Albemarle County Planning Commission
July 17, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, July 17 2001 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Dennis Rooker, Chairman; William Rieley, Vice-Chairman; William Finley, Tracey Hopper and Pete Craddock. Absent from the meeting were Rodney Thomas and Jared Loewenstein. Other officials present were Michael Barnes, Elaine Echols, Joan McDowell, Stephen Waller, David Benish, Greg Kamptner and Wayne Cilimberg.

Mr. Rooker called the meeting to order and established a quorum.

Other Matters Not Listed on the Agenda from the Public.

There being no comment, the meeting proceeded.

Review of Board of Supervisors Meeting – July 11, 2001.

Mr. Cilimberg stated that the board gave approval to move the application deadline for the ACE program to August 1 of this year. They will be working on changes to that ordinance for next year. The 29 widening project appears to no longer include any service roads or parallel roads; it will now be simply a widening project. The project will be deferred due to funding requirements. The bridge will be finished in late October. The Board approved the central sewage system for the old Cooper Industries. They also approved the Afton Farm Market, Tanager Woods with a fifth condition which ensured maintenance of the pond, the BB&T ATM, Toy R US outdoor storage and the additional lots at Western Ridge with proffers. The Batesville Agricultural/Forestal District addition was also approved.

Mr. Hopper announced that Clover Lawn was not before the commission tonight.

Mr. Cilimberg stated that item would be on the agenda next week.

Consent Agenda (on next sheet).

a. **Approval of Minutes** – May 22, 2001, May 29, 2001 and June 5, 2001.

b. **SDP-01-30) Rio East Medical Offices Preliminary Site Plan -** Waiver of Critical Slopes and Disturbance of 20' Undisturbed Buffer Adjacent to Residential. (Margaret Doherty)

Mr. Rooker asked if any of the commissioners wished to pull any of the items from the consent agenda.

Ms. Hopper moved for approval of the consent agenda.

Mr. Craddock seconded the motion, which passed unanimously.

Item Requesting Deferral:

a. **ZMA-2001-004 SNB Car Wash (Sign #88, 89)** - Request to rezone 0.6 acres from C-1 Commercial to HC Highway Commercial to allow for a car wash. The property, described as Tax Map 61, Parcel 147, is located in the Rio Magisterial District on Rio Road at the corner of Rio Road and Gasoline Alley. The Comprehensive Plan designates this property as Neighborhood Service in Neighborhood 2. (Elaine Echols) ***DEFERRED FROM THE JUNE 19, 2001 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO AUGUST 14, 2001.***

Mr. Rooker opened the public hearing on this item. There being no comment, the hearing was closed.

Mr. Rieley moved to accept the applicant's request for deferral to August 14, 2001.

Ms. Hopper seconded the motion, which passed unanimously.

Mr. Finley arrived.

Public Hearing Items:

a. **SP-2001-017 Merrie Meadows (Sign #69)** – Request for special use permit to allow a church in accordance with Section 10.2.2.35 of the Zoning Ordinance, which allows for churches in the Rural Areas. The property, described as Tax Map 48 Parcel 15A, contains 37.55 acres and is located in the Rivanna Magisterial District at 2746 Merrie Meadows Lane, on the north side of Route 20 North, and 300 feet northeast of Stony Point Elementary School. The property is zoned RA, Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Joan McDowell)

AND

SDP-01-036 Merrie Meadows Site Plan – Waiver Request – Request for a waiver from preliminary site plan approval in conjunction with SP-01-17. (Joan McDowell)

Ms. McDowell presented the staff report.

Mr. Rooker opened the public hearing on this item.

Mr. Howell Joe Cotton, the owner of the property, has endeavored to make it compatible with the neighbors. This permit has been requested in order to improve the building. While requesting a building permit, it was determined that we needed to apply for a new special use permit.

Mr. Rieley asked about the additional square footage, how much additional vehicular traffic is anticipated.

Mr. Cotton stated that they did not anticipate additional traffic, the additional space would include a second assembly area, a kitchen and restroom facilities.

Mr. Rieley verified that the number of programs and attendance would not be increased.

Mr. Cotton replied that is not anticipated.

Mr. Rieley asked if they had had any problems with accidents at the intersection.

Mr. Cotton replied that they had not.

Ms. Vera Runsear, of Fairmont Farm, has owned the property for 25 years. Years ago when the applicant applied for a campground permit, the planning department included our restriction on the permit that it remains with the current owner and not passes on with the property. For the past 15 years we have endured noise from cars and recreational activities that have occurred at unorthodox times. Our farm manager talked of the noise of cars coming and going after midnight. Our tenant for 11 years complained of the noise of the cars and the recreational activities. She had to close the windows to minimize the noise. Our current tenant says the same level of noise and activity still occurs. The applicant did not adhere to the restrictions on the previous permit regarding the number of campouts. She requested the commission has some consideration for the surrounding property owners and not grant the request.

Mr. Rooker asked how close their house was to the property.

Ms. Runsear replied that they are on a hill and look down over the property. The road is 15 paces from our property. There are white pines along the road on the side of their residence, but not on our side. The

unorthodox hours of the car traffic are unbelievable.

Mr. Finley asked what constituted unorthodox hours.

Ms. Runsear said after 10:00 p.m. and often after midnight.

Mr. Robert Runsear, the owner of Fairmont Farm, expressed his concerns. He could not identify the applicants; they have not in fact been neighborly. They are not responsible, they have in the past built a large bonfire whose flames reached up into the trees, they have given rifle instruction to 8 and 10 year old boys shooting in the direction of the neighboring property, they had to call the sheriff for them to stop. The trees do not buffer noise, for 6 months of the year you can see everything. The gatherings are about 300 persons 7 times per year. These are huge numbers and he is concerned about requirements for water and sanitation facilities.

Ms. Geraldine Sayree lives next door to the Runsears. She is concerned about the water usage, additional traffic, and possible sewage problems and fire hazards. In regards to water usage, we already have Stony Point school, and the fire department. There are a number of households nearby that consist of two people, but this is a large gathering. She asked why the church is being built on the interior of the property. She does not know how the fire department would handle a fire on the property. The increased traffic is also a concern. There have been accidents at that intersection. When something is buried deep into the woods, perhaps it should be examined.

Ms. Valerie Long was asked to speak by the Runsears. They are concerned about the noise and the level of traffic. She suggested a limitation on the number of users on the property at any one time. She suggested that the permit not be transferable. She stated that until just a few months ago, the property was for sale and marketed as a church/camping facility. The representative has indicated that there is not a contract on the property. They also request that some landscaping be planted along the driveway to shield the neighbors from noise and screen. She pointed out that the camping permit approved in 1985 is no longer valid. She also submitted a written statement from their neighbor Sheila Gardner who could not attend. Additionally, the Runsear's home is an historic property.

Mr. Dave Rut, is Mr. Cotton's son-in-law. It is not a problem to add the pines along the driveway. There is a resident on the property so some of the road noise could be a result of his coming and going. This first time he heard about the noise complaint was last week when noise from the basketball court was mentioned. We are willing to stop those activities at 10:00 p.m. We are willing to work with the neighbors.

Mr. Finley asked if it was correct that all activity would be on the interior of the property and not visible from the adjacent residences or Route 20.

Mr. Rut replied that is correct except for the one barn area which is visible to the neighbors.

Mr. Rooker pointed out that the new building was what was on the table tonight.

Mr. Rut replied that was definitely not visible.

Ms. Hopper asked Ms. McDowell to verify that the campground use has expired.

Ms. McDowell replied that it had, the applicant would have to reapply for another special use permit.

Ms. Hopper asked what the process would be, would it be a special use permit.

Ms. McDowell replied that it would be. Another public hearing would be required to establish that use.

Mr. Rooker stated that he thinks it is important that tonight we have the expanded church facility before us, rather than the camping facilities.

Ms. Hopper said that if those two issues are connected to the church, then it should be considered as one package.

Mr. Rooker said that they don't have to make the connection. The first special use permit has expired, they do not have the right to use the property as a camping facility. The permit allowing a private school is still in effect. From the neighbor's standpoint there will be a lot less noise and activity with the church use.

Ms. Hopper asked if a private school would generate less traffic than the church.

Mr. Rooker replied that it would generate more continuous traffic and noise than a church.

Ms. Hopper pointed out that the water and the health department would review sewage issues. If there are violations of the zoning ordinances, citizens can complain to the County.

Mr. Rooker stated that if there is a continuous violation, you can lose the special use permit.

Ms. Hopper said she thought the screen was a reasonable condition to add.

Mr. Rooker asked about a condition that limits the size of the congregation.

Mr. Kamptner replied that we usually accomplish that by limiting the seating area.

Mr. Cotton said attendance is 150 or so regularly on Wednesdays and Sundays.

Mr. Kamptner asked what the seating of the building would be.

Mr. Cotton replied that there would be no fixed seating, but it can hold 500-600 people.

Mr. Kamptner said perhaps we can determine a cap between now and the Board of Supervisor's meeting.

Mr. Finley asked what was the goal of limiting the size.

Mr. Rooker replied that it was to lessen the burden of the facility on the surrounding property. Any significant increase in attendance and resulting impact would need to be reviewed.

Mr. Finley pointed out that the size of the building would limit the ultimate capacity.

Mr. Rooker said that was what Mr. Kamptner was saying.

Mr. Finley verified that they would have to come back for another special use permit to increase the building size.

Ms. Hopper pointed out that the commission could put a limit on events that could occur on a biking trail complex based on capacity. There are seating limits at other churches.

Mr. Finley said the seating limit is based on the design and size of the church and the building.

Mr. Rooker stated the expansion is 4,000 feet.

Mr. Kamptner estimates that the new building's occupancy will be 650 persons.

Ms. Hopper stated that is a more than 400% increase.

Mr. Rieley said the staff report has a statement that this use is not out of scale with similar uses in the rural area.

Ms. McDowell replied that staff has looked at a number of churches in the rural area. There have been both expansions and new construction. If the expansion was consistent with the church and the lot size, that was what we were concerned with. This is internal and replacing an existing building, we approached it a little differently because they could continue use of the facility indefinitely. The building itself is isolated. There does not seem to be communication between the applicant and their neighbors. She has talked about their concerns with Mr. Cotton.

Mr. Rooker pointed out that the condition was that all outdoor activities would cease after 10:00 p.m.

Mr. Rooker proposed landscaping along the driveway, and suggested it as an additional condition.

Mr. Rieley suggested the following language: a plan for planting along the drive as determined by the staff will be established before the board meeting.

Ms. McDowell evergreen trees of a size and type to screen the entrance road from adjacent properties and approved by the planning director shall be installed prior to certificate of occupancy.

Mr. Rooker asked for the total size of the facility with the expansion.

Ms. McDowell replied that she was looking at the footprint.

Mr. Rooker verified the size and location of the building. He said it seems to him that it is not out of scale in terms of what one would expect in the rural area. The plan seems reasonable. The tradeoff to eliminate the potential private school is a good one for the neighbors.

Mr. Rieley agreed, we also have to roll into the fact that the camping was a good portion of the neighbor's complaints.

Mr. Rieley said he thought it would be useful if before this comes to the board that the recommendation for the planting is specific so that the neighbors have an opportunity to react to a specific plan.

Ms. Hopper said she would be happy to work with the applicant.

Ms. Hopper pointed out that Ms. Long brought up having the special use permit not be transferable. She asked what the standard practice was.

Mr. Kamptner replied that the SP for the campground, it may have been a standard at the time that special use permits were not transferable. We have taken the position that although the SP runs with the land, the conditions still apply.

Mr. Rooker said this is not a condition we are attaching.

Mr. Kamptner said that our office sees that the use is independent of the ownership.

Mr. Rooker stated that one of the conditions is an increase in the setback requirements, he asked Ms. McDowell to explain.

Ms. McDowell replied that we are retaining the front setback, but increasing the sides and rear to 50 feet.

Mr. Rieley said isn't that covered in the first condition.

Ms. McDowell replied that in case there is some question, this provides that kind of assurance.

Mr. Craddock asked with the camping removed now, will they still be able to hold those large camping meetings.

Ms. McDowell said they would have to come back for a special use permit.

Mr. Craddock said that those 4 or 5 events sound like revivals or a retreats.

Ms. McDowell replied that is no longer valid.

Ms. Hopper said we have talked about a capacity. We have talked about having a limit on the number of evening meetings. She is concerned about not having a limit here. She would like to know how you make a parking calculation in this instance.

Ms. McDowell had zoning look at the parking, and there is no problem with zoning. She will have to come in with a final plan showing the details.

Mr. Finley asked how much control we wanted to put on the church.

Ms. Hopper said she would like to hear other discussion on this topic.

Mr. Rooker stated that we are limiting the size of the facility that's approved, and that is typically the way we limit the activities. We need to ask if this is a reasonable size facility given all the facts and circumstances.

Ms. Hopper said the other use has already lapsed, which were the larger get-togethers.

Mr. Rooker stated that one good thing about this is that it is set back from the road. Most of the remarks that had to do with problems in the past, dealt with the lapsed use.

Mr. Rieley moved for approval with the addition of conditions 7 and 8.

1. The improvements shall be constructed on the parcel in substantial conformance with the plan included in this report as Attachment B, titled Merrie Meadows Site Plan and dated 6-13-01 (revised).

2. A commercial entrance, subject to Virginia Department of Transportation standards, shall be required. Adequate sight distance will be required by either a dedication of a 25' right-of-way along the property line abutting Route 20 or the provision of a sight easement for the entrance, subject to the approval of the Virginia Department of Transportation.

3. All required Health Department approvals shall be obtained prior to the issuance of a building permit.

4. All structures and parking areas not in existence as of the date of the approval of this special use permit shall maintain Commercial setback standards (50 feet for rear and sides), as set forth in Section 21.7.2 of the Albemarle Zoning Ordinance.

5. All outdoor lighting shall be shielded to reflect light away from the adjoining properties and Route 20.

6. All outdoor activities shall cease after 10 P.M.

7. **SP 81-18 and all uses authorized thereby are terminated.**

8. **A plan for landscape planting along the drive will be established prior to the Board of Supervisors meeting.**

Mr. Finley seconded the motion, which passed unanimously.

Mr. Finley moved for approval of the site plan waiver.

1. Prior to the issuance of a building permit, the applicant shall provide adequate sight distance at the entrance along Route 20, subject to approval by the Virginia Department of Transportation.

2. The entrance to the site shall be depicted on a plan prior to issuance of a building permit.

3. The application number and conditions of approval for SP 01-17 shall be noted on the plan, prior to issuance of a building permit.

4. All required setbacks shall be noted on the plan, prior to issuance of a building permit.

5. The following notes on the plan shall be required prior to issuance of a building permit: "Each outdoor luminaries equipped with a lamp which emits 3,000 or more initial lumens shall be a full cutoff luminaries or a decorative luminaries with full cutoff optics." and "The spillover of lighting from parking area luminaries onto public roads and property in residential or rural areas zoning districts shall not exceed one-half (½) foot candle."

Mr. Craddock seconded the motion, which passed unanimously.

b. **ZMA-2001-009 Rivers Edge Offices (Sign #82)** - Request to rezone 1.818 acres from R-1, Residential to CO, Commercial Office to allow conversion of existing home to commercial office. The property, described as Tax Map 78 Parcel 58H, is located in the Rivanna Magisterial District on Free Bridge Lane [Route 1421] approximately 1/4 mile north of the Route 250/ 1421 intersection. The Comprehensive Plan designates this property as Regional Service the Pantops Neighborhood. (Michael Barnes)

Mr. Barnes presented the staff report.

Mr. Rooker opened the public hearing.

Mr. Katurah Roell, the applicant said this is the latest version we have developed, which is generally acceptable. The property is in the growth area. He has a single individual user who would like to use the house for a real estate office. On the site where the office building is, we have tried to consolidate to keep it out of the floodplain. The house is above the floodplain, the new parking area would require no net fill. The driveway would generally determine what is going to be used in the remainder of the property. We would close off the access to Free Bridge Lane by adding access from Route 20. We have worked around the site for the last year or so. Future growth will be limited to the areas outside the floodplain. He is willing to accept the conditions brought forth by staff.

There being no further comment, the public hearing was closed.

Mr. Rieley support's the staff's recommendation. He does not think this warrants rezoning because it is in the floodplain. He does not think we should try to craft an acceptable solution tonight. It should contain, as a minimum, no construction in the floodplain and no access from Free Bridge. Part of the property should be dedicated to park uses. He said he thinks these are issues that could be resolved, but would not vote for the application as is. Perhaps the applicant would be willing to request a deferral.

Ms. Hopper pointed out that staff could support the rezoning of the upland portion of the parcel. In rezonings in particular that is not a requirement, but we need to be able to make a decision. It is disturbing to agree to increase development in a floodplain.

Mr. Rooker said we are talking about the use of an existing building. We need to acknowledge that there is some significant value in closing off the road and being able to extend the greenway.

Mr. Rieley said he would not preclude the use of the existing house for a different use. There is a tradeoff, but we have not reached that balance with this proposal.

Mr. Rooker said you are talking about part of the parcel being dedicated to public use on the greenway. Is there anything else? Perhaps an additional condition would be an agreed upon plan for mitigation of damage to the banks of the river.

Mr. Rieley said he thinks that is better addressed in the context of the natural area.

Mr. Rooker asked if the applicant would agree to setting aside some of the property as a natural area.

Mr. Roell asked what they were referring to, specifically.

Mr. Rieley do not have enough information to craft that tonight. There is a plan to build public trail and access along the river. This is a suggestion to change the use. You should look carefully at what is in the public's interest in that area.

Mr. Roell said he has spoken with the conservation office. They have talked about possibly building their headquarters on this land. The property is largely a 12-foot bank along the front of the house that would be left undisturbed. He doesn't know that dedicating that land to them would do any good, but it would be maintained as a buffer.

Mr. Rieley asked if he would like to take a deferral to work these issues out. He would like to see the proffers in a final form.

Mr. Roell replied sure.

Mr. Barnes asked the commission as far as the proposal for the building, you were not concerned about the use.

Mr. Rooker said we do not view this as necessarily an expansion from the intensity of the use with a single family home. With all the proffers combined, we have a better use than exists today.

Mr. Rieley said he thinks the tradeoff of using an existing building, is a distinction that may not make a lot sense.

Mr. Barnes stated that the staff's position to take the absolute can be worked through.

Mr. Benish asked for clarification on no construction in the floodplain. There is parking in the floodplain, but there would be little construction.

Mr. Rieley said exactly the same thing happened at Darden Towe Park.

Mr. Benish said that the requirement then would be no expansion of the building.

Ms. Hopper said she would just say no expansion on this site without coming back before the commission.

Ms. Hopper stated that the size of the building will limit the traffic in and out of there.

Mr. Rooker added the traffic will be moved onto Route 20, which is a more desirable location.

Mr. Benish said they have been considering how to implement the greenway along Free Bridge Lane, but there has been no final decision.

Mr. Rooker verified that the applicant would be agreeable to requesting the deferral.

Mr. Roell replied that he would.

Mr. Benish suggested a deferral to August 14, 2001.

The applicant requested deferral to August 14, 2001.

Ms. Hopper moved to accept the applicant's request for deferral.

Mr. Finley seconded the motion, which passed unanimously.

Regular Item:

a. **SDP 2001-050 H & H LLC Final Site Plan -** Request for final site plan approval (prior to preliminary approval) to allow the construction of a 2,576 square foot convenience store/gas station on 1.051 acres, zoned C-1, Commercial (PROFFERED) and EC, Entrance Corridor. The property, described as Tax Map 60F/Parcel 3, is located on the south side of Hydraulic Road (State Route 743), at the intersection with Georgetown Road (State Route 656). This site is located in the Jack Jouett Magisterial District and is designated as Rural Areas 1. (Stephen Waller)

Mr. Waller presented the staff report.

Ms. Hopper asked that since ARB certificate of appropriateness had expired, would it be reinstated.

Mr. Waller replied that the site plan is still in compliance with the certificate as approved.

Mr. Rooker said the ARB approval conditions were not in our packets. He pointed out that Hydraulic Road was placed in the entrance corridor since the original review, which required the ARB approval process.

Mr. Waller said that one month after the preliminary site plan was approved, Hydraulic Road was placed into the entrance corridor.

Ms. Hopper asked if the applicant had agreed to comply with all of the conditions.

Mr. Waller replied that Margaret has already given staff approval.

Mr. Rooker verified that VDOT has signed off on the entrance.

Mr. Rooker opened the public hearing.

Mr. Fred Payne, representing the applicant said this is exactly the same plan previously submitted. We do not disagree with the staff's recommendations.

Mr. Russ Dinsmore, the president of Georgetown Green Homeowners Association, expressed his concerns. There are some direct and indirect impacts on our livelihood, they request a tree buffer to screen the site. He would like to see the conditions. He has concerns for the children playing in the stream adjacent to the property. He would like the light pollution to be addressed. The indirect problem is coming out and turning left, with the increased traffic, coming out and turning left is asking for trouble.

Mr. Michael Sprinkle is an adjacent property owner. He reminded the commission that if you store and dispense petroleum on this site, there is a stream on the adjacent property with a spring about 150' from the site. I also have a well as do the other homeowners in the area.

Mr. Rooker closed the public hearing.

Mr. Rooker said: "The property has a long history. The adjoining property was a gas station and store until 1980 when VDOT widened Hydraulic Road and took the gas pumps. The owner of that property went to the Board of Supervisors and asked them to rezone this property for a convenience store/gas station so that he could move his business. The Board did that—in effect giving him a single purpose zoning to use

this property as a gas station/store. After the property changed hands several times, this application was filed. More than a year ago, this matter came before us and we were told by our legal counsel that we could not deny the use of this property for a convenience store and gas station because that was what is was zoned for. We did place a number of conditions on the special use permit, including limitation on hours of service, which the Board of Supervisors ultimately removed. In the interim period, we had Hydraulic Road designated as an entrance corridor where commercial development would be subject to Architectural Review Board approval. The ARB has reviewed this proposal and its comments have been incorporated into the plan. While this is not a good use of the property, we do not have the power to deny the application. We have placed the conditions on the property that were legally permissible to improve its appearance and to minimize its impact on the neighborhood.

Ms. Hopper said the traffic issue is not really directly related to the critical slopes and is in the purview of VDOT.

Mr. Benish pointed out that the road is in the secondary system. The County has a secondary improvement plan. VDOT has provided comments in terms of this proposal.

Mr. Rooker said that perhaps the County could request that there be a concrete barrier at a later date.

Mr. Benish replied that could be a recommended part of the process of upgrading our secondary road systems.

Ms. Hopper added that condition #3 was particularly well written.

Mr. Rieley suggested adding the sentence "Planting specifications, especially those that address soil compaction and amendment, will be subject to staff approval".

Mr. Rieley moved for approval of the final site plan and the critical slopes waiver with conditions as modified.

1. As a part of the approval of the Stormwater management BMP plan, the program authority (County Engineering) shall require the owner to have the sand filter inspected annually by a person or firm satisfactory to the program authority and to report those findings of the inspection to the program authority as otherwise provided as part of the plan's monitoring and reporting requirements.

2. There shall be Design Planner review of the proposed canopy in accordance with the adopted design standards of the County Architectural Review Board, and Design Planner review of the building in relation to its color.

3. The number of trees shown on the preliminary site plan is adequate. The trees shall be of mixed species – a mixture of native evergreen and deciduous trees, which should be planted at a minimum of 3-inch caliper. There shall be a shrub layer of native shrubs beneath the trees that will provide complete coverage within two years. The installation shall be done in such a way that it protects the slope from erosion in the meantime. In its consideration of approving a landscape plan, staff shall ensure that plantings are arranged in a fashion that provides maximum screening. A cluster of trees on-site, including a double red oak and a white oak located about 50 feet from the corner of the property near the water line easement shall have tree protection during construction and be specifically retained. **Planting specifications, especially those that address soil compaction and amendment, will be subject to staff approval.**

4. All external lights and signage lights except for security lighting shall be turned off during non-operating hours.

Ms. Hopper seconded the motion, which passed unanimously.

There being no further business, the meeting adjourned at 8:00 p.m.

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V. Wayne Cilimberg, Secretary

Recorded and transcribed by Lynda Myers, Recording Secretary.