recommends approval of both SP's with the conditions recommended in the staff report.

Ms. Hopper asked, "The requirements that would make a site plan necessary might be imposed by VDOT?"

Ms. Pickart replied that the commercial entrance requirement necessitates a site plan; also, there are other parking requirements – depending on the size of the building – that could also make a site plan required. She added that there will need to be ARB final approval of the plan.

Mr. Finley asked if the lots are in a flood plain.

Mr. Cilimberg explained that Flood Zone "C" is denoted for areas beyond the floodplain.

Mr. Craddock asked about the staff report information that shows the proposed facility going into the same lot.

Ms. Pickart explained that the adjacent lot would host parking and one of the entrances, adding that both lots are owned by the same people. She added that the lots could be combined, and if the parking and entrance are on the adjacent parcel, an offsite parking waiver and entrance access easement would be required.

Mr. Cilimberg mentioned that these would have to come back before the Commission. He explained that the simplest thing the owners could do would be combine the parcels, which would eliminate the need for offsite parking waiver.

Public comment was invited.

The applicants, David and Nina Atwell, addressed the Commission.

Mr. Thomas asked if they plan to shift the building to meet the setback requirements.

Ms. Atwell responded that they are likely to do that, because combining the lots would not be a favorable scenario, because of county regulations that would essentially preclude them from constructing a building on the lots if they were combined.

Mr. Rieley asked if the Commission could grant the offsite parking waiver without a separate application.

Mr. Cilimberg responded that offsite parking is generally addressed during the site plan stage.

Mr. Finley asked if the old building burned completely.

Mr. Atwell replied that they had owned and operated the building for 5 weeks when the fire occurred.

Mr. Craddock commented that the proposed new building appears nice.

Mr. Finley commented that his wife had been in the old building before it burned, and was now quite pleased that it is being restored.

Mr. Atwell said that they have received lots of community support for their project, but the VDOT requirements for a commercial entrance and site plan might be too financially prohibitive. He mentioned that zoning officials and Ms. Pickart have been very helpful in the process.

Ms. Atwell said that when they decided to apply for a special use permit, they had proceeded with the hope that they would not have to get a certified site plan.

Mr. Rieley asked if the Commission could grant a site plan waiver.

Mr. Cilimberg said that the Commission could grant a site plan waiver, but could not waive the requirements for a commercial entrance, etc.

Mr. Cilimberg pointed out that it is the VDOT requirements for a commercial entrance that would have the greatest financial impact.

Mr. Craddock asked if the new entrance would impact the existing well.

Ms. Atwell responded that the health department has indicated they need a new well anyway.

Mr. Cilimberg mentioned that the special use permit does not have a requirement for a commercial entrance as recommended by VDOT. "I think it's something we can continue to address at the site plan level, or whatever level they use in site plan requests. It's going to have to be addressed." He added that some level of site plan review would definitely be necessary.

Mr. Atwell asked what would be required for his application to be a site plan.

Mr. Cilimberg suggested discussing that with the site review committee.

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

Mr. Thomas asked what permit previously applied to the property.

Mr. Rooker pointed out that the use predated the ordinance.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of SP 00-008 with conditions as presented by staff. The motion passed unanimously.

MOTION: Mr. Rooker moved, Mr. Loewenstein seconded approval of SP 00-009 with conditions as presented by staff. The motion passed unanimously.

SP-00-010 Charlottesville Catholic School (Sign #47) - Request to amend the conditions of an existing special use permit to allow an increase in enrollment from 180 to 220 for the 2000-2001 school year in accordance with Section 20.4.2 of the Zoning Ordinance which allows for Private School. The property, described as Tax Map 61X2 Parcel 4B contains 2.314 acres, and is located in the Rio Magisterial District on Four Seasons Drive Road, approximately one-quarter mile from intersection of Four Seasons Drive and Hydraulic Road. The property is zoned PUD (Planned Unit Development). The Comprehensive Plan designates this property for Urban Density Residential use in Development Area One.

Mr. Benish presented the staff report. He explained that the proposal would expand the enrollment to no more than 220 students for the 2000-01 school year only. Mr. Benish reported that the Board approved an SP for the school on this site in May 1998 on a temporary basis until the permanent facility located on Rio Road was completed. The applicant is requesting the enrollment increase for the temporary facility, and believes there is adequate space to accommodate the additional students. Staff opinion is that there are no significant issues of concern with this proposal, especially given the temporary nature of the request; the SP will expire June 30, 2001, at which time the permanent facility is expected to be complete. The applicant is not requesting any changes to the exterior of the building, and it is anticipated that traffic impact will not be significant. Staff recommends approval with conditions as outlined in the staff report.

Mr. Thomas asked if ACAC was still using the pool at the school.

Mr. Benish said that his understanding is that ACAC uses the pool in the summer.

Mr. Finley asked about the capacity of the new building on Rio Road.

Mr. Benish said he was not certain.

Public comment was invited.

The applicant's representative, Heidi Parker, addressed the Commission. She explained that the request is just to change one of three conditions previously imposed, noting that there are 42 children on the wait list. Ms. Parker emphasized that the change would only apply for one year, until the permanent facility is complete. She added that school officials have spoken with the presidents of the Four Seasons Townhouse Association and the Four Seasons Patio Homes Association, who have supported the school's request in writing. Both have expressed their support of the school. Ms. Parker noted that there has been one complaint received – two weeks ago – from an adjoining landowner, who expressed concern about the school's dismissal process. That landowner's concerns have been addressed by an explanation from school officials on the reason for the dismissal procedures. Ms. Parker asked people attending the meeting in support of the application to stand. They did so.

Ms. Hopper asked about the change from double-shift lunch/recesses to triple-shift lunch/recesses.

Mr. Baucher, principal of the Charlottesville Catholic School, explained that they are trying to keep the lunch and recess sizes the same, and adding a third shift will do this, by compressing the times. He said that the school is currently Kindergarten through 5th grade, and they plan to add one grade each year at the top end, so that there will be a gradual change in the character of the school.

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

MOTION: Mr. Rooker moved, Mr. Loewenstein seconded approval of SP 00-010 with conditions as recommended by staff:
1. Maximum enrollment **shall be** 220 students.

The motion passed unanimously.

ZTA-99-06 Althea Hurt - An Ordinance to Amend Section 5.1.17 Tourist Lodging Of The Zoning Ordinance To Allow For Weddings, Special Events, Corporate Meetings And Other Events.

Mr. Benish presented the staff report, explaining that the item is coming before the Commission and Board at this time to address the status of the review and get indication whether to further pursue the Zoning Text Amendment. Mr. Benish reported that Tourist Lodging was introduced into the Zoning Ordinance in the 1970's, in response to the need for facilities. He noted that the use currently has a limited definition, and is permitted in the Rural Areas and Residential Areas by right. Mr. Benish stated that staff opinion is that permitting weddings, special events, corporate meetings, and other events intended for large congregations of people by-right in the RA and all residential districts would be "a significant departure" from the original intent of Tourist Lodging, and would differ from other past actions regarding these uses in the Rural Areas. Staff feels that this provision for Tourist Lodging should not be pursued.

Mr. Benish noted that the applicant seems to be seeking an amendment more appropriate for Rural Areas zones, to allow a use more akin to an inn or restaurant, which is currently restricted to historic landmarks that have been in use as inns or restaurants. Mr. Benish emphasized that this is an ordinance amendment, and is not restricted to the applicant's proposal. "We are looking at the general Text Amendment, and not a specific applicant's request…" He added that ZTA's for uses of this nature have been consistently denied in the Rural Areas under the prior and current Comprehensive Plan policies, and commercial uses in the Rural Areas have been further restricted over time.

Mr. Benish concluded that staff is unable to recommend an amendment in any form. He did mention two changes in circumstance that may impact this: the development of the economic development policy, which discusses supporting tourist activities in the county; and the proposed historic preservation plan, which mention these types of uses as possible ways to support historic structures in the Rural Areas. Mr. Benish added that the petition has been analyzed based on the current policies of the Comprehensive Plan; when Planning is back to full staff, a review of the Rural Areas section of the Comp. Plan will probably be undertaken. "We feel that it would be more appropriate to look at the policy implications and the policy direction – both from historic preservation and the Rural Areas review of the Comprehensive Plan – before we begin to make piecemeal changes to our Zoning Ordinance.

Mr. Loewenstein commented that having the Historic Preservation Committee review the application for its input would be outside the committee's purview. As a member of the committee, Mr. Loewenstein explained that the committee was charged with coming up with recommendations embodied in the Comprehensive Plan and Historic Preservation Ordinance that are now proposed. "I don't think at this point, we'd be likely to feel very comfortable trying to deal with individual applications like this, which is not really part of the committee's authority." He mentioned that Ms. Pickart would probably be an appropriate source for comments regarding this application.

Mr. Loewenstein asked if the applicant's request is what has facilitated the discussion of a ZTA.

Mr. Benish explained that the applicant made application in August; in December, there was an agreement to defer; the planner who was working on the proposal was trying to keep it in track with the historic preservation plan because there were some key recommendations in the plan that were relevant to the justification for this sort of change. He said that review of the Historic Preservation Plan continues, but the applicant wants some definitive response on her specific request. "Based on historic decisions we've made on current policies, it would be difficult to support this sort of change."

Mr. Benish said he spoke with the applicant the day before this meeting, and she did not seem to want to defer the item again.

Mr. Rooker asked if the current Zoning Ordinance does not permit the activity applied for either by right or by Special Use Permit.

Mr. Benish confirmed this, adding that these events are permitted by-right if the property is a farm/winery. He added that Inns and Historic Properties can have occasional special events.

Mr. Cilimberg said that that applies to Inns and Restaurants that are located within historic landmarks. "It has to be traditionally an inn or restaurant or tavern. It has to be a historic landmark, designated. We don't have that in this case."

Mr. Benish added that the most appropriate amendment for this type of use is probably to amend the uses in the Rural Areas. He mentioned that Tourist Lodging is a small scale use, with minimal external impact.

Mr. Finley asked if Bed & Breakfast was a permitted use.

Staff confirmed that this falls cleanly into Tourist Lodging.

Mr. Finley mentioned that he passed one large dwelling in Free Union, and saw about 45 cars there. "Can't people pretty much have that type of a gathering…a wedding?"

Mr. Benish said that private events are permitted, but this application is for a business.

Mr. Finley asked if it would be possible for someone to rent the home for a wedding.

Mr. Benish replied that that would constitute a commercial activity, adding that it becomes an enforcement issue, because people probably could occasionally rent their home out for a party without anyone noticing. However, continual use in this fashion could have an impact.

Ms. Hopper commented that she views this proposed use as an alternative use for properties in the Rural Areas, adding that the ZTA seems to be "terribly broad." She added, "If there were going to be such a special type of use to encourage preservation, it would seem to me it would need to be very narrow and tightly regulated so you didn't open up the doors to all these types of uses that have been found to be inconsistent with the Comprehensive Plan."

Mr. Benish noted that in reviewing ZTA's, particular applications are set aside. "This is looked at first as a Text Amendment for overall application to the county, so a particular site…is sort of set aside."

Mr. Cilimberg added, "You don't want to make your Zoning Text Amendment site-specific. That's very dangerous."

Mr. Loewenstein commented that the Historic Preservation Committee would probably agree with staff's comment that there has to be a balance struck between creative adaptive re-use of historic structures and overemphasizing that kind of use, which will encourage further commercial development, and may eventually lead to increased commercial development of sites that may not be appropriate. "I think a ZTA of this kind would have to be carefully crafted, and the language would have to be very carefully balanced."

Mr. Cilimberg said that there are frequent recommended alternative uses for the Rural Areas, such as a recent proposal for a bike course, and proposals to use large estates health resorts.

Referencing the Planning Commission Recommended Economic Development Policy, Mr. Finley noted that while the agricultural nature of the area makes it attractive to people and business, that does not necessarily make it profitable. He noted that the $15 million in agricultural sales from the county are just a small part of total county sales. Mr. Finley said that the county seems to be narrowing its viewpoint of acceptable uses in the rural areas, instead of broadening them. "There may be ways that the agricultural people can survive…so that [they] can begin to participate in this profit from tourism…right now, it's just about non-profit."

Mr. Benish said that the Board of Supervisors has directed staff to look at compatible uses in the Agricultural/Forestal Districts during the Rural Areas reviews. "We do recognize that this may be a viable use in the Rural Areas…there is a staff concern that looking at this one aspect before we…[adopt] the Historic Preservation Plan and Rural Areas review, that the timing of this may be a little bit off."

Mr. Craddock asked if the ZTA to allow a Rural Retreat was ever approved.

Staff indicated that it had not been approved.

Mr. Rooker mentioned that what is being asked for by this application is contrary to the clear direction that the Board of Supervisors has historically taken up to now. "It would be a clear change of direction." He added that there should be a special use permit type of approach for this, not a by-right allowance. Mr. Rooker said that he agreed with staff's opinion that the issue should be looked at in the context of overall changes in policy, not in isolation. He commented that deferral may be the wiser course.

Mr. Loewenstein said that he is glad this issue has come up, because there will soon be information forthcoming about the Rural Areas and Historic Preservation. "Looking at this…will help us remember this type of use, this type of area, this type of property." He agreed that the timing of this may be a little off.

Mr. Finley agreed, adding that the Board of Supervisors may strike it down even if the Commission did approve it. He added, "The word 'commercial' should not be a bad word in the Rural Areas only."

Mr. Loewenstein pointed out that the tourist dollars spent in Albemarle do benefit the entire community.

Mr. Craddock asked if Zoning Text Amendments go on forever.

Mr. Cilimberg replied that Albemarle is one of the few localities in Virginia that entertains applications for Comp. Plan and Zoning Text Amendments. He said that it is not a requirement under Virginia Law, as it is always introduced by the Planning Commission or Board of Supervisors. Mr. Cilimberg added that no action is required, although it is only fair to the applicants that the matters be addressed. "There is no time frame in which this has to be acted on, and no public hearing requirement." He noted that once a ZTA is approved, it becomes part of the Ordinance until further amended.

The applicant, Ms. Althea Hurt, proprietor of Fairview Farm, addressed the Commission. She reviewed the history of her application, stating that she first applied last August, and was told by someone in Zoning that her proposal "would have a lot of support," as it was a "great way to keep historic properties up." Ms. Hurt filled out the application, and paid $1,000. She explained that the week of January 6th, she got a call from Mr. Keeler saying that she should delay the application as she would be turned down. Ms. Hurt agreed. She stated that she had just received the staff report the day before this meeting, and found out that Mr. Keeler is no longer with Planning, and was told she had "been lost in the shuffle." Ms. Hurt said that Mr. Benish suggested that she might want to defer it.

Ms. Hurt said that she inherited the farm 10 years ago, and cannot afford it. She said that there are ten tenant houses on the property, and she mortgaged the farm to renovate them and rent them out. Ms. Hurt pointed out in a sketch where the cropland on the property is, and where the open yard is, as well as outbuildings on the property. She added that Milton Gregg designed the large home for Dr. Manahan when he was Dean of the School of Education at U.Va. Ms. Hurt said that the farm was once a functioning farm, adding that the rooms in the home are quite large, too large for the home to become just

a rental. "It's a very pretty house, with big public rooms." She indicated that several people have suggested she rent the home out for weddings.

Ms. Hurt said that she does not want to run a restaurant or bed & breakfast. "I just want to rent it out on weekends so that I can restore my poolhouse, and plant trees, and hang onto it long enough so that…I can live there." Ms. Hurt added that she was told by county staff to apply for a text amendment because a special use permit to allow the use would not be allowed. She said that her proposal would be a good test case because she has no neighbors, and the road is suitable for traffic. Ms. Hurt said that light pollution is not a problem, adding that the elementary school across the street has very bright lights. She said that the noise level on her farm would also be low. Ms. Hurt emphasized that her farm could be used as an example for uses on comparable properties such as the Silver Thatch Inn and Phantom Farm on Ridge Road. She added that her farm has large well and sewer capacities, as it was once a working dairy farm, and was also used as an adult care center by Region Ten.

Ms. Hurt concluded that she would not make any changes to the exterior of the building.

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

Mr. Rooker suggested simply taking no action on the item until the report on the Rural Areas is received, to see how the issue of alternative uses is dealt with. "I think we can shape it at that point also. I think the applicant makes some good points, generally. I think Mr. Finley made some good points that you have to be [open] to reasonable uses in the Rural Areas. At the same time, we need to recognize that the issues being presented become issues of general applicability. They don't apply just to a particular property."

Mr. Loewenstein said, "If we defer this as opposed to taking no action, it doesn't go on to the Board. If we take no action, it does."

Mr. Cilimberg said that it doesn't necessarily go on to the Board. He stated that there is no harm in deferring, but if the Commission did defer, they might want staff to take this up during the review of the Rural Areas.

Mr. Loewenstein suggested that explaining that specific point in requesting the deferral would get it into the record so it could be referred to later on.

Mr. Rooker pointed out that the issue of weddings and other events scheduled on a regular basis is being raised with respect to the study of the Rural Areas presently going on. "It's not really a new issue, we just happen to have an applicant that is looking at that particular issue for her property."

Mr. Finley asked what the time frame would be if it were deferred.

Mr. Cilimberg suggested indefinite deferral.

Mr. Benish said that it would take a while to get through the Rural Areas section of the Plan. "I think we have to wait until we get into the Rural Areas review to really tell what the time frame is."

Ms. Hurt asked, "Is there any way I can do this, in any other way?"

Mr. Rooker asked if the use the applicant is requesting is permitted by special use permit under the ordinance.

Mr. Benish replied that his understanding is "no" according to the zoning department.

Mr. Cilimberg apologized for any indication given from zoning that this would be a good idea. "No one in zoning should be saying anything like that…if there was any indication given, I apologize."

Mr. Finley asked if there was any commercial activity that could work under present zoning on her property.

Mr. Benish said that if her property came onto the register as a historic structure, special events on occasion can occur. He indicated that he wants to confirm this with zoning.

Mr. Cilimberg clarified that it would have to be established that the property had historically been an inn or restaurant for that to apply.

Mr. Rieley stated that he is "extremely sympathetic to the plight and the solution." He added, "It seems to me to be reasonable. 250 vehicle trips per day, if that's what it amounts to on the peak times wouldn't even get this driveway into the lowest category of roadway. We looked at a swimming pool a couple of weeks ago that would generate more traffic than that." Mr. Rieley continued that the proposed use "seems appropriate to the scale, the character" of the property. He added that the best way would be to go through the Comp. Plan and Historic Preservation processes, but it "may be too late" for a particular property. He acknowledged that any Zoning Text Amendment should be tied to a Special Use Permit process, because while it may be reasonable on one property, it may not be on another property.

Mr. Rieley emphasized, "I hope that we will keep this actively alive and not be too worried if things go out of sequence a little bit, if we can reassure ourselves as we're going through this process that we're not jumping ahead and making a mistake."

Mr. Kamptner pointed out that you can adopt regulations pertinent to a ZTA that would apply across the board, plus the conditions imposed as part of a special use permit, such as the case of farm/wineries.

Mr. Kamptner clarified that the applicant can initiate the zoning amendment process under Virginia law.

Mr. Loewenstein said that the alternative to deferring the item or taking no action might be to pass a Resolution of Intent, or see the item again, if the Commission agrees they want to pursue this with a caveat that the ZTA would be tied to a special use permit process.

Mr. Rooker pointed out that the Commission's charge at this point is to consider whether staff should look into the ZTA and come back with proposed language for a change. He emphasized that the Board has historically drawn the line on what should be permitted in the Rural Areas. "This clearly falls on the side of things that they don't want to permit in the Rural Areas….that is the history at this point."

Mr. Rieley agreed, but emphasized that the county is reevaluating the kinds of activities appropriate in the Rural Areas and historic properties. "I don't know why these can't be pursued in a parallel course, rather than sequentially, if we're discussing the same issues…"

Mr. Benish agreed that this could be done. "I don't know that we'd have to wait until we're completely done with the Rural Areas review." He mentioned that he process equates with the process undertaken for Comprehensive Plan Amendments for land uses, where the rezoning is not done without a review of the CP.

Mr. Rooker mentioned that the property is not designated historic, so the Historic Preservation Plan may not be applicable.

Mr. Anderson said that it probably could be designated historic.

Ms. Hopper pointed out that there were lots of sites identified, but not designated, in the Historic Preservation policy that the Commission reviewed.

Mr. Loewenstein confirmed that this site has been identified as a potential historic resource.

Mr. Rieley suggested that staff also explore not just the ZTA, but ways to modify other provisions in the ordinance to make this possible. "It strikes me as perhaps a little overly restrictive to say that a historic building can only be used for a restaurant if it can be shown that it was a restaurant historically….if there's a way in which we can adjust the language of the current zoning in ways that are different from this particular ZTA that would allow some flexibility….while we continue to wrestle with the more global issues, I think it would be in everybody's best interest."

Mr. Rooker said that attaching conditions that have to be met in order to be considered for a special use permit would be important. If not, "You could completely change the character of the rural area very quickly."

Mr. Finley asked Mr. Kamptner how the Commission could proceed.

Mr. Kamptner replied that the clock is not running yet on time, because this is a ZTA. He said that there needs to be a Resolution of Intent from the Commission or the Board to start the clock. Mr. Kamptner said that at this point, the Commission could determine that it is premature to adopt a Resolution of Intent for the ZTA, or could make a recommendation to the Board on what's before them.

Mr. Rooker suggested making a recommendation to staff to come back to the Commission with a further report and some suggested language of a Text Amendment.

Mr. Rieley asked Mr. Benish if he had sufficient information from their discussions to proceed.

Mr. Benish responded that he needs direction as to whether staff should be working on a particular type of use as an amendment to the Zoning Ordinance based on current Comprehensive Plan policies. He added that he would also go back to the Zoning Administrator and review the use to see if minor modifications might be permitted under certain types of uses. He asked the Commission if this particular use should be reviewed in isolation from all the other listed uses identified as needing discussion for the Rural Areas. "We feel that it might be better to have the broader discussion of establishing a vision for the Rural Areas and…to what extent do we permit these types of uses in the Rural Areas." Mr. Benish mentioned that there have been recent Board actions that have limited Rural Areas uses.

Mr. Rieley said he would like to see the issue explored to see what avenues and flexibility there is. "These are issues that we wrestle with all the time. We just approved a saddle-manufacturing plant in the Rural Area because we felt that it was a use that was consistent. If we can find a way to conveniently expand one of these categories in a way that will allow this use – if we think it's reasonable – it seems to me it would be good to move it in that direction."

Mr. Rooker asked fellow Commissioners whether they wanted to pull one suggested use out in isolation and have staff prepared text changes to permit weddings and other special events, or if they wanted the whole section of the Comprehensive Plan to be pulled out and reviewed. "We're talking about perhaps telling staff to prepare a Zoning Ordinance Amendment that would be somewhat in conflict with the Comprehensive Plan…it may be an appealing case here to look at, but we also need to think about procedurally is that the way to go after a Zoning Text Amendment."

Mr. Finley said that the applicant has initiated a Zoning Text Amendment request on a survival basis. "We can sit here and be very broad, but [I agree with Mr. Rieley] that this should be discussed."

Mr. Rooker asked if staff should be asked to make recommendations on just the one item, or on all of the proposed uses. He added that perhaps the Commission should look at the broad area of the Comprehensive Plan, rather than just a single isolated issue.

Mr. Rieley agreed, adding that evaluating the item in the context of the Comprehensive Plan would be helpful.

Mr. Cilimberg said that the Commission seems to be indicating that the question of possible uses should be reviewed first, and what might be done in Zoning Text could be in concert with that. He added that there are other avenues that need to be explored with Zoning. He suggested that the Commission defer, so that staff could look at other options, while reviewing the uses allowed in the Rural Areas. Mr. Cilimberg said that indefinite deferral would be preferable.

Mr. Rooker encouraged the applicant to pursue the item again if a certain period of time elapses without any movement on the item.

Mr. Finley asked if Ms. Hurt wanted to re-address the Commission.

Ms. Hurt expresses her surprise at the Commission's empathy for her plight. "I'm very sympathetic to all the arguments you've brought, but I feel that what I want to do is so appropriate to what you want to do and what the community would like." She added that her farm could be a great test case for uses on other properties in the Rural Area. Ms. Hurt thanked the Commission for their help.

Mr. Rieley encouraged Ms. Hurt to be involved with the parallel explorations of the Comprehensive Plan and Historic Preservation components.

Ms. Hurt said that she wasn't aware that her property would qualify as historic because it was just built in the 1940's.

Mr. Anderson and Mr. Loewenstein indicated that it would be old enough to qualify.

Mr. Loewenstein said that this property probably is a good location for this type of use, adding that this situation fits in nicely for the larger issues the county is facing.

Mr. Craddock said that this appears to be a great adaptive use for the property, and wondered if there was a temporary permit that could be granted.

Ms. Hopper asked if variance was possible.

Staff indicated that there was not a mechanism to allow this.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of indefinite deferral of ZTA 99-06 with a request to staff to expedite a review the section of the Comprehensive Plan regarding uses of properties in the Rural Areas, with a view toward making some specific recommendations that might encompass this specific application. Staff agreed to simultaneously talk with the Zoning Administrator about other options for the applicant of this particular property.

The motion passed unanimously.

Old Business

Mr. Benish reported that Townwood would be reviewed again at the Commission's May 2nd meeting.

New Business

There was no new business presented.

There being no further business, the meeting adjourned at 8:45 p.m.

V. Wayne Cilimberg
Secretary