Albemarle County Planning Commission
October 3, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, October 3, 2000 in the County Office Building. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Mr. Pete Craddock; Mr. Rodney Thomas; Mr. Jared Loewenstein, Ms. Tracey Hopper. Other officials present were: Mr. Wayne Cilimberg, Director of Planning and Community Development; Ms. Elaine Echols, Senior Planner; Ms. Joan McDowell, Planner; Mr. Steven Waller, Planner; Mr. Greg Kamptner, Assistant County Attorney; Mr. Steve Snell, County Engineering.

DISC Worksession – Section 2 of the Neighborhood Model [Changing the "Form" of Development and Why].

Commissioners held a worksession on Section 2 of the Neighborhood Model.

Approval of Minutes – September 12, 2000
The Commission moved, seconded, and unanimously approved the minutes of September 12, 2000 as amended.

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

Consent Agenda:

SDP 99-149: Chestnut Grove Baptist Church Site Plan Waiver Request – Request to construct 34 additional parking spaces and relocate an existing entrance to obtain better sight distance on property zoned RA, Rural Areas. The property, described as Tax Map 19, Parcel 17, is located on the southwestern corner of the Route 664 (Simmons Gap Road)/Route 663 (Buck Mountain Road) intersection. This property is located in the White Hall Magisterial District and Rural Area 1 of the Comprehensive Plan.

SUB 99-188 Elena Toro Waiver Request - Request for waiver of Subdivision Ordinance Section 14-505(A) which prohibits more than one driveway access onto a public road in a subdivision. Property is located on approximately 35.669 acres zoned RA (Rural Area). It is described as Tax Map 98-Parcels 11A & 11F and is located on State Route 29 (Monacan Trail Road). This property is located in the Samuel Miller Magisterial District and is designated for Rural Area uses in Rural Area 3 as identified in the Comprehensive Plan.

MOTION: Mr. Rieley moved, Mr. Loewenstein seconded approval of the Consent Agenda as presented. The motion passed unanimously.

Item Requesting Deferral:

SP-2000-42 Triton PCS CVR 350C (Bailey) (Sign #42 & 43) - Applicant seeks approval to allow construction of a 115 foot tall wooden telecommunications pole, in accordance with Section [10.2.2.6] of the Zoning Ordinance. The property, described as Tax Map 58-Parcel 54, contains approximately 2.2 acres, and is located in the Samuel Miller Magisterial District on Old Turner Mountain Road approximately 1/4 mile northeast of the intersection with Tilman Road [Route 676]. The property is zoned RA, Rural Areas, and the Comprehensive Plan designates this property as Rural Area 3. *Applicant requests indefinite deferral.*

Mr. Loewenstein asked if the item would eventually come back to the Commission.

Mr. Cilimberg said he expects it to come back, but he is not sure when.

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

MOTION: Mr. Loewenstein moved, Ms. Hopper seconded approval of indefinite deferral of SP 2000-42 as requested by the applicant. The motion passed unanimously.

Deferred Items:

SP-2000-43 Rodgers Residence (Agricultural/Tutorial) (Sign # 23 & 24) - Request for a special use permit to allow a private school in accordance with Section 10.2.2..5 of the Zoning Ordinance, which allows for private schools. The property, described as Tax Map 94 Parcels 31A, 31B, 31C, and 31D, contains 12.17 acres, and is located in the Rivanna Magisterial District on Union Mills Road [Route 616] at the intersection of Union Mills Road and Richmond Road [Route 250].The property is zoned Rural Areas [RA]. The Comprehensive Plan designates this property as open space in Rural Area 2. *Deferred from the August 29, 2000 Planning Commission meeting.*

Mr. Wade presented the staff report, noting that this is a request to establish a private school at an existing home located in the Union Mills area; the school is proposed to be a non-profit tutoring and enrichment center. Mr. Wade reported that the school plans to have 15 students in the first year, and 80 within 5 years. He stated that staff is recommending denial of the request due to the ultimate size of the private school; the Land Use Plan encourages schools of this size to be located in Development Areas where public utilities, services, and infrastructure can better accommodate the proposed level of activity. Mr. Wade said that the plan represents a more intensive use than those encouraged under the intent of the Rural Areas district. He stated that the Health Department has suggested that a public water/sewer system be required if the school reaches its ultimate size.

Mr. Wade noted that staff has identified 7 private school requests in the Rural Areas in the past three years: three were approved, two of which were in buildings previously used as county schools; one was an expansion of an existing school. Others were withdrawn. Mr. Wade stated that staff does not support the location of the proposed school, but offered conditions in the event the Commission would recommend approval: 1) approval from the Health Department; 2) enrollment not to exceed 80 students; 3) submittal of a site plan; 4) approval from county building officials; 5) general operating hours of between 8:00 a.m. and 6:00 p.m.

Mr. Rooker asked if a lesser number of students would be more acceptable, noting that the primary basis for denial was the larger enrollment.

Mr. Wade replied that staff was unable to come up with an exact number, and recommended that the Health Department dictate acceptable enrollment. He added that staff feels the ultimate size of the school should not be in that location, and recommends location in the development area. Mr. Wade noted that the applicant indicated they would like to have 80 students within five years.

Mr. Rooker pointed out that the original application requests between 1 and 28 students, and wondered if the primary concerns about traffic, water supply, and septic could be solved if the enrollment were kept at a smaller size.

Mr. Loewenstein pointed out that the Health Department has said that enrollment of up to 24 children will require a Class 3-C well, above that number of students would require a public water supply.

Mr. Wade said that the Health Department felt a Class 3-C well could be located there.

Mr. Finley commented that it didn't seem practical to locate the school in a development area, given the rural nature of the curriculum.

Mr. Wade replied that school trips to rural areas would be possible.

Mr. Rieley commented that the site for this proposed school is ½ mile from the interstate, with roads on three sides, near Glenmore. "Where in the rural area are you going to find a more appropriate place for a school than that."

Mr. Rooker added, "Private schools are permitted by special use permit in the Rural Areas." He stated that if the county does not want to allow private schools in the Rural Areas, then the code should be amended as such.

Mr. Cilimberg responded, "I think the intention was to speak to the scale and size of the school, and the impacts of that on water supply, [and the traffic, etc.]"

Mr. Rooker said that requirements by the Health Department and VDOT would serve to address those issues.

Mr. Cilimberg stated, "If you feel like some lesser number [of students] would be acceptable, we can certainly go back with the Health Department and VDOT and talk about what that number might be."

Mr. Loewenstein commented, "I sort of wish I already had that information…there's a big difference between 15 students in the first year and 80 in five years." He added that at this point, the Commission does not have enough information about the water supply from the Health Department.

Mr. Cilimberg suggested having the applicant address adequate number of students to make the school feasible. "If a lesser number might be workable for them in the long-term, we can certainly go back and have that number reviewed and bring it back to you."

Mr. Rooker pointed out that the conditions address enrollment size.

Mr. Cilimberg emphasized it is important not to impose conditions that preclude the applicant from achieving what their application sets out to do in the first place.

Mr. Finley mentioned that a private school in Free Union with 55 students on two acres will not have a public water or sewer supply.

Mr. Wade noted that the school was approved in 1984, and was evaluated by staff as comparison for this application.

Public comment was invited.

The applicant, Mr. Carmen Rodgers, addressed the Commission. He stated that he and his wife, Marianne Rodgers, chose this location because of its accessibility to all of Albemarle County and its rural setting. Mr. Rodgers emphasized that they propose the site be used as their primary residence, and as a non-profit tutoring and learning center. The Center will assist county children in need of academic help to develop their strengths and gifts, and to meet the state Standards of Learning (SOL) requirements. Mr. Rodgers said that the Center strives to help students improve their academic standing by one or two grade levels in reading and math, and also encourages pupil self-esteem.

Mr. Rodgers emphasized that they want the rural setting to provide students with the opportunities to participate in hands-on, 4-H type learning activities, including environmental preservation. He said that most of students they deal with have a different style of learning and need more hands-on activities on a daily basis. Mr. Rogers said that bussing children from a development area to a rural area for field trips, as Mr. Wade suggested, does not meet the school's objectives. He added that their proposal is less impactful to the goals of rural zoning than using the 12 acres for five residential sites, and presented comparisons of the school's impact versus the impact of subdivision for homesites (Attachment "A").

Mr. Rodgers reported that he gathered information from the Department of Health and the County of Albemarle, which led to the conclusion that having 5 four-bedroom homes using 600 gallons per day would total 3,000 gallons per day; the school and a single residence would only use 1,400 gallons per day. He stated that the only difference in class of wells is that the Class 2B allows for greater protection from contaminants, but doesn't really differ in volume of water. Mr. Rodgers pointed out that there are currently 14,000 cars going by the intersection daily, and the school would only add 95 more cars, or ½ of 1%. He added that VDOT recommended giving some right-of-ways along Routes 250 and 616 to allow for needed improvements; the Rodgers have agreed to comply with that request.

Mr. Craddock asked if the school would serve 15-20 full-time day students, or if they would just be coming in for tutorial services.

Mr. Rodgers replied that many students need full-time help, but some are part-time; the program is geared to the needs of the student. He explained that they currently have 17 full-time students in their Berkmar Drive facility. Mr. Rodgers confirmed that most of the students are enrolled as home-school students, and their school prepares them for re-entry into the public school system.

Mr. Rieley asked if the school was non-accredited.

Mr. Rodgers confirmed that it is non-accredited, adding that four of his children did not attend an accredited high school, but went on to do very well in college. Mr. Rieley assured Mr. Rodgers that it wasn't an opened question.

Mr. Finley asked if the rural nature of the school would allow for animals, gardening, etc.

Mr. Rodgers replied that it would involve a few animals, such as chickens, sheep and emus, and would allow for hands-on experiences for students.

Ms. Hopper asked if Mr. Rodgers could reduce the enrollment size and still make the school feasible.

Mr. Rodgers re-explained the well situation, emphasizing that they would do what is needed to provide an adequate water/sewer system.

Mr. Rooker asked, "Is there a smaller number of students that you would be happy with today?"

Mr. Rodgers responded that his initial application called for a maximum of 28 students, but wanted to find out from the county what would be allowed, in order to make the school financially feasible.

Mr. Rooker asked Mr. Rodgers if he would be agreeable to a condition that stated there would be no subdivision of the property, noting that he could abandon the special use permit at a later time.

Mr. Rodgers replied that he would agree to that condition.

Mr. Rooker asked the applicant if he would be amenable to a condition that would limit enrollment, noting that the special use permit could be amended later to increase enrollment.

Mr. Finley pointed out that the Free Union School started out small, and has now increased to 55 students.

Mr. Loewenstein asked Mr. Rodgers if he has plans for school operation for evenings and weekends.

Mr. Rodgers responded that he does not.

Mr. Don Morse, a real estate broker, addressed the Commission. He stated that the mission for the Rodgers' school is a noble one. Mr. Morse mentioned that the Rodgers voluntarily retracted a subdivision of 5 lots that was in place, adding that it is possible that there are 5 potential wells on the site. "There could be vast amounts of water available on that property. I really don't think that the water…should be a stumbling block." Mr. Morse said that it is imperative that the roads in the area be improved, adding that Lake Monticello traffic will impact the school far more greatly than this school.

Ms. Olga Morse, a neighbor of the property and realtor for the transaction, addressed the Commission. Ms. Morse said that it is difficult to sell the property for residential, because of its proximity to several major roads. She said that this school would help enrich the community.

Mr. Carlton Brooks, who lives near the project, addressed the Commission. Mr. Brooks said that the entrance to the property is within 100 yards of Route 250, and traffic backs up past the entrance in the mornings and the evenings. He stated that he is not opposed to the project, but is concerned about the safety of the intersection and the increase in traffic.

Mr. Dan Rodgers addressed the Commission. He stated that if people coming out of the school were instructed to take a right out of the property, it would address the problem. He added that he used to live at Lake Monticello, and did not notice a significant backup as Mr. Brooks described.

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

Mr. Kamptner pointed out that there had been an error in the public notice, and therefore the special use permit was not property advertised. He stated that Parcel 31 was not included in the advertisement.

Mr. Finley asked if the property had been converted back to one parcel, as the staff report mentioned that efforts were underway to combine the parcels back into one.

Mr. Rodgers confirmed that the combining had not happened yet.

Mr. Cilimberg apologized to the applicant and the Commission, and noted that staff could work on conditions with the applicant before the item is heard again.

Mr. Kamptner confirmed that the item would be re-advertised, and a full public hearing would be held again.

Mr. Rooker suggested a limitation of 24 students, and depending on the success of the school and the impact it has, the applicant could come back and request increased enrollment. He also suggested a condition of keeping at least 7.5 acres in open space.

Mr. Loewenstein suggested striking the word "general" from hours of operation.

Mr. Wade replied that the Zoning Department suggested adding general to cover special after-school functions.

Mr. Finley asked fellow Commissioners how they felt about Mr. Rooker's suggested limited enrollment.

Mr. Rieley said the application said 1 – 28 students.

Mr. Rooker mentioned that the applicant said he had envisioned 24 students.

Mr. Rieley and Mr. Finley said they were sympathetic to a higher number, but agreed to accept the limitation.

Mr. Rooker said that given concerns about traffic, it might be helpful to have the school move forward with a lower number, and come back later to increase enrollment.

Commissioners agreed that it would be helpful to have more detail from the Health Department.

Mr. Cilimberg suggested incorporating the applicant's agreement to make land available for VDOT improvements into the conditions.

Commissioners agreed.

Mr. Kamptner said that regarding Mr. Rooker's suggested condition about no further subdivision, the condition should state that there will be no other use other than the school and a primary residence on the other properties.

Mr. Cilimberg stated that staff would work to make sure future action on the item would happen quickly.

Due to an error in advertising, the Commission was unable to take action on SP 2000-43. Commissioners did indicate a general consensus to recommend approval of the SP with

conditions (1) limiting enrollment to 24 students; (2) no further subdivision of the property; (3) keeping a percentage of acreage in open space; (4) limiting hours of operation; (5) having a well that meets Health Department requirements; (6) making land available for VDOT road improvements; and (7) agreeing to use the property only for one residence and the school.

Mr. Rodgers re-addressed the Commission, stating his confusion about Parcel 31, and pointing out that all parcels are owned by Dr. Nyberg.

Mr. Kamptner pointed out that Parcels 31 A, B, C, D, were advertised in the public notice, but Parcel 31 was not. He emphasized that all parcels needed to be advertised.

Mr. Rooker said that the item could be handled in a briefer fashion when it comes back, because the Commission has already discussed possible conditions.

SDP-99-158 Westminster Canterbury of the Blue Ridge Preliminary Site Plan – Critical Slopes waiver, curvilinear parking modification, one-way circulation modification, and approval of open space. *Deferred from the March 7, 2000 Planning Commission Meeting.*

Mr. Waller reported that the request is for a site plan to allow construction of a 353,000 square foot addition, and the site review committee has reviewed the preliminary site plan and has determined that a waiver for construction on critical slopes, modifications to allow curvilinear parking and one-way circulation and approval of the open space shown on the plan are required. Mr. Waller stated that the item was originally reviewed at the Commission's March 7th meeting and deferred so that the applicant could resolve concerns raised at that time about disturbance of critical slopes, construction of a stormwater detention facility, and impact to the Monticello viewshed.

Mr. Waller said that the plan has been revised to show 3 to 1 slopes instead of 2 to 1 slopes. The applicant has indicated that they have worked with Monticello to provide additional plantings in front of existing buildings; new buildings would be located behind existing structures and would not be as visible. He pointed out that staff has found that the stormwater management basin was approved with a site plan for the Westminster Cantebury Assisted Living Facility approved in 1998. Mr. Waller said the applicant has worked with Engineering and Fire & Rescue staff to resolve one-way circulation issues. Staff now recommends approval of all waivers with conditions as presented in the staff report.

Ms. Hopper asked if the safety issues relating to the cottages on the critical slopes had been discussed with the applicant.

Mr. Waller replied that the applicant has worked with the Engineering Department, and has made them more gradual and plans to do some benching on the slopes. He noted that throughout most of the site, the applicant is proposing 3 to 1 slopes. Mr. Waller noted that the DEQ has also required 3 to 1 slopes in the cottage area near the landfill.

Mr. Finley asked if the applicant has to haul in fill.

Mr. Waller responded that the applicant is able to use what's on site.

Mr. Rieley commented that he applauds the 3 to 1 slopes and benching in the cottage area, but wondered about the need for them in other parts of the site.

Mr. Snell pointed out that the slopes are so large (40 to 50 feet), and slopes of 2 to 1 are a safety hazard at that size; that is why engineering recommends 3 to 1.

Public comment was invited.

Mr. Kurt Gloeckner of Gloeckner Engineering addressed the Commission, and offered to answer any questions.

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

Mr. Rooker noted that there is no condition that deals with the screening of existing cottages from Monticello (viewshed).

Mr. Waller said that staff encouraged the applicant to work directly with Monticello, and Ms. Imhoff stated that Monticello's concern focused primarily on the existing buildings.

Mr. Cilimberg noted that technically, conditions relating to previously approved parts of the site could not be part of this review.

Mr. Rooker asked, "Are we saying that you cannot include as a condition screening on another area of the same property?"

Mr. Kamptner replied, "The conditions need to relate to the waiver in this case…within that framework, you have the ability to require [screening]."

Mr. Rieley pointed out that there are no requirements relative to this critical slopes waiver.

Mr. Cilimberg and Mr. Kamptner stated that those requirements could be included.

Mr. Henry Hennett, President and CEO of Westminster Canterbury, addressed the Commission. He stated that they are currently planning to plant tulip poplars in front of the existing cottages to screen them from Monticello.

Mr. Rieley suggested adding a fourth condition to the critical slopes waiver that states "substantial planting above the disturbed slopes shall be approved by the design planner."

MOTION: Mr. Rooker moved, Mr. Craddock seconded, approval of the critical slopes waiver with conditions modified as follows: (4) Review of landscaping plan shall include the

applicant's proposed plan for re-vegetating the landfill area; substantial planting will be approved by the design planner. The motion passed unanimously.

MOTION: Mr. Rooker moved, Ms. Hopper seconded approval of the curvilinear parking and one-way circulation waiver requests. The motion passed unanimously.

MOTION: Ms. Hopper moved, Mr. Rooker seconded approval of the open space in SDP 99-158. The motion passed unanimously.

Public Hearing Items:

SP-2000-39 Monticello Fire/Rescue Station (Sign #94) – Request for special use permit to allow for a public fire/rescue station in accordance with Section 18.2.2(3) of the Zoning Ordinance which allows for fire and rescue stations. The property, described as Tax Map 91, Parcel 2E, contains 13 acres (the proposal is located on approximately 4 acres of the 13 acre total), and is located in the Scottsville Magisterial District on the south side of Mill Creek Drive (Route 1150), across from the Monticello High School football field. The property is zoned R-15, Residential. The Comprehensive Plan designates this property for Institutional use in Development Area Neighborhood 4.

Ms. Echols presented the staff report, noting that this is the first county-owned and operated fire & rescue station; the others are volunteer stations. She said the station was originally approved in 1995; in the Comprehensive Plan, there are specific statements put into the plan about the need for fire & rescue service in this location. Ms. Echols stated that a new driveway/access road is proposed across from Monticello High School, and added that this proposal is located on 4 acres of a 13 total acre site.

Ms. Echols said that staff focused on the design of the building and its relationship to adjoining properties. She pointed out a conceptual plan presented, noting that staff is recommending approval of the SP with conditions; she distributed revised conditions (Attachment "B"). Ms. Echols commented that staff felt pedestrian access was important to provide in this location, because there will be residential uses around the area; there are sidewalks on Mill Creek Drive, and Monticello students could also use the pedestrian path. She noted that staff recommends that a private driveway could be used until a subdivision plat or site plan for the adjacent property is approved; at that time, the county will build a public road as an urban cross-section with sidewalks and street trees. Ms. Echols pointed out that staff has recommended regrading slopes for minimization of 2 to 1 slopes.

Mr. Finley asked if this application is for a specific location.

Ms. Echols responded that this is a request for a special use permit for a fire & rescue facility on this tax parcel.

Mr. Craddock asked if moving the site forward would provide enough turning radius for the trucks.

Ms. Echols said that Jack Kelsey of County Engineering said the orientation closer to the road should not impact the ability of vehicles to move in that area.

Mr. Cilimberg commented that that is something to be worked out at the site plan level.

Mr. Loewenstein asked if the facility would be sufficient for the area it serves, as the population there is increasing.

Ms. Echols said there may be expansion or redesign needed in the future, and perhaps the Commission wants to leave some flexibility in the conditions.

The applicant on behalf of the county, Ron Lilly, Project Manger, addressed the Commission. Mr. Lilly stated that the Board of Supervisors selected this location in June to serve the southern urban area and parts of the rural area to the south. He noted that the location on this 13 acres has been pointed out on the County Master Plan also.

Mr. Lilly said that there are some issues with the apparatus' access to the site, and wants to make sure it is dealt with at the site plan level. He noted that they are in the process of deciding whether four or six vehicles would be housed in the site.

Mr. Thomas asked if the site was chosen because of the flatness of that part of the parcel.

Mr. Lilly responded that a number of factors were considered, including the level parts of the site, and access to Mill Creek Drive.

Mr. Rieley asked about a large retaining wall depicted.

Mr. Lilly replied that they are not far enough in the design process to know if it will be necessary, and it will depend on whether two or three bays are constructed. He said that they could move the building closer to Mill Creek Drive to get away from the retaining wall if necessary.

Mr. Craddock asked if this facility is similar in size to the City's on the bypass.

Mr. Lilly responded that this facility is a little larger.

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

Mr. Rieley stated that he would like to see a legible drawing at reasonable scale. He said he would like the plan – at the site plan review state – to be oriented orthoginolly with Monticello High School, and pulled close enough to Mill Creek Drive so that a retaining wall is not

necessary. Mr. Rieley commented that the proposal disturbs critical slopes unnecessarily, and said it has a "long way to go" before the preliminary site plan is acceptable.

Ms. Hopper said that at the site plan stage, review would be largely administrative, and suggested incorporating Mr. Rieley's changes into these conditions.

Ms. Hopper asked Mr. Kamptner about a "special review" the Commission might have for public facilities.

Mr. Kamptner responded that the 22/32 review is a special determination the Planning Commission makes for proposed public facilities that aren't included in the Comprehensive Plan.

Mr. Cilimberg commented that the Monticello High School site and fire station site have been found to be in compliance.

MOTION: Mr. Loewenstein moved, Mr. Thomas seconded approval of SP 2000-39 with the new conditions presented by staff and stipulations for the preliminary site plan review as follows:
1. Provision of legible drawings including topography;
2. Orientation of buildings orthoginolly with Monticello High School;
3. Placement of facility close enough to Mill Creek Drive so that a high retaining wall is not necessary;
4. Planning Commission review of site plans.

Mr. Rooker noted that those items would be exceptions to existing condition #1, which states that development of the site would be in general accord with the concept plan.

The motion passed unanimously.

The Commission took a brief recess, then reconvened.

ZTA-99-007 Keswick - Proposed ordinance amendment by Keswick Corporation to Section 10.2.2.27 to allow expansions or enlargements of restaurants and inns to a maximum of 75 additional rooms and for uses and amenities incidental and related to the primary use with approval of a special use permit.

Ms. McDowell presented the staff report, noting that the Commission approved an indefinite deferral of ZTA 99-007 at their July 11th worksession on this item; on August 9th, the Board of Supervisors adopted a resolution for the Commission to hold a public hearing on the ZTA and present recommendations to the Board within 60 days. Ms. McDowell said that on September 21st, the applicant's attorney forwarded a copy of a revised text amendment proposal to eliminate any other property in the county for consideration under the amendment. She noted that staff continues to have concerns about the impact of expanding this type of use in the rural areas, including the need for increased fire/rescue and police services. Ms. McDowell presented revised language for the ZTA (Attachment "C"), noting that staff recommends disapproval of the ZTA because of its conflicts with the Comprehensive Plan.

Mr. Finley asked if the resolution passed by the Board and proposed language restrict the ZTA to one site.

Ms. McDowell responded that the language the applicant resubmitted on October 2nd would apply to the whole county, but at this time would only – by definition – apply to Keswick.

Mr. Rooker asked if any other site in the county would be affected at this time. "Is this language of general applicability but it so happens that it probably applies only to one property that we're aware of in the county?"

Mr. Kamptner replied, "Right now, that may be the case." He added that the language has been modified since the first worksession, and mentioned that staff realized recently that the proposed language has "run afoul" of the uniformity requirement, that stipulates that ordinances treats buildings and uses within the Zoning District uniformly. Mr. Kamptner mentioned that the language in the most recent draft is broader in scope in that it allows any restaurant or inn that meets the water/sewer criteria to apply for a special use permit.

Mr. Cilimberg noted that there were four examples given to the Commission when the ZTA was first considered, including Clifton, Greenwood Motel, the Afton Inn, and Keswick. He said that those facilities would be able to come in and seek a special use permit for expansion.

Mr. Rooker asked about the limitation of expansion for 1.6 times the existing number of rooms.

Mr. Kamptner responded that staff had concerns about the rational basis for "1.6", noting that that number was derived to reach Keswick's goal of 75 additional rooms. He pointed out that the Board of Supervisors has the ultimate approval of the special use permit, and can impose conditions. Mr. Kamptner added that the proposed language includes a restriction that an inn must have an adequate water/sewer system currently in place.

Ms. Hopper suggested limiting expansion by coming up with a rational basis for restricting the amount of expansion.

Ms. Liz Ratcliff, Director of Finance for Keswick Hall, addressed the Commission. She introduced Jay Wineberg and Rick Carter.

Mr. Wineberg addressed the Commission, explaining that Orient Express Hotels – which owns Keswick – wishes to enhance Keswick Hall and Keswick Club in order to better serve the residents of Albemarle County and the business community. He said that the revisions to the ZTA are an improvement over the originally submitted language, noting that the ordinance is "so tightly drawn" that there is virtually no risk that the adoption of the amendment will open up rural areas. Mr. Wineberg stated that the restriction of already having sufficient water/sewer is another hurdle that will make it difficult for other applicants to seek SPs for more units.

He said that the Keswick expansion will encourage heritage tourism, noting that the original portion of Keswick is listed on the National Register of Historic Places and the Virginia Landmarks Register. Mr. Wineberg emphasized that the ZTA complies with the county's Historic Preservation Plan, which suggests that Zoning Ordinances should be amended to allowed more varied uses to encourage the re-use of historic structures. He added that it also complies with the proposed Historic Overlay District. Mr. Wineberg concluded that upon completion, the facility will provide 85 jobs, and will contribute an additional $664,000 in taxes to county revenues each year; additionally, the facility will purchase over $1 million in goods and supplies each year from other county businesses.

Mr. Wineberg emphasized that the applicants will still have to seek a special use permit if the ZTA is approved.

Mr. Rooker asked for clarification of the $664,000 in county revenues.

Mr. Wineberg responded that that number represents the increase in taxes such as real estate, food and beverage, and license taxes that Keswick Hall will pay each year.

Mr. Thomas asked if any of that revenue was part of the sale of undeveloped homesites there.

Mr. Wineberg responded that the increase is just from Keswick Hall and Club.

Mr. Thomas asked about concerns over the water supply in the area.

Mr. Wineberg responded that there is sufficient quantity and capacity to do everything planned, and Keswick has completed a study from Timmons (utility experts).

Mr. Thomas asked if Keswick plans to develop the undeveloped building lots fairly quickly.

Mr. Wineberg replied that there are 75 lots platted, with 40 or so owned by Keswick, and the remainder owned privately. He stated that a marketing study as to what to do with them is currently under review, and Keswick officials will present a plan for the site sometime in the near future. He noted that the area of 74 lots is a recorded subdivision, and is not affecting Keswick Hall in any way.

Mr. Richard Carter addressed the Commission. He pointed to the study from Timmons, which states "there is sufficient yield from the estate's existing wells to support the proposed expansion of 75 rooms and related facilities from Keswick Estates in addition to 74 single-family homes." Mr. Carter said that the study also found that "it is highly unlikely that Kewsick Estates would either impact or be impacted by additional development in the area" because development nearby will probably be low-density residential requiring minimal well yields. Mr. Carter added that one well on the Keswick site was pumped for 72 hours down 268 feet; in 27 minutes, it was back up to 235 feet, and the nearest well was lowered just 2-4 feet. "The availability of the water is more than sufficient for the planned needs."

Mr. Carter addressed traffic issues, noting that Keswick Hall is a destination point, and once people are there, they very seldom leave in private vehicles while they are there. He noted that a study from Wilbur Smith Engineering shows roads to Keswick as A, B, or C levels of service, and found that the additional rooms added to Keswick Hall "will not have a significant traffic impact." Mr. Carter added that Keswick is prepared to work with VDOT to make necessary road improvements.

Mr. Jeff Werner of the Piedmont Environmental Council addressed the Commission, reading in part from a prepared statement (Attachment "D"). Mr. Werner said PEC has worked with landowners in the area to place their land under permanent conservation easements, protecting over 7,000 acres. He stated that PEC does not oppose the request to expand the existing guest facility by 75 rooms, but is concerned that the ZTA will reform the review of other rurally sited proposals. Mr. Werner said that PEC recommends that the applicant make known the complete development potential of all contiguous parcels held; under existing zoning, up to 112 new homes might be constructed on contiguous parcels. PEC also suggests that there should be some requirement to eliminate or reduce residential development potential on parcels covered by the ZTA. PEC also recommends that if the existing well/wastewater systems fail, the cost of facilitating alternative means should be borne by the owner.

Mr. Walt Johnson, a resident of Keswick Estates, addressed the Commission. He stated that this request will help realize the "vision of functional elegance" presented by Sir Bernard Ashley in 1995 to the Board of Supervisors. Mr. Johnson noted that there is not a bit of land undesignated in the plan for the estate, and Carroll Creek, which has been identified as a tributary to the Chesapeake Bay, falls under the protective provisions of the Bay Act. He asked members of the audience in support of the ZTA to stand. About 15 people stood in support.

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

The Commission unanimously approved moving ZTA 99-007 forward to the Board of Supervisors with language as presented by the Assistant County Attorney.

Mr. Finley noted that the Commission needs to take action on this ZTA tonight, per the Board's recommendations.

Mr. Rooker asked if there is a legal problem to including the "1.6" benchmark for expansion.

Mr. Kamptner replied that if the Planning staff could determine that the 1.6 has some relevance in terms of land use impact, etc., then it is reasonable and supportable. He recalled that Commissioners felt the need for a cap during their first worksession on the ZTA, emphasizing that the Board and the Commission will have ultimate say over the expansion through the SP process.

Mr. Rooker wondered if using 1.6 and leaving out 75 rooms makes more sense, as there is a reasonable nexus from a land-use perspective to restrict through percentage of expansion.

Mr. Loewenstein said that the 1.6 is just a convenient mathematical factor to achieve 75 rooms, and doesn't seem to make sense as a broadly applicable benchmark.

Mr. Rooker commented that during the first worksession, the Commission came up with the 1.6 to replace the fixed number of 75 rooms initially applied for so that small establishments with just a few rooms (like Greenwood with 8 rooms), wouldn't apply for 75 additional rooms. "The 1.6 was something that came about in order to provide a limitation that wasn't just numbers of rooms…it dealt with a percentage increase on the use of the property. It seems to me to be directly related to land use...I think that we can deal with it on the special use permit level if and when it ever came back to us."

Mr. Finley said he has no problem leaving out the 1.6 reference.

Ms. Hopper asked, "What impacts are we concerned about in the rural areas by allowing another conditional use like this…water, traffic, impact on agricultural/forestal uses?"

Mr. Loewenstein asked if it was possible to examine the residential development potential for this area.

Mr. Cilimberg mentioned that Commissioners had suggested restricting further subdivision during consideration of an SP application tonight.

Mr. Rooker pointed out that in considering the Monticello ZTA, staff was directed to drafted language to limit uses in a special use permit context, and the Commission limited the area involved to 2,000 acres. "Obviously what we're looking at here is something to help provide an avenue by which Keswick can come back and make an application that may enable them to achieve what they would like to achieve." He added that he would view favorably a change to the Zoning text to allow an applicant to present a special use permit application for expansion. Mr. Rooker noted that the county received 75 letters from people in the area in support of the Keswick expansion.

Mr. Loewenstein asked if he supported the 10/02 draft.

Mr. Rooker said he supported the original draft and supports the current one, although he would be happier with the 1.6 limitation in the current draft.

Mr. Loewenstein wondered about addressing future residential development potential on the lots surrounding the facility.

Mr. Kamptner said that the development potential has already been exercised because the lots have already been platted. He added that there may be some undeveloped areas, and in the special use permit process the Commission could look at the existing impacts of this application on light of the existing facilities and infrastructure.

Mr. Loewenstein pointed out that the language he drafted includes a statement that "any residential development potential that exists on land within the existing facility shall be frozen in its current subdivision pattern."

Mr. Rooker commented that Mr. Loewenstein's draft raises some very important issues, but wondered if they would be more appropriate as conditions of a special use permit versus a Zoning Text Amendment.

Mr. Loewenstein said the alternative language would not necessarily impose a stumbling block for future special use permits by other applicants.

Mr. Rooker pointed out that "freezing" current subdivision patterns might work negatively, in the event an applicant would want to rework lot lines, or even remove lot lines, as in the case of a PRD.

Mr. Loewenstein suggested rewording the language to state "no further subdivision for residential development shall be permitted."

Mr. Kamptner said he would like to study it more because there needs to be "proportionality" to the limitations being imposed.

Mr. Loewenstein emphasized that the language attempts to address the potential physical scale of such expansion, cautioning that this may create "spot zoning" in the absence of a Rural Areas plan.

Mr. Finley said that the language staff presented already includes major constraints, especially relating to existing water and sewer. He stated he is willing to vote for the ordinance as presented.

Mr. Rooker noted that what Monticello proposed was much broader in scope, yet seemed to cause less concern than this ZTA.

Mr. Cilimberg stated that the focus of Commission concerns seems to be the restriction on the amount of additional subdivision that can occur and removing rooms in the event of failure. He pointed out that the county attorney's office would need to be comfortable with that, noting that he is not aware of any other rural areas special use permit uses that include those types of restrictions. He suggested that the restrictions could possibly be included in supplementary regulations, but emphasized that conditions of special use permits would be the best place to impose them.

Mr. Loewenstein said that he is comfortable imposing conditions through the special use permit process.

Mr. Kamptner pointed out that expanding the jurisdictional areas is a legislative decision for the Board of Supervisors to make.

Mr. Loewenstein stated he would like to see restrictions on the upper limits of expansion, as it represents "significant change" to the uses the county likes to see in the rural areas.

Mr. Rooker commented that the 1.6 limit could be included, and the county attorney could review that restriction before the Board reconsiders the ZTA.

Mr. Kamptner agreed that his office could review the restriction prior to the Board meeting. He said that they might have concerns with the number being somewhat arbitrary.

Mr. Rieley acknowledged that 1.6 might be hard to justify, adding that he agrees with staff that this ZTA fundamentally conflicts with Comprehensive Plan. He added that the Board has expressed a desire for the Commission to move forward with the ZTA rather than the Rural Areas section of the Comprehensive Plan first. Mr. Rieley said that given that, the Commission could deal with the issues of scale, water, traffic, remaining development rights, etc., within the context of the special use permit process.

Ms. Hopper commented that she agrees with staff's position that taking action on this ZTA is premature, and would like to see something put in the language to restrict further subdivision and possibly allow the applicant to give up development rights. She noted that this is a "special situation."

Mr. Thomas commented that he would like to see the ZTA move forward.

Ms. Hopper said that this revision of the ZTA essentially proposes "precommitment" to freeze development rights because this is an unusual situation where the planning being done is not optimal.

Mr. Kamptner mentioned that he is not comfortable including the 1.6 figure now without further study.

Mr. Rooker stated he is fine with the existing language proposed by staff, with the idea that he would be comfortable imposing conditions to restrict the limit of expansion. He asked about the restriction on further subdivision.

Mr. Kamptner said it is possible that if an applicant had no subdivision rights, but a neighboring property owner had 50 subdivision rights, limiting development to the applicant would not adequately address the issue of comprehensive development of that particular area.

Mr. Loewenstein said that in the Keswick example, further development of the property in the area in addition to what's being asked for in the Inn would constitute a further expansion of scale.

Mr. Rooker pointed out that the Monticello situation was much broader, and there was never a mention of adding these types of provisions to text amendments. "It seems to me that the time to deal with these kinds of issues is at the special use permit application time."

Mr. Rieley wondered if a statement in the ZTA relating to net impact of the proposal might be the best way to address this.

Mr. Rooker asked, "How do you define that [net impact]?"

Mr. Rieley replied, "There are lots of special use criteria that are no more specific than that."

Mr. Rooker commented that there are criteria in the zoning ordinance that seem to have as little nexus as the 1.6. He added that as part of the Zoning Text Amendment, a restriction could be added that essentially "freezes" development rights.

Ms. Hopper commented, "In order to be eligible to apply for a special use permit."

Mr. Cilimberg said that developers can figure out ways to get around that, such as dividing off what is applied for, and allocate the rest of the development rights to the rest of the property.

Mr. Rieley stated that the special use permit could be denied if that was the case.

Mr. Cilimberg said that the Commission could condition the "freezing" of development rights at the special use permit stage might be the way to address this.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of ZTA 99-007 as presented by staff in the 10/02/00 version. The motion passed unanimously.

Old Business
There was no old business presented.

New Business
There was no new business presented.

There being no further business, the meeting adjourned at 9:30 p.m.

_____
V. Wayne Cilimberg, Secretary